

Anti- Corruption Institutions:

a zero year



Anti-corruption institutions: a zero year

Sofia 2022

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Abbreviations

ACF

Anti-corruption Fund Foundation

APSCC

Appellate Specialized Criminal Court

AFIAPA

Anti-corruption and Forfeiture of Illegally Acquired Property Act

APSCC

Appellate Specialized Criminal Court

CAFIAP

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

CC

Criminal Code

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

EC

European Commission

ECHR

European Convention on Human Rights and Fundamental Freedoms

FIAPFSA

Forfeiture of Illegally Acquired Property in Favor of the State Act

JA

Judiciary Act

LLSGLA

Law on Local Self-Government and Local Administration

NBCSSM

National Bureau for Control over Special Surveillance Means

NCAP

National Council for Anti-Corruption Policies

PORB

Prosecutor's Office of the Republic of Bulgaria

PPA

Public Procurement Act

SANS

State Agency for National Security

SCC

Sofia City Court

SCPO

Sofia City Prosecutor's Office

SCtC

Supreme Court of Cassation

SJC

Supreme Judicial Council

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 a third time the results of ACF's annual independent civic monitoring of the most significant investigations of (alleged) high-level corruption crimes in the Republic of Bulgaria.

Our first analysis, "Anti-Corruption Institutions: Activity Without Visible Results," examined 40 criminal cases from 2014–2019. The second, "Anti-Corruption Institutions: Escalating Problems," added 5 new ones from 2020. We are now adding 4 cases from 2021, and we follow the development of the cases that were not completed in the previous years. We also continue the additional monitoring that started last year of the criminal investigations of local authorities, mostly against regional governors and municipal mayors, which paint a similar picture to that at the central level.

In 2021, only one new verdict came into force on the cases of high public interest that we have been monitoring, and it was an acquittal. Thus, the ratio of convictions to acquittals became 3 to 14: only 3 convictions to 14 acquittals. This is radically different from the overall percentage of convictions in Bulgaria, which is close to 100%. It is notably different from the convictions for any corruption crime (close to 90 %) regardless of the level of the actor in the system of state institutions or the degree of public interest affected.

In the year 2021, one of the most significant criminal investigations against high-level officials in Bulgarian history (three ministers and two executive directors of the National Electricity Company) for alleged corruption in the energy sector with alleged damages to the state budget totaling over half a billion BGN, related to the Belene Nuclear Power Plant, came to an

inglorious end. Proceedings against two of the accused ministers have already been terminated, and the whole case will be closed soon because of the expiration of the absolute limitation period for prosecution.

The year 2021 confirmed that the real picture of high-level corruption remains hidden as the actual prosecution proceedings fail to reflect the corruption situation in the high-level public sector. If we had taken them as an indicator, we would have been led to think that there is simply no one guilty of corruption crimes among the highest officials.

In this year of power change, nothing happened in the field of criminal justice response to high-level corruption: there was no news of a single initiated and ongoing investigation against a high official of either the former or the new governments. All new cases remained at the stage of the preliminary inquiry, and there was no clarity on whether this has led to anything, even to the start of an investigation.

Against the background of this "zero year" for Bulgarian institutions, the big news came from the United States, where, under the Global Anticorruption Magnitsky Act, a few eminent persons were sanctioned for their 'important role in Bulgaria's corruption'. One of those sanctioned, politician and businessman Delyan Peevski, has been for many years an object of Bulgarian investigating journalists' attention: there is a multitude of materials published concerning his alleged participation in networks of corruption influence on institutions. Bulgarian anti-corruption governmental agencies failed to notice these materials, even after Mr. Peevski's sanctions under the Magnitsky Act.

2/Prevention and ascertainment of conflicts of interest and forfeiture of illegally acquired property 2021

By this study, ACF continues the annual independent civil monitoring of the practice of ascertainment of conflict of interests as a part of alleged corrupt behaviour at the high level and lower levels of power. This year the study is expanded also with an analysis of the accessible practice of the Commission for Anti-corruption and the Forfeiture of Illegally Acquired Property (CAFIAP), which concerns another essential part of its activity – the procedure for forfeiture of illegally acquired property. Although the previous reports of ACF have also found need for legislative amendments, such amendments were not made in 2021. This is explicable and expected considering the very short period of work of the National Assembly. In this period there were four National Assemblies, as each of them operated for a relatively short period of time. Considering the specificities of the legislative process that must be implemented in the mandatory public discussion of the draft acts and their discussion in parliamentary commissions and at plenary sessions at first and second reading, the adoption of a law takes time. A further period of time is required for the preparation of the drafts moved by the government and the subjecting thereof to public discussion and a coordination procedure before they are voted on by the Council of Ministers and put forward before the Parliament.

In 2021 one amendment and supplementation to the AFIAPA was adopted, which is not essential¹. The webpage of the Council of Ministers lists, in the Anti-corruption section, in addition to the strategy and the roadmap thereto, eight draft acts, which are regarded by the government as related to anti-corruption². Each of the individual records shows information for the deadlines set, the tasks of the workgroup, its composition and the state of work.

A new anti-corruption draft act³ was moved in 2022 by a group of members of parliament. An essential characteristic of the approach adopted in the draft is

that the proposed draft act is limited to the counteraction to corruption and no longer includes the matter related to illegally acquired property. This is in line with the recommendations and proposals given by the non-government sector representatives already upon the adoption of the law in 2018 because the combining of these two quite different activities that to a large extent having nothing in common results in multidirectional acts of the institution applying the law, the coordination of which is an additional challenge.

The present study offers an analysis of the practice of the Anti-Corruption Commission for the ascertainment of conflict of interests and forfeiture of illegally acquired property, of the Inspectorate at the Supreme Judicial Council and of the Inspectorate at the Council of Ministers for ascertainment of a conflict of interests in 2021 regarding persons holding a public office.

For the period from 01 January 2021 to 31 December 2021 an inspection was made in the Conflict of Interests Directorate on the basis of a total of 255 reports. In comparative terms, a slight drop-down is observed in the tip-offs received and handled by the directorate compared to 2020 – around 12%, but at the same time there is still growth of the reports compared to 2018 and 2019 – respectively more than 110% and more than 50%. In 2021 CAFIAP issued 104 decisions on the merits, of which 22 ascertaining a conflict of interests and 82 not ascertaining such a conflict. The prevailing number of the examined cases – namely 78 – concern persons holding a public office at a local level, and the remaining 26 – concern persons holding a public office at a central level.

For the period from 2019 to 2021 CAFIAP issued a total of 666 decisions for the initiation of a proceeding for the forfeiture of illegally acquired property, the value of the actions being in the amount of BGN 1,460,174,464.77 and the value of the property admitted as a collateral being BGN 911,329,855.78. As at 31 December 2021 there were 5,876 active inspections for

1. In Article 80 of the Anti-corruption and Forfeiture of Illegally Acquired Property Act (AFIAPA).

2. See internet address: <https://www.gov.bg/bg/zercorruption/zakonoproekti-na-izpalnitelnata>.

3. Draft Act incoming No.47-254-01-63/ 09 June 2022.

illegal property in the Commission, as 836 civil cases with such a subject were initiated before the courts, the total value of the actions being BGN 3,887,170,139.55. An exceptionally small part of the procedures for forfeiture of illegally acquired property are open to public access and therefore there is a considerable problem with the transparency of this part of the work of the Commission. However, the analysis of the published proceedings shows that only a small part of the proceedings for forfeiture of illegally acquired property are linked to corruption criminal offences.

The recommendations from the last year's report of ACF concerning the Anti-Corruption Commission, the proceeding for the ascertainment of conflict of interests and for the whistleblowers remain valid.

As regards the structure and functions of the Anti-Corruption Commission:

- Guarantees for the independence of the anti-corruption body are necessary, including by adopting a different model for the election of its members, which includes not only the National Assembly, but also other institutions (the president, the judiciary) or organizations (NGOs), thus providing stronger guarantees for publicity of the procedure, political neutrality, and professionalism.

As regards the proceeding for conflict of interests it is necessary to:

- Rethink the empowerment of inspectorates/ special commissions in public authorities to establish conflicts of interest regarding persons holding public office in the administrations of public authorities outside the scope of senior public office. The adopted decentralized and diffuse model concerning these persons leads to contradictory practice and abuse of power.
- Provide that the persons holding public offices

are restricted from receiving gifts and benefits in relation to the holding of the relevant position, and without a direct connection with the exercise of specific powers in the private interest in the following sense: a person holding a senior public office is not entitled to receive in the personal interest a privilege, advantage, preferential treatment, property or services at prices lower than the market ones, a gift or other benefit in relation or with respect to the position he or she holds.

- Expand the circle of entities that can file reports for ascertainment of a conflict of interest. In addition to the traditionally mentioned non-governmental organizations engaged in anti-corruption activities, the possibility of representatives of legal entities being able to refer to the Commission should also be considered.
- Expand the concept of "related persons" - kinship by marriage (up to the fourth degree inclusive), relationship of godparents, "brotherhood" along the lines of freemasonry and other similar organisation, de facto cohabitation (ascending and descending relatives of the cohabitant of the person holding a public office).

As regards the protection of whistleblowers it is necessary to:

- Eliminate the requirement to indicate the personal ID number of the whistleblower in the filed tip-offs, as well as to provide an explicit capability for legal entities, incl. non-governmental organizations carrying out activities of civil control over the institutions to be able to file tip-offs.

Introduction

Is Bulgaria a “moderately” or “highly” corrupt country? A Balkan-type kleptocracy behind a democratic facade or a victim of a conspiracy to discredit the status quo by hidden political and economic circles? These questions, as a rule, have more than one answer and many nuances, mainly depending on the proximity to power centers. In the search for a reasoned and non-politicized answer to this vital question, the most significant deficit for years has been that of independent and expert opinion, based more on hard data and facts and less on analytical models and studies with more than one possible interpretation.

The Annual Review of High-Level Corruption Cases, which the Anti-Corruption Fund Foundation presents for the fourth year in a row, provides a thorough, well-reasoned, and hard-to-dispute answer to an essential part of this question - whether there is a problem with investigations on corruption issues and how deep it is?

The answer, which you will read in and between the lines of this report, comes directly from the operational statistics of the Bulgarian judiciary. In it, you will not see personal opinions and casuistic conclusions, but clear statistics and findings about what Bulgarian magistrates have done in specific, albeit forgotten, corruption cases in the Bulgarian high levels of power. Because every corruption case starts with media hype but inevitably ends in a prosecutor’s room or a courtroom with a final decision in one way or another.

This ACF report is, therefore, a “moment of truth,” or rather a statistic of multiple moments of truth in a sufficiently representative sample from which to draw generalized and reasoned conclusions.

Here are just three dry and hard-to-argue-with facts from the ACF’s 2021 annual report on high-level corruption cases:

- Only one of the pending cases we monitored resulted in a final verdict in 2021.
- For the second year in a row, there was not a single new final conviction.
- The ratio of final convictions to acquittals in the cases analyzed by ACF (relating only to the highest levels of government) was three convictions to fourteen acquittals, or an 18% “success rate” for the charges.

The latter statistic shows a huge discrepancy with the data on the ratio of convicted to acquitted persons for all corruption offenses in 2021 - 88% convicted persons against only 12% acquitted.

The conclusions of this fourth regular report of the ACF are not and cannot be good for the state of the Bulgarian judiciary in general. They point to serious and systemic deficiencies resulting from a lack of objectivity, interference, incompetence, or some yet unspecified combination of these factors.

Of course, the answer to the question in which part of the judiciary the root cause of the problems mentioned above lies is the subject of another kind of analysis. However, the ease with which prosecutors initiate investigations and pre-trial proceedings in “cases of public interest” and the statistics on the number of indictments returned by the courts point to problems in the initial, i.e., pre-trial, phase of the whole process. Suspicions of working on a contingency basis, aiming

for immediate publicity and without gathering sufficient evidence, are confirmed by the statistics.

The problem with the initial phase of the prosecution becomes even more serious if we add the reluctance of the Prosecutor's Office to provide information and even comment on 'cases of public interest' with a past date. You can open the list of cases involving politicians from a year or two ago and look for when the Prosecutor General last commented on them.

The Bulgarian Prosecutor's Office's foremost "showcase of glory" in recent years has remained a few landmark cases against businessmen (examples are the cases with main defendants Tsvetan Vassilev and Vasil Bozhkov). However, there is still no reasoned answer as to why powerful politicians directly linked to them are not being investigated or even questioned? All these accused businessmen, however, have become the big fish that the Prosecutor's Office now boasts about, thanks to state protection in businesses heavily dependent on the state. And this has a paper trail - be it a decision, a letter, a motion, a minute, an opinion, a nomination, or a bill. And they usually have an author, name, date, signature, and seal.

One more stone thrown in the Prosecutor's Office's Garden is that throughout the year, not a single investigation has been announced for a corruption crime against a high-ranking official of the former executive and legislative branches. There has been no subsequent Bulgarian institutional action for over a year now, following the US State Department's June 2021 sanctions under the Global Magnitsky Act on businessman Vasil Bozhkov, politician and businessman Delyan Peevski, and the deputy chairman of the Special Surveillance Means Control Bureau, Ilko Zhelyazkov.

The picture is no different in the specialized anti-corruption body known by the abbreviation CFIAP. The value of seized assets for the year is ten-digit and impressive, but it is mainly due to landmark cases against prominent businessmen, and the fate of these seizures is subject to court decisions. The statistics for 2021 on conflict of interest checks show an increase in reports and a slight decrease in decisions to impose sanctions. Still, there are no statistics on precisely who the sanctioned individuals are.

The biggest mystery in the CFIAP remains the activities of the Commission's anti-corruption arm, which covers the activities of the former anti-corruption unit in the State Agency for National Security. For years, information on cases and findings of crimes has been published without reporting the cases submitted to the Prosecutor's Office, the pre-trial proceedings initiated, and the charges brought. In the absence of public

information, suspicions about the anti-corruption hyperactivity of this Commission in the small fish segment are only strengthened.

The negative conclusions about the Bulgarian judiciary and anti-corruption bodies have been repeated for years and now speak about the chronicity of the problem rather than some temporary situation with "practical challenges in implementing the rule of law." And while we are looking for an answer to where exactly Bulgaria is on the scale of the conquered state or kleptocracy (a government motivated mainly by the material interests of the ruling elite), the actions and inactions of the Bulgarian Prosecutor's Office as a guarantor of the rule of law over the last calendar year give only one answer to the direction of movement - down the scale of impunity, opacity, and selective justice.

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 verdict. It will also include cases where allegations of committed crimes have been brought forward but did not result in subsequent criminal proceedings, the criminal proceedings are ongoing, have been terminated, or have concluded with an acquittal that cannot be appealed.

The goal of this annual monitoring is to systematize and analyze — where possible and mainly with regards to completed proceedings — the public information already available about corruption crimes in order to present an objective overview of the efforts to combat high-level corruption not based on dry statistics (as presented in the annual reports of public institutions), but with reference to the development and the intermediate or final outcomes of particular criminal proceedings or preliminary inquiries.

This study is a continuation of the previous ACF

analyses titled "Anti-Corruption Institutions: Activity Without Visible Results"⁴ and "Anti-Corruption Institutions: Escalating problems"⁵. It follows the development and summarizes the final outcomes (where present) of the most significant investigations of high-level corruption crimes in the 2014–2020 period. The three studies 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 the following (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, 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

4. 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

5. 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

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

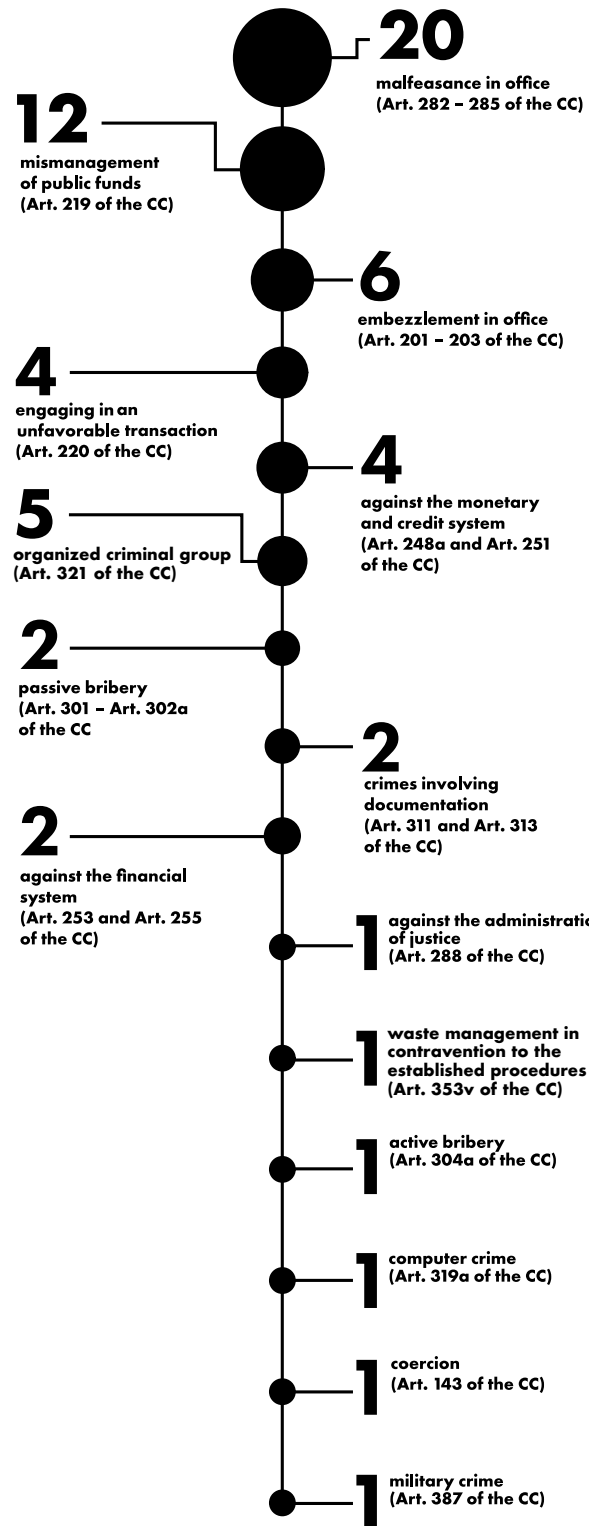
3/ the (alleged) malfeasance in office is exceptionally culpable from a moral standpoint in view of the manner of execution, the persons involved, the vulnerable population groups directly or indirectly affected, the criminal goals pursued, and has thus attracted serious attention in Bulgaria or abroad.

The present analysis uses the same criteria to include 4 cases newly arisen in 2021, also tracing the development of pending cases from the past five-year period. Last year's report added, for the first time, an additional section on the monitoring of corruption crime investigations at the local level. Once again, here, we used a monitoring period of five years and such criteria as the post occupied by the alleged perpetrator and the importance of the affected interests in order to analyze a representative sample of the most significant investigations of high-level corruption crimes at the level of regions and municipalities, usually involving municipal mayors and regional governors.

In this analysis, the development is traced of pending cases in local authorities, with no new cases added in 2021 as none have met the criteria we set.

63

crimes in 49 cases, of which...



Summary analysis of the examined cases

0.1 Completed cases

F For yet another year, there was no conviction for high-level corruption entering into force.

Only one of the uncompleted cases that we have been monitoring has ended with a **final court decision** in 2021.

The case of alleged embezzlement in the energy sector where the proceedings were against Angel Semerdjiev, chair of the State Energy and Water Regulatory Commission (SEWRC)⁶, was finished in the usual manner – **by a final acquittal, for lack of elements of an offense, established by the court**. Given the absence of a prosecutor's protest against the first-instance decision, one can infer that the Prosecutor's Office agrees with the court's conclusion. The investigation of this case was also conducted in parallel against another chair of the SEWRC, Svetla Todorova⁷. However, no indictment was filed against her, and, in November 2021, the investigation was terminated for unknown reasons. Sofia Appellate Prosecutor's Office then canceled the termination, and the proceedings are still pending.

Thus, **the overall ratio of final convictions vs. final acquittals** in the cases analyzed by the ACF concerning the highest levels of power **is three convictions against fourteen acquittals**. This contrasts sharply with the data on the ratio between convicted and acquitted persons for all corruption crimes in 2021 – 88 % convictions against only 12 % acquittals⁸.

The final conclusions on the completed cases from the previous analyses can be reaffirmed once again:

6. Case no. 25

7. Case no. 26

8. See „Report on the implementation of the law and on the activity of the Prosecutor's Office and the investigation bodies in 2021“ – p. 68

- the share of convictions is very low, with a tendency to become even lower;
- the three final convictions, already analyzed in our first report, were achieved on cases that did not affect public interests, protected by law, to such a degree as some other cases in the same category; and there are no new convictions;
- the acquittals were issued primarily on cases in which charges had been pressed on account of behavior that is not criminal, and this tendency is increasing.

Two of the cases we have been monitoring have been **terminated by the Prosecutor's Office at the pre-trial stage.**

Another case also affecting the energy sector, the one of the Belene Nuclear Power Plant **against the Minister of Energy Rumen Ovcharov**, was returned by the Specialized Criminal Court to the Specialized Prosecutor's Office for removing essential procedure violations. In December 2021, **it was partially terminated⁹ because of an expired limitation period.** The same procedural fate also expects the other defendants in these proceedings unless the charges are dropped on different grounds – on account of the absence of a crime.

Another Minister of Energy, Delyan Dobrev¹⁰, was set apart from the other defendants in the Belene NPP case for unknown reasons, and no indictment was filed against him. **In April 2022, the criminal case against Dobrev was terminated by the Specialized Prosecutor's Office amid a total informational blackout,** and the reasoning behind the termination remains undisclosed.

One of the completed cases in the monitored period is also the **started and concluded inquiry for collecting sufficient evidence about a committed crime and initiating an investigation on the alleged misuse of power of the Prosecutor General Ivan Geshev¹¹ in the widely known "Josi" case.** The inquiry was terminated with a refusal to start pre-judicial proceedings, a denial which, although having no material legal force and theoretically being capable of revocation at any time by a superior of the prosecutor who ordered it, currently terminates the pending status of the pre-procedure activity.

9. Case no. 9

10. Case no. 8

11. Case no. 46

#/	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	Petar 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	Petar 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 trial stage
19	Anna Yaneva	Deputy Minister of Economy and Energy, 2005 – 2007	The proceedings are at the trial stage
20	Vladislav Goranov	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 proceedings are at the pre-trial phase or at an unknown stage
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	A - The proceedings are at the trial stage B - 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	Lyubomir Velkov	CEO of NEK, 2005 - 2009	The proceedings are at the pre-trial phase or at an unknown stage
32	Mardik Papazyan	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 Aleksandrov	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 are at the trial stage
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	Prime Minister, 2017 - 2021	Criminal proceedings were denied
41	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 pre-trial phase or at an unknown stage
44	Plamen Uzunov	President's Secretary on Legal Affairs and Anti-corruption, 2017 - present	The proceedings are at the pre-trial phase or at an unknown stage
45	Iliya Milushev	President's Advisor on Matters of Defense and Security, 2017 - present	The proceedings are at the pre-trial phase or at an unknown stage
46	Ivan Geshev	Prosecutor General 2019 – present; 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	The proceedings are at the pre-trial phase or at an unknown stage
48	Ilko Zhelyazkov	deputy chair of the National Bureau for Control of Special Surveillance Means, 2018 – 2021	The proceedings are at the pre-trial phase or at an unknown stage
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

0.2 Ongoing cases currently at the trial stage of proceedings

In 2021, by **filing an indictment, a case was submitted to the court** – against the Minister of Environment and Waters Neno Dimov¹² in relation to the water crisis in the town of Pernik.

The cases under consideration that are at the **trial stage of proceedings by the time of the conclusion of this analysis are thirteen.**

The case against Public Health Minister Petar Moskov¹³ and his deputy Adam Persenski¹⁴ for the barter of vaccines with Turkey **ended in the first instance with acquittals for both.** The sentence reasoning for the acquittals is still undisclosed, but the problematic aspects of the indictment itself are easily visible, which presupposes the expected outcome of these criminal proceedings as well.

The other case against Rumen Ovcharov¹⁵, related to the Bobov Dol Mines, after the second instance has ended with a conviction, not yet entering into force, of suspended imprisonment. However, the absolute limitation of criminal prosecution expires in July 2022, and it is little likely that the Supreme Court of Cassation will be able to issue a final decision before that expiry. Ovcharov's deputy Anna Yaneva¹⁶ has received acquittals after the first two instances, but in her case, too, the Supreme Court of Cassation's decision is still pending.

Soon a decision of the SCC is also expected on the bribery case against the mayor of the Mladost district of Sofia, Desislava Ivancheva¹⁷, who received unsuspended sentences in both instances of specialized justice.

12. Case no. 42

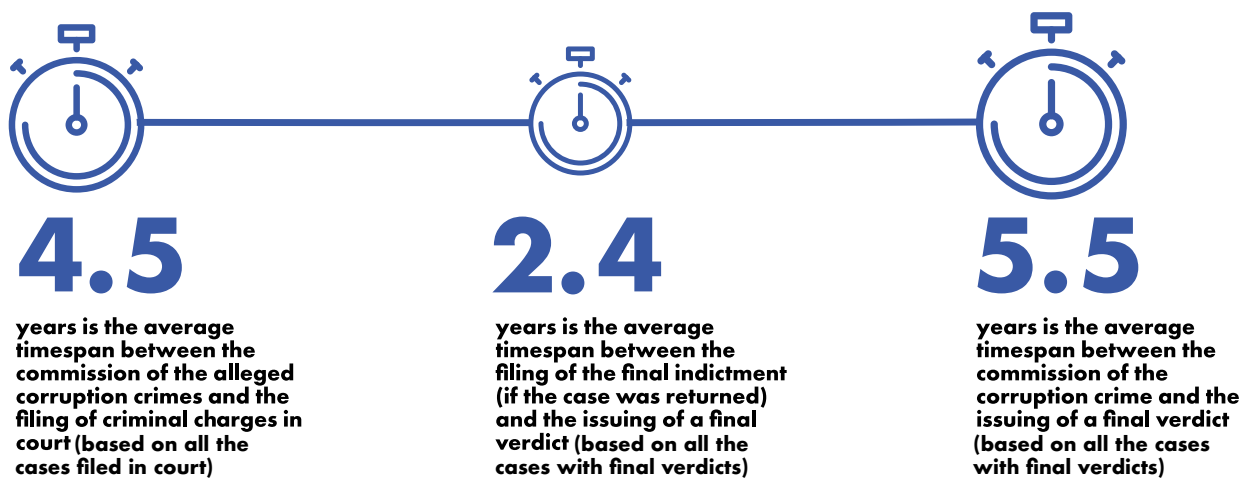
13. Case no. 16

14. Case no. 17

15. Case no. 18

16. Case no. 19

17. Case no. 38



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

As mentioned above, in June 2021, the very delayed indictment on the case of the Belene NPP was returned by the SCC to the SPO for the removal of procedural violations. Since then, the proceedings have been at the pre-trial stage or with an unknown development. After the termination, ordered by the SPO, against ministers Ovcharov and Dobrev, the defendants remain Minister Petar Dimitrov¹⁸ and National Electricity Company's head executive directors Lyubomir Velkov and Mardik Papazian¹⁹. For these latter two, however, the limitation period for criminal prosecution has already expired, and for Dimitrov, it will expire in December 2022. **Thus, one can expect with a high degree of probability that the case of the Belene NPP that was initiated against three ministers and two head executive directors of the National Electricity Company and with allegations of damages to the state budget totaling over half a billion BGN, will very soon finish ingloriously with regard to all defendants.**

Another widely popularized case, that against the Deputy Minister of the Environment and Waters Krasimir Jivkov²⁰, charged with leading a criminal group and managing waste in violation of the established procedure, was also returned by the SCC to the SPO for the removal of procedural violations and is currently back at its pre-trial phase.

The investigation from the already distant year 2016 against the former executive director of the Fund for Treatment of Children Abroad, Pavel Alexandrov²¹, was once again filed with an indictment to the SCC in 2021 and, once again, returned to the SPO for the removal of procedural violations in March 2022.

The investigations against presidential advisors Plamen Uzunov and Ilia Milushev²² also entered the thick procedural fog of the pre-trial stage of proceedings. They were initiated on the same day of July 2020 by two different prosecutor's offices – the SPO and the Sofia Military District Prosecutor's Office. Two years later, neither of these pre-trial proceedings have any known development, nor did the respective Prosecutor's Offices disclose any information about their progress.

In 2021, the Supreme Prosecutor's Office of Cassation announced the start of preliminary inquiries²³ with regard to collecting sufficient evidence to initiate investigations, given the statement of the US Government on the imposition of large-scale sanctions under the global Anti-corruption Magnitsky Act, against three Bulgarian citizens, two of whom, Delyan Peevski and Ilko Zhelyazkov, occupy public offices. No result is known so far.

A 2020 investigation of the Directorate of Internal Security of the Ministry of Internal Affairs became also known, finding evidence for the participation of the then director of the Head Directorate of National Police (and later Minister of Internal affairs and a Member of Parliament) Hristo Terziyski²⁴, together with other high officials of the Directorate, in an organized criminal group. In 2021, however, the SPO and the Appellate Specialized Prosecutor's Office decided that there was insufficient evidence to initiate an investigation on the case, which decision was canceled by the Supreme Prosecutor's Office of Cassation. After the return of the case for a new decision by the SPO, its fate is unknown.

Thus, the total number of monitored cases that remained at the pre-trial stage of proceedings or whose development is unknown is eleven.

18. Case no. 10

19. Cases nos. 31 and 32

20. Case no. 43

21. Case no. 36

22. Cases nos 44 and 45

23. Cases nos 47 and 48

24. Case no. 49

49
criminal cases



against **43** individuals for **63** crimes

suspended prison sentences **2**
executed prison sentences **1**
administrative sanction — fine **0**
convictions **3**

8
terminated at the pre-trial phase by prosecutors



14
acquittals

1 due to lack of proof
1 partly due to lack of proof and partly due to the indicted acts not fitting the definition of the alleged crimes
12 the indicted acts did not fit the definition of the alleged crimes

25
completed

24

ongoing proceedings or proceedings with unknown end results

13
at the trial phase

at first instance (no verdicts yet)

5

3 acquittals at lower instances

8 at second or third instance (the first-instance judgment is appealed)

5 convictions, or partial convictions and partial acquittals at lower instances

11
at the pre-trial phase or at an unknown stage

30
proceedings filed in court

12

of which were returned once or more times to the pre-trial stage with instructions to rectify serious procedural violations

0.4 Conclusions

The low efficiency of the criminal prosecution of high-level corruption, established in ACF's two previous annual reports, "Anti-Corruption Institutions: Activity Without Visible Results" and "Anti-Corruption Institutions: Escalating Problems," **has worsened even more in 2021**. Only one new court decision entered into force during the period, and it was an acquittal. Thus, there is considerable domination of **final acquittals**, which are, so far, **fourteen compared to only three convictions**.

After 2021, there is still no crime corresponding to our criteria of "corruption most affecting social relations in the public sphere" that was punished with unsuspended imprisonment. **Not a single final conviction has been achieved in the last four years, from 2018 to 2021.**

In our previous monitoring reports, we already stated that these results clearly show that **the real picture of high-level corruption remains hidden**. Obviously, the conducted criminal proceedings do not reflect the actual state of corruption at the high levels of the public sector. If one judges only by these results, it will come out that there is simply no one among the highest officials guilty of committing corruption crimes.

The year 2021 has further backed this conclusion. Regarding the criminal justice aspect of the fight against high-level corruption, **the year can be described without a doubt as a zero year**, and the reasons will be provided below.

The monitored period was marked by the change in the prolonged rule over the state of the former Prime Minister Boyko Borisov's political circle. It dominated the legislative and executive authorities and managed to find and or create strong allies also within the judicial system. Logically, with the changed situation, first the executives, through the caretaker governments under President Rumen Radev, and then the legislature entered a demonstrated confrontation with the judicial power, and more precisely with the Prosecutor's Office presided by the Prosecutor General Ivan Geshev.

This confrontation concerned mostly the attitude toward the previous regime. The new majority's representatives began to publicly present allegations

of large-scale corruption schemes which took place during the mandate of their predecessors and in which they were allegedly involved²⁵. **However, throughout the year, there has been no information of any investigation of a corruption crime directed against a high-level official of the former executive or legislative powers.**

The new power majority invariably identified the reason for this in the unwillingness of the Prosecutor's Office to act against the former rulers because of its political links to them (in fact, the Prosecutor's Office took no actions in the field of punitive repression also against the new rulers). The Prosecutor's Office complained that it did not receive sufficient evidence from the Ministry of Internal Affairs, the State Agency for National Security, and the National Revenue Agency with which it could work and file quality and consistent indictments.

As usual in such cases, the truth may not be right in the middle but indeed not entirely on one side.

In the last year's monitoring report, we analyzed the deficiencies and the inexplicable points of the SPO's inquiry of the former PM Borisov for malfeasance in office²⁶, which was terminated with a refusal to initiate pre-judicial proceedings. We also analyzed the deficiencies of the criminal prosecution, commenced on the same day by different Prosecutor's Offices, against people from the team of Borisov's then primary political opponent, President Radev²⁷. These circumstances alone, but also in juxtaposition with, e.g., several public statements of Prosecutor General Geshev, support the thesis of Prosecutor's Office's supposed political entanglement.

On the other hand, despite the existing multitude of instruments - several ministries and agencies under its jurisdiction - the new majority failed, if not institutionally, at least publicly, to reveal any of the alleged direct links of its predecessors to corruption schemes. This supports the thesis of the low-quality materials submitted to the Prosecutor's Office. However, an important clarification must be made: **the newest history of criminal prosecution of alleged high-level corruption** (told in three consecutive monitoring reports so far) **demonstrates that no great importance seems to have been ascribed to the quality and consistency of indictments.**

25. E.g., the "Avtomagistrali" JSC case, with the in-house procurement procedures of road construction and cash withdrawals for advance payments; advance payments for repairs of dams; the large credits of the Bulgarian Bank of Development to a narrow circle of companies; the canceled government receivables in especially large amounts, etc. - see, e.g., the article [ARD: „Legalised chaos in Bulgaria“](#)

26. See 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 - pp. 97

27. See 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 - pp. 100-101

Thus, it remains **a zero year** in Bulgarian institutions' criminal prosecution actions against high-level corruption, and if there was any progress, it took place outside of it.

In support of these conclusions, comes **the sanctioning by the US under the Global Anti-corruption Magnitsky Act**²⁸ of the businessman Vasil Bojkov, the politician and businessman Delyan Peevski, and the deputy chair of the National Bureau for Control of Special Surveillance Means Ilko Zhelyazkov.

The actions of the US Government under the Magnitsky Act in 2021 came after the Bulgarian law enforcement bodies remained blind for many years about the multitude of journalist investigations concerning the supposed participation of Peevski in networks of corruption influence on institutions. His name was absent²⁹ even from the investigation of the bankruptcy of the Corporate Commercial Bank³⁰ (conducted by the current Prosecutor General in his quality of a prosecutor in the Sofia City Prosecutor's Office), despite his well-known links with the bank.

True, at a certain point, the Bulgarian institutions did act about the businessman Bojkov (although with a blatant delay and selectively ignoring his statements that he had bribed high officials from the previous government to get his gambling business going smoothly). However, Bulgaria's relevant state authorities' inactivity regarding Peevski **proves one more time without a doubt the conclusion that the real picture of high-level corruption in the public sector is hidden.**

And even after the sanctions under the Magnitsky Act, there is no public information of any investigation initiated against Peevski about his supposed corruption crimes. After the statement of the US Government, the Prosecutor's Office announced the start of preliminary inquiries to collect sufficient evidence to initiate an investigation against all persons involved, but no results have been reported so far³¹.

In 2021 as well, the state of criminal prosecution on the most important corruption cases continued to receive no attention from the leadership of the Prosecutor's Office or the Prosecutor's College of the Supreme Judicial Council. **There are still no established criteria for monitoring the relatively small number**

of cases of corruption crimes of high public interest. It is still unclear whether anybody at all analyses the causes of the failure of the important criminal investigations of corruption. It has already become a tradition that their termination would take place in a complete informational blackout, and there would be no comments whatsoever from the Prosecutor's Office, a fact which is in sharp contrast with their often widely communicated beginnings.

The transparency on these criminal proceedings in 2021, as before, continued to **be selective – with no criteria, the society is provided information on some cases while no information is given on other cases even after explicit requests.**

ACF's big video investigation "List of Quick Control," published in 2021 in three parts³², revealing a supposed criminal network for corruption influence on the specialized justice institutions, didn't receive any institutional response whatsoever.

The ACF's interview with Yavor Zlatanov³³, the missing voice from the film series "The Eight Dwarfs," which disclosed a number of testimonies that completed and confirmed the revelations in the series, had a similar fate³⁴. Although Yavor Zlatanov's testimonies on "The Eight Dwarfs" did not evoke an adequate response among the Bulgarian law enforcement institutions, the European Court of Human Rights, conversely, declared this a 'case of special importance' and will give it a priority consideration³⁵.

28. <https://home.treasury.gov/news/press-releases/jy0208>

29. See ACF's inquiry on the missing names in the Corporate Commercial Bank case: https://acf.bg/bg/akf-startira-dokumentalno-razsledva/?fbclid=IwAR2Tj5k4SmOUL_hkShWV7YSXEVe-B08LkKpszdDkFgHu1Dr4pb-7-RsIhXk

30. Cases nos. 33-34

31. Cases no. 47-48

32. <https://acf.bg/en/spisak-za-barz-kontrol-istoriyata-na-ve/>

33. <https://acf.bg/en/cdna-godina-po-kasno-yavor-zlatanov-lip-2/>

34. Yavor Zlatanov's interview for ACF confirmed the "Eight Dwarfs" story

35. <https://acf.bg/en/sadat-v-strasburg-smiyata-osemtc-dzhudzh/>

0.5 Recommendations

The recommendations we have made for the improvement of the situation of fighting high-level corruption in previous reports should be repeated in their entirety. It is only logical as they were not addressed in any form.

One of the main obstacles to tackling high-level corruption in Bulgaria, if not the most significant obstacle, is **the lack of adequate control over the prosecution of criminal behavior, which is the principal function of the Prosecutor's Office.**

It is necessary to introduce **new forms of external procedural control**, as well as to reinforce the public control over the conduct of criminal proceedings, which remains completely unchecked at present. The decision whether, whom, when, and on what charges to prosecute 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 procedural opportunities for courts to exercise control over the conduct of criminal proceedings would create better conditions for developing a well-functioning Prosecutor's Office — respectively, a more just and effective criminal justice system — than the reliance on any other, even if theoretically perfect, mechanism for institutional control over the prosecution.³⁶

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

Developing criteria for corruption cases of high public interest: The future criteria should consider the public status of the accused, as well as the material damages or other significant damages caused as a result of the criminal act. The application of such criteria will enable the monitoring and assessment of the most serious cases of alleged corrupt behavior that otherwise blur out in the statistical data on corruption in general.

Transparency regarding the status of criminal proceedings on corruption cases of high public interest: PORB 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 the pre-trial investigation 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 parties, PORB should publish regular updates regarding the development of the case. This approach should not be adopted selectively but should apply to all cases.

36. Details on the topic: https://acf.bg/wp-content/uploads/2020/11/kontrol_nakazatelo_EN_WEB.pdf

In 2021 a particular case confirmed the need to create a mechanism of an independent criminal investigation of the Prosecutor General, a need identified 13 years ago in the ECHR case “Kolevi v. Bulgaria”. Prosecutors from the Special Prosecutor’s Office, in hierarchical and career subordination to the Prosecutor General, inquired on the widely known case “Josi” related to allegations of malfeasance in office done precisely by the Prosecutor General in his capacity of an ordinary prosecutor of the Sofia City Prosecutor’s Office. At a first glance, the motivation of prosecutors to refuse to investigate their highest superior in this case does not reveal grave deficiencies. However, there are still shadows of doubt that there may not be a complete inquiry of all relevant circumstances. If the case had been decided by a magistrate independent from the Prosecutor General, that would have at least helped increase the trust in his reasons for such a decision.

Convictions of corruption crimes of any kind that became final in 2021 following a cassation appeal

The Supreme Court of Cassation (SCtC) judgments in 2021 on cases involving corruption crimes are systematically published on the Court's webpage.³⁸

The 2019 analysis found that the largest share of corruption crime cases examined by the SCtC involve active bribery (giving/offering or attempting to offer a bribe) of police officers (10 out of 28 cases).

In 2020, the active bribery cases dropped in half, down to only five (mostly involving police officers again). However, this is also the number of examined cases against (predominantly low-level) officials for passive bribery, which includes requesting/receiving a gift, embezzlement, and malfeasance in office under Art. 282 of the CC.

In 2021, six of the total 19 criminal cases passing through the cassation instance were for active bribery, i.e., one-third (mostly involving police officers again). Four were for embezzlement, three for passive bribery, and the rest were for mismanagement of public funds, malfeasance in office, crimes against citizens' electoral rights, and document fraud.

In 2021, the Prosecutor's Office has achieved **7 final convictions (following a cassation appeal) of public officials for the commission of corruption crimes (in 2019 these were seven as well, and in 2020 they were twelve)**: against two inspectors from the Regional Directorate of Food Safety in Burgas for passive bribery (with the suspended punishment of imprisonment, fine, and deprivation of rights), against the director of the Professional High School of Agricultural Mechanization in the town of Septemvri,

for mismanagement of funds and embezzlement (with the suspended sentence of imprisonment and barred from holding a public office), against an investigating customs inspector from the Burgas customs office for grave embezzlement of other persons' money totaling 464 652,24 leva (imprisonment for 7 years, barring from holding the office), against two policemen for passive bribery of 10 leva (suspended imprisonment for both), against an acting mayor of the municipality of Rakitovo for intentional malfeasance in office amounting to 76 454,58 leva (suspended imprisonment and barring from office), against the director of the Regional Agriculture Department in the city of Dobrich for malfeasance in office (suspended imprisonment and barring from office), against the mayor of the municipality of Vetovo for embezzlement, mismanagement of funds and malfeasance in office, with total damages of 61 933,30 leva (suspended imprisonment and barring from office).

There is one unsuspended imprisonment, there was none in 2020, and in 2019 there was one as well.

38. <http://www.vks.bg/dela-za-korupcionni-prestuplenia-reshenia/2021.pdf>

Summary analysis of monitored cases in local authorities

In 2021, no new cases were identified of supposed corruption behavior in the high levels of local power that would be included in the monitoring.

This year reaffirms the conclusions drawn last year of a picture not much different from the principal cases in the report. The number of achieved convictions is negligible, and there are no executed prison sentences. There is a consensus between judicial instances of acquittals based on unfounded charges, inexplicable delays of the proceedings at the pre-trial stage, and a complete lack of official information regarding the progress of the cases, despite the wide publicity given at the start of the investigations.

The tracing of the cases from last year that were completed this year shows **three new acquittals entering into force**³⁹, one partial conviction with the replacement of criminal punishment by an administrative fine and a partially acquitting act,⁴⁰ and one criminal case silently terminated at the pre-trial phase by the Prosecutor's Office.⁴¹

Two of the three new final acquittals are of very famous cases, commenced with a lot of publicity, of alleged corruption behavior of local authorities in Sofia – the “Tsar’s Stables” case against regional governor Vevelin Penev⁴² and for violations of the Public Procurement Act in commissioning the repairs in Graf Ignatiev Street against deputy mayor Evgeni Krusev⁴³.

In both cases, **all judicial instances considering them have developed the same categorical thesis of lack of elements of the actions on the charges by the Prosecutor's Office.** The case against Penev didn't reach the highest instance because no protest

39. Cases nos. 2, 15, 17. Annex 2

40. Annex 2, case no. 12

41. Annex 2, case no. 3

42. Annex 2, case no. 2

43. Annex 2, case no. 17

was issued by the prosecutor, demonstrating unanimity with the court's opinion that there was no crime. As is the usual practice in such cases, the state prosecution again failed to inform the public about the inglorious way another criminal proceeding of high public interest had ended.

The Specialized Prosecutor's Office has also been silent in the termination in March 2021 of the criminal proceedings, monitored by us, against the former mayor of Plovdiv, Ivan Totev⁴⁴, initiated for violations in the construction of the Plovdiv Zoo. The information, however, was publicly disclosed by the caretaker minister of Justice Ivan Demerdjiev. He stated that three pre-judicial cases against Totev were terminated by the Specialized Prosecutor's Office in the spring of 2021. Later, Totev became a member of parliament in the three consecutive Parliaments elected in that year.

The Specialized Prosecutor's Office has kept its tradition not to disclose any information on the cases we monitor, including those related to local authorities. Thus, the motivation for the termination of the above case remains unknown to the public, as well as **the development of some investigations in 2018 and 2019, which commenced with a lot of publicity but have been shrouded in a complete informational fog ever since.**

There is no clarity about the proceedings against the mayors of the municipalities of Pernik, Ilinka Nikiforova and Ivan Ivanov⁴⁵, of Sozopol, Panayot Reyzi⁴⁶, of Nessebar, Nikolay Dimitrov⁴⁷ (still in office), of Bojurishte, Georgi Dimov⁴⁸ (still a mayor) and the mayor of a district in Plovdiv, Ralio Ralev⁴⁹.

The Sofia City Prosecutor's Office sent an answer to our question about the development of the case of the mayor of Chelopech, Aleksy Kesysakov⁵⁰. From that answer it is seen that the case is currently at the appellate instance after the first-instance conviction of suspended imprisonment.

The case is also at the judicial stage against the mayor of Pernik, Sevdalina Kovacheva⁵¹, who is a defendant with the Minister of the Environment and Waters Neno Dimov⁵² for the water crisis in Pernik.

Still at the judicial phase are the cases against the mayor of Lovech Mincho Kazandjiev⁵³, the mayor of Septemvri Marin Rachev⁵⁴, and the mayor of Nedelino Stoyan Beshirov⁵⁵.

44. Annex 2, case no. 3

45. <https://www.mediapool.bg/tri-dela-sreshtu-ivan-totev-sa-prekratani-predi-izborite-news329347.html>

46. Annex 2, cases no. 5 and 6

47. Annex 2, case no. 8

48. Annex 2, case no. 9

49. Annex 2, case no. 13

50. Annex 2, case no. 18

51. Annex 2, case no. 14

52. Annex 2, case no. 4

53. Annex 2, case no. 7

54. Annex 2, case no. 11

55. Annex 2, case no. 16

II/

Anti-Corruption Institutions 2021. Ascertainment of conflict of interest and forfeiture of illegally acquired property

Alexander Kashamov

1/

General context

In 2021, three times parliamentary elections were conducted, the last of which was conducted simultaneously with the elections for a president. In a considerable part of the year, the governance was carried out by two consecutive caretaker governments. The legislative activity was very limited due to the very short tenure of the parliaments. It was only December 2021 when the newly elected National Assembly – fourth for the year – elected a government headed by the Prime Minister Kiril Petkov⁵⁶. The government was supported by a coalition of four formations represented in the Parliament – “We Continue the Change”, “Bulgarian Socialist Party”, “There Is Such a People” and “Democratic Bulgaria”. Its composition includes ministers of each of the four political formations.

The new governments aimed at making an inspection of the preceding government dominated by the political party GERB and making reforms in various sectors, including the judiciary and the anti-corruption system. The main parameters of the targeted changes were laid down in the Agreement for joint governance of the Republic of Bulgaria in the period 2021 – 2025 reached within a public discussion among the partners in the

governing coalition. One of the main purposes in the agreement is to make the Republic of Bulgaria a country that sets the model of successful counteraction to corruption, as well as to highlight the significance of the anti-corruption policy and to guarantee the political commitment thereto.

In 2021 the state and the public remained in an emergency epidemic situation introduced by the Council of Ministers. A number of restrictions of fundamental rights of the citizens and of other persons remained in existence within it, in particular ones related to the right of free movement.

In the first half of 2021 a new strategic document for prevention of and counteraction to corruption was adopted. It was reported as a positive step also in the Report on the Rule of Law for 2021 drawn up by the European Commission. At the same time, a finding is also made there that “[s]ignificant challenges remain concerning the effectiveness of measures related to the integrity of public administration, lobbying and whistleblowing protection, where no dedicated regulation exists.”

56. On December 13, 2021

2/

Anti-corruption policies

In the first half of 2021 the first caretaker government adopted an updated strategic document related to the fight against corruption. By a Resolution of the Council of Ministers of March 2021 the National Strategy for Prevention of and Counteraction to Corruption for the Period 2021 – 2027⁵⁷ was adopted. The document was based on an analysis of the implementation of the previous National Strategy for Prevention of and Counteraction to Corruption (2015 – 2020)⁵⁸. The newly adopted strategy was accompanied by a Road Map for the implementation of the National Strategy for Prevention of and Counteraction to Corruption, which is in its essence a detailed plan for the implementation of the strategy, with specific measures, responsible institutions and deadlines⁵⁹. In September 2021, the strategy and the roadmap were supplemented by one more measure⁶⁰.

The strategy of the government covers both the sphere of the executive power and its administration and the judiciary, the local self-government and the business. In this way it is considerably expanded compared to the constitutionally determined powers of the Council of Ministers. This means that its implementation is only possible in coordination and interaction with institutions and organisations that are beyond the executive power, such as the Supreme Judicial Council, the Inspectorate of the Supreme Judicial Council, municipal councils, business organisations.

Similarly to the previous similar documents, the distinction between preventive and repressive measures with respect to corruption is not clear enough here either. The strategy does not contain dedicated parts referring respectively to preventive activity and repressive functions. This problem is reflected also in the effective Anti-corruption and Forfeiture of Illegally Acquired Property Act, where there is no respective

structural subdivision of the units in the Commission for Anti-corruption and the Forfeiture of Illegally Acquired Property into units performing a preventive activity and ones performing a repressive activity.

The strategy presents seven priorities, each presupposing different measures. A positive evaluation should be given to the separation of the work on the development of anti-corruption policies, the seeking of cooperation in this respect with the Prosecutor's Office of the Republic of Bulgaria and CAFIAP, the strengthening of the capacity of the inspectorates at the ministries, the development of a code of ethics for the persons holding senior offices in the executive power, which are within priority 1, Strengthening of the capacity and improvement of the transparency in the work of the anti-corruption bodies and units. At the same time, some of them recur for long years, even since the time of the Tripartite Coalition, such as the strengthening of the inspectorates and the adoption of such a code of ethics. Another problem recurring over the years is the lack of an interrelation between the separate measures or at least an attempt to show the relation among them in the contents of the strategy. Measures referred to the different powers are laid down, such as strengthening of the inspectorates at the ministries and, at the same time, of the Inspectorate at the Supreme Judicial Council.

On the other hand, an impression is created that certain measures are rather connected to reforming the administration of the executive branch, which is also a necessary activity but is not necessarily coinciding with the prevention of corruption. For example, the need to reform the system for implementation of an administrative-penal activity is indisputable, as well as the presence of a corruption risk in the performance of this activity, but not all measures for the improvement thereof have anything to do with the prevention of corruption.

57. Resolution No.235 of 19 March 2021 of the Council of Ministers. The strategy itself is Appendix 2 to Resolution No.235 of 19 March 2021 of the Council of Ministers.

58. Adopted as Appendix 1 to Resolution No.235 of 19 March 2021 of the Council of Ministers.

59. Adopted as Appendix 3 to Resolution No.235 of 19 March 2021 of the Council of Ministers.

60. Resolution No.665 of 9 September 2021 of the Council of Ministers.

61. For example, priorities 1 and 4 encompass rather preventive measures, and priorities 2 and 3 are related to classical repressive measures.

It is necessary to group together in a separate category the measures related to the creation and maintenance of corruption risk monitoring systems in the individual institutions and organisations. The anti-corruption policies, strategies or plans developed in the individual institutions should take into account exactly these vulnerable positions, the actual and current cases of conflict of interests, as based on this – the rules, codes of conduct and the trainings of the employees should be developed. In this respect, a consolidation in a common priority should be sought, e.g. of the existing measure 3 of Priority 3, measure 5 of Priority 4, measure 5 of Priority 5, measure 1 of Priority 1.

A positive evaluation should be given to the introduction of a separate measure for monitoring of the implementation of the anti-corruption policies. On the basis of the analysis and evaluation of the implementation of these policies, steps towards their improvement (update) and the development of new policies should be discussed.

It should be noted that the development of typical tools for prevention of the conflict of interests and of corruption is underestimated and delayed for years. E.g., although CAFIAP has both the powers of ascertainment of a conflict of interests, and the analytical work of the BORCOR unit that merged into it, it does not perform a proactive activity towards trainings of the employees in the executive, legislative and judicial powers, nor is it known whether it develops training materials, such as manuals, presentations, etc. In general, it has exactly the expertise required to develop such tools, based on the information received from the signals and the initiated proceedings, as well as from the analyses performed with respect to the corruption environment. The trainings should be 100% focussed on the topical problems and oriented to the actual needs.

Likewise, the codes of conduct are not updated, which prevents both prevention and follow-up application of repressive measures. In this respect, the justification of measure 5 in Priority 1 of the strategy of 2021, concerning the development of a Code of ethical behaviour of persons holding senior public offices in the executive branch, is perplexing. A finding is made in the content of the measure that currently there is no such code. In fact, such a document was developed already during the governance of the Tripartite Coalition in the period 2005 – 2009, but was never made public. Its legal status was also unclear. Anyway, the omission to state the actual situation shows either lack of knowledge of the development of the anti-corruption measures and tools, or lack of transparency with respect to this history. Either way, there is a problem because the new measures must build on what has already been achieved and take into account both the achievements and weaknesses of past as otherwise there is a high risk of repeating errors and ineffectiveness.

As regards the measure related to the upgrade of the capacity of the inspectorates of the ministries and of specialised inspectorates, it must be further developed in the future (measure 3 of Priority 1). This is so because development should be sought not only towards filling-up the staff positions in the administration for the work of these units but also due to the significance of the information they collect in the course of their corruption prevention activity. This is the information about the current problems, behaviour related cases, weaknesses in the organisation with a higher risk of corruption, and it must therefore be taken into account in the development of anti-corruption policies and other instruments, such as codes of ethical behaviour of the employees, contents of trainings, analysis of the corruption risk, etc.

3/ Institutions engaged in countering corruption

Regardless of the creation of CAFIAP, there is still a relatively high number of different institutions engaged in countering corruption and this is something natural. This is so because, on the one hand, different institutions operate in the different powers. On the other hand, in larger organisations, such as the ministries, separate structural units, which are tasked also with work on corruption prevention and counteraction, operate.

3.1 Chief Inspectorate at the Council of Ministers

The Chief Inspectorate at the Council of Ministers was set up as early as in 2006⁶², it is subordinated to the prime minister and exerts control of the compliance with the legal incompatibility requirements for holding a public office in the Council of Ministers, as well as of the ascertainment of a conflict of interests with respect to the persons referred to in § 2, Paragraph 1 of the Additional Provisions of the AFIAPA, whose appointing/electing body is the Council of Ministers or the Prime Minister.

The employees from the administration of the Council of Ministers are bound to submit every year by the 15th of May before their appointing body declarations of property and interests under Article 35, Paragraph 1 of the AFIAPA⁶³. Within one month from the expiration of this deadline, the inspectorates are to draw up a report to the appointing body about the declarations not submitted in due time⁶⁴.

The Chief Inspectorate exerts control over the compliance with the requirements of the AFIAPA by the persons holding senior public offices about the incompatibility declarations and the persons referred to in § 2, Paragraph 1 of the Additional Provisions of the AFIAPA, whose appointing/electing body is the Council of Ministers or the Prime Minister⁶⁵.

As regards its activity in 2021, the Chief Inspectorate reports that it inspected 267 incompatibility declara-

tions – 89 of newly appointed employees in the administration of the Council of Ministers or of persons from the political cabinet and 178 of persons holding senior public offices whose electing/appointing body is the Council of Ministers/Prime Minister⁶⁶. It is reported that in 2021 there are no issued statements of administrative violations.

According to the annual report of the Chief Inspectorate, for the period 1 January – 31 December 2021 the administration of the Council of Ministers did not receive reports for a conflict of interests with respect to persons holding senior public offices elected/appointed by the Council of Ministers/Prime Minister, as well as with respect to persons referred to in § 2, Paragraph 1 of the Final Provisions of the Act, the appointing body/employer of which are the Prime-Minister or the Deputy Prime Ministers⁶⁷.

For the same period, the Chief Inspectorate did not receive either reports for a conflict of interests against persons holding senior public offices (other than those elected /appointed by the Council of Ministers/Prime Minister), unlike 2020 when the reports were 8.

In 2021, on request of CAFIAP, the Chief Inspectorate provided information and documents for 4 persons holding senior public offices, elected/appointed by the Council of Ministers or by the Prime Minister. In 2020 information was requested for 11 such persons.

62. See Article 46a of the Administration Act.

63. In accordance with the requirements of Article 38, Paragraph 1, Subparagraph 2 of the Anti-corruption and Forfeiture of Illegally Acquired Property Act.

64. See Article 3, Paragraph 8 of the Ordinance on the organisation and procedure for conducting inspections of the declarations and ascertaining conflict of interests.

65. See Article 46a, Paragraph 2, Subparagraph 4 of the Administration Act and Article 62, Para-

graph 2, Subparagraph 3 of the Organic Rules of the Council of Ministers and its Administration.

66. Annual report on the activity of the Chief Inspectorate of the Council of Ministers for 2021, page 5 <https://www.gov.bg/files>

67. Annual report on the activity of the Chief Inspectorate of the Council of Ministers for 2021, page 12 <https://www.gov.bg/files>

3.2 National Council for Anti-corruption Policies

The National Council for Anti-corruption Policies (NCAP) was set up in 2015 in pursuance of the National Strategy for Prevention of and Counteraction to Corruption in Bulgaria 2015-2020.

The head of the Chief Inspectorate is a standing member of this inter-departmental body. The Inspectorate itself provides expert and technical support for the work of the Council. The Chief Inspectorate administers an Information System for Coordination and Communication of the Anti-Corruption Structures (ISCCAS), through which the citizens and the business can submit online reports for corruption acts of state administration employees, and unlike the report for 2020 the present report does not contain data for reports (tip-offs) received through the system.

In the Annual Report for 2021, there is data for one conducted (online) session of this Council⁶⁸. In 2020 a session was not held. At the session in 2021 there was a discussion of the implementation of the National Strategy for Prevention of and Counteraction to Corruption in Bulgaria for the Period 2015 – 2020, the draft strategy for the next period and the road map for the strategy implementation.

It is reported that after conduction of public consultations and a procedure for interdepartmental coordination of Resolution 235 of the Council of Ministers of 19 March 2021 an analysis of the implementation of the National Strategy was adopted.

⁶⁸. On the webpage of the Council this information is not reflected. As it seems, it is not updated since 2019 when the last publications were made on it <https://anticorruption.government.bg/>.

3.3 Inspectorate at the Supreme Judicial Council

The Inspectorate at the Supreme Judicial Council was set up by an amendment and supplementation to the Constitution in 2007⁶⁹. Its functions include the performance of inspections for integrity, for a conflict of interests and for the ascertainment of acts prejudicing the prestige of the judiciary, as well as inspections related to breaching of the independence of judges, prosecutors and investigators. The inspection of a judge, prosecutor or investigator for a conflict of interests is aimed to “ascertain sufficient data for the presence of a private interest in the performance of the specific official functions of the person”⁷⁰.

According to the Report on the activity of the Inspectorate at the Supreme Judicial Council for 2021, in the period 01 January – 31 December 2021 a total of 72 files were initiated on the basis of reports containing allegations for violations under Article 175k, Paragraphs 1 – 4 of the Judicial System Act – an increase of 22 compared to the preceding year 2020⁷¹. The Inspectorate at the Supreme Judicial Council finds an explanation to this in the Guidelines for submitting reports for committed violations under chapter Nine, section 1b of the Judicial System Act, developed in 2021, which contain instructions for the mandatory requisites of the report to the Inspectorate at the Supreme Judicial Council, as well as in the regular publication on the site of the Inspectorate at the Supreme Judicial Council of anonymised cases of ascertained violations under Article 175k of the Judicial System Act, for which there are effective judicial acts whereby the committed violations are found to be proven. An observation is also made of the continuing trend of submission of irregular reports – lack of three names and personal ID number of the whistleblower, lack of specific data for the alleged violation, incl. place and period of commission thereof, description of the act, documents or persons capable of confirming the report are not indicated.

The performance of an inspection was ordered with respect to 13 files in 2021 by an order of the Chief Inspector for the ascertainment of sufficient data for a committed violation of Article 175k of the Judicial

System Act. 2 of them were initiated for violations under Article 175k, Paragraph 1 of the Judicial System Act. 4 of these 13 initiated inspections ended in 2021 with reports containing opinions for the lack of sufficient data for a conflict of interests, acts or omissions harming the prestige of the judiciary or related to the infringement upon the independence of judges, prosecutors and investigators. The other 9 inspections, of which 1 for a violation of Article 175k, Paragraph 1 of the Judicial System Act, ended in 2022 with reports, according to which there is no sufficient data for the violations.

In the other 59 files initiated in 2021, the proceedings are terminated with opinions. 30 of these files are terminated on account of failure to remedy irregularities of the report, and 20 – due to the fact that they are filed for a conflict of interests on pending cases (2 pcs); due to an expired limitation period for criminal prosecution (1 pc); due to an already initiated disciplinary proceeding on the same case (2 pcs); due to being indisputably ascertained in the preliminary check that the reports are outside the competence of the Inspectorate (14 pcs); and one on account of anonymity of the report.

Like the previous years, the Report on the activity of the Inspectorate for 2021 does not contain a dedicated analysis focussed on a conflict of interests with respect to a judge, prosecutor or investigator. The conflict of interests or, rather the avoidance thereof, is understood as a part of the integrity and honesty of magistrates. On the basis of a proposal made by the Inspectorate, a working group was set up at the Minister of Justice with the task to clarify identifying features of the breaches of integrity and more precise description of the possible manifestations of lack of integrity by judges, prosecutors and investigators. On 21 December 2020 a working group was set up by the Minister of Justice with the task to develop amendments and supplementations to the Judicial System Act. It had two sessions in 2021.

69. See Article 132a of the Constitution, promulgated in State Gazette No.12 of 2007.

70. See Article 175k, Paragraph 1 of the Judicial System Act, New – State Gazette, No.62 of 2016, effective from 1 January 2017.

71. Report on the activity of the Inspectorate at the Supreme Judicial Council for 2021, pages 85-87, accessible on <http://www.inspectoratvss.bg/bg/page/16> (26.05.2022 r.)

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Proceedings for the ascertainment of a conflict of interests by CAFIAP

The previous reports of ACF point out and analyse serious problems both with respect to the composition and lack of satisfactory guarantees for the independence of CAFIAP, and in relation to the activity of this main anti-corruption authority, in particular with respect to the proceedings for ascertainment of a conflict of interests⁷². Once again, in 2021 no adequate measures are taken for addressing the formalistic approach of the Commission to the application of the AFIAPA, for expanding the scope of the legal definition of related parties, for enlarging the range of entities entitled to file reports, as well as for guaranteeing sufficient protection to whistleblowers.

For the period from 01 January 2021 to 31 December 2021 a total of 255 reports were checked in the Conflict of interests directorate. 247 of them were within the meaning of Article 47, Paragraph 1, Subparagraph 1 of the AFIAPA – filed by natural persons, by representatives of the bodies of the Executive Branch – central and local, and by representatives of the judiciary; 2 are tip-offs within the meaning of Article 47, Paragraph 1, Subparagraph 2 – publications in the mass media and 6 are decisions issued by the Commission for the initiation of proceedings for a conflict of interests on the basis of inspections made by the Anti-Corruption Directorate⁷³.

A comparison shows that since the entry into force of the AFIAPA on 23 January 2018 till the end of the first year of application of the Law (2018), the Conflict of

interests Directorate made inspections for the presence or absence of a conflict of interests on a total of 119 reports⁷⁴. In 2019 the directorate made inspections for the presence or absence of a conflict of interests on a total of 166 reports and in 2020 – on 292 reports⁷⁵. Hence, there is a slight decrease in the number of reports received and handled by the directorate compared to 2020 – around 12 %, but at the same time there is still an increase of the number of signals compared to 2018 and 2019 – more than 110 % and more than 50 %, respectively.

In 2021, CAFIAP issued 104 decisions on the merits, 22 of which ascertained a conflict of interests and 82 did not ascertain such a conflict⁷⁶. A comparison of the data under this indicator to the statistics from past years shows that in 2018 the Commission issued 78 decisions on the merits, 28 of which ascertained a conflict of interests and in 50 cases such a conflict was not ascertained⁷⁷. In 2019, a total of 162 decisions on the merits were issued, 14 of which ascertained a conflict of interests, and 87 did not ascertain such a conflict⁷⁸. In 2020 the Commission issued a total of 122 decisions on the merits, and in 30 of them it ascertained the presence of a conflict of interests, while in 92 decisions it did not ascertain the presence of such a conflict⁷⁹. On the basis of the data thus summarised a conclusion can be made that there is no trend of either more and more or less and less conflicts ascertained by the Commission over the years and the number of the decisions ascertaining such conflicts varies consistently and relatively evenly in an upward and downward direction.

72. Yankulov A., Kiselova N., "Anti-Corruption Institutions: Escalating Problems", Sofia: ACF, 2021, pages 49-50: https://acf.bg/wp-content/uploads/2021/07/ACF_ENG_Online_Jul15-1.pdf
Yankulov A., Slavov A., Anti-corruption institutions: activity without visible results, Sofia: ACF, 2020, pages 33-36: https://acf.bg/wp-content/uploads/2020/06/ACF_ENG_2020-1.pdf
Pushkarova, I., Slavov A., Anti-Corruption Institutions: Trends and Practices, Sofia: ACF, 2019, pages 24-40: https://acf.bg/wp-content/uploads/2019/05/doklad_EN_web.pdf

73. Report on the activity of CAFIAP for 2021: https://www.cacaf.bg/web/files/documents/5/files/Doklad%202021_KPKONPL.pdf, page 17
74. Yankulov A., Kiselova N., "Anti-Corruption Institutions: Escalating Problems", Sofia: ACF, 2021, page 33: https://acf.bg/wp-content/uploads/2021/07/ACF_ENG_Online_Jul15-1.pdf

75. Report on the activity of CAFIAP for 2021: https://www.cacaf.bg/web/files/documents/5/files/Doklad%202021_KPKONPL.pdf, page 17

76. idem, p.18

77. Report on the activity of CAFIAP for 2018: https://www.cacaf.bg/web/files/documents/5/files/Doklad_2018_KPKONPL.pdf

78. Report on the activity of CAFIAP for 2019: https://www.cacaf.bg/web/files/documents/5/files/Doklad_2019_KPKONPL.pdf

79. Report on the activity of CAFIAP for 2020: https://www.cacaf.bg/web/files/documents/5/files/Doklad_2020_KPKONPL.pdf

However, a fact giving a positive impression is the considerable decrease – as a result of the making of a check of the admissibility of the reports – in the number of decisions for termination of proceedings compared to the preceding two years (in 2019 they are a total of 61, in 2020 – 9, and in 2021 – 3)⁸⁰. Likewise, in 2021 the Conflict of Interests Directorate prepared and the Commission issued 13 decisions for the initiation of an inspection for the forfeiture of illegally acquired property on the basis of legally effective decisions for an ascertained conflict of interests (on the grounds of Article 108, Paragraph 6 of the AFIAPA). In terms of this indicator, there is a growth of more than 100 %, as the number of such decisions in 2020 is only 6.⁸¹

The analysis of the 104 decisions, by which the Commission ruled on the merits and by which a conflict of interests is (not) ascertained on the basis of received reports results in the creation of two separate groups. The first group, which includes the predominant number of examined cases – 78, concern persons who hold a public office on a local level: within the system of the self-government, the local government or in the local administration. The other decisions – 26, are about persons holding a public office at a central level, in the system of the state administration (incl. in bodies having a regional competence), members of bodies of a state enterprise or a rector of a state university.

The considerable number of reports concerning persons holding a public office on a local level is a trend observed also in 2020, which is due to the local elections held in the autumn of 2019, as well as to the obligation arisen by virtue of §4 of the Transitional and Final Provisions of the AFIAPA (promulgated in State Gazette, No.21 of 2018) for all municipal councillors to submit an initial declarations under Article 35, Paragraph 1, Subparagraph 2 and 4 of the AFIAPA⁸².

Considering the administrative-and-punishing functions vested in CACIAP, in the cases of an established conflict of interests in 2021 fines are imposed and for-

feitures under Article 81 of the AFIAPA are ordered in the total amount of BGN 804,540. This exceeds by BGN 193,674 the sanctions imposed for 2020 (BGN 610,866) and is BGN 601,002 more compared to 2019 (BGN 203,538)⁸³.

A total of 19 administrative cases were initiated in 2021 on the basis of appeals against decisions, whereby a conflict of interests was ascertained. Apart from that, in the year the Conflict of interests Directorate implemented representation under further 28 cases initiated in previous years (a total of 47 cases). A comparison shows that in 2019 the Commission was represented by lawyers from the Conflict of interests Directorate in 32 cases, and in 2020 – under 46 cases⁸⁴.

In 2021, the Supreme Administrative Court upheld by a final order a total of 16 decisions of the Commission, whereby a conflict of interests was ascertained. 7 decisions of the Commission ascertaining a conflict of interests were cancelled. A comparison shows that in 2020 the upheld decisions were 11, and the cancelled – 5. For year 2019, these indicators are 6 upheld and 2 cancelled decisions, respectively.⁸⁵

80. Report on the activity of CACIAP for 2021: https://www.cacaf.bg/web/files/documents/5/files/Doklad%202021_KPKONPL.pdf, page 18

81. Idem, page 19.

82. Idem.

83. Idem.

84. Idem.

85. Report on the activity of CACIAP for 2020: https://www.cacaf.bg/web/files/documents/5/files/Doklad_2020_KPKONPL.pdf, pages 24-25

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General conclusion and trends in the practice of CAFIAP in 2021

As a result of the performed review and analysis of the 104 decisions issued on the merits by CAFIAP in the field of conflict of interests in 2021, the following observations can be made:

- A major problem with respect to the effective operation of the Commission on these proceedings remains the limited scope of the term “related persons”, which does not include a number of types of connections that doubtlessly presuppose a risk of unlawful provision of a benefit between two or more persons. An example of such mutual connection is the relationship of godparents commended on also in the previous reports of the ACF. Another example is the relationship between a godfather and a godson, which also creates a situation posing a high risk of commission of improper acts in private interest.

Within this year’s analysis a question also arises as to how to treat a more unusual form of connection characterised by a special degree of loyalty, witnessed by an oath for mutual aid by all means. This connection concerns the relationship between the “brothers” – member of Freemasonry and other similar societies. We should note here that in State Gazette No.62 of 09 August 2016 a new Article 195a was adopted in the Judicial System Act, pursuant to which: “Every judge, prosecutor and investigator, the members of the Supreme Judicial Council, the Chief Inspector and the inspectors from the Inspectorate at the Supreme Judicial Council must within one month from starting work submit to the respective college of the Supreme Judicial Council a declaration for all their activities and memberships in organisations, **including secret and/or informal organisations and societies**, non-profit legal entities and in civil-law companies

or unions under a form approved by the Supreme Judicial Council.” The adoption of this provisions supports a conclusion that the legislator takes into account the presence of a risk of corrupt behaviour caused by the common affiliation of certain persons to an organisation.

In this respect, an interesting fact is also the judgment of the European Court of Human Rights in the case *Maestri v. Italy*⁸⁶, which considers the lawfulness of the imposition of a disciplinary sanction on a judge belonging to the Freemason Order. The court held that the imposition of the respective sanction was in violation of the right to association of the judge appellant but there are seven dissenting opinions in the case, which are grouped in two groups. What is more, as a result of the judgment in the said proceeding the appealed sanction was declared to be in conflict with the European Convention on Human Rights but the law in Italy was not declared problematic per se and it still prohibits the membership of judges in Masonic lodges.

- Another significant weakness found during the analysis of the work of CAFIAP in 2021 is shown when a person holding a public office – e.g. a mayor or a rector of a university assigns to his/her direct deputy to carry out a specific power in order to avoid an unavoidable situation of a conflict of interests. E.g., the Commission finds that as regards Anastas Gerdzhikov, rector of the Sofia University, there is no conflict of interests, provided that Gerdzhikov’s mother has a concluded contract with the Sofia University because this contract is signed by the deputy rector of the university⁸⁷.

This case group once again clearly shows the formal approach of CAFIAP to the application of the rules of the legislation in the field of conflict of interests. In most of the cases the Commission refuses to

86. *Maestri v. Italy*, no 39748/98, 17 February 2004.

87. See <https://offnews.bg/temida/kpkonpi-za-prof-gerdzhikov-ректорат-na-su-ne-e-bil-v-konflikt-na-int-760934.html>.

examine the essence of the raised problem and concludes that a formal violation is not present even when the facts blatantly show that the investigated person is in a conflict of interests. Probably, the best illustration of this tendency in the cases, on which the Commission worked in 2021, is the case of Marian Tsonev, the mayor of the Gurkovo Municipality, who entered into a contract with a company, of which he had been a joint manager before taking up the mayor's office.⁸⁸

- A note should also be made about the viciousness of the amendment to Article 37, Paragraph 2 of the Law on Local Self-Government and Local Administration (State Gazette No.70 of 2020), according to which municipal councillors can discuss and vote on the budget of the municipality falling outside the scope of the AFIAPA in its part concerning conflicts of interests. This amendment results in unlimited possibilities for quite lawful development of practices through which municipal councillors can provide benefit to persons and organisations related to them. These possibilities must be eliminated by a special legislative initiative because they make to a high extent pointless the effect of the existing rules in the field of conflict of interests.

Likewise, it is necessary to highlight certain remaining defects of the legal framework and of the activity of CAFIAP, ascertained in the previous reports of ACF⁸⁹:

- The requirement to whistleblowers to specify their personal ID number (this is the ground to terminate one of the three proceedings terminated by CAFIAP in 2021);
- The absence of an explicit possibility for submission of reports by legal entities, incl. non-governmental organisations performing an activity of

civil control over institutions;

- The decentralised model of inspecting conflicts of interests with respect to persons holding public offices in the administrations of the bodies, which inspections are carried out by the inspectorates under Article 46 and Article 46a of the Administration Act or by special commissions. This decentralised model results in an inconsistent practice.

88. Decision No.PC-763-20-024/ 01 March 2021, see further below.

89. See Yankulov A., Kiselova N., "Anti-Corruption Institutions: Escalating Problems", Sofia: ACF, 2021, pages 49-50: https://acf.bg/wp-content/uploads/2021/07/ACF_ENG_Online_Jul15-1.pdf; Yankulov, A., Slavov A., Anti-corruption institutions: activity without visible results, Sofia: ACF, 2020, pages 33-36: https://acf.bg/wp-content/uploads/2020/06/ACF_ENG_2020-1.pdf

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A selection of cases illustrating the trends in the practice of CAFIAP in 2021.

6.1 CAFIAP Decision⁹⁰ Absolving Anelia Lilova of Allegations of Conflict of Interest

A complaint was filed against **Anelia Lilova, deputy mayor of Dimovo Municipality**, who had issued a decision concerning the completion of a public procurement procedure while filling in for the mayor in the period 25 September 2019 - 25 October 2019. For three of the tender items Lilova selected a company co-owned and managed by her mother-in-law as the winner. In addition, the deputy mayor dismissed the municipality's legal advisor for refusing to review a complaint about the procurement procedure, filed by the above-mentioned company, with the justification that the Commission for the Protection of Competition was the relevant public body to handle the issue.

In 2020 CAFIAP determined⁹¹ that there had been conflict of interest in terms of Anelia Lilova's decision to rank the participants in the tender procedure and select a winning party, serving the private interest of a person related to her. By doing so Lilova had violated a prohibition for public officials to issue decisions serving private interests.

CAFIAP did not establish conflict of interest

comment

According to the Commission Anelia Lilova's decision to dismiss the legal advisor had not been taken in a bid to serve her private interests or to favor a related party since neither gained anything from the decision. Furthermore, it was decided that the decision could not have impacted Lilova's related party in terms of their right to file complaints. The Commission analysed in a formalistic manner the issue whether there had been private interest which could have affected the official's ability to act in an impartial and fair manner when exercising their authority or when fulfilling their professional obligations. No comment was issued with regards to the fact that a high-ranking public official had failed to act fairly and equitably, imposing a penalty much harsher than the offense and acting in response to a decision affecting a party related to them.

90. Decision № RS-6563-21-047/19.05.2021

91. Decision № RS-347-20-118/16.12.2020

6.2 CAFIAP Decision⁹² Not to Establish Conflict of Interest of Boyko Borisov

A report⁹³ was filed against **Boyko Borisov, former prime minister of Bulgaria**, regarding a helicopter flight on 5 January 2021 when Borisov had streamed live footage of sections of the Hemus highway on his page on the Facebook social platform. Prior to that date, Borisov had routinely streamed live footage from different locations across the country. He had been using vehicles belonging to the National Security Service for the visits. The report claimed that while the former prime minister had visited a number of facilities, built or renovated with public funds, he had not effectively carried out any inspections or exercised other types of control. Thus, it was claimed that Borisov had used public resources free of charge (transportation, security provision, vehicles, aircraft, etc.) in violation of the Political Parties Act.

The report also outlined in detail issues raised in media reports from June and July 2020 when records of Borisov's conversations as well as pictures and videos from his bedroom in Villa Sequoia in the official government complex Boyana Residence were leaked. CAFIAP was asked to establish whether there had been conflicts of interest and attempts to tarnish the image of political opponents, attempts to tarnish the image of the chairperson of the Bulgarian Parliament, and whether public institutions had been used to such ends.

CAFIAP did not establish conflict of interest

comment

The Commission did not thoroughly probe the question of whether a helicopter was hired in pursuance of the Prime Minister's program and the purpose of the trip. It only formally examines whether a request for the use of a helicopter was duly made. The question of whether inspection and monitoring of construction work is part of the Prime Minister's program and powers and what necessitates helicopter use is not examined. The answer to these questions will provide guidance in determining for what purpose the trips were made - personal gain or official business - and will provide guidance in analyzing whether there was a violation of the law.

92. Decision № RS-7-21-023/24.02.2021

93. <https://fakti.bg/bulgaria/542806-advokat-poiska-ot-kpkonpi-da-razsledva-borisov-za-korupcia-i-konflikt-na-interesi>

6.3 Decisions by CAFIAP Not to Establish a Conflict of Interest of Victoria Grozeva

CAFIAP reviewed several reports against Victoria Grozeva, Chief Architect of Stara Zagora Municipality.

According to the first report⁹⁴, the chief architect had issued an order stating that under certain circumstances, including the presence of conflict of interest on her behalf, the architectural designs outlined in investment projects should be reviewed by the director of Department Land Use. Grozeva's husband, the owner of an architecture design bureau, had worked on the architectural designs of two projects with building permits issued by the director of Department Land Use, following the chief architect's order.

In addition, Victoria Grozeva had issued an order modifying a building permit of a project designed by her husband's company. However, the architectural designs of the project had been prepared by another architect employed by the company and reviewed by the director of Department Land Use.

The Commission did establish the presence of conflict of interest.

According to the second report⁹⁵, Victoria Grozeva had given permission for the preparation of a masterplan by a company managed by her husband. The masterplan was subsequently approved via an order issued by the director of Department Land Use who had the authority to do so in cases when the chief architect was absent, as per the Spatial Planning Act, following an order by the mayor of Stara Zagora Municipality.

CAFIAP ruled out the existence of conflict of interest

in Grozeva's decision to give permission that the masterplan is prepared by the said company. With regards to the mechanism of approval of the masterplan,

no conflict of interest was established.

comment

This case is emblematic of how an existing affiliation between persons can be formally escaped, by formally meeting the requirements of the law. In this case, the official authority is exercised by another officer in a position of subordination to the authorizing power.

This is a typical case, and the Commission always rules that there is no conflict of interest due to a lack of connection between the individuals. On the one hand, where two persons are related, the person's activities in the private sector cannot be impeded, nor can his ability to request from public authorities legally due authorizations or participation in public procurement. On the other hand, the person holding public office will be in a situation where he will never be able to exercise his powers vis-à-vis the first person due to the existence of the affiliation. More legal safeguards and prevention via maximum transparency are therefore needed to avoid the risk of taking advantage, as well as an increase in the capacity, sensitivity, and incentive of officials to react when such situations arise so that the very fact of affiliation can be overcome by avoiding risks and, as a result, objective and lawful administrative acts can be issued.

94. Decision № RS-177-21-050A/26.05.2021

95. Decision № RS-84-21-101/08.12.2021

6.4 CAFIAP Decision⁹⁶ Ascertaining Conflict of Interest in the Case of Eshref Redjeb

The report against **Eshref Redjeb, mayor of Nikola Kozlevo Municipality, Shumen Province**, terms 2015 - 2019 and 2019 - 2023, political party GERB, was filed by an organization within the executive branch of government⁹⁷. The ACF filed a report to a number of institutions about Eshref Redjeb, including OLAF (for misuse of EU funds) and to the Ministry of Interior for allegations of complicity in exerting pressure to buy votes.⁹⁸

According to the report, from 2015 to 2020, Eshref Redjeb had used municipal funds in support of the football club of Nikola Kozlevo Municipality. The mayor's son, Kemal Eshref Veli, was at that time member of the board of the club.

It is also claimed that the mayor allocated public funds through contracts — for the delivery of food items to municipal kindergardens and to a municipal company providing social services — signed with a company which used as supplier Eshrefoglu Ltd. and another company, the enterprises owned by the mayor's son and father-in-law respectively⁹⁹. Claims were also made regarding contracts for a program to provide bread in return for vouchers in a number of locations within the municipal area. At some of the locations where the bread was supposed to be sold, companies belonging to the son and father-in-law of the mayor¹⁰⁰ had been reportedly performing commercial activities.

CAFIAP established the presence of conflict of interest

on behalf of Eshref Redjeb who between 2018 and 2021 had signed eight fund transfer orders, allocating a total of BGN 43,170 to Football Club - Nikola Kozlevo Municipality. The mayor's son, Kemal Eshref Veli, had served as a member of the board of the club from 2016 onwards. Thus, the mayor's actions represented a violation as per Art. 59, par. 1 of AFIAPA.

As per Art. 59, par. 1, clause 2 of AFIAPA, government officials are not allowed to allocate public funds for the benefit of non-profit organizations, commercial entities or cooperatives in the cases when related parties own or co-own such organizations, own shares in them, or serve as members of executive or monitoring bodies, or as directors.

On this occasion, Eshref Redjeb should have asked to be excused from duty, citing the presence of a conflict of interests and delegating authority to the deputy mayor of Nikola Kozlevo Municipality, something that Redjeb failed to do.

According to the Commission, the fact that the football club had been registered as a non-profit organization was legally irrelevant and so was the fact that the mayor's son, in his capacity as member of the board, had not received any financial compensation, bonuses, mission expenses, travel expenses, food expenses, etc. in the period 2018 - 2021. As per Art. 59, par. 1 of AFIAPA, a violation exists when the allocated funds benefit a non-profit entity with a related party to the official spending the funds acting as member of an executive body of that entity.

Redjeb was fined BGN 5,000. The Commission also forfeited from him BGN 43,170, representing the material benefit wrongfully given to the football club, and BGN 1,028.16 — the daily remuneration received from the acts giving rise to the conflict of interest.

The Commission established a conflict of interest

for the fact that from August 2018 to August 2021 Redjeb used public funds for the benefit of Eshrefoglu Ltd., owned by his sons Redjeb Veli and Kemal Veli, the latter also acting as the company's director. The mayor's sons are considered related parties as per §1, item 15(a) of the additional provisions of AFIAPA and his actions represent a violation of Art. 59, par. 1 of AFIAPA.

96. Decision № PC-15331-21-095/24.11.2021

97. Possibly by the PFI which carried out a financial inspection of Nikola Kozlevo Municipality and issued report ДИ/Д7ШН-1/16.06.2021

98. <https://acf.bg/en/antikoruptionsionnyat-fond-predstavya-in/>

99. Public Financial Inspection Agency report

100. In July 2021, a report by Radio Free Europe / Radio Liberty showed people from the village of Valnari in the Nikola Kozlevo Municipality whose wives worked in grocery stores owned by companies connected to the municipality's mayor, Eshref Redjeb. According to the report, the

mayor had been insisting that people vote for the GERB party, indicating on the ballot papers their preference for Ilter Beizatov [voters can use a single preference option]. Mr Beizatov is the son of Beizat Yahya who is mentioned in this study as the subject of a CAFIAP inquiry which ruled out the existence of conflict of interest on his behalf. Ilter Beizatov is one of the champions in terms of the number of preferential votes in his favor in the latest parliamentary elections. He has been pointed out as the first choice by 30 per cent of all GERB voters in the Shumen electoral district. <https://www.svobodnayeuropa.bg/a/31580263.html>

The Commission decided that BGN 28,528.58, representing the benefits unlawfully bestowed upon the private company, is forfeited from Redjeb, alongside with BGN 16,138.17¹⁰¹ — the daily remuneration received from the acts giving rise to the conflict of interest. A fine of BGN 5,000 was also imposed on the mayor.

The Commission did not establish conflict of interest

with regards to two of the actions described in the report against Redjeb, ruling lack of personal benefit and deciding he had not exercised his administrative powers.

The Commissions' decision was appealed before the Administrative Court - Shumen which upheld it with minor changes.

comment

The Commission's decision was correct in its legal conclusions that a conflict of interest existed, even though his son received no remuneration or other benefits as a member of the football club's Board. The prohibition in section 59 of the AFIAPA is formal and does not require the realization of a benefit.

101. The sanction imposed was reduced to BGN 27 802.83 by the Shumen Administrative Court under Decision 60, administrative case 9/2022

6.5 Decisions of the CAFIAP not to establish a conflict of interest of Milen Nenchev

The reports are directed against **Milen Nenchev - Head of the Regional Directorate for National Building Control in Burgas.**

The first report¹⁰² contains allegations that Milen Nenchev, in his capacity as Head of RDNBC Burgas, after a submitted request, issued an order appointing a State Acceptance Commission (SAC), which had to establish the suitability of a “Mixed multifunctional building with private house plumbing extensions” for construction, in this case for the acceptance of external power supply. The owners of the site are Burgas Municipality and two commercial companies. The same construction site had a conflict of interest cases pending at the time. In a report from 2020 directed against Milen Nenchev as Head of the Regional Directorate for National Building Control - Burgas, The Commission, with a decision from 29.07.2020, has established that Nenchev was in a conflict of interest. Namely, he had exercised influence in drafting a declaratory report of a working group in RDNBC - Burgas in his wife’s private interest. The declaratory report was about an inspection carried out after a complaint in the construction process of the building of the present signal (“Mixed multipurpose building with private house plumbing extensions”). His wife’s company had exercised construction supervision over the construction of that building, and Nenchev had also issued an act in the private interest of the person related to him. The Supreme Administrative Court upheld the Commission’s decision, and it entered into force on 23 April 2021.

The Commission did not establish conflict of interest

in the present case since Mr. Nenchev is not related to any of the persons involved in the process preceding the appointment of the SAC, which determines the absence of private interest in the powers exercised by him in his official capacity.

The second report¹⁰³ contains allegations that Milen Nenchev, as head of the Regional Directorate for National Building Control - Burgas, has supervisory functions in relation to the construction of the site “Reconstruction of Hotel Bulgaria,” Burgas. The

issued building permit for the site listed as construction supervision the company, owned by him until 2017 and then transferred to his wife.

The Commission finds that during the period of validity, as well as during the period after that, of the contract for the exercise of construction supervision concluded between the company carrying out the construction supervision and the contracting authority for the construction from 04.01.2018 to 10.08.2019 for the project “Reconstruction of Hotel Bulgaria” no powers were exercised by Milen Nenchev, in his capacity as head of the Regional Directorate for National Construction - Burgas.

The Commission finds no conflict of interest

comment

As in the case of Victoria Grozeva, Chief Architect of Stara Zagora Municipality, when a person holding a senior public position has a conflict of interest regarding the owners of commercial companies, there should be guarantees for impartial and objective decision-making. There should be options for overcoming the fact of affiliation and issuing lawful administrative acts, avoiding the risks of the affiliated persons realizing a benefit.

102. Decision No RS 411-21-074/29.09.2021

103. Decision № RS 551-20-084/27.10.2021

6.6 CAFIAP Decision¹⁰⁴ Absolved Beizat Yahya of Allegations of Conflict of Interest

The investigated person was **Beizat Yahya**^{105 106}, **Chairperson and Member of the Board of Northeastern State Enterprise, Shumen**, 28 June 2011 - 20 August 2021¹⁰⁷. Proceedings were initiated by the Commission following a publication¹⁰⁸ in the media, claiming that Beizat Yahya's declaration of interests for 2019 contained an entry of BGN 162,800, declared as loan repayment to Yahya by a private company, Ecoles Venetz Ltd.

According to the media report, Ecoles Venetz Ltd. had acquired a 12,000 square meter plot, containing three large buildings with a total area of 842 square meters for only BGN 83,200. The deal had been approved by Beizat Yahya, acting in his capacity as chairperson of the board of the Northeastern State Enterprise. The article went on to say that Beizat Yahya and Ecoles Venetz Ltd's owner, Beizat Feim, were both party functionaries from the Movement for Rights and Freedoms (MRF). In addition, Simeon Bunkov, the assessor who appraised the property at BGN 81,300, was directly linked to Beizat Yahya, both of them directors in the Palamara Hunting and Fishing Association. Yahya's son, Ilter Beizatov Sadukov, member of Parliament¹⁰⁹ from the GERB party in the Shumen District, was also pointed out as a member of the association.

Finally, the report claimed that while the Palamara State Game Breeding Reserve, overseen by the Northeastern State Enterprise, had been selling its property, it had also been renting properties from B-Nas Ltd. owned by Nazif Ahmed Seifula, long-term member of the MRF. The rented building had originally been property of Palamara but was then sold to B-Nas and sometime later rented by the original owner. Both B-Nas and its owner were reported as debtors to Beizat Yahya with the

private company owing BGN 45,700 and Nazif Ahmed Seifula — BGN 107,000. According to the report, on the one hand the Palamara State Game Breeding Reserve offered a lucrative deal to a company in debt to a forestry official with a say in the transaction. On the other — the reserve rented for its needs another property, owned by another person in debt to Beizat Yahya.

The Commission's intent was to check whether Yahya, in his capacity as chairperson of the board of Northeastern State Enterprise, Shumen, had realized material benefit for himself or related parties when voting to support the property sale.

CAFIAP did not establish the presence of conflict of interest,

accepting that by participating in the voting procedure as part of the board of the Northeastern State Enterprise, Yahya had not exercised his public authority in an attempt to realize material benefits for himself or for related parties, as defined by §1, item 15 of AFIAPA. **The Commission also did not establish the presence of conflict of interest** with regards to the rental agreement signed by Yahya on 23 May 2018, accepting that he had not exercised his public authority.

comment

The present case demonstrates the tendency in part of the CAFIAP practice to adopt a formalistic approach when examining whether there is a political and economic affiliation between persons. Political affiliation appears to be ignored entirely in the monitored Commission's practice.

104. Decision № RS-15656-20-004/13.01.2021

105. "For a period of ten years until 2021, Beizat Yahya was chairperson of the board of the Northeastern State Enterprise and was the informal host welcoming Boyko Borisov in his favorite hunting estate, the Palamara State Game Breeding Reserve. Yahya's son, Ilter Baizatov, was the deputy director of the reserve.

In May 2021, Yahya was dismissed from his post in the Northeastern State Enterprise from the interim government. Until 2019, Beizat Yahya was one of the closest associates of Ahmed Dogan, honorary chairperson of the Movement for Rights and Freedoms, and one of the most influential party operatives in northeastern Bulgaria. He has served two terms as the chairperson of the municipal council in the village of Venetz.

In 2019, Yahya changed his political allegiance to the GERB party, maintaining his influence in the region. An investigation by the Segab newspaper into sales of real estate on the territory of the Palamara State Game Breeding Reserve, carried out during Yahya's tenure in the hunting park, also mentioned his close ties to Valentin Zlatev, the former general executive director of Lukoil Bulgaria, part of the Russian oil giant Lukoil. Zlatev had been the best man at the wedding of Yahya's son with the then prime minister Boyko Borisov also attending the ceremony. Three years later, following Yahya's appointment as municipal councillor in Venetz, Zlatev was awarded the title honorary resident of the village.

Ilter Beizatov, Yahya's son, was added by Boyko Borisov to GERB's national council and was then placed on the important second position on GERB's electoral ballot for the Shumen district. Since July 2021, Beizatov is the only member of parliament from the GERB party in Shumen, following the withdrawal of the first-listed candidate, Krasimir Velchev. In the three parliamentary votes

that took place last year, Ilter Beizatov always emerged as the champion in terms of ballot paper preferences. In April, he was among the top five winners on the national level, recording nearly 7,000 ballot paper preferences. The people's love towards him was most evident in the village of Valnari in Nikola Kozlevo Municipality where out of 401 ballots for the GERB political party, a total of 400 contained a preference vote for Beizatov."

[https://zaistinata.com](https://zaistinata.com/Zaistinata.com, Prosecutors Silent on the Beizat Yahya Money Laundering Case (11 May 2022))

106. In February 2022 it emerged that Beizat Yahya is being investigated for money laundering-
<https://zaistinata.com>

107. Legal successor of several state-owned game reserves including the Palamara State Game Breeding Reserve in the village of Venetz, Shumen Municipality where former prime minister Boyko Borisov was a frequent guest.

108. <https://www.segabg.com/hot/category-bulgaria/loven-park-prodade-izgodno-imot-na-firma-dluzhnik-na-shefa-gorskoto>. State-Owned Game Reserve in Lucrative Deal with Debtor of High-Ranking Forestry Official, Segab newspaper, 31.09.2020.

109. According to an ACF analysis into preferential voting in the parliamentary elections in November 2021, the case of Ilter Beizatov is an example of an unusually high concentration of preferences registered in only a few electoral sections: <https://acf.bg/bg/shampioni-po-pref-erentsii-2/>. Half of all votes for him have been registered in sections considered to be high risk in terms of vote-buying and controlled votes. What is striking is also the significant decrease in voter preferences compared to the elections in July 2021 when he had received a total of 6,799 preferences, a total of 4,5884 more than the result achieved in November.

6.7 CAFIAP Decision¹¹⁰ to Not Establish a Conflict of Interest of Ivo Nikolov

An executive authority¹¹¹ filed the complaint against **Ivo Nikolov, Deputy Mayor of Blagoevgrad Municipality** between 2015 and 2019.

The report contains allegations that in 2015-2019, Ivo Nikolov held the position of Deputy Mayor for Economy and Finance in the Municipality of Blagoevgrad and was authorized by Mayor Atanas Kambitov¹¹² to sign all financial and payment documents, contracts, orders, approve expenditures.

In the same period, Ivo Nikolov concluded two contracts with the municipal company “Blagoevgrad Invest 2016” Ltd:

- 1/ Contract for the development of a long-term business plan for development;
- 2/ Contract for development of financial management and control system of the company.

Under both contracts, Nikolov received remuneration in the total amount of BGN 35 600, based on signed acceptance and handover protocols for work performed. The last of these protocols were signed on 30.04.2017, and payment was ordered on the same date.

In connection with the additional powers granted to him by Mayor Kambitov, Nikolov, as Deputy Mayor of Blagoevgrad Municipality, signed all other contracts and documents concluded between the municipality and Blagoevgrad Invest 2016 EOOD. Among them was the agreement from 11.04.2019, by which the parties - Blagoevgrad Municipality (represented by the Mayor and Deputy Mayor Nikolov) and “Blagoevgrad Invest 2016” EOOD agreed after the payment of the dividend in favor of the municipality in the amount of 90% of the profit of the company for 2018, the balance of the profit to be used for additional remuneration for 2019 to the manager of the company Eng. Ventsislav Vassilev Atanasov. This agreement was signed without a decision of the Blagoevgrad Municipal Council and in violation of the Ordinance on the conditions and procedure for the exercise of the rights of the Municipality of Blagoevgrad in the municipal part of the capital of commercial companies.

Based on the agreement, the manager of “Blagoevgrad Invest 2016” Ventsislav Atanasov, has assigned himself the entire remaining profit, amounting to 31 034.73 BGN.

A copy of the Report dated 21.12.2020 of the Public Financial Inspection Agency for the financial inspection of Blagoevgrad Invest 2016 Ltd. is attached to the report.

On 10.09.2020, the Anti-Corruption Fund Foundation filed a report with the State Anti-Corruption Inspectorate concerning the municipal company “Blagoevgrad Invest 2016”. The report exposed suspicions related to distributing tens of thousands of BGN as fees to employees of the team of Mayor Atanas Kambitov, huge funds invested in expensive mobile phones and tablets for several employees, and suspicions of severe violations of the Public Procurement Act.

In February 2021, The PFIA¹¹³ refused to provide the report due to an order of the supervising prosecutor under Article 198 of the Criminal Procedure Code.

By its decision, the Commission did not establish a conflict of interest

as it found that there was no connection between Ivo Nikolov and Ventsislav Atanasov within the meaning of § 1, item 15, b. “b” of the AFIAPA, including that one of its manifestations is absent: economic dependence. The CAFIAP presumes that the law requires that the dependencies must have a regular, durable, and permanent nature. If they are occasional, they should substantially impact the relations between the person holding public office and the other person concerned.

The Commission also accepted that the law attaches a further requirement to the relevant facts - they must cast reasonable doubt on the objectivity and impartiality of the person holding public office. The Commission concludes that economic dependencies that do not create unreasonable doubts do not form a relationship of related persons within the meaning of § 1, item 15, b. “b” of the AFIAPA.

110. Decision RS-46-21-057/14.07.2021

111. Possibly PFIA which carried out a financial inspection of „Blagoevgrad Invest 2016“ Ltd and issued Report ДИ/Д-4-БЛ-15/21.12.2020.

112. For whom in 2020 CAFIAP established a conflict of interest and the Supreme Administrative court upheld with a final decision in 2022.

113. ACF filed a report with PFIS regarding allegations of unjustified expenditures and violations of the Public Procurement Act by the former administration of Blagoevgrad Municipality. <https://acf.bg/en/samneniya-za-neobosnovani-razhodi-i-na/> (10 Sept 2020)

The Commission upheld that the contracts concluded by Ivo Nikolov dated back to 2016, and their operation terminated with the delivery of the agreed result by the contractor from the contracting authority - on 22.12.2016 and 03.04.2017, respectively, and economic dependence, even if it existed, was terminated after these dates.

The Commission decided that Ivo Nikolov's exercise of his official authority concerning Ventsislav Atanasov took place on 11.04.2019, almost two years after the last prestation received by Nikolov under the contracts concluded with the company. Thus, the CAFIAP draws the legal conclusion that no reasonable inference can be drawn about the existence of economic dependence between Ventsislav Atanasov or the municipal company Blagoevgrad Invest 2016 managed by him and Ivo Nikolov.

comment

No private interest was found due to a lack of economic dependencies. It is assumed that there are no such interests, which is disputable, given the practice of the Supreme Administrative Court - e.g., Decision 6781 of 20.05.2014 in Case 324/2014 with rapporteur Lozan Panov. In the present case, there are two contracts and a counter exchange of high fees between two persons. Moreover, the remuneration paid to the manager of the municipal company was authorized in violation of the rules for the distribution of profit in favor of a manager of a municipal company and without the necessary sanction of the Municipal Council - Blagoevgrad.

6.8 CAFIAP Decision¹¹⁴ Ascertaining Conflict of Interest in the Case of Panayot Reizi

The proceedings¹¹⁵ concerned **Panajot Reizi, mayor of the town of Sozopol, 2007-2011, 2011-2015, 2015-2019.**

CAFIAP looked into possible conflict of interest (in the period 12 November 2007 - 21 April 2019) following information that Sozopol Municipality had used public funds for the benefit of Association Football Club Sozopol in which Reizi had served as chairperson of the board from 6 March 2009 until 21 April 2019.

In terms of evidence, the Commission reviewed a report from 20 April 2021 (№ DID6-BC-7) by the Public Financial Inspection Agency, compiled after the completion of a financial audit in Sozopol Municipality.

It was established that Reizi had tabled a suggestion, supported by the Municipal Council of Sozopol, that the municipal budget includes subsidies for sporting clubs. The funds allocated for the Association Football Club Sozopol were as follows:

- BGN 550,000 in 2017
- BGN 550,000 in 2018 (of which BGN 368,000 were transferred that year)
- BGN 540,000 in 2019 (of which 390,000 were transferred that year)

The Commission decided that the limitation period had expired for some of the actions (those dating prior to 7 July 2018) as the date of initiating the conflict of interest proceedings was 7 July 2021).

114. Decision № RS-11679-21-083/20.10.2021

115. The decision mentions that the proceedings were initiated following a report filed by a person, however it is possible that the Commission was tasked with the probe by the Specialized Prosecutor's Office, following case № 46/2021 which had referred CAFIAP to further investigate Panajot Reizi for possible conflict of interest. With an order from 16 April 2019 regarding Case № 171, the Appellate Specialized Criminal Court confirmed the orders of lower courts that Panajot Reizi, mayor of Sozopol Municipality, is removed from office. Since the summer of 2020, Reizi is a defendant on charges of embezzlement, amounting to more than BGN 2 million. According to the prosecution, between 2014 and 2017, the mayor and his subordinates had acted in violation of their professional duties by commissioning building and repair works to various companies, owned by people from socially disadvantaged groups. The due funds, rather than being transferred to the relevant company accounts, were being channeled to a person with the initials S. G., all in a bid to accrue material benefits for the mayor and other parties.

CAFIAP, however, noted the prohibition — as per Art. 59, par. 1, clause 2 of AFIAPA — for government officials to allocate public funds for the benefit of non-profit organizations, commercial entities or cooperatives in the cases when the official or related parties own or co-own such organizations, own shares in them, or serve as members of executive or monitoring bodies, or as directors.

The Commission decided that since the allocated funds had benefitted a non-government organization, the fact that no remuneration had been received was irrelevant. It was noted that the right and legal course of action in this case would have been for Panajot Reizi to ask to be excused from duty on that particular occasion and to delegate the matter to a deputy, something which Reizi did not do.

CAFIAP established the presence of conflict of interest

based on the fact that on 8 August 2018, 14 August 2018, 10 September 2018, 28 December 2018, 7 January 2019, and 7 February 2019, Panajot Reizi had signed fund transfer orders, worth BGN 155,000, for the benefit of Association Football Club Sozopol. At the time, he had also served as member of the board and a representative of the association and had thus violated Art. 59, par. 1, clause 2 of AFIAPA.

The commission concluded that the sporting association had received material benefits in the form of aid and assistance, and this had had an effect on the way the public official had been able to fulfill his professional duties. Since the decision to allocate the funds had brought material benefits to a non-profit organization, the fact that no remuneration had been received was immaterial.

Panajot Reizi was fined BGN 5,000. In addition, BGN 145,000 was forfeited, representing the material benefit wrongfully given to Association Football Club Sozopol.

Reizi was absolved on some of the counts with the Commission deciding he had not exercised his public authority, or no material gains had been realized.

comment

The case under review is part of the positive practice of the Anti-Corruption Commission to establish a violation of the restrictions on mayors and other public figures controlling significant budgets to decide in favor of organizations whose governing bodies feature persons affiliated with them. In most cases, such persons are direct relatives - e.g., sons and fathers.

The number of reports filed with the CAFIAP about violations of the legislation on prevention and ascertaining conflict of interests is an expression of the society's growing intolerance to abusive practices, especially in local cases of misspending municipal budgets.

6.9 Decision¹¹⁶ of the CAFIAP to not establish a conflict of interest of Marian Tsonev

The complaint¹¹⁷ was filed against **Marian Tsonev, Mayor of Gurkovo Municipality, 2019 - 2023.**

The report contains allegations that Mayor Tsonev has concluded four construction contracts for a total value of about BGN 2,050,000 with a company behind which are the parents of his former partner, and that the mayor awards all public procurement in the municipality of Gurkovo to the same company.

It is alleged that after taking office at the end of 2019 as mayor of Gurkovo Municipality, Marian Tsonev terminated two of the construction contracts concluded by the former mayor¹¹⁸. In their place, he concluded two new construction contracts with a company run by the parents of his former partner Dimo Tonchev¹¹⁹:

116. Decision RS-763-024/01.03.2021

117. Possibly by „Republicans for Bulgaria“ Political Party, see article „The party of Tsvetanov alerted CAFIAP about conflict of interest of the Gurkovo mayor“ <https://fakti.bg/bulgaria/534273-partiata-na-cvetanov-sezira-kpikonpi-za-konflikt-na-interesi-pri-kmeta-na-dps-v-gurkovo>; (4 December 2020)

118. On November 27, 2019 and on December 9, 2019 respectively

119. Before his election as mayor Marian Tsonev was manager and sole owner of the building company „Investment group stroy Tsonevi“ Ltd, and was also co-owner of another entity „ASFA“ Ltd along with Dimo Tonchev. In December 2019 after winning the elections and was elected mayor of Gurkovo municipality Mr. Tsonev terminated his participation in the said companies.

- On 14.08.2020, he entered a contract with the association “Supporting Wall 2020” for strengthening and cleaning the bed of the Lazova River. The leading share in the alliance is “Elmi” Ltd with owners and managers Boyka Toncheva and Anton Tonchev - mother and father of Dimo Antonov Tonchev - Tsonev’s former partner in “Asfa” Ltd. Before the deal with the municipality from 25.10.2019 Dimo Tonchev was a partner and manager in the company together with his father. On 25.10.2019, he sold his share to his mother - Boyka Toncheva¹²⁰.
- On 15.10.2020, **he signed a contract** with the association “Supporting Wall 2020” **for the construction of a bridge over the river Garvasnitsa** and the reconstruction of the approaches to the bridge.

With two other contracts, additional construction was awarded to a company managed by Anton Tonchev:

- 1/ of a sports playground in the village of Gurkovo, under Operational Programme “Rural Development” (10.02.2020)
- 2/ Of a sports playground with outdoor fitness equipment in Konare village, Gurkovo municipality, under the Operational Programme “Rural Development” (10.02.2020)

The CAFIAP does not establish a conflict of interest,

as it considers that, in this case, there are no economic dependencies between Marian Tsonev and the companies mentioned above and the consortium, based on participation in the capital and management of the companies. The Commission accepts that Tsonev’s recent participation in them does not determine any affiliation within the meaning of § 1, item 15, b. “b” of the Regulation. For there to be affiliation, the Commission holds, the persons should have been partners at the time Tsonev exercised his powers, which is not the case.

The Commission finds no affiliation between Tsonev and the father of his former partner, Anton Tonchev, due to a lack of relationship.

On this logical reasoning, the Commission concludes that Marian Tsonev exercised authority, but in the absence of the private interest of persons related to him.

comment

The Commission considers a lack of private interest due to the lack of economic affiliation. This conclusion is controversial given the facts of the case and the practice of the Supreme Administrative Court - e.g., Decision 6781 of 20.05.2014 in a.d. 324/2014 with rapporteur Lozan Panov. Long-lasting economic ties between the mayor and the persons behind the commercial companies, formally terminated at the time of the exercise of powers, are clearly established.

6.10 CAFIAP¹²¹ Absolved Dencho Boyadjiev of Allega- tions of Conflict of Interest

The first report¹²² against Dencho Boyadjiev, mayor of Razgrad Municipality for the term 2019 - 2023, concerned his decision to appoint Ruska Vateva as deputy mayor for humanitarian activities for the term 2019 - 2023, thus providing her with a prestigious and well-paying job. The two are claimed to be related parties — brother and sister in a Masonic lodge — the St. Andrew the First-Called Commandery, founded on 4 November 2011 in Razgrad by Grand Commander Dencho Boyadjiev.

Regarding the related parties claim, CAFIAP reviewed data from the population registry. Information from the Commercial Register was also reviewed in a bid to uncover any jointly owned or managed companies; however, no such ties had been uncovered during the checks.

When reviewing the information about the Masonic lodge in the city, CAFIAP established that the Sovereign

120. The same company has concluded two contracts to build sport facilities in the villages of Panicherevo and Konare in the Gurkovo municipality as of February 10, 2020. The projects were EU-funded under the Program for the development of rural areas, and were valued at appr. 100 000 BGN (50 000 EUR).

121. Decision RS-794-21-088/17.11.2021 and Decision RS-793-21-096/24.11.2021

122. Decision RS-794-21-088/17.11.2021

Military Order Temple of Jerusalem is an international organization, divided into national bodies called Grand Priors and further — into local divisions, known as Priors and/or Commanderies. According to information obtained from the Commercial Register, the Grand Priory of Bulgaria of Ordo Supremus Militaris Templi Hierosolymitani is a civic organization. The organization is autonomous, voluntary, non-partisan and non-profit and its stated goals include: encouraging friendship, responsibility, fairness and respect among people; carrying out humanitarian and philanthropic work; encouraging the spiritual and virtuous development of society; founding and managing organizations, councils and related bodies in order to facilitate the work of the Order in all geographical locations; maintaining and developing contacts with friendly organizations; creating and supporting libraries and museums; collecting works of art and antiquities of interest to the Order. The Commandery in Razgrad is part of the organization and is a focal point for all knights, dames, and postulants in the region. The words ‘knight’ and ‘dames’ are traditional titles referring to the noble behavior expected of members. On the local organization’s website, Dencho Boyadjiev is mentioned as the Grand Commander, while Ruska Vateva¹²³ has the title ‘Dame’.

CAFLAP did not establish conflict of interest

on the basis of the legal definitions of the terms ‘private interest’¹²⁴ and ‘benefit’¹²⁵ outlined in Art.53 and Art. 54 of AFIAPA.

According to the Commission, there was no private interest in the case since the titles ‘brother and sister’ and ‘Knight and Dame’ in an association are not reviewed in AFIAPA provisions regarding the concept ‘related parties’. In addition, the Commission decided that membership in a particular organization could not be grounds for the establishment of joint business interests between the two individuals therefore a conclusion could be made that the two were not related parties as per §1, item 15(b) of the additional provisions of AFIAPA. As the two individuals were deemed not to be related parties, no private interest had been realized on behalf of the public official or the other party with the signing of employment contract № 62/06.10.2020,

as per definitions in §1, item 15 of the additional provisions of AFIAPA.

The second report¹²⁵ against Dencho Boyadjiev concerned the mayor’s decision to appoint Svilen Yordanov as director to the municipal company Razgradles, providing him with a prestigious job and high salary. Claims were made that the two individuals were related parties as both were Knights in the Razgrad Commandery of the Grand Priory of Bulgaria of Ordo Supremus Militaris Templi Hierosolymitani and Boyadjiev was also Grand Commander of the Razgrad Commandery. It was further noted that while Yordanov had been appointed following a competitive procedure, the evaluation committee had been appointed by the mayor and instructed as to the manner in which the issue should be handled. In addition, Yordanov had initially been appointed without a competitive procedure and review of other candidates.

No conflict of interest was established

with the Commission citing similar arguments to those mentioned in the case of Ruska Vateva.

comment

The case illustrates a more unusual form of affiliation, characterized by a particular degree of loyalty and fidelity, evidenced by an oath of unconditional mutual aid. This commitment concerns the relationship between “brothers” - members of Masonic and similar societies. In 2016, Article 195a was adopted in the Law on the Judiciary. According to it, magistrates shall, within one month of taking office, submit to the relevant collegium of the Supreme Judicial Council a declaration of all their activities and memberships in organizations, including secret and informal organizations and societies, non-profit legal entities, and civil clubs or associations. The adoption of this provision leads to the conclusion that the legislator considers the existence of a risk of corrupt behavior arising from the joint affiliation of certain persons to a particular organization. However, the Commission’s practice seems consistent in its view that Freemasonry is outside the scope of the concept of ‘affiliation.’

123. <https://osmth-bulgaria.org>

124. Private interest is an interest leading to tangible or intangible benefits for the public official or related persons. This means that for private interest to exist there should be a real opportunity to gain benefits. 21 Benefits can include financial proceeds, real estate, shares, the provision, transfer or surrender of rights, receiving goods or services for free or at rates lower than the market ones, receiving privileges or honors, receiving assistance, votes, support or influence, advantages, receiving a job or job offer, receiving a position, gift, or reward. Promises for avoiding responsibility, losses, sanctions or other unfavorable outcomes are also considered benefits.

125. Benefits can include financial proceeds, real estate, shares, the provision, transfer or surrender of rights, receiving goods or services for free or at rates lower than the market ones, receiving privileges or honors, receiving assistance, votes, support or influence, advantages, receiving a job or job offer, receiving a position, gift, or reward. Promises for avoiding responsibility, losses, sanctions or other unfavorable outcomes are also considered benefits.

126. Decision № RS-793-21-096/ 24.11.2021

7/

CAFIAP activities related to the forfeiture of illegally acquired property

Between 2019 and 2021, the CAFIAP has adopted a total of 666 decisions for the initiation of proceedings for the forfeiture of illegally acquired assets, with the value of the claims amounting to BGN 1,460,174,464.77, the value of the property offered for security amounting to BGN 912,476,054.80 and the value of the property admitted as security by court amounting to BGN 911,329,855.78¹²⁷.

As of 31 December 2021, the Commission has 5,876 active inspections for illegal property, and 836 cases with such subject matter have been initiated before the courts in the country, with a total value of claims of BGN 3,887,170,139.55.

From 2019 to 2021, the decisions adopted by the Commission under the AFIAPA to initiate proceedings for forfeiture of illegally acquired property total 600 with a value of claims of BGN 1,380,434,050.42 and a value of the property admitted as security of BGN 892,594,015.81¹²⁸. The trend from 2019 to 2021 is for the number of decisions to decrease, the value of the claims and the securities admitted for them also decrease. In 2021, the Commission's activity was mainly under the current AFIAPA. In 2021, 199 claims with a total value of BGN 436,794,563.69 were filed under this procedure.¹²⁹

Information on the ongoing investigations initiated under the AFIAPA, which will be completed in a subsequent reporting period due to the expiry of the statutory one-year deadline for completion, is as follows. As of 31.12.2019, the number of ongoing inspections is 2,571; as of 31.12.2020, it is 3,528, and as of 31.12.2021, it is 3,995¹³⁰. In the three years, only one investigation was initiated on anti-corruption grounds.

The Commission has represented the State in 836 pending proceedings for forfeiture of illegally acquired property and assets acquired through criminal activity before three court instances¹³¹.

The total number of unfinished forfeiture proceedings at the first court instance is 691. Of these, 592 are pending, and 99 are stopped. The total number of unfinished revocation proceedings before an appellate court is 97. Of these, 77 are pending, and 20 are stopped. The total number of unfinished forfeiture proceedings before a court of cassation is 48. Of these, 34 are pending, and 14 are stopped. The total amount of property claimed for forfeiture is BGN 3,887,170,139.55¹³².

In 2021, the total number of court verdicts that entered into force was 40, of which 11 were under the Forfeiture of property acquired from criminal activity in favor of the State Act (ex.), 23 under the Forfeiture of Illegally Acquired Property in Favor of the State Act (ex.) and 6 under the AFIAPA. 16 claims have been fully upheld, with a total value of BGN 5,203,209.96, 18 claims have been partially upheld, with a total value of BGN 9,141,812.54, and the rejected claims had a value of BGN 3,204,165.12. 6 claims were dismissed in full, with a value of BGN 2,092,879.87. By comparison, in 2020, the total number of verdicts that entered into force was 47, of which 38 claims were fully and partially upheld, amounting to BGN 12,172,551.64. In 2019, 23 verdicts entered into force, with property forfeited to the State, amounting to BGN 8,171,657.16¹³³.

In connection with a preliminary ruling request and initiated case C-319/2019 of the Court of Justice of the European Union in Luxembourg, 346 cases for forfeiture of property led by CAFIAP have been suspended.

127. Report on the activity of CAFIAP for 2021: https://www.cacaf.bg/web/files/documents/5/files/Doklad%202021_KPKONPL.pdf, page 18

128. Idem, p. 27

129. Idem, p. 32

130. Idem, p. 30

131. Idem, p. 34

132. Idem

133. Idem, p. 36

The case has been concluded with a Decision from 28.10.2021 of the CJEU, which confirms the admissibility of forfeiture of illegally acquired property, which is not conditional on the development and conclusion of criminal proceedings. After that date, at the request of the Commission's procedural representatives, the resumption of the suspended cases could begin. As of 31.12.2021, 151 cases have not been reopened¹³⁴.

From the analysis of the comparison between the number of active cases conducted by the Commission and the cases suspended until the outcomes of Interpretative Cases No. 4/2016 and No. 1/2018 of the Civil and the Commercial colleges of the Supreme Court of Cassation, the cases initiated with the preliminary ruling requests C-234/2018 and C-319/2019 of the Court of Justice of the EU, a steady upward trend in the number of stopped cases is observed between 2017 and 2021.¹³⁵

It is important to note that out of all the cases initiated by the Commission before a civil court with a claim for forfeiture of illegally acquired property, about 50 cases under the AFIAPA have been published on its website. All of them have been decided, at least in the first instance. Most of them have not entered into force.

Hence, it can be concluded that only a tiny part of the proceedings initiated by the CAFIAP for forfeiture of illegally acquired property is open to public access. There is, therefore, a serious problem with the transparency of this part of the Commission's work.

In an attempt to seek information that could be systematized and made available to citizens as part of the work on this report, the ACF sent a request for access to information to the CAFIAP under the Access to Public Information Act. With a Decision Reg. No. DOI-9#3 from 12.05.2022, the Commission refused to grant access to the requested information on the grounds that it constituted classified information under Article 19, para. 19(1) of the AFIAPA. It is also argued that the requested information contains many 'specific' personal data.

We can therefore conclude that the most significant aspect of the work of the CAFIAP (as reported in the 2021 Activity Report) is also the opaque.

However, the most important fact to note is that only a tiny proportion of asset forfeiture proceedings are linked to corruption offenses. A much higher pro-

portion of proceedings concern tax offenses and drug trafficking. For this reason, it is questionable whether the subject matter of the Commission's work in these proceedings overlaps at all with the objective and the drive to combat corruption that underpinned the idea of setting up the body. The results of the analysis of the forfeiture of illegally acquired property proceedings suggest that it would probably be more appropriate and practical to establish an independent body to deal with this matter, the scope of which would not necessarily be linked to the tracking and prevention of corruption practices. In this way, the CAFIAP will also acquire more significant resources and capacity to carry out more qualitative and effective work in the other areas of its activity, which are more closely related to the fight against corruption.

In addition to the above, after reviewing the published court judgments, it can be concluded that the total number of claims rejected in full is around 38% (19 cases) and were denied due to a lack of significant discrepancy due to the recognition of some amounts as revenue. The reason for the failure to prove the amount of the disparity of the assets under examination is the lack of a methodology to ensure objectivity and uniform criteria by which to calculate the amount of the assets and determine the discrepancy. The lack of a consistent methodology¹³⁶ leads to a discrepancy with the court's conclusions in calculating the person's income. There is uncertainty as to whether the court will recognize certain expenditures or income as being from a non-prohibited source and whether it will be deducted in calculating the disparity. For example, in the probe against former GERB party official Tsvetan Tsvetanov, the file on the discrepancy between his assets and income was closed. Still, the calculations showed a discrepancy of about half a million BGN¹³⁷. The methodology will ensure that the same rules are applied to each case and will eliminate the risk of an unjustified raising of the value of the claim, respectively, of the security sought.

134. Idem, p. 35

135. Idem, p. 36

136. A public hearing of representatives of the Anti-Corruption Commission in front of the Parliamentary Committee of prevention and combatting corruption revealed that there is no

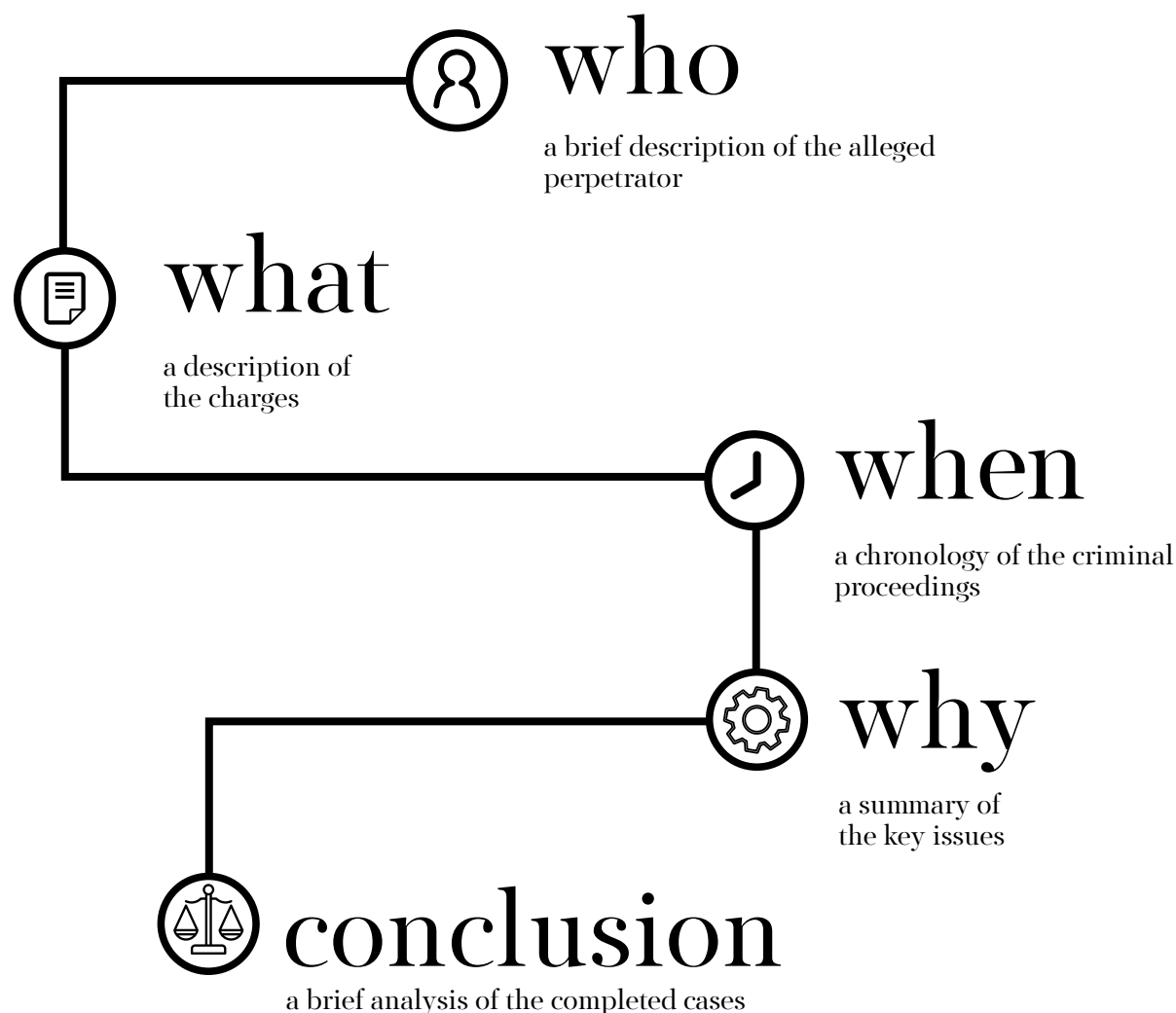
methodology to calculate the assets discrepancy: https://www.capital.bg/politika_i_ikonomika/bulgaria/2022/03/17/4325522_parlamentarnata_komisii_ne_prie_doklada_za_deinostta/
137. About 250 000 EUR

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 descriptions of all case facts are mainly 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, and media publications. The charges have mostly been presented in their authentic form, notwithstanding certain minor redactions and simplifications aimed at making them more digestible for the general public. The author expresses his gratitude to the civil and judicial activist Nikolay Nedelchev for the information provided by him, which served in the preparation of this study.

The cases have been divided into the following categories:

- cases concerning officials in the legislature and the government: items 1. to 20.
- cases concerning representatives of the judiciary: items 21. to 23.
- cases concerning other officials in the executive and in local government: items 24. to 40.
- cases from 2020: items 41. to 45.
- cases from 2021: items 46. to 49.

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 for 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 for 2021.

For its detailed presentation, see A. Yankulov, N. Kiselo-
va, „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 for 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



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

what



when



Charged with intentional mismanagement of public funds:

as Minister of Economy, Energy and Tourism, he failed to implement the government energy policy in accordance with decisions of the Council of Ministers and the Bulgarian National Assembly. Despite his rights and obligations, Dobrev failed to take any measures to implement Council of Ministers Decision No. 250/28.03.2012 — tabled and voted by him personally — whose subject was to terminate the construction of the Belene Nuclear Power Plant. As a result, the State continued to make payments to the company hired to design the nuclear power plant and damages amounting to EUR 4,561,697.27 were incurred by Natsionalna Elektricheska Kompania (NEK) EAD. The damage was of considerable proportions and the violation was especially serious — crime under Art. 219, par.4 in conj. with par. 3 and par. 2 of the CC.

Dobrev was charged by the SCPO in November 2016, case terminated by the Specialized Prosecutor's Office (file 2293/20) in April 2022.

conclusion



why



Proceedings have been silently terminated by the Prosecutor's Office on unknown grounds.

The Prosecutor's Office has not provided a copy of the decision to charge Dobrev, nor any information on the course of the investigation, or on its termination.

Unlike the other high-ranking officials who have been investigated for violations in the context of the Belene Power Plant Project, Dobrev has not been indicted so far (see 9., 10., 31. And 32.). The reasons for treating him differently remain unknown.

The reasons for the termination of criminal proceedings against Dobrev remain equally unknown.

case 09



RUMEN OVCHAROV

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

what



when



Charged with intentional mismanagement of public funds:

At the end of November 2006, in his capacity as Minister and Principal of NEK EAD, Ovcharov failed to observe his duties under the Energy Act, the Rules on the Structure of the Ministry of Economy and Energy, and the Rules on Exercising the State's Shareholder Rights in State-Owned Enterprises. In particular, Ovcharov failed to exercise enough control over the work of the Executive Directors of NEK EAD, Lyubomir Velkov and Mardik Papazyan, when signing an agreement for the construction of the Belene Nuclear Power Plant with the Russian company Atomstroyeksport AD. 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. Ovcharov's 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. 2 of the CC.

Ovcharov was charged by the SCPO in November 2016 – the SCPO filed a bill of indictment with the SpCC in February 2021 (criminal case 246/2021) – returned for procedural violations by the SpCC to the SPO in June 2021 – terminated by SPO for an expiring criminal prosecution limitation period in December 2021

conclusion



why



The extremely delayed initiation of criminal prosecution, a whole decade after the commitment of the alleged crime, and also the sluggish development of criminal proceedings afterwards, have logically led to the expiry of the statutory period.

Ovcharov was charged at the pre-trial stage of proceedings 10 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 14 years after the alleged crime had been committed, and only nine months before the expiration of the limitation period.

The court has terminated the judicial proceedings and returned the case back to the Prosecutor's Office for the removal of substantial procedural violations consisting in the lack of concrete data on the criminal activity as charged in the bill of indictment.

Since, however, the absolute limitation period has expired in the end of November 2021 r., the SPO has terminated the criminal proceedings against Ovcharov.

case 10



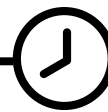
PETAR DIMITROV

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 SCPO in October 2016 — the SCPO filed a bill of indictment with the SpCC in February 2021 (criminal case 246/2021) – returned for procedural violations by the SpCC to the SPO in June 2021, the case being at a pre-trial stage since or has been terminated at an unknown date.

case 10

why



conclusion



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, different from the agreement for which they were indicted, which was signed in 2006 (see items 26 and 27, Dimitrov was not even Minister in 2006). Velkov and Papazyan were 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.

The absolute limitation period for prosecution in this case is 15 years and it expires on 13 December 2022.

The proceedings are still pending.

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 defendant under item 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, 202



case 16



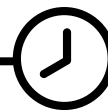
PETAR MOSKOV

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

what



when



Charged with malfeasance in office, entering into an unfavorable transaction, and intentional mismanagement 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 SCPO filed a bill of indictment with the SpCC by in March 2018 – the SpCC issued an acquittal (criminal case 664/2018) in October 2021 (the sentence reasoning has not been published yet).

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 but the court's reasoning for the acquittal has not been published yet.

The proceedings are still pending.

case 17



ADAM PERSENSKI

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

what



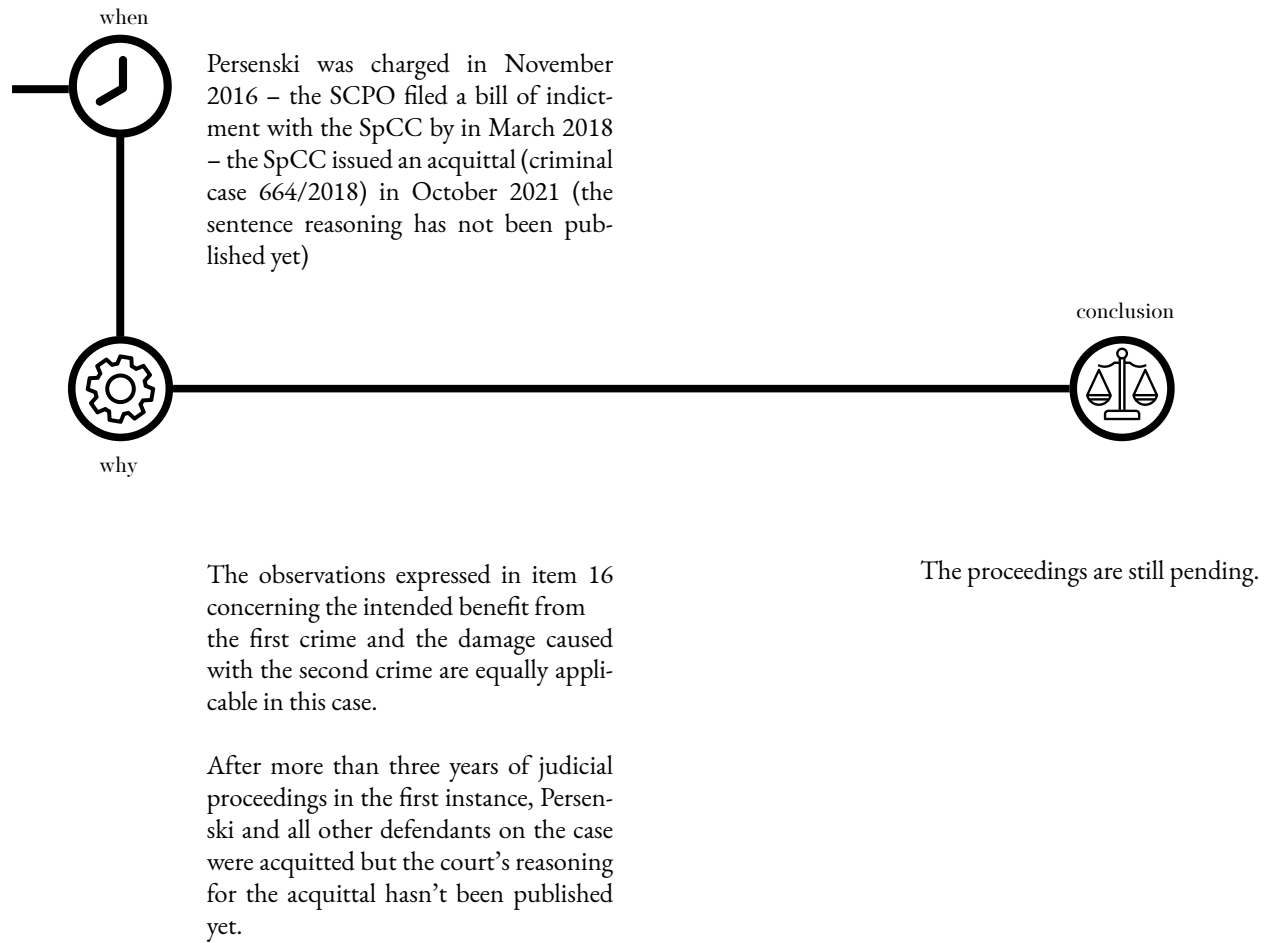
Charged of malfeasance in office and entering into an unfavourable transaction:

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



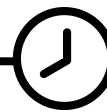
RUMEN OVCHAROV

Minister of Economy and Energy, 2005 – 2007, together with the defendant under item 19 and one other defendant

what



when



Charged and indicted 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 (RPESSRSOE), 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 SCPO filed an indictment with the SpCC in March 2018 — the case was remitted due to procedural violations in April 2018 — the SpPO filed an indictment with the SpCC in April 2019 — the SpCC 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 ASpCC (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 case is currently pending before the SCtC on appeal by the defendant (cassation case 100/2022).

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 Prosecution. 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.

The absolute limitation period for prosecution in this case is 15 years and it expires in July 2022.

The proceedings are still pending.

case 19



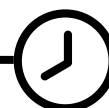
ANNA YANEVA

Deputy Minister of Economy and Energy, 2005 – 2007, together with the defendant under item 18 and one other defendant

what



when



Charged with intentional mismanagement of public funds:

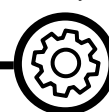
In the period 10 June 2006 – 18 March 2009, Yaneva was Deputy Minister of Economy and Energy, responsible for the organization, management, and supervision of the activities of the Ministry's Corporate Management and Restructuring Department. By means of explicit orders, she was tasked with the management and accounting of public property. In violation of her obligations under the RSMEE and under two orders of the Minister, Yaneva intentionally failed to exercise sufficient control over the work of P.S.E. — Board Member and CEO of Mini Bobov Dol EAD (a state-owned enterprise) — in relation to the execution of a contract for the lending of assets of Mini Bobov Dol EAD to Oranovo EOOD, dated 9 June 2006. Yaneva'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 28,174,082.08. The culpable act did not fit the characteristics of the more severe form of the alleged crime, but the case was considered especially serious due to the transfer of Mini Bobov Dol EAD's exclusive rights to mine, transport, and sell coal, to Oranovo EOOD. The transfer of rights was in violation of the Underground Resources Act and the Concessions Act. Mini Bobov Dol EAD went into insolvency. Yaneva was charged under Art. 219, par. 4, par. 3, and par. 2 in conj. with Art. 26, par. 1 of the CC.

Yaneva was charged in December 2018 — the SpPO filed an indictment with the SpCC in April 2019 — the SpCC issued an acquittal in July 2020 — the acquittal was upheld by the ASpCC (case 515/2020) in June 2021 - the case is currently pending before the SCtC on appeal by the Prosecution.

conclusion



why



The proceedings are still pending.

Yaneva was brought to court almost 10 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. The amount of incurred damages — BGN 28 mil. — was calculated in a similar manner as the damages in item 14. The discussion on the harmful consequences of the 'mismanagement of public funds' crime is also relevant in this case.

According to the SpCC, there was no evidence to show that Yaneva had been assigned obligations to manage, dispose of, or account for public property, for which reason it was impossible to hold her accountable for any damages caused to such property; and she didn't have the responsibility of exerting control over the work of P. S. E., Board Member and CEO of Mini Bobov Dol EAD while he was a CEO.

The ASCC agreed with the conclusion of the lower instance that the position occupied by defendant Yaneva didn't involve an established obligation to control the activity of P.S.E. due to which her action according to the controlling instance is not a crime.

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 PENGZOV

President of the Military Court of Appeal, 2004 – 2009, together with the defendant under item 22 and other defendants, crim. case No. 1135/2020 in the register of the SCA



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

Chairman of the State Energy and Water Regulatory Commission (SEWRG), 2009 - 2014, together with the defendant under item 26



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 defendant 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

Gen. Secretary 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



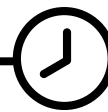
ANGEL SEMERDZHIEV

Chairman of the State Energy and Water Regulatory Commission (SEWRG), 2009 - 2013, together with the defendant under item 26

what



when



Charged with malfeasance in office:

On 20 January 2011, Overgaz Inc AD filed a complaint with the SEWRG against Bulgartransgaz EAD for refusing to provide access to the gas distribution network and to the Chiren Underground Gas Depository (UGD Chiren). The regulatory body is obliged to consider complaints and provide a response within two months. In the period 1 February 2011 – 30 March 2011, Angel Semerdzhiev failed to perform his official duties and did not undertake any action with respect to the received complaint, despite his obligation to submit the case for a closed hearing by the Commission. In addition, Semerdzhiev violated his official duties by failing to exercise control regarding Bulgartransgaz EAD's observance of the conditions and procedure for providing access to the gas distribution network, established with the Rules on Providing Access to the Gas Transportation and/or Distribution Networks, adopted by the SEWRG on 14 May 2007. This resulted in potentially harmful consequences, such as: financial damage and destabilization of the functions of Bulgarian Energy Holding EAD, Bulgartransgaz EAD, and B. EAD; compromising the financial and economic security of the energy system; jeopardizing natural gas deliveries and destabilizing the gas market in the country by protecting the monopoly of Bulgarian Energy Holding EAD in the short term. The European Commission filed legal action against Bulgarian Energy Holding EAD and its subsidiaries, B. EAD and Bulgartransgaz EAD, which resulted in financial sanctions for the companies in the amount of EUR 77,068,000 /BGN 150,731,906.44/. It is very likely that the sanctions will be enforced. Semerdzhiev was charged under Art. 282, par. 2 and par. 1 of the CC.

The investigation began in April 2017 — Semerdzhiev was charged by the SCPO in June 2017 — the SCPO filed a bill of indictment with the SpCC in August 2020 – the SpCC issued an acquittal (criminal case 2082/2020) in March 2021, entering into force in April 2021.

case 25

why



The defendant was taken to court more than three years after having been charged at the pre-trial phase of proceedings; the reasons for this delay remain unclear. After the pressing of charges was announced in 2017, the Prosecutor's Office remained silent about the progress of the proceedings. The public was not informed about the filing of the indictment, the acquittal at first instance, or the absence of a protest.

The SpCC has accepted that the action was, firstly, lacking elements of a crime on the objective side, since according to the factual evidence established on the case, in relation to the submitted appeal, neither the defendant had concrete legal obligations imputed nor it was the case that he had the competence and possibility to fulfill them but was inactive, nevertheless.

The court also stated that as to the subjective side of the action, the indictment thesis suffers an essential internal contradiction since, on the one hand, it is claimed that defendant Semerdjiev intentionally omitted doing something in order to enrich the BEH group and, on the other, was aware that this would entail financial damages and destabilization of the group's functions. The SpCC has identified an unclarity: if it was established that the defendant acted to guarantee a monopoly to the holding, how that would lead to the holding's destabilization and financial damages.

Next, according to the SpCC, during the investigation, no evidence was collected to prove a potential relation of the defendant to the companies of the BEH group, and no evidence to prove intended damage to Overgaz Inc. AD.

conclusion



The acquittal is on the grounds of lack of elements of a crime, and the absence of a protest leads to the conclusion that the Prosecutor's Office is in agreement with the opinion of the first-instance court.

case 26



SVETLA TODOROVA

Chairwoman of SEWRG, 2014 - 2015, together with the defendant under item 25

what



when



Charged with malfeasance in office:

In the period 19 December 2014 – 1 April 2015, Todorova violated her official duties by failing to call a session of the SEWRG and to initiate proceedings for amending the prices for distribution of natural gas and for supply of natural gas by end suppliers. In addition, she instigated the annulment of a SEWRG decision of 1 April 2014 that reduced the prices for transportation of natural gas along the gas distribution network and the prices offered to end consumers, previously set with a SEWRG decision of 26 October 2009. Todorova's actions were aimed at procuring a benefit for private companies and could have resulted in harmful consequences for the end consumers of natural gas, who would have to pay more than the actual prices for the service. Todorova was charged under Art. 282, par. 2 and par. 1 of the CC.

The investigation began in April 2017 – Todorova was charged by the SCPO in June 2017 – terminated by the SCPO in November 2021 (file 721/2020) – cancelled by the NCAP in February 2022 – the criminal proceedings continue and are currently at the pre-trial phase.

conclusion



why



Proceedings are still pending.

The Prosecutor's Office has provided the above information on the termination of the criminal proceedings and the consequent canceling of the termination but not any copies of the Prosecutor's acts on the case. Unlike the other Chairman of SEWRG, a defendant in the same criminal proceedings, Todorova has not been brought to court so far (see item 25). The reasons for treating her differently cannot be analyzed in view of the complete absence of information regarding the case termination by the prosecutor.

case 27



STANIMIR FLOROV

Director of the Chief Directorate for Combatting Organized Crime (CDCOC), 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



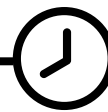
KIRCHO KIROV

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

what



when



Charged with several counts of embezzlement:

28/ In the period 1 January 2007 – 31 December 2011, in his capacity of Director of NIS, Kirov embezzled NIS funds under his supervision, using the employee J. Z. G. who acted unknowingly. Kirov 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 create official documents — 252 advance receipts and 889 advance financial reports — that contained 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 documents 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 Director 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 considerable 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 conviction 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 verdict 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 verdict was repealed 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 on appeal by both sides

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 verdict 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



conclusion



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.

28/ The proceedings are still pending.

29/ The proceedings are still pending.

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.

case 30



PHILIP ZLATANOV

Chairman of the Commission for Prevention and Ascertainment of Conflicts of Interest, 2011 - 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 31 and 32



LYUBOMIR VELKOV AND MARDIK PAPAZYAN

CEOs of NEK 2005-2009, together with the defendants under items 9 and 10

what



Charged at the pre-trial phase with jointly entering into an unfavorable transaction:

- On 28 November 2007, acting jointly as CEOs of Natsionalna Elektricheska Kompania 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 Kompania 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 defendants).

case 31 and 32

when



The SCPO pressed charges in October 2016 — the SCPO filed a bill of indictment with the SpCC (criminal case 246/2021) in February 2021 - returned for procedural violations by the SpCC to the SPO in June 2021, the case being at a pre-trial phase since or has been terminated at an unknown date.

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 SpCC to the SPO for procedural irregularities, its fate is unknown. The absolute limitation period for prosecution in this case is 15 years and it expired on 29 November 2021.

conclusion



There is no evidence that the proceedings have been concluded.

case 33 and 34



RUMEN SIMEONOV AND TSVETAN GUNEV

Assistant Directors at the Bank Supervision Department of BNB from 2007 to 2013 and from 2013 to 2014, together with 16 other defendants

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



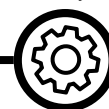
The defendants were charged in June 2014 — the SpPO filed a bill of indictment with the SpCC in July 2017 — the case is currently pending before the first-instance court.

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 Prosecution, 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 Prosecution, 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 Prosecution 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 Department at the MoI, 2013 - 2014,
together with the defendant under item 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



when



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.

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.

conclusion



why



There is no evidence that the proceedings have ended.

The Prosecutor's Office has not provided a copy of the charges against Aleksandrov for the purposes of the present study, nor have they disclosed any other information regarding the course of the proceedings. After the case was returned to the pre-trial phase on two occasions for clarifying ambiguities and inconsistencies in the charges, there has been no further information regarding the status of the criminal proceedings.

case 37



LAZAR LAZAROV

Chairman of the Management Board of the Road Infrastructure Agency (RIA), 2014 – 2015, together with two other RIA officials

what



when



Charged with intentional mismanagement of public funds:

In the period 7 August 2014 – 17 February 2015, in his capacity of Chairman of the RIA 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.

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



why



The proceedings are still pending.

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, four years after the first indictment had been filed.

case 38



DESISLAVA IVANCHEVA

Mayor of the Mladost District within the Sofia Municipality,
2016 – 2018, together with several other defendants

what



when



Charged with receiving a bribe:

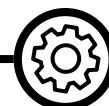
In the period 16 March – 17 April 2018, in her capacity of an official occupying a post of high responsibility — Mayor of Mladost District, Sofia Municipality — and in complicity with two accessories, Ivanchева requested an undue gift, namely the amount of EUR 500,000, equaling BGN 977,915, to be paid in several instalments. Ivanchева also accepted an undue gift — the amount of EUR 70,000, equaling BGN 136,908.10 — as the first instalment of the requested gift. The gift was requested from and subsequently provided by A.V., CEO of Vaklin Group OOD and Vaklin Group – Kambanite OOD. The defendant requested the gift in exchange for performing her official duties, in particular her obligations in the context of the administrative procedures for authorizing construction within the district: to give notice of the order of the Chief Architect of Sofia Municipality, then to refer the case back to the Chief Architect and perform her ensuing obligations to publish the issued construction permit, to open a construction site, to issue the necessary construction papers, and to issue a building use permit. The bribe was of considerable proportions, constituted an especially serious crime, and was requested through extortion and abuse of office. The defendant told the witness V. that if the requested gift was not provided, she would not proceed with the issuing of the required construction papers. Ivanchева was charged with committing three criminal acts, jointly constituting a continuing crime, under Art. 302a in conj. with Art. 302, par. 1 and 2, in conj. with Art. 301, par. 1, scenarios 1 and 2, in conj. with Art. 26, par. 1, in conj. with Art. 20, par. 2 and par. 1 of the CC.

The investigation began in April 2018 — the SpPO filed a bill of indictment in August 2018 — the SpCC issued a conviction (criminal case 2617/2018) in April 2019 (sentenced to 20 years' imprisonment, a fine in the amount of BGN 10,000, partial confiscation of property, and barred from the exercising certain rights for 20 years) — the SpCCA issued a conviction (criminal case 314/2019) in July 2020 (8 years' imprisonment, a fine in the amount of BGN 15,000, and a bar on the exercise of certain rights for a period of 10 years) — the case is currently pending before the SCtC (cassation case 340/2021).

conclusion



why



The proceedings are still pending.

The defendant was found guilty by the first-instance court only for the crime of requesting a gift, but not for actually receiving the gift. Furthermore, the first-instance court held that the case did not fit the characteristics of a continuing crime. However, these observations did not affect the legal qualification of the defendant's actions. The defendant was convicted of receiving a bribe of considerable proportions, constituting an especially serious crime, and procured through extortion and abuse of office, which is the most severe form of passive bribery. The pre-trial investigative proceedings and the proceedings before the first-instance court were conducted without any delay and within a very short timeline given the complexity of case.

The proceedings before the second-instance court were also conducted within reasonable time limits. Crucially, the SpCCA held that the criminal act constituted passive bribery of large, but not considerable, proportions and acquitted the defendant with respect to the amount over EUR 250,000 and up to EUR 500,000. Accordingly, the prison term was also reduced significantly. At the same time, contrary to the reasoning of the first-instance court, the appellate court accepted the Prosecution's claim that the defendant had also received part of the requested bribe, amounting to EUR 70,000.

case 39



PETAR HARALAMPIEV

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

what



when

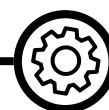
In the period July 2017 – 29 October 2018, in his capacity of public official, the Haralampiev was the leader of an organized crime group. In particular, the defendant requested and received bribes in exchange for issuing certificates of Bulgarian origin to foreigners in violation of the applicable law. 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.

Haralampiev was charged in October 2018 — the SpPO filed a bill of indictment with the SpCC in September 2020 — the case is currently pending before the SpCC (criminal case 2634/2020)

conclusion



why



The proceedings are still pending.

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.

case 40



ANTON GINEV¹³⁸

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



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.

¹³⁸ At the moment of being charged, Anton Ginev was 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 at the second instance. According to the supreme instance, the appellate court in its verdict has not answered basic arguments substantiated in detail by the defense and the state prosecution, 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.

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 for 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, together with the Mayor of Pernik, Sevdalina 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.

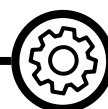
Dimov was also investigated for violating his official duties in connection with the concession agreement for the Bansko Ski Zone.

Dimov was charged in January 2020 – the SPO filed a bill of indictment to the SpCC in July 2021, the case is still pending before the SpCC.

conclusion



why



The proceedings are still pending.

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

what

when

Charged with heading an organized crime 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 provinces. The crime group was created with the aim to obtain funds illegally by committing coordinated 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 procedures:

In the period 25 April 2016 – 29 May 2020, at identified and unidentified locations on the territory 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 Management 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.

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.

conclusion

why

The proceedings have not ended.

The pre-trial stage, from the moment of charging as a defendant to filing the bill of indictment to the court, has developed quickly if one considers the many defendants and the investigated complicated criminal activity. After the remittance of the case to the SPO for removing procedural violations, its further development is unknown.

case 44



PLAMEN UZUNOV

President's Secretary on Legal Affairs and Anti-corruption, 2017 - present, together with one more defendant

what



when

**Charged with conspiracy to commit crime and with malfeasance in office:**

In the period January 2019 – end of May 2020, Uzunov conspired with the individual P.B. to commit crimes under Art. 304b and Art. 282 of the CC (punishable with over three years of imprisonment). The defendants arranged to engage in this behavior in order to illegally obtain property — crime under Art. 321, par. 6 of the CC.

In the period 8 May 2019 – 28 August 2019, in his capacity of public official and with the help of the abettor P.B., Uzunov violated his official duties /in particular, the obligation to protect the confidentiality of information shared with him in connection with his professional functions/. The defendant committed 21 separate criminal acts under Art. 282, par. 1 of the CC, jointly constituting a continuing crime. Specifically, he used a mobile application to send P.B. multiple communications containing confidential information about the political situations in Libya and Ukraine, and about the progress of military activities in Libya. Uzunov's motive was to procure a benefit for P.B., as the provided information enabled P.B. to take decisions related to his economic interests in the mentioned countries. Uzunov's actions led to significant harm — disclosure of confidential information, injuring the reputation of the presidential institution, and posing a threat to national security — crime under Art. 282, par. 2 and par. 1 in conj. with Art. 20, par. 2 and par. 1, in conj. with Art. 26, par. 1 of the CC.

Uzunov was charged by the SpPO in July 2020 — the case is currently at the pre-trial stage of criminal proceedings.

conclusion



The proceedings are still pending.

why



► Bon the same date in July 2020, two advisers of the President (see item 45) were charged by two different units of the Prosecutor's Office, the SpPO and the Sofia Military Regional Prosecutor's Office (SMRPO). This shows a clear coordination of procedural actions undertaken by prosecutors from entirely different structures. The pressing of charges was preceded by ostentatious investigative action in the Presidency building, which was cordoned off by armed officers of the Bureau of Defense under the Prosecutor General. Furthermore, the public was specifically acquainted with documents from the ongoing investigation against Uzunov. At the same time, the Prosecutor General was awaiting the Constitutional Court's judgment on his inquiry concerning the boundaries of presidential immunity, thus hinting at a possible investigation against the President. However, after the grandiose beginning of the pre-trial investigative proceedings, no information has been released as to its progress, nor has the Prosecutor's Office delivered information for the needs of our analysis.

On the contrary, there is a conviction, not entering into force, of the Sofia City Court under the State and Municipalities' Liability for Damages Act for damages suffered by the defendant issuing from the violation of the reasonable period of considering his case whose pre-trial stage has been unduly delayed.

The approach of classifying the disclosure of confidential information by Uzunov as a type of malfeasance in office under Art.

282 of the CC is rather unusual. The protection of confidential information is codified in Section I of Chapter 12 of the CC, which outlines certain special crimes under Art. 357 – 360 of the CC as well as under art. 284 of the CC. Thus, Art. 357 regulates the disclosure of state secrets whereas Art. 360 regulates the disclosure of military, economic, or other information that does not constitute a state or professional secret but whose disclosure is nevertheless forbidden. Therefore, there is a specific legal provision that criminalizes the disclosure of any protected information that is not a state secret — Art. 360 of the CC. Consequently, the decision to resort to Art. 282 of the CC must have been motivated by the fact that the punishment provided in Art. 360 is too lenient — up to one year of imprisonment or probation. This would preclude the application of Art. 321, par. 6 of the CC, which covers the crime of conspiracy, as well as the use of certain investigation methods, such as special surveillance measures.

Another point for discussion concerns the nature of the allegedly disclosed “information about the political situations in Libya and Ukraine, and about the progress of military activities in Libya,” and whether the information should be considered protected in the first place, as on the surface it appears as if it has been derived from a telegraph agency bulletin, and not through unconventional sources. ■

case 45



ILIYA MILUSHEV

President's Advisor on Matters of Defense and Security, 2017 - present,
together with other defendants

what



Charged with establishing an organized crime group and with 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.

conclusion



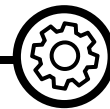
The proceedings are still pending.

when



Milsuhev was charged by the SMRPO in July 2020 — the case is currently at the pre-trial stage of criminal proceedings.

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. On the proceedings in this case, no information has been provided by the Prosecutor's Office for the needs of this analysis.

2021

Cases from year 2021

case 46



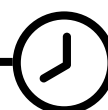
IVAN GESHEV

Prosecutor General 2019 – present; at the moment of alleged perpetration – a prosecutor at the Sofia City Prosecutor's Office

what



when



Inquiry for a malfeasance in office:

In 2021 claims were disseminated through the mass media that while he was a prosecutor in the SCPO, Prosecutor General Ivan Geshev interfered, abusing his powers, with the commercial controversy between G. G. And S. P., the partners in the 'J.' Limited company, on the side of partner G. G. It was also alleged that as a result of Geshev's interference, his father obtained shares of the said commercial company.

Inquiry by the SpPO in 2021 – concluded by a refusal to initiate pre-trial proceedings by the SpPO (file 2667/2021) in January 2022.

case 46

why



The SpPO ordered the inquiry after a self-referral following media publications reflecting statements of one of the partners in the said company, namely G. G.

In the inquiry, explanations were taken from persons involved in the relevant circumstances, including the Prosecutor General and his family members. Several documents and references from different state bodies and registers were requested and brought to the case to establish the factual situation in the company's history and the legal controversies on its ownership.

It has been stated that the same facts were the subject of clarification also by the Commission for Anti-corruption and the Forfeiture of Illegally Acquired Property in 2019 and by the Chief Directorate for Combatting Organized Crime at the Ministry of Internal Affairs in 2021 in other inquiries that too didn't establish sufficient data on the elements of a crime or the need to initiate an investigation.

The predominant part of the ruling of the SpPO is dedicated to the history of the company and the controversy between the partners in whose course not only civil and criminal lawsuits have been brought but also each of them has referred to different prosecutor's offices in the country with the most diverse claims of his adversary's crimes, about which tens of separate files were initiated.

A considerable part is also set apart for the clarification of the circumstance of whether the Prosecutor General's father did acquire shares in the company. The analysis of prosecutors concluded that even though the shareholders had decided to accept his father as a partner, the factual elements of acquiring shares were not present as the inscription in the Commercial Register was prevented by the adversary side in the controversy.

The controversy ended in 2019, and the 'J.' company remained with S. P. as its sole owner following court decisions. The prosecutors concluded that the allegations of G. G. that Ivan Geshev had interfered with at any stage of the development of the controversy do not correspond to the truth since they were not corroborated by any other data collected in the course of the inquiry.

conclusion



The inquiry concluded that there is no sufficient evidence about a crime; therefore, the initiation of a criminal procedure was denied.

According to the specialized prosecutors, Ivan Geshev neither had any established relation to the parties in these civil and criminal suits, nor is it proven that he had exerted any influence in deciding the suits, nor did he even have the objective possibility to do that, nor has he ever been a supervising prosecutor on any of the cases concerning the controversy.

It is noteworthy that although the prosecutor's order of denial pays considerable attention to the fact of whether or not the father of the Prosecutor General has become a partner in the "J." company, it is a doubtless fact that there was a decision by G. G. to take him as a partner even though this decision was not duly inscribed into the register. The substantial issue here is not the factual elements of the acquisition of shares, which took all the prosecutors' attention, but the actual reason for G. G. to express his will to give company shares to Ivan Geshev's father, which the prosecutors did not comment. Indeed, G. G. has claimed that he did it precisely to repay a favor the son provided him.

It is also unclear how complete the inquiry is regarding the collected testimonies, as there is no information on how wide the circle of persons from whom explanations have been taken about the potential relation of the Prosecutor General to the case.

It must be noted, nevertheless, that according to what is stated in the the ruling, the Chief Directorate for Combatting Organized Crime made a similar inquiry in 2021. It reached the same conclusion of the absence of data on existing elements of a general crime.

case 47 and 48



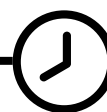
DELYAN PEEVSKI AND ILKO ZHELYAZKOV

member of Parliament 2009 - present; deputy chair of the National Bureau
for Control of Special Surveillance Means, 2018 - 2021

what



when



Inquiry for unidentified general crimes:

In June 2021, the United States Department of the Treasury announced large-scale sanctions under the Global Anti-corruption Magnitsky Act against three Bulgarian citizens, two of whom, Delyan Peevski and Ilko Zeliakov, occupy public posts. The reason for sanctioning the persons is “their significant role in Bulgarian corruption.”

Inquiries by the SCPO in June 2021 – there is no information about the results.

case 47 and 48

why



conclusion



the SCPO ordered inquiries after a self-referral following the announcement of the US Government on imposing sanctions under the Magnitsky Act.

The US justified the sanctions with the following circumstances:

“Peevski is an oligarch who previously served as a Bulgarian MP and media mogul and has regularly engaged in corruption, using influence peddling and bribes to protect himself from public scrutiny and exert control over key institutions and sectors in Bulgarian society.

In September 2019, Peevski actively worked to negatively influence the Bulgarian political process in the October 27, 2019, municipal elections. Peevski negotiated with politicians to provide them with political support and positive media coverage to receive protection from criminal investigations.

Peevski also engaged in corruption through his front man Zhelyazkov, the former Deputy Chief of the Bulgarian State Agency for Technical Operations and former Bulgarian State Agency for National Security (DANS) officer appointed to the National Bureau for Control on Special intelligence-gathering Devices in 2018.

Peevski used Zhelyazkov to conduct a bribery scheme involving Bulgarian residency documents for foreign persons and bribing government officials through various means in exchange for their information and loyalty.

As of 2019, Zhelyazkov was known for offering bribes to senior Bulgarian government officials who were expected to provide information to Zhelyazkov for onward passage to Peevski. In return, Zhelyazkov would see that individuals who accepted his offer were placed in positions of authority and provided a monthly bribe. Peevski and Zhelyazkov also had an official placed in a leadership position to embezzle funds to them in 2019.

In another example, as of early 2018, these two government officials ran a scheme to sell Bulgarian residency documents where company representatives purportedly paid bribes to Bulgarian officials to ensure their clients received citizenship documents immediately rather than making the \$500,000 deposit or waiting the five years for a legitimate request to be processed. Lastly, Zhelyazkov also blackmailed a potential Bulgarian government minister with criminal charges from Bulgaria’s Prosecutor General’s office if the minister did not provide him further assistance upon appointment.”

After the self-referral, the SCPO announced that ‘The Prosecutor’s Office has made several inquiries about Peevski. These are to be analyzed. In case of establishing evidence on committed crimes, all necessary actions will be taken within the competencies of the Office.’

No result is known so far.

There is no evidence the inquiries were terminated.

case 49



HRISTO TERZIYSKI

senior director of the Head Directorate of the National Police – Ministry of Internal Affairs, 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



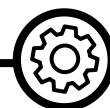
An inquiry of the Directorate of Internal Security in the Ministry of Internal Affairs in 2020 – SpPO refused to initiate pre-trial proceedings in January 2021 – confirmed by the ASpPO in March 2021 – canceled by the SPOC in January 2022 r. – no information on the case development since.

conclusion



There is no evidence of the inquiry being terminated.

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.

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



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

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 "****" 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 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



SEVDALINA KOVACHEVA

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



The case has been at the pre-trial phase of proceedings since January 2020 and is handled by the SpPO. There is no public information available regarding Kovacheva's indictment.

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.

The investigation against the two officials was initiated on allegations of entering into unfavorable transactions. In September 2014, the Pernik Municipality commissioned a private company to urgently collect and transport waste on the territory of the municipality, offering BGN 1,258,260 as payment for the services. This decision was explained with the outbreak of an “emergency situation” in Pernik, as the previously hired waste management company had stopped

working three days earlier. The local authorities did not perform an assessment of the prices and services offered by the new company, but instead paid out the specified amount in full, without even requiring documented proof that the commissioned work had actually been completed. At the same time, the authorities paid out another BGN 495,168 for waste management and transportation services to another company with which it had an ongoing contract. Both companies that were paid by the municipality were owned by the same person.

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 case is currently pending before the SpCCA (case 41/2021).

Kazandzhiev was charged with mismanagement of public funds:

On 5 November 2014, in the capacity of public official — Mayor of the Lovech Municipality — 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.

Alongside several other defendants, Reyzi was charged with embezzling more than BGN 2 million in the process of assigning 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 9



NIKOLAY DIMITROV

Mayor of the Nesebar Municipality, October 2007 – present



The case is handled by the SpPO and has been at the pre-trial phase of proceedings since 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.

During the campaign for mayor of the Nesebar Municipality in October 2019, Dimitrov was arrested five days before the election date on account of allegations of vote buying. Nevertheless, Dimitrov won the election, while in custody. In January 2020, when he was released on bail, the court dismissed the request for his temporary removal, submitted by

the Prosecutor's Office. There is no information regarding the further development of the case.

case 10



EMIL KABAIVANOV

Mayor of the Karlovo Municipality, 2003 – 2007, 2011 – present

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)



Kabaivanov was convicted of 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 SpCC started examining the case in December 2019, and there is no information about a pronounced verdict to date.



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 convicted of tax evasion prior to becoming mayor when he worked as a sole trader in the fuel industry.

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).

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 – present



The case is handled by the SpPO and has been at the pre-trial stage of proceedings since 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.

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 – present



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 present 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 Prosecutor's Office protested the verdict, and it has not entered into force.

The court's decision hasn't been published.

Kesyakov was charged with mismanagement of public funds:

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 participated 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.

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 Raddev. There is no information about this charge:

In the period February – June 2019, acting in complicity with a businessman, Raddev 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 the Deputy Mayor, other local government officials, and several local businessmen



The SpCC began examining the case in February 2021 and there has been no information of any judgment so far.

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 consequences 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 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 Plovdiv's Severen District, September 2011 – May 2019

**The case is handled by the SpPO and has been at the pre-trial stage of proceedings since 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.**



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.

About the authors:

Andrey Yankulov

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).

Alexander Kashumov

Atty. Alexander Kashumov is a human rights lawyer and international expert on open government and access to information, anti-corruption, data protection, and freedom of expression.

Member of the Sofia Bar Association since 1999. Since 1997, he has headed the legal team of the Access to Information Programme. Under his leadership, ODI has supported and led over 500 cases under the Access to Public Information Act.

Atty. Kashumov is the author of dozens of analyses and commentaries on legislation in Bulgaria and other countries and has repeatedly expressed expert opinions in parliamentary committees on draft laws. He participates in working groups on legislation. Kashumov is a key legal expert in EU PHARE projects in 2007-2009 in Bulgaria (anti-corruption), EU IPA in 2019-2021 in North Macedonia (access to information and anti-corruption), OSCE expert on analysis and drafting of legislation, Council of Europe expert, etc. Alexander Kashumov is the author and co-author of over ten books and collections, dozens of reports, and handbooks in the field of human rights, transparency and access to information, protection of personal data, freedom of expression, and transitional justice, published in Bulgaria, USA, UK, Hungary.

Atty. Kashumov has led many landmark cases before the European Court of Human Rights in Strasbourg.

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