PREVENIREA INFRACȚIUNILOR ȘI ABUZURILOR LEGATE DE CHELTUIREA FONDURILOR PUBLICE ÎN REPUBLICA BULGARIA

(PREVENTION OF CRIMES AND ABUSE RELATED TO THE SPENDING OF PUBLIC FUNDS IN THE REPUBLIC OF BULGARIA)

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Abstract

Lucrarea încearcă să contureze esența, cadrul de reglementare și instituțional pentru prevenirea abuzurilor și a infracțiunilor în cheltuirea resurselor publice, precum și note scurte privind implementarea cadrului de reglementare în acest sens. Problema prevenirii abuzurilor și a infracțiunilor legate de cheltuirea fondurilor publice este extrem de importantă și relevantă atât din punct de vedere științific, cât și socio-politic. Parametrii conturați în lucrare cu privire la cadrul legislativ și instituțional din Bulgaria, meniți să combată abuzurile și infracțiunile care implică fonduri publice, nu pretind a fi exhaustivi. Cu toate acestea, sunt suficienți pentru a concluziona că legislației îi lipsește o abordare unificată a supravegherii, controlului și sancționării abuzurilor și a infracțiunilor care implică resurse publice. Există, de asemenea, o lipsă de coeziune în ceea ce privește conceptele referitoare la fondurile publice. Aceasta nu reprezintă neapărat o deficiență a cadrului juridic, deoarece instituțiile au competențe diferite de combatere a unor astfel de abuzuri, care corespund unor sarcini și instrumente specifice, dar creează incertitudine și duce la practici diferite în implementarea unei activități uniforme. Din punctul de vedere al reglementării normative în Bulgaria, există un cadru legislativ relativ coerent pentru controlul bugetar, ale cărui principale elemente sunt, de asemenea, în conformitate cu cadrul de reglementare european. Principala problemă constă în eficiența scăzută a instituțiilor publice, care nu sunt capabile să aplice pe deplin cerințele legale. Principalul motiv pentru aceasta este dependența lor de actorii politici care exercită puterea națională și locală, ceea ce exclude posibilitatea unui control și sancționarea cuprinzătoare a infracțiunilor. Drept urmare, prevenirea fenomenelor analizate este grav compromisă și, uneori, complet absentă.

Cuvinte cheie: *prevenire, criminalitate, abuz, fonduri publice, control, sancționare*

Abstract

The paper attempts to outline the essence, regulatory and institutional framework for the prevention of abuse and crime in the spending of public resources, as well as brief notes on the implementation of the regulatory framework in this regard. The issue of preventing abuse and crimes related to the spending of

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public funds is extremely important and relevant both in scientific and socio-political terms. The outlined in paper parameters of the legislative and institutional framework in Bulgaria, designed to counter abuse and crimes involving public funds, do not claim to be exhaustive. However, they are sufficient to conclude that the legislation lacks a unified approach to the supervision, control, and sanctioning of abuse and crimes involving public resources. There is also a lack of unity with regard to the concepts relating to public funds. This is not necessarily a shortcoming in the legal framework, because the institutions have different powers to combat such abuse, which correspond to specific tasks and instruments, but it does create uncertainty and leads to different practices in the implementation of a uniform activity. From the point of view of normative regulation in Bulgaria, there is a relatively coherent legislative framework for budgetary control, the main elements of which are also in line with the European regulatory framework. The main problem lies in the low efficiency of public institutions, which are unable to fully enforce legal requirements. The leading reason for this is their dependence on political actors exercising national and local power, which precludes the possibility of comprehensive control and sanctioning of offences. As a result, the prevention of the phenomena under consideration is severely compromised and, at times, completely absent.

Keywords: *prevention, crime, abuse, public funds, control, sanctioning*

Introduction

The state, represented by central and local authorities, does not generate its own funds. It "borrows" money from its citizens through taxes and fees in order to provide services that meet their needs. The public financial resources collected should be used in the public interest and with a view to stabilizing and increasing national income and the standard of living of the population. Public finances, both on the revenue and expenditure side, have a significant and continuous impact on the development of the socio-economic and political situation in the state. Adherence to legality, efficiency, responsibility, accountability and transparency is key to maintaining balance and public trust in the authorities, which is the foundation of sustainable democratic governance.

Content

The term "public funds" is used in Bulgarian legislation alongside various related terms: public finances, state resources, public property, public administrative resources, etc. Some Bulgarian normative acts provide a legal definition of the terms used or refer to the understanding in another law, while others do not. An explicit legal definition is contained in § 1, item 1 of the Additional Provisions of the Act on the Financial Management and Control in the Public Sector , where "public funds" are defined as " all funds which are collected, received, kept, allocated and spent by public sector organisations.". In Art. 3 of the Public Finance Act it is stated that "public finances" are: "… a system for the provision and financing of public goods and services, reallocation and transfer of income and accumulation of resources by budgetary organisations by means of revenue, aid and donations, realisation of financial assets and debt assumption.”. In § 1, item 18 of the Additional Provisions of the Electoral Code a legal definition of “public administrative resource” is given – “ budget resources, premises, automobiles, airplanes and other means of transport, equipment and other movable and immovable things constituting State or municipal property, allocated to the administration, the central and local government authorities, and the State-owned and municipal-owned enterprises, as well as the work of administration employees..”. Art. 93, para. 1, item 4 of the Criminal Code gives a legal definition of the concept of “public property” as “the pieces of property of the state, the municipalities, the co-operatives, the public organisations and other legal persons, in which they participate”. Bulgarian scientific literature distinguishes between state resources on the one hand and public resources as a broader concept on the other[1]. For the purposes of this paper, we will use the terms public funds and public resources interchangeably, understanding them to mean funds and property intended for public use in general.

The legislation outlines a broad framework for the prevention of abuses and crimes with public resources, which provides for measures and institutions to control over state, municipal and other public property, the assets and funds of state and municipal enterprises, as well as commercial companies with state and municipal participation and all entities in which the state or municipality participates directly or indirectly in their property or have obligations guaranteed by state or municipal property, as well as entities financed at the expense of funds from the state or municipal budget or extra-budgetary funds, funds from the European Union (EU) or international treaties.

The term "abuse related to the spending of public funds " or “misuse of public funds” shall be understood below as expenditure that is contrary to the purpose of public funds or the public interest, leading both to a direct violation of the law (constituting a crime or other type of offense) and to circumvention of the law. In this sense, the concept of abuse includes a variety of manifestations.

Regulatory legislation and the regulatory framework it establishes are a significant factor in determining, changing, and preventing the misuse of public funds. Accordingly, the lack of comprehensive and sustainable regulatory protection is in itself a crime-inducing factor. National legislation establishing regulatory requirements for the expenditure of public funds can be divided into two categories: *general legislation* setting out the basic framework and rules – the Constitution of the Republic of Bulgaria , the Public Funds Act, the State Budget Act , the Act on the Management of Funds from European Funds under Shared Management, the Act on Financial Management and Control in the Public Sector, the Act on Internal Audit in the Public Sector, etc.; and *sectoral legislation* consisting of special laws relating to specific areas of public policy – the

[1] In this regard, V. Dimitrov points out that the concept of public funds as a component of the financial system includes budgetary and fund resources intended for public purposes in the interest of society as a whole (e.g., the state budget and the budget of the Bulgarian National Bank, as an independent institution) or of broad social groups defined by territory (in the case of municipal budgets) or by function (in the case of social security funds, the Deposit Guarantee Fund, or European Union funds). Society as a whole and the aforementioned public groups are recipients of public services at the expense of these funds. The public purpose of the revenues and expenditures of state-owned enterprises and political parties is indisputable – See V. Dimitrov, Finansovo pravo S; Nova Zvezda, 2019, p. 41.

Investment Promotion Act, the Regional Development Act, the Energy Efficiency Act, the Social Assistance Act, the Environmental Protection Act, etc.

Public institutions and organizations have a legally and strictly defined scope of activity. In addition to the framework of general and sectoral legislation, they operate under internal regulations and budgets. Their activities should be subject to clearly formulated objectives related to satisfying public interests and achieving maximum results for the money invested. These are fundamental requirements established in the Public Finance Act, which has a fundamental and systematic significance in the regulation of public finances. Article 20, items 1-9 of the Public Finance Act stipulates that public finances shall be managed in accordance with the following principles: 1. universality; 2. accountability and responsibility; 3. adequacy – compliance of fiscal policy with macroeconomic and socio-economic objectives; 4. economy: obtaining the resources necessary to carry out the activities of budgetary organisations at the best price, while observing the resources quality requirementwith the requirements for resource quality; 5. efficiency: achieving maximum results from the resources employed by budgetary organisations in the pursuit of their activities; 6. effectiveness: the level of attainment of objectives of budgetary organisations when comparing actual and intended results of their activities;; 7. transparency: enabling public awareness by providing public access to information; 8. sustainability: maintaining current levels of revenue and expenditure, with no risk to the solvency of the state or the ability to cover financial obligations in the long term 9. legality: complying with the applicable laws, internal regulations and contracts.

Strictly defining the rules for spending public funds in laws and subordinate legislation is not enough to prevent possible abuse. These rules must be strictly and consistently enforced, which requires the state to implement appropriate measures to counteract abuse. The development and implementation of mechanisms for sanctioning the misuse of public funds is a particularly important factor in combating such practices and, consequently, in effectively protecting public financial interests. In a number of cases, violations of the law are accompanied by serious damage to public property, which implies complete intolerance towards them. Therefore, the provision of a wide range of sanctioning institutions is intended to have a general deterrent and preventive effect on all legal entities involved in the process of spending public funds. The sanctions for counteracting the misuse of public funds relate to two main groups of offences: a) criminal offences; b) administrative, disciplinary and civil offences.

Undoubtedly, the methods and means of criminal law, and in particular penal punishment, which is the most severe form of state coercion, play the most important role in preventing any socially dangerous behavior. The high public importance of the lawful expenditure of public funds has motivated the Bulgarian legislator to criminalize various acts related to the misuse of public resources. In view of their specificity, we can divide them into two subgroups – intrinsic (directly protecting the spending of public funds) and non-intrinsic (offering indirect protection).

The first subgroup includes the crimes under Articles 254a and 254b of the Criminal Code. They directly affect public relations related to the proper expenditure of budget funds, earmarked funds provided in the form of financing under a special procedure and law, as well as financial resources from funds belonging to the EU or provided by the EU to the Bulgarian state. The executive act in these cases is carried out by disposing of these funds not in accordance with their intended purpose. Receiving a large amount of money from the state budget that is not due is another crime of this type, which is criminalized under Article 256 of the Criminal Code. In this case, the disposal of budget funds is the result of a falsified document being presented as grounds for the disposal, which is why criminal liability lies not with the person disposing of the funds, but with the person who presented the falsified document.

The second subgroup includes crimes that directly protect another object, but can also be applied to the criminal law protection of public relations related to the spending of public funds. These are: providing false information with a view to obtaining funds from EU funds (Art. 248a, paras. 2-5 of the Penal Code), embezzlement (Art. 201-203 of the Penal Code), document fraud (Article 212 of the Criminal Code), mismanagement (Article 219 of the Criminal Code), conclusion of a manifestly disadvantageous transaction (Article 220 of the Criminal Code), offenses committed by public officials (Articles 282-285 of the Criminal Code), bribery (Articles 301-307a of the Criminal Code), document offenses committed by public officials (Articles 310 and 311 of the Criminal Code).

To ensure the lawful expenditure of public funds, other types of legal liability are also enforced – administrative, disciplinary, and property (civil). For violations of normative acts in the field of public administration, the administrative penalty provisions of the relevant normative act governing budgetary, financial, economic, or accounting activities provide for administrative liability. It has the widest scope of application among the sanctioning mechanisms for ensuring the lawful development of public legal relations, including those related to the use of public finances. A large number of financial control bodies have been entrusted with powers to enforce precisely this type of legal liability. Its high efficiency and speed provide adequate protection for activities related to the expenditure of public finances, and the administrative penalties provided for are very severe in certain cases, which inevitably has a deterrent effect.

In connection with violations of the normative rules for managing public finances, disciplinary liability may also be imposed in accordance with the Civil Servants Act and the Labor Code. The implementation of disciplinary liability is part of the managerial competence of the appointing authority/employer and is most often outside the powers of the financial control authorities. It plays a significant preventive role when applied in accordance with regulatory requirements, as it affects the essential subjective rights of workers and employees arising from their employment or service relationship, including its termination.

In addition to the above types of liability, property liability may also be incurred for violations of financial regulation and damage to public property. This is a sanction for a tort (unlawful damage) and represents an encumbrance on the offender's property in order to recover the damage caused by them. The principle is that tort liability, as regulated in civil law (Articles 45-54 of the Obligations and Contracts Act), also applies in cases of damage to public property. A special regime of property liability for damages is contained in Chapter Three of the Public

Financial Inspection Act, where its direct implementation is entrusted to financial inspectors as financial control bodies.

In cases of established violations or other deviations from the regulatory requirements, in addition to sanctions, other coercive measures may also be taken. Coercive administrative measures and protective measures are widely used to protect public funds. An example of a coercive administrative measure is the power of the Minister of Finance under Article 107, para. 1 of the Public Finance Act to restrict or suspend payments to budgetary organizations in the event of breaches of budgetary discipline. A protective measure is the possibility of imposing financial corrections, provided for in Article 70 of the Act on the Management of European Funds under Shared Management, in cases of irregularities constituting violations of the rules of the law. The various advisory measures taken by the control authorities also have a significant preventive effect, for example – proposals and recommendations for improving the management of budgetary and/or other public funds (Articles 41 and 50 of the National Audit Office Act), giving advice, opinions, and other measures designed to improve risk management and control processes (Article 8 of the Internal Audit in the Public Sector Act).

There is a wide range of bodies responsible for supervising and enforcing the regulations governing the expenditure of public funds. The National Assembly and municipal councils, as representative bodies with the power to adopt the state and municipal budgets, respectively also have the logical control power to adopt the report on the implementation of these budgets (Article 84, item 2 of the Constitution of the Republic of Bulgaria, Articles 138-140 of the Public Finance Act). At the meeting of the relevant representative body at which the report is considered and adopted, control may be exercised over the legality and expediency of the implementation of the budget, including whether the principles of public finance management established in Article 20, items 1-9 of the Public Finance Act have been complied with.

In addition to the control exercised by the representative bodies, financial control is also exercised by a number of central and local executive authorities. The Minister of Finance exercises overall control over the implementation of the state budget and the consolidated fiscal program (Article 131 of the Public Finance Act). Pursuant to Article 11, para. 13 of the Act, first-level budget administrators exercise control over the processes of planning, drafting, implementing, and reporting on the budgets of lower-level budget administrators. With regard to the implementation of the municipal budget, the mayor exercises similar control powers (Article 137. Para. 1 of the Act).

Internal control as part of financial management in budgetary organizations and other public sector organizations is regulated by Articles 10 and 13 of the Act on Public Sector Financial Management and Control. According to Article 3, the heads of public sector organizations are responsible for implementing financial management and control in all structures, programs, activities, and processes under their management, in compliance with the principles of legality, sound financial management, and transparency. According to Article 13, para.1 of the Act, they shall ensure control activities, including written policies and procedures designed to provide reasonable assurance that risks are limited to the acceptable limits set in the risk management process.

The regulatory framework for internal audit is set out in the Internal Audit in the Public Sector Act. This is a form of specialized budgetary control – it is carried out by internal auditors who are employees of the organization and report directly to its manager (Article 12, para. 1 of the Act). Internal audit is an independent and objective assurance and consulting activity designed to improve an organization's operations. Internal auditors should review and analyze financial management and control systems to assess the effectiveness of control mechanisms.

External financial control over the public sector is mainly exercised by the National Audit Office and the State Financial Inspection Agency. The National Audit Office is the supreme audit institution established under Article 91 of the Constitution of the Republic of Bulgaria. Unlike most financial control institutions, which are subordinate to the Minister of Finance, the National Audit Office is independent in its activities and reports to the National Assembly – Article 3 of the National Audit Office Act. The National Audit Office exercises specialized and comprehensive control over the implementation of the budget in terms of revenue and expenditure. As with internal control and internal audit in the public sector, this control covers both legality and expediency (effectiveness, efficiency, and economy) in the management of public funds. The main task of the National Audit Office is to control the reliability and accuracy of the financial statements of budgetary organizations, the legality, effectiveness, efficiency, and economy of the management of public funds and activities, and to provide the National Assembly with reliable information on this – Article 2 of the Act. The European Audit Office controls the legality and regularity of all Community revenue and expenditure, including the management and use of funds provided by the European Union. In this way, it assists the European Parliament and the Council in exercising their powers of control over the implementation of the budget.

Administrative external control over budget expenditure and public property management is a traditional form of control characteristic of Bulgarian financial legislation. Currently, it is carried out in accordance with the State Financial Inspection Act by the bodies of the State Financial Inspection Agency, which is an administration under the Minister of Finance (Article 6 of the Act). The main objective of the State Financial Inspection is to protect public financial interests by conducting ex-post financial inspections for compliance with the normative acts governing budgetary, financial, economic, and accounting activities, as well as the award and execution of public procurement contracts. The Agency's control powers include identifying violations of the above-mentioned regulations, as well as indicators of fraud, revealing damage to public property, and bringing the guilty parties to administrative and financial liability; establishing fraud and violations affecting the financial interests of the European Communities (Article 2, para. 2 of the Act). The State Financial Inspection is a follow-up control over the legality of expenditures and the management of public property and property for public use.

In the area of public procurement, which accounts for the most significant expenditure of public funds, control may be exercised by both the State Financial Inspection Agency and the National Audit Office. Article 238, para. 1 of the Public Procurement Act stipulates that ex post external control over the implementation of the law, including control over the implementation of public procurement contracts and framework agreements, shall be exercised by the National Audit Office and the bodies of the Agency – each in relation to the contracting authorities falling within their scope of control, in accordance with the special laws regulating their powers. Pursuant to Articles 260 and 261 of the Public Procurement Act, the bodies of both control institutions may impose administrative penalties for violations of the law established in Articles 247-259. The control exercised by the Public Procurement Agency is in accordance with Chapter Thirty-One (Articles 232-237) of the Act. It can be defined as administrative control of an advisory nature, because the agency's bodies are not granted independent coercive and sanctioning powers.

The Act on the Management of European Funds under Shared Management provides for specific forms of ongoing and ex-post control of the lawful management and expenditure of funds provided by European funds. The bodies responsible for programs financed by European funds are the managing authorities, accounting authorities, and audit authorities – Article 9, para. 1 of the Act. The managing authorities are responsible for the overall programming, management, and implementation of the program, as well as for the prevention, detection, and correction of irregularities, including the implementation of financial corrections through the total or partial cancellation of support from the funds for a given operation or program when it is established that the declared expenses are irregular. The accounting authorities shall carry out specific control activities with a view to declaring to the European Commission the expenditure incurred under the programs referred to in Article 3, para.2 of the Act and preparing and sending to the European Commission annual accounts for each program. The audit authorities shall carry out specific audit activities to provide an independent and objective assessment of the effectiveness of the financial management and control systems and the regularity, correctness, and legality of the related expenditure. The audit of EU funds is also regulated in principle in Chapter Five (Articles 41-46) of the Internal Audit in the Public Sector Act. Audit control in this case is centralized—functions and powers are delegated to the Executive Agency for Audit of EU Funds. Its status is regulated at the sub-legislative level by Regulation H-2 of 30 June 2016 of the Minister of Finance on the order and manner of implementation, coordination, and harmonization of specific audit activities related to EU funds and programs.

The Prosecutor's Office of the Republic of Bulgaria (or the European Public Prosecutor's Office for crimes affecting the financial interests of the EU) ensures compliance with the law, prosecutes persons who have committed crimes, and maintains charges against them in criminal cases of a general nature, including those related to the misuse of public funds. In addition, it has the power to take action to revoke unlawful acts. In practice, the Prosecutor's Office has at its disposal the full range of instruments for prosecuting and sanctioning established abuses of public funds. All other institutions are required by law to comply with the orders of the prosecutor. Judicial practice also has a significant impact on the dynamics and manifestations of misuse of public resources. It is an integral part of the state's response to these phenomena, and its development and the concepts it adopts are decisive for the detection and punishment of unlawful encroachments on public funds.

The Anti-Corruption Commission is an independent, specialized, permanent state body responsible for implementing policies on the prevention and combating of corruption and the identification of conflicts of interest. The Commission carries out activities aimed at preventing, detecting, and investigating corruption offences; it checks reports of incompatibility in the declarations of persons holding public office and, if incompatibility is established, refers the matter to the appointing or electing authority for appropriate action; exercises control and takes decisions on the checks and analysis of declarations of assets and interests of persons holding public office; establishes conflicts of interest of persons holding public office.

Decrees of the Council of Ministers have adopted acts that also establish procedures or bodies relevant to the prevention and sanctioning of abuse of state resources. Decree No. 229/23.09.2009 of the Decree No. 229/23.09.2009 of the Council of Ministers adopted the Rules of Procedure of the Council of Ministers, which establishes and describes the functions of the Chief Inspectorate to the Council of Ministers (Art. 62, para. 1) with broad powers for internal audits in relation to corruption, illegal or improper actions or omissions by employees of the Council of Ministers administration, including in relation to the Act on Management of European Funds under shared management.

The European Anti-Fraud Office (OLAF) investigates fraud affecting the EU budget, corruption, and serious misconduct in the European institutions and develops anti-fraud policy for the European Commission. Its competence covers the investigation of offences such as embezzlement, irregularities in public procurement procedures and customs fraud. However, OLAF cannot investigate allegations of fraud that have no financial impact on EU public finances.

The Directorate for the Protection of the EU's Financial Interests, which is a specialized structure of the Ministry of the Interior, carries out control, information and coordination activities in the field of protection of the EU's financial interests, a Council for Coordination in the Fight against Offences Affecting the EU's Financial Interests (AFCOS) has been set up. The Council provides guidance, monitors and ensures coordination in the activities of state authorities in preventing and combating offences – fraud, misuse of funds and property belonging to the EU or provided to the Bulgarian state from EU funds and programmes, including related national co-financing.

At the parliamentary level, there are two committees that deal with the prevention of misuse of public funds: the Committee on Prevention and Countering Corruption and the Committee on European Affairs and Control of European Funds. The Budget and Finance Committee of the National Assembly has a standing subcommittee on public sector accountability. It is also parliamentary practice to set up temporary parliamentary committees on issues of public importance, which direct parliamentary control towards processes where there could be misuse of public resources[2].

[2] For example, the Temporary Committee for Establishing Facts and Circumstances in the Spending of Funds Provided to the National Palace of Culture for the Preparation of the Bulgarian Presidency of the Council of the EU.

Counteracting offences is not the sole preserve of institutions – it is a nationwide task[3]. Civil society can and should also be an active player in preventing the misuse of public funds. Citizens and civil society organizations can submit reports/complaints to the competent authorities. The basic rules for submitting reports and proposals by citizens and legal entities are contained in Chapter Eight of the Administrative Procedure Code. According to Article 107, para. 4 of the Code, reports may be submitted for abuse of power and corruption, mismanagement of state or municipal property, or other unlawful or inappropriate actions or omissions by administrative bodies and officials in the relevant administrations that affect state or public interests, rights, or the legitimate interests of other persons. Two basic principles have been introduced: 1. consideration of reports and proposals objectively, impartially, and in a timely manner; 2. prohibition of persecution for submitting a proposal or report (Article 108 of the Code). In a number of cases, our legislation provides for special provisions regulating the submission of reports by citizens.[4]

The work and activism of investigative journalists, non-governmental organizations, and civic groups are particularly important. In Bulgaria, the investigations and analyses published in the Black Book of Government Waste in Bulgaria by the Friedrich Naumann Foundation for Freedom[5], the analyses, opinions, and initiatives of the Institute for Market Economics[6], the reports, investigations, and alerts of the Anti-Corruption Fund Bulgaria[7], the civil movement Bulgaria United with One Goal (BOEC)[8], and the Bureau of Investigative Reporting and Data (BIRD) of the non-governmental organization DRJI – Data for Reporters, Journalists, and Investigations[9].

The outlined parameters of the legislative and institutional framework in Bulgaria, designed to counter abuse and crimes involving public funds, do not claim to be exhaustive. However, they are sufficient to conclude that the legislation lacks a unified approach to the supervision, control, and sanctioning of abuse and crimes involving public resources. There is also a lack of unity with regard to the concepts relating to public funds. This is not necessarily a shortcoming in the legal framework, because the institutions have different powers to combat such abuse, which correspond to specific tasks and instruments, but it does create uncertainty and leads to different practices in the implementation of a uniform activity.

From the point of view of normative regulation, there is a relatively coherent legislative framework for budgetary control, the main elements of which are also in line with the European regulatory framework. However, from the point of view of law enforcement, there are some shortcomings. Law enforcement means the effective implementation of legislation by impartial and objective institutions, as well as the application of sanctions and other coercive measures in cases of non-compliance with regulations. In Bulgaria, it is rare for systematic and scandalous

[3] Aidarov, Y. Kriminilogiya, Sofia: Ciela, 2010, p. 326.
[4] For example, Article 5 of the State Financial Inspection Act and Article 62 et seq. of the Anti-Corruption Act.
[5] https://chernakniga.bg/
[6] https://ime.bg/analyses/
[7] https://acf.bg/bg/
[8] https://www.boec-bg.com/
[9] https://bird.bg/about-2/

abuses in the management and spending of public resources to be brought to light and placed at the center of public attention due to the law enforcement activities of the control institutions. More often, it is the result of the work of investigative journalists, non-governmental and civil society organizations, international studies, or shifts in the political landscape[10]. The disclosure of inefficient management of public resources traditionally reveals morally and legally reprehensible practices. The overall picture gives the impression of a blurring of the lines between the public and private spheres, and the public interest, on which our entire legislation governing state administration is based, remains a fiction with no particular practical dimensions. A consensus has formed in society for de facto tolerance, despite the regulatory inadmissibility of abuse of public resources, which is the main reason for the lack of effectiveness in the work of the control institutions called upon to guarantee the rule of law. All this leads to a significant reduction in their preventive impact on public awareness and the formation of mistrust among individual citizens.

This raises the following question: is there any legal order at all when legal norms are formally in force but are not enforced, and their non-enforcement is not sanctioned? V. Braikov refers to the state's overall capacity to ensure real and effective protection of the law as its "sanctioning power or sanctioning capacity." According to the author, "the number of formally valid legal norms is irrelevant if they are not all backed by a tangible threat of punishment for violations. In this sense, there are only as many legal norms in force as the state has the power to ensure punitive retribution"[11].

Conclusion

The issue of preventing abuse and crimes related to the spending of public funds is extremely important and relevant both in scientific and socio-political terms. We can conclude that the Republic of Bulgaria has an adequate and appropriate legislative framework, as well as the necessary system of institutions for its implementation. This has laid the foundation for effective counteraction against abuse and crimes involving public finances, which inevitably has a preventive effect. The main problem lies in the low efficiency of public institutions, which are unable to fully enforce legal requirements. The leading reason for this is their dependence on political actors exercising national and local power, which precludes the possibility of comprehensive control and sanctioning of offences.

At the same time, ensuring the lawful and appropriate use of public financial resources and counteracting various illegal infringements requires that the provisions of the law be consistently implemented in practice, including from the point of view of sanctions. At a time of unprecedented challenges for the state, provoked by both international and domestic political instability, economic

[10] In July 2022, at the initiative of the former Minister of e-Government, detailed data from the System for Electronic Budget Payments (SEBRA) were published, the file containing data on all payments from 2006 to June 2022 and showing a huge concentration of public resources in the hands of a few private individuals. https://chernakniga.bg/nay-golemite-usvoiteli-na-darzhavni-sredstva-v-govori-sebra/

[11] Braĭkov, V., Sanktsionen kapatsitet i razdeleni vlasti, Spisanie "Advokat·ski pregled", broĭ 2, 2018, pp. 13-14.

and financial turmoil, and serious problems with the rule of law, the unlawful and unreasonable squandering of limited and valuable public resources causes discontent among the public, a sense of injustice, and poses a threat to the social contract between the state and its citizens. As a result, the prevention of the phenomena under consideration is severely compromised and, at times, completely absent.

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