

## **Public sector integrity input to Pillar II for European Commission Rule of Law Report 2023**

This document informs the OECD's input to the European Commission's Rule of Law reports on public integrity and anti-corruption. Relevant findings and recommendations from 2022 OECD work with relevant Member States is highlighted, as well as forthcoming projects that may be of interest for the Rule of Law reports.

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## Pillar II: Anti-corruption Framework

Over the 2022 period, the OECD has supported a number of EU Member States in strengthening elements of their public integrity and anti-corruption framework. The following provides an overview of the key findings and recommendations of this work, key findings of the OECD Public Integrity Indicators are provided<sup>1</sup>, as well as upcoming work and relevant reports for consideration.

### Bulgaria

#### **Key findings of OECD reports in 2022 and forthcoming work**

Over the course of 2022, the OECD published two key reports on Bulgaria's anti-corruption and integrity framework, while a third report is expected this March. The OECD is currently supporting Bulgaria on a fourth project.

The first report, *Integrity in Administrative Penalty Enforcement in Bulgaria. Building a Comprehensive and Coherent Legal Framework*<sup>2</sup>, analysed the challenges of the administrative penalty legal framework of Bulgaria and provided recommendations to address them. In particular, the report identifies three main areas where reform is most needed.

- First, the scope of application of the legal framework could be more clearly and comprehensively defined. Although the latest amendments to the Administrative Violations and Penalties Act (AVPA), which entered into force in December 2021 filled certain gaps, the liability of legal entities and sole traders could be regulated more comprehensively and in greater detail. Coherent and proportional rules could also be established for sanctioning the admitter and the principal when the offence is committed by their subordinates.
- A second area where reforms are recommended focus on including the typologies, criteria and levels of administrative penalties provided for in both the general and special legal framework. The introduction of new typologies of sanctions in the AVPA could be part of a broader strategy to increase compliance with penalties.
- Third, the reform of the legal framework could address several gaps and inconsistencies concerning procedural issues of administrative penal law. The AVPA contains very few provisions for investigating administrative violations, so it could either make more extensive reference to the relevant rules of the Code of Criminal Procedure or it could be integrated with a specific set of rules along with the rules proposed in the draft Code of Administrative Violations and Penalties of 2015. Additionally, a mechanism could be developed for collecting costs and pecuniary sanctions in administrative penal cases from foreigners without a permanent or known address the Republic of Bulgaria.

<sup>1</sup> Data on the public integrity indicators for Member States not mentioned in this report can be found on the OECD's Public Integrity Indicator's portal: <https://oecd-public-integrity-indicators.org/countries>.

<sup>2</sup> OECD (2022), Promoting Integrity through the Reform of the Administrative Penalty System of Bulgaria: Building a Comprehensive and Coherent Legal Framework, OECD Public Governance Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/1be9905a-en>.

The second report, the *Integrity Scan of Bulgaria*<sup>3</sup>, analyses the institutional and legal public integrity framework of Bulgaria. It provides recommendations on how to strengthen the National Council for Anti-corruption Policy, which would also contribute to ensuring the impact and enforcement of the National Anti-corruption Strategy 2021-2027. The report also provides proposals to mainstream integrity in all public entities and improve implementation of standards. Key recommendations included in the report are as follows:

- Upgrading the National Council on Anti-Corruption Policy - It is suggested that Bulgaria could broaden the composition of the National Council on Anti-Corruption Policy and ensure appropriate contribution from all national integrity actors. Additionally, Bulgaria could ensure the continuity of the National Council on Anti-Corruption Policy (NCAP) by developing more detailed rules on the Secretary's role and appointment.
- Ensuring the implementation of the National Anti-corruption Strategy - The NCAP could set up a mechanism to implement the Anti-corruption Strategy which includes the creation of technical working groups. It could be beneficiary to enhance the contribution of the Civic Council in the NCAP work and assign it a monitoring role over the National Anti-corruption Strategy.
- Institutionalising integrity at entity level, also through a network of integrity officers - It is proposed that the NCAP, the Chief Inspectorate and CACIAF could further support and guide the development of institutional anticorruption plans by inspectorates, whose capacity should also be increased. The establishment of a network of integrity officers could result in the development of a preventive culture of public integrity in the country.
- Enhancing the impact of the national code of conduct and of institutional codes of ethics - Bulgaria could increase compliance and awareness of codes of conduct and ethics at entity level by providing practical guidance and support. A Code of Ethics for senior public officials would also enhance the integrity in the public service.
- Improving the effectiveness of the interests and assets regulations framework - Bulgaria could extend the rules to prevent and manage conflict of interest situations to all public officials. However, narrowing the categories of officials who should submit asset and interest declarations and developing a single platform for submissions is also crucial.
- Updating and introducing integrity legislation - It is recommended that Bulgaria introduces a comprehensive legal framework on whistleblowing protection in line with the EU Directive. Establishing clear reporting channels is an essential element of a whistleblowing policy as it helps facilitate reporting and build confidence in the system and coming forward. The Report proposes that Bulgaria introduces a regulation on lobbying.

The third report, Reforming the integrity checks of the employees of the Commission for anti-corruption and illegal assets forfeiture (CACIAF)<sup>4</sup> (2021-2023), provides concrete recommendations for strengthening the integrity check procedures and the Code of Ethics of CACIAF. The report assesses the institutional arrangements for integrity checks, the various types of testing procedures and their implementation. It analyses the role and impact of the Code of Ethics and the organisational integrity framework. The report highlights relevant good practices from OECD member countries and provides recommendations on how to address key challenges for building a comprehensive integrity framework as follows:

- CACIAF could introduce a more comprehensive strategy and risk management process that promotes managerial responsibilities for identifying and mitigating public integrity risks in checking integrity.

<sup>3</sup> OECD (2022), "Public integrity scan of Bulgaria: Strengthening institutional co-operation and standards for integrity", OECD Public Governance Policy Papers, No. 17, OECD Publishing, Paris, <https://doi.org/10.1787/4fd43a10-en>.

<sup>4</sup> Forthcoming, publication expected February or March 2023.

- CACIAF could develop expertise and consistency in integrity checks by assigning well-defined competences and tasks to a specific unit or an integrity advisor.
- CACIAF could also adopt a periodic plan and more tailored internal rules on the implementation of periodic integrity checks.
- For a more effective testing of the integrity of candidates the CACIAF could introduce psychological assessment to the selection process of certain functions and positions.
- The CACIAF could assess the effectiveness of asset and interest declarations in the integrity check procedures and adopt a risk-based approach to prioritizing controls.
- To ensure the implementation of the integrity check system the CACIAF could raise awareness and build capacity through trainings on integrity check procedures.
- To strengthen the role and impact of the Code of Ethics the CACIAF could assign an ethics advisor to promote the implementation of the Code of Ethics.
- The CACIAF could facilitate regular exchange on experiences and open up the revision process of the Code of Ethics for all employees and relevant stakeholders.
- The development of a tailored lobbying policy at the organisational level could focus on the CACIAF's specific role and responsibilities, further foster a culture of integrity and openness within its operation and provide clear guidance for the employees.

The OECD is also working with Bulgaria in a project focused on *“Supporting the strategic development of CACIAF and improving its tools for prevention and counteraction of corruption” (2022-2024)*. The focus of this project is to support the CACIAF in updating or developing key strategic documents and tools: the Strategy for Development; the Comprehensive Methodology for Prevention and Warding of Corruption; and the Instructions for Establishment of Illegally Acquired Property, Imposition of Precautionary Measures and Confiscation of the Illegally Acquired Property in Favour of the State Pursuant to the Anti-Corruption Law.

The CACIAF's new organisational strategy will serve as a leading example for adopting organisational strategies at all levels of public administration. It will equally contribute to addressing some of the shortcomings noted by the European Commission in the 2020 Rule of Law Report and in the European Semester 2019 and 2020 Country reports. In particular, these documents point out the need of improved operational effectiveness within CACIAF and the need to strengthen its credibility and performance.

The Project will also support Bulgaria's commitment to reforming corruption prevention by strengthening anti-corruption institutions as laid down in the country's Recovery and Resilience Plan.

- The envisioned development of the 'Proposal for the methodology of establishing a significant discrepancy in the property of the inspected person' will respond to the need to provide for a single comprehensive document that can help to address emerging issues and technical aspects of asset forfeiture. Providing specific and up-to-date guidelines will enable procedures within CACIAF to become more effective by aligning investigations with international practices to cover properties acquired inside and outside the territory of the European Union.

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## Croatia

### **Key findings of OECD reports in 2022**

In 2022, the OECD issued a country profile on Croatia as part of the project *Fair Market Conditions for Competitiveness in the Adriatic Region*<sup>5</sup>. Over the course of this project, the Collective Action Community of Croatia collaborated to identify key challenges to a level playing field, discussed avenues for reform and developed priority reform recommendations.

In the area of public sector integrity and anti-corruption Croatia has made important efforts in reducing opportunities for corruption and limiting discretion in public decision-making. At the central level, certain standards of integrity are in place and obligations for public officials to report personal assets and interests are the rule. The transparency and control of public procurement have been enhanced, efficiency of law enforcement agencies has been strengthened and a track record of effective corruption prosecution has been established. However, some elements of a functioning anti-corruption framework are still missing: for instance, a code of conduct for persons with top executive functions as well as comprehensive codes of conduct for elected officials at regional and local level, a framework regulating lobbying, and an operational whistleblower protection system. To address these challenges, the OECD provided the following recommendations as guidance for the way forward:

- Continue current reform efforts to develop comprehensive codes of conduct for persons with top executive functions as well as elected officials at regional and local level and ensure corresponding accountability tools and dissuasive sanctions for their potential violations.
- Boost efforts to raise awareness against corruption. Promote a whole-of-society culture of public integrity, partnering with the private sector, civil society and individuals, in particular through carrying out campaigns to promote civic education on public integrity.
- Expand awareness raising activities related to whistle-blower protection to include the private sector, in addition to envisaged trainings for SOEs.
- Continue efforts to develop a comprehensive regulation on lobbying.

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## Latvia

### **Evidence from OECD Public Integrity Indicators: Strategy and Accountability of Public Policy Making<sup>6</sup>**

As shown in the OECD's Public Integrity Indicator on strategy, Latvia is well above the OECD average for quality of strategy and coverage, and perform well regarding their implementation plan and rate of implementation (68 per cent) , nevertheless the country could address gaps in financial sustainability by improving allocation of resources and estimation of capital expenditures.

<sup>5</sup> OECD South East Europe Programme (2022), Fair Market Conditions for Competitiveness in the Adriatic Region, Croatia Country Profile, <https://www.oecd.org/south-east-europe/programme/Croatia-country-profile.pdf>.

<sup>6</sup> Note: data concerning Accountability of Public Policy Making for Latvia is forthcoming. Information will be available on the Latvia country page.

### **Relevant projects in 2022-2023**

The OECD is supporting the Corruption Prevention and Combating Bureau (KNAB), which is the leading anti-corruption authority of Latvia. The project will support the KNAB in the following areas linked to the strengthening anti-corruption frameworks and practices in Latvia:

- Recommendations for updating the law “On Prevention of Conflict of Interest in Activities of Public Officials” (the Law), which entered into force on 10th May 2002, and has been amended several times. Until now, the Law has not been subject to an overarching assessment nor to a comparative analysis with respect to other EU Member States or other international good practices. Building on the main findings of the analysis and the comparative review, the report will identify what provisions of the Latvian Law could be reviewed, deleted or amended and provide guidance on how the Law can be strengthened to take into account new threats. In addition, the report will provide avenues on how to improve the implementation of the Law to increase its de facto effectiveness. In particular, it will provide guidance on how to make sure that this law actually translates into behavioural and institutional changes.
- The OECD will produce a report analysing current approaches and inputs for assessing internal control systems in Latvia, with a focus on the prevention of corruption and conflicts of interests. The report will contain a final methodology for assessing the effectiveness of internal control systems for preventing corruption and conflicts of interest in Latvia, including key indicators that determine the effectiveness of the system. Currently, approximately 80% of State and Municipal institutions have implemented internal control systems. However, their quality and understanding of the requirements is variable and has not been assessed so far.
- The OECD will produce a report containing concrete recommendations for a national corruption risk assessment methodology in Latvia that will help KNAB to identify high-risk areas and set priorities. The KNAB currently does not have an overarching methodology for a national corruption risk assessment, including an evaluation of latent threats (non-recorded corruption crimes).

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## **Lithuania**

### ***Evidence from OECD Public Integrity Indicators: Strategy and Accountability of Public Policy Making<sup>7</sup>***

Lithuania’s previous strategy, the “2015-2025 Anti-Corruption Programme of the Republic of Lithuania” was assessed against the OECD Public Integrity Indicator (PII) on Principle 3 of the OECD Recommendation on Public Integrity (Quality of Strategic Framework) to benchmark the NAS against OECD country practice.<sup>8</sup> The indicator showed outstanding areas with a compliance of 100%, such as in the “quality of the strategy”. This indicator measures the information the strategy has been built upon, including empirical studies and in-depth analysis. Lithuania conducted several studies to develop its strategic framework, including the analysis on the “Corruption Environment of Lithuania”. This study contains data from sociological surveys (“2014 Lithuanian Map of Corruption”), and a short assessment of the effectiveness of former implementation measures. It also lists and provides a detailed analysis of the priority fields with the highest potential for corruption. Lithuania’s strategic framework also has extensive

<sup>7</sup> Note: data concerning Accountability of Public Policy Making for Lithuania is forthcoming. Information will be available on the Lithuania country page.

<sup>8</sup> OECD (2023), *OECD - Public Integrity Indicators*, <https://oecd-public-integrity-indicators.org/>

coverage with strategic objectives established for core integrity risk areas, as well as a strong implementation plan and high de facto implementation rate (80%).

However, according to the indicator, certain areas may require further strengthening. For example, the indicator requires a minimum duration of at least 2 weeks for inter-governmental and public consultation established in legislation. Furthermore, it requires that integrity strategies are consistently developed in an inclusive and transparent manner. On this benchmark, Lithuania received a total score of 29%, which was lower than OECD average and the top 10 average performers. This low score reflects the fact that although the strategic framework went through an inter-governmental and public consultation, the law on Legislative Framework (2012 No XI-2220) does not specify a minimum duration of at least 2 weeks for consultation periods. Furthermore, even though Lithuania organised open public consultations on the portal of the Government, after the consultations ended, the page was no longer accessible and the comments received were published for only a limited time.

### ***Key findings of OECD reports in 2022 and forthcoming work***

The report on *Grounding Lithuania's National Agenda on the Prevention of Corruption*<sup>5</sup>, examined the development process of the new Lithuanian National Anticorruption Programme (NAPC) 2022-2033, and the impact achieved in the previous implementation period (2015-2022). In addition, it assessed Lithuania's accomplishments and challenges in priority areas, and drew lessons for the 2022-2033 period whilst highlighting implementation gaps in at-risk areas and identifying key opportunities to improve the process of designing and implementing the next NAPC. Although Lithuania progressed in strengthening its public integrity system over the past decades, there is a need to continue advancing its strategic approach. This includes ensuring that the NAPC is underpinned by a coherent theory of change. The report also highlights additional findings such as the need of public institutions and their leadership to increase ownership of integrity measures, the need to increase communications and feedback to ethics officers in key agencies and line ministries to mainstream the integrity agenda and to strengthen corruption risk analysis and the measurement of the level of resilience to better inform integrity management systems.

Additionally, the report provided an analysis and recommendations on ways through which Lithuania could develop and improve its anti-corruption measures in key strategic sectors, including political finance and lobbying, undue influence, judiciary and law enforcement, whistle-blower protection, public procurement, supervision of economic operators, and public administration (see below for an overview). These recommendations can inform current and ongoing reforms and strengthen Lithuania's capacity to respond to corruption.

- Law Enforcement and the Judiciary:
  - Provide law enforcement agencies with access to all available databases, including cross-analysis features that would help improve the effectiveness of investigations.
  - Consider conducting a study that analysis the difficulties in prosecuting private sector corruption in order to assess further reforms.
  - Enacting practical guidance and training for members of the judiciary on how to prevent and manage conflicts of interest.
  - Prioritising the ongoing efforts towards the interface of the system of declarations (PINREG) and the system for the allocation of cases (LITEKO).
  - Supporting court officials responsible for the allocation of cases to judges through training activities on how to use the data drawn from the LITEKO and PINREG systems to assess possible risks of conflicts of interest.
  - More actively engaging members of the judiciary in the process of developing, updating and monitoring the implementation of the sectorial anti-corruption plan, as well as the establishment of clear priorities and indicators.



- Establishing clear priorities and indicators and to monitor closely the work of the newly established “Integrity Officer” of the judiciary to ensure that appointed officials are adequately able to fulfil their mandate to oversee a more coherent anti-corruption strategy in the judiciary.
- Whistleblower Protection:
  - Provide training to public officials/private sector employees responsible for receiving reports, including by providing them with guidelines on how to evaluate reports, whilst assuring resources and independence necessary to comply with their obligations.
  - Allowing for protected disclosures to encourage disclosures by whistleblowers, who wish to report misconduct but either lack trust in the organisation’s integrity or are less inclined to take the risk, even if the right organisational culture is in place.
  - Developing specific guidance to raise awareness among public sector employees and citizens about the existence and use of internal reporting channels and the types of protections granted, in order to increase their use and effectiveness.
- Conflict of Interest and Asset Declarations:
  - Develop a risk-based methodology in carrying out audits on asset declarations.
  - Establishing fines or other types of sanctions as counterincentives to avoid delays in the effective oversight and control of interest declarations.
  - Creating a network of ethics officers, who are responsible for the submission of interest declarations within each public entity and with the objectives of improving co-ordination, oversight, and compliance with conflict-of-interest regulations.
  - Providing public servants, including parliamentarians, with further guidance on the conflict-of-interest definitions, regulations, and its applicability, including by considering establishing internal channels of consultation, different than their direct superior, within public institutions. For example, COEC could carry out a survey on the level of civil servants’ awareness regarding available integrity tools to inform future interventions.
  - Implementing measures for a more strategic use of information contained in declarations. Additional measures could be focused on providing managers responsible for the collection and preliminary control of conflict-of-interest declarations with feedback on the most common typologies of conflicts-of-interest encountered by the COEC. These typologies could also be useful for the STT, in the framework of its risk assessments.
  - Implementing regulations for pre-employment screening integrity checks or reference checks for public institutions and the private sector.
- Lobbying and political finance:
  - Increasing data availability in relation to political finance to promote openness and enable the analysis of this information by citizens, journalists and CSOs. Furthermore, consider developing trainings for journalists, businesses, and civil society groups on the usage of the platform.
  - Strengthening the effectiveness of oversight bodies, primarily the CEC and the State Tax Inspectorate, in enforcing recent reforms to the political finance framework, to reduce risks of corruption associated with the illicit financing of political parties.
  - Standardising the different data formats of political finance declarations or ideally the use of a single format that would facilitate the cross-analysis and improve the overall quality of the information. To facilitate such cross-referencing, Lithuania could consider providing training to central and local entities to improve the quality of the information to be collected.

The overall project includes recommendation reports, as well as a monitoring and reporting strategy and a communications strategy on the 2022-2033 NAPC. In 2023, tailored tools (e.g., guidance, documents and communication activities will be conducted).

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## Malta

### ***Key findings of OECD reports in 2022 and forthcoming work***

In 2022, the OECD supported the Commissioner for Standards in Public Life under a project focused on improving the transparency and integrity of elected and appointed officials. Under this project, four reports were published: the Review of the Standards in Public Life Act of Malta<sup>9</sup>, the Review of the Lobbying Framework in Malta<sup>10</sup>, the Organisational Review of the office of the Commissioner for Standards in Public Life of Malta<sup>11</sup> and the Review of the Codes of Ethics for Ministers, Parliamentary Secretaries and Members of the House of Representatives.<sup>12</sup> A fifth report, on asset and interest declarations, will be published in 2023. The following provides an overview of the key findings and recommendations from each report.

#### *Review of the Standards in Public Life Act*

The report “Review of the Standards in Public Life of Malta” analyses the omissions, inconsistencies and overlaps in the Standards Act, and provides a number of recommendations, including:

- Widen the scope of the Standards in Public Life Act to cover additional at-risk elected and appointed positions. Several key positions that remain outside the integrity framework, including elected and appointed officials at the local level, and officials appointed to government boards. As Malta is a small country, there is a need for clarity for public officials across all levels of government to guide behaviour. Moreover, the close interactions between the political and business communities show that clear standards of conduct are essential for protecting the transparency and integrity of public decision-making.
- Add a provision to prohibit elected officials from holding secondary positions in all public functions in the Constitution. The current Standards Act does not include incompatibilities regarding secondary employment for elected officials. This is particularly problematic in a context where it is common practice to appoint backbencher MPs to positions in government departments, boards and commissions. The Ministry of Justice could consider amendments to the Constitution to prohibit elected officials from obtaining secondary employment in all public functions.
- Add a clear definition of “persons of trust” in the Standards Act, so that all individuals employed as persons of trust fall under the Commissioner’s remit. Moreover, ensure that appointments to functions in the civil service are not made under the rules on “persons of trust” but rather are merit-based and competitive.

<sup>9</sup> OECD (2022), Review of the Standards in Public Life Act: Recommendations for strengthening the integrity framework for elected and appointed officials,

[https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC/INT\(2022\)9/FINAL&docLanguage=en](https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC/INT(2022)9/FINAL&docLanguage=en)

<sup>10</sup> OECD (2022), Review of the Lobbying Framework in Malta: Recommendations for improving transparency and integrity in lobbying,

[https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC/INT\(2022\)10/FINAL&docLanguage=en](https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC/INT(2022)10/FINAL&docLanguage=en)

<sup>11</sup> OECD (2022), Organisational Review of the office of the Commissioner for Standards in Public Life of Malta: Recommendations for strengthening the institutional and procedural set-up,

[https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC/INT\(2022\)8/FINAL&docLanguage=en](https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC/INT(2022)8/FINAL&docLanguage=en)

<sup>12</sup> OECD(2022), Review of the Codes of Ethics for Ministers, Parliamentary Secretaries and Members of the House of Representatives: Recommendations for improving the Codes,

[https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC/INT\(2022\)12/FINAL&docLanguage=en](https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC/INT(2022)12/FINAL&docLanguage=en)

- Amend the Act to enable the Commissioner to investigate former MPs for alleged cases of misconduct in the course of their official functions. If implemented, this recommendation could strengthen public trust in the Maltese parliamentary system as well as discourage public officials from misbehaving, as leaving office will not protect public officials from being investigated and sanctioned.
- Add the role and functions of the Commissioner in the Constitution, as is the case of other parliamentary oversight bodies such as the National Audit Office and the Office of the Ombudsmen.
- Define clearer parameters on the Commissioner's background and integrity
- Establish a deadlock breaking mechanism in the process for nominating and appointing the Commissioner. The deadlock breaking mechanism could indicate a time period in which the House of Representatives must complete the selection process. The mechanism could also specify that in the event that the House of Representatives does not vote on or successfully choose a Commissioner, the Judicial Appointments Committee established by Article 96(a) of the Constitution, could make a binding recommendation (temporary or permanent) to the President of Malta for the appointment of a Commissioner.
- Revise the timeframes for submitting complaints, in particular by lengthening the period of time within which a person can submit a complaint to align with international good practice.
- Allow for anonymous complaints as well as enable the Commissioner to grant whistle-blower protection status to public employees who disclose potential breaches. This latter recommendation will of course also require an amendment to the current Protection of the Whistleblower Act.
- Include lay members in the Committee for Standards. This could be done progressively, following clear and transparent appointment procedures.
- Appoint a former judge as the chairperson of the Committee.

#### *Organisational Review of the Office of the Commissioner for Standards in Public Life of Malta*

The report, "Organisational Review of the office of the Commissioner for Standards in Public Life of Malta", analysed how the Commissioner carries out the key functions assigned to him under the Standards Act, the human and financial resources the Commissioner relies on to fulfil his functions, and the organisational culture of his office. Several recommendations were issued, including:

- To further strengthen accessibility for complainants, the Commissioner could include more detailed guidance on how to submit a complaint, and as noted before, be enabled by amendments to the Standards Act to allow anonymous complaints, and grant whistle-blower status to public employees that report misconduct.
- On the organisational culture of the office, OECD analysis found that the Commissioner and his staff were dedicated to raising integrity standards amongst elected and appointed officials, as well as to ensuring that the best practices are in place to guide their own behaviour and functions. OECD recommendations focused on bolstering this resolve, for example by continuing to use merit-based recruitment processes for the Commissioner's own staff, and establish guidance on managing and preventing conflict of interest for employees.
- To support the Commissioner for Standards in Public Life in carrying out additional functions to improve the integrity framework for elected and appointed officials (such as on lobbying and conflict of interest prevention), the OECD recommended that the government ensure the Commissioner has the appropriate human and financial resources to carry out the new functions.

#### *Review of the Lobbying Framework in Malta*

The OECD's third report, Review of the Lobbying Framework in Malta, assessed the Commissioner's

proposal to introduce a lobbying framework developed in its 2020 Consultation Paper and provided targeted recommendations for improving transparency and integrity in lobbying. While lobbying as a formal occupation is not a common practice in Malta, different interest groups have access to policy makers through mechanisms that are currently unregulated and opaque. This poses a risk to inclusiveness in decision-making and to clarity about who is influencing policy makers.

To address these challenges, the OECD recommended Malta establish a legal and institutional framework for transparency and integrity in lobbying, and ensure the necessary tools are in place to facilitate implementation. In particular, the OECD recommended Malta to:

- Adopt a dedicated lobbying regulation that is applicable across all branches and levels of government to prevent potential loopholes and ensure sufficient coverage to protect government activities from undue influence. This regulation should not be included in the Standards Act, but rather be adopted as a stand-alone regulation.
- Assign the Commissioner for Standards in Public Life the responsibility for overseeing and enforcing the regulation on lobbying act. The Commissioner enjoys functional independence and the respect needed to effectively administer this law. Assigning responsibilities to an independent institution also aligns with good practice in OECD countries, including in France, Canada and Ireland (amongst others). In order for the Commissioner to carry out these functions effectively, additional human and financial resources must be assigned to the office.
- Enhance the proposed definition of “lobbying” to cover all forms of communication, ensure all relevant public officials are included and all elements of the policy cycle are covered, and ensure any potential loopholes are closed.
- Include in the lobbying regulation provisions that require regular and timely updates of information in two complementary registers: a Register for Lobbyists and a Transparency Register. In addition the OECD recommended extending the scope of the Transparency Register – or “open agendas” – to Members of Parliament, as they can also be lobbied by lobbyists and third parties. Moreover, the OECD recommended mandating a so-called regulatory and legislative footprint for specific decision-making processes, which will indicate who has sought to influence such processes.
- Prepare guidance for public officials on engaging with lobbyists. The OECD also recommended developing a Code of Conduct for Lobbyists, and increasing capacity building and awareness raising activities on lobbying and other influence activities for public officials.

#### *Review of the Codes of Ethics for Ministers, Parliamentary Secretaries and Members of the House of Representatives*

The OECD analysed the existing Codes of Ethics for Ministers and Parliamentary Secretaries and for Members of the House of Representatives, as well as the proposed revised Codes prepared by the former Commissioner for Standards in Public Life. The OECD’s recommendations focused on strengthening the existing codes for both sets of officials.

For the Code of Conduct for Ministers and Parliamentary Secretaries, OECD recommendations included:

- Ensuring all relevant key terms and definitions (e.g. abuse of power and privileges, gift, benefit, hospitality, undue influence, misconduct, family members, conflict of interest, personal interest, lobbying, and lobbyists) were added in the new Code.
- Setting out incompatibilities in the Code. These incompatibilities should prohibit Ministers and Parliamentary Secretaries from (i) acting as a lobbyist, paid or otherwise; (ii) entering into a contract or employment relationship with their spouse, partner, children, siblings or parents in the exercise of their official duties; (iii) having any form of private interest or partnership in a private corporation that is party to a contract with public sector entity, or (iv) holding any asset whose value may directly or indirectly be affected by government decisions or policy.

- Ensuring the Code provides a clear definition of “private interests”, beyond just financial interests or assets, and encompass personal affiliations and associations, and family interests.
- Including provisions on the interactions between Ministers and third parties/lobbyists, such as clarifying that lobbying is a legitimate activity with risks emerging when transparency and integrity are not uphold, requiring Ministers to treat all lobbyists and third parties equally and equitably, and checking the registration details for all lobbyists.
- Clarifying provisions on gifts, benefits and hospitality, including a requirement to register all offered gifts, benefits and hospitality with the Commissioner for Standards in Public Life and granting the Commissioner final approval on whether gifts should be donated or kept.
- Strengthening provisions on post-public employment, including requiring Ministers and Parliamentary Secretaries to seek approval from the Commissioner for Standards in Public Life prior to taking up any post-public employment activity, setting up an appropriate compensation framework to facilitate the cooling-off period, and assigning sanctions in the event of a breach.

To strengthen the Code for Members of the House of Representatives, the OECD recommendations included:

- Providing guidance to Members on engaging with lobbyists, such as clarifying that lobbying is a legitimate activity with risks emerging when transparency and integrity are not uphold, requiring Members to treat all lobbyists and third parties equally and equitably, and to check the registration details for all lobbyists.
- Clearly establishing incompatibilities and prohibiting Members from holding secondary employment in government departments, boards and commissions. Similar to the OECD’s recommendation in the Report on the Standards Act, the government could consider amendments to the Constitution which prohibits elected officials from obtaining secondary employment in all public functions.
- Including a clear provision in the Code that prohibits Members from participating in their private capacity in any role that would conflict with their duties as a Member of the House.
- Including provisions that prohibit Members from (i) entering into a contract or employment relationship with their spouse, partner, children, siblings or parents in the exercise of their official duties, (ii) having any form of private interest or partnership in a private corporation that is party to a contract with public sector entity, or (iii) holding any asset whose value may directly or indirectly be affected by government decisions or policy.
- Providing clear guidance in the Code on when Members declare their conflicts of interest, to whom and what measures to take to resolve their conflicts of interest: in particular, Members could declare their conflicts of interest to the Commissioner for Standards upon taking up their duties, as well as soon as they realise there is an actual or potential conflict of interest. The OECD also recommended the Code specify that Members take the necessary measures to manage actual or potential conflicts of interest.

OECD recommendations also reviewed the proposed guidelines to support implementation of the new codes, as well as identified areas where further training and capacity building could be strengthened.

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## Poland

### ***Evidence from OECD Public Integrity Indicators: Strategy and Accountability of Public Policy Making***

Poland is well above OECD average for the quality of their strategic objectives, with each having outcome level indicators and based on previous public integrity risk assessments. Poland also performs quite well on the coverage of their strategic objectives, having measures to reduce public integrity risks in all major areas of risk but infrastructure, housing, health, education, taxation, and customs.<sup>13</sup> Nevertheless, the country should pay more attention to the evaluation of practices, including the development of evidence based strategic objectives.

Regarding the OECD's Public Integrity Indicator on accountability of public policy making, Poland is well above in legislative procedural scrutiny and consultation processes for draft laws, nevertheless open government measures in practice should be improved considerably. Moreover, access to information and the related open data systems and practices have also to be strengthened.<sup>14</sup>

### ***Key findings of OECD reports in 2022 and forthcoming work***

The OECD is supporting the Ministry of Finance in Poland, through its Central Harmonization Unit (CHU) in charge of the internal audit function, which is tasked with coordinating internal audit efforts at the central and local government level. Internal auditors have a key role in maximizing the efficiency and effectiveness of public spending, ensuring continuity of public services and understanding related risks, including digital risks. There are about 2,500 internal auditors in approximately 2,100 central and local public entities. Coordination of these entities at local level has been very limited and the CHU does not have a comprehensive Internal Audit Quality Plan.

The main purpose of the project is to provide support for the preparation of the Internal Audit Quality Improvement Action Plan and of guidance documents for the use of internal auditors. On medium/long term, the project results will help internal auditors to improve the quality of their work and to ensure that operational resilience is established across crucial services provided by the central and local government. They will also help internal auditors validate the quality of the control systems and improve the efficiency and effectiveness of public spending. It will also include the diagnostic report with an in-depth analysis of relevant laws, policies, practices and tools of the internal audit function, and series of capacity building meetings, workshops and dissemination webinars for internal auditors (including at local level).

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## Portugal

### ***Evidence from OECD Public Integrity Indicators: Strategy and Accountability of Public Policy Making***

As shown in the OECD's Public Integrity Indicator on strategy, Portugal is above the OECD average across most indicators.<sup>15</sup> In terms of coverage, the National Strategy to Combat Corruption 2020-2024 establishes strategic objectives to mitigate public integrity risks in almost all relevant areas, including in HRM, internal control, fraud and corruption, public procurement and in the private sector, public corporations, state-

<sup>13</sup> OECD (2023), *OECD - Public Integrity Indicators*, <https://oecd-public-integrity-indicators.org/>

<sup>14</sup> OECD (2023), *OECD - Public Integrity Indicators*, <https://oecd-public-integrity-indicators.org/>

<sup>15</sup> OECD (2023), *OECD - Public Integrity Indicators*, <https://oecd-public-integrity-indicators.org/>



owned enterprises or public-private partnerships. In terms of quality, the national strategy contains outcome-level indicators for public integrity objectives, refers to international legal instruments on public integrity (including OECD and FATF recommendations, and UNCAC), and although it provides a clear statement and description of the objectives and priorities, it does not include a situational analysis identifying public integrity risks for all objectives. In terms of the extent to which the national strategy was consistently developed in an inclusive and transparent manner, Portugal fulfils four out of seven criteria, including a mandatory intergovernmental and public consultation process, but summaries and responses to the public consultation process were not published on the public consultation portal. Portugal can significantly improve the adequacy of implementing the action plans within the national strategy, where only three out of fifteen criteria were fulfilled, for example by providing a central coordination function responsible for coordinating the implementation, monitoring, reporting, and evaluation of the action plan. Portugal could also improve on financial sustainability, as the strategy does not provide a financial plan.

### ***Forthcoming work relevant to Rule of Law report***

The OECD's Public Sector Integrity Division and Infrastructure and Public Procurement Division are supporting the Tribunal de Contas (TdC), the Portuguese national supreme audit institution to strengthen its auditing and risk analysis with a focus on the government's public procurement activity. The TdC carries out thousands of audits (a priori audits, real-time audits and posteriori audits) of public procurement activity every year, a time-consuming process that requires a significant expenditure of human and financial resources. In 2020, the TdC reviewed 4,035 contracts, and its actions resulted in saving of more than 77 million euros from irregular procurement activity. Building on this work, the project seeks to improve the TdC's use of artificial intelligence and machine learning to assess risks of irregularities in public procurement, while advancing the TdC's own objectives to modernise its approaches.

The project will result in a bespoke data science framework, an analytical tool for leveraging new procurement data sources, and a report with recommendations to support the TdC to effectively implement the framework/tool.

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## **Romania**

### ***Evidence from OECD Public Integrity Indicators: Strategy and Accountability of Public Policy Making***

Romania was assessed in 2021 on Principle 3 (Quality of Strategic Framework) to benchmark the 2016-2021 NAS against OECD country practice.<sup>16</sup> Amongst the issues covered by the PII was whether strategies for any of the following sectors: (a) infrastructure, (b) housing, (c) health, (d) education, (e) taxation, (f) customs have at least one first-level objective aimed at mitigating public integrity risks ("coverage"). In it, Romania scored 71.43, well above OECD average (42.86). This is partly the result of including sectorial policies within its National Anticorruption Strategy (NAS).

However, despite this, the diagnostic phase at the outset appears to have been rather light. In fact, Romania has achieved only 33.3% of the Public Integrity Indicator. The core findings and lessons learned from the range of sources are not distilled and presented. The significance of the international indices, household and business surveys are not dissected or meaningfully analysed in terms of identifying systemic weaknesses. Furthermore, although the NAS stresses that institutional integrity plans should be

<sup>16</sup> OECD (2023), *OECD - Public Integrity Indicators*, <https://oecd-public-integrity-indicators.org/>

“based on risk analysis,” it does not provide an assessment of public integrity risks, nor does it identify specific types of relevant integrity breaches, the actors likely to be involved, or the expected likelihood or impact should the risks materialise. Similarly, no inter-institutional body has prepared and published an analytical report on public integrity risks that formulates recommendations and sets priorities for the whole public integrity system, as requested by the OECD Public Integrity Indicator. Finally, Romania could improve its financial plan to support their strategy by having capital and operational expenditures allocated to each activity of the action plan.

### **Key findings of OECD reports in 2022 and forthcoming work**

Over the course of 2022, the OECD conducted an analysis of the 2021-2025 National Anticorruption Strategy (2021-2025 NAS) in Romania, with a particular focus on corruption prevention in the health, education and SOE sectors. The resulting report, *Stocktaking of the Public Integrity System of Romania: strengthening integrity measures in the health, education and SOEs sectors*, identified a number of recommendations.

The following recommendations consider crosscutting issues affecting the public integrity system in Romania at the central level. Specific sectorial recommendations are still under discussions with Romanian authorities.

- Romania could consider using the upcoming legislation on conflict of interest as a way to mainstream ethics through the entire public administration, with a special focus on at-risk sectors: in interaction with primary laws, a regulatory integrity framework can be built which promotes public ethics and managing conflict-of-interest situations in a coherent manner across the public sector. Indeed, Romania is at a critical junction in the developing of such legislation and could strengthen this process by involving all relevant actors, including its National Agency of Civil Service (NACS), and providing them with a more relevant role in the development and execution of integrity measures.
- Romania could consider going beyond the review of integrity plans and enact guidance for entities to further develop their own plans: This will provide organisational contexts and an opportunity to include relevant and concrete examples from the organisation's day-to-day business to which the employees can easily relate. This means that public entities elaborate their own objectives and activities in alignment with the NAS and their own perspective and priorities in the field.
- Romania could further develop the role and profile of ethics counsellors, in particular by including a role in providing guidance on managing conflict of interest and by providing tailor-made training for counsellors in at risk sectors: In Romania, guidance on management of conflict of interest is key, as there are frequent confusions between the subject of incompatibilities and that of conflicts of interest. For example, Romania could address this situation by providing guidance on concrete sectorial cases. Instead of providing generic guidance, a sector approach allows to provide very concrete and realistic situations of conflict of interest (perhaps even based on examples from real life) that public officials can recognise and relate to their day-to-day work.

Conflicts of interest need to be actively managed and should be part and parcel of each entity. The ANI could / should be an organ for complaints or redress in case that public entities do not manage conflicts of interest correctly. However, the identification of conflict of interest could be decentralised from ANI making the different sectors responsible and accountable for the implementation of a management system.

In 2023, the report will be launched and a behavioural intervention in integrity risk management will be develop, alongside stakeholder meetings and capacity building workshops.

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## Spain

### ***Evidence from OECD Public Integrity Indicators: Strategy and Accountability of Public Policy Making***

In Spain, the strategic framework related to public integrity is currently under development. Spanish authorities are preparing two different national strategies covering anti-fraud and public procurement issues. As shown in the OECD's Public Integrity Indicator on strategy, this puts Spain below the OECD average.<sup>17</sup> The future strategic framework would benefit from an analytical assessment of public integrity risks to inform the new strategy on the main areas in which Spain is facing integrity risks.<sup>18</sup> New strategies would also benefit from the endorsement of high-level leadership, such as Spain's Council of Ministers to highlight the commitment at the highest level.<sup>19</sup> Similarly, as consultation on public integrity strategies build support and buy-in for the institutions tasked with their implementation, Spain could pursue an inter-governmental and public consultation process for the anti-fraud and public procurement national strategies currently being developed. This would be particularly beneficial given the anti-fraud and anti-corruption context is highly decentralised in Spain, with different stakeholders across levels of government and territories.

Spain remains above the OECD average for safeguards on conflict of interest, open government in practice, and regulations on open government, but below the OECD average for lobbying, as shown in the OECD's Public Integrity Indicator for accountability and public policy making.<sup>20</sup> Lobbying is currently not regulated in Spain, but a legislative framework covering lobbying activities is under development. Key areas to include in the new framework are the safeguards on lobbying in practice and regulations on transparency of policy influence. For example, Spain could create an online lobby register, a publicly accessible register of beneficial ownership of corporate entities, and user-friendly lobbyist registration tools and guidance. Similarly, Spain could request to submit an interest declaration upon entry and any renewal or change in public office to members of the government, highest bodies of the judiciary, public employees with high-risk positions and top-tier civil servants of the executive branch.

### ***Key findings of OECD reports in 2022 and forthcoming work***

The OECD is supporting the National Anti-Fraud Coordination Service (Servicio Nacional de Coordinación Antifraude, SNCA), the unit responsible for national coordination to protect the EU's financial interests against fraud, corruption, and any other form of illegal activity. The SNCA is part of the General Comptroller of the State Administration (Intervención General de la Administración del Estado, IGAE), a control body within the Ministry of Finance and Public Administration responsible for the oversight and control of the public sector in Spain.

The project aims to improve the prevention and detection of irregularities and fraud in Spain, leading to a better coordination and management of financial resources and increased recovery of misused funds. To achieve that, the OECD is providing ongoing support to the SNCA in the following areas:

- improving the Spanish anti-fraud framework, through the establishment of a risk-based national anti-fraud strategy (NAFS) and action plan;
- improving the monitoring and evaluation framework of the institutions involved in the fight against fraud;

<sup>17</sup> OECD (2023), *OECD - Public Integrity Indicators*, <https://oecd-public-integrity-indicators.org/>

<sup>18</sup> OECD (2017), *OECD Recommendation on Public Integrity - OECD*, <https://www.oecd.org/gov/ethics/recommendation-public-integrity/>.

<sup>19</sup> OECD (2017), *OECD Recommendation on Public Integrity - OECD*, <https://www.oecd.org/gov/ethics/recommendation-public-integrity/>.

<sup>20</sup> OECD (2023), *OECD - Public Integrity Indicators*, <https://oecd-public-integrity-indicators.org/>

- and increasing engagement, awareness and capacity building in the fight against fraud.

Drawing from responses to the OECD's questionnaire, workshops and desk research, the diagnostic study defined the following key challenges, findings, and insights:

- Providing further guidance to clarify the anti-fraud framework and address regulatory gaps,
- Improving the horizontal and vertical co-ordination among anti-fraud entities at the national level as well as between actors at national and subnational levels,
- Ensuring the effective implementation and coherence of anti-fraud prevention, detection and correction measures and procedures,
- Building the capacity and tools to assess fraud risks across EU Funds, especially in entities responsible for managing EU Funds,
- Enhancing fraud detection and monitoring taking advantage of data and analytics,
- Linking administrative and criminal investigations to prevention, and
- Implementing sanctions as well as training for Managing Authorities to clarify sanctioning procedures.

The OECD is halfway through the implementation of the project and key stakeholders have indicated the positive impacts of the project on the dialogue across different entities involved in the fight against fraud in EU Funds in Spain. A capacity building workshop and the presentation of the NAFS and its action plan to the NAFS Commission are planned for Q1-2 2023.

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## Sweden

### ***Evidence from OECD Public Integrity Indicators: Strategy and Accountability of Public Policy Making***

According to the OECD Public Integrity Indicators (OECD PII) on the quality of the strategic framework, Sweden has established processes for inclusive and transparent inter-governmental and public consultations with regards to the development of the national strategic framework. In particular, all public integrity strategies in force have undergone mandatory inter-governmental and public consultation processes. Additionally, integrity strategies are consulted with integrity bodies and non-state actors.

Sweden has also strengthened efforts on anti-corruption through the development and implementation of the National Anti-Corruption Action Plan (NACAP) 2021 – 2023. To strengthen effectiveness, Sweden's national strategic framework for anti-corruption could incorporate findings from situation and integrity risk analysis. Moreover, outcome level indicators and target values could be developed, along with coverage of core public integrity areas, such as mitigating risks in human resource management, public financial management, and internal control and risk management. Sweden could also develop a system to measure the impact and monitor the achievements and shortcomings of its national strategic framework.

In the area of participation and accountability of public policymaking, Sweden is leader on open government decision-making, as well as legislative stability, thereby ensuring high levels of trust in the rule of law. Sweden could consider implementing additional reforms to improve regulations and implementation thereof on transparency of policy influence, in particular in the areas of lobbying and conflict of interest, including conflict of interest prevention for senior public officials. Further efforts could also be adopted to strengthen transparency and integrity in post-public employment practices of ministers and top public officials.

According to the OECD Public Integrity Indicators on accountability of public policy making, Sweden performs below the OECD average in most areas, including regulations on open government and on transparency of policy influence. Sweden could improve regulatory safeguards in practice for conflict of interest, lobbying and political finance. However, Sweden is one of the top performers for open government decision making processes.

### ***Key findings of OECD reports in 2022 and forthcoming work***

In 2022, the Government of Sweden volunteered to pilot the new horizontal country product of the OECD Public Governance Directorate: the *Public Governance Monitor (PGM)*. Sweden is in particular piloting the first chapter of the PGM ('the overview chapter') which provides a snapshot of the country's public governance system and identifies specific opportunities for reform, including integrity as a priority area. The key findings and recommendations focus on improving Sweden's strategic framework for public sector integrity and strengthening inter-agency and inter-governmental cooperation, including local government. Sweden's Public Governance Monitor: overview is expected to be published over the course of 2023.

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