

## OPINION

On the Draft law amending and supplementing the Law on the National Audit Office

Bulgaria's commitment under the National Recovery and Resilience Plan (NRRP) in section Reform 2. Countering corruption covers the following with regard to the anti-corruption body:

*"The legislative amendments will reform the current Commission for Counteracting Corruption and Illegal Asset Forfeiture by establishing a politically and financially independent Anti-Corruption Authority. The amendments provide that the Anti-Corruption Authority:*

- will have a leadership appointed through a transparent procedure ensuring political independence;*
- have the power to investigate and use the evidence it collects in criminal proceedings, subject to appropriate legal safeguards for the rights and freedoms of individuals and businesses;*
- will refer cases of significant discrepancies in assets or conflicts of interest to the Authority for the Confiscation of Illegally Acquired Assets;*
- will participate in integrity checks;*
- It will cooperate closely with the European Public Prosecutor's Office. "*

In fulfilment of this commitment, at the end of 2023, the Anti-Corruption Act was adopted, which divided the CACIAF into two separate bodies – the Anti-Corruption Commission, whose scope of action also covers conflicts of interest, and the Commission for the Confiscation of Illegally Acquired Property.

The bill proposed in early 2026 by GERB MPs, adopted at first reading by the Constitutional and Legal Affairs Committee, focuses precisely on prevention and the work of the Commission for the Prevention of Corruption. What is proposed is to transfer most of the powers of this commission to the National Audit Office and, specifically with regard to investigative functions, to the General Directorate for Combating Organized Crime (GDBOP).

The bill contains a number of weaknesses and largely repeats the model used to establish the CACIAF in 2017-2018.

- The bill is proposed by a group of MPs, which automatically deprives the general public of participation in the debate on such an important issue for our country as combating and limiting corruption. Following the amendments to the Law on Normative Acts, which introduced a significantly higher degree of transparency and public involvement in the legislative process, when bills are submitted in the traditional way through the executive branch, represented by the Council of Ministers, there has been a trend towards an increase in the percentage of bills submitted by MPs or parliamentary groups. For them, these standards are much lower and almost eliminate external participation. The case of the current bill only confirms this negative trend.
- The bill is being proposed amid a political crisis triggered by the resignation of the government at the end of 2025, which led to the launch of the procedure for appointing a caretaker cabinet and setting a date for early parliamentary elections. Following the latest amendments to the Constitution of the Republic of Bulgaria, adopted in December 2023, the National Assembly continues to work under these conditions, but the practice that has prevailed since then is that it tends to avoid legislating and its activity is almost frozen. The proposal of the bill under these conditions is a sign of haste that has no legal logic, only political.
- The bill is also being proposed within the framework of a pending procedure for the selection of members of the new Anti-Corruption Commission. In July-August 2025, the first stage of the procedure was carried out – the formation of a nomination committee, a public hearing of the nominated candidates, an assessment of their performance, and a report prepared by the nomination committee and sent to the standing parliamentary committee on prevention and countering corruption. The procedure has not been completed; there is no parliamentary act indicating its termination or other legally relevant action. This fact alone further emphasizes the entirely political nature of the proposal.
- No assessment or analysis of the Commission's work has been made since its creation in 2023 to date. The statement in the explanatory memorandum to the bill that the commission "*...did not bring added value to the fight against corruption at the highest levels of power*" is not based on any facts or other relevant circumstances. Moreover, it sounds cynical because it confirms the inability of parliament to appoint the Commission's leadership by electing new management. Without such an election, the Commission continued to be headed by the old leadership, which has indeed proven that it does not work to curb and prevent corruption.
- By failing to hold the election for more than two years, the parliament has effectively refused to fulfill the state's commitment under the NRRP. There has been no response to the EC's repeated reminders that a key element of this commitment is to ensure that the commission's leadership is politically and financially independent. The result of this inaction is a financial loss for the country of over €300 million.
- The draft law does not provide for mechanisms to control and coordinate the work of existing institutions dealing with corruption. On the contrary, there is once again a lack of integration and

a consolidation of structures and functions, creating a risk of uncertainty in procedures, accountability, and the results of the body's work, which will lead to chaos in the implementation of anti-corruption policies in Bulgaria.

- Again, the explanatory memorandum to the bill states that it is most appropriate to return to "...old and proven mechanisms." There is no further explanation of what these mechanisms are. Moreover, in recent years there has been constant political interference in the activities of independent bodies with anti-corruption powers, rather than the creation of working mechanisms. In practice, it is proposed to expand the powers of the National Audit Office to include activities related to conflicts of interest, corruption prevention, and the detection of discrepancies in the declared assets of persons holding public office. It should be recalled that until 2017, the National Audit Office had only one unit responsible for checking the income and assets of persons holding senior government and other positions. The National Audit Office has never carried out anti-corruption activities on such a large scale as is now being proposed.
- The National Audit Office should not become the state's anti-corruption body because it has completely different functions. Under European and other international financial standards, the Court of Auditors is a supreme audit institution (SAI) which must comply with several important principles in its activities. One of these is independence and objectivity, according to which SAIs must be independent in terms of their mandate, accountability, and management. In this context, the NAO itself sees its anti-corruption work strictly within the scope of its audit activities and as cooperation with other institutions in the fight against corruption.<sup>1</sup>
- No EU Member State uses the SAI as its main anti-corruption body. This is because the role of the SAI is to interact with anti-corruption bodies within the scope of its competences – auditing the executive branch and political parties.
- In addition to the above arguments, following the constitutional changes of December 2023, the leadership of the National Audit Office in Bulgaria has the potential to head the executive branch, due to the possibility provided for in Article 99, paragraph 5, to perform the functions of acting prime minister. If the National Audit Office is also designated as the main anti-corruption body, this will lead to a legally established conflict of interest that cannot be overcome. In a broader sense, this could even lead to a constitutional crisis due to the restrictions laid down in Article 99, (5).
- The bill provides for the creation of Chapter Ten – Signals. It regulates the submission of signals about conflicts of interest to the National Audit Office. It is noteworthy that the bill provides for the possibility of submitting signals under the Law on the Protection of Persons Submitting Signals or Publicly Disclosing Information on Violations. It should be emphasized that there is a serious confusion between two hypotheses that are different in nature and substance. While a report of a

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<sup>1</sup> <https://www.bulnao.government.bg/bg/za-nas/antikorupciyasignali-po-zlpspoin/rolyata-na-smetnata-palata-kato-vrhovna-oditna-instituciya-v-borbata-s-korupciyata/>

conflict of interest concerns a person holding public office, signals under the Law on the Protection of Persons are related to financial and other violations, including those affecting the financial interests of the EU. This law transposes Directive 1937/2019 and applies to both natural persons and private legal entities. The main external channel for submitting reports under this law is the Personal Data Protection Commission.

- It is inadmissible and unacceptable to mix the two regulations, as well as to keep a register of signals at the National Audit Office and provide access to it to the CPDP. There is a conceptual difference between the types of signals in terms of their object and subject matter. Mechanically linking them will create more problems, including the possibility of blurring the responsibility between the authorities competent to verify them. The CPDP essentially carries out completely different activities, and it is legally unacceptable to link them in the manner proposed in the draft law.
- The same arguments are relevant with regard to Chapter Eleven – Protection of the person who submitted the signal.
- With regard to Chapter Fourteen – Accountability and Control over the Activities of the National Audit Office – the texts of Articles 46 and 47 of the current Law on the National Audit Office are repeated almost verbatim, without taking into account the expanded powers related to conflicts of interest and the prevention of corruption. It would be necessary for the National Audit Office to submit a separate report on all analytical, methodological, and training anti-corruption activities carried out during the year, including an assessment of the level of success of the anti-corruption policies implemented. At a minimum, this should be reported in the National Audit Office's annual report, which should include the above-mentioned requirements. The practice in the National Assembly to date shows that the submission of annual reports to it by the institutions required by law does not lead to any consequences if the report is incomplete, unsatisfactory, does not report progress, etc. It is possible to consider such consequences with regard to the reports of the National Audit Office in the context of the significant expansion of its powers in an area that is of key importance to the state.
- The transitional provisions of the bill amend, in a completely mechanical manner, the Law on the Ministry of the Interior, as civil servants from the Specialized Directorate for Combating Corruption of the CPC are transferred to the General Directorate for Combating Organized Crime of the Ministry of the Interior. This is described as a "return of functions." Before the creation of the CACIAF, these functions were in the Specialized Directorate for Combating Corruption in the State Agency for National Security (SANS), from where, again completely mechanically, they were transferred to the new Commission. The logic of the 2023 law sought to create relative autonomy for the investigative functions of the CPC and the bodies that can perform them, in order to achieve a kind of "breakaway" from the grip of the prosecution with the aim of achieving objectivity in investigations. The current proposal, including with regard to the investigation, returns things to the old "channel," which, during the years of the CACIAF's existence, has not proven its effectiveness in any way.

- Particularly worrying is the text of § 34 of the Transitional and Final Provisions of the bill, and in particular the second sentence: *"Upon the entry into force of this law, the Anti-Corruption Commission shall transfer all archived operational reports to the State Agency for National Security. **The remaining databases of the Anti-Corruption Commission containing information on these files shall be destroyed immediately.**"* The text is too general and does not provide information on what data is involved and why its immediate destruction is necessary. Given the very low level of trust in the current Anti-Corruption Commission, such a text creates the impression of a cover-up, "sweeping under the carpet" and destruction of information (working files) that may be valuable for future investigations and prosecutions.

The Anti-Corruption Commission, established at the end of 2023, exists only on paper, and the legal texts have not been effectively implemented. Over a period of two years, several successive parliaments failed to find the necessary will to curb corruption by producing a transparent selection of CCP members. This was an action that could have been taken repeatedly by parliament, as it did not require a qualified majority to carry out the selection.

As a result, the CPC, separated only mechanically, continued to operate with its old composition and old leadership, which does not fulfill the intention of the legislator and the commitment of the state under the NRRP.

For this reason, the current bill is hasty, poorly structured, and devoid of public, practical, and legal logic. It should be rejected because it would not produce any significant results in terms of limiting and preventing corruption in Bulgaria.