

The background of the slide is the flag of the European Union, featuring a circle of twelve gold stars on a blue field.

# COMPARATIVE ANTIMAFIA LEGISLATION

UE LAWS

**BULGARIA**

## **CRIMINAL CODE of Republic of Bulgaria with reference to Art. 416 bis ITALIAN GENERAL ANTIMAFIA RULE**

### Art. 93 point 20

(New, SG (State Gazette) No. 92/2002, amended, SG No. 27/2009) An "organized criminal group" is the permanent structured association of three or more individuals intended for the agreed perpetration, inside the country or abroad, of crime punishable by imprisonment of more than three years. An association shall also, be considered structured in the absence of any formal distribution of functions among its participants, duration of their involvement or any developed internal structure.

### Art. 321

(1) (Amended, SG (State Gazette) No. 92/2002) A person who forms or leads an organized criminal group, shall be punished by imprisonment for three to five years. (2) (Amended, SG (State Gazette) No. 92/2002) A person who takes part in such a group shall be punished by imprisonment for one to six years. (3) (New, SG No. 62/1997, amended, SG No. 21/2000, SG No. 92/2002, supplemented, SG No. 27/2009, amended and supplemented, SG No. 26/2010) Where the group is armed, or formed with a venal goal or for the purposes of performing crimes under Art.s 142, 142a, 143a, 243, 244, 253, 280, 337, 339, Paragraph 1 - 4, 354a, Paragraph 1 and 2 and 354b, Paragraph 1-4 or an official takes part in it, the punishment shall be: 1. under paragraph (1) - imprisonment for five to fifteen years; 2. under paragraph (2) - imprisonment for three to ten years. (4) (New, SG No. 62/1997) A member of the group shall not be penalised, provided he gives himself up voluntarily to the authorities and discloses everything that may be of his knowledge about the group, before the commitment of a crime by such person or by the group. (5) (New, SG No. 62/1997) A member of the group who gives himself voluntarily to the authorities and discloses everything of his knowledge about the group, thus facilitating the detection and proof of crimes committed by the group, shall be penalised pursuant to Art. 55. (6) (New, SG No. 92/2002) Anyone who agrees with one or more individuals to commit, in this country or abroad, crimes punishable by imprisonment of more than three years and that pursue the aim of supplying a material benefit or the exertion of illegal influence over the operations of a competent authority or the local government, shall be punished by imprisonment of up to six years.

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### **Art. 321a** (New, SG No. 62/1997)

A person who participates in the leadership of an organisation or a group, which concludes transactions or makes benefit by use of force or by inspiring fear, shall be punished by imprisonment for three to eight years. (2) A person who participates in such an organisation or group shall be punished by imprisonment for up to five years. (3) The property acquired by such actions by the organisation, the group or the participants therein, shall be appropriated in favour of the state, provided the persons from whom such property has been acquired, or their heirs, are unknown. (4) In the cases under the preceding paragraphs the provision of Art. 321, paragraphs (4) and (5) shall apply.

## **CRIMINAL CODE of The Republic of Bulgaria with reference to Art. 416 ter ITALIAN GENERAL ANTIMAFIA RULE**

### **Art. 385** Obstruction of the Exercise of Electoral Rights

(1) Obstruction, by any means, of the free exercise of the right to vote or to be elected shall be punishable by imprisonment from 6 months to 3 years.

(2) Attack, by any means, on the premises of the polling station shall be punished by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.

### **Art. 386** Voter Bribery

(1) Offering or giving money, goods or other benefits for the purpose of determining the voter to vote or not to vote for a certain list of candidates or a certain candidate shall be punished by imprisonment from 6 months to 3 years and the prohibition of the exercise of certain rights.

(2) Goods with symbolic value, inscribed with the symbols of a political party, shall not fall within the category of goods provided for in paragraph (1).

## **CRIMINAL CODE of The Republic of Bulgaria with reference to Art. 416 ter ITALIAN GENERAL ANTIMAFIA RULE**

### Art. 387 Voting fraud

(1) The act of a person who votes:

a) without having this right;

b) twice or more times;

c) by inserting more ballot papers into the ballot box than a voter is entitled to shall be punished by imprisonment from 6 months to 3 years or by a fine and the prohibition of exercising certain rights.

(2) The same punishment shall be imposed for the use of a voter card or a false or invalid identity document or a false ballot paper.

Art. 167 (1) (Amended, SG No. 103/2004, effective 1.01.2005, previous Art. 167, SG No. 75/2006, amended, SG No. 27/2009, supplemented, SG No. 19/2014, effective 5.03.2014) A person who through violence, deception, threat or in some other unlawful way, hinders someone from expressing his right of vote or of being elected or to vote in a referendum or to participate in a collection of signatures on a proposal for the conduct of a referendum, shall be punished by imprisonment for up to three years and by a fine from BGN one thousand to ten thousand.

(2) (New, SG No. 75/2006, amended and supplemented, SG No. 27/2009, supplemented, SG No. 19/2014, effective 5.03.2014) Anyone offering or providing a material benefit to another to the purpose of persuading him/her to exercise his right to vote to the benefit of a particular candidate for office, a political party or coalition or to vote in a referendum in a particular manner, shall be punished by imprisonment of up to five years and a fine from BGN ten thousand to twenty thousand. (3) (New, SG No. 85/2007, amended and supplemented, SG No. 27/2009, amended, SG No. 17/2013, supplemented, SG No. 19/2014, effective 5.03.2014) Anyone who organizes the offering or giving of a material benefit to another for the purpose of persuading him/her to exercise his right to vote to the benefit of a particular candidate for office, a political party or coalition or to vote in a referendum in a particular manner, shall be punished by imprisonment for one to six years, as well as by a fine from BGN five thousand to twenty thousand.



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(4) (New, SG No. 27/2009, supplemented, SG No. 19/2014, effective 5.03.2014) The punishment under paragraph (3) shall also be imposed on a person providing a material benefit to the persons under paragraphs (2) and (3) to be offered or provided to another person with the purposes of persuading him to exercise his voting right in favour of a specific candidate, political party or coalition or to vote in a referendum in a particular manner. (5) (New, SG No. 19/2014, effective 5.03.2014) Where the act referred to in Paragraphs (1) to (4) was committed by a domestic public official in the course of, or in connection with, the performance of the official duties thereof, the penal sanction shall be deprivation of liberty for a term ranging from one to six years. (6) (New, SG No. 27/2009, renumbered from Paragraph 5, SG No. 19/2014, effective 5.03.2014, and amended) In the cases under paragraphs (2), (3), (4), and 5 the court shall also impose a punishment deprivation of the right under Art. 37 (1) item 6. (7) (New, SG No. 19/2008, previous paragraph 4, supplemented, No. 27/2009, renumbered from Paragraph 6, SG No.19/2014, effective 5.03.2014) Perpetrators of actions referred to in paragraph (2) will not be punished provided that they voluntarily inform the relevant body of authority of any committed crime as referred to in paragraph (3) and (4).

Art. 167a (New, SG No. 85/2007) (1) (Previous Art. 167a, SG No. 19/2008, amended, SG No. 27/2009, supplemented, SG No. 19/2014, effective 5.03.2014) Anyone who, for the purpose of exercising his/her right to vote to the benefit of a particular candidate or to vote in a referendum in a particular manner for office, asks or receives a material benefit, shall be punished by imprisonment of up to three years and by a fine from BGN one thousand to five thousand. (2) (New, SG No. 19/2008, amended, SG No. 27/2009) Perpetrators will not be punished provided that they voluntarily inform the relevant body of authority of any committed crime as referred to in Art. 167, paragraphs (2), (3) or (4).

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Art. 168 (1) (Amended, SG No. 28/1982, SG No. 10/1993, previous Art. 168, SG No. 75/2006, supplemented, SG No. 19/2014, effective 5.03.2014) A person who exercises voting right or who votes in a referendum, without having such right shall, be punished by probation for up to six months or by a fine from BGN 100 to 300. (2) (New, SG No. 75/2006, supplemented, SG No. 19/2014, effective 5.03.2014) Anyone exercising his/her right to vote two or more times for the same election or who votes two or more times in one and the same referendum, shall be punished by probation and a fine from BGN 500 to 2,000.

Art. 168a (New, SG No. 19/2014, effective 5.03.2014) (1) Any person who, in breach of the established rules, prints voting ballots shall be punished by deprivation of liberty for a term not exceeding three years and by a fine ranging from one thousand to three thousand leva. (2) The penal sanction under Paragraph (1) shall, be imposed also on any person who unlawfully holds or distributes voting ballots.

Art. 169 (Supplemented, SG No. 19/2014, effective 5.03.2014)\_An official as well as a person from the composition of an election commission, who violates the secret of vote or in any way alters the results of an election or referendum, shall be punished by imprisonment for up to three years or by probation.

Art. 169a (New, SG No. 1/1991, amended, SG No. 10/1993)\_A person who through the use of force, threat, or in another unlawful way compels another, contrary to his convictions or to his will, to participate or to leave a political party, organisation, movement or coalition with political objectives, shall be punished by imprisonment for up to three years or by a fine from BGN one hundred to three hundred.

Art. 169b (New, SG No. 1/1991, amended, SG No. 10/1993)\_A person who through the use of force, threat, or in another unlawful way impedes another to exercise his constitutional political rights, shall be punished by imprisonment for up to three years or by a fine from BGN one hundred to three hundred.

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Art. 169c (New, SG No. 1/1991)\_Where the, act under Art.s 169a and 169b has been committed by an official during or in connection with the fulfilment of his duties, the punishment shall be imprisonment for up to five years.

Art. 169d (New, SG No. 27/2009)\_(1) A person who forms or heads a group, which sets as its purpose to commit crimes under this section shall, be punished by imprisonment from one to eight years.\_(2) A person who is a member of such a group shall, be punished by imprisonment for up to six years. (3) A participant in the group who voluntarily surrenders to the bodies of power discloses all information it knows about the group and thus significantly facilitates the disclosure and proving of crimes committed by it shall, be punished under the conditions of Art. 55.\_(4) A participant in the group who voluntarily surrenders to the authorities and discloses the group before the group or the person commit another crime under this section shall, not be punished.

Art. 385 Obstruction of the Exercise of Electoral Rights\_(1) Obstruction, by any means, of the free exercise of the right to vote or to be elected shall be punishable by imprisonment from 6 months to 3 years.\_(2) Attack, by any means, on the premises of the polling station shall be punished by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.

Art. 386 Voter Bribery\_(1) Offering or giving money, goods or other benefits for the purpose of determining the voter to vote or not to vote for a certain list of candidates or a certain candidate shall be punished by imprisonment from 6 months to 3 years and the prohibition of the exercise of certain rights.\_(2) Goods with symbolic value, inscribed with the symbols of a political party, shall not fall within the category of goods provided for in paragraph (1).

Art. 387 Voting fraud\_(1) The act of a person who votes: a) without having this right; b) twice or more times; c) by inserting more ballot papers into the ballot box than a voter is entitled to shall be punished by imprisonment from 6 months to 3 years or by a fine and the prohibition of exercising certain rights.\_(2) The same punishment shall be imposed for the use of a voter card or a false or invalid identity document or a false ballot paper.



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Art. 388 Electronic voting fraud.\_Printing and using false access data, fraudulently accessing the electronic voting system or falsifying ballot papers in electronic format by any means shall be punished by imprisonment from one to 5 years.

Art. 389 Violation of the confidentiality of the vote\_(1) Violation by any means of the secrecy of the vote shall be punished by a fine.\_(2) If the act was committed by a member of the electoral bureau of the polling station, the punishment is imprisonment from 6 months to 3 years or a fine and the prohibition of exercising certain rights.

Art. 390 Failure to comply with the ballot box regime (1) Opening the ballot boxes before the time set for the closing of voting is punishable by imprisonment from one to 3 years or a fine and the prohibition of exercising certain rights. (2) Entrusting the special ballot box to persons other than members of the electoral bureau of the polling station or transporting it by other persons or under conditions other than those provided for by law is punishable by imprisonment from 3 months to 2 years or a fine and the prohibition of exercising certain rights.

Art. 391 Falsification of electoral documents and records (1) Falsification by any means of the documents from the electoral bureaus is punishable by imprisonment from one to 5 years and the prohibition of exercising certain rights. (2) The same penalty shall also be imposed for the registration in the copy of the permanent electoral list or the complementary electoral list of persons who do not appear on this list. (3) The introduction into use or use of a computer program with defects that alters the registration or summation of the results obtained in the polling stations or determines the distribution of mandates outside the provisions of the law shall be punished by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights. (4) The same penalty shall be imposed for the introduction of data, information or procedures that lead to the alteration of the national information system necessary for establishing the election results.

Art. 392 Acts committed in connection with a referendum.\_The provisions of Art.s 385-391 shall apply accordingly to acts committed on the occasion of a referendum.



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Art. 393 Punishment of attempt. Attempts to commit the crimes provided for in Art.s 385 and 387-391 shall be punished (1) For the purposes of this Act a person carries on lobbying activities if the person (a) makes, or manages or directs the making of, any relevant communications on behalf of another person in return for payment (in money or money's worth) in any of the circumstances in which subsection (2) applies to that other person, (b) makes, or manages or directs the making of, any relevant communications in any of the circumstances in which subsection (2) applies to the person, or (c) makes any relevant communications about the development or zoning of land under the Planning and Development Acts 2000 to 2014. (2) The circumstances in which this subsection applies to a person are that— (a) the person has more than 10 full-time employees and the relevant communications are made on the person's behalf, (b) the person has one or more full-time employees and is a body which exists primarily to represent the interests of its members and the relevant communications are made on behalf of any of the members, or (c) the person has one or more full-time employees and is a body which exists primarily to take up particular issues and the relevant communications are made in the furtherance of any of those issues. (3) For the purposes of the operation of subsection (1)(b) in relation to a body in circumstances in which paragraph (b) or (c) of subsection (2) applies to the body, the body “makes” a relevant communication only— (a) where it is made by an employee of the body, or (b) where it is made by a person who holds, in the body, any office— (i) in respect of which remuneration is payable, and (ii) the functions of which relate to the affairs of the body as a whole, in his or her capacity as such. (4) In subsection (1) “relevant communications” means communications (whether oral or written and however made), other than excepted communications, made personally (directly or indirectly) to a designated public official in relation to a relevant matter. (5) The following are excepted communications: (a) communications by or on behalf of an individual relating to his or her private affairs about any matter other than the development or zoning under the Planning and Development Acts 2000 to 2014 of any land apart from the individual's principal private residence; (b) communications by or on behalf of a country or territory other than the State; (c) communications by or on behalf of the European Union, the United Nations or any other international organisation;

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Art. 393 (d) communications requesting factual information or providing factual information in response to a request for the information; (e) communications requested by a public service body and published by it; (f) communications forming part of, or directly related to, negotiations on terms and conditions of employment undertaken by representatives of a trade union on behalf of its members; (g) communications the disclosure of which could pose a threat to the safety of any person; (h) communications the disclosure of which could pose a threat to the security of the State; (i) communications which are made in proceedings of a committee of either House of the Oireachtas; (j) communications by a designated public official in his or her capacity as such; (k) communications which— (i) are made by a person who is employed by, or holds any office or other position in, a public service body in his or her capacity as such, or (ii) are made by a person engaged for the purposes of a public service body in his or her capacity as such, and which relate to the functions of the public service body; (l) communications which— (i) are made by a person who is employed by, or holds any office or other position in, a body which is not a public service body, but is a body by which a designated public official is employed or in which a designated public official holds any office or other position, in his or her capacity as such, or (ii) are made by a person engaged for the purposes of such a body in his or her capacity as such, and which relate to the functions of the body; (m) communications by or on behalf of a body corporate made to a Minister of the Government who holds shares in, or has statutory functions in relation to, the body corporate, or to designated public officials serving in the Minister's department, in the ordinary course of the business of the body corporate; (n) communications between members of a relevant body appointed by a Minister of the Government, or by a public service body, for the purpose of reviewing, assessing or analysing any issue of public policy with a view to reporting to the Minister of the Government or public service body on it; (o) any communications of a description prescribed under subsection (8). (6) In subsection (5)(n) "relevant body" means a body— (a) the members of which are appointed by a Minister of the Government or by a public service body and include one or more persons who are designated public officials and one or more persons who are neither public servants nor engaged for the purposes of a public service body, and (b) which conducts its activities in accordance with the Transparency Code.

## **With reference to Law No. 175/2010 BAN ON CARRYING OUT ELECTORAL PROPAGANDA FOR PERSONS SUBJECT TO PREVENTIVE MEASURES**

No similar measure exists in Bulgaria.

## **Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act with reference to Law No. 575/1965 PERSONAL PREVENTION MEASURES**

Chapter Eleven Powers of commission authorities upon conduct of examination for identification of unlawfully acquired assets. Art. 114 (1) In respect of the period under examination, referred to in Art. 112 (3) herein, the authorities referred to in Art. 16 (1) herein shall gather information on: 1. the assets, the location thereof, the value and the legal grounds for the acquisition thereof; 2. the fair market value of the assets by the time of acquisition; 3. the fair market value of the assets by the time of the examination; 4. transformation of the assets; 5. the revenue and costs of ordinary activities and the extraordinary revenue and costs of the legal person; 6. the customary and extraordinary income and maintenance expenses of the natural person and of the family members thereof; 7. the paid pecuniary obligations at public law to the State and the municipalities; 8. the transactions in the assets of the legal person; 9. the transactions in the assets of the person under examination and of the family members thereof; 10. the trips abroad of the person under examination and of the family members thereof, as well as of the persons who represent the legal person; 11. the injunctions and charges imposed on the assets, as well as the liabilities assumed; 12. any other circumstances relevant to clarifying the source of the assets, the manner of acquisition and of transformation thereof. (2) Upon the implementation of the examination referred to in Art. 107 (2) herein, the authorities referred to in Art. 16 (1) herein shall have the right:

- to afford the person under examination and the parties related thereto an opportunity to give explanations and to lodge objections;
- to require information.



## **Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act with reference to Law No. 575/1965 PERSONAL PREVENTION MEASURES**

Chapter Twelve Precautionary measures and forfeiture to the exchequer of unlawfully acquired assets. Section I Precautionary Measures Art. 116 1) The Commission shall adopt a decision on submission to the court of a motion for an injunction securing a future action for forfeiture of assets on the basis of a report by the director of the territorial directorate concerned where sufficient data have been collected by the examination to make a reasonable assumption that the said assets have been acquired unlawfully. 2) The decision referred to in Paragraph (1) shall specify the charges and injunctions imposed on the assets theretofore. 3) The Commission shall submit a motion for an injunction securing a future action for forfeiture of the unlawfully acquired assets to the district court exercising jurisdiction over the permanent address of the person or, respectively, over the registered office of the legal person. Where the assets incorporate a corporeal immovable, the motion shall be submitted to the district court exercising jurisdiction over the situs of the immovable, and where the assets incorporate more than one corporeal immovable, the motion shall be submitted to the district court exercising jurisdiction over the situs of the immovable of the highest tax assessed value. 1) The Commission may not move for the imposition of precautionary measures on the assets of a natural person which is 2) not subject to coercive enforcement according to Art. 444 of the Code of Civil Procedure or on any cash of a legal person and of a sole trader intended for payment of labour remunerations and social insurance contributions for the staff solely if charged on a separate analytical account. 3) Where sufficient data are not available to make a reasonable assumption that the assets have been acquired unlawfully, the Commission shall adopt a decision on a refusal to institute a proceeding under this Act and on termination of the examination or shall adopt a decision on a return of the case file for the collection of additional data.

**With reference to Art. 6 of Legisl. Decree N. 159/6.9.2011 SPECIAL PUBLIC SECURITY SURVEILLANCE**

No similar measure exists in Bulgaria.

**With reference to Art. 6, par. 2 of Legisl. Decree N. 159/6.9.2011 SPECIAL PS SURVEILLANCE WITH PROHIBITION OF RESIDENCE**

No similar measure exists in Bulgaria.

**With reference to Art. 6 par. 3 of Legisl. Decree N. 159/2011 SPECIAL PS SURVEILLANCE WITH OBLIGATION TO STAY**

No similar measure exists in Bulgaria.

**Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act with reference to Art. 16 of Legisl. Decree No 159/2011 ASSET-RELATED PREVENTIVE MEASURES ENTITIES SUBJECT TO THE LAW**

The aforementioned Art. 116 related to Art. 114.

**With reference to Art. 18 Legisl. Decree 159/2011 DECEASED PERSON**

No similar measure exists in Bulgaria.

## **Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act with reference to Art. 20, Legisl. Decree 159/2011 SEIZURE**

The aforementioned Art. 116 related to Art. 114 in addition with Art. 136 (1) After the imposition of the precautionary measures, the authorities referred to in Art. 16 (1) herein shall invite the natural person under examination to submit a written declaration on: 1. the corporeal immovables and motor vehicles, ships and aircraft, limited real rights to corporeal immovables, cash deposits, securities, works of art, movable cultural assets, participating interests in commercial corporations, receivables, patents, trademarks and industrial designs, as well as other assets owned by the said person and by the family members thereof; 2. a list of the bank accounts held by the said person and by the family members thereof in Bulgaria and abroad; 3. the sources of funds and the grounds for acquisition of the assets and for maintenance of the family of the said person; 4. any transactions in corporeal immovables, movable things, participating interests and shares in commercial corporations, transfer of an undertaking or other commercial or legal transactions in assets of the person and of the family members thereof effected during the period under examination, as well as the sources of the funds for effecting the said transactions; 5. any obligations to third parties; 6. other circumstances related to the assets of the person under examination.

(2) The circumstances stated under Paragraph (1) must be documented. (3) Where the person under examination is deceased, the heirs or legatees thereof who have accepted the succession shall be invited to submit the declaration referred to in Paragraph (1). Where the succession has not been accepted, the authorities referred to in Art. 16 (1) herein shall extend a request under Art. 51 of the Succession Act. (4) The person shall submit the declaration within 14 days from the receipt of the communication or, if the said person is abroad, within one month. (5) The standard form of the declaration shall be endorsed by a decision of the Commission and shall be published in the State Gazette.

## **Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act with reference to Art. 24 Legisl. Decree 159/2011 CONFISCATION**

The aforementioned Article 116 related to Article 114 in addition with Article 136.



**Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act with reference to Art. 25, Legisl. Decree 159/2011  
SEIZURE AND CONFISCATION OF AN EQUIVALENT VALUE**

The aforementioned Article 116 related to Article 114 in audition with Article 136.

**Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act with reference to Art. 110, Legisl. Decree 159/2011  
AGENCY FOR ASSETS SEIZED AND CONFISCATED ANTIMAFIA LAWS**

The aforementioned Article 116 related to Article 114 in audition with Article 136.

**With reference to Decree-Law No. 8/1991 converted into Law 82/1991 KIDNAPPINGS FOR THE PURPOSE OF EXTORTION  
AND PROTECTION OF WITNESSES OF JUSTICE**

No similar measure exists in Bulgaria.

**With reference to Art. 143 TUEL Consolidated Law for Local Authorities DISSOLUTION OF MUNICIPAL COUNCILS FOR  
MAFIA INFILTRATION**

No similar measure exists in Bulgaria.

**With reference to Art. 84, Legisl. Decree 159 of 2011 COMMUNICATION AND INFORMATION OF THE ANTI-MAFIA  
DOCUMENTATION**

No similar measure exists in Bulgaria.

**With reference to PROVISIONS OF THE CRIMINAL CODE NOT INCLUDED IN THE ITALIAN CRIMINAL CODE**

No similar provision was found.