

## **BULGARIA – BUILDING INTEGRITY SELF ASSESSMENT PEER REVIEW REPORT**

### **Overview**

1. The Building Integrity Self-Assessment Process is a part of the practical tools developed in the framework of the Building Integrity (BI) Initiative. The BI Self-Assessment Questionnaire is designed to provide nations with a snapshot of current structures and practices. The subsequent BI Peer Review helps nations to confirm areas of good practice and those that may require further effort. The BI initiative is focused on providing practical assistance with defence reform and helping nations meet their anti-corruption obligations within the UN and other frameworks.

2. In line with the government's strong stand against corruption, the Bulgarian Ministry of Defence (MOD) has made an impressive start in tackling corruption in the last year. It is a particularly strong supporter of the BI Initiative and intends to make full use of the practical support available to strengthen transparency and accountability, and build sound integrity practices. These and other reforms also have real potential to impact more widely across Bulgaria's security sector. The Government has recently decided to establish an Anti-Corruption Centre to be staffed with 45 permanent positions and over 100 temporary personnel in its efforts to tackle the challenges in overcoming the endemic corruption problem. Bulgaria conducted an initiative on Transparency in the Decision-Making Process in the MOD in May 2010, completed the BI Self-Assessment in September 2010 and underwent the BI Peer Review in December 2010. It intends to develop and make more full use of education and training courses in the future. The commitment, energy and drive of the MOD ministerial team to develop further its anti-corruption initiatives and sustain this effort are most welcome, despite the challenges involved.

3. This report is focused on the Peer Review of the Self-Assessment Questionnaire completed by the Bulgarian MOD to which over 20 directorates and agencies, and all branches of the armed services, responded in detail. Extensive meetings and interviews were conducted between 1-3 December 2010, with key personnel of the MOD (both civilian and military), and with representatives of the Council of Ministers, the Prime Minister's Office, the National Security Adviser, non-government organisations, and Members of the National Assembly Committees for Foreign Affairs and Defence, and for Anti-Corruption. An extensive meeting was also held with the Minister of Defence, both of his deputies, the CHOD and the State Secretary. This report is based upon all major elements of the work.

4. The Bulgarian reply to the Self-Assessment Questionnaire (SAQ) was impressive and the commitment shown by senior leadership and the openness of MOD officials in the Peer Review meetings demonstrates Bulgaria's commitment to reform and reducing the risk of corruption. Within

most of the MOD's main departments and directorates there is a good understanding of corruption risks at the very senior level and the processes, or necessary adjustments, needed to tackle them.

5. The positive feedback from both MOD officials and many civil society organisations demonstrates that the strong anti-corruption message from the Government has been embraced by many key decision-makers. The overall affirmative input from a range of NGOs concerning the MOD's progress in addressing corruption was most encouraging. For the future, the MOD will need to ensure that there is a substantial, wide-ranging and sustained internal media campaign to disseminate the scope of the initiative and the changes required throughout the Ministry, its associated departments and subordinate institutions and organisations. This effort must address all personnel, both civil and military.

6. The Peer Review noted a number of examples of good practice in the Defence Ministry, including:

- a. A very clear and strong message from the Ministry leadership that corruption will not be tolerated and that strong transparency measures are being put into place. The clear rationale for anti-corruption measures is acknowledged by both the majority of MOD staff and by other government bodies and increasingly some of the major civil society organisations.
- b. The Government has published a "Handbook on Public Access to Information" to inform the public how they can request public information. This is considered good practice, and the principle of greater access to information was strongly supported in the MOD.
- c. The collaboration between the Audit Directorate and the National Defence Academy on establishing a training course to teach auditing for corruption is both proactive and considered a most positive step.
- d. The MOD intends to provide this report, once final, to the Parliament and also post it to the MOD website. This is a positive measure of openness and transparency. It also intends to discuss the BI Initiative at the next meeting of the Southeast Europe Defence Ministers (SEDM).

7. However, further major changes planned in the MOD (including budgetary devolution to brigades and bases) need to be supported with sufficient resources. In particular, where additional staff is required to effectively enforce anti-corruption measures, they must have the training and tools necessary to meet their responsibilities. Bulgaria is encouraged to make full use of bilateral programmes that may be offered to enhance national capacity and manage its anti-corruption initiatives, and to determine whether any appropriate NATO or other specialist tools which may be available within defence planning or other forums. The open and direct manner in which the MOD has taken on the challenge of improving transparency and building

greater integrity is impressive and can serve as an example for Allies and Partners alike.

8. The Peer Review Team offers the following general recommendations for Bulgaria's consideration:

- a. Procurement is correctly identified by the Bulgarian MOD as a high-risk area, and the corruption risks involved should be given increased attention. Procedures have been put in place to reduce corruption risks, such as the earlier commitment to utilise Defence Integrity Pacts during major equipment acquisitions, but consideration should be given to further enhancements during routine and less technical procurement such as increased civil society oversight, mechanisms to reduce single source purchases, additional technical training on the tendering process and the introduction of innovative tools such as e-procurement. However, follow up oversight and quality/delivery checks may further reduce corruption risk and improve value for money.
- b. The processes for disposal of surplus defence assets should be reviewed and strengthened. Both the procedures and the corruption risks of the asset disposal process are fully understood by senior staff but a review of mechanisms and the introduction of increased independent oversight may be beneficial. Additionally, consideration of the inclusion of a capital gains caveat in the selling contract whereby any future profits generated by subsequent onward selling are shared between the Government and entrepreneurs could be a useful revenue generator and increase integrity of sales. Particular attention should be given to obtaining and setting the fair market price for properties and to reviewing the processes involved. An ability to interact with and obtain better transparency with local municipalities concerning the setting of tax values should be sought, and with other parts of government involved in the disposal process.
- c. All aspects of promotion, assignments, and decisions on key and sensitive postings should be reviewed to ensure maximum transparency. A category of sensitive posts, i.e. posts that are more exposed to corruption risk than others, should be identified and given more scrutiny in the staffing process, separate from normal security vetting procedures. A policy of regular personnel rotation should be introduced, especially for those assignments in sensitive posts such as procurement and oversight. In addition, an appropriate balance should be determined between the numbers and seniority of military and civilian personnel in all divisions and teams in the new MOD structure.
- d. Education and training programmes to strengthen transparency, accountability and build integrity should be developed and conducted routinely for MOD staff, and all ranks of the military and civil services. This should include both initial and regular professional development training. Special consideration should be given to pre-deployment anti-corruption training and to specialist training on procurement and

financial management for those personnel and units being sent abroad. It is noted that such specialist training has already been initiated by the Audit and Inspectorate directorates in cooperation with the Military Academy. Ethics and integrity courses should become a standard element of education and training for civilian and military personnel throughout their careers. Additionally, a detailed training and enhanced oversight programme to prepare and sustain commanders and their staff for the devolution of budgetary control (currently scheduled for 2012) should be urgently considered; such an enhanced oversight programme should be extended until budgetary mechanisms have stabilised and are functioning correctly.

- e. The scope and the frequency of audits should be increased, and the personnel capacity of the audit directorate and inspectorate should be reviewed, and increased if resources allow. Unannounced audits should be introduced and special scrutiny should be applied to high-value procurement or asset disposals. Oversight of single source procurement should be increased and the level of single source acquisitions reduced where possible. Follow up audit mechanisms to improve value for money should be considered.
- f. Determined efforts should be made to disseminate the significance of the anti-corruption programme and its implications from the civil and military leadership of the MOD down to the lowest ranks of the organisation. A statement of core values and a combined, succinct and practical Code of Conduct that applies to both civil and military personnel in the ministry should be developed. For communication of both the Code of Conduct and other transparency measures to all personnel, an information campaign within the MOD should be introduced and sustained using all internal public relations mechanisms.
- g. Bulgaria's anti-corruption efforts have the potential to point the way forward for a number of other Allies and Partners. Consideration should be given on how best to secure a fruitful discussion and sharing of experience within the Alliance and EAPC. As Defence Ministers intend, the Peer Review Report should be shared with the wider public and interested civil society organisations as well as within the MOD. The intention to place this subject on the agenda of the next meeting of the Southeast Europe Defence Ministers is very welcome.
- h. Finally, the MOD should consider whether an internal action plan should be prepared to address the recommendations from this report and how best to take this advice forward. The BI experts could be requested to return for any follow-on action as necessary, to perform a review of progress (perhaps in conjunction with the completion of a shortened and adapted SAQ) or other assistance as determined by the MOD in consultation with NATO.

## **BULGARIA – BUILDING INTEGRITY SELF ASSESSMENT** **PEER REVIEW REPORT**

### **Detailed Findings and Comments**

#### **Democratic Control and Engagement**

1. A comprehensive White Paper on defence and the Armed Forces of the Republic of Bulgaria has been published, outlining the Bulgarian government's National Security Strategy and its implications for the armed forces. The White Paper has been widely discussed in the National Assembly and by the public and media. Transparency is an important plank of the White Paper, and it outlines plans to intensify communication from the MOD to the public.

2. Both the Foreign Affairs and Defence Committee, and the Anti-Corruption, Conflict of Interests and Parliamentary Ethics Committee of the National Assembly are active in monitoring the work of the MOD and in respect of general transparency and anti-corruption measures. The National Assembly has the authority to fix ceilings for manpower and determine the strength of the armed forces, and to scrutinise senior MOD leadership. A new Parliamentary Oversight Committee will be established, and will have responsibility for monitoring corruption among politicians and other senior figures. The Government has recently decided to establish an Anti-Corruption Centre under the Council of Ministers, to be staffed with 45 permanent positions and over 100 temporary personnel in its efforts to tackle the challenges in overcoming the endemic corruption problem. The centre is to be operational by mid-2011. Once established, it will be necessary to ensure that clear lines of authority for anti-corruption efforts are determined so that the new centre is able to effectively and efficiently function in coordination with other anti-corruption bodies.

3. Many active Bulgarian civil society organisations collaborate with the MOD or with other government bodies. The MOD has introduced a process for independent monitoring of procurements and has committed to further developing this mechanism. The MOD arranged for the Peer Review Team to meet with a number of civil society organisations, including the national chapter of Transparency International (Transparency Without Borders), the Open Society Institute, the Atlantic Club, the George C. Marshall Association, two academics involved in independent monitoring of MOD tenders (Prof. Tilcho Ivanov and Dr. Dimitar Dimitrov), the Centre for Liberal Strategies and the Konrad-Adenauer Stiftung. In general, those present at the meeting acknowledged the transparency measures undertaken by the MOD and voiced their support for them.

4. Rules on how defence and security information is classified exist but were not reviewed by the peer review team. Information on how much information is classified and how much is public was not obtained.

### Recommendation:

There was evident public debate and engagement on defence and security issues, with good public access to information in a number of areas and a political commitment to reducing the amount of information that is classified. The MOD should continue its engagement with Civil Society and the media and seek their views over time on the effectiveness of freedom of information arrangements on procurement and other areas of potential corruption risk.

### **National Anti-Corruption Laws and Policy**

5. It is clear from the SAQ; that a generally sound legal framework for integrity and anti-corruption is in place. This may need review and strengthening in light of experience to achieve the effective prosecution of offenders. A large number of suspected corruption cases in the MOD did not in the event lead to prosecutions. Information on the severity of penalties for corrupt practices was not available to the Peer Review Team; an assessment should be made in the light of experience to determine whether they are sufficient to deter corruption.

6. A Freedom of Information Act and a “Conflict of Interest Prevention and Disclosure Act” exist. Access to information has been improved significantly but it was beyond the scope of the Review Team’s meetings to assess its effectiveness. MOD officials were well informed about the access to information laws. Prevention of Conflicts of Interest was taken seriously; however, not all officials were aware of the significance of Conflicts of Interest policies, and how to apply them in practice. Civil society organisations suggested that the Freedom of Information Act was not yet sufficient.

7. A code of conduct for civil servants and code of conduct for military personnel have been developed. However, knowledge and understanding of these are not widespread. Asset declarations are completed by all officials in the MOD but not by their family members or spouses. These are kept on file and would be considered in the case of corruption allegations against an official. There did not appear to be any mechanism in place to review the declarations or to remind those making them periodically of their significance.

8. Bribery is covered in the Bulgarian Criminal Code but Article 303, which concerns consent of third parties, needs some clarification. Some laws may need review to better define the term “open market”, as state-owned companies are still able to provide services which are more readily available on the open market. Laws to protect whistleblowers are underdeveloped, both legally and in practice.

### Recommendations:

- a. MOD Conflict of Interest declarations are a good transparency mechanism, but are not exploited fully at present. More practical guidance should be given to officials and there should be regular

reviews of declarations and reminders of their importance. An anonymous hotline for officials who would like to know if a conflict of interest exists in a given situation should be considered.

- b. The use of asset declarations in case of corruption allegations can be a useful tool for investigators and prosecutors. To make them more effective and to avoid assets being purchased under another family member's name, they should also include close family members and spouses.
- c. Whistle blower protection should be given much more attention, and the government should consider giving legal protection to whistleblowers.

### **Anti-Corruption Policy in Defence and Security**

9. The Prime Minister, other members of Government and the MOD senior leadership speak out strongly on corruption and provide important and essential leadership. The MOD has a permanent anti-corruption council, but in some of the directorates, the awareness of corruption risks and policies needs improvement. General knowledge of what sanctions are being taken in practice against corrupt officials is also limited. Although a clause on post-employment separation exists (three years), it is not clear how this is overseen.

10. The Defence Minister has made his personal e-mail address available to MOD staff to encourage complaints and if necessary, whistleblowing. The military police also have a hotline currently in use for whistleblowers which uses email, fax or phone lines. Cases investigated by the MPs are referred to the Prosecutors with some six cases on-going in 2010, although with no convictions to date. The MPs require increased staff to perform their investigative responsibilities and improved training for leaders.

#### **Recommendations:**

- a. Oversight and regulations for post-employment should be reviewed to ensure effectiveness.
- b. Consideration should be given to a coordination mechanism for the various anti-corruption agencies at MOD, intra-governmental and regional level, to avoid duplication or gaps.

## **Personnel**

11. The Human Resources (HR) directorate prepares a monthly report including disciplinary proceedings related to corruption. This is not a public document but is contained in the report the MOD prepares for the National Assembly. Within HR in general, there is a very clear picture of where the main corruption risks lie, though action to address some aspects of them remains to be taken. The HR directorate is reforming its structure to address corruption risks and recognises that transparent personnel policies are needed in several areas.

12. The openness and transparency of the recruitment process in all MOD directorates is unclear, as is the extent of an unbiased board and promotion process for international postings, training, and operational assignments. A number of outstanding corruption risks in the appraisal system, selection for deployment abroad, housing eligibility and overseas training require attention.

13. A career development system appears to be in place for military personnel, but little personnel development appears to be available for civilian personnel.

14. The military academies and other training organisations conduct a very limited number of anti-corruption courses at present, while training and courses in ethics and integrity are rare at all rank levels. Financial training for commanders and support staff is not currently given for devolved budgets (to be introduced in 2012).

15. Basic military and civilian salaries are public, but details of the extra payments or bonuses are not easily accessible and in some cases these can exceed the basic pay scales. Review of the remuneration system for all public administration personnel to reduce reliance on the sensitive issue of bonuses should be considered because of the corruption potential which exists.

16. Regular personnel rotation occurs only for military posts and not for all positions. Rotation is not routinely used in some directorates of the MOD, including for sensitive posts. This situation increases corruption risk and needs improvement. It is not customary for civil personnel to rotate.

17. The allocation of military housing follows clear processes. It was beyond the scope of the SAQ to assess whether this process is sufficient to minimise corruption risks, but it would be worth ensuring that the system is fair and transparent.

### **Recommendations:**

- a. Selection procedures for assignment of personnel for overseas training and for operations abroad should be reviewed to ensure they are fully transparent.

- b. Promotion and rotation of both military and civilian personnel should be reviewed; rotation of personnel in sensitive positions (especially procurement and oversight posts) should occur on a regular basis. The staff mix between military and civilians in all departments should be reviewed to introduce an appropriate balance.
- c. A review of the remuneration system should be conducted with a focus on reducing reliance on the bonus system and improving its transparency.
- d. More use should be made of the military academies for ethics, integrity, and anti-corruption training. Integrity training should be introduced for all ranks, both civilian and military, and should consist of both initial modules and for regular professional development.
- e. A system for identifying corruption-sensitive posts in the MOD and the Armed Forces should be introduced as a priority (and distinct from normal security vetting procedures). These sensitive posts should be given more attention in terms of the selection process, and should be rotated routinely.
- f. Consideration should be given to the introduction of a long term and sustained major internal PR campaign to disseminate the BI and A-C initiatives to all military and civilian personnel and their organisations, together with the results achieved. In order to chart progress, reporting mechanisms should be developed and introduced in order to record changes (both positive and negative) and also to identify further change mechanisms required.

## **Planning and Budget**

18. Budget authority is centralised mostly at the level of the MOD with the services down to unit level and bases having almost no spending authority. Plans to reorganise the armed forces include the delegation of spending authority to lower levels in the next two years.

19. Cases of fraud in the remuneration process have been detected, and there is a good understanding of what went wrong in those cases. However, it is unclear whether this has resulted in a change of procedures. Oversight mechanisms are not fully explained, although the basic procedures appear sound. It is not clear how this translates into action and a proper culture in the directorate. A thorough life-cycle management system is in place, but requires clarification as to whether this is adhered to and understood in all concerned departments or directorates. Budget execution documents are published on the MOD website every three months.

20. The audit directorate is well aware of the importance of their role in detecting and preventing corruption, and is very knowledgeable on auditing. They report directly to the Minister and regular audits on budgets are performed. Unannounced audits do not take place, and there is no special

scrutiny of high-risk or high-budget projects. This appears both due to a lack of mandate and a lack of personnel. The number of auditors is, in international comparison, very small (15) and there are no auditors in the armed forces.

Recommendation:

- a. Action is required to enable the auditors to do unannounced and special audits. This will involve increasing the number of auditors, budget permitting, together with the ability to conduct follow-up audits in special cases. The current staff numbers tasked with audits appears very low for their oversight responsibilities. Consideration should be given to reviewing numbers and increasing capacity and capability as a 'spend to save' long term measure.
- b. Specialist training for sensitive tasks, such as procurement officials, and for devolved budgetary holders and their support and the associated oversight staff should be considered. Budgetary oversight during the transition phases (from central agencies to Brigades and base commanders) will need special oversight and possibly additional personnel.

**Operations**

21. At present, there is no mention in the SAQ reply of operational procedures or guidelines on corruption risks while on operations. The Joint Operational Command does not currently appear to address corruption in any form, or analyse corruption risks in pre-deployment planning for operations abroad. The general staffing process for selecting military personnel for deployment is clear; however, it is not clear how decisions are taken on specific individuals.

22. Pre-deployment training is conducted for troops on acceptable behaviour in theatre; but it does not specifically address corruption risks or situations. Such risks and situations are likely to become more acute as Bulgaria takes on responsibility for an Operational Mentoring and Liaison Team (OMLT) in Afghanistan.

23. There are no military auditors in the field as, due to centralised purchasing, no urgent operational requirements can currently be met in theatre. [see below in 'procurement']

Recommendation:

Pre-deployment training should be adapted to include awareness raising and practical guidance on corruption situations in theatre. Post-deployment debriefs should include collecting a unit's experience with corruption. This will enable the armed forces to identify lessons learned and to adapt pre-deployment training accordingly. The current lessons learned information and mechanisms would be useful to other

deploying forces, especially to Afghanistan, and consideration should be given to sharing this information.

## **Procurement**

24. The National Assembly has the right to approve or reject contracts over 100 million BGN (51.2 million Euros). There are plans to draft Integrity Pacts and to involve independent monitors in major procurement programmes. This has already been trialled during one procurement process in the MOD.

25. Various organisations are involved in procurement oversight. These include: Defence Investments, Defence Institute, Administration Service, Logistics, and the Military Police. The procurement process appears to be well defined and clear; however, corruption risks were identified in procurement, asset disposals and in leasing. There are no established tender boards. It was noted by several officials that personnel responsible for handling the tender process were not adequately trained and Bulgaria requested support in this area. There is no clear understanding among staff of the determining the “minimum military requirement” in acquisition and also that establishing best value for money in contracting was also a weak point.

26. Asset disposal is under control of the infrastructure directorate and a defence council makes the final decision on which properties will be listed for sale twice during each year. There is an annual list of property disposals published by the MOD, and these are posted on the MOD website (some 800 properties at present). The disposal process is clear but complex and includes various levels of decision-making, not all of which are within the MOD’s control. A major weakness was identified in the pricing mechanism for MOD properties, which is linked to the tax value established by regional authorities. It is unclear how equipment is priced and whether the disposal process is similar to the one followed for properties.

27. Urgent operational requirements have a special process through the MOD. In accordance with the current lack of budget authority at commander-level, there is no procurement on bases or in-theatre. The Peer Review Team understood that these undergo the same auditing procedures as regular procurement processes.

28. The rate of competitive versus single-source procurement was not made available and there is no offset requirement. However, it was noted that a special commission handles sole source and special procurement.

### Recommendations:

- a. Independent monitoring and defence integrity pacts (DIP) should be put in place for high-risk or high-value procurements (note this is already an MOD commitment) and consideration should be given to using the DIP oversight mechanism for major asset disposals. Additionally, consideration should be given to the introduction of

contract caveats (if possible within Bulgarian Law) to monitor onward selling of assets in order to retrieve capital gains for the Government.

- b. Review is needed of the system for valuing MOD properties to improve transparency and simplify all steps in the process. This may require legal changes. Linking the properties to the tax evaluation is not necessarily the best system, particularly when properties have higher tax value than market value, but also in the reverse case.
- c. The number of single source procurements should be reduced to an absolute minimum. Where single source procurement is necessary, it should undergo stricter auditing.
- d. An assessment should be performed of the skill levels of personnel tasked with the tender process and then a plan developed to provide appropriate training to all individuals requiring additional technical knowledge.

### **Engagement with Defence Companies and Other Suppliers**

29. The guidance on non-use of agents/intermediaries is not altogether clear. There is no mention of other engagement with defence companies in any of the SAQ responses, suggesting a very basic engagement with defence contractors. However, mention was made in the team's meetings of discussions with contractors. No mention was made of the integrity standards required, such as the Common Industry Standard (CIS).

30. There appears to be a high number of companies that are owned by the MOD. This leads to a risk of closed market conditions as the MOD is both buyer and de-facto seller at the same time.

#### **Recommendations:**

Where possible, defence companies owned by the MOD should become independent from the MOD and consideration be given to confirming whether the companies have endorsed the CIS. If companies have not adopted the CIS, then initiation of a remedial programme should be required. During procurements, all staff are to be made aware of the CIS and seek confirmation that suppliers are abiding by these standards.

## **Conclusions**

31. The thorough replies to the Self-Assessment Questionnaire and the openness shown in the peer review meetings demonstrate very clear leadership towards building integrity in the MOD and armed forces, which is clearly communicated by Ministers and other senior officials. Much progress has been made in identifying risks and establishing anti-corruption norms in the past year.

32. The government and in particular the MOD acknowledge that further action is needed to reduce the risk of corruption. The strong leadership demonstrated by the government and its wholehearted participation in the BI initiative are encouraging. The open acknowledgement of corruption risks is also a key element in moving forward.

33. The level of integrity building in defence and security establishments is mixed and will require a common and systematic approach managed from the highest level. Particular attention needs to be paid to aspects of human resources management and a number of significant risks in other areas.

34. Bringing together anti-corruption action across the Ministry requires a strong central authority and clear and simple guidelines that can be readily understood by everyone. An information campaign is needed to get the message across to all levels.

35. Sound anti-corruption action plans and effective training are essential tools in achieving progress. An encouraging start has been made, but more effort will be needed to see the process through, not least against the background of the structural changes being implemented as a result of the National Security White Paper.

### **Team Composition:**

Sir Stewart Eldon – Team Lead (UK)

Mr. Bruce Bach – NATO

Mr. Alan Waldron – Transparency International (UK)

Mrs Anne-Christine Wegener – Transparency International (UK)