

The Bulgarian experience in the field of conflict of interest - lessons learned

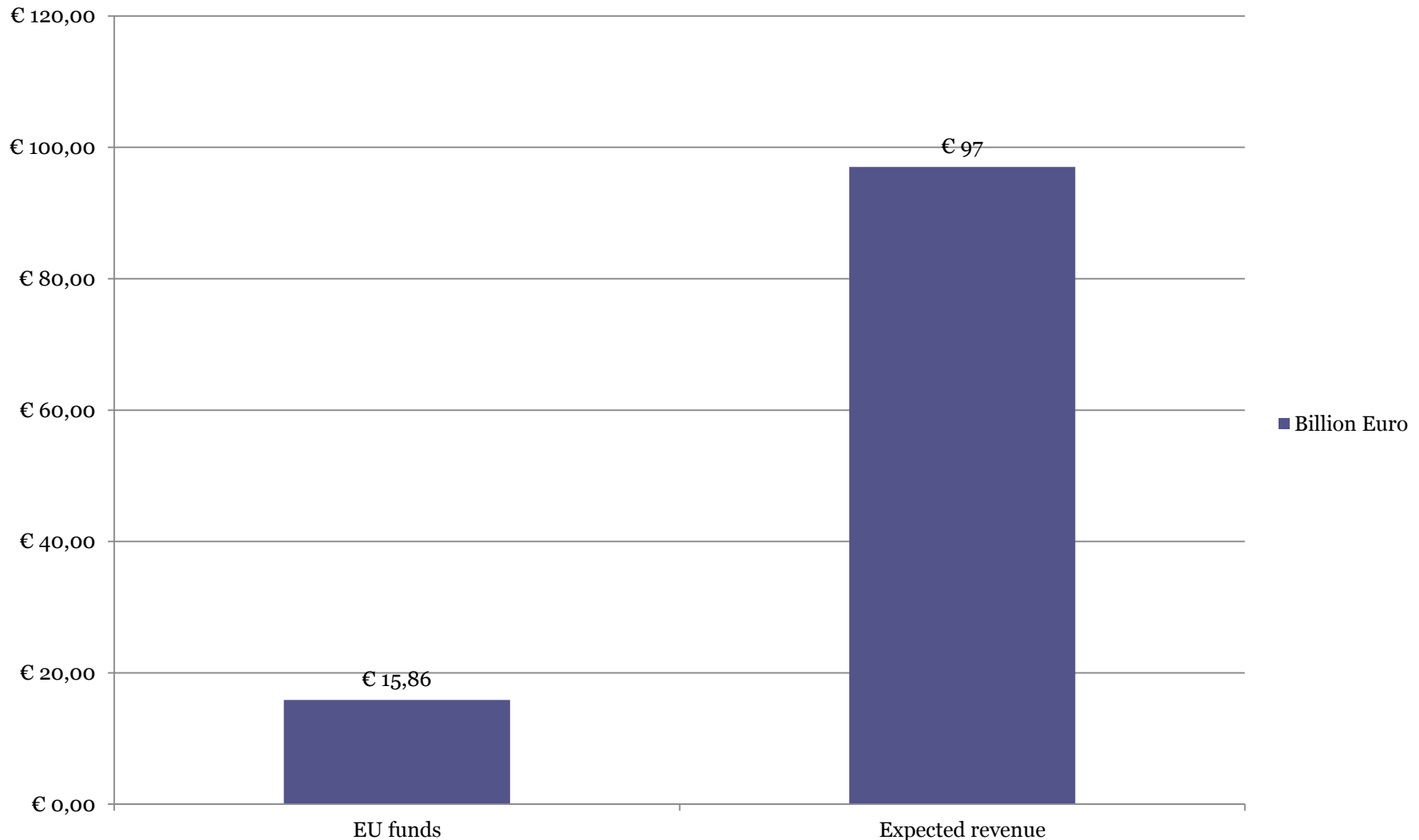
Nikolay Nikolov, Ph.D

1. The importance of the funds.

Authorities responsible for the management of EU funds

- European funds are important for the Bulgarian economy.
- expected revenue of the seven national budgets for 2014-20 – EUR **97 billions**.
- financial resources earmarked for the current programming period 2014 – 2020 under all funds amount to EUR 15,86 billions, which accounts for 20 % of the national budgets.

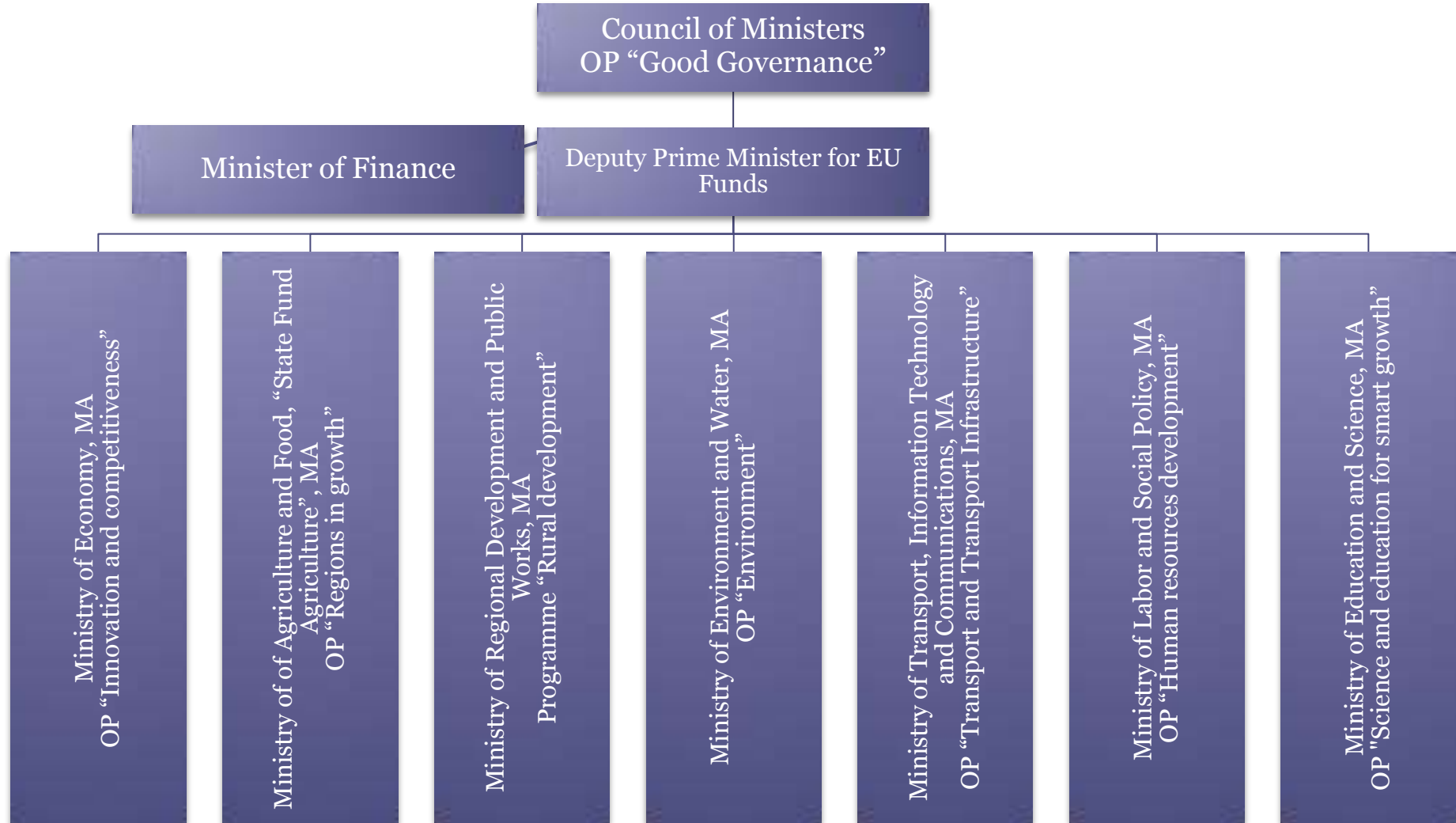
Comparing expected revenue of seven national budgets 2014-2020 and EU funds (bln. Euro)



1. The importance of the funds

- The management of EU Structural and Investment Funds Act / MEUSIFA/ gives the Council of Ministers, the Deputy Prime Minister of Coordination and the Minister of Finance the responsibility for acting as a central body in this process.
- 7 ministries, including the agencies therein, manage the absorption of funds under the different investment and structural programmes.
- 2,000 civil servants in management and expert positions are involved in this process.

Flowchart of authorities managing EU funds



2. National legislation on conflict of interest - concept, obligated persons, prohibitions, status of CPACI

Two **fundamental acts** :

- Conflict of Interest Prevention and Ascertainment Act /CIPAA/
(in force since 1.01.2009)
- Management of European Union Structural and Investment Funds Act /MEUSIFA/ - in force since 25.12.2015.
- ◇ **Legal definition** /Article 2, para. 1 of CIPAA/ : “A conflict of interest arises where a public office holder has a private interest that may affect the impartial and objective execution of the official powers or duties thereof.”

2. National legislation on conflict of interest

◇ public office holder :

- Article 3 of CIPAA - 105,000 persons hold offices in the executive and legislative branches.

◇ obligations under articles 6 – 11 of CIPAA :

- 28 prohibitions;
- specific cases of conflict of interest;

◇ obligations under articles 21 – 22 of CIPAA :

- contain restrictions on public officers after leaving public service;
- valid for 1 year.

◇ status of CPACI :

- independent and executive body;
- collegiate body with 5 members elected by the parliament /3/, the president /1/ and the government;

2. National legislation on conflict of interest

- has exclusive jurisdiction to initiate conflict of interest proceedings.
- The president of the Commission.
- Founded – in 2011.
- Budget – EURO 650,000 a year.
- Employees – 23.

Structure of MEUSIFA:

- national institutional framework for the management of EU funds;
- grant award requirements and rules for verification;
- certification of eligible costs.

3. Control authorities on violations in the absorption of EU funds

- ◇ Well-developed system of intra- and extra-departmental control for the prevention and ascertainment of irregularities and fraud, particularly of conflict of interest related to EU fund absorption.
- ◇ The **intra-departmental** control is carried out by:
 - the head of the institution;
 - the 'Irregularities' Department which exists in each directorate of a ministry acting as a Managing Authority;
 - the ministry's inspectorate.

3. Control authorities on violations in the absorption of EU funds

- ◇ The **extra-departmental** control of irregularities in this process is carried out by:
 - **Protection of the European Union's Financial Interests Directorate /PEUFI/** - functional body of the Ministry of Interior.
 - **Audit of EU Funds** Executive Agency.
 - **Public Financial Inspection** Executive Agency.
 - **The Court of Auditors.**
 - **CPACI.**

Controlling authorities

Intradepartmental control

Extra-departmental control

Accidental control

"EU Funds"
Directorates,
Dept.
"Irregularities"

Inspectorates

Head of
Managing
Authority

Protection of
the European
Union
Financial
Interests
Directorate in
Ministry of
Interior

Executive
Agency "Audit
of EU Funds"

Public
Financial
Inspection
Agency

Bulgarian
National Audit
Office

Commission
for Prevention
and
Ascertainment
of Conflict of
Interest

3. The procedure for the ascertainment of conflict of interest

- two stages – ascertaining and sanctioning;
- three different bases;
- proceedings term - two months;
- right of defence of the person against whom the proceedings have been initiated;
- the decision of the Commission;
- a decision ascertaining the presence of a conflict of interest can be appealed;
- penalty order;
- sanctions.

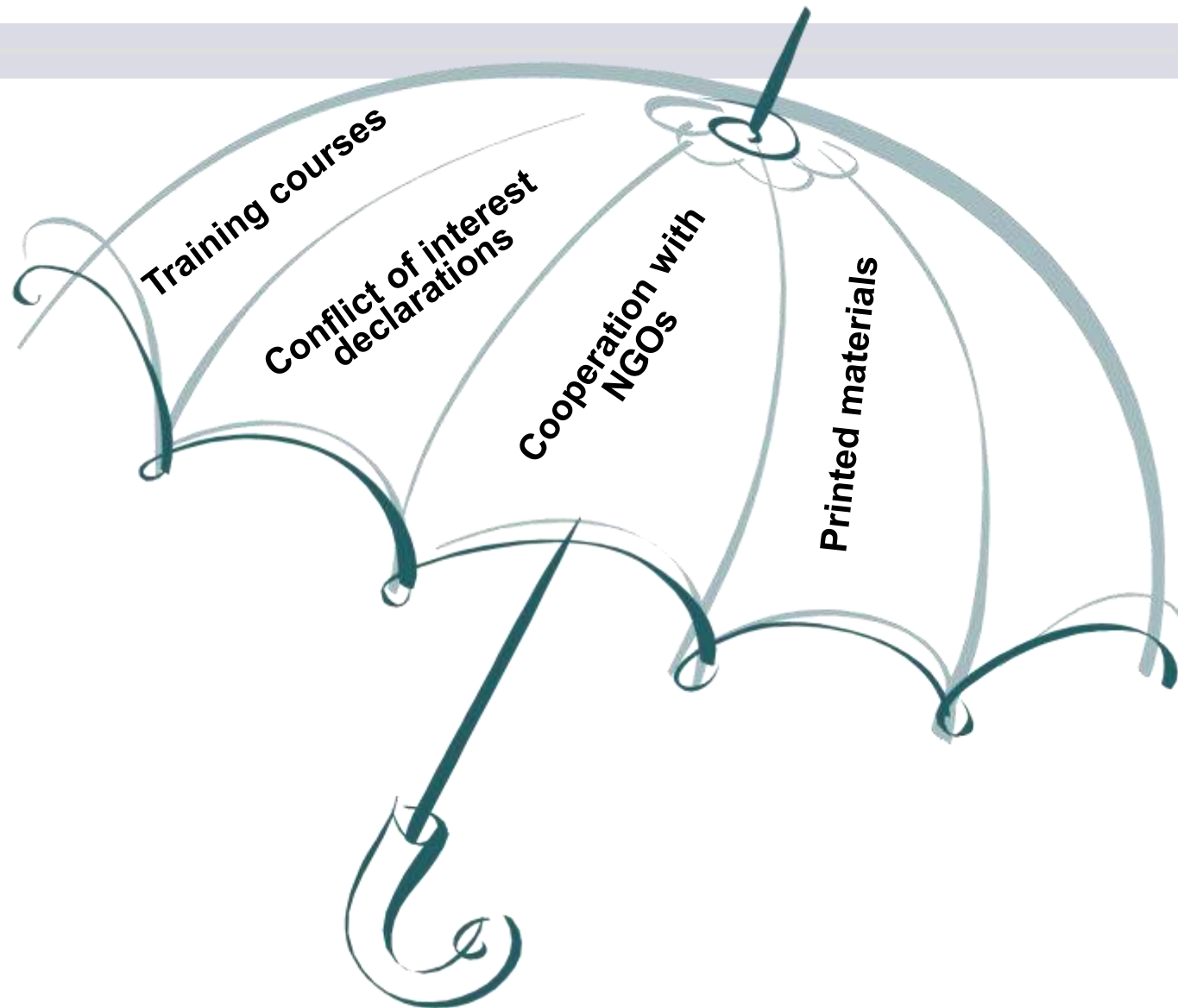
4. Typical cases of violations of CIPAA in relation to EU funds

- The first group - Article 22 - former employees of the directorates responsible for the administration of the funds start work in consulting firms and act on behalf of or represent third parties in procedures for absorption of EU funds before the bodies where they used to work before.
- Nikolay Nikolov (2013) "Conflict of interest in European public law", *Journal of Financial Crime*, Vol. 20 Iss: 4, pp.406 - 421
- Example: The second group of violations – experts in municipal and government administrations enter into civil contracts with the bodies where they work for the provision of services under projects funded under EU programmes.

5. Good practices

- **Prevention** – more important than sanction.
- Forms of prevention.
- Training courses – a way of providing information and gaining skills.

5. Good practices



5. Good practices

- **Good cooperation** between the institutions responsible for the investigation of conflict of interest irregularities related to the absorption of EU funds.
- A legal basis.
- Concluded agreements.
- Systematic control over the absorption process without any duplication of functions of different authorities.

6. Results, lessons learned

- ◇ According to **OLAF's annual report for 2015**, published on the website of the organization, Bulgaria is in 17th place out of 28 Member State countries with regard to detected irregularities involving EU funds for a period of three years /2013-2015/.
- ◇ The average rate for all countries is 1.9% irregularities, and for Bulgaria it is 1.5%.

Shared Management: Structural Funds and Agriculture				
Member State	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of payments	Investigations closed with recommendations	Financial recommendations as % of payments
Austria	218	0.30%	1	0.03%
Belgium	249	0.60%	1	0.03%
Bulgaria	513	1.50%	34	0.66%
Croatia	5	0.20%	1	0.00%
Cyprus	69	0.60%	0	0.00%
Czech Republic	2 788	6.10%	4	0.09%
Denmark	165	0.20%	0	0.00%
Estonia	303	1.20%	0	0.00%
Finland	97	0.10%	0	0.00%
France	726	0.40%	5	0.01%
Germany	1 308	0.40%	5	0.11%
Greece	841	1.90%	7	0.33%
Hungary	1 876	0.90%	29	3.51%
Ireland	1 182	4.00%	0	0.00%
Italy	2 240	1.70%	8	0.28%
Latvia	379	2.70%	1	0.01%
Lithuania	777	2.30%	3	0.09%
Luxembourg	1	0.20%	0	0.00%
Malta	67	0.70%	1	0.70%
Netherlands	698	2.70%	1	0.00%
Poland	3 268	1.30%	5	0.01%
Portugal	1 161	1.10%	5	0.22%
Romania	3 606	3.40%	90	0.58%
Slovakia	976	15.40%	10	3.97%
Slovenia	203	2.30%	0	0.00%
Spain	6 853	3.00%	4	0.66%
Sweden	213	0.30%	0	0.00%
United Kingdom	2 111	1.00%	0	0.00%
Total	32 893	1.90%	215	0.42%

6. Results, lessons learned

- Two directions:
 - ◇ Firstly, including all private entities acting as administrators in the process of absorption of EU funds.
 - ◇ Secondly, the following restriction – owners or employees of consulting firms who have been involved in elaborating and presenting projects before institutions and have worked as such a year prior to applying for the public service position shall not be appointed as civil servants with functions related to EU funds.

Thank you for your attention 😊 !!!