

THE STATE OF CAPTURE: THE ELUSIVE QUEST FOR ANTI-CORRUPTION RESULTS

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The escalating geopolitical tensions, resulting in rising insecurity across the globe and the devastating wars in Ukraine and the Middle East, have disrupted various common global agendas. The global power competition, with United Nations (UN) Security Council members Russia and China challenging the established international understanding of good governance, has emboldened autocrats and kleptocrats alike to sideline democratisation and anti-corruption efforts, **weakening multilateral anti-corruption agreements**, such as the UN Convention against Corruption, the Organisation for Economic Cooperation and Development's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and the EU enlargement conditionalities.^{1,2}

The rise of strategic corruption

This rupture of the international rule of law-based system at the highest level has resulted in political divisions within democratic countries across the world and in Europe, pitching increased administrative anti-corruption capacity and institutions created in the past three decades against resurgent populist demands for national strongman rule with more unbridled government power. Yet, the lessons from these wars underscore that the **integrity of public institutions and the resilience of civic spirit are the foundation of security**, rather than the reverse. This has prompted the European Union (EU) to seek to strengthen its internal and neighbourhood cohesion and democratic resilience systems through

¹ In 2023 the world celebrated [20 years of the UNCAC inauguration](#), while the EU marked the same anniversary of its [anti-corruption rules](#) and its latest unfinished [enlargement round for the Western Balkans](#). In 2024, the [OECD's Anti-Bribery Convention](#) marked its 25th anniversary.

² OECD, *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, 1997.

KEY POINTS

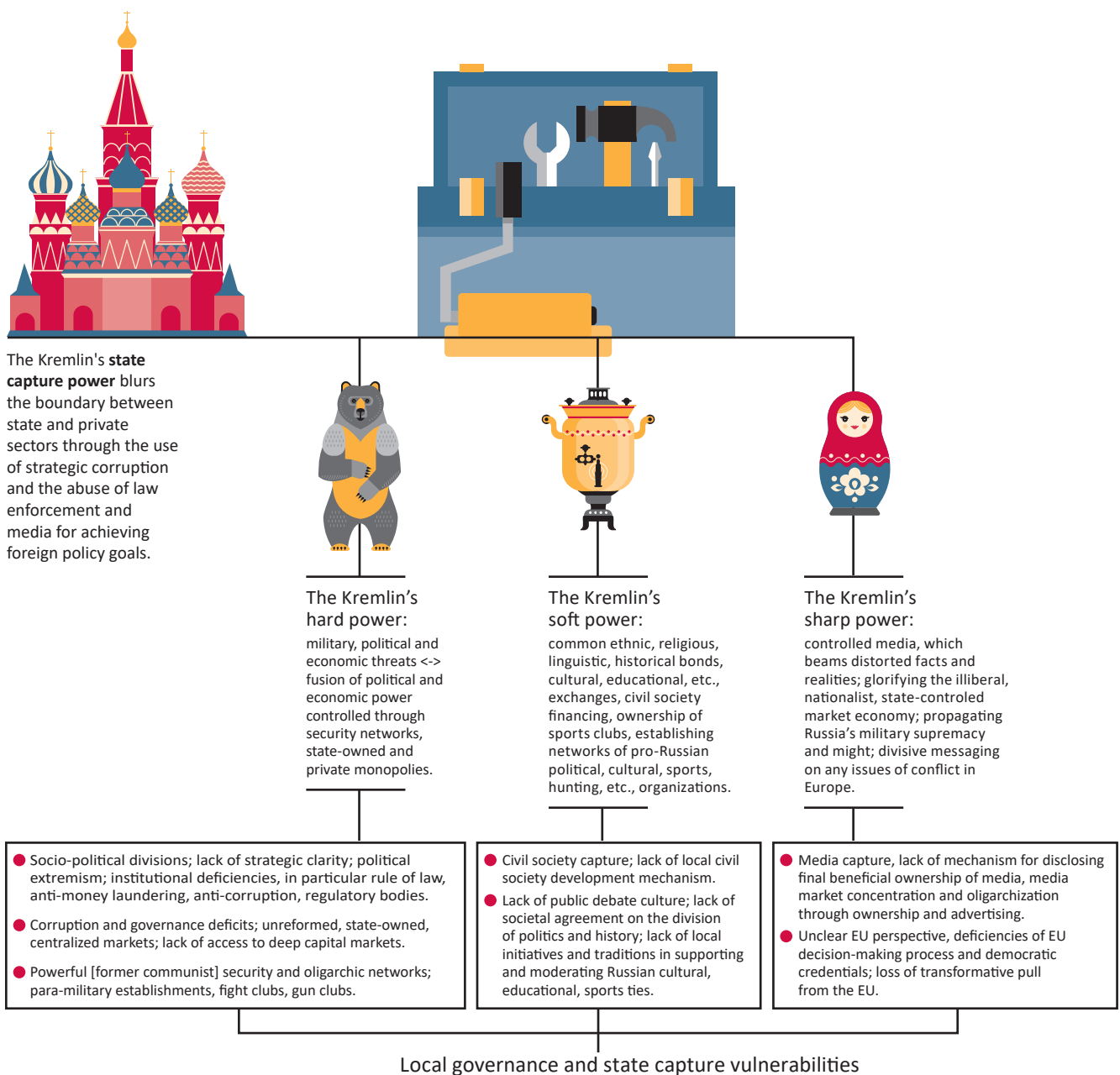
- Administrative corruption in Bulgaria is **peaking for a third time in the past two decades**. In 2023, 30% of individuals and a quarter of businesses reported increased pressure and involvement in corruption. The lack of significant breakthroughs in **signature cases of state capture** has been compounded by newly emerging evidence of criminal and political influence peddling in the judiciary, and by **incapacitated regulatory and specialised anti-corruption institutions**.
- Bulgaria's capacity to safeguard its economic security against **Russia's weaponisation of strategic corruption** in Europe has been undermined. Future-proofing the country's democracy requires prioritising two concurrent policies: **exposing and targeting the mechanisms behind Russia-related state capture**, and increasing anti-money laundering enforcement, with a particular **focus on illicit financial flows in the energy sector**.
- As national law enforcement remains both ineffective and selective, the mandate of the **European Public Prosecutor's Office** should be expanded to include the **violations of EU sanctions** against Russia.
- The Bulgarian government needs to mainstream and sustain anti-corruption reforms. The recent **constitutional amendments** have the potential to strengthen judicial and political accountability. Next, the anti-corruption system of **regulatory and enforcement agencies and inspectorates** needs to be re-activated.
- Strategic corruption and state capture are challenges for the entire European Union, and Bulgaria can hardly be singled out as the worst offender. The EU needs to considerably step up its efforts and capacity to address them through **coalition building for strategic anti-corruption**. Only through the active engagement of reformist politicians, civil society, the private sector, and international partners can the battle against rising global authoritarianism be won.

introducing a new Defense of Democracy, Anti-Corruption and Economic Security packages, as well as extending the prospects for membership to Ukraine, Moldova, and Georgia in 2023 – 2024.

The Bulgarian anti-corruption drive – which is now in its third decade – has been intricately linked to the international engagements of the country, balancing two opposing forces. Domestic reformist stakeholders and international support have managed to mainstream anti-corruption into the national agenda, to create a considerable body of expertise,

and to adopt advanced regulatory standards. Their efforts have been counteracted by the recurring lack of national, self-sustained political initiative and unaccountable and captured judicial, regulatory, media, and specialised anti-corruption institutions. These countervailing forces have been underpinned, mostly behind the scenes for decades, yet openly after 2014, by **Russia-led strategic corruption**, enabled by entrenched local oligarchic networks, which have created a **shadow infrastructure of influence** to buy the services of politicians, magistrates, media managers, and businesses.

Figure 1. The instruments of Russian economic coercion and strategic corruption



Source: Center for the Study of Democracy.

Bulgaria has long been one of Europe’s most vulnerable countries to Russia’s malign economic and political influence.³ By **weaponising economic relations**, strategic corruption has undermined trust in public institutions and sowed social divisions. With the full-scale invasion of Ukraine, Russia has declared a war on the EU’s model of peaceful democracy and social market economy, declaring the bloc and its members “unfriendly”, and unleashing its full array of hybrid warfare tools, with a particular focus on the weak-link countries in the Black Sea and the Balkans.⁴ In its operations in Bulgaria, **the Kremlin capitalises on governance failures**, such as lack of integrity and impartiality in politics and government, ineffective laws (on anti-corruption, money-laundering, political party financing, etc.), constrained media freedom, judicial incapacity, and others.

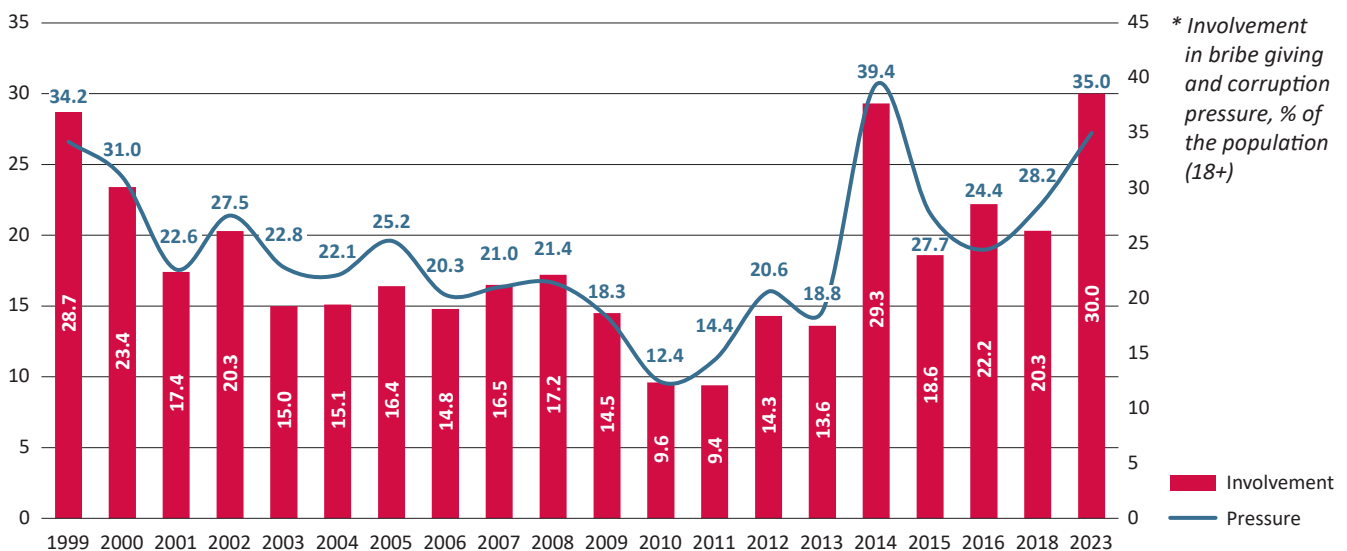
Bulgaria has been unable to respond convincingly to Russia’s strategic corruption challenge, despite continuing pressure from its allies in the EU and NATO, including years of specialised anti-corruption monitoring and withholding of EU membership rights (e.g. entry in the Schengen border-free security area), technical assistance and financing, and **the most numerous designations in the world under the US**

Global Magnitsky Act. A year after Russia’s invasion of Ukraine, Bulgaria was able to break a period of pro-Kremlin political instability, and in the spring of 2023 voted in a clear, yet fractious, Euro-Atlantic majority on an anti-corruption agenda. However, implementing this agenda has proven politically difficult, threatening to waste a unique window of opportunity to strategically **decouple from the Russian energy dependence** and to dismantle the Kremlin-linked local state capture networks.

Corruption is peaking, again

Evidence from CSD’s *Corruption Monitoring System (CMS)*⁵ indicates that anti-corruption policies in Bulgaria have long not been producing the desired effect. Moreover, it suggests that as state capture networks adapt to political changes, battling for supremacy, or trying to habituate new political powers, administrative corruption (bribery) rises, also denoting a **blockage of anti-corruption institutions**. As a result, on the positive side, and at least in the short run, anti-corruption cannot be weaponised, some established state capture networks unravel (e.g., the Corporate Commercial Bank case in 2014) or change hands

Figure 2. A lost decade: Involvement in corruption is back at peak levels*



Source: Center for the Study of Democracy, *Corruption Monitoring System*.

³ Shentov, O., Stefanov, R., and Vladimirov, M., *The Kremlin Playbook in Europe*, Sofia: Center for the Study of Democracy, 2020.

⁴ Novosiolova, T., and Georgiev, G., *Countering Hybrid Warfare in the Black Sea Region*, Sofia: Center for the Study of Democracy, 2024.

⁵ The *Corruption Monitoring System (CMS)* was designed by CSD in 1998 and has been included in the first edition of the UN Anti-Corruption Toolkit. See further: Coalition 2000, *Clean Future: Anti-Corruption Action Plan for Bulgaria, Monitoring and Corruption Assessment Indices*, 1998. The indicators in this publication are based on CMS data from surveys among the population and business conducted between September and October 2023.

(e.g., gambling), while others end up in high-profile contract killings (e.g., a number of cases in 2023–2024). Political fluctuations provide short windows of opportunity for anti-corruption transformations, as most recently evidenced by the latest constitutional and other legal amendments, the reform of the set-up of the Anti-Corruption Commission, the dismissal of the sitting prosecutor general. Yet, these changes have not yet produced a decisive breakthrough or tipping point in curbing systemic corruption or weaning off anti-corruption institutions from state capture networks.

While in the early 2000s there was a trend towards reduction of corruption incidents in public services, this trend was reversed after 2011, with corruption levels climbing – at first slowly, then peaking in 2014, and remaining relatively elevated ever since.

In 2023, administrative corruption once again peaked, with **35% of the public reporting having been asked for a bribe and 30% having been involved in corruption** transactions at least on some occasions in the preceding year – figures matched only by the corruption rates in 1999 and 2014.

Box 1. Evidence vs. speculation

The Government of Bulgaria continues to pilot its anti-corruption plane blind. While national and international efforts have yielded numerous policy and practical innovations for tackling corruption, a **government system for measuring and monitoring corruption risks** is still lacking.⁶ Any solid anti-corruption policy – especially one prioritising prevention – requires the most comprehensive picture possible of the social context in which corruption originates. Such data and knowledge are among the few advantages that reformist politicians can have over corrupt ones.

Since the government is not conducting its own evidence gathering and risk assessment, kleptocratic elites in Bulgaria have been free to **dismiss corruption allegations as mere speculation**. The disregard for evidence is especially obvious in the *National Anti-Corruption Strategy*, which is notable for its lack of measurable targets and failure to address state capture. This gap remains glaringly open, although the strategy contains a noncommittal intention for the creation of a monitoring mechanism with few specifics, and the existing anti-corruption legislation has prescribed the implementation of an updated methodology for assessing corruption risks in the public administration since 2019.

The effective application of any government policy requires a dependable feedback mechanism informing policy-makers whether objectives are being achieved. This is doubly relevant in anti-corruption because:

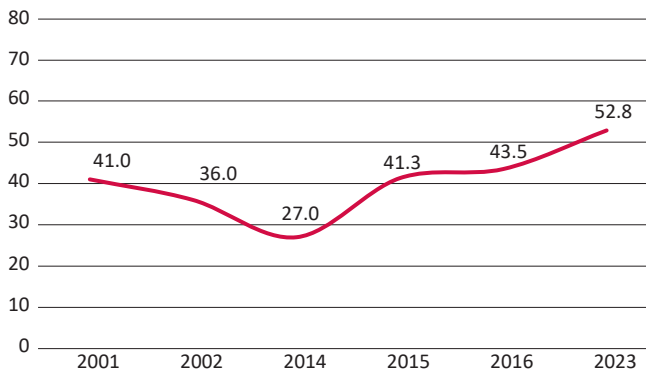
- **The impact of policies** is diffused and often invisible to the naked policy eye. It cannot, therefore, be seen with the use of only standard statistical methods employed by governments. These need to be supplemented by innovative **victimisation-based tools** which provide reliable information about the proliferation of corruption, including in high-risk environments such as public procurement.
- **The extent to which corruption is considered (in)admissible** by the public is important for policy design. And the public requires constant proof of sustained policy impact for trust in government's action to solidify and further sustain anti-corruption gains.

The incoherence and unsustainability of anti-corruption policies of the past decade are particularly evident in the fact that the **majority of the Bulgarian public are willing to take part in corruption transactions**: either to accept a bribe, if they were in the position of a public official or to give one, if they were in a scenario where this could solve their problem. The upward trend in

this disposition has been almost unbroken since the early 2000s, which is indicative of a shift in attitudes towards **normalisation of corruption**. In a kind of collateral damage to good governance, **trust in the capability of public institutions to address corruption** at all has eroded too, with 67% of individuals believing that corruption cannot be substantially reduced.

⁶ At the Conference of the States Parties to the UNCAC in Atlanta in December 2023, the United Nations Office on Drugs and Crime proposed a unified Statistical Framework to Measure Corruption. See further: UNODC, *Statistical Framework to Measure Corruption*, November 2023.

Figure 3. The public is susceptible to rent-seeking from officials*



*Share of individuals who would accept and/or give bribe in the role of public official and/or citizen.

Source: Center for the Study of Democracy, Corruption Monitoring System.

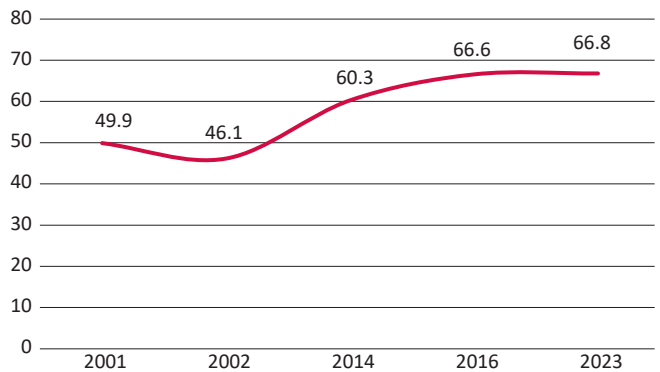
Compared to the rest of the EU-27, Bulgaria is among the countries with the highest corruption rates when personal experience of citizens is concerned. Bulgarians are the most likely in the EU to report having experienced or witnessed cases of corruption.

The findings of the *Corruption Monitoring System* can also be used to demonstrate the **overwhelming gap in the enforcement of anti-corruption laws**. The size of the gap becomes clear when comparing the judiciary and police statistics on the number of registered, investigated, and adjudicated corruption cases against the share of the public reporting involvement in corrupt transaction.⁷ It demonstrates a **deterrence effect of less than 0.01%** of the law enforcement system, which is much lower than in the case of other socially sensitive groups of crime.

The **corruption pattern for businesses** mirrors the experiences of individuals with an increase in both reported corruption pressure and in actual involvement in corruption transactions (in 2023, for the first time the latter is higher than corruption pressure).

⁷ Given that corruption, unlike most other types of crime, has a very high degree of latency (i.e., leaves no immediately visible damage or victim), the only way to put the effectiveness of anti-corruption law enforcement in context is to use an extrapolation from the share of self-reported involvement by the public. It is also likely to understate the actual gap in enforcement, as reporting corruption is self-incriminating under Bulgarian laws, and can be expected to preclude people from reporting their actual level of victimisation.

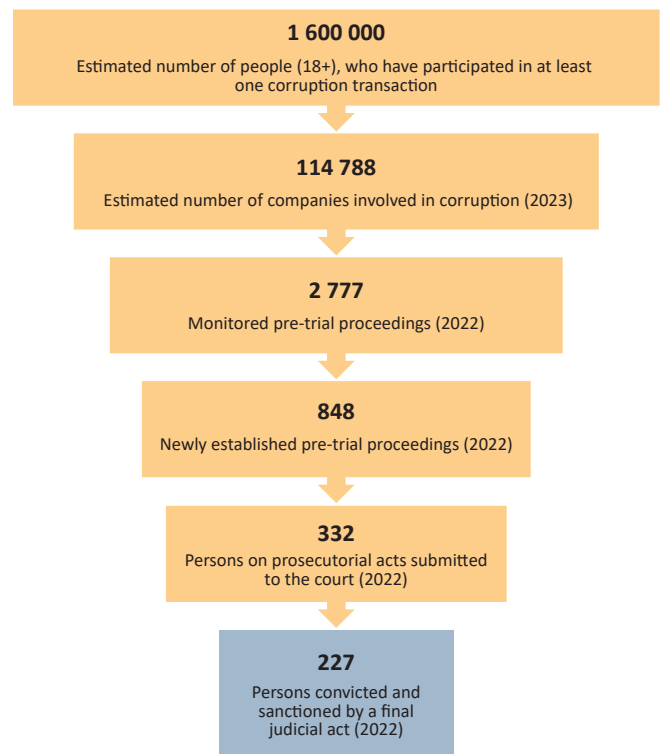
Figure 4. Anti-corruption pessimism is growing*



*Share of individuals believing that corruption cannot be substantially reduced.

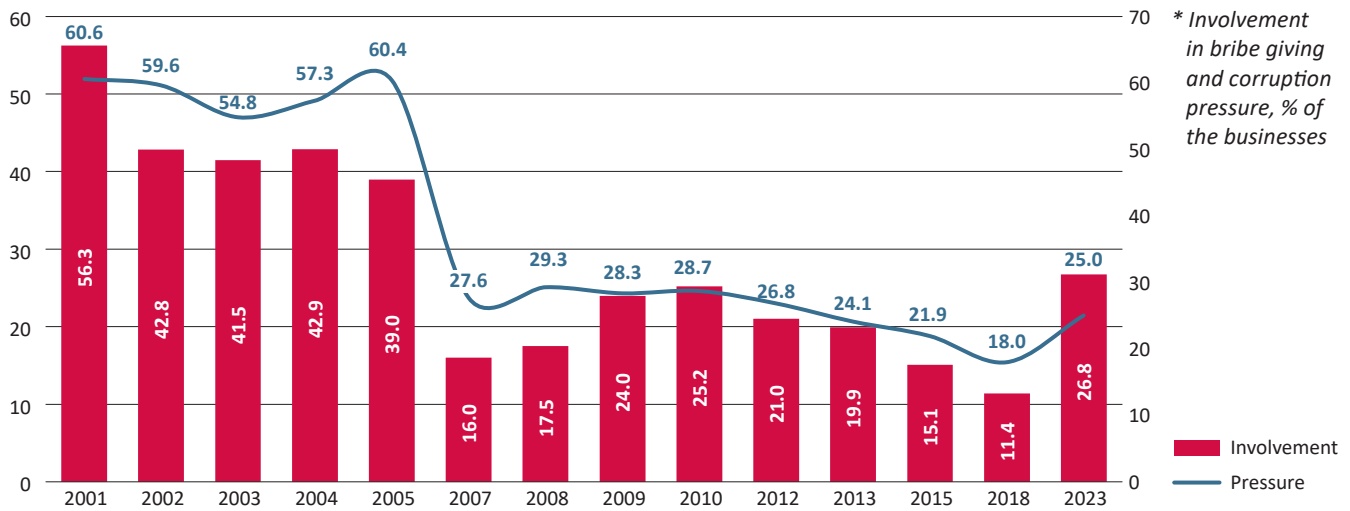
Source: Center for the Study of Democracy, Corruption Monitoring System.

Figure 5. Underwhelming enforcement: Petty corruption



Source: Center for the Study of Democracy, Corruption Monitoring System, and Prosecutor's Office, *Annual Report 2022*.

Figure 6. Business involvement in corruption*



Source: Center for the Study of Democracy, Corruption Monitoring System.

Small companies between 10 and 49 employees are by far the most likely to report having given a bribe with 35% of the small companies reporting having been involved in corruption transactions. **Public procurement** is a big part of the problem, with 55% of the companies bidding for tenders convinced that corruption has prevented them from winning the contract (with only Cyprus and Greece reporting higher or similar levels, whereas the EU average share is 26%).⁸ In 2023, the share of Bulgarian businesses believing that corruption in public procurement managed by national authorities is widespread was the third highest in EU-27, and the second highest of those believing the same for public procurement run by regional and local authorities.

The results from the *Corruption Monitoring System* suggest that systemic corruption and state capture have not been consistently and comprehensively targeted through preventative or repressive regulatory or penal instruments. Instead, the numerous, publicly known cases have ended only in public scandals with limited political fallout. This calls for sustained political action in nudging the judiciary and the regulatory and enforcement agencies in the executive towards constantly narrowing and closing corruption and state capture loopholes.

The iron law of capture: Dysfunctional judiciary and democratic checks and balances

Petty bribery may have been reduced in certain public services, yet it remains widely prevalent in others. **State capture**, on the other hand, has become a **pervasive practice** that continues to spread uncontrollably across **all public institutions**. Its predatory networks have acquired privileged access to regulated markets, to public procurement resources, and to legislation initiatives, providing them with further illegitimate competitive advantage, ensuring selective application of control and/or sanctions, and concentration of public grants and subsidies.⁹

Improving **anti-corruption enforcement** ultimately depends on the effectiveness of the work of the **judiciary** and the checks and balances available to demand democratic accountability for its work. Until the 2023 constitutional changes, the Bulgarian judiciary had been structurally very similar to its Soviet predecessor, with a strong unaccountable prosecutor general, whose position allowed control over the work of the judicial system. This structure was closely alike the one in Russia and Ukraine, enabling the emergence

⁸ European Commission, Directorate-General for Communication, *Flash Eurobarometer 524. Businesses' attitudes towards corruption in the EU*, Luxembourg: Publications Office of the European Union, 2023, p. 91.

⁹ See further: Stoyanov, A., Gerganov, A., and Yalamov, T., *State Capture Assessment Diagnostics*, Sofia: Center for the Study of Democracy, 2019; Galev, T., Gerganov, A., and Todorov, B., *State Capture Deconstructed: Risk Measurement in Vulnerable Economic Sectors in Europe*, Sofia: Center for the Study of Democracy, 2021; Center for the Study of Democracy, *State Capture Unplugged: Countering Administrative and Political Corruption in Bulgaria*, 2016.

of analogous corruption and state capture networks, and creating strategic vulnerabilities for Bulgaria's national security.

Given the **outsized powers of the prosecutor general**, political actors have sought to tightly control the position, with ample public evidence of undue influence and power peddling. Two of the more recent displays of this influence have been the election and the subsequent dismissal of the latest prosecutor general. The appointment of a single candidate in 2019 sparked mass street protests, not least because of the lack of any tangible results from the flagship case against the state capture networks obviated by the forced default of the Corporate Commercial Bank in 2014, which the prosecutor-general had overseen for five years as the leader of the specialised anti-corruption prosecution office. His subsequent dismissal in the summer of 2023 was a similarly forceful display of the outsized undue political influence over the judiciary.

The lack of formal channels for checks and balances on the judiciary, coupled with blatantly obvious political influence over its most powerful position, created the perfect environment for state capture through shady power brokers across all its levels. As a result, the Bulgarian government has been unable to respond convincingly not only to local anti-corruption demands but also to **international security concerns related to strategic corruption**, as evidenced by the lack of action on the nine cases of individuals designated for serious corruption under the US Global Magnitsky Act. Moreover, it has failed to act on even very basic breaches of judicial integrity. For example:

- In 2017, the prosecutor general had an unannounced, informal meeting with two influential businessmen with strong relations to Russia and local political and media positions. The meeting took place in the Sofia office of Russia's honorary consul and political leader from the Bulgarian Socialist Party and concerned an ongoing investigation against the then long-time local partner of Kremlin's Gazprom in Bulgaria. The latter leaked the details of the meeting, claiming he was the target of prosecutorial repression, causing a public outrage in the process. Yet, neither political leaders in power, nor the Supreme Judicial Council found enough evidence of professional misconduct of the prosecutor general.
- In the past ten years, civil society investigations have uncovered two organised-crime-type networks for

influence in the judiciary, appearing to have access to both the political and the operational levels of decision-making in the judiciary and the executive. Both networks have used their powers to influence judicial outcomes to extort businesses and wealthy individuals. In both instances, individuals publicly identified as the central figures within the networks vanished before facing justice, with one of them being murdered in early 2024.

The very modest results of the Bulgarian anti-corruption infrastructure of the past decade stand out against the **large investments in the anti-corruption capacity** of the Bulgarian judiciary, law enforcement, and regulatory institutions and administration, mostly through the European Union programs and funds, including most recently through the Recovery and Resilience Facility. The lack of home-grown political will and initiatives for anti-corruption, coupled with pressure for the creation of more and more powerful anti-corruption bodies without local political backing for action have resulted in a reversal of the anti-corruption progress spurred by the EU accession conditionalities and post-accession monitoring (after 2011 when the so called Precautionary clause of the Cooperation and Verification Mechanism expired).

In turn, unattended **systemic corruption has morphed into a wholesale capture of the machinery of government** in a drive to cartelise access to power, reduce corruption costs for the captors, and turn anti-corruption bodies into extortion and repression instruments for the uninitiated. Consecutive governments have pretended to be intent on reducing corruption, but have worked behind the scenes to undermine any meaningful measures against it and have tried to consolidate political, financial and media power. As a result, critical positions of the media, civil service and the judiciary have been captured to the extent of invoking open public demands and expectations for a strongman approach and a drastic shake-up of anti-corruption institutions, further opening the field to political opportunists and populists.

Political patronage networks in Bulgaria, which have operated across electoral cycles, have secured their hold on power by infiltrating and consolidating their control in many government institutions, state-owned enterprises, regulated industries, and politically exposed companies. As a result, the **safeguards** (external and internal checks) **to avoid politicisation have been blocked** and the **weaponisation of anti-corruption enforcement** has become unabashed.

Box 2. Strategic corruption vulnerabilities: The Russian economic footprint

Despite all efforts to sever the channels of its influence in Europe, Russia has managed to preserve one of its largest economic footprints in the EU and NATO in Bulgaria. **The Russian-controlled Lukoil-Bulgaria has remained the largest company in the domestic economy.** For years it has defied national customs and competition regulations and has preserved access to the highest levels of Bulgaria's government even after Russia's invasion in Ukraine and the introduction of a dozen of rounds of EU economic sanctions.

Until August 2023, Lukoil maintained control over the Rosenets oil terminal, a strategic asset on the Black Sea coast allegedly utilised for illicit activities, including arms and fuels smuggling. The port and the refinery have been guarded by a Russian-controlled private security company, which has been used to intimidate Bulgarian tax, customs, and border control authorities from accessing and properly controlling the refinery's facilities.

Without providing publicly sufficient economic and technical justifications, Bulgaria secured a derogation from the EU's ban on the import of Russian crude and oil products in May 2022, at a time when Germany and Italy took decisive steps in seeing off Russian-controlled energy assets on their territories.¹⁰ At the time, the government threatened to veto the whole EU sanctions package unless Bulgaria got the exemption (the only Member State with access to the sea, which received a derogation). **The derogation enabled Lukoil's refinery to exclusively import Russian crude oil** for most of 2022 and 2023, resulting in an estimated **surplus profit** of around \$3 billion.¹¹ Successive Bulgarian governments have shielded the derogation despite ample evidence that it has not benefited domestic consumers or taxpayers, and that an alternative crude oil supply is viable without major risks for the energy security or the environment.

Around a third of these fuels have been exported via illicit ship-to-ship transfer in Greek and Maltese waters to mask the origin of the fuels and the final destination (including in the EU and the U.S.)¹². The derogation became one of the most glaring loopholes in the West's sanctions regime, allowing the Kremlin to generate at least \$1.5 billion in additional direct tax revenues from selling oil in 2023,¹³ bringing the **total benefit for the Russian economy to \$4.5 billion.**

After strong public pressure, the Bulgarian Parliament voted to lift the derogation from March 2024, ten months early. However, MPs from the parliamentary majority embedded two loopholes in the law that practically compensate Lukoil for the lifting of the derogation.¹⁴ They allowed the Russian company to continue exporting a limited amount of fuel products and to import Russian crude oil above the \$60 price cap imposed by G7 to reduce the amount of oil revenues for the Kremlin.

State capture and the political fragmentation ensuing from the lack of convincing governance reforms have led to a **high degree of administrative and fiscal centralisation** of decision-making. Most recently, this trend has been exemplified by the pushing of the decision-making on operative issues, such as the selection of technology and the contractor for building

new nuclear power facilities, towards the Bulgarian parliament. It is also manifested in distortions created by preferential fiscal transfers from the central to the local level, which are then further exacerbated by irregularities in local procurement. Statistical evidence indicates the presence of politically motivated factors in the distribution of public procurement contracts –

¹⁰ Nitzov, B., and Rangelova, K., *Decoupling from Russian Oil: Overcoming Path Dependencies in the Bulgarian Energy Sector*, CSD Working Paper, February 2023.

¹¹ Center for the Study of Democracy, *Bulgaria's Reliance on Russian Oil: the Derogation and Beyond*, Policy Brief No. 137, August 2023.

¹² Jack, V. Gavin, G. and Coi, G., *"Cockroach strategy": How Europe failed to sap Russia's energy profits*, *POLITICO*, 12 December 2023.

¹³ Jack, V., *"Putin rakes in extra €1B for his war chest via Bulgaria sanctions loophole"*, *POLITICO*, 9 November 2023.

¹⁴ Stefanov, R. and Vladimirov, M., *"The Elusive Russian Oil Phaseout: New Loopholes to Maximize Kremlin Revenues"*, CSD Blog Post, 9 December 2023.

Box 3. Underwhelming enforcement: High-level corruption

At the end of 2023, the state prosecution ended yet another initially widely publicised criminal case of alleged high-level corruption. The supervising prosecutor terminated the pre-trial proceedings for extortion, initiated on a complaint by the gambling tycoon Vasil Bozhkov against the former prime minister, the former finance minister, and the former PR of the government. Bozhkov claimed that over several years he had withdrawn in cash from his bank accounts and handed over as bribes to the said government officials BGN 60 million (EUR 32 million). Although the bank had reported the cash withdrawals to the Financial Intelligence Department of the State Agency for National Security as required by the law, there had been no known indications of any follow-up investigation actions whatsoever.

The injunction makes it clear that the investigation into the case lasted about a year and a half, during which time the prosecution claims to have carried out “all possible and necessary actions” to uncover the alleged bribery. The results of these actions gave the prosecution grounds to conclude that “there is insufficient evidence of a crime”. The content of the injunction, unprecedented in its length, raises serious questions about the anti-corruption resolve of the prosecution:

- Why was the investigation conducted under the original qualification of the offence (extortion), even though there is ample evidence in the testimony of many witnesses that envelopes, presumably containing bribe money, were passed periodically between persons who should have no financial relationships? The prosecution should have expanded the procedural and investigative steps and established whether another crime, such as bribery or influence peddling, might have been committed.
- Why did the prosecution end the investigation after questioning primarily people close to the whistleblower, with only two civil servants included? This limited focus raises concerns despite the extensive materials gathered during the pre-trial investigation. The prosecution’s silence on this approach is particularly troubling.
- Why was the investigation in practice limited only to witness interviews? There is no information that any other procedural investigative steps were taken, with the exception of a reference to cash withdrawals from the whistleblower’s bank accounts, which generally corroborates the allegations. There is no indication that information has been sought on the financial situation of the persons alleged to have received the money or of persons connected with them. Moreover, no inquiries were made into publicly available sources such as their asset declarations, nor were more serious actions undertaken, such as disclosure of bank secrecy, checks of account statements, etc.

Such cases of significant public interest, in which the gap between the potential harm done by suspected political corruption and a clearly perfunctory enforcement action is large and obvious, further fuel public distrust in government anti-corruption efforts.

municipalities politically aligned with the central government receive larger budgets.¹⁵

The absence of effective prosecution of high-level corruption is evidenced by cases of **early termination of investigations**, which are then not challenged in court. This points of two sets of deficiencies in anti-corruption enforcement. The first is the as yet unresolved issue of the lack of effective legal means

to **challenge prosecutorial decisions that terminate criminal proceedings** that would never reach court as a result. This often turns the prosecution into an insurmountable obstacle to the courtroom in key criminal cases. The second issue, also raised on many occasions, is the **standard of proof in the criminal process** in Bulgaria, especially in its pre-trial phase. A strong impression has emerged that the Bulgarian prosecutor’s office prioritises cases with overwhelming evidence, seemingly to ensure convictions. This is confirmed by the low acquittal rate, which has been a persistent trend for many years. Thus, in practice, the outcome of cases depends much more on the prosecution than on the court.

¹⁵ See further: Mineva, D., Kostova, T., Fazekas, M. and Poltoratskaia, V., *Bridges to Nowhere. State Capture and Corruption Risks in Fiscal Transfers and Public Procurement at the Local Level in Southeast Europe*, Sofia: Center for the Study of Democracy, 2023.

Anti-corruption bottlenecks: The regulatory and enforcement institutions

The implementation of anti-corruption policies, even when well designed, depends on specialised anti-corruption bodies as well as on a much wider

system of democratic checks and balances aimed at diffusing power and ensuring an effective functioning of democracy and market economy institutions. The past decade has provided numerous staggeringly open evidence that many, if not most of the Bulgarian agencies entrusted with ensuring compliance with laws and regulations have proved dysfunctional and captured by special interests.

Box 4. The infrastructure of regulatory and inspection bodies in Bulgaria

There are multiple bodies with regulatory and inspection functions in Bulgaria. These bodies are authorised to supervise compliance with the legislation in particular spheres of public life which are prone to concentration of power or are of specific social importance. If, while exercising their powers, such bodies uncover information pointing that a corruption offence might have been committed, they are required to refer the evidence to the prosecution and help out with their specialised knowledge in the investigation. These bodies include many different types of institutions, with a number of them having also direct responsibilities in preventing and tackling corruption:¹⁶

Independent bodies (reporting to Parliament, 16 in total): e.g., Commission on Protection of Competition, Commission for Illegal Assets Forfeiture, Commission for Public Oversight of Statutory Auditors, Committee for Disclosing the Documents and Announcing Affiliation of Bulgarian Citizens to the State Security and Intelligence Services of the Bulgarian National Army, Energy and Water Regulatory Commission, Communications Regulation Commission, Financial Supervision Commission, the Anti-Corruption Commission, Council for Electronic Media, Central Election Commission, Bulgarian National Bank.

State agencies and state commission administrations (typically reporting to the Council of Ministers; 15 in total): e.g. State Agency State Reserve and Wartime Stocks, State Agency for National Security, State Intelligence Agency, State Agency for Technical Operations, State Commission on Information Security, Commodity Exchanges and Markets State Commission, National Council on Prices and Reimbursement of Medicinal Products.

Agencies and bodies created by a separate law (reporting to the CoM or to ministries; 37 in total): e.g. Public Financial Inspection Agency, Public Enterprises and Control Agency, Nuclear Regulatory Agency, Customs Agency, Road Infrastructure Agency, Bulgarian Food Safety Agency, National Construction Control Directorate, State Fund Agriculture, National Social Security Institute, National Evaluation and Accreditation Agency, National Revenue Agency, National Health Insurance Fund, National Special Intelligence Devices Control Bureau.

Executive agencies (reporting to ministries; 32 in total): Sustainable Energy Development Agency, Registry Agency, Geodesy, Cartography and Cadastre Agency, Public Procurement Agency, Executive Agency General Labour Inspectorate, Electronic Governance Infrastructure Executive Agency, Executive Agency for Medical Supervision, Audit of EU Funds Executive Agency, Forestry Executive Agency, Bulgarian Drug Agency, Environment Executive Agency, Executive Agency Certification Audit of European Agriculture Funds.

Besides the above listed bodies and administrations, there are 144 additional units of specialised territorial administrations to centralised bodies, established as legal entities with a normative act, such as basin directorates, (regional) nature park directorates, national park directorates, forest protection stations, regional directorates of agriculture, regional directorates of forestry, regional health inspections, environment and water regional inspectorates, regional departments of education, and territorial statistical bureaus.

Inspectorates in the state administration: Most public administrations also have inspectorates that are responsible for ensuring public administration integrity. These are coordinated by the General Inspectorate at the Council of Ministers, which reports directly to the Prime Minister. They are obliged to report on any integrity infringements, and in particular indications of corruption. The General Inspectorate also serves as a secretariat to the Anti-Corruption Council at the Council of Ministers.

¹⁶ As listed in the Administrative Register of the Integrated Information System of the State Administration.

The defects in the work of these administrations range from (deliberate) lapses in their **capacity to identify violations** to the ineffective **enforcement of sanctions**. Most enforcement and inspection bodies are not capable and/or willing of collecting and presenting quality evidence, which is useable in a court of law; their referrals are often submitted without proper investigation and there is a lack of feedback from the prosecution on the progress of the referrals.

A recent embarrassing example of the failure of the general and specialised system of anti-corruption checks and balances in Bulgaria has been the Financial Action Task Force's (FATF) grey-listing of the country due to the lack of compelling evidence of effective enforcement of the anti-money laundering legislation. Bulgaria's **anti-money laundering** (AML) legislation is one of the strictest in the EU. Yet, failure to properly enforce it has been a major corruption facilitator. The introduction of sweeping financial and other sanctions on the Kremlin regime in 2014 and then in 2022 and their lax enforcement across the EU has further exposed Bulgaria as an anti-money laundering and anti-corruption weak link. In October 2023, an audit of the Financial Action Task Force (FATF) found that while the country had all the rules and administrative agencies in place, the application of monitoring and the introduction of systems for prevention of money laundering was wanting. The FATF was so concerned about the **lack of political and administrative focus on those issues**, that it moved Bulgaria to its grey list of countries displaying serious deficiencies, yet willing to cooperate.

While the size of the problem is arguably not such that the stability of the national financial system be jeopardised, it indicates that money made in corruption transactions are relatively easily recycled back into the economy with corrosive knock-on effects. The country's booming real estate market, exposed also to large Russian interests, seems at least partially to be yet another indication of unaccounted for large inflows of cash¹⁷. Several cases, in which leading politicians have been implicated in media investigations involving the acquisition of real estate at artificially low prices and cosy relations with major beneficiaries of government judicial, legislative, licencing and regulatory decisions, have fuelled further speculation about the failure of anti-corruption and AML institutional responses.

¹⁷ Georgiev, G., Petrova, V., and Tsabala, K., *Breaking the Code: Russian and Chinese Disinformation and Illicit Financial Flows in Southeast Europe*, Sofia: Center for the Study of Democracy, 2023.

The way forward: Strategic anti-corruption

The high turnover in government since 2021 – the country had five parliamentary elections in three years – relegated the anti-corruption agenda to a tool of partisan struggle, rather than a program for improving governance. Such volatility demoralised the civil service, thus further discouraging it from enforcing anti-corruption policies.

Given the political instability and the coalition nature of governments, involving a lot of incumbents, it is **unrealistic to expect** revolutionary breakthroughs in tackling the **mechanisms of state capture**. Yet change is possible. On the one hand, mutual checks among the coalition partners could act as a restraint on blatant appropriation of public resources for private or partisan interests. On the other hand, a renegotiation of clientelist dependencies could result in instability, which would further erode the quality of public governance.

With continued societal pressure and international focus on improving **governance as a critical component of defence and security**, there is a window of opportunity for reforms. The adoption of the constitutional changes in late 2023, which allow for greater accountability of the judiciary, has shown the Bulgarian government can improve anti-corruption results, albite slowly. Its immediate anti-corruption focus should be on targeting and **dismantling any external vulnerabilities**, which weaken Bulgaria's security position in Europe. Internally, top priority should be given to staffing the judiciary, the anti-corruption commission, and over 40 regulatory bodies with expired mandates. These institutions should be filled through open and competitive procedures following international best practices like those of the OECD.

The **constitutional reforms**, while a crucial first step, are only part of what is needed to improve the Bulgarian judiciary's anti-corruption performance. Given the scope of the challenge, the Bulgarian legislature should push for a **deep periodic integrity review** starting with the work of the General Assembly of the High Judicial Council and the High Prosecutorial Council responsible for the governance of the prevention and the tackling of cases of influence peddling in the judiciary.

There are still too many highly visible cases of political figures, including those with strong ties to Russia, wielding undue influence in the judiciary, and these networks remain worryingly intact. The executive and the judiciary should come forward with specific, tightly knit **anti-corruption task forces** led by prosecutors, yet collaborating and coordinating their work with the office of the Prime-Minister to **investigate high profile corruption cases**, in particular such with high risk of **Russian strategic corruption**, as indicated for example in the Global Magnitsky sanctions. The Council of Ministers should also seek to improve the structure and coordination of the national security infrastructure towards **better economic security and sanctions enforcement**. As a start, it could update and upgrade the work of the Security Council headed by the Prime Minister and reintegrate the Financial Intelligence Unit back into the Ministry of Finance.

Disable Kremlin-backed networks of influence

Reversing Kremlin-assisted state capture in Bulgaria needs to be the topmost order of business on the agenda of domestic stakeholders and Bulgaria's foreign partners. Future-proofing Bulgarian democracy requires that the **resilience of public institutions to strategic corruption** be radically upgraded. Two concurrent policies need to be prioritised: exposing and targeting the loci of political corruption and increasing the level of anti-money laundering enforcement against Russian financial flows in the country.

- As regards the former, the result would be the **identification of those government institutions and decision-making processes** that have been affected by institutionalised political corruption. This would expose the existence of capture practices in various economic sectors and regulatory institutions.¹⁸
- As regards the latter, urgent action is needed against **illicit money and rogue assets channelled by the Kremlin** to political parties, influence groups, media, and politicians.

¹⁸ The initial application of such an evidence-gathering mechanism to selected countries in Europe has revealed different sources of risk and levels of governance vulnerabilities. See: Stoyanov, A., Gerganov, A., and Yalamov, T., *State Capture Assessment Diagnostics*, Sofia: Center for the Study of Democracy, 2019. Its further regular use across Europe should involve a broad coalition of civic actors.

Especially important is the enforcement of transparency requirements for companies' beneficial ownership, as well as stricter security vetting of investments by third parties in Bulgarian companies.¹⁹ The European Anti-Money Laundering and Countering the Financing of Terrorism Authority (AMLA), which is expected to formally start operations in 2024, should aid such efforts, in particular if Bulgaria actively seeks its engagement to fill in for capacity shortfalls locally.

Urgent progress in implementing a new **sanctions regime at the EU level** is also crucial to stop abuses of the European market by corrupt actors. EU's Rule of Law Report and the annual monitoring reports related to the EU Enlargement policy should start examining the strategic autonomy and democratic resilience across all Member States, accession and candidate countries. Building on the example of the impactful US Global Magnitsky Act, a targeted anti-corruption regime within the European Union and its neighbourhoods would be critical. The current absence of such a regime in the EU allows corrupt individuals and entities, barred from US markets due to sanctions, to exploit the European market and currency for illicit activities. This not only poses a significant reputational risk for the EU but also jeopardises the efficiency of its economy and single market. Further, the EU trade sanctions against Russia are not enforced uniformly across Member States and multiple enablers remain unsanctioned across the continent.

In order to ensure that the Union's anti-corruption, economic security and sanctions policies are effective, further action is needed to identify the violation of these measures as a type of serious cross-border crime, which includes corruption. The required follow-up step is **expanding the mandate the European Public Prosecutor's Office (EPPO)** to cover the prosecution of these violations, which are transnational by nature. Financial criminality across the continent – a major contributing factor to state capture – can be considerably curbed by elevating the prosecution of EU sanctions offences to the EPPO.

¹⁹ See further: Center for the Study of Democracy, *Overcoming Institutional Gaps to Tackle Illicit Financing*, Policy Brief No. 50, 2015; Georgiev, G., Petrova, V., and Tsabala, K., *Breaking the Code: Russian and Chinese Disinformation and Illicit Financial Flows in Southeast Europe*, Sofia: Center for the Study of Democracy, 2023.

The government should discontinue the practices that have enabled Russia to lock Bulgaria in a decades-long excessive energy and political dependence. **The nexus between Russian economic influence and state capture** poses a significant threat to the country's sovereignty and democratic governance. Addressing this challenge requires the complete phaseout of Russian oil, gas, and nuclear fuel supply by closing legal loopholes and removing the Kremlin-linked intermediaries. Bulgaria should strengthen regulatory frameworks and bodies that ensure energy market competition, prevent elaborate schemes for tax avoidance and sanctions evasion, and properly screen foreign direct investments in energy and other strategic sectors where Russia will seek to preserve its dominant position.

Overhaul the system of the regulatory and enforcement agencies

Anti-corruption reforms should prioritise a radical review of the public bodies which exercise supervisory, oversight and enforcement functions. The main problems which a **restart of the system of these institutions** should resolve are the following:

- **Political interference in their work should be discontinued.** The discretionary power exercised by some government institutions should be balanced with effective oversight by other public institutions and/or civil society organisations and media under conditions of radical transparency.
- The government should introduce **mechanisms preventing the use of law enforcement for partisan purposes**, including guidelines for preventing influence by or contacts with political actors and guidelines to distinguish a politicised investigation from a routine and appropriate effort by law enforcement when dealing with possible criminal conduct by high-ranking politically exposed persons.
- A review should be undertaken to determine which functions currently performed by these institutions should be left to **market mechanisms and civic oversight**.
- **An assessment of the remit of regulatory, enforcement and inspection institutions** should be carried out to identify excessive or redundant regulations. Overregulation and an increase of the

supervisory and enforcement powers of public institutions which are not capable of exercising even their current functions can only create a breeding ground for corruption.

In many of these institutions, competence and capacity are in short supply; this in turn is used to justify inaction and/or conceal corruption. Thus, a value-for-money assessment tool should be developed to carry out annual monitoring of the correspondence between spending by these institutions and the effect of their work, including in terms of the number and value of the sanctions imposed, the number and the quality of referrals as measured by the rate of their successful prosecution, the benefits of crime prevention and the reduction of the damage incurred by crime.

Cutting corruption at the source – reducing government spending

Large public investment projects and infrastructure maintenance contracts bear considerable corruption risks, even under a well-paid and qualified public administration. The quickest and biggest impact on the reduction of corruption transfers in monetary terms can be achieved through:

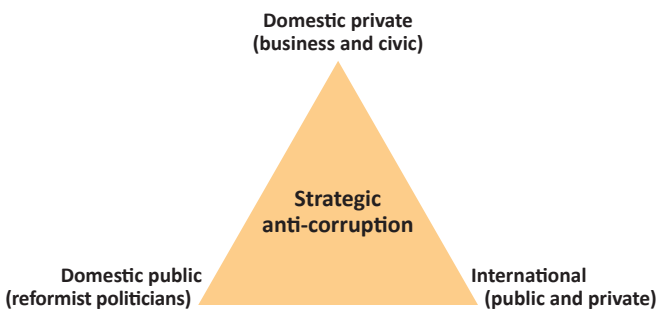
- substantial reduction of all majority-government-funded programs for infrastructure building and maintenance and replacing them as much as possible with **private capital employed under PPP mechanisms**;
- privatisation of at least minority stakes at first (preferably through the stock exchange), and majority stakes at a later stage from most **state-owned enterprises**, which will lead to attracting **institutional investors** in their capital base, appointment of professional management and **independent directors**, greater transparency in their financial reporting and main business decisions, and ultimately to a **drastic decrease of political intervention** in their operations, therefore to less opportunities for corruption with government corporate funds.

Those two measures do not require changes in legislation. They are also not contingent on any reforms in the law enforcement agencies, or in any agencies for that matter. All they need is political determination.

**The process forward:
Coalition building for anti-corruption**

Releasing the state from capture requires upsetting entrenched political interests. Corrupt officials can be expected to put up resistance against profound reforms. Years of anti-corruption stalling allowed the emergence of a cross-party constituency capable of blocking reforms and preventing reformist politicians from mustering the type of public support needed to make anti-corruption efforts successful.

Figure 7. Anti-corruption triangulation



Source: Center for the Study of Democracy.

In such a context, the only way forward for the anti-corruption agenda in Bulgaria is through coalition building. This means the active involvement of the three major stakeholders against state capture – **reformist politicians, civil society organisations and international partners**. Such an alliance would ensure that strategic anti-corruption spans the election cycles and stays on the government agenda.²⁰ A triangulation of this kind is required to compensate both absent political resolve as well as corruption and low capacity in the civil service, especially in the enforcement

and inspection services of government. Such “force integration” would produce a strategic effect by ensuring that tactical advances towards improved governance in Bulgaria are consolidated through enhanced credibility as well as financial support and expert resources.

The involvement of all three pillars is critical. Short of the **support of international partners**, powerful lobbies will block any far-reaching decisions in government. Collaboration with partner governments, law enforcement and financial intelligence institutions in Europe and the US is especially warranted with respect to economic crimes (which are often international in scope and nature and affect international investors), involving complex schemes at the level of the senior civil service. **Non-governmental organisations**, on the other hand, play a critical role in channelling public energy and reform ideas; they also bring to bear the capacity to monitor and provide expertise to the design of policies. Without the input and support of civil society and the private sector, a government would be suspected of responding to foreign rather than domestic demand.

Corruption flourishes or diminishes not just through government law enforcement but also because the **informal rules of a social environment** help or hinder the demand side of public integrity. It is in the reform of these rules that government needs the cooperation of CSOs.

Overall, state capture in Bulgaria can only be defeated through the **sustained and coordinated drive** of these stakeholders located at the critical junctures of society and politics – government decision-making, civil society and international engagement.

²⁰ Center for the Study of Democracy, “Democracy That Delivers: Ten Years Later. Unlocking the Potential of the Western Balkans”, Conference Proceedings, Opening Remarks of Dr. Ognian Shentov, 16 May 2018. This approach has been advocated by CSD for some years now: “A partnership triangulation is possibly the shortest way to describe the formula for the success of reforms in transition. This includes reformist politicians, active civil society and political and financial support from international partners.”

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