

**STATE CAPTURE ESTIMATION
AND MONITORING OF
ANTI-CORRUPTION POLICIES AT
THE SECTORAL LEVEL IN EUROPE**
/SceMaps/

MAPPING REPORT

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D2.1. Mapping report

The current report maps the policy, market, institutional, technical and data availability aspects, related to state capture (SC) assessment in three economic sectors (wholesale of solid, liquid and gaseous fuels; wholesale of pharmaceutical goods; and construction) in four European countries (Bulgaria, Italy, Romania, and Spain). The assessment is based on the State Capture Assessment Diagnostics (SCAD) methodology, which describes SC as institutionalization of corruption relations which lead to virtual privatization of governance and thus instead of public goods, the state capture process delivers systematically and permanently private goods to the captors (or privatizers) of the government functions. Process-wise, state capture is the abuse of good governance rules (which includes abuse of power) in the process of drafting, adoption and enforcement of the rules themselves (including the laws) in favour of a small number of captors at the expense of society and business at large. SCAD models the abuse efforts by the business through national level indicators which reflect monopolization pressure and ineffectiveness of antimonopoly laws. At the sectoral level, additional indicators are monitored, providing proxies for a privileged status of a given business entity (company), including whether:

- it enjoys privileged access to public procurement;
- there is legislation or laws enhancing its market position;
- it has gained a privileged legal status shielding it from prosecution; or
- it receives preferential treatment in getting subsidies (most often, EU funds).

The information and data for the preparation of the report have been collected through desk research and limited number of informal interviews with relevant stakeholders or experts. The report is prepared in March – June 2019 and reflects the state-of-the-art as of this period.

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LIST OF ABBREVIATIONS

AADR	Agentia pentru Agenda Digitală a României
ADF	Association of Pharmaceutical Distributors
AEMPS	Spanish Agency for Medicines and Health Products
AEUF EA	Audit of European Union Funds Executive Agency
AGCM	Italian Antitrust Authority
AGECAM S.A.	Energy Agency of Castilla La Mancha
AGENEX	Extremadura Energy Agency
AIET	Tenerife Energy Agency
ANAC	National Anticorruption Authority
ANCE	National Association of Construction Firms
ANCPS	National Association of Cooperatives of Production and Services
ANM	The National Agency for Medicines & Medical
ARGEM	Agencia de Gestión de la Energía de la Región de Murcia
AVEN	Valencian Energy Agency
BAMPTD	Bulgarian association for medicines parallel trade development
BCCI	Bulgarian Chamber of Commerce and Industry
BFIEC	Bulgarian Confederation of Industrial Energy Consumers
BOE	Spanish Official Gazette
BORME	Boletín Oficial del Registro Mercantil
BVD	Bureau van Dijk
CACIAF	Commission for Anti-Corruption and Illegal Assets Forfeiture
CIPM	Inter-Ministerial Commission for Pharmaceutical Prices
CLH	Compañía Logística de Hidrocarburos
CNA	National Confederation of Craftsmanship and SME
CNAS	The National Health Insurance House
CNMC	National Commission of Markets and Competition
CNMV	Comisión Nacional del Mercado de Valores
CONSOB	National Commission for the Society and the Stock Market
CPC	Commission for Protection of Competition
CSD	Center for the Study of Democracy
CUI	fiscal code number
EFPIA	European federation of Pharmaceutical Industries
EMI	Institute for Energy Management
EPI	Economic Policy Institute
EREN	Castile and León Energy Agency
EVE	Energy Agency of the Basque Government
EWRC	Energy and Water Regulatory Commission
FENERCOM	Energy Agency of the Region of Madrid
ICAEN	Catalan Energy Institute
IME	Institute for Market Economics

INEGA	Instituto Enerxético de Galicia
ISC	State Inspectorate for Constructions
ISTECO	Institution for the Technological Development in Construction
MACPI	Monitoring Anti-Corruption Policy Implementation
MDRAP	Ministry of Regional Development and Public Administration
NAO	National Audit Office
NCA	National Customs Agency
NEC	National Electric Company
NRA	National Revenue Agency
OICE	Association of Italian Engineering, Architectural and Technical Economic Consulting Organizations
OLAF	European Anti-Fraud Office
PNDL	National Program for Local Development
PVL	maximum industrial price
RA	Registry Agency
SC	state capture
SCAD	State Capture Assessment Diagnostics
SNA	National Anticorruption Strategy

1. POLICY, MARKET AND INSTITUTIONAL ASPECTS OF STATE CAPTURE PREVENTION

State capture is a term that was originally coined in 2000 by Hellman, Jones, & Kaufman¹ to reflect the prevalence of illegal lobbying practices as they were reported in a quantitative business survey organized by the World Bank. Their definition is very narrow and focused around illegal lobbying practices in Eastern European countries. Since then the term has been more and more widely used in a variety of contexts and in a much broader sense than the original one. It has been used by scholars, journalists, politicians and public officials to address different cases of proven or alleged corruption. Many of these cases are completely consistent with classical terms representing corruption phenomena such as bribery, clientelism, conflict of interest, fraud, etc. State capture is often used interchangeably with notions like procurement capture, oligarchy, kleptocracy, grand corruption, etc.

The current analysis employs the definition of the concept and the underlying theoretical and methodological framework, as developed by Stoyanov, Gerganov, Yalamov (2019):²

“State capture is an organized nexus of institutions, which mimic the institutions of deliberative democracy but instead of public goods delivers systematically and permanently private goods to the captors (or privatizers) of the institutions.... In its essence, state capture is the abuse of good governance rules (which is also abuse of power) in the process of drafting, adoption and enforcement of the rules themselves (including the judiciary rules) in favour of a small number of captors at the expense of society and business at large.

...

The functional nature of the capture process – the acquisition of privileged status in a given public sector – can be achieved not only by impacting on the adopted regulations and rules, but also through other mechanisms. Therefore, at a general level, state capture could be described as virtual long-term privatization of the state functions which ensures a systemic privilege for captors....”

Since state capture is a deeply hidden phenomenon, most of the evidence for its presence are highly anecdotal and qualitative in nature (separate ad-hoc cases). Reliable quantitative estimates are very few³ and they focus on vulnerabilities and symptoms of state capture rather than the direct measurement which is impossible. While anecdotally Bulgaria

¹ Hellman, J.S., Jones, G., & Kaufman, D. (2000). *Seize the State, Seize the Day: An Empirical Analysis of State Capture and Corruption in Transition*.

² Stoyanov, A, A. Gerganov & T. Yalamov (2019) *State Capture Assessment Diagnostics*, Center for the Study of Democracy, Sofia, pp. 174.

³ Ibid.

has been used as a practical example of state capture in popular writings on the topic (e.g. Wikipedia's page on state capture),⁴ a serious analysis of the problem should rely on a coherent model and approach and single cases (regardless of whether proven or allegations only) should be used carefully and only as an inspiration for quantitative instruments capable of assessing vulnerabilities, risks and potential symptoms of state capture. However, the key characteristic of state capture is the public traces it leaves behind. Because it needs to affect public policy so as to bend it to its will, it is bound to leave public traces which can be discovered by suitable pattern-finding methods.⁵

The current report maps the policy, market, institutional, technical and data availability aspects, related to the state capture (SC) assessment in three NACE rev. 2 economic sectors (wholesale of solid, liquid and gaseous fuels; wholesale of pharmaceutical goods; and construction), pre-selected based mainly on the SCAD results and other previous research on state capture, conducted by CSD. It compares four countries – Bulgaria, Italy, Romania, and Spain, and is designed to both limit the scope of the planned research and collect data and information required for the forthcoming analytical tasks.

Despite the fact that the notion of state capture is used publicly by media, politicians, experts and general public in the four countries, the mapping exercise was not able to find even a single case when it is used as a term in the legal frameworks of these countries, unlike the term corruption, which exists in all of them. Thus, there is no specific law or by-law regulation which is focused on tackling the state capture phenomenon in its complexity in the four countries. However, all of them do have specialized policies, institutional and legal frameworks focused on anti-corruption, anti-monopoly, conflicts of interests and integrity of public officials – all aspects of a system tackling state capture.

The next sub-chapter reviews the general policy and institutional aspects related to the issue of state capture and anti-corruption policies in each of the four countries. It is followed by a more detailed mapping of the relevant policy, institutional and market frameworks in each of the pre-selected economic sectors. The second chapter then maps availability and accessibility of data in the four countries regarding companies' and procurement registers, information sources of specialized regulatory, licensing or controlling authorities, etc. This information will be used in the forthcoming big data analytics and assessment of state capture issue on sectoral level.

⁴ https://en.wikipedia.org/wiki/State_capture

⁵ Stoyanov, A, A. Gerganov & T. Yalamov (2019) State Capture Assessment Diagnostics, Center for the Study of Democracy, Sofia, pp. 174, p. 15.

1.1. OVERVIEW OF ANTI-CORRUPTION AND GOOD GOVERNANCE PERFORMANCE

The Country Specific Recommendations and the corresponding Country reports of the European Semester in the period 2016 – 2019 highlight the existence of corruption as a major problem for each of the four countries under review in this report: Bulgaria, Italy, Romania and Spain. Yet, the respective trends and the specific recommended actions are quite diverse. In all of the countries, except Spain, the official assessments contain state capture prone risks. These include specific risks in public procurement related to corruption and other governance irregularities and deficits, the lack of or inefficient implementation of regulations regarding conflicts of interests and lobbying, as well as the regulatory and administrative burdens on free competition, which create favourable conditions for monopolization or high market concentration in specific sectors. Neither the recommendations, nor the country reports raise the issue of state capture, even though some of the findings and the corresponding conclusions could be seen as signs for existence of this phenomenon.

Romania is being pointed out as an example of a country that went through a phase of widespread political corruption. Then it was noted that in 2017 the country made “substantial progress on much of the reform of the judicial system and the investigation of high-level corruption”.⁶ But in 2018 and 2019 “the progress in the fight against corruption has suffered significant setbacks”⁷ due to the pattern of pressure on the key anti-corruption institutions, coming from the government. The government’s actions have targeted particularly the National Anti-Corruption Directorate, trying to influence its work and to limit its independence.⁸ In addition, the numerous amendments to the laws have undermined the independence of judges and prosecutors and public confidence in the judiciary.⁹ Despite the partial success in the fight against corruption, Romania’s progress on reforms of public administration is deemed limited; thus, state capture could become a serious threat. The 2018 Country Report mentions high levels of corruption in the procurement of pharmaceuticals, which is a sectoral focus on the current analysis. The report further explicitly mentioned that corruption, patronage and nepotism are still hampering doing business in the country, thus enabling state capture.

Since 2000, when the World Bank produced the first comprehensive study on corruption in the country – Diagnostic Surveys of Corruption in Romania – five consecutive national anti-corruption strategies have been implemented. The more recent one, which applies for the period 2016-2020, is centred on increasing transparency across all economic sectors, including a focus on state-owned enterprises. While in the beginning the emphasis was placed on legislative measures and on setting-up

⁶ European Commission. *Country Report Romania 2017*, p. 11.

⁷ European Commission. *Country Report Romania 2019*, p. 6.

⁸ European Commission. *Country Report Romania 2019*, p. 56.

⁹ Ibid.

institutions, more recently the preventive mechanisms, in particular fiscal transparency, codes of conduct and rules for tackling revolving-door phenomenon are in the focus. With self-assessments and peer-to-peer evaluations (some of the evaluation teams included also representatives of civil society) the anticorruption agenda has become a mainstay for the country and part of the day-to-day activities of public institutions and state-owned enterprises.¹⁰

Bulgaria appears in the Semester framework as the country with the highest obstacles to doing business due to bureaucracy, corruption and regulatory and policy framework instability throughout the whole period 2016 – 2019.¹¹ The 2019 European Semester Country report mentioned also that political interference in the work of the public administration leads to frequent legislative changes¹² which could be a warning sign of state capture. However, some progress has been achieved by the country during the years. For instance, the 2016 Country report assessed the institutional setting tasked with preventing and combating corruption as not being strong enough, including that the parliament had not been able to establish a unified anti-corruption authority.¹³ In 2019 the Country report underlined that the fight against corruption remains a challenge and results unclear despite the fact that in 2017 and 2018 “Bulgaria adopted a comprehensive reform of its anti-corruption legislation and established a new unified anti-corruption agency.”¹⁴ Despite the achieved progress, the independence of the judiciary – from the political and economic elites, is seen as another major obstacle for both the business environment and public sector reforms.¹⁵ The European Commission also reported political interference in public administration leading to frequent legislative changes which could be a sign of state capture.¹⁶ The area of public procurement in the country is assessed throughout the whole period, as focal point for all risks and issues related to corruption, governance deficits and state capture, even though the latter is not named in this way. Both the Commission and the Council recommendations underlined that as of 2016 “the public procurement system in Bulgaria continues to suffer from structural weaknesses, including systematic irregularities in procurement procedures, lack of administrative capacity and deficient control mechanisms”,¹⁷ and no specific achievements in e-procurement.¹⁸ However, in 2018 both the Commission and the Council noted that there is some progress in the implementation of the 2014 – 2020 National Public Procurement Strategy, including the start of the e-public

¹⁰ Country Mapping Report: Romania. SceMaps project working document (unpublished).

¹¹ European Commission. *Country Report Bulgaria 2016*. Commission Staff Working Document. (2016), p. 11.; European Commission. *Country Report Bulgaria 2019*. Commission Staff Working Document. (2019), p. 7.

¹² European Commission. *Country Report Bulgaria 2019*, p. 56.

¹³ European Commission. *Country Report Bulgaria 2016*. Commission Staff Working Document. (2016), p. 11.

¹⁴ European Commission. *Country Report Bulgaria 2019*. Commission Staff Working Document. (2019), p. 7.

¹⁵ Ibid.

¹⁶ European Commission. *Country Report Bulgaria 2019*, p. 56.

¹⁷ European Council. *Council Recommendation on the 2016 National Reform Programme of Bulgaria and delivering a Council opinion on the 2016 Convergence Programme of Bulgaria*. (2016), p. 3.

¹⁸ European Commission. *Country Report Bulgaria 2017*. Commission Staff Working Document. (2017), p. 11.

procurement but the issue of corruption in this domain has still not been resolved.¹⁹ Fair and free market competition in public procurement has remained an issue.²⁰ The Commission and the Council also highlighted that the limited results in the fight against corruption – and particularly against top-level political corruption, are reflected in public perceptions, which ranks Bulgaria as one of the most corrupt countries in Europe.²¹

In the last two years, multiple allegations and evidence-based investigations by journalists, anti-corruption experts and civil society organisations have been released in Bulgaria. They all point to persistent cases of state capture risks, including top-level political corruption, conflicts of interests, monopolization of business sectors and violated integrity rules in key economic sectors, such as construction and energy, as well in the domain of public procurement. However, the responsible authorities, including the prosecution service and the newly established anti-corruption agency, have either not started investigations or have white-washed the suspected high-level politicians and politically backed-up oligarchs.²² Thus, the regulatory and controlling institutions and law-enforcement organisations have been also been suspected of capture by private (political or economic) interests rather than being instrumental for tackling state capture.²³

Italy has made some progress in anti-corruption policies for the period 2016 – 2019. In the beginning of the period, corruption has been highlighted by both the EC and the Council as a critical issue in the country, which persists on high societal level, links with organized crime and affects the private sector and large public works.²⁴ As of 2019 the new anti-corruption law and stronger preventions ensured by the National Anti-corruption Authority have improved the anti-corruption framework.²⁵ However, “the low efficiency of the criminal justice system is still preventing the prosecution of corruption, and a much-needed reform of the criminal trial and appeals system is at a very preliminary stage.”²⁶ At the same time, the country failed to progress in addressing restrictions to competition particularly in the retail sector and in business services.²⁷ Over-regulation and significant barriers to competition have remained in important sectors, including retail, professional services, local public services, concessions and the transport sector²⁸ and market opening measures need to be supported by a more business friendly environment, which prevents the preconditions for monopolization.

¹⁹ European Commission. *Country Report Bulgaria 2018*. Commission Staff Working Document. (2018)

²⁰ European Commission. *Country Report Bulgaria 2018*, p. 41.

²¹ European Commission. *Country Report Bulgaria 2018*, p. 45.

²² Country Mapping Report: Bulgaria. SceMaps project working document (unpublished).

²³ See also Center for the Study of Democracy. (2016) *State Capture Unplugged: Countering Administrative and Political Corruption in Bulgaria*.

²⁴ European Commission. *Country Report Italy 2016*, p. 68.

²⁵ European Commission. *Country Report Italy 2019*, p. 6.

²⁶ Ibid.

²⁷ European Commission. *Recommendation for a Council Recommendation on the 2019 National Reform Programme of Italy and delivering a Council opinion on the 2019 Stability Programme of Italy*. (2019), p. 12.

²⁸ European Commission. *Country Report Italy 2017*. Commission Staff Working Paper. (2017), p. 3.

Corruption and other bad-governance practices are assessed as being widespread in public procurement in the country in the beginning of the period²⁹ but both the Commission and the Council have not mentioned public procurement as an issue afterwards.

The conclusions of independent researchers also confirm the persistence of corruption as having deep roots in Italy and being underestimated for years. This allowed corruption to penetrate the Italian economy and social structure, becoming also the main instrument used by organized crime to consolidate its power.³⁰ Indeed, since the “Tangentopoli”³¹ scandal of 1992, corruption has been perceived as a prevalent problem. However, Italy lacked consistent interventions against corruption for almost twenty years, that is until the promulgation of Law 190/2012,³² which can be considered as the first comprehensive legislation against corruption. The main sector of risk is public procurement³³ and health. Furthermore, the energy sector, which includes large state-owned companies, which are more vulnerable to ineffective use of public funds and deficits in their governance practices and standards is seen as vulnerable to state capture risks, where private interests significantly influence the decision-making processes to their own advantage.³⁴

Spain failed to develop a national corruption prevention strategy in the years after 2016 even though this is one of the persisting recommendations by both the Commission and the Council along the whole period.³⁵ However, the European Semester reports underline that there is slow progress in implementing anti-corruption plans and establishing respective agencies in some autonomous regions and separate municipalities, which have created wide regional variations in the quality of governance.³⁶ In addition, despite the surge in corruption investigations involving cases at the local and regional levels, the central government failed to improve the regulatory and institutional framework on both the central level and across government levels. The degree of independence of the Office of Conflicts of Interest, established in 2018, has remained low and there is a lack of regulation of lobbying.³⁷ Free competition has also been hampered by some sector specific regulations, which “constitute barriers to entry that can be an important brake to investment”.³⁸ Thus, the Commission recommendation from the beginning of the period for accelerating the implementation of the law on market unity by the

²⁹ European Commission. *Country Report Italy 2016*. Commission Staff Working Paper. (2016), p. 65.

³⁰ Costantino, Fabrizio. 2018. “Prevenire la corruzione in Italia. Modelli di risk management”. Franco Angeli. La Spina, Antonio. 2017. “Il mondo di mezzo. Mafie e antimafie”. Il Mulino.

³¹ The “Tangentopoli” scandal, also known as “cleaning hands” operation was the first big-scale judicial investigation into political corruption in Italy held in the 1990s. *Mani pulite* led to the demise of the so-called “First Republic”, resulting in the disappearance of many political parties.

³² Gazzetta Ufficiale. 2012. <https://www.gazzettaufficiale.it/eli/id/2012/11/13/012G0213/sg>

³³ See for example: PwC. 2016. ‘Public Procurement – Study on Administrative Capacity in the EU. Italy Country Profile’. Public Procurement – Study on Administrative Capacity in the EU. Brussels: European Commission. https://ec.europa.eu/regional_policy/sources/policy/how/improving-investment/public-procurement/study/country_profile/it.pdf

³⁴ Country Mapping Report: Italy. SceMaps project working document (unpublished).

³⁵ European Commission. *Country Report Spain 2019*, p. 73.

³⁶ Ibid.

³⁷ European Commission. *Country Report Spain 2017*, p. 57.

³⁸ European Commission. *Country Report Spain 2016*. Commission Staff Working Paper. (2016), p. 9.

autonomous regions has been only partially fulfilled recently. Only slow progress has been made to ensure that sectorial legislation in the regions in respect to the principles of necessity and proportionality.³⁹

In Spain there is no specific law focused on the fight against corruption and/or aspects of state capture. The last attempt to pass such legislation by the Congress of Deputies, the Spanish parliament, was in 2016, but due to lack of agreement among the major political parties, the proposed bill has expired as of today.⁴⁰ The Anti-Corruption Prosecutor's Office⁴¹ was created in 1995, but its activities are still controversially evaluated due to the fact that the prosecution service is highly hierarchical, and thus depends on the government of the moment.⁴² In addition, there is no national level legislation to regulate lobbying so high-ranking government officials are not required to be transparent and accountable for their relations with interest groups or private companies. The Transparency Law,⁴³ which regulates both what information state authorities are required to make publicly available and the procedure for citizens' access to public information, also does not refer to lobbying, and the accountability of (senior) public officials is left to the discretion of the respective authority or person.⁴⁴

1.2. ANTI-CORRUPTION AND STATE CAPTURE INSTITUTIONAL FRAMEWORK: GENERAL AND SECTORAL DIMENSIONS

Every country has developed its own institutional framework that regulates state capture and anti-corruption policies on local, regional and national level. Next paragraphs review the relevant institutions and their functions, operating on cross-sectoral level and responsible for the system of check-and-balances, which is put in place to prevent, mitigate and sanction risks of state capture and corruption in the respective country. The information derived from the mapping will feed the elaboration and implementation of the state capture assessment tools that will be employed during the planned forthcoming research and monitoring.

ROMANIA

The major specialized anticorruption bodies in Romania are the National Anticorruption Directorate,⁴⁵ which functions as a prosecution office for high-level corruption, the General Anticorruption Directorate at the

³⁹ European Commission. *Country Report Spain 2017*, p. 50.

⁴⁰ http://www.congreso.es/public_oficiales/L12/CONG/BOCG/D/BOCG-12-D-519.PDF#page=29

⁴¹ https://www.fiscal.es/fiscal/publico/ciudadano/el_ministerio_fiscal/organizacion_ministerio_fiscal/fiscalias_especiales/!ut/p/a1/04_Sj9CPykssy0xPLMnMz0vMAfGjzOI9HT0cDT2DDbzcFszcDBzdPYOdTD08jP19TYEKlpEV-Hv4GgEVGPqGmli6GBsYmJGoH1WBRZAJcfoNcABHA0L6w_

⁴² Country Mapping Report: Spain. SceMaps project working document (unpublished).

⁴³ <https://www.boe.es/buscar/doc.php?id=BOE-A-2013-12887>

⁴⁴ Country Mapping report: Spain. SceMaps project working document (unpublished).

⁴⁵ www.pna.ro

national police,⁴⁶ which is responsible with investigating corruption within the Ministry of Internal Affairs, the National Integrity Agency⁴⁷ – an administrative agency in charge with declarations of assets and conflicts of interests and the Department for the Fight against Fraud,⁴⁸ which is the national counterpart of the European Anti-Fraud Office (OLAF).

The main regulatory and controlling authorities that have functions related to monitoring and tackling state capture and anti-corruption at the market are the Competition Council,⁴⁹ the National Agency for Fiscal Administration⁵⁰ and the Customs.⁵¹ In the area of procurement two specialized entities operate: the National Authority For The Regulation And Monitoring of Public Acquisitions⁵² and the National Council for Solving Complaints.

BULGARIA

State Authorities

The **Commission for Anti-Corruption and Illegal Assets Forfeiture**⁵³ (CACIAF) was created in 2018 and combined the former Commission for Prevention and Ascertainment of Conflict of Interest with the Commission for Illegal Assets Forfeiture. Since CACIAF was established, its activities have been often questioned as being politically-motivated and influenced by private interests. CACIAF 2018 Annual Report⁵⁴ announced that the institution seized assets for EUR 3.4 mln., found irregularities in over 700 asset declarations of public officials,⁵⁵ worked with the prosecution on 343 cases of corruption, and received and processed 701 signals. Yet there has not been a single case of top-level official to be sanctioned, not even among the cases with the highest public interest, such as the deliberate bankruptcy of the country's fourth largest lender, Cooperative Commercial Bank in 2016. In the latter case the court rejected the commission's decisions. At the same time the head as well as the deputy head of the commission were both implicated in high profile real estate scandals,⁵⁶ which shook the country in 2019 and led to the resignations of several top level officials. According to the results of the pilot State Capture Assessment Diagnostics (SCAD) evaluation for Bulgaria,⁵⁷ which covers 2017, i.e. the period before CACIAF was established, the two

⁴⁶ www.mai-dga.ro

⁴⁷ www.integritate.eu

⁴⁸ www.antifrauda.gov.ro

⁴⁹ <http://www.consiliulconcurentei.ro>

⁵⁰ www.anaf.ro

⁵¹ www.customs.ro

⁵² www.anrmap.ro

⁵³ <http://www.ciaf.government.bg/pages/view/za-komisijata-3/>

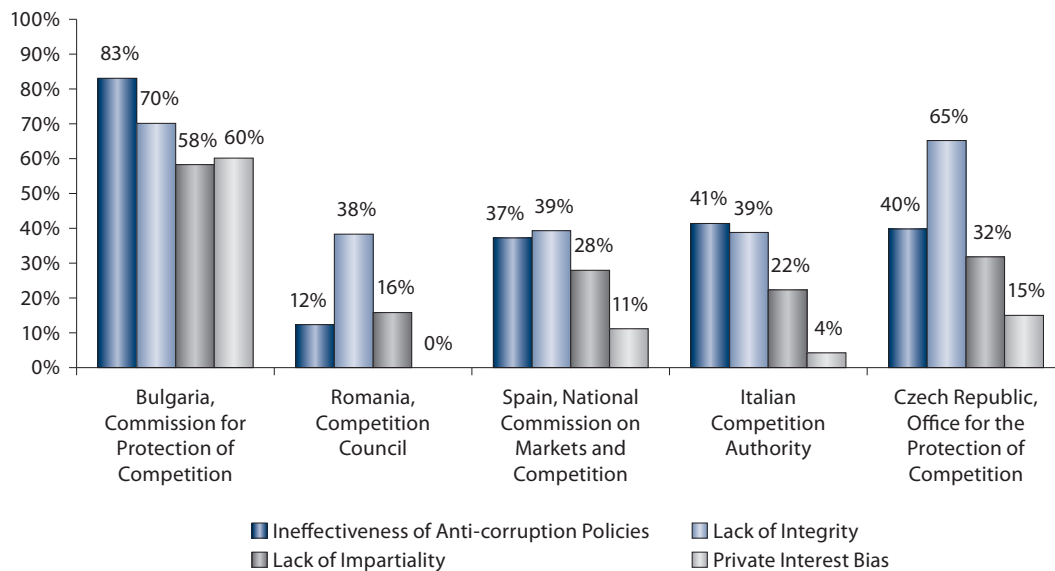
⁵⁴ <https://www.parliament.bg/bg/parliamentarycommittees/members/2594/reports/ID/10060>

⁵⁵ <https://dariknews.bg/novini/bylgariia/kpkonpi-v-nad-700-podadeni-deklaracii-ot-minalata-godina-ima-propuski-ili-nesyotvetstviia-2153379>

⁵⁶ <https://bivol.bg/en/bulgarias-anti-corruption-boss-fails-to-declare-thousands-for-purchased-properties.html>; <https://euelectionsbulgaria.com/is-the-chief-of-the-fight-against-corruption-in-bulgaria-corrupt/>; <https://bivol.bg/en/deputy-of-bulgarias-anti-corruption-boss-also-fails-to-declare-full-price-of-apartment-and-terrace.html>

⁵⁷ Stoyanov, A, A. Gerganov & T. Yalamov (2019) State Capture Assessment Diagnostics, Center for the Study of Democracy, Sofia, pp. 174.

FIGURE 1. STATE CAPTURE INDICATORS BY INSTITUTION



Source: Stoyanov, A, A. Gerganov & T. Yalamov (2019) *State Capture Assessment Diagnostics*, Center for the Study of Democracy, Sofia.

independent bodies which were merged into it, were ranked among the most vulnerable to state capture among the 33 evaluated institutions regarding ineffectiveness of anticorruption policies, lack of integrity, lack of impartiality, and private interest bias.

The Bulgarian **Commission for Protection of Competition**⁵⁸ (CPC) is empowered to enforce the Law on Protection of Competition, the Public Procurement Law and the Concessions Law. The CPC scope of activity covers all requests on ascertaining infringements of free market competition, direct enforcement of the provisions of Art. 81 and Art. 82 of the EC Treaty, cooperation with the European Commission and the other national competition authorities of the EC member states, conducting sector analyses and competition advocacy. Under the rules and procedures, envisaged by the Public Procurement Law and the Concessions Law, the Commission examines the appeals on lawfulness of a decision, actions or lack of actions/omissions of the contracting authorities or concessioners in the public procurement or concession awarding procedure. The CPC has been consistently criticized for failing to find monopoly⁵⁹ where multiple independent experts, think-tanks and watchdog organizations warned for issues⁶⁰ (e.g. in energy and construction sector). In the SCAD assessment the CPC received among the worst ratings from the 33 na-

⁵⁸ <https://www.cpc.bg/default.aspx>

⁵⁹ <https://sofiaglobe.com/2017/05/26/bulgaria-watchdog-ends-lukoil-anti-trust-probe-finds-no-wrongdoing/>; <https://sofiaglobe.com/2017/03/29/bulgarias-competition-watchdog-ends-fuel-cartel-investigation-without-fines/>

⁶⁰ CSD, 2016, *State Capture Unplugged: Countering Administrative and Political Corruption in Bulgaria*, Center for the Study of Democracy, Sofia, 2016.

tional organizations, ranked 4th or 3rd in the different capture indicators and also – the worst assessments from the five anti-trust authorities in Bulgaria, Romania, Spain, Italy, and Czech Republic.⁶¹

The **National Revenue Agency** (NRA)⁶² incorporates the collection and administering of state taxes (income tax, patent taxes, VAT, corporate taxes) and obligatory social security contributions (health insurance contributions, pension insurance contributions, contributions for additional mandatory pension insurance, etc.). NRA has the most developed procedures for assessing risks and vulnerabilities to financial frauds at the sectoral level and has achieved steady progress on improving the collection of excise duties, incl. in whole- and retail-sale of fuels, and decreasing the size of grey economy in some sectors, e.g. energy, tourism, retail trade, etc. The overall level of informality and tax evasion though remains high and an issue of concern.

The **National Audit Office** (NAO)⁶³ exercises control over the implementation of the budget and other public funds. The main task of the National Audit Office is to control the reliability and truthfulness of the financial statements of budget-funded organizations, the legality, efficiency, and effectiveness of public funds management. NAO is independent in performing its operations and reports directly to the National Assembly and, until now, is one of the institutions that have managed high level of general integrity and have not been involved in any substantial case of suspicion activity.

National Customs Agency (NCA)⁶⁴ is an independent unit to the Minister of Finance, structured in a Central Customs Directorate and in five territorial directorates, and is responsible for the effective management of the national custom points and the respective policies.

The **Public Procurement Agency**⁶⁵ was established in accordance with the Public Procurement Law since 2004, and is subordinated to the Minister of Economy. The Agency's main priority is to ensure the efficiency of the public procurement system. In the last decade it has developed and implemented a public register, where all public procurement bids and contracts are accessible and recently have started work on a project for implementation of the complete e-procurement system, which should start working since 2020.

The **Audit of European Union Funds Executive Agency** (AEUF EA)⁶⁶ is a body responsible for carrying out specific audits on EU funds and programmes across all sectors in the country in line with international agreements for EU funding, applicable EU regulations on management and control of the funds provided by all funds, mechanisms and programmes where Bulgaria

⁶¹ Stoyanov, A, A. Gerganov & T. Yalamov (2019) State Capture Assessment Diagnostics, Center for the Study of Democracy, Sofia, pp. 174.

⁶² <https://nap.bg/en/page?id=513>

⁶³ <http://www.bulnao.government.bg/en>

⁶⁴ <https://customs.bg/wps/portal/agency-en/home>

⁶⁵ <http://www.aop.bg/index.php?ln=15tgfvx>

⁶⁶ <http://www.aeuf.minfin.bg/en/>

receives EU and other donors funding.⁶⁷ It manages a publicly accessible centralized database with major information about all projects, funded by European funds in the periods 2007 – 2014 and 2015 – 2020.

The **Registry Agency** (RA)⁶⁸ is the public organization which maintains several important registers, including the company register (or “trade register”), the BULSTAT register, which includes the recordings of all legal entities outside the company register, the property register, etc. All of these registers contain both structured data in machine-readable format, as well as unstructured information with full-text records (e.g. picture-based PDF files with scanned documents, submitted by companies to both the RA and the National Statistical Institute as part of their obligation for annual financial reporting). All registers and all data, incl. full-text documents, are publicly available, even some of the registers require paying fee for making inquiries.

NGO's and branch/business associations

There are several major national-wide business associations that could be instrumental to the implementation of good governance standards in the management of business enterprises, including in their relations with the state authorities and the use of public funds. However, despite the fact that some of them have their own code of conduct, there are only few cases in the last years when these associations have warned on or tried to prevent and tackle state capture and corruption, and in most of these case, it comes to the private interests of their major members. Among the biggest are: the *Bulgarian Industrial Association Union of the Bulgarian Business*,⁶⁹ the *Bulgarian Chamber of Commerce and Industry*⁷⁰ and the *Council of Sectorial Organisations*,⁷¹ which was established and operates with BCCI with the main objectives to facilitate the dialogue between public institutions and businesses, and the *Confederation of Employers and Industrialists in Bulgaria*.⁷²

There are also several independent think-tanks and watch-dog institutions in the country dealing with policy analyses of state-capture and anti-corruption. Among them the oldest and most influential one is the **Center for the Study of Democracy** (CSD),⁷³ founded in 1989, which pioneered the development and implementation of state capture assessment methodologies in the country,⁷⁴ Central and Eastern

⁶⁷ AEUF EA also carries out functions of audit and/or certification body for EU programs and funds, as well as for bi- and multi-lateral programs and initiatives (e.g. the Financial Mechanism of the European Economic Area and the Norwegian Financial Mechanism or the Bulgarian – Swiss Cooperation Programme).

⁶⁸ <https://www.registryagency.bg/en/>

⁶⁹ <https://en.bia-bg.com/>

⁷⁰ <https://www.bcci.bg/en.html>

⁷¹ <http://www.bcci.bg/members-en.html>

⁷² <http://krib.bg/en/>

⁷³ <https://csd.bg/>

⁷⁴ See for example CSD (2004) Corruption practices and prevention of corruption (only in Bulgarian); CSD (2010) Civil Society in Bulgaria: Trends and Risks; CSD (2014) Anticorruption policies against state capture; CSD (2016) Shadow Power: Assessment of Corruption and Hidden Economy in Southeast Europe.

Europe and Western Balkan countries, as well as on European level. CSD developed and implemented for more than fifteen years the *Corruption Monitoring System* in Western Balkan countries – a state of the art survey-based victimisation approach that has been acknowledged as the best national monitoring system for corruption by the United Nations. Recently, CSD has developed and implemented in the region the innovative SCAD methodology in combination with the Monitoring Anti-Corruption Policy Implementation (MACPI) Toolkit as a comprehensive set of tools developed to monitor the state capture and anti-corruption activities on national, sectoral and single-institution levels.

Other major NGOs, acting as watchdogs of free competition, good governance and market economy are the Economic Policy Institute (EPI)⁷⁵ and the Institute for Market Economics (IME).⁷⁶ EPI was founded in 1997 and specializes in policy recommendations in a wide range of spheres based on economic research and interdisciplinary analyses. IME was founded in 1993 and its main objectives are to provide independent assessment and analysis of the government's economic policies and to be a focal point for an exchange of views on market economics and relevant policy issues. Transparency International⁷⁷ also has a chapter in Bulgaria. A more recent player in the field has been the Anti-Corruption Fund,⁷⁸ which has engaged in more investigative journalism approach.

ITALY

State authorities

Italy features different **public authorities** playing an important role in the regulation and control of the whole economy regarding prevention and fight against state capture and corruption.

The **Italian Antitrust Authority**⁷⁹ established in 1990, is in charge of the control of the competition and the market; safeguarding of costumers and enterprises against commercial practices, misleading and comparative advertising and unfair clauses in the contractual relations; and prevention of possible conflicts of interest involving members of government, among others.

The **National Anticorruption Authority** (ANAC)⁸⁰ was established in 2012 from the merger of two other bodies (the Independent Commission for the evaluation, transparency and integrity of public administrations, and the Authority for the surveillance on the public contracts). ANAC intervenes in several fields and realises different activities, including:

⁷⁵ <https://www.epi-bg.org/>

⁷⁶ <https://ime.bg/en/>

⁷⁷ <https://transparency.bg/en/>

⁷⁸ <https://acf.bg/en/>

⁷⁹ <http://en.agcm.it/en/about-us/>

⁸⁰ <http://www.anticorruzione.it/portal/public/classic/MenuServizio/ENG>

- *Prevention of Corruption.* Implementation of the National Anticorruption Plan; monitoring of the adoption of the three-year Anticorruption Plans and Codes of Conduct by public administrations and state-controlled enterprises; sanction of entities if they fail in adopting the Plans and/or the Codes; supervision of the appointment of the Officers for the Prevention of Corruption and Transparency by public administrations.
- *Integrity of Public Employees.* Supervision of the requirements of public officials' appointments and conflicts of interest; management of whistleblowers complaints; guidance over the adoption of Codes of Conduct by public administrations.
- *Transparency.* Supervision over the inclusion of transparency rules into the three-year Anticorruption Plan; sanction in the event of failure to adopt such rules; definition of standards and templates for the mandatory publications related to the "Transparent Administration" section; adoption of guidelines on the exercise of general civic access, in agreement with the Personal Data Protection Authority.
- *Public Procurement.* Control of public contracts; supervising the preparation and management of tenders together with procuring agencies; advices on legislation and pre-litigation cases; management of the qualification system for economic operators and contracting authorities and the national register of the adjudicatory commissioners on public procurement and the of in-house companies; appeal before the Administrative Judge of contracting authorities' measures.

The **National Commission for the Society and the Stock Market** (CONSOB)⁸¹ corresponds to the supervisory authority for the Italian financial products market. Its aims are to protect investors and the efficiency, transparency and development of the market. Among others, CONSOB fulfils also: regulation of the provision of investment services and activities by intermediaries and the reporting obligations of companies listed on regulated markets; monitoring of market management companies and transparency and correct performance of negotiations and implementation of sanctioning powers on the entities monitored.

NGOs and business/branch associations

In Italy, several **national-wide business associations** are active and cover different economic sectors, including those specifically considered in this report (see next sub-chapters).

Confcommercio, General Confederation of Enterprises, Professions and Self-Employment,⁸² established in 1945, relies on an extensive network of associations divided by region, profession and industry. Together, they protect and represent their members in dealing with institutions and promote the role and the development of market services in in four areas: tourism, services, transport and commerce. In the commerce area, Confcommercio represents enterprises of all sizes operating in different sectors and along the whole distribution chain.

⁸¹ <http://www.consob.it/>

⁸² <https://www.confcommercio.it/english>

Confindustria⁸³ has represented manufacturing and service companies in Italy since 1910. The association's activities aim at guaranteeing the central importance of companies, the drivers of Italian economic, social and civil development. Between its activities, there is the management of the business regulation, aimed at defining the rules for the promotion of economic competition and the balancing of the related interests. The main legislative topics regard economic public law, corporate and competitive law, antitrust and intellectual property law, economic and compliance penal law, and new rules connected to data economy.

Confesercenti⁸⁴ is one of the main entrepreneurial association in Italy since 1971 and is a founding member of Italian Enterprise Network.⁸⁵ Confesercenti represents Small and Medium Enterprises in commerce, tourism, services, crafts and industry. Its objective is to promote the development of enterprises, economy and democracy at national and international level.

In Italy, anti-corruption and anti-trust issues are objects of interest for several **groups of experts** as well. Firstly, **the Italian Transparency and Anticorruption Association**,⁸⁶ established in 2015, gathers public and private employees, professionals, entrepreneurs who are responsible for transparency and corruption in their working activities. Secondly, the **Italian Institute for Anticorruption**⁸⁷ and its members actively contribute to the elaboration of the three-year Anticorruption Plans and Codes of Conduct with ANAC. Thirdly, the **Italian Antitrust Association**⁸⁸ is committed to enlarge the knowledge about the EU and national legislation on the competition laws through educational and research activities. **Transparency International** is also operating through a national office, founded in 1996 to fight corruption specifically in the country.⁸⁹ Finally, **Avviso Pubblico** is another association dealing with prevention and the fight against mafia-type organisations and corruption to spread transparency within public administration.⁹⁰

SPAIN

In Spain, the antitrust and market competition domain is more developed as compared to the state capture and anti-corruption one both in terms of legislation⁹¹ and institutional framework. In 2013, the Spanish Parliament brought together different sectorial control and supervision bodies in the National Commission of Markets and Competition (CNMC),⁹² which exercises an integrated model of regulation and supervision of the market

⁸³ <https://www.confindustria.it/en>

⁸⁴ <https://www.confesercenti.it/nazionale/>

⁸⁵ <https://reteimpreseitalia.it/?lang=en>

⁸⁶ <http://aitra.it/chi-siamo/>

⁸⁷ <http://www.istitutoitalianoanticorruzione.it/>

⁸⁸ <http://www.associazioneantitrustitaliana.it/chi-siamo/>

⁸⁹ <https://www.transparency.it/visione-missione-valori/>

⁹⁰ <https://www.avvisopubblico.it/home/home/cosa-facciamo/informare/osservatorio-parlamentare/>

⁹¹ Law 15/2007, of July 3, on the Defense of Competition, <https://www.boe.es/buscar/act.php?id=BOE-A-2007-12946>

⁹² <https://www.cnmc.es/>

in the country. The ten members of its Board of Directors – including its president – are appointed by the Government for a term of six years and its performance is restrained to parliamentary control. Its objectives are to promote and ensure the proper functioning of all markets and productive sectors (both manufacturing and services) and ensure the existence of effective competition.

The Spanish Court of Auditors⁹³ partially oversees some contracts picked at random (as part of a broader overall supervisory role on the expense of public funds). However, until recently neither CNMC, nor the Court of Auditors carried out specific control of public procurement. The last Public Sector Procurement Law,⁹⁴ enacted in March 2018, created the Independent Office of Regulation and Supervision of the Contracting,⁹⁵ a new oversight body designed to monitor compliance with the law and detect corrupt practices. But its actual independence is questionable: its members, public servants, are appointed by the government. In addition, it depends organic- and budget-wise from the Ministry of Finance. Some of the opposition parties had demanded a new fully-independent body, or the creation of a new section in the already-existing CNMC, but their proposals weren't attended.

The Spanish Confederation of Employers' Organizations⁹⁶ is the main interlocutor of the Government for its role as the principal representative of the interests of the companies. Small and medium-sized enterprises are represented by CEPYME.⁹⁷

There are also some think-tanks working on topics related to state capture and anti-corruption and among them the most well-known are Elcano Royal Institute,⁹⁸ Fundación Alternativas⁹⁹ (Alternatives Foundation, which is linked to Spanish Socialist Party), Foundation for Social Studies and Analysis¹⁰⁰ (managed by José María Aznar, former conservative Spanish Prime Minister, from Popular Party), and the Barcelona Centre for International Affairs.¹⁰¹

1.2.1. Wholesale of solid, liquid and gaseous fuels and related products

The sector of wholesale of solid, liquid and gaseous fuels and related products¹⁰² in the four countries includes mainly companies, engaged in

⁹³ <https://www.tcu.es/tribunal-de-cuentas/en/>

⁹⁴ <https://www.boe.es/buscar/act.php?id=BOE-A-2017-12902>

⁹⁵ <http://www.hacienda.gob.es/es-ES/RSC/Paginas/OIReSuC/OIReSuC.aspx>

⁹⁶ <https://www.ceoe.es/en>

⁹⁷ <https://www.cepyme.es/>

⁹⁸ <http://www.realinstitutoelcano.org>

⁹⁹ <https://www.fundacionalalternativas.org>

¹⁰⁰ <https://fundacionfaes.org>

¹⁰¹ <https://www.cidob.org>

¹⁰² Statistical classification of economic activities in the European Community (NACE rev. 2) SECTION G – WHOLESALE AND RETAIL TRADE, class 46.71 Wholesale of solid, liquid and gaseous fuels and related products.

wholesale of solid and liquid fuels. Each of the countries has developed its own regulatory framework and the sector is among the most regulated ones due to its importance for the national economy, including national security. At the same time, the sector is characterized with the activities of large multinational companies that operate through their branches or headquarters in the four countries, which makes the sectoral policies and state institutions vulnerable to the risks of being influenced or captured by private political and economic interests, including interests of foreign governments.

ROMANIA

Public authorities

The Ministry of Energy¹⁰³ is in charge with the legislative and policy making, the coordination of the national energy strategy, and exerts ownership of majority and minority shares in the gas and oil producers (i.e. Romgaz, Petrom/OMV) and the energy plants combining electricity production and coal mining (i.e. CE Oltenia – lignite and CE Hunedoara – hard coal). In 2016 the Ministry agreed to participate in the National Anticorruption Strategy (SNA), a document consolidated across sectors by the Ministry of Justice. It has a long list of commitments, confirmed in 2018, such as: the publication of public information on its website; monitoring the subordinated entities and enforce the publication of similar information; implementation of the open contracting data standards; and carrying out internal anticorruption audits, among others.¹⁰⁴ Most of these functions related to ethics, integrity and open data access, especially if they are sector-specific, have been implemented rather unsystematically.

The Ministry of Economy¹⁰⁵ has broad legislative and policy making functions in the area of state owned companies and it is in charge with the mining strategy and mineral resources. It is also covered by the SNA. Most of its commitments are reflected in the integrity plan and concern the publication of public information on its website; implementation of open contracting data standards; and internal anticorruption audit, among others.¹⁰⁶

The National Agency for Regulation in Energy¹⁰⁷ is the ex-ante regulator for competition in the energy sector for electricity (including gas and coal-fired plants) and natural gas; it also issues operating licenses to the energy companies. The ex-post competition regulator is the Competition Council, which in the past did investigate a number of cases on anticompetitive practices in the fuels retail market. The Agency has an internal ethics code, which regulates also some issues, related to risks of state capture and anti-corruption policies.

¹⁰³ <http://energie.gov.ro>

¹⁰⁴ <http://energie.gov.ro/transparenta/strategia-nationala-anticoruptie>

¹⁰⁵ <http://economie.gov.ro/>

¹⁰⁶ <http://energie.gov.ro/transparenta/strategia-nationala-anticoruptie>

¹⁰⁷ <http://www.anre.ro/>

The National Agency for Mineral Resources¹⁰⁸ is in charge with administering the mining concessions and collection of royalties, for all natural mineral resources in the country and together with the Ministry of Public Finance it sets the general taxation regime for minerals and hydrocarbons. It also regulates the framework contracts for the transport of oil and gasoline. There is no specific regulation or internal strategy towards state capture and anti-corruption.

Major branch/business associations and the main market players

The major players in the oil upstream market in the country are the Romanian Association of Oil Exploration and Extraction,¹⁰⁹ which members are mainly multinationals with commercial operations and some production facilities in Romania and the major oil producer Petrom, which domestic production covers about 30% of the oil consumed in Romania. The oil downstream market is dominated by three companies with total market share of 85% (OMV Petrom 39%; Rompetrol 30%, and Petrotel Lukoil 16%). All three have production facilities in Romania.

There are two main gas producers, Romgaz and Petrom, with about 45% market share each. The first is fully state owned, the second is owned by the Austrian OMV and has a minority state participation. Imports of Russian gas through intermediaries represents about 10% of consumption.

There are two main coal producers who dominate the market, both state owned: CE Hunedoara (monopoly on hard coal) and CE Oltenia (monopoly of lignite). Similar to the gas market, around 10% of the internal consumption of coal is covered by imports.

There is no specific regulation applicable to the energy sector or any of these three sub-markets – oil, gas and coal. However, for gas there is an obligation in Law 123/2012 to sell the wholesale production in a competitive manner on gas exchanges, which de facto restricts exports. The industry has not adopted specific regulations or Codes of Conduct, apart from the set of norms and restrictions applicable to state owned companies in general.

BULGARIA

The **Energy and Water Regulatory Commission**¹¹⁰ (EWRC) is the national energy regulator, covering two sub-sectors – energy (electric/heat energy and natural gas) and water supply. EWRC regulates the licensing for the production, transmission, distribution and trade of electricity and heat; controls electricity pricing mechanisms in the long-term purchasing contracts between the producers and the public service provider National Electric Company (NEC); adopts rules for the trading of electricity and

¹⁰⁸ <https://www.namr.ro>

¹⁰⁹ <http://www.ropepca.ro>

¹¹⁰ <http://www.dker.bg/en/home.html>

natural gas as well as technical rules for the respective networks and systems. EWRC regulates also the activities of the independent power grid operators (Electricity System Operator and the Distribution System Operators) and the gas transmission networks, as well as the activities in the field of water supply and sewerage.

NGO's and branch/business associations in the sector

Bulgarian Petroleum and Gas Association¹¹¹ was established in 1999 by the major companies active in the this industry in Bulgaria: "Petrol" AD, "Shell Bulgaria" EAD, "Overgas INC" AD, "Shell Gas Bulgaria" AD, "Toplivo" AD.

Nowadays members of the Association are the major market players in this filed, incl. companies dealing with wholesale and retail sale, as well as with production of natural gas and crude oil.

Bulgarian branch chamber of the energetics¹¹² is a NGO protecting the interests of companies in the energy sectors. It was created in 1992 and is a member of the Bulgarian Industrial Organization.

The **Bulgarian Confederation of Industrial Energy Consumers**¹¹³ (BFIEC) is an association of the major companies in Bulgaria, which are significant consumers of electrical energy and natural gas.

The **National Energy Chamber**¹¹⁴ was established as a key partner to policy makers in the energy sector of Bulgaria. The Chamber represents more than 50% of the privately owned installed capacity and almost 70% of the employed in the private energy sector. The chamber represents all segments of the electricity sector: generation, trade, distribution and supply as well as different technologies and energy sources, conventional and renewable ones.

Institute for Energy Management¹¹⁵ (EMI) is an NGO that started its operation in June 2010. Its mission is to contribute to the sustainable development of the Bulgarian energy sector and its integration to the European Union through Engagement, Mediation, Insights. It aims to improve of the international cooperation in order to utilize international experience and to implement in Bulgaria worldwide established best practices.

Bulgarian Energy and Mining Forum¹¹⁶ is a non-governmental organization members of legal and physical persons with experience and attitude to the problems of the development of the energy sector both nationally and internationally. The Association is a forum for the broad public basis with the participation of producers and consumers

¹¹¹ <http://www.bpga.net/en/>

¹¹² <http://www.bbce.org/>

¹¹³ <http://www.bfiec.org/>

¹¹⁴ <http://necbg.eu/en/home/>

¹¹⁵ <https://www.emi-bg.com/en/about/mission>

¹¹⁶ <https://bulenergyforum.org/en>

of electricity, the academic and scientific community, environmental and other non-governmental organizations, experts and professionals from various government departments and institutions, private and public companies from the industry, associations of capital, industry and trade union organizations, representatives of the media and creative unions.

ITALY

Assopetroli-Assoenergia,¹¹⁷ instituted in 1949 and adhering to Confcommercio, is the **business association** representing enterprises in the sector of energetic products and services. The associated enterprises operate in the trade (also wholesale) of fuels, in the transformation of fuels in energy, in the advanced production of renewable sources. Still within the field of intervention of Confcommercio, it is important to mention some of its regional subgroups that have a dedicated page as associations of **merchants of solid, liquid and gaseous fuels**,¹¹⁸ even if details on their specific role are not available.

Concerning the **major market players** in the wholesale of solid, liquid and gaseous fuels, their identification followed the revenues from sales available from the financial records of all companies active in the business sector (see Table below).¹¹⁹

TABLE 1. MAJOR MARKET PLAYERS IN THE WHOLESALE OF SOLID, LIQUID AND GASEOUS FUELS (NACE REV2: 46.71). COMPANY DATA ACCORDING TO THE LAST AVAILABLE FINANCIAL RECORD (2017)

Name	Revenues from sales (thous. €)	Net profit (thous. €)	Total assets (thous. €)
ENI TRADING & SHIPPING SPA (Roma)	29,676,888.00	77,376.00	7,575,581.00
ENEL GLOBAL TRADING SPA (Roma)	18,976,799.00	-18,781.00	6,961,185.00
API ANONIMA PETROLI ITALIANA SPA (Roma)	2,325,023.00	9,722.00	1,625,883.00
ENGYCALOR ENERGIA CALORE SRL (Roma)	1,156,419.81	2,624.96	151,428.73

Source: AIDA (Bureau van Dijk 2019).

The wholesale activity consists in the acquirement of goods by one or more persons, who then resell it to other business actors. According to Article 7 of the Legislative Decree 59/2010 (Gazzetta Ufficiale, 2010), the businesspersons entitled of the wholesale activity must not have been

¹¹⁷ <https://www.assopetroli.it/lassociazione/>

¹¹⁸ <http://www.confcommerciotrieste.it/associazioni/associazione-dei-commercianti-dei-combustibili-solidi-liquidi-e-gassosi/>

¹¹⁹ The OECD Report "Inventory of Estimated Budgetary Support and Tax Expenditures for Fossil Fuels 2013" (2013) indicates some leading refining and marketing company in the Italian energy sector. However, looking at the available company data (Bureau van Dijk 2019), it emerges that they operate in the supply of electricity, gas, steam and air conditioning (Nace Rev2: 35.00) and transport via pipeline (Nace Rev2: 49.50).

charged in the past with a penal sentence or precautionary measures. Moreover, depending on the type of legal status of the company, several subjects participating in the wholesale activity must present the anti-mafia declaration, according to Article 85 of the Legislative Decree 159/2011 (Gazzetta Ufficiale, 2011).

SPAIN

The most relevant companies engaged in this economic activity focus their business areas on liquid and solid fuels. And these find their main regulatory framework in Law 34/1998, of October 7, on the hydrocarbons sector.¹²⁰ It regulates from the granting of licenses for exploration, research or exploitation to market management, the dissolution of existing monopolies until the early 90s or the guarantee of access by retail companies to natural monopolies. The latter is the case of Compañía Logística de Hidrocarburos (CLH), owner of the main distribution networks and pipelines in Spanish territory. Its origin dates back to 1992 when it was split off from Campsa (acronym for Compañía Arrendataria del Monopolio de Petróleos) as a result of the process of liberalization of this market following the integration of Spain into the European Common Market. Since then, successive modifications were approved, which deepened the measures in favor of competition.

The Hydrocarbons Law also created the **National Energy Commission**, the regulator of the sector. In 2013 its powers were absorbed by the CNMC. In the following years they supervised the vertical structure of this sector, which for so many years had controlled from exploitation, to distribution and retail. In July 2015, the CNMC published a study¹²¹ on the wholesale market of automotive fuels in which it detected numerous barriers to entry and expansion of new operators, with an impact on final consumer prices, or the strong position of operators with capacity of refining. CNMC also criticized that traditional operators participated in the strategic decisions of CLH, the main supplier of the market. On this point, in its recommendations, it proposed limiting its shareholding to 5%. A few months after the publication of this study, Repsol, which found its origins in Campsa, sold its 10% share of CLH.

The CNMC has been detecting anticompetitive practices, such as market sharing or price fixing, and applying small sanctions (in comparison with the results accounts of large companies). Most of the controversial findings related to state-capture neither affects the retailers nor wholesalers. Although some of these fines have been thrown in the courts for formal defects.¹²²

The biggest Spanish wholesalers of fuels, Repsol and Cepsa, have their own codes of ethics and anti-corruption in which they forbid donations

¹²⁰ <https://www.boe.es/buscar/act.php?id=BOE-A-1998-23284>

¹²¹ <https://www.cnmc.es/file/127354/download>

¹²² https://elpais.com/economia/2018/01/19/actualidad/1516359641_660645.html

to political parties, or the payment of commissions to public employees, among other measures.

Main business associations in the sector are:

- Asociación Española de Compañías de Investigación, Exploración y Producción de Hidrocarburos y Almacenamiento Subterráneo (Spanish Association of Hydrocarbon Research, Exploration and Production Companies, in English)
- Asociación Española de Mujeres de la Energía (Spanish Association of Women in the Energy sector)
- Asociación Española del Gas (Spanish Gas Association, in English)
- Asociación Española de Operadores de Productos Petrolíferos (Spanish Association of Petroleum Products Operators)

In addition, there are regional energy agencies, that have some role in self-regulation of the market:

- Agencia Andaluza de la Energía (Andalusian Energy Agency)
- Agencia de la Energía de Castilla-La Mancha (AGECAM S.A.) (Energy Agency of Castilla La Mancha)
- Agencia de Gestión de la Energía de la Región de Murcia (ARGEM)
- Agencia Extremeña de la Energía (AGENEX) (Extremadura Energy Agency)
- Agencia Insular de Energía de Tenerife (AIET) (Tenerife Energy Agency)
- Agencia Valenciana de Energía (AVEN) (Valencian Energy Agency)
- Ente Regional de la Energía de Castilla y León (EREN) (Castile and León Energy Agency)
- Ente Vasco de Energía (EVE) (Energy Agency of the Basque Government)
- Fundación de la Energía de la Comunidad de Madrid (FENERCOM) (Energy Agency of the Region of Madrid)
- Instituto Enerxético de Galicia (INEGA)
- Institut Català d'energia (ICAEN) (Catalan Energy Institute)

Among the biggest market players are:

- Repsol Comercial de Productos Petrolíferos
- Cepsa Trading, Cepsa Comercial Petróleo SA, Cepsa Gas Comercializadora (web)
- BP Oil España SA
- GALP España
- Vilma Oil SL
- Disa Península SL, Disa Corporación Petrolífera SA
- Saras Energía
- Unión Fenosa Gas
- Carburants Axoil SL
- Compañía Logística de Hidrocarburos
- Enagás

Independent think-tanks and watch-dog institutions within the energy sector are:

- Fundación Energías Renovables (FER) (Renewable Energies Foundation)
- Plataforma por un Nuevo modelo energético (Platform for a New Energy Model)
- Asociación Nacional de Ahorro y Eficiencia Energética (Anae) (National Association for Energy Efficiency and Savings)
- Jorge Morales de Labra

1.2.2. Wholesale of pharmaceutical goods

ROMANIA

Public authorities

The Ministry of Health¹²³ has major legislative and policy making functions in this sector, as well as some regulatory attributions: setting the pricing methodology, granting licenses and authorisations. The MH also administers directly the National Health Programs (targeting specific pathologies), which include the purchasing and distribution of relevant drugs and materials; and acts as Project Management Unit for various projects, including those with EU funds. In 2007 the Ministry set up a Unit for tackling corruption in the healthcare sector; this becomes by default part of the National Anticorruption Strategy, a document consolidated across sectors by the Ministry of Justice.¹²⁴

The National Health Insurance House (CNAS)¹²⁵ is in fact a public fund in charge with collecting and administering the funds generated by the health contribution – a tax on salaries and various other personal income. It is in charge with the disbursement of funds, co-legislator, regulation and control of spending of the main pool of funds financing health care in Romania. CNAS also signs the contracts with hospitals (public and private) to reimburse them for medical services; and the contracts for services with family doctors (the private general practitioners). CNAS does not have any specific anti-corruption internal regulations but it is included in the Action Plan of the National Anticorruption Strategy (SNA).

The National Agency for Medicines & Medical Devices (ANM)¹²⁶ is in charge with marketing authorisation, wholesaler authorisation, pharmacovigilance, inspection and control, market surveillance on both drugs and medical devices. It does not have any particular anti-corruption or state capture related internal regulations.

Major branch/business associations

- Romanian Association of International Pharmaceutical Manufacturers:¹²⁷ the business association of the producers of innovative drugs (i.e.

¹²³ <http://www.ms.ro/>

¹²⁴ <http://www.integritate.ms.ro>

¹²⁵ <http://www.cnas.ro>

¹²⁶ <https://www.anm.ro>

¹²⁷ <http://arpim.ro>

- under patent). Its members are mainly multinationals with commercial operations and some production facilities in Romania;
- Romanian Association of Generic Medicines Manufacturers:¹²⁸ the business association of the producers of generic drugs
 - Local American Working Group:¹²⁹ the association of American producers of innovative medicines and a lobby group
 - Romanian Association of Wholesalers and Pharmaceutical Retailers,¹³⁰ covering according to their claims over 50% of the retail market for drugs
 - Association of Medical Goods Suppliers¹³¹ (affiliated to medTECH Europe): the profile of this sector is very diverse but the association tends to cover mainly externalized services such as laboratories for investigations and the provision of related substances
 - College of Pharmacists,¹³² the collegiate professional body with legal attributions to regulate the professional training, the entry into the profession and to enforce its codes of ethics.

Market profile

The total value of the drugs sold in Romania is around EUR 3 bn. Out of this, an estimated fraction of about 30% is taken by the central and local budgets, in the form of regular or special taxes. Innovative drugs represented in 2018 about 70% of the market in terms of value, and 25% in terms of volume. Hospitals consume 4.6% of the market volume; the rest of the 95.4% is sold in the retail system. The first 10 players provide around of 60% of this market.

There is no specific regulation in relation to anticorruption in the pharma sector, despite it being mentioned in the National Anticorruption Strategy as a sensitive area (mostly because the social importance of the services provided). However, there is regulation regarding conflict of interest rules for healthcare professionals involved in policy decisions, including the expert committees deciding on drugs.

General regulations were introduced regarding the transparency in relation to pharmaceutical and medical devices companies' which offer sponsorships or other forms of benefits to healthcare professionals, as well as how the market promotion of new products should be done. In fact this has always been a debate in progress: what should be the reasonable constraints imposed in the activity of the "medical representatives" – in fact sales agents of the big innovative pharma companies.

Most of the above mentioned industry associations have drafted their own codes of conduct and some are also following their European code. For example, ARPIM's code is being reviewed constantly, following the code of EFPIA – European federation of Pharmaceutical Industries.

¹²⁸ <http://www.apmgr.org/>

¹²⁹ <http://www.lawg.ro/home>

¹³⁰ <http://www.adrfr.ro/>

¹³¹ <http://www.afpm.ro/>

¹³² <http://www.colegfarm.ro>

APMGR's code exists and is also being updated based on the code of the Medicines for Europe association.

BULGARIA

The Bulgarian Drug Agency¹³³ is administration to the Minister of Health and supervise the quality, effectiveness and safety of medicines, as well as regulate the operation of medical institutions in sampling, diagnosis, processing, storage, use, distribution, quality assurance and safety of blood and blood components

The **National Council on Prices and Reimbursement of Medicinal Products**¹³⁴ is responsible for approval and registration of prices of medicinal products and inclusion of products in the Positive Drug List. The Council has the status of a state commission.

The **Supreme Council of Pharmacy** is established at the Minister of Health as an advisory body to discuss and give opinions on main guidelines and priorities in the field of pharmacy, ethical issues and to draft regulations related to pharmacy, among others.

NGO's and branch/business associations in the sector

The **Bulgarian Pharmaceutical Union**¹³⁵ is a branch union of pharmacists in Bulgaria.

Bulgarian association for medicines parallel trade development¹³⁶ is an organization representing companies with a mission to ensure the access of Bulgarian patients to quality and effective medicinal products on time and in full volume. BAMPTD is a partner of the legislative and executive governance to build and validate regulatory framework and infrastructure to protect the free market principles in the market, protecting the competition principle and promoting good practices in the distribution of medicines.

Bulgarian Association for Drug Information¹³⁷ supports the qualification, enhancement of professional competence and protection of the professional interest of its members, as well as facilitate the constructive dialogue between regulatory establishments, universities, industry, professional and non-governmental organisations in the field.

ITALY

As mentioned above, the **Italian Antitrust Authority** (AGCM) realises its tasks with regard to all the commercial sectors. Nevertheless, AGCM specifically intervenes in pharmaceutical sector, managing the relation

¹³³ <https://www.bda.bg/en/>

¹³⁴ <https://www.ncpr.bg/en/>

¹³⁵ <https://bphu.bg/>

¹³⁶ <https://parallel-trade-development.org/en/home/home>

¹³⁷ <http://www.badiib.org>

between pharmaceutical companies that develop new medicines (holding patents) and those that produce generic drugs.¹³⁸ In this way, it mediates between the requirements of industrial propriety rights and an efficient safeguard of the right to health of the citizens. For instance, the Annual Report of the AGCM describes several interventions of the Authority to solve commercial arrangements between pharmaceutical companies that caused an excessive increase of the prices of drugs.¹³⁹

There is also a dedicated **business association** in the wholesale of pharmaceutical goods the **Italian Association of Pharmaceutical Distributors (ADF)**.¹⁴⁰ It aims at promoting specific communication activities to its members and at opening a window to all players in the pharmaceutical sector, mostly by describing the mission that the Intermediate Distribution of Drugs realises in the context of health organization. ADF represents the entrepreneurs of the Intermediate Pharmaceutical Distribution and works to safeguard their business activity.

The identification of the **major market players** in the wholesale of pharmaceutical goods and related products followed the revenues from sales available from the financial records of all companies active in the business sector (see Table below).

TABLE 2. MAJOR MARKET PLAYERS IN THE WHOLESALE OF PHARMACEUTICAL GOODS (NACE REV2: 46.46). COMPANY DATA ACCORDING TO THE LAST AVAILABLE FINANCIAL RECORD (2017)

Name	Revenues from sales (thous. €)	Net profit (thous. €)	Total assets (thous. €)
BAYER SPA (Milano)	851,234.27	65,659.52	871,211.89
ALLIANCE HEALTHCARE ITALIA DISTRIBUZIONE SPA (Roma)	850,109.39	-12,600.06	472,061.35
ASTRAZENECA SPA (Milano)	445,764.44	19,947.63	254,741.13
ABBOTT SRL (Roma)	301,758.77	-16,069.69	846,261.45
BIOGEN ITALIA SRL (Milano)	265,836.30	16,982.76	182,807.94
ALLERGAN SPA (Roma)	153,839.61	4,450.60	83,059.44
AB MEDICA SPA (Milano)	132,921.64	8,017.47	179,403.89
A. MENARINI FARMACEUTICA INTERNAZIONALE SRL (Firenze)	122,142.39	22,716.77	119,860.88

Source: AIDA (Bureau van Dijk 2019).

¹³⁸ Bedogni Rabitti, Carla. 2011. 'Ruolo e Interventi Dell'AGCM Nel Settore Farmaceutico'. presented at the Conference "I principali sviluppi nel diritto della Concorrenza Comunitario e Nazionale", Sorrento. http://www.associazioneantrustitaliana.it/images/stories/doc_convegno_sorrento/RabittiBedogni_Carla.pdf

¹³⁹ Pitruzzella, Giovanni. 2018. 'Relazione Annuale. Presentazione Del Presidente Giovanni Pitruzzella'. Annual Report. Roma: AGCM Autorità Garante della Concorrenza e del Mercato.

¹⁴⁰ <http://www.adfsalute.it/index.php/chi-siamo/profilo>

The main legal framework regulating corruption in the health sector is Law 190/2012 (Gazzetta Ufficiale, 2012), which includes regulations to prevent corruption within public institutions (including health sector).

SPAIN

In Spain, the regional public administrations (“autonomous communities”, as are known officially)¹⁴¹ have the power over the purchase of medicines, and even different hospitals or cities within these regions buy separately. Hence, the State Government is responsible only of purchases for health emergencies, the military and two “autonomous cities” in North Africa, Ceuta and Melilla. Despite the fact that large number of contractors are buying medicines in separate tenders, all end up paying very similar or the same price and, except on rare occasions, opacity is the key in negotiations. An opacity that would be inconceivable in any other sector of public procurement (with the exception of some defence contracts or state secrets).

The **Inter-Ministerial Commission for Pharmaceutical Prices** (CIPM)¹⁴² is the collegiate body responsible for setting the maximum industrial price (PVL) for each presentation of medication to be included, or already included, in the pharmaceutical provision of the National Health System. They also propose what drugs could be subsidized with public funds analysing if they are cost-effective taking into account budgetary impact also. It is composed of high-ranking officials of the Ministries of Health, Economy, Finance and Industry, as well as representatives of regional governments. Meetings between these public employees and the different laboratories are frequent.

The **Spanish Agency for Medicines and Health Products** (AEMPS)¹⁴³ is the public regulator of this sector: it evaluates and authorizes medicines, clinical trials and clinical investigations, controls the quantity and safety of drugs and pharmaceutical products, carries out inspections of laboratories, etc. but all its activities are focused mainly on guaranteeing public health and sanitary supervision.

The body responsible for supervising competition is, again, CNMC. But in this sector they have some limits. I.e., about control on excessive pricing, according to OECD “CNMC does not have an automatic or specific protocol or screening method to consider whether a price is excessive in the pharmaceutical sector”.¹⁴⁴ Some excessive prices are controlled by CIPM, but only in those medicines that are fully or partially subsidized by public funds.

The greatest direct impact of the state capture in the process of purchasing medicines and equipment by public administration, is on

¹⁴¹ The “autonomous communities” in Spain are the upper level of administrative and territorial division after the state level. Autonomous communities are further divided into provinces, while the latter – into municipalities.

¹⁴² <https://www.mscbs.gob.es/profesionales/farmacia/CIPMyPS.htm>

¹⁴³ <https://www.aemps.gob.es/home.htm>

¹⁴⁴ [https://one.oecd.org/document/DAF/COMP/WD\(2018\)109/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2018)109/en/pdf)

the public health budget. Procurement negotiations are constrained by a strict rule imposed by the pharmaceutical companies: buyers (i.e. public administrations) cannot publish the final agreements or purchase prices. This gives great negotiating power to the companies, but limits that of the governments, which lack information about the market. The situation is not unique to the sector of wholesale of pharmaceutical goods, however, the lack of publicly disclosed tender award contracts including final price, has allowed this sector to be one of the most non-transparent regarding public procurement. It results in suspicions for all public administrations to be captured by the strong private interests of large pharmaceutical companies, including through the use of corruption and political connections and bad lobbying practices.

Regarding possible undue influences from pharmaceutical companies to doctors and medical or patient associations, no specific law demands for these relationships to be transparent. And this is important since a good part of the continuous training of health professionals are defrayed by pharmaceutical companies. The only existing regulation is the publicity due on the payments for trips and congresses of the sanitary professionals. Although article 78 of Royal Legislative Decree 1/2015, of July 24, which approves the revised text of the Law on guarantees and rational use of medicines and health products,¹⁴⁵ contemplated that this would be determined by a regulation which has not been developed. Therefore, it is the industry itself that self-regulates, on its own terms.

Box 1. Eighteen doctors received over 50,000 euros each from a single pharmaceutical company in 2017

In 2017, pharmaceutical companies spent €182.5 million on payments to Spanish doctors. These transfers include sums for their services or to cover conference fees and travel expenses. In that sense, 18 health professionals received over 50,000 euros each from a single pharmaceutical company and, together with sums of money from other laboratories, they received a total of over 1.6 million euros. Most of them work in public hospitals; however, the publication of pharmaceutical payments is regulated by the industry itself, not by public administration. Besides that, the majority of them are men and work within the field of cancer. An analysis carried out by Civio also reveals that health professionals don't properly disclose their financial ties with pharmaceutical companies.

Source: CIVIO.¹⁴⁶

Main business associations in the sector

The majority of companies in the pharmaceutical industry established in Spain belongs to Farmaindustria,¹⁴⁷ which represents its associates before the different Spanish public administrations – and before the public

¹⁴⁵ https://www.boe.es/diario_boe/txt.php?id=BOE-A-2015-8343

¹⁴⁶ <https://civio.es/medicamentalia/2018/10/09/18-doctors-received-over-50000-euros-each-from-a-single-pharmaceutical-company-in-2017/>

¹⁴⁷ <http://www.farmaindustria.es/>

opinion – and exercises the lobby of the sector. Of its 155 associated laboratories, 76 are located in Catalonia and 71 in the Madrid region. All of them have adhered to the Farmaindustria code of practice, derived from the one of the European Federation of Pharmaceutical Industries and Associations (EFPIA), whereby laboratories are committed to publish payments to doctors and health organizations. Since 2018, the personal data of all health professionals who receive transfers from the pharmaceutical industry have been disseminated, although Farmaindustria specifically demands each member publishing data on payments to doctors to “take measures to prevent the indexing of the data by search engines and include warnings prohibiting users from comparing it across firms”. To do so, every laboratory published this information with poor quality (documents with low resolution, in non-reusable formats like PDF or protecting the information to prevent its download) in their own websites.

The major market players are AEMPS authorized wholesalers¹⁴⁸ and main laboratories:

- Gilead Sciences S.L. (B80754799)
- Novartis Farmaceutica S.A.U. (A08011074)
- Novartis Vaccines and Diagnostics S.L. (B58564808)
- Abbvie Spain S.L. (B86418787)
- Johnson & Johnson S.A. (A28218675)
- Roche Farma S.A. (A08023145)
- Merck Sharp & Dohme de España S.A. (A28211092)
- Pfizer GEP S.L. (B84118694), Pfizer S.L. (B28089225)
- Celgene S.L. (B84416130)
- GlaxoSmithKline S.A. (A28228526)
- Sanofi Aventis S.A. (A08163586)
- Cinfa
- Boehringer Ingelheim España S.A. (A08006470)
- AstraZeneca Farmacéutica Spain S.A. (A36002129)
- Bayer Hispania S.L. (B08193013)

Independent think-tanks and watch-dog organisations in the sector are:

- Salud por derecho
- Instituto de Salud Global
- Farmamundi
- Fernando Lamata
- Rafael Bengoa
- Sociedad Española de Salud Pública y Administración Sanitaria
- No gracias
- Organización Médica Colegial
- Asociación Acceso Justo al Medicamento

¹⁴⁸ <http://www.repsol.es/>

1.2.3. Construction

ROMANIA

Public authorities with role in the regulation and/or control of the sector

The Ministry of Regional Development and Public Administration¹⁴⁹ has policy making functions and it manages programs and strategies and ensures the control on the quality of constructions. The ministry also manages several national public funded programs, including several EU funded programs on infrastructure and trans-border cooperation. Among them the most important is the National Program for Local Development (PNDL) that allocates funds for local infrastructure. The ministry has adhered to several priorities established in the National Anticorruption Strategy (2016 – 2020), related to integrity in local public administration, control of pantouflage, institutional transparency. In addition, it has established an anticorruption service within the institution.

The National Company for Road Infrastructure Administration¹⁵⁰ manages, repairs, administers highways, express roads, national roads and other elements of traffic; can issue certain authorizations for transport and constructions. It has adhered to the National Anticorruption Strategy (2016 – 2020) and applies the general national-wide legislation on transparency, access to information, integrity.

The National Investments Company¹⁵¹ is subordinated to MDRAP and implements several programs, among which is the National Program for Constructions of public or social interest. It also organizes procurement procedures for the infrastructure projects. It does not have any specific anticorruption strategy and applies only the general legislation.

The **State Inspectorate for Constructions** (ISC) ensures the control over the uniform implementation of legal provisions on quality of constructions, urbanism, supervises the market of construction products and issues authorizations for technical-economical investments financed by public funds. It does not have any specific anticorruption strategy and applies only the general legislation.

The Ministry of Transport elaborates strategies on transport and transport infrastructure; design and implement the respective policies and manages relevant EU funds. It has a dedicated department for anticorruption.

Major branch/business associations in the sector

- Romanian Architects' Chamber is the professional organization that manages the access to the profession of architect; it also promotes certain policies related to architecture

¹⁴⁹ <http://www.mdrap.ro>

¹⁵⁰ <http://www.cnadnr.ro>

¹⁵¹ <https://www.cni.ro>

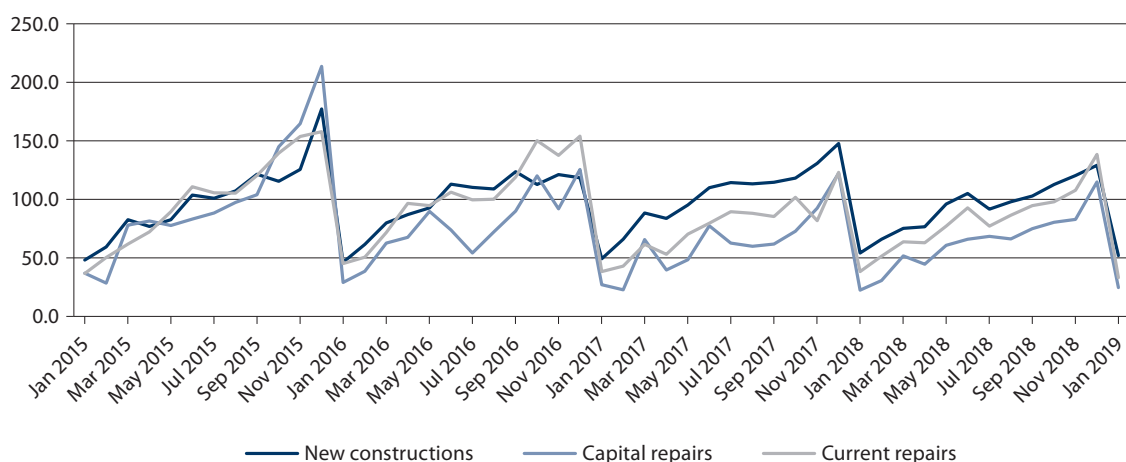
- **Industry Association of Construction Companies** has been setup by representatives of major constructions companies and promotes legislative amendments
- **Federation of Construction industry Association** – includes several major industry associations;
- **Romanian Association of Constructions Entrepreneurs**: promotes the economic, technical, financial, quality and social interests of the building-assembly, research and design units, mechanization and production of construction equipment, with mixed, state or private capital.
- **Association of Producers of Construction Materials** – promotes legality and professional ethics and policies for the development of members; represents the interests of major companies
- **Association of Architectural Offices in Romania** – more than 40 important companies; promotes legislative amendments, protects the rights of the members
- **Association of Structural Design Engineers** – defends the rights of engineers, supports the policy amendments

Market profile

The market in 2018 is estimated to 30 bln lei/ around EUR 6 bln, with a slight decrease compared to the previous years. In 2017, constructions represented 4.6% of GDP and public investments 26.7 bln RON. Through emergency ordinance 114/2018, the constructions sector benefits from an increased minimum gross salary of around EUR 630 and preferential taxation for the employer. The benefits apply for 10 years.

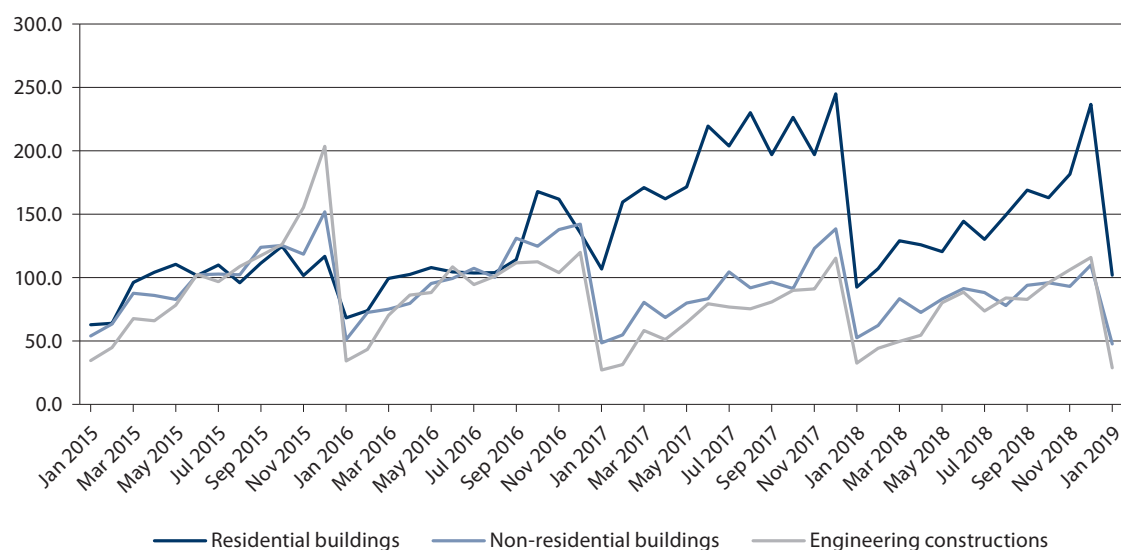
The dynamics of the sector, according to the official data published by the Statistical Office, is shown below:

FIGURE 2. CONSTRUCTION MARKET BY TYPE OF CONSTRUCTIONS (IN NUMBERS)



Source: National Statistical Institute, Romania, 2019.

FIGURE 3. CONSTRUCTIONS MARKET, COMPARISON 2015 – 2019¹⁵²
(2015=100%)



Source: National Statistical Institute, Romania, 2019.

In 2018, according to the Procurement Agency, 47.22% of the value of procurement was dedicated to public works,¹⁵³ representing 65 bln RON/approx. EUR 13.8 bln; almost half of the total number. A number of 1,029 procedures for public works have been adjudicated through open competitions (29,7 bln RON), while 9,111 (29.1 bln RON) through simplified procedures. Procurement procedures of 33 bln RON have been processed through TED, while a similar sum was not published there.

ITALY

There are five **major business associations** in the construction sector:

National Association of Construction Firms (ANCE)¹⁵⁴ that adheres to Confindustria. Founded in 1946, ANCE aims at promoting and strengthening the entrepreneurial values and those of the construction sector. In particular, ANCE represents and safeguards entrepreneurial interests with institutional bodies; drafts the national employment contract; negotiates with external world and political forces; promotes and realises activities to enlarge the construction market; assists the territorial system in concern to the issues connected with the associated enterprises.

National Association of Cooperatives of Production and Services (ANCPS)¹⁵⁵ was established in 2018 from the fusion of two other

¹⁵² http://www.insse.ro/cms/sites/default/files/com_presa/com_pdf/indici_constr01r19.pdf

¹⁵³ http://anap.gov.ro/web/wp-content/uploads/2019/02/raport-statistic-2018_05Feb2019.pdf

¹⁵⁴ <http://www.ance.it/SistemaAnce/ChiSiamo.aspx?id=6&pid=1&pcid=2>

¹⁵⁵ <http://legacoop.produzione-servizi.coop/lassociazione/>

associations (*Legacoop Servizi* and *Ancpl*). It intervenes in several business sectors, comprehending the constructions and machineries field. Among its tasks, ANCPs elaborates the guidelines of economic policy in related business sectors and promotes actions directed to affirm market logic open, competitive and regulated.

National Confederation of Craftsmanship and SME (CNA)¹⁵⁶ for over seventy years has represented and guaranteed the interests of SMEs in several business sectors: manufacture, construction, services, transport, trade and tourism. It promotes values of autonomy, social integration, independence, competitiveness, solidarity, cooperation, essence of entrepreneurship, dedication, innovation, creativity and quality, cooperation with employees, loyalty, honesty, and moral integrity.

Since 1950, **ANAEPA-Confartigianato Construction Business**¹⁵⁷ has represented the craft businesses in the construction sector. Its objectives are to promote the trade union, participate to the drafting of the national collective contracts, and guarantee businesses in the union, economic, technic and professional field.

Association of Italian Engineering, Architectural and Technical Economic Consulting Organizations (OICE),¹⁵⁸ belonging to Confindustria. Among the commitments of the OICE members, there is also the observation of the rules of professional behaviour, including those expressed in the Articles and particularly by the Association and the Ethical Code.

In 1993, the aforementioned business associations and some of the principal clients in the construction sector decided to institute a group of stakeholders to identify and develop the most relevant topics for innovation and advancement in the sector. This group becomes ISTECON in 2016, **Institution for the Technological Development in Construction**.¹⁵⁹ In relation to its mission of promoting the organisational development of the associated enterprises, ISTECON decided to draft the guidelines for the implementation of an anti-corruption managerial system in the construction sector (Bogazzi 2018).

Following the regulations introduced by Law 190/2012 (Gazzetta Ufficiale, 2012) and Legislative Decree 231/2001 (Gazzetta Ufficiale, 2001), ISTECON developed specific guidelines in order to implement anti-corruption policies within construction sector. Specifically, the guidelines divides construction sector into four macro categories: i) Tendering bodies; ii) Project Managers/Directors; iii) Construction enterprises; iv) Sub-contracting and procurement.¹⁶⁰

The guidelines are mainly directed to micro (0-9) and medium (10-49 employers) enterprises, and include specific anti-corruption measures (i.e. ethical code, protocols to control bribing, protocols to monitor activities at risk).

¹⁵⁶ <http://www.cna.it/cna/chi-siamo/storia-e-rappresentanza>

¹⁵⁷ <https://www.anaepa.it/content/chi-siamo>

¹⁵⁸ <https://www.oice.it/279184/what-is-oice>

¹⁵⁹ <https://www.isteco.com/>

¹⁶⁰ <http://www.ance.it/docs/docDownload.aspx?id=45077>

**TABLE 3. MAJOR MARKET PLAYERS IN THE CONSTRUCTION SECTOR
(NCE Rev2: F). COMPANY DATA ACCORDING TO THE LAST
AVAILABLE FINANCIAL RECORD (2017)**

Name	Revenues from sales (thous. €)	NACE Rev2	Net profit (thous. €)	Total assets (thous. €)
SALINI IMPREGILO SPA (Milano)	2,782,127.00	41.00	-91,188.00	5,959,731.00
ASTALDI SPA (Roma)	1,938,140.00	42.12	-98,723.00	4,738,940.00
IMPRESA PIZZAROTTI & C. SPA (Parma)	582,378.00	41.20	23,923.00	1,586,236.00
C.M.C. DI RAVENNA SOC. COOP. (Ravenna)	826,184.00	42.11	1,770.00	2,187,250.00
RIZZANI DE ECCHER SPA (Udine)	474,309.68	41.20	5,325.42	729,240.54

Source: AIDA (Bureau van Dijk 2019).

Box 2. Case of corruption related to procurement in construction sector. Operation Dama Nera (Il Sole 24 Ore, 2015)

Operation Dama Nera discovered a consolidated system of corruption between some managers of ANAS (the Italian national roads authority), entrepreneurs of several construction companies and one politician. The illicit conducts regarded different activities:

- Bribes from entrepreneurs to the institutional managers to break through the contentious proceedings with ANAS, with compensations at increased prices (thus, damaging to the collective good);
- Expropriation of lands at extremely high values (e.g. 50,000 €);
- Illicit authorisations for the assignments of branches of businesses after the assignment of procurement;
- Subcontracts imposed to friend-companies, sometimes connected to mafia-type organisations that could have provided the necessary security on the territory.

Source: Country Mapping report: Italy. SceMaps project working document (unpublished).

SPAIN

Many economic sectors in Spain suffer from problems in the public procurement, related to state capture and corruption, including lack of competition, unexpected overruns, procedural deficiencies that benefit a particular company or political influence. However, public works (i.e. the construction of public infrastructures) are among the highly risky ones for a number of reasons. The construction is an important sector in the Spanish economy in terms of GDP – before the 2008 financial crisis, this sector accounted for more than ten per cent of GDP; recent estimations cut this percentage in half, but Spanish companies used their local revenues to fund significant external expansion. At the same time,

the most important cases of corruption in Spain in recent years involve the contracting of public works. And last but not least, the bribes paid by the companies were the basis of illegal campaign financing, as is the case with the scandal involving the former government party, Partido Popular, when it was sentenced within the Gürtel trial sentence as a beneficiary of commissions in exchange for public contracts paid by some of the most powerful construction companies (e.g. OHL, FCC). In addition, Spanish companies in the construction sector regularly lobby the government to expand its investment in public works.

Box 3. EL PAÍS, 24 MAY 2018: Governing Popular Party and its ex-treasurer, sentenced in massive corruption case

"Spain's High Court, the Audiencia Nacional, has slapped Gürtel mastermind Francisco Correa with 51 years in jail for heading a corrupt network that worked with party officials in Popular Party (PP)-run governments between 1999 and 2006. [...]"

The court also found former PP treasurer Luis Bárcenas guilty of evading more than €11.5 million in taxes between 2000 and 2009, and of taking €1.24 million in bribes in exchange for facilitating public contract awards to business figures who were introduced to him by Correa."

Source: Country Mapping Report: Spain. SceMaps project working document (unpublished).

The main branch associations in the sector are the Confederación Nacional de la Construcción (National Construction Confederation) and the Asociación de empresas constructoras y concesionarias de infraestructuras (Association of Infrastructure Contractor and Concessionaires)

Regional public authorities, taking part in the regulation of the sector include:

- Oficina Antifrau de Catalunya (Catalan Anti-fraud Office)
- Agencia de Prevención y Lucha contra el Fraude y la Corrupción de la Comunidad Valenciana (Anti-fraud and anti-corruption Agency for the Valencian Community)
- Oficina de Prevención y Lucha contra la Corrupción en las Islas Baleares (Balearic Islands Office against Corruption)
- Oficina Municipal contra el Fraude y la Corrupción del Ayuntamiento de Madrid (City of Madrid Office against Fraud and Corruption)

More than 2,600 companies have received some of the work contracts published in the Spanish Official Gazette (BOE) between 2009 and 2015, according to Civio's analysis.¹⁶¹ Of the overall 38,828 million euros spent in public works, more than 9,600 (25%) were awarded to one of the ten major Spanish construction groups (including their subsidiaries): Actividades de Construcción y Servicios, Acciona, Fomento de Construcciones y Contratas, Ferrovial, Sacyr, Isolux Corsán, Villar Mir, Comsa, Copisa, and Grupo Sando.

¹⁶¹ <https://quiencobralaobra.es/>

2. DATA AVAILABILITY

The mapping of availability and accessibility of data in the four countries regarding companies' and procurement registers, information sources of specialized regulatory, licensing or controlling authorities, etc., aims at preparing the elaboration of forthcoming big data analytics and assessment of state capture issue on sectoral level. The current review does not include "technicalities" linked to these tasks and presents only the information sources by their type and available data, and is meant to serve as a guide to data sources for other researchers who want to employ similar methodologies.

ROMANIA

Public procurement

The main source of data related to public procurement is the official platform called SICAP.¹⁶² The website contains information starting with April 2018, when it replaced the old portal (SEAP).¹⁶³ The procurement procedures already initiated through SEAP before April were finalized through SEAP.

Both portals include some sort of exporting options, but in different degrees and formats. SEAP includes a rather minimalistic form of export, mostly in pdf format that cannot be used for the purpose of the research. SICAP allows also .csv and .xls. Also, both portals allow access to the database through paid API for a fee of around EUR 300.

The Agency for Digital Agenda (Agentia pentru Agenda Digitală a României or AADR) that manages the procurement platforms, exports all the data on the open data portal.¹⁶⁴ The portal comprises procurement procedures and direct procurement for 2007 – 2018 in .xls or .csv format.

Although most of the data is in a good format and can be used, some of the databases contain two types of errors: input errors from the public servants managing the procurement in contracting authorities and issues related to the export of data from the procurement portals (misused separators for example). For example, the servants that have administered the data could have included extra zeros or misused separators such as dot or comma; therefore, contracts that may worth 1 million RON can be found in the database with the value of 1 billion RON. These mistakes are hard to correct.

Apart from the general information that can be identified in the procurement portal, the Ministry of EU Funds has published a list with

¹⁶² www.sicap-prod.e-licitatie.ro

¹⁶³ www.e-licitatie.ro

¹⁶⁴ www.data.gov.ro/organization/agentia-pentru-agenda-digitala-a-romaniei

contracts signed between 2007 and 2013 specific for the EU funding.¹⁶⁵ The data is available in .xls and .csv formats. The quality of the data is acceptable.

Commercial portals are also available. These platforms are friendlier for the competitors and provide the information in a better organized structure. Such examples are www.licitatia.ro or www.licitatiapublica.ro.

Companies

The main database on companies is the Commerce Registry (Registrul Comertului).¹⁶⁶ The portal is based on a subscription. The platform contains all the data on companies, including financial data, shareholders, associates, administrators etc. For each of the companies a request has to be made and each interrogation of the database costs 20 RON (approx. 4.25 EUR). The quality of the provided data is rather extensive, but the format in which is provided is not as efficient as it could be, in the sense that for each search the information is provided in a .doc document. The information cannot be obtained in a bulk format.

Minimal lists of companies are provided on the open data portal.¹⁶⁷ The databases contain information on radiated and active companies, address and fiscal code number (CUI).

Other relevant information about companies can be obtained from the Ministry of Finances, which manages a website with an information about the fiscal data of the companies reported per year.¹⁶⁸ It includes the fiscal annual review of the companies, including profit, losses, number of employees. The data is not available in open format and cannot be exported as a database.

There are also commercial products on the market that offer access to information on companies in a more organized and extensive manner, such as www.termene.ro. The website contains the history of the company, owners and connections, economic profile, cases in court, relevant decisions related to the history of the companies, as published in part 4 of the Official Gazette. The portal is based on a subscription. For example, for 500 searches the price may go up to 1000 EUR. Similar information can be found on platforms such as www.listafirme.ro or www.risco.ro.

The data regarding the ownership is not published in bulk databases. Also, there is not data on beneficial ownership.

The National Integrity Agency centralizes the declarations of wealth and interests¹⁶⁹ that may contain important information related to a rather

¹⁶⁵ www.data.gov.ro/dataset/transparentizare_smis

¹⁶⁶ www.portal.onrc.ro

¹⁶⁷ <http://data.gov.ro/organization/onrc>

¹⁶⁸ www.mfinante.gov.ro/pjuridice.html?pagina=domenii

¹⁶⁹ www.integritate.eu

large range of public officials. Still, the data is not editable and is not provided in an open database format.

Information about the legal cases in which companies may be involved are available in the Court's portal.¹⁷⁰ The portal contains information about the decisions in these cases, terms, stakeholders that are involved etc. The information is not available in an exportable database. Also, the portal contains information on complaints related to public procurement.

Financing of political parties

The information on political parties cannot be found in a centralized database. According to the law the donations and membership fees with a value of more than 10 salaries and loans of more than 100 salaries in the Official Gazette by 30 April of each year. An average salary approximates EUR 440. The published decisions of the political parties are available in the Official Gazette¹⁷¹ and can also be found on the legislative portal of the Ministry of Justice.¹⁷²

The archive of election results can be downloaded from the webpage of the Permanent Electoral Authority.¹⁷³ The databases provide the results of the elections and therefore the political colours of mayors and county councils.

Information on allocations of public funds

The Romania Government established in 2013 the National Program for Local Development (PNDL) who encompassed more than 10 billion EUR so far.¹⁷⁴ The Program is managed by the Ministry of Regional Development and Public Administration (MDRAP) and is based on rather opaque, politicized mechanism of allocation.

The Ministry publishes two types of data: allocations and payments. The databases with allocations show what municipality or county council received projects, while the payments to whom the actual sums that have been transferred. Difference may occur, as the Government frequently allocates more than the real funds that can be paid from the budget.

The list of investment objectives is published by the ministry,¹⁷⁵ but the information is minimal and the data is rather scarce and has to be combined with other databases in order to get a proper working database.

The payments made by MDRAP are accessible through a centralized database,¹⁷⁶ which includes all the payments made by the ministry

¹⁷⁰ www.portal.just.ro/SitePages/acasa.aspx

¹⁷¹ www.expert-monitor.ro/LexMonitor/Demo/index.jsp

¹⁷² <http://legislatie.just.ro/Public/RezultateCautare?sectiuneact=289>

¹⁷³ www.roaep.ro/istoric

¹⁷⁴ More information about the program and political clientelism can be found on the Clientelism Map, a tool developed by EFOR since 2011, <https://expertforum.ro/en/clientelism-map/>

¹⁷⁵ www.mdrap.ro/lucrari-publice/pndl/-8564

¹⁷⁶ www.mdrap.ro/comunicare/informatii-publice/-8483

and therefore the ones related to PNDL have to be properly identified and combined with other databases in order to get a qualitative final database.

The data on procurement from PNDL is available in SEAP/SICAP and cannot be properly identified in an automatic manner due to lack of identifiers and vague names of projects and procurement procedures.

Another category is related to the National Investments Company that manages investments financed from national funds. The investments are similar to those made through PNDL, although some of the projects have a more extensive dimension. The list of projects is available,¹⁷⁷ including name of project, beneficiary and budget. No centralized procurement data is available.

BULGARIA

There are only few major sources of relevant data that are publicly available in the country.

The register of the **Public Procurement Agency**¹⁷⁸ includes data in both machine-readable format and as scanned copies of original documents for all public procurement bids and contracts. The register requires registration for accessing the full database search and some additional functionalities but the registration is free of cost. However, the register allows only search and export case-by-case and do not offer ready-for-use functionality (e.g. API) for exporting the whole database with related files, even this can be achieved by some additional software programming, which requires specialized skills. There are commercial companies in the country, that do include public procurement data, taken from this register in their information databases, which offer some more possibilities for search into the data, including as linked data with company' information (e.g. www.apis.bg and www.ciela.net). As for now the only specialized company that aggregates all the procurement data (not only from Bulgaria but from more than 40 countries worldwide, including all EU-28 and some other European countries, USA, India, etc.) and make it available to customers on a subscription base is Bizportal (<http://bizportal.bg>), Incl. through its trade mark Company Monitor (<http://thecompanymonitor.com>).

The **Executive Agency Audit of European Union Funds** manages two publicly accessible centralized databases with major information about all projects, funded by European funds in the periods 2007 – 2014¹⁷⁹ and 2015 – 2020.¹⁸⁰ Both of them have similar structure and type of data in machine readable format but the export of the whole database is not provided, even some limited export functions of separate tables and searches are available in .xls, .csv and .xml formats. The data should

¹⁷⁷ www.cni.ro/proiecte/proiecte

¹⁷⁸ <http://www.aop.bg>

¹⁷⁹ <http://umispublic.government.bg/Default.aspx>

¹⁸⁰ <http://2020.eufunds.bg/bg/0/0/Implementation>

be available for free on request according to the Access to Information Act but in practice, the administrative procedure is often blocked due to unresponsiveness of the responsible officials. The both databases includes information on single project, procedures, priority axes and operational programs. However, the available data are limited in scope (e.g. name of beneficiary and/or partner and/or subcontractor, planned and paid budget, main project goals and activities, etc.) and often not properly provided (e.g. planned instead of realized activities, not updated budgets, etc.). The publicly accessible part of both databases has also a major weakness which makes very difficult the use of data for automatic processing and analyses – the names of legal entities are not presented with the corresponding unique identifier (i.e. Unified Identification Code as per the Commercial Register and BULSTAT number as per the BULSTAT register), even this information is available in the non-public part of the databases.

The **Registry Agency** maintains several important registers, including the company register (or “Commercial register and register of not-for-profit legal entities”),¹⁸¹ the BULSTAT register,¹⁸² which includes the recordings of all legal entities outside the company register, the property register,¹⁸³ etc. All of these registers contain both structured data in machine-readable format, as well as unstructured information with full-text records (e.g. picture-based PDF files with scanned documents, submitted by companies to both the RA and the National Statistical Institute as part of their obligation for annual financial reporting). All registers and all data, incl. full-text documents, are publicly available, even some of the registers (e.g. property register) require paying fee for making inquiries, while others (e.g. company and BULSTAT registers) could be searched case-by-case for free. The two registers, which contains information and records about all legal entities in the country – the company register and BULSTAT register are available for automated download through specialised API and pre-defined xml schema on a payroll basis (e.g. about EUR 15 000 is the price for an annual subscription for automated download per every 24 hours of all data from the “Commercial register and register of not-for-profit legal entities”).

ITALY

Every company conducting an economic activity in Italy is required to enrol to the **Italian Business Register**,¹⁸⁴ managed by the relevant offices of the Chambers of Commerce, Industry, Crafts and Agriculture (i.e. business register offices). The Italian Business Register is a public register, established in 1993. It contains details relating to all companies with any legal status and within any sector of economic activity, with headquarters or local branches within the country, as well as any other subjects as required by law. It contains the main information regarding: company

¹⁸¹ <https://public.brra.bg>

¹⁸² <http://www.bulstat.bg/>

¹⁸³ <https://icadastre.bg/>

¹⁸⁴ <http://www.registroimprese.it/l-anagrafe-nazionale-delle-imprese>

name, statute, management, headquarters, incorporation, amendments, cessation of trading, changes to the statute and to company officers, changes in registered address, liquidation and insolvency proceedings, among others.

The Italian Business Register offers two types of reporting: i) legal reporting, to guarantee the existence of the company and to ensure that information can be relied upon in dealings with third parties (Article 2193 of the Civil Code, *Gazzetta Ufficiale* 1942); ii) economic reporting, for statistical and economic purposes (European Commission 2018). It is possible to access freely some very basic information (e.g. name, address of company, generic business activity). On the contrary, online access to complete information is available only on request and against payment. The cost can be different according to the required information (e.g. company profile 3 euro, company registration report in English 3 euro, extended historical company profile 4 euro). To consult and extract official data and documents from the Italian Business Register and from other Chamber of Commerce records (Register of Protests, European Registers) users must use **Telemaco**, the Chambers of Commerce online service.¹⁸⁵ Once accessed the private portal, it is possible to conduct research on companies not only by name (of the enterprise or entrepreneur), but also by business sector and location.

The European Commission (2018) has provided an assessment on the reliability of the documents available in the register. In Italy, the business register offices act under the oversight of a judge appointed by the court with jurisdiction for the place (who supervises the formal correctness of individual registrations) and under the administrative supervision of the Ministry of Economic Development. Since 1995 (Decree of the President of the Republic 581/1995, *Gazzetta Ufficiale* 1996), the business register is organised in a computerised form, making the information and documents fully and immediately available across the country. Article 31 of Law 340/2000 (*Gazzetta Ufficiale* 2000) also made it mandatory for all companies and almost all types of enterprises to use a digital signature and computer tools for preparing applications for registration and the enclosed documents and for submitting them to the business registrar. Following further changes in the legislation (Article 9 of Decree-Law 7/2007, *Gazzetta Ufficiale* 2007), all types of enterprise, including sole traders, must interact with the business register, for the purposes of reporting requirements, using digital signatures and electronic channels. Before registering an enterprise, the relevant business register office checks (Article 11 of Decree of the President of the Republic 581/1995, *Gazzetta Ufficiale* 1996) that:

- the application is authentic;
- the application form is completed correctly;
- the act or fact for which registration is requested corresponds to legal requirements;
- the documents required by law are attached;
- any other legal conditions for registration are complied with.

¹⁸⁵ <http://www.registroimprese.it/area-utente>

Moreover, a notary draws up almost all the documents relating to companies and visible in the business register (Article 11 of Decree of the President of the Republic 581/1995, Gazzetta Ufficiale 1996).

Another available **business register** in Italy is **AIDA**,¹⁸⁶ a database managed by Bureau van Dijk (2019). Bureau van Dijk (BVD) is an analytic company, providing data on around 300 million companies in all countries worldwide. Its software allows conducting statistical analysis, calculating rating and scoring, comparing companies and exporting data in several formats. BVD manages Orbis, a comparable data resource on private and public companies at international level, and national company databases for some specific countries. AIDA is the database regarding Italy and it contains personal, financial, economic, and commercial information on approximately 1 million limited companies, required to present the financial report. For each company, the specific information available regards:

- Company name, current and previous, address of the registered office and operational office, telephone number, website, number of employees;
- Financial report in time series for 10 years according to the IV CEE Directive;
- Detailed description of the business sector and commodity-related classification according to national and international codes (i.e., ATECO, NACE, NAICS);
- Professional and other related figures (i.e. representatives of the board of directors and management boards, stakeholders, shareholders, beneficial owner);
- Legal form, year of incorporation, status (e.g. active, in liquidation).

The access to AIDA is subscription based, and the price quote could be received from BvD by a request as there is no standard price list. For research purposes, several Italian universities have access to AIDA (as for example, University of Trento).

AIDA provides analytic tools to improve the efficiency of businesses in several fields: corporate credit risk, compliance and financial crime, tax and transfer pricing, business development and strategy, business development and strategy, corporate finance and M&A research, data management, and supplier risk and procurement (Bureau van Dijk 2019). However, AIDA presents some data gaps, because it contains information only for companies with share capital, required to present the financial report, and this can represent a limit for a complete search.

Italy also features a **public procurement register** that is a responsibility of **ANAC**. ANAC manages an online portal, in compliance with Article 8, paragraph 1 of Legislative Decree 52/2012 (Gazzetta Ufficiale 2012b).¹⁸⁷ Contracting authorities are obliged to communicate public procurement data to the Public Procurement Observatory, belonging to ANAC, which

¹⁸⁶ <https://www.bvdinfo.com/en-gb/our-products/data/national/aida>

¹⁸⁷ <http://portaletrasparenza.anticorruzione.it/microstrategy/html/index.htm>

then made it available on the dedicated portal. On the website, it is possible to freely access information on existing public procurements by object, administration, year, winner and/or other details. Every four months, ANAC also publishes a report with information in aggregate form about public procurements.¹⁸⁸ The information available on the portal regard: Identification Bidding Code/s (CIG), object of the tender, administration, winner, publication date, data of award, amount of the competition, amount of the lot, and amount of the award. By clicking on the hyperlink available for some records, it is possible to access the complete data sheet, with more details on the public procurement.

The revisable problem of this database is that the efficiency of the portal can mainly depend on the effort of contracting authorities in providing data and information about public procurements. The implementation of the system is likely to be fragmented, showing relevant differences among the instructions of Italian regions in making e-procurement requirements mandatory or not (PWC 2016).

The legislative Decree 149/2013 (Gazzetta Ufficiale 2013) abolished the direct public financing to political parties starting from 2018. At the same time, it has been planned a financing system based on tax deductions of the private donations and on the free allocation of two per thousand (i.e., 2/1000) of the income tax of physical persons. Consequently, there is no available **register of financing of political parties**.

To our knowledge, there are no public available registers of specific regulatory and licensing or controlling authorities providing other relevant data to the assessment of the sectors. Similarly, the wholesale of solid, liquid and gaseous fuels and the wholesale of pharmaceutical goods lack other useful **lists of sources** displaying information about the companies and public procurement bids. On the contrary, Ediliziappalti¹⁸⁹ is a portal providing complete information about regulatory framework and public procurements in the construction sector. On the website, it is possible to access a free trial or a complete subscription.

SPAIN

Some of the registries mentioned below, although public, are not free to access. And also the Transparency Law does not serve to request any information as it has a supplementary nature: if another regulation prescribes access to certain data, it has priority over the right of access to public information.

Registro Mercantil (The Spanish Companies' House)¹⁹⁰ as much as provincial registries depend on Directorate General for Registers and Notaries of the Ministry of Justice. According to its regulation,¹⁹¹ entrepreneur's records mainly include personal identification of his/her

¹⁸⁸ <http://www.anticorruzione.it/portal/public/classic/Attivitadocumentazione/Pubblicazioni/RapportiStudiContrattiPubblici>

¹⁸⁹ <http://www.ediliziappalti.com/>

¹⁹⁰ <http://www.rmc.es/>

¹⁹¹ <https://www.boe.es/buscar/act.php?id=BOE-A-1996-17533>

company, general authorizations and powers of attorney (not included those to litigate nor to operate concrete acts), opening and closing of branch offices, judicial declarations by which entrepreneur's capacities are modified, marriage settlements, judicial ruling in case of divorce, or the result of the determination of competence, insolvency or bankruptcy proceedings. And companies' records contain information about its incorporation, capital increases or decreases, structural modifications such as mergers, spinoffs and acquisitions; dissolution or liquidation, officer's appointments and separations from service, powers of attorney and insolvency, bankruptcy proceedings and balance sheets.

Despite the fact that is a public registry, is not fully open: requires a payment per any consultation.

Boletín Oficial del Registro Mercantil (BORME)¹⁹² is the official gazette of the Companies Registry which publish those juridical acts that must be publicized by law. In its first section are the officer's appointments/cessations/re-elections and the second contains announcements and legal notices such as balances, capital increases, calling of General Meetings of Shareholders and structural modifications.

Both sections began to be published online completely on January 1, 2009. The drawback of this official gazette is that the information is not indexed, so the search of any entrepreneur's links is not possible. However, there are private initiatives that have extracted and indexed BORME information. Some of them with a commercial nature, such as Empresia¹⁹³ or elnforma¹⁹⁴ which offer more information from the Companies Registry, and others open as LibreBORME¹⁹⁵ (developed as a final thesis project of a student overseen by the University of Málaga and Civio). The data are available for download in pdf, xml, and xsd formats.

Comisión Nacional del Mercado de Valores (CNMV)¹⁹⁶ or the National Securities Market Commission maintains the registries that include information of stock exchange participating companies. The most pertinent significant events (price sensitive information) for the purpose of the SceMaps project are related to corporate governance: composition of the board of directors, composition of other management and supervisory bodies, corporate governance annual report, shareholders' agreements affecting voting rights, etc. Significant events are published when a price sensitive information is released, but these events are unstructured and under PDF format. It's possible to track when significant events are published through: <http://www.cnmv.es/Portal/HR/ResultadoBusquedaHR.aspx?division=1&nif=A-28004885>

¹⁹² https://www.boe.es/diario_borme/index.php

¹⁹³ <https://www.empresia.es/>

¹⁹⁴ https://www.einforma.com/servlet/app/screen/SProductoEmpty/portal/goo/prod/INFORMES-GRATIS-NW/tipo/1/?utm_source=google&utm_term=einforma&utm_content=318553147865&Network=Search&SiteTarget=&utm_campaign=1526070862&utm_target=kwd-353354282093&utm_m

¹⁹⁵ <https://librebor.me/>

¹⁹⁶ <http://cnmv.es/>

The last part of the URL (A-28004885) is in fact the Company Tax Code (this one is the ACS' code, the first construction group). Also the CNMV's twitter account¹⁹⁷ issues a tweet when a new significant event is published.

Registro Oficial de Licitadores y Empresas Clasificadas del Sector Público¹⁹⁸ – the new Public Sector Procurement Law reinforced the Official Registry of Bidders and Classified Companies of the Public Sector. Those companies who want to work for the public sector through a specific procedure must register basic information like Company Tax Code, address, corporate purpose, sectorial classification, etc. In addition, companies can give more information voluntarily, such as trustees or attorneys in fact. Although the information is structured by companies, in order to consult this registry, it is necessary to have a digital certificate that the platform requests in a continuous manner, which is why the data extraction is quite complex.

Plataforma de Contratación del Sector Público¹⁹⁹ or the Platform of Contracts of the Public Sector gathers all the announcements of bids and adjudications of the contracts celebrated by the State and some autonomous communities and local entities. As a source it is much more complete and structured than the Spanish Official Gazette, but it does not contain the data of many relevant public administrations yet, such as large municipalities and autonomous governments. It would be an ideal source combined with other profiles of the contractor, but by itself it is only useful if we talk about the state administration. Available formats are pdf, html and xml.

Agencia Española del Medicamento y Productos Sanitarios (AEMPS) or the Spanish Agency for Medicines and Health Products has two interesting registries: on the one hand, that of authorized pharmaceutical laboratories in Spain; and on the other, that of the wholesalers.

The first one includes laboratories that manufacture or import medicines (pharmaceutical laboratories, manufacturers or importers) and holders of marketing authorizations for medicines that have storage facilities for them (laboratories holders of marketing authorization).²⁰⁰

The second one includes wholesale warehouses, authorized by the Autonomous Communities, warehouses by contract, authorized by the Autonomous Communities and customs warehouses under customs control or surveillance, authorized by AEMPS.²⁰¹

¹⁹⁷ https://twitter.com/cnmv_hr

¹⁹⁸ <https://registrodelicitadores.gob.es/>

¹⁹⁹ <https://contrataciondelestado.es/> (English versión is not updated)

²⁰⁰ <https://labofar.aemps.es/labofar/registro/farmaceutico/consulta.do>

²⁰¹ <https://labofar.aemps.es/labofar/registro/entidadesDistribucion/consulta.do?metodo=detalleBusqueda>

3. CONCLUSION

The mapping of policy, institutional and market aspects of state capture and anti-corruption in Bulgaria, Italy, Romania and Spain with a focus on the three pre-selected sectors (wholesale of fuels, wholesale of pharmaceuticals, and construction), which aims at setting the scope and collecting comparative information about the forthcoming project activities, confirms two major conclusions:

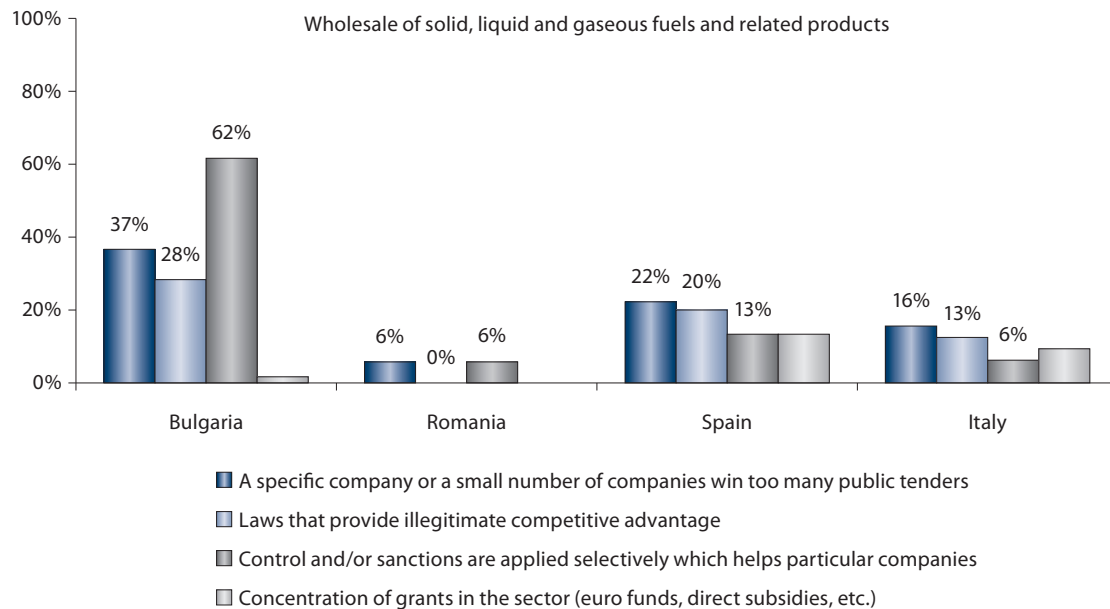
- On the one side, the policy and institutional frameworks have not employed the concept of state capture but all of them have anti-corruption policies and institutions in place, which also relate to state capture aspects. However, in some cases, the existing anti-corruption bodies have become part of the problem of state capture, rather than solution for it.
- On the other side, although the problem of corruption is recognized as a major issue in all four countries, it has been often underestimated or neglected for years by the political establishment. One of the most vulnerable domains in all the countries remains public procurement, especially in key economic sectors with high share of public spending and existence of large state-owned enterprise.

Thus, a more detailed assessment of state capture and anti-corruption is needed, followed by independent investigation of particular vulnerabilities discovered by this assessment. The current mapping exercise serves as a preparatory step for the elaboration and implementation of such an integrated assessment, employing novel methodological three-dimensional approach, which combines hard and soft data from both big data and experts' evaluation domains.

This mapping report outlines different vulnerabilities and symptoms of state capture in Italy, Spain, Romania, and Bulgaria. There are nationwide gaps in government, issues with procurement, potential symptoms of judiciary and media capture and others. Multiple problems are known at the sector-level as well. Despite all the signs of State Capture in the four countries, the problem is still not addressed directly and explicitly in official reports, policies and other legal or analytical documents published by the countries' governments or by the European Commission. The first step to counteracting a serious threat like State Capture is discussing it openly and understanding its symptoms and enablers for what they are – not separate problems, but parts of a much bigger picture.

Here we focus on listing the relevant players in a delicate balance between free competition, regulation by public authorities and NGOs' advocacy and analytics. Finding gaps, vulnerabilities and symptoms related to state capture enabling and pressure needs good understanding of the assessed economic sectors as well as of the local context.

FIGURE 4. SCAD RESULTS FOR THE WHOLESALE OF SOLID, LIQUID AND GASEOUS FUELS AND RELATED PRODUCTS



Source: SCAD, CSD. Percentage of experts who mentioned a particular symptom/vulnerability in this sector/country.

The state-of-the-art in state capture measurement for these countries and sectors is comprised mainly of different case studies mentioning separate components of state capture as active problems in one country/sector or another. While this was included in the report, a quantitative assessment (which is the main goal of SceMaps) uses standardized approach which allows some degree of comparability both inside a sector/country and cross-country. Such standardized approach was piloted by the SCAD²⁰² which can provide additional insight into different vulnerabilities in the three sectors (see SCAD graphs below, complementing the sectoral summaries).

Wholesale of solid, liquid and gaseous fuels and related products is heavily regulated in all four countries which puts the focus on assessing the effectiveness and impartial actions of the public authorities responsible for developing the regulatory framework and enforcing the law. Since in most countries this sector is dominated by large international corporations and local markets are dominated naturally by few large players, potential state capture vulnerabilities and symptoms could be found mainly in the institutional and policy setups of relevant public organizations, rather than in market or procurement concentration indicators. The sectors is particularly problematic in Bulgaria with strong indication of state capture reported both in multiple qualitative analyses as well as indicated quantitatively by SCAD.

²⁰² Stoyanov, A, A. Gerganov & T. Yalamov (2019) State Capture Assessment Diagnostics, Center for the Study of Democracy, Sofia, pp. 174.

FIGURE 5. SCAD RESULTS FOR THE WHOLESALE OF PHARMACEUTICAL GOODS

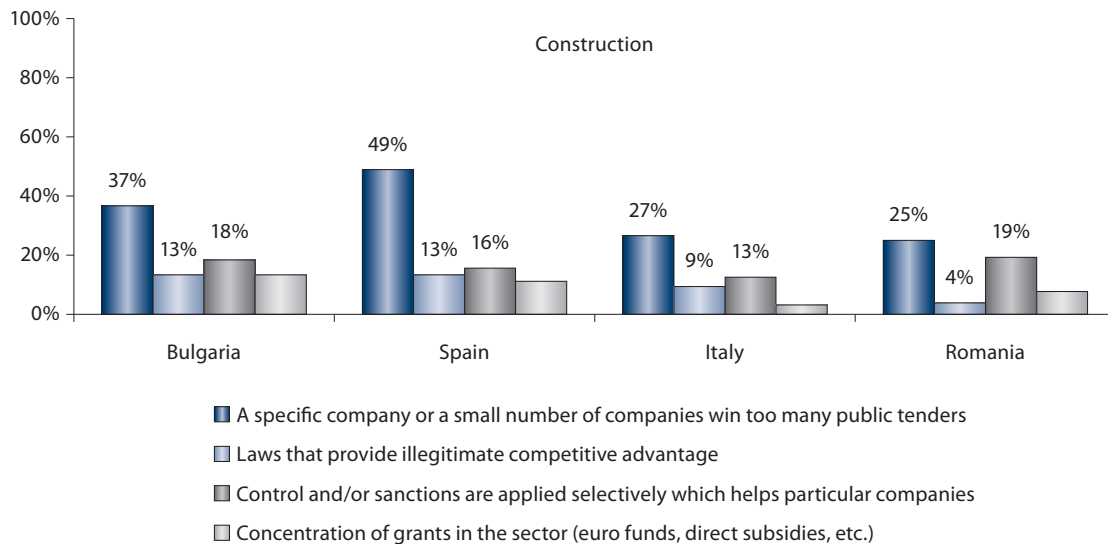


Source: SCAD, CSD. Percentage of experts who mentioned a particular symptom/vulnerability in this sector/country.

Wholesale of pharmaceuticals is another example of large international corporations competing locally for a complex market where medical doctors can influence the sale of particular medicines through prescriptions but only as long as the drugs are approved for the local market (and in some cases covered by state funds). The latter is a very strong central catalyst influencing competition and a natural vulnerability which can be exploited. Anti-state-capture regulations (if any) typically focus on the trivial petty corruption of sales representatives who often try to incentivize doctors to pushing their companies' brands. At the same time regulations and public spendings for products which are distributed free to the patients (e.g. at hospitals; medications covered by the state, etc.) are an extremely prominent path for giving a particular player (or "captor" in this context) an unfair advantage at the local market. Since "state capture" is not properly recognized as a phenomenon, there is basically no explicit attempt to cover potential vulnerabilities despite some sporadic attempts to address different components of the state capture model (without actually recognizing them as state capture symptoms/vulnerabilities). Procurement and control/sanctions are particularly problematic in Bulgaria according to SCAD while illegal lobbying is a potential red light in Italy and Spain.

Finally, **Construction** is a sector vulnerable to multiple state capture threats. Some of these are the well-known issues with procurement concentration in civil engineering which are sometimes connected to clientelism (companies close to the ruling party are much more likely to win tenders), but sometimes hint strongly for actual state capture

FIGURE 6. SCAD RESULTS FOR CONSTRUCTION



Source: SCAD, CSD. Percentage of experts who mentioned a particular symptom/vulnerability in this sector/country.

(a company or rather an ultimate owner who is inexplicably successful in winning tenders regardless of the ruling party). Procurement concentration in construction is problematic in all four countries but particularly in Spain where procurement was not transparent and properly regulated until recently. Other vulnerabilities stem from lack of impartiality of public entities controlling both civil engineering and construction of buildings (e.g. enforcing quality standards, issuing building permits, etc.). Finally, illegal lobbying (lobbying is not regulated in most of the countries) is another dangerous path to creating sector-level legislation which benefits few particular market players.

