

**INPUT
TO THE 2024 ANNUAL REPORT ON THE RULE OF LAW**

**15 January 2024
City of Sofia**

List of abbreviations used

CA	The Customs Agency
AMoI	Academy of the Ministry of Interior
PPA	Public Procurement Agency
AFCOS	Protection of the European Union Financial Interests Directorate
BNR	Bulgarian National Radio
BNT	Bulgarian National Television
SAPO	Supreme Administrative Prosecutor's Office
SAC	Supreme Administrative Court
SCPO	Supreme Cassation Prosecutor's Office
SCC	Supreme Court of Cassation
SPC	Supreme Prosecutor's Council
SJC	Supreme Judicial Council
BPGD	Border Police General Directorate
NPGD	National Police General Directorate
BCP	Border crossing points
CPC	Civil Procedure Code
SANS	State Agency for National Security
ISD	Internal Security Directorate
ID	Inspectorate Directorate
UISC	Uniform Information System of the Courts
EC	European Commission
EJTN	European Judicial Training Network
APIA	Access to Public Information Act
ECA	Electronic Communications Act
PADVA	Protection Against Domestic Violence Act
LMDPOWADMSP	Law on the mandatory deposit of printed and other works and on the announcement of distributors and media service providers
ASA	Amendment and Supplement Act
LNA	Law on Normative Acts
PPA.	Public Procurement Act
UAAFA	Unlawfully Acquired Assets Forfeiture Act
LAA	Legal Assistance Act
CCA	Counter Corruption Act
CCUAAFA	Counter Corruption and Unlawfully Acquired Assets Forfeiture Act
LRT	Law of Radio and Television
JA	Judiciary Act
ISJC	Inspectorate of the Supreme Judicial Council
CAC	Commission on Appraisal and Competitions
CECBM	Code of Ethical Conduct of Bulgarian Magistrates
CPD	Commission for Protection against Discrimination
CRB	Constitution of the Republic of Bulgaria
CC	Constitutional Court
CCWJSC	Court Card, Workload and Judicial Statistics Commission
ACC	Anti-Corruption Commission
CACIAF	Commission for Anti-Corruption and Illegal Assets Forfeiture
MoI	Ministry Of Interior
MFA	Ministry of Foreign Affairs
MH	Ministry of Health
MC	Ministry of Culture

MJ	Ministry of Justice
CM	Council of Ministers
MF	Ministry of Finance
NRA	National Revenue Agency
NRRP	National Resilience and Recovery Plan
NHIF	National Health Insurance Fund
NIJ	National Institute of Justice
CC	Criminal Code
NA	National Assembly
NIS	National Investigation Service
SJCP	Supreme Judicial Council Plenum

Introduction

Stability of the political governance in the Republic of Bulgaria in 2023 has been an important factor for pursuing consistent and sustainable reforms in the area of the Rule of Law. On 12 April 2023, the 49th National Assembly started functioning. This marked the beginning of a period of intensive legislative activity through which the strategic goals of the government of the Republic of Bulgaria and the commitments arising from the country's membership in the European Union have been fulfilled with a priority.

A major milestone of the reform was achieved on 20 December 2023 when the National Assembly adopted **amendments to the Constitution** to strengthen the independence of the judiciary through a structural reform of the Supreme Judicial Council. In line with international standards the governing body of the judiciary is now divided into Supreme Judges' Council (SJC) and Supreme Prosecutors' Council (SPC). According to the adopted legislative amendments, the Supreme Judges' Council consists of 15 members - the presidents of the Supreme Court of Cassation and the Supreme Administrative Court, who are members ex-officio, 8 judges elected directly by the judges of all courts, and 5 members elected by the Parliament. The Supreme Judges' Council remains an administrative and personnel body for judges only. The Parliament shall elect the members of the Supreme Judges' Council by a two-thirds majority of its members. The amendments to the Constitution strengthen the independence of judges, ensuring real self-government, while respecting the public interest, meeting the standards for the independent administration of the judiciary established by the Venice Commission of the Council of Europe. The constitutional changes follow the line of the reform aimed at improving the functioning of the Supreme Judicial Council and the Inspectorate to SJC, avoiding the risk of political influence, in particular by involving judicial bodies in the selection of its members.

Further, legislative amendments have been made related to a recommendation for improving the effectiveness of investigations and a robust track record of prosecution and final judgments in high-level corruption cases including through **the institutional reforms of the Anti-Corruption Commission**. The Counter Corruption Act provides for a structural-administrative reform and the division of the existing Commission for Anti-Corruption and Illegal Assets Forfeiture into two the administrative organs - Commission for Counteracting Corruption (the Anti-Corruption Commission) and Commission for Illegal Assets Forfeiture (CIAF). The new Anti-Corruption Commission is specialized in the activities of detection and investigation of corruption crimes, identification of conflict of interest, acceptance and verification of declarations and prevention of corruption. The Commission for Illegal Assets Forfeiture will continue to carry out the activity of establishing, securing and confiscating illegally acquired property as well as functions of managing, storing and protecting the property on which precautionary measures imposed in the proceedings initiated by it.

Along with the amendments to the Constitution and the Counter Corruption Act, the National Assembly adopted a number of other laws related to the fight against corruption. On 29 June 2023, **amendments to the Law on Measures Against Money Laundering** were adopted. The law introduces an effective mechanism for identifying persons who provide corporate governance services and procedures for verification of persons engaged in the provision of corporate governance services such as lawyers, accountants, tax consultants and others, according to the requirements of Directive (EU) 2018/843 and FATF standards.

Bulgarian authorities consistently follow the policies and objectives laid down in the National Strategy for the Prevention and Counteraction of Corruption (2021-2027) and its

Roadmap. The measures and recommendations in the field of **prevention and counteraction of corruption** are in line with the pillars of the horizontal Rule of Law Mechanism of the European Commission, the recommendations of the Group of States Fighting Corruption (Fifth Evaluation Round) (GRECO), the legal instruments of the Organization for Economic Cooperation and Development (OECD) and other strategic documents.

In 2023, significant progress was made in the implementation of the **reforms set out in the National Recovery and Resilience Plan** in the areas of “Accessible, Effective and Predictable Justice”, “Anticorruption” and “Introduction of Mandatory Judicial Mediation”. As a result of the targeted efforts to strengthen the role of the Inspectorate at the Supreme Judicial Council for prevention and countering corruption and to improve the digitization of key judicial processes in the administrative justice system, key milestones related to the independence and quality of functioning of the judicial system have been fulfilled.

The National Post-Monitoring Mechanism has been functioning with an expanded scope to cover the pillars of the EU Rule of Law Report. In addition to the well-established coordination mechanism under the benchmarks on judicial reform, anti-corruption and combating organised crime, a **focused expert working group on media** environment and access to information was set up. It has been actively working on proposals for guaranteeing the protection of journalists and defenders of the rights of involved with public participation, from strategic litigation ("strategic anti-public participation litigation"- "SLAPP cases"). The purpose and provisions of the proposal for a Directive of the European Parliament and of the Council on the protection of persons involved in public participation from manifestly unfounded claims or abuse of judicial proceedings have also been subject of the ongoing discussions.

In the process of the implementation of these key policies, the National Post-Monitoring Council has kept a **close coordination with the European Commission** and its representatives. Three technical meetings have been held since the publication of the recommendations to make sure that the direction of the reforms have followed the standards of the four pillars of the annual Rule of Law reports.

The Bulgarian authorities remain committed to stick to the principles of the Horizontal Rule of Law Mechanism. In its context, the full implementation of the recommendations of the European Commission from the chapter on Bulgaria will continue to be a priority in 2024.

I. Justice System

1. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the justice system (if applicable)

Recommendation: Take steps to adapt the relevant legislative framework to avoid long-term secondment of judges to fill in vacant positions, taking into account European standards on secondment of judges

In order to respond to the recommendations in the Report on the Rule of Law, a working group was formed by order of the Minister of Justice¹ to prepare a draft amendments to the Judiciary Act. The draft law is aiming to improve and speed up the procedures for conducting competitions and attestations in the judiciary and introducing amendments to the secondment, improving the functioning of the Inspectorate of the Supreme Judicial Council by avoiding the risk of political influence, in particular by involving the judiciary in the selection of its members. The subject of discussion in the working group is also the final analysis provided by the SJC on "Measures to ensure better functioning of the Bulgarian judiciary in relation to the procedures for appointment, selection and career development of magistrates". A consolidated draft of the Judiciary Act has been prepared with the proposals discussed by the working group. The composition of the working group, the subject of its activity and the time limit for implementation have been updated in order to ensure compliance of the legislative changes to the Constitution of the Republic of Bulgaria, promulgated by State Gazette No. 106 of 2023. On 9 January 2024, a meeting of the working group for the preparation of a draft Judiciary Act was held.

In 2023, in order to ensure the systematic competition procedures for career development and filling vacant posts, a competition for promotion was announced. The competition is for 13 posts of judge in the Supreme Court of Cassation – Civil Division, as well as for 17 posts of judge in the Supreme Administrative Court in accordance with the evaluation criteria established in the Judiciary Act. A competition is also to be announced to fill posts in district courts. In order to speed up the competition procedures, a decision of the Judges' Chamber introduced the principle of monitoring and accountability by collecting and summarising information on a monthly basis on the stages and progress of each competition procedure.

According to the information by the Supreme Judicial Council, by 18 December 2023 38 magistrates have been promoted or transferred to different judicial authorities in the country because of transfer and promotion competitions. Within the current legal framework, the competition for promotion to the post of "judge" in the Supreme Court of Cassation – Criminal Division, announced in 2022, as well as the competition for transfer to district courts, announced in early 2023, were finalised. Again, with a view to filling the vacancies more quickly, and in view of the findings contained in the previous reports relating to the prevention of long-term secondments of judges as a risk factor for the independence of the judiciary, the administrative procedure for provisional implementation of the decisions of the Judges' Chamber was applied.

Draft Rules on the secondment of judges to the SCC, based on the already established positive practice in the Court, oriented towards reducing the scope of the SCC President's power to second judges. The Rules on secondment of judges to the SCC are to be discussed and adopted by the Plenum of the Court. The draft stipulates that the decisions on secondment, the designation by name of the magistrates to be seconded and the duration of the secondment will be adopted on the proposal of the general assemblies of the respective chambers. According to the draft, explicit criteria should be laid down for each SCC Collegium to select the judges to be seconded, and any decision on the secondment of a judge (to start or to stop) should be taken on the basis of criteria known in advance and duly motivated.

¹ Order No. LS-13-79/30.05.2023 of the Minister of Justice, amended by Order No. LS-13-100/13.07.2023, Order No. LS-13-172/12.12.2023 and Order No LS-13-179/22.12.2023

Recommendation: Advance with the preparation of legislative amendments aiming at improving the functioning of the Inspectorate to the Supreme Judicial Council and avoiding the risk of political influence, in particular by involving judicial bodies in the selection of its members.

On 28 July 2023, a draft Law amending the Constitution of the Republic of Bulgaria was submitted to the 49th National Assembly by members of the Parliament. The Law was adopted on 20 December 2023 and promulgated in State Gazette No. 106 of 2023. The amendments strengthen the independence of the judiciary through a structural reform of the Supreme Judicial Council, which is divided into Supreme Judges' Council (SJC) and Supreme Prosecutors' Council (SPC).

According to the adopted legislative amendments, the Supreme Judges' Council will consist of 15 members - the presidents of the Supreme Court of Cassation and the Supreme Administrative Court, who are members by right, 8 judges elected directly by the judges of all courts, and 5 members elected by the Parliament. The aim is to guarantee the independence of the court. The Supreme Judges' Council remains an administrative and personnel body for judges only. The term of the mandate of the elected members of the Supreme Judges' Council is 4 years. They cannot be re-elected immediately after the expiry of this term. The President of the SCC and the President of the SAC will be appointed and dismissed by the President of the Republic on the proposal of the Supreme Judges' Council for a term of 7 years without the right to re-election. The President may not refuse the appointment or dismissal if the proposal is made again. The presidential decree, both in the case of the initial proposal and in the case of a second proposal, shall be issued within 7 days. In the event of failure to issue a decree within the time limit, the person proposed by the Supreme Judges' Council shall be deemed to have been appointed or dismissed, as the case may be, and the decision of the SJC shall be promulgated. The Parliament shall elect the members of the Supreme Judges' Council by a two-thirds majority of its members. The administrative heads of the courts, with the exception of the SCC and the SAC, shall be appointed for a term of 5 years, with the right to be reappointed for a further term only.

The amendments to the Constitution strengthen the independence of judges, ensuring real self-government, while respecting the public interest, meeting the standards for the independent administration of the judiciary established by the Venice Commission of the Council of Europe (Opinion No. 855/2016; Opinion No. 816/2015; Study No. 403/2006) and in the case law of the Court of Justice of the European Union (Commission v. Poland).²

The representatives of judiciary participated in the public discussion of the amendments and supplements to the Constitution. On 22 November 2023 the Plenum of the SCC adopted an Opinion on the draft law, which sets out specific proposals on the improvement of the legal framework regarding the Inspectorate of the Supreme Judicial Council³. The proposal was supported only in the part concerning the re-election of the Inspector General and inspectors⁴.

In the framework of the measure "Strengthening the role of the Inspectorate of the Supreme Judicial Council in preventing and counteracting corruption in the judiciary (Q4/2022)", Reform 2: "Anti-Corruption" in the National Recovery and Resilience Plan (NRRP), a draft Law on the amendment and supplement of the Judiciary Act was prepared. It was consulted with the European Commission for Democracy through Law (Venice Commission)⁵. The amendments to the the Judiciary Act was adopted by the 49th National Assembly on 2 June 2023 and promulgated in State Gazette No. 84 of 2023.⁶ The amendments specify the powers of the IACJ - to make proposals to the relevant collegium of the SJC for amending and supplementing the Codes; to organise and conduct anti-corruption trainings, as well as trainings to strengthen the integrity and independence of judges, prosecutors and investigators and conflict of interest, independently of the trainings conducted by the National Institute of Justice; to adopt a template for reporting on the completion of cases within the statutory deadlines in coordination with the SJC. The Code of Ethical Conduct for Bulgarian Judges and the Code of Ethical Conduct for Bulgarian Prosecutors and Investigators shall be approved by the Plenum of the SJC.

² Opinion No. 855/2016; Opinion No. 816/2015; Study No. 403/2006) and in the case law of the Court of Justice of the European Union (Commission v. Poland).

³ <https://www.vks.bg/analizi-i-dokladi/stanovishte-ZID-KRB.pdf>

⁴ <https://www.parliament.bg/bg/parliamentarycommittees/3201/standpoint/17558>

⁵ Opinion No. 1098/2022. of 24 October 2022 of Venice Commission

⁶ <https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=200115>

Recommendation: Step up efforts to adapt the composition of the Supreme Judicial Council, taking into account European standards on Councils for the Judiciary.

The Opinion of the SCC on the Draft Law on the amendment and supplement of the Constitution of the Republic of Bulgaria, adopted on 22.11.2023, reflects the position of the supreme judges on the affirmation of judicial independence through specific legislative proposals concerning the Supreme Judicial Council ⁷

A. Independence

The National Assembly adopted the Law on amendments and supplements to the Code of Criminal Procedure (promulgated, SG No. 48 of 2023)⁸ and Law on amendments and supplements to the Law on the Judiciary (promulgated, SG No. 69 of 2023)⁹. Legislative changes introduce a mechanism for independent investigation and search for criminal liability of the chief prosecutor and his deputies. Investigative bodies have been appointed for cases of crimes committed by the chief prosecutor, judicial control over refusals to initiate pre-trial proceedings has been introduced and the requirements for the current random distribution systems have been supplemented. Measures have been introduced to reduce the influence of the Prosecutor General in the Supreme Judicial Council, including determining the majority required to appoint and dismiss the Prosecutor General.

On 20 December, 2023, the National Assembly adopted the amendments to the Constitution of the Republic of Bulgaria (promulgated, SG No. 106 of 2023)¹⁰, which amends provisions related to the structure, mandates and powers of the bodies of judicial power, the conditions to which a Bulgarian citizen must meet in order to be elected as a member of the National Assembly, president or member of the Council of Ministers are changed. The deadline for holding elections for a new National Assembly and the moment from which the powers of the National Assembly are terminated have been changed. In order to guarantee the independence of the bodies whose members are elected by the National Assembly, the principles that must be observed in the conduct of the election are defined, namely: openness, transparency, publicity and justification. A two-thirds majority of all members of the National Assembly adopts election decisions, when law stipulates this. The powers of the president to form an interim government have been changed, including the persons who can be appointed as interim prime minister. The main task of the caretaker government was defined and the possibility was introduced by law to determine the limits of the powers of the caretaker government. An opportunity has been introduced for each court, at the request of a party to the case or on its own initiative, to refer the Constitutional Court to establish inconsistency with the Constitution of a law applicable to the relevant case.

With reference to information in the 2023 Report, reflected on page 8 of the 2023 EU Report in the section on Bulgaria, that "*on 29 May 2023, the Prosecutor General requested the Constitutional Court to clarify whether a SJC with an expired mandate has the power to decide on the early termination of its mandate*", please be advised that Constitutional Case No. 9/2023 has been initiated on the request of the Prosecutor General for the interpretation of Article 130(4) sentence 1 of the Constitution with a view to answering three specific questions raised by the petitioner concerning the SJC. By Procedural Order No. 7/24.07.2023 in Constitutional Case No. 9/2023 ¹¹, the request for interpretation was dismissed. By the same order, a similar request¹² by a 3-member panel of the Supreme Administrative Court, joined for joint consideration with the Prosecutor General's request, was also dismissed.

A "Public Register of Cases of Attacks on the Independence of the Judiciary"¹³ is available on the website of the SJC, which publishes a total of 58 reactions of the SJC and judicial authorities for the period 2018 – 2023. In 2023, the SJC reacted four times, with two declarations published in early May, by the Prosecutors' Chamber of the SJC¹⁴ and by the representative of the SJC and the spokespersons of the

⁷ <https://www.vks.bg/analizi-i-dokladi/stanovishte-ZID-KRB.pdf>

⁸ <https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=195264>

⁹ <https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=198326>

¹⁰ <https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=202060>

¹¹ https://www.constcourt.bg/bg/act-9534?__cf_chl_rt_tk=luWi78IEbb7Sgp8CUAeOHw302xZL48Mceb7Lri18fjA-1705159565-0-gaNyGzNDfs

¹² <https://www.constcourt.bg/bg/case-639>

¹³ <http://www.vss.justice.bg/page/view/106204>

¹⁴ <https://vss.justice.bg/root/f/upload/39/deklaraciq-PK.pdf>

chambers¹⁵, in relation to the attack on the Prosecutor General of the Republic of Bulgaria. The Judges' Chamber of the SJC has twice expressed institutional support to a judge from Sofia District Court in July¹⁶ and in October¹⁷.

In 2023, on the proposal of the members of the Prosecutors' Chamber of the SJC, a procedure for early removal from office of the Prosecutor General of the Republic of Bulgaria was conducted, due to the existence of circumstances under Article 129, paragraph 3, item 5, last prefix of the Constitution of the Republic of Bulgaria, for actions that undermine the prestige of the judiciary. The two sittings of the Plenum of the SJC, held on 8 and 12 June 2023, were broadcast in real time on the Bulgarian National Television and through the website of the SJC. On the basis of the established grounds for the early dismissal of Ivan Geshev from the office of Prosecutor General, namely actions that undermine the prestige of the judiciary under Article 129(3)(5), last sentence, of the Constitution of the Republic of Bulgaria, set out in the proposal by four members of the Prosecutors' Chamber of the Supreme Judicial Council, a proposal was made to the President of the Republic of Bulgaria for his early dismissal from the office of Prosecutor General.

In 2023, a selection procedure for 7 candidates for European Delegate Prosecutors from the Republic of Bulgaria was carried out and a section on the website of the SJC was created for this purpose¹⁸. It publishes the opening decision, the announcement and the rules of the procedure, the list of candidates, the documents submitted by them, the comments and questions received, as well as the candidates' written replies and other relevant documents. The meeting of the Prosecutors' Chamber of the SJC for the hearing of the candidates and the selection of the seven candidates for European Delegate Prosecutors was broadcast in real time via the website of the SJC.

2. Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)

In 2023, the staffing problem of the Supreme Court of Cassation is gradually being overcome.

Criminal Chamber: In 2023 the number of judges in the Criminal Chamber of the SCC is 31 – 26 titular judges and 5 seconded judges. By the decision of the Judicial Collegium of the Supreme Judicial Council on Minutes No. 41/12.12.2023, the competition for filling 6 posts of "judge" in the Criminal Collegium of the SCC, announced by the decision of the Judges' Chamber on Minutes No. 19/11.05.2022, was finalized. The decision of the Judges' Chamber was granted provisional execution and the six judges took office on 02.01.2024.

Civil Chamber: In 2023, as on 19.12.2023, there are 51 Judges in the Civil Division of the SCC, of whom 40 are holders and 11 are seconded Judges. In 2023, 1 judge retired and 2 seconded judges were appointed. By the decision of the Plenum of the SJC on Minutes No. 34/23.11.2023, 6 full-time posts of "judge" in the SCC have been created, which are to be filled after a competition for judges in the SCC, Civil Division.

Commercial Chamber: Until 18.09.2023, the Commercial Chamber of the SCC will be composed of 27 judges – 24 titular judges (including the Head of the Chamber and the two Presidents of the Divisions) and 3 judges on secondment. 1 judge retired on 01.04.2023 and 1 judge appointed on the basis of Article 193, paragraph 6 of the SCC Law to the position of "judge" in the Commercial Collegium of the SCC took office on 12.04.2023.

In view of the necessity to create a new 10 member Chamber to reduce the time limits for the scheduling of cases under Article 288 of the Civil Procedure Code in closed session, by order of the President of the SCC of 18.09.2023, 3 judges were seconded to the Commercial Collegium of the SCC.

3. Irremovability of judges; including transfers (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)

By its decision under item 10 of Minutes No. 13 of the remote meeting held on 11.04.2023, the Judges' Chamber of the SJC announced a competition for promotion and filling of 17 posts of "judge" in the Supreme Administrative Court.

¹⁵ <https://vss.justice.bg/root/f/upload/39/deklaraciq-na-predstavlvastiq-VSS-i-govoritelite-na-SK-i-PK.pdf>

¹⁶ <https://vss.justice.bg/root/f/upload/39/podkrepa.pdf>

¹⁷ <https://vss.justice.bg/root/f/upload/40/CK-10.10.2023.pdf>

¹⁸ <https://vss.justice.bg/page/view/109636>

During the period under review, the Supreme Administrative Court considered and ruled on appeals lodged by participants in other competitions announced by the SJC.

In 2023, the average duration of administrative cases brought before the SAC on appeals filed against decisions of the SJC in relation to competition procedures was 43 days.

4. Promotion of judges and prosecutors (incl. judicial review)

On 26 July 2023 the Judge of the Criminal Collegium of the SCC Elena Karakasheva was elected by the Prosecutor's Chamber of the SJC as Deputy Prosecutor General at the Supreme Administrative Prosecutor's Office and took office on 01.09.2023.

5. Allocation of cases in courts

6. Independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

7. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)

For the purposes of the first annual Rule of Law Report of 2020, detailed information was provided on the legal framework for the disciplinary responsibility of judges, prosecutors and investigators, administrative heads of courts, prosecutors and investigators and their deputies (by letter no. No SCC-3520/14.04.2020). With the amendments to the Judiciary Act (SG No. 84 of 2023), the power of the relevant Chamber of the SJC to adopt the Code of Ethical Conduct for Bulgarian Judges and the Code of Ethical Conduct for Bulgarian Prosecutors and Investigators was regulated. According to the motives of the draft law, the introduction of the power of the Judicial and Prosecutor's Chambers of the SJC to adopt codes of ethical conduct for judges, prosecutors and investigators is in line with their distinct competence in Article 130a of the Constitution of the Republic of Bulgaria, and the need for two codes is justified by the different professional status of judges and prosecutors and investigators, as well as their different official duties. In view of the above, the Article 307(3) of Judiciary Act, promulgated in Official Gazette, no. 84 of 2023, was also amended by providing that a disciplinary offence within the meaning of the law is an act or omission, including a violation of the Code of Ethical Conduct for Bulgarian Judges or the Code of Ethical Conduct for Bulgarian Prosecutors and Investigators, which damages the prestige of the judiciary. The Code of Ethical Conduct for Bulgarian Judges, adopted by decision of the SC of the SJC in Protocol No. 34/24.10.2023, and the Code of Ethical Conduct for Bulgarian Prosecutors and Investigators, adopted by decision of the SC of the SJC in Protocol No. 39/25.10.2023, were approved by decisions of the Plenum of the SJC, reflected in Protocol No. 30/30.10.2023. With the latest amendments to the Judiciary Act, promulgated in SG No. 84 of 2023, a new punishment for a member of the SJC has been provided for, namely – disqualification from exercising the legal profession or activity for a period of up to two years (see Article 308, paragraph 2, item 3 of the JA).

In connection with the recent amendments to the Judiciary Act, promulgated in SG, no. 84 of 2023, it should be noted that the Draft Law on the amendment and supplement of the Judiciary Act, in the part providing for the punishment of a member of the SJC – deprivation of the right to exercise a legal profession or activity for a period of up to two years, has not been subjected to prior public discussion, and the SJC has not been given the opportunity to express an opinion on the proposed changes, which are the legal requirements for openness and consistency in the drafting of legal acts. The lack of reasons for the draft law does not allow for an assessment to be made of the necessity and appropriateness of the legislative change, in the part concerning the disciplinary punishment of a member of the SJC, which in turn raises the question as to whether the text thus formulated is lawful. In this connection, it should be pointed out that disqualification from exercising a particular profession or activity is an administrative penalty imposed by the court in the cases provided for in the Criminal Code and the Administrative Offences and Penalties Act. In the light of the foregoing, it is disputed whether the penalty referred to in Article 308(2)(3) of the JSA can be defined as a disciplinary penalty.

In Procedural Order No. 3594 of 20.11.2023 19 in private civil case No. 2413/2023 of the Chamber of the 1st O. of the SCC developed the idea of how far the functional immunity of magistrates extends, ruling on the question whether the functional immunity of magistrates under Article 132 of the Constitution of the Republic of Bulgaria is applicable to extrajudicial statements made by a prosecutor through the media, aimed at protecting the independence of the judiciary, to persons not involved in the criminal process, which contain information about pending criminal cases and comments about the accused (defendants) in those cases outside their procedural capacity. The Supreme Court of Cassation held that functional immunity should not restrict the rights of persons enjoying and invoking the presumption of innocence, since the presumption of innocence is not only a necessary element of the right of defence (for criminal proceedings), but also "a fundamental principle of the rule of law in general" (as held by the Constitutional Court of the Republic of Bulgaria in Decision No. 2/21.01.1999 in Constitutional Case No. 33/1998). Immunity is in fact established for the protection of the state and the normal functioning of the judicial system, not exclusively and solely for the protection of the person enjoying it. The prohibition on public pleas of guilty does not apply to acts of the prosecution, which are intended to prove the guilt of the suspect (according to the terminology used by the ECHR) or the accused. The accused (defendant) has the right to be presumed innocent not only in the course of the overall criminal proceedings, but also outside the trial. The obligation not to present suspects or defendants as guilty does not prevent the authorities from informing the public about ongoing criminal investigations, insofar as the freedom of expression guaranteed by Article 10 of the ECHR includes the freedom to receive and disseminate information, but requires them to do so "with all the discretion and restraint that respect for the presumption of innocence requires" (as accepted in ECHR decisions: the judgement of 31 March 2016 in Petrov and Ivanova v. Bulgaria, Application No. 45773/2010, para. 44, the judgement of 09 June 2016 in Popovi v. Bulgaria, Application No. 39651/2011, para. 85, and those cited therein: Allenet de Ribemont, § 38, Lizaso Asconobieta, § 39). It is important in this context to distinguish between statements reflecting the view that the person in question is guilty and those that are limited to describing a state of suspicion, insofar as the former violate the presumption of innocence, while the latter are considered to be consistent with the spirit of Article 6 of the Convention. Media-mediated extrajudicial statements made by a prosecutor, although intended to protect the independence of the judiciary, to persons not involved in the criminal process, which contain information about pending criminal cases and commentary about the accused (defendants) in those cases outside their procedural capacity, may violate the presumption of innocence of the accused (defendant) if they convey the idea (impression) that the person to whom they refer is guilty and do not merely describe an objective state of suspicion. In such cases, the functional immunity of magistrates under Article 132 of the CRB does not apply and the court before which an action for damages is brought in respect of such statements is competent to assess whether the presumption of innocence has been breached and whether damage has resulted.

In 2023, the Supreme Administrative Court heard and ruled on cases brought against disciplinary decisions of the SJC. The average duration of these administrative cases brought before the SAC was 75 days.

By the amendmenst to the Judiciary Act (Sg, No. 84 of 2023) the powers of the Inspectorate to the SJC under Article 54 were supplemented as follows:

„16. make proposals to the relevant Chamber of the Supreme Judicial Council for amending and supplementing the Code of Ethical Conduct for Bulgarian Judges and the Code of Ethical Conduct for Bulgarian Prosecutors and Investigators, respectively;

17. organise and conduct anti-corruption trainings, as well as trainings to strengthen the integrity and independence of judges, prosecutors and investigators and conflict of interest, in accordance with its powers under item 8;

18. adopt a template for reporting on the closure of cases within the statutory time limits in carrying out its activities under item 2, in consultation with the Supreme Judicial Council;

19. summarise annually the good and bad practices in respect of compliance with the ethical rules in accordance with the relevant European and international standards in relation to the checks referred to in item 8 and provide the information to the Chambers of the Supreme Judicial Council.“

¹⁹ <https://www.vks.bg/pregled-akt.jsp?type=ot-delo&id=8C9F0966FEBBC792C2258A6D0041F167>

By a decision of the Plenum of the SJC, Minutes No. 30/30.10.2023, the Code of Ethical Conduct for Bulgarian Magistrates was repealed and a new Code of Ethical Conduct for Bulgarian Judges was approved and published on the website of the SJC.

In 2023, 5 proposals were made to the JC of the SJC to initiate disciplinary proceedings for established violations in the movement and/or closure of cases – systematic non-compliance with the time limits provided for in the procedural laws, as well as for an act or omission that unjustifiably delays the proceedings. Disciplinary proceedings have been initiated in respect of all the motions, which had not been concluded by 31.12.2023. 20 alerts have been addressed to administrative heads of judicial authorities to impose a disciplinary measure under Article 327 of the JSA or to hold a judge, prosecutor or investigator liable to disciplinary action for delays they have caused in the progress and/or completion of a specific case/file.

Pursuant to Article 52a of the Regulations on the activities of the ISJC and on the activities of the administration and the experts, all judicial authorities (courts, prosecutor's offices and investigative departments attached to them) submitted by 15.03.2023 reports according to the templates adopted by the SJC on the completion of cases and files within the established deadlines. Pursuant to Article 52b of the Rules, the Analytical Unit of the Inspectorate prepared an Analysis of the results of the completion of cases and files within the established deadlines by the courts, prosecution and investigation bodies in 2022, published on the Inspectorate's website.²⁰

8. Remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year), transparency on the system and access to the information

By the decision of the Plenum of the Supreme Judicial Council by Protocol No. 22/17.08.2023 the "Table No. 1 of the SJC for determination of the maximum basic monthly salaries of judges, prosecutors and investigators" is approved and effective as of 01.04.2023. In 2023 the basic monthly salaries of judges, prosecutors and investigators are indexed by 15% compared to 2022. The ranks are indexed by the same percentage. The gross monthly remuneration of judges, prosecutors and investigators is formed by adding to the basic monthly remuneration the remuneration for rank and seniority (grade). For the reporting year 2022, according to the salary statement collected and summarised by the judiciary as at 31.12.2022, the gross annual salary of a judge/prosecutor of first instance is EUR 30 085 /net annual salary is EUR 27 076/. For a judge/prosecutor of the highest structures, the gross annual salary is EUR 53 144 /net annual salary is EUR 47829/.

In 2023, according to the Rules for Determination and Payment of Funds for Additional Remuneration, additional remuneration for judges and prosecutors in the amount of 1.6 basic monthly remuneration including Rank was determined and paid by the decision of the Plenum of the Supreme Judicial Council on Minutes No. 34/23.11.2023, item 52.

9. Independence/autonomy of the prosecution service

The legislative amendments of the Constitution of the Republic of Bulgaria (SG 106 of 2023) provide for a reform of the Prosecutor's Office as part of the judiciary, ensuring its accountability to the public. The Prosecutor General shall be appointed and dismissed by the President of the Republic on the proposal of the Supreme Prosecutors' Council for a term of 5 years without the right of re-election. Three members of the SPC, as well as the Minister of Justice, may nominate candidates for the office of Prosecutor General. The President may not refuse the appointment or dismissal in the event of a second nomination. The President's decree, both in the case of an initial proposal and a second proposal, shall be issued within seven days. If no decree is issued within the time limit, the person proposed by the SPC shall be deemed to have been appointed or dismissed, as the case may be, and the decision of the SPC shall be promulgated.

Decentralisation of the structure of the Prosecutor's Office is introduced by amending Article 126 of the Constitution. It is envisaged that the structure of the Prosecutor's Office will be in line with that of the courts dealing with criminal cases and that the Prosecutor General will be the sole administrative head of the Supreme Prosecutor's Office

²⁰ <https://www.inspectoratvss.bg/bg/page/16>

The SPC will exercise the main personnel and disciplinary powers over prosecutors. The SPC shall consist of 10 members and shall include the Prosecutor General, who shall be a member in his own right, two members elected directly by the prosecutors, one member elected directly by the investigators and six members elected by the National Assembly with two-thirds majority of its members. The term of office of the elected members of the SPC shall be 4 years and they may not be re-elected immediately after the expiry of that term. The establishment of an independent council, in which the representatives of the parliamentary (public) quota predominate, is a guarantee against the concentration of power in the institution of the Prosecutor General. The Minister of Justice can participate in the meetings of SPC without voting rights. The possibility for sitting prosecutors and investigators to be elected as members of the SPC from the parliamentary quota is limited.

A special mechanism for investigating the Prosecutor General shall be established. The Prosecutor General or his deputy shall be investigated and prosecuted for a crime of a general nature by a prosecutor who has held the office of judge of the Supreme Court of Cassation of the Criminal Division or the rank of judge of the SCC of the Criminal Divisions of the Courts of Appeal or District Courts until the time of appointment. The procedure for election and appointment shall be laid down by law.

Regarding the functions of the prosecution, it was agreed to reduce two of them. According to Article 127 (5) and (6), the prosecution shall ensure compliance with the law by:

- taking action to challenge unlawful acts before the courts in the cases provided for by law;
- in addition to criminal cases of a general nature, in the cases provided for by law, take part in other cases in defence of a significant public interest or in the interests of persons in need of special protection.

The amendments are in line with the standards and recommendations of the Venice Commission (Study No. 494/2008; Opinion No. 855/2016; Opinion No. 968/2019), as well as the jurisprudence of the European Court of Human Rights (*Kolevi v. Bulgaria*).

By order of the Prosecutor General, a working group has been established in the PRB with the task of reviewing all the internal organizational, organizational and methodological acts in force in the PRB and to propose measures to bring them into line with the current legal framework and the binding case law, including the decisions of the ECJ and the ECHR.

10. Independence of the Bar (chamber/association of lawyers) and of lawyers

11. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

B. Quality of justice

12. Accessibility of courts (e.g. court/legal fees, legal aid, language)

Legal assistance

By the amendments to the Legal Assistance Act, adopted on 16 December 2022 the citizens' access to justice was facilitated, the scope and field of application of the types of legal assistance in alternative dispute resolution and proceedings has been expanded, and the range of persons with access to legal assistance was broadened.²¹

In fulfilment of its powers to carry out general and methodical management of the activity of providing legal aid, the National Bureau of Legal Aid has adopted the following procedures and models for implementing the adopted changes in the Law on Legal Aid: 1. Reg. to provide legal assistance in the out-of-court resolution of disputes through mediation; 2. Order for providing legal assistance to victims of domestic violence; 3. Participation in a coordination mechanism between the state authorities and persons carrying out activities on prevention and protection from domestic violence; 4. A mobile application developed and put into operation to support victims of domestic violence, which contains general information about the competent authorities, institutions and persons working in the field of domestic violence; 5. Procedure for providing legal assistance to persons under the Law on the Protection of Persons Reporting or Disclosing Public Information on Violations; 6. Procedure for providing legal assistance to persons under the Asylum Act and refugees seeking or granted international protection; 7.

²¹ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p.11;

Prepared Handbook for lawyers-representatives of persons under ZUB, with a focus on unaccompanied minors and minors; 8. Samples for the implementation of the Law on Legal Aid for Bar Councils and lawyers regarding the accountability of legal aid; 9. Samples of the application of the Law on Legal Aid to lawyers regarding the responsibility for legal aid to victims of domestic violence; 10. Training of lawyers under the Mediation Act and the Domestic Violence Protection Act.

Mediation

On 23 January 2023, amendments creating mandatory judicial mediation were adopted, also as part of the RRP. According to the new provisions of the Law on Mediation, the court may oblige the parties, after conducting an evaluation of the facts in the case, to participate in mandatory mediation in a limited number of cases, including family law, lower value contract law proceedings, and in a number of labour law and intellectual property law disputes. As regards the length of the mediation.²² The selection of mediators to the judicial mediation centres, the procedure for their entry and removal from the lists of the district courts, their training, mandate and control over their activities, as well as the activities of the coordinators of the centres shall be settled by regulations, adopted by the Supreme Judicial Council.

By Decision under Minutes No. 30/30.10.2023, item 5, the Plenum of the SJC adopted Regulation No 11 of 30 October 2023 on the structure and organisation of the activities of the judicial mediation centres. The Regulation shall enter into force on 01.07.2024.

By decision of Minutes No 35/31.10.2023. Judicial Chamber of the SJC issued a Classification of Positions in the Administration of the Courts in which the position of "Coordinator of the Judicial Mediation Centre" was added.

The deferred action (vacatio legis) of the enacted law and regulations aims to ensure the necessary conditions for the introduction of the institution of mediation - building and providing material for the judicial mediation centres in all district courts /113/ and district courts /28/, or 141 centres in total, selection and training of mediators in the judicial centres, etc. At the time of the enactment of the reform law these conditions are completely missing and this makes its implementation impossible.

Protection against domestic violence

Amendments of the Protection from Domestic Violence Act was promulgated in State Gazette No 66 of 1 August 2023²³ and entered into force on 1 January 2024. The legislative changes are aiming at providing prompt and effective protection of victims of domestic violence and exercising preventive and deterrent action against the perpetrator of violence. The amendments are broadening the substantive scope of the law, ensuring the obligation of the state to pursue a consistent state policy in the field of domestic violence by coordinating, implementing, monitoring and evaluating policies and measures to prevent and combat domestic violence, and expanding the range of legal entities to which protection is granted.

Facilitated access to justice is envisaged at the request of the victim, state and municipal authorities, medical institutions and legal entities carrying out activities for the prevention and protection from domestic violence. Authorities are obliged to forward to the relevant district court, within 24 hours, the request for initiation of proceedings for issuing a protection order.

The measures for protection from domestic violence that may be imposed by the competent authorities are increased and their duration is regulated. The establishment of a National Council for the Prevention and Protection from Domestic Violence and the regulation of a coordination mechanism between all competent authorities, municipalities and the judiciary are envisaged, which will establish clear rules of action and coordination to ensure reliable, timely and adequate protection for victims of violence. A national information system for the prevention and protection from domestic violence and a national register of domestic violence cases are to be established, and judicial proceedings are to be streamlined, including by extending local jurisdiction in domestic violence cases.

In connection with the increase in cases of domestic violence between persons who are not married or in a de facto conjugal relationship but are in a partner relationship over the past month, a Draft Law for amendment and supplement of the Protection from Domestic Violence Act, No. 49-354-01-87²⁴,

²² See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p.11;

²³ <https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=197785>

²⁴ <https://www.parliament.bg/bg/bills/ID/165062>

was introduced by a group of members of Parliament. The proposed bill seeks to expand the scope of victims who may seek protection to apply with regard to persons who are or have been in an intimate relationship by removing the requirement for cohabitation.

13. Resources of the judiciary (human/financial/material)

14. Training of justice professionals (including judges, prosecutors, lawyers, court staff, clerks/trainees)

The educational activity of the National Institute of Justice (NIJ) is aimed at the formation and development of knowledge, skills and competences necessary for quality justice based on the protection of fundamental rights and the rule of law. Mandatory initial and ongoing training of judges, prosecutors and investigators is carried out in accordance with the Standards for judicial training adopted by the NIP, identifying the skills and competencies that ensure effective performance of functions in the judicial system and the quality of justice. For the trainings conducted in 2023, the NIJ provides detailed information in Appendix 1 to this report.²⁵

In order to improve the quality of law enforcement and the effectiveness of criminal prosecution, a total of 97 trainings (distance and face-to-face) organised by the NIJ and other external training providers have been delivered by the end of 2023. 532 prosecutors and 189 investigators have been trained. The topics of the trainings are mainly related to international judicial cooperation in EU Member States and third countries – EAW, EIW, request for legal assistance, European Public Prosecutor's Office; countering organised crime; hate crimes; cybercrime, cryptocurrencies; anti-corruption; money laundering, etc.

In 2023, Ministry of Interior officers participated in courses at various international training institutions, including: "Cyber Exploitation and Investigations" at the International Law Enforcement Academy (ILEA) - Budapest, Hungary; "Financial Investigation Techniques" at ILEA - Budapest, Hungary; "Human Trafficking and Exploitation of Children" at ILEA - Budapest, Hungary; "Human rights" in Academy of the Ministry of Interior under the US line; "Combating Hate Crimes Motivated by Sexual Orientation and/or Gender Identity" by the US; "Methods and Techniques for Investigating Human Trafficking Cases" by US Line by Structures; "Combating the diversion of pharmaceutical components along the line for the supply of chemical substances" along the line USA in the city of Sofia; "Recognition of portable air defense systems" along the lines of the USA in the city of Ruse; "EU-NATO Cooperation" at the George Marshall Center in Brussels, Belgium; "Transatlantic cooperation in the field of security - joint overcoming of challenges" at the Center "George Marshall" in the city of Garmisch-Partenkirchen, Germany, etc.

The Academy of the Ministry of Interior conducts initial training for investigative police officers. Courses and trainings are also held to update the professional qualification in the form of centralized courses at the AMVR and training of investigating police officers at locations. In 2023, 102 investigating police officers were trained, and at the beginning of February 2024, another 40 newly appointed civil servant trainees are expected to complete the initial professional training courses. Information on the trainings in Ministry of Interior in 2023 is available in Appendix 2 to this report.²⁶

15. Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, procedural rules, access to judgments online)

Single e-Justice Portal (SJP) and Unified Court Information System (UCIS)

At the end of March 2023, in the framework of the project "Optimisation of the Single e-Justice Portal to create conditions for increasing access to e-justice for citizens and legal entities", the Single e-Justice Portal (SEJP) was upgraded and optimised. The main objective of the project was to improve the access of citizens and businesses to e-justice by creating the conditions for the execution of procedural actions in electronic form, electronic summons and electronic payment.

²⁵ Appendix 1 – Trainings of justice professionals provided by the National Institute of Justice in 2023

²⁶ Appendix 2 – Information on the trainings in Ministry of Interior in 2023

The streamlined portal provides the possibility of online registration of users, creation and management of profiles of legal entities (state institutions, banks, insurers, utility providers, etc.), electronic request for access to cases, new electronic services for initiation of court proceedings, filing of documents in pending cases and electronic payments through a virtual POS terminal. The user interface is completely updated, modern and dynamic, with the ability to conveniently and easily track the chronology of court cases. A new view and organization of the electronic case folder has been built, with the possibility of convenient document viewing, as well as electronic service of papers available, using a time authentication service.

In late October 2023, a mobile application of the Unified e-Justice Portal (eCase) was also launched, through which litigants, lawyers and legal representatives are able to view court cases from various mobile devices. The mobile application provides any user with a registered account with access to all court cases with free public access, cases with personal participation, review of all attached electronic documents, service of electronic court documents, etc.

As of 1 December 2023, a total of 3 396 953 cases are available in the public part of the SEJP. Of these, 1 717 928 are civil cases, 1 440 756 criminal cases, 76 064 commercial cases, 8 876 corporate cases and 153 329 administrative cases. After the streamlining of the SEJP, the number of registered users is 14792. Integration of the Unified Court Information System (UCIS) with Voice-to-text has been established, which will facilitate magistrates in the preparation of judicial acts. Integration of the EISS with the Unified Case Information System (UCIS) has been established, through which the exchange of court cases between the general courts and the administrative courts is now possible electronically.

Progress on warrant proceedings and the EISS

The promulgated in State Gazette, issue 11/02.02.2023. The Law on Amendments and Additions to the Code of Civil Procedure /CPC/, adopted by the 48th National Assembly, regulates the centralized distribution of warrant cases according to the rules to be adopted by the SCJ Judges' Chamber, with the aim of distributing warrant cases in a way that equalizes the overall workload of the district courts on the basis of the system for reporting the workload of judges. Avoiding the general principle of local jurisdiction in the initiation of civil cases, while respecting the principle of access to justice and facilitating such access, is implemented through the envisaged full electronic form of warrant cases – it is foreseen that all procedural actions in warrant proceedings are carried out in electronic form and all acts of the court in the proceedings, including the enforcement order and the writ of execution, are issued in electronic form. Applications for enforcement orders and their annexes will be submitted electronically through an electronic form available on the Single e-Justice Portal.

The Law shall enter into force on 01.07.2024, and all material conditions for the implementation of the reform shall be ensured by that date: Creation and adoption of all subordinate normative acts, updating of the rules for reporting the workload of the courts and upgrading of the module "Workload" in the EISS, development, creation and implementation of a module for warrant cases in the Unified Information System of the Courts, etc.

Section 20 of the Transitional and Final Provisions of the Act Implementing and Supplementing the Civil Procedure Code provides for an obligation for the Supreme Judicial Council to bring the adopted or issued by it by-laws into compliance with this Law. By Decision on Protocol No. 30/30.10.2023, item 2, the Plenum of the Supreme Judicial Council adopted the drafted by the working group on the draft on the RRP – Ordinance on amendment and supplement to Ordinance No. 5 of 01.06.2017. on the organisation and procedure for the maintenance, storage and access to electronic files and the manner of storage of evidence and evidentiary means in cases, as well as the internal turnover and storage of other information processed by the judicial administration, as well as Ordinance amending and supplementing Ordinance No. 6 of 03.08.2017 on the performance of procedural acts and certification statements in electronic form. The Ordinances amending and supplementing Ordinance No. 5/2017 and Ordinance No. 6/2017 have been promulgated in SG No. 93/07.11.2023 of the State Gazette and enter into force on 01.07.2024. At the moment, the work on the preparation of the terms of reference for the design and construction of the module "Warrant proceedings" in the EISS continues.

Progress on the use of technical measures

The project *"Development and implementation in the judiciary of software for accelerated creation and reproduction of acts and other documents through dictation and automatic voice-to-text conversion and accompanying processing systems"*, under which the SJC is a beneficiary under a contract with the Operational Programme "Good Governance", was successfully completed. The

implementation of the project introduces a high-tech product – artificial intelligence – for the modernization and digitalization of work processes in the judicial system, which will improve the efficiency and effectiveness of the work of magistrates and judicial officers, accountability and transparency of justice. The voice-to-text (V2T) system is expected to reduce by up to 60% the time taken to type, process and transfer case information, speed up document turnaround, the ability to work remotely. V2T will increase the time for the analysis and synthesis of information on cases and files, which in turn will allow increasing the qualification of magistrates and improving the quality of work.

The working version of the system was ready at the end of June 2023, the final version of the system was approved with the Decision of 28.09.2023 of the Plenum of the Supreme Judicial Council, adopted by the Council, and its implementation in all judicial authorities was accepted. On 18 and 19 September, with the participation of 22 judges and judicial assistants from the SJC, SGS, SAC, RC – Pernik, RC – Pazardzhik and Supreme Administrative Court, tests were conducted to establish the recognition of transcription. The results of the tests show a recognition rate of over 90% and meet the objectives and indicators set out in the project. The process of improvement will continue by upgrading the amount of data in the system, for which the necessary organisation has yet to be set up.

The copyright of the system belongs entirely to the SJC, but in order to fulfil the obligations to the OP "Good Governance", the system will be made available to more than 640 state and municipal bodies and organisations for free use. The implementation of the project, in particular the integration of V2T with the EISS, also implements Measure 54 of the Roadmap for the implementation of the Strategy for the Development of e-Government in the Republic of Bulgaria for the period 2019-2023.

At the end of April 2023, the Ministry of Justice concluded a contract for the award and execution of a public contract with the subject "Construction of an automated information system "Commercial Insolvency" module "Insolvency register". The project is aimed at building a modern automated information system that will provide real-time information on insolvency proceedings in accordance with the requirements arising from Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings, Directive on Restructuring and Insolvency²⁷ and the latest amendments to the Commercial Law of 2023. For the implementation of the project, it is necessary to build a relationship with the EISS of the Supreme Judicial Council and the Commercial registry and Registry of non-profit organizations of the Registry Agency.

16. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)

Court Statistics

In view of clarifications provided in the framework of the implementation of the project "Establishing a balanced distribution of workload in the judiciary", with the Council of Europe /CEPEJ/ as the designated contractor, the criterion for distinguishing between contentious and non-contentious cases became known. In this respect, the SJC has at this moment and at all previous periods the necessary statistical information on the number of contested and uncontested proceedings.

In the civil and commercial annexes to the statistical report forms, a distinction can be made between disputed civil and commercial cases and some of the uncontested cases, for example, cases initiated on an application for an order for the enforcement of a pecuniary obligation under Articles 410 and 417 of the Civil Procedure Code. Civil and commercial disputed cases include and take into account civil cases under the general action procedure, summary proceedings under Article 310 CCP, private civil cases and other civil cases. The data on disputed civil and commercial cases also include the data on some uncontested cases, such as, for example, cases of divorce by mutual consent, and in protective proceedings – registration of political parties, religious denominations, actions for change of name, etc.

Progress with regard to the Rules for the Assessment of the Workload of Judges /JJCW/ and the Unified Court Information System /CJIS/.

The Judges' Chamber was instructed by Decision No. 25/26.07.2023 to undertake the necessary actions to carry out an empirical study to update the JISP, and to present the findings to the Chamber upon

²⁷ Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency)

its completion. Pursuant to the decision taken by the Judges' Chamber of the SJC, prior to the launch of the empirical study, an analysis of the data from the workload measurement systems – EISS and SINS – is to be prepared in order to track existing inaccuracies and incompleteness in the data entered for the court cases and the workload calculations of judges and courts, respectively. With the help of external experts – statisticians and sociologists, and depending on the results of the analysis, it will be possible to define specific parameters of the empirical study, as well as to address existing shortcomings and gaps in the systems.

17. Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation, in particular specific courts or chambers within courts to deal with fraud and corruption cases.

Judicial map

In 2023 there was little change to the judicial map. By decision as per Minutes No 21/13.07.2023 the Plenum of the SJC deleted from the boundaries of the judicial district served by the Regional Court – Varna the town hall of the village of Padina and included it in the judicial district served by the Regional Court – Devnya, for the following reasons: a/ lack of convenient transport; b/ higher cost of public transport tickets; c/ need for a vignette; d/ administrative services are provided by the Municipality of Devnya, while judicial services are provided by a court in another administrative district, namely the Varna District Court. Unfortunately, this change is not the result of the efforts made in recent years to optimize the judicial map of Bulgarian courts and prosecutor's offices.

It is important to point out that the reform of the order cases is essentially a redrawing of the judicial map, as it introduces the principle of equal distribution, which aims at levelling the overall caseload without changes in the judicial geography.

C. Efficiency of the justice system

18. Length of proceedings

The procedural laws do not provide for statutory time limits for the completion of proceedings. There are no standards for the length or period of court proceedings, but the criterion of a "reasonable time" is required, in the sense of the case law of the European Court of Human Rights.

With a view to statistical reporting on the completion of cases, indicators have been introduced in the established statistical reporting forms of the courts to report on the period within which cases are decided, namely:

For civil and commercial cases of first instance, there are two reporting periods introduced – completed up to 3 months, completed from 3 to 6 months, and for civil appeal cases it is up to 3 months and over 3 months. For criminal cases at first and second instance, there are two reporting periods – completed up to 3 months and completed over 3 months.

Other – please specify

II. Anti-corruption framework

19. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the anti-corruption framework (if applicable)

Recommendation: Ensure an improved effectiveness of investigations and a robust track record of prosecution and final judgments in high-level corruption cases including through the institutional reforms of the Anti-Corruption Commission.

The legislative changes introduced by the Counter Corruption Act (SG, No. 84 of 06.10.2023) provide for a structural-administrative reform and the division of the existing Commission for Anti-Corruption and Illegal Assets Forfeiture (CACIAF) (two the administrative organs - Commission for

Counteracting Corruption (the Anti-Corruption Commission) and Commission for Illegal Assets Forfeiture (CIAF).

The new Anti-Corruption Commission is specialized in the activities of detection and investigation of corruption crimes, identification of conflict of interest, acceptance and verification of declarations and prevention of corruption. The law defines the concept of corruption by explicitly indicating the provisions of the Criminal Code which constitute corruption crimes and which will be subject to disclosure and investigation by the Commission's authorities. In this way, the scope of the Commission's activity is clearly outlined, which focuses on those crimes that are characterized as corruption in the criminal law theory and practice - embezzlement, intentional bankruptcy, economic espionage, conclusion of an unfavorable deal, separate crimes in office, bribery, including brokering a bribe, trading in influence, personal concealment from a magistrate, police authority or investigating officer, as well as related to them, such as money laundering, separate crimes against the financial and tax system, document crimes.

The activity of uncovering corruption crimes carried out by the bodies of the Code of Criminal Procedure is related to the implementation of operative-investigative activities to collect, analyze and verify information on corruption crimes committed by persons holding public positions; acquisition of information about actions or inactions of the persons who create prerequisites for the commission of corruption crimes; preparation and storage of material evidence and their provision to the relevant bodies of the judiciary, as well as carrying out separate actions related to the detection of the crime, assigned by the prosecutor under Art. 196, para. 1, item 6 of the Code of Criminal Procedure. The Commission will appoint investigating inspectors to carry out the activities of investigating corruption crimes. Their activity in the investigation of the corruption crimes listed in the law, committed by persons holding public positions, will be carried out under the conditions and in accordance with the procedure of the Code of Criminal Procedure. Decisions on refusal to initiate pre-trial proceedings may be appealed in accordance with Art. 213b of the Code of Criminal Procedure, as well as the decrees for termination of criminal proceedings - in the cases and according to the order of Art. 243 of the Code of Criminal Procedure. The close cooperation and interaction of investigative inspectors from the Anti-corruption Commission with the European Prosecutor's Office is expressly regulated.

The Commission for Illegal Assets Forfeiture will continue to carry out the activity of establishing, securing and confiscating illegally acquired property. The commission also carries out functions of managing, storing and protecting the property on which precautionary measures have been imposed in the proceedings initiated by it. The law provides for a referral to the authority for illegal confiscation in the event of a discrepancy for less than BGN 25,000 in the property declared by persons holding public positions, as well as in the event of a conflict of interests (Art. 109, para. 2, item 2 of the Counter Corruption Act). In order to guarantee the integrity of both the Commission's employees and other persons from the state administration, the Commission will adopt rules for conducting integrity checks of its employees and organize their conduct; will develop methodologies for assessment of corruption risk, ethical standards of conduct, systems for checking integrity and provides assistance in their implementation.

In response to this recommendation the Office of the Prosecutor, changes to the PRB's Information Organisation Directive (OID) have been developed and are shortly to be approved²⁸. The changes are in line with the legislative changes in the Criminal Code and the Code of Criminal Procedure, related to the update of the content of the current templates of tables and standardized reports, with the reporting by Criminal Code texts, in accordance with the Uniform Catalogue of Corruption Offences²⁹. The report on cases initiated for corruption offences with alleged perpetrators – high-ranking officials and others holding positions of responsibility and control in state and municipal institutions, according to public sector positions, is also updated.

Pursuant to the provision of Article 138a, paragraph 2, of the Counter Corruption Act (State Gazette, No. 48 of 2023), the Prosecutor General shall submit to the National Assembly annually by 30 April a report on the activities of the Prosecutor's Office in combating corruption offences, which shall

²⁸ Approved by Order No. LS-1985 of 30.05.2014, amended and supplemented by Order No. RD-02-27 of 21.11.2017, Order No. RD-02-17 of 27.06.2019, Order No. RD-02-20 of 05.07.2021 and Order No. RD-02-OZ of 01.04.2023 of the Prosecutor General.

²⁹ Introduced by Order No. LS-726 of 18.03.2014, amended and supplemented by Order No. RD-04-279 of 02.10.2017 and Order No. RD-04-425 of 28.12.2017 of the Prosecutor General.

include information and analysis: on initiated and concluded cases of corruption crimes and corruption crimes of high public interest. The report should also contain information on the phase of the cases, the number of convictions and acquittals, other grounds for the closure of proceedings; an analysis of the timing of investigations, the quality of indictments and the reasons for the particular outcome of the proceedings. In this regard, internal organisational measures have been taken to update the Uniform Catalogue of Corruption Offences and the statistical reporting tables.

A timetable³⁰ for the implementation of measures and activities relevant to the activities of the Prosecutor's Office has been approved by the Prosecutor General, in accordance with the recommendations of the Report of 18.05.2022 for Bulgaria of the Fifth Evaluation Round of the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL), and most of the measures have been implemented.

A Register for the National Money Laundering and Terrorist Financing Risk Assessment (HOP Register) has also been approved, containing the following sub-registers: Pre-trial proceedings, cases brought before the court and convictions for money laundering that have entered into force (Article 253, Article 253a of the Criminal Code); Pre-trial proceedings, cases brought before the court and convictions for terrorist financing that have entered into force (Article 108a, paragraph 2 of the Criminal Code); requests for legal assistance sent and received and requests related to precautionary measures abroad. Rules on the collection and completion of data in the National Money Laundering and Terrorist Financing Risk Assessment Register have also been introduced.

An analysis has been prepared by the Supreme Cassation Prosecutor's Office on the effect of the legislative amendments to the CCP made by SG No. 63 of 2017 in Part Four "Judicial Proceedings" (specifically, has the number of cases returned by the court to the prosecution decreased), is there a need for a legislative amendment to the norm of Article 287 of the CCP, and what are the PRB's views on the necessary legislative changes to overcome formalism in the criminal process and achieve an effective investigation, dictated by the decisions of the ECHR in the group of cases "S. Z./Kolevi v. Bulgaria, the Zhelezov v. Bulgaria judgment and the Court's judgment of 21.10.2021 in case C-282/20. The analysis has been sent to the Ministry of Justice.

Recommendation: Improve the integrity of top executive functions, taking into account European standards, in particular by ensuring that clear integrity standards for the Government as well as an appropriate sanctioning mechanism are in place.

In 2023 the ISJC held two training sessions for magistrates - one for judges and one for prosecutors and investigators on: "Prevention of corruption in the judiciary through the prism of the powers of the IJVS under Chapter Nine, Section Ib of the JJA". During the training, the lecturers from the Inspectorate presented to the judges, prosecutors and investigators the specific elements of the offences under Article 175k of the JSA, the form of their executive acts, the result, if any, and the causal link between them. 139 magistrates participated in the training.

In implementation of the measures envisaged in the strategic framework for the fight against corruption, 4160 annual declarations of assets and interests for 2022 submitted by judges, prosecutors and investigators were verified in 2023. The assets of 9,547 persons, including the balances in their bank accounts as of 31 December 2022, were verified in all declarations submitted, and a correspondence was established between the facts declared and the information obtained, while the verification procedure on 5 declarations was suspended due to a preliminary reference made by the Sofia Regional Court to the European Court of Justice.

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

Legislative changes

Along with the legislative changes in the Constitution of the Republic of Bulgaria, the Counter Corruption Act, the National Assembly adopted a number of other laws related to the fight against corruption. On 29 June 2023, the National Assembly adopted the Law on Amendments and Supplements to the Law on Measures Against Money Laundering (promulgated, SG No. 60 of 2023), which introduces an effective mechanism for identifying persons who provide corporate governance

³⁰ The measures and actions foreseen in the Plan for the implementation of the recommended actions, approved by the Council of Ministers by Decision No 998 of 12 December 2022, are also included in the Timeline.

services and procedures for verification of persons engaged in the provision of corporate governance services (e.g. lawyers, accountants, tax consultants, etc.) according to the requirements of Directive (EU) 2018/843 and FATF standards. Mechanisms have been developed to resolve inconsistencies between the information on the beneficial owner in the commercial register and the register of the ULC and the information on the beneficial owner established through other channels, as well as to introduce a specific entry in the registers for the presence of a notification of a discrepancy. The law regulates the functions of the Financial Supervision Commission and the Bulgarian National Bank in connection with the exercise of supervisory powers over investment banks. In the Law on the Commercial Register and the Register of Non-Profit Legal Entities, as well as in the Law on the BULSTAT Register, requirements have been introduced to store the information about the actual owners for a certain period.

On 27 January 2023, the National Assembly adopted the Act on protection of persons, reporting information or publicly disclosing information about breaches (Whistleblowers Protection Act) (State Gazette, No. 11 of 2023).³¹ On 5 October 2023, the Law on Amendments and Supplements to Whistleblowers Protection Act was adopted (promulgated, SG No. 88 of 2023)³², which introduced a legal framework for the protection of whistleblowers or public disclosure of information about violations that fall within the scope of certain areas in accordance with Directive (EU) 2019/1937. The right to protection under the law can be enjoyed by a certain group of persons, such as workers and employees, job candidates or former employees, volunteers, trainees, self-employed persons, employees of contractors or subcontractors, respectively suppliers, members of management, control body of a commercial company, partners and shareholders, a sole owner of the capital, members of an audit committee of an enterprise, as well as third parties who are related to the offender in a business relationship. Measures have also been introduced to protect affected persons, protection is also provided for persons who assist the whistleblower in the whistleblowing process, for persons associated with the whistleblower who may be subject to repressive retaliation due to the filing of whistleblower, as well as for legal entities in which the whistleblower owns a stake, works for or is otherwise connected in a work context. The conditions and procedure for submitting and considering reports through restructuring channels, through external channels for reporting signals or through public disclosure of information are defined.

The Commission for Personal Data Protection (CPDP) is designated as the central body for external signalling and for the protection of persons who are granted such protection by law. For the purposes of checking reports and publicly disclosed information about violations, as well as for taking appropriate actions to prevent violations or to eliminate the consequences, CPDP shall send reports to certain authorities, in accordance with their competence including to the Commission for Combating Corruption and for Confiscation of Illegally Acquired Property in the event of a report of violations committed by persons holding high public positions. The Commission annually sends the European Commission information on the number of reports received, the number of checks carried out and their results, as well as a report on the financial receipts from the collected fines and property sanctions and an assessment of the established financial damages. Pursuant to the law, the activity of CPDP is subject to a high-level audit by the Ombudsman of the Republic of Bulgaria, and the information on the audit inspections carried out is included in the annual report that the Ombudsman presents to the National Assembly.

20. List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention, detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic and with foreign authorities. Indicate any relevant measures taken to effectively and timely cooperate with OLAF and EPPO.

At the national level, the Bulgarian authorities have made a commitment to effective cooperation and communication with the European Prosecutor's Office, working to quickly overcome the identified difficulties in the work of the office, including by ensuring the administrative and operational independence of the European delegated prosecutors (own budget, own administration, independent secret office and separate building). In Bulgaria, prerequisites have been created for compliance with the

³¹ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p.23.

³² <https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=200380>

principle of loyal cooperation between national judicial authorities and the European Public Prosecutor's Office, according to which they must actively cooperate and support the investigations and actions of the European Public Prosecutor's Office. At this stage, national investigative authorities report a good level of cooperation with the European Public Prosecutor's Office and report no significant difficulties.

With Decision No. 4 of June 22, 2023, the Supreme Court assigned the management of the Prosecutor General's property for the needs of the European Public Prosecutor's Office. On March 22 and December 11, 2023, the European Public Prosecutor's Office collegium appointed four new European delegated prosecutors from Bulgaria, bringing the total number of European delegated prosecutors from the country to ten, with fifteen positions announced for Bulgaria.

At the meeting of the National Council on Anti-Corruption Policies (NCAP) held on 18.10.2023, it was decided to amend and supplement the Decree No 136 of the Council of Ministers of 2015 establishing the Council. It provides for: that the composition of the NCAP shall also include the representative of the Supreme Cassation Prosecutor's Office (Deputy Prosecutor General), the Chairman of the Anti-Corruption Commission and the Chairman of the Bulgarian National Audit Office or his designated deputy and 2) that the rotation period of the members of the Citizens' Council shall be changed from one to two years. The NCAP has decided that after the adoption of the Decree of the Council of Ministers on the amendment and supplementation of the Decree No. 136 of 2015 on the establishment of the National Council on Anti-Corruption Policies, a new procedure for members of the Citizens' Council shall be opened – by 31.12.2023.

In 2023 the Anti-corruption Commission continued cooperation with international organizations and networks with which very good contacts and interaction have been established over the years: Interpol, Europol, KARIN, BAMIN, ALEFA, ARINSA, RRAG, Eurojust, Egmont Group, Regional Anti-Corruption Initiative (RAI), GRECO, GRETA, European Partners Against Corruption (EPAC), European Network of Contact Points Against Corruption (EACN), Network of Corruption Prevention Authorities - NCPA, Network for Integrity; the European Network of Integrity and Whistleblowing Authorities (NEIWA).

In 2023, Anti-corruption Commission continued the implementation of the project "Strategic development of Anti-corruption Commission and improvement of the toolkit for prevention and countering corruption", under the Technical Support Instrument of the European Union, in partnership with the Organization for Economic Cooperation and Development (OECD). The activities of the project envisage the preparation of a new strategic document for the development of the Commission for the next extended period, taking into account the implementation of the set goals, commitments and priorities at the national level, recommendations and challenges of European and international organizations. The activities of the project envisage the preparation of a Methodology for establishing a significant discrepancy in the property of the inspected person, based on a review and analysis of regulatory provisions and internal acts of the Commission, research and analysis of good practices from the EU and proposals for implementation in the Bulgarian context. The methodology should apply and further develop the current Guidelines for the establishment of illegally acquired property, imposition of security measures and confiscation of illegally acquired property by the state.

The implementation of the project "Reforming postal checks of employees in Anti-corruption Commission", financed by the Technical Support Instrument of the Low Union together with the European Commission and OECD, has been completed. All project activities are included, the project is fully implemented.

The personnel policy of the Commission is carried out in accordance with the regulations in the Civil Servant Act, the Labor Code, the Counter Corruption Act and relevant secondary legislation. In order to achieve higher efficiency and increase the conditions for the competent and responsible execution of the Commission's powers, structural changes are carried out by transforming positions into higher levels. At the moment, competitive procedures are being conducted under the Civil Servant Act for the appointment of new employees, as well as the training of employees in order to increase their professional and professional development.

In terms of technical resources, during the period measures were taken to modernize and renew the technical infrastructure of the Commission, both with the necessary computer and office equipment, and by upgrading/developing new information systems and registers in view of the specific functions of the structural units.

In 2023, the implementation of the project “Enhanced capacities of Bulgarian authorities to recover and manage criminal assets” continues under the "Home Affairs" Programme of the Norwegian Financial Mechanism 2014-2021. The activities set out in the project, as well as two specialized trainings were held - for the recovery of property from criminal activity and for the use of special intelligence tools, for employees and inspectors from the Anti-Corruption Commission, representatives of law enforcement bodies and magistrates were trained.

The implementation contributes to the improvement and development of inter-institutional cooperation, as well as to the enhancement of the professional skills of the Commission's employees.

Within the framework of its powers in 2023, Anti-Corruption Commission continued to implement active inter-institutional cooperation both at the national level and with international institutions and organizations. Anti-Corruption Commission in accordance with the competence granted to it, interacts with the Prosecutor's Office, the Ministry of Interior, State Agency for National Security, State Agency Technical Operations, State Intelligence Agency, the revenue authorities, the Customs Agency, the Chief Inspectorate of the Ministry of Justice, the Inspectorate of the SJC and the inspectorates under Art. 46 of the Administration Act. Representatives of the Commission participate in various working groups and forums in the development and discussion of national strategic documents, plans, guidelines for interaction in the field of anti-corruption. In order to increase the expert capacity of the "Anti-corruption" Directorate, trainings were conducted for the employees of this key Directorate with a view to ensuring effective anti-corruption.

In 2023, representatives of the Commission and the Ministry of the Interior developed a draft Methodology for the assessment and management of the corruption risk in the Ministry of the Interior, in fulfillment of the recommendation in item 142 of the Report on the Republic of Bulgaria by the Group of States Against Corruption (GRECO) of the Fifth evaluation round "Preventing Corruption and Promoting Integrity of Central Governments (top executive functions) and law enforcement agencies", namely: “a comprehensive risk assessment of corruption prone areas and activities be undertaken in the Ministry of the Interior to identify problems and emerging trends, and that the results of the assessment serve as a basis for the design of a dedicated anti-corruption strategy of the Police”³³

21. Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption.

The new Counter Corruption Act provides a number of guarantees for the functional independence of the KPK, which is charged with the prevention and detection of corruption. The Commission is the primary budget provider, which guarantees its financial independence. The political independence of the PSC is guaranteed, as clear eligibility criteria for members are set, nomination and appointment are clearly separated, with different institutions responsible for each stage of the process, and a detailed transparent procedure is regulated to ensure political independence for the selection of the leadership.

The CPC is a collective body, consisting of three members. The Commission is chaired in rotation for two years by each of the members, the order of chairmanship being determined by lot among them on taking office. The members of the Commission shall be Bulgarian citizens of high professional and moral standing who have a university degree in law and an acquired legal capacity or a university degree in economics, as well as at least seven years' legal experience or seven years' experience in the security and public order services. Members of the Commission shall be elected by the National Assembly by a two-thirds majority of all Members of the National Assembly.

The provision of Article 10 lists certain conditions for the capacity of a member of the CPC – has not been convicted of a criminal offence, has not been deprived of the right to hold a particular public office, has not been a member of a governing or controlling body of a political party during the last five years, has not been a Member of the National Assembly, a Member of the European Parliament elected by the Republic of Bulgaria, a member of the Council of Ministers or has not held a position in the political cabinet of a body of the executive power in the last 5 years. These circumstances shall be established ex officio. A member of the Commission shall also not hold a position in a state or municipal body; exercise a commercial activity or be a partner, manager or participate in supervisory, management or control bodies

³³ <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680a9cab7>

and others. In the event of incompatibility, the elected member of the Commission within one month of election shall take the necessary action to remedy the incompatibility. On taking office, Commissioners shall sign a declaration of political neutrality. Commissioners may not be related persons. A limitation on re-election applies to each individual member of the Anti-Corruption Commission after the proposed 6-year term.

Article 9 provides for a detailed transparent procedure ensuring political independence for the election of the leadership. Reasoned proposals for members of the Commission may be made by members of the National Assembly or non-profit public benefit entities. For each election of members of the Commission, a special nomination commission shall be formed of five independent members, one member each proposed by the Supreme Court of Cassation, the Supreme Bar Council, the Ministry of Justice, the Ombudsman of the Republic of Bulgaria and the Bulgarian National Audit Office, and the members of the nomination commission shall meet the requirements of Article 10, paragraph 1, of the Law on the Public Interest. 1, which the members of the Anti-Corruption Commission should also meet.

The Nomination Committee shall examine the motivated proposals for members of the Commission made by Members of the National Assembly or by non-profit legal entities for public benefit, shall make a selection for eligibility and, after a public hearing and discussion procedure, shall submit the report referred to in Article 9(1). 9 to the Standing Committee of the National Assembly responsible for anti-corruption. The rules of procedure of the Nomination Committee shall be adopted by the Standing Committee of the National Assembly responsible for anti-corruption. Members of the Commission shall be elected by the National Assembly by a two-thirds majority of all Members of the National Assembly.

Activity of the inspectorates established under Article 46 of the Administration Act and National Council on Anti-Corruption Policies

In order to implement Priority 1 "Strengthening the capacity and increasing transparency in the work of anti-corruption bodies and units" of the National Strategy for Preventing and Combating Corruption in the Republic of Bulgaria (2021-2027) and the roadmap for the implementation of the strategy, Measure 3 "Upgrading the capacity of inspectorates as particularly important units for combating corruption" is envisaged. The activities foreseen for the implementation of the measure are: improving the financial and resource capacity of the inspectorates and 2) initial and ongoing training of inspectors.

On 18.10.2023, the NCAP held a meeting at which it adopted the Annual Report on the Implementation of the Measures Included in the Roadmap for the Implementation of the National Strategy for Preventing and Combating Corruption in the Republic of Bulgaria (2021-2027) for 2022. The number of inspectorates established under Article 46 of the Administration Act (with the exception of the one under the Minister of Environment and Water, under the Minister of Culture and under the Minister of Education and Science) is in line with the requirements of the Regulation on the structure and minimum number of inspectorates, the procedure and manner of their activities and interaction with specialised control bodies. Some of the authorities to which inspectorates have been established have taken actions to provide them with resources by holding competitions for the appointment of civil servants or mobility procedures in the state administration, and some of them have finished with the appointment of inspectors (the Ministry of energy, the Ministry of Youth and Sports, the Ministry of Labor and Social Policy, the Ministry of Regional Development and Public Works, the Ministry of Defence, the Ministry of e-Government, the Ministry of Transport and Communications).

Some of the inspectorates still have vacant posts (including for heads). No action has been taken to improve the financial security of the inspectorates, with the exception of the Inspectorate under Article 46 of the Administration Act under the Minister of Transport and Communications.

22. Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators.

An inter-ministerial working group established by Order No. P-150 of 24.08.2023 of the Prime Minister has carried out a review of: the implementation of the measures for the period 2021 - 2022, included in the National Strategy for the Prevention and Counteraction of Corruption (2021 - 2027) and the Road Map to it; measures and recommendations in the field of prevention and countering corruption included in the reports of the European Commission on the Rule of Law Mechanism (2023), the Group of States fighting against corruption (fifth round of evaluation), the legal instruments of the Organization for economic cooperation and development (by specific instruments), as well as the measures included in the National Plan for Recovery and Sustainability (in the Business Environment section), in view of the

need to update the strategy and road map. The inter-ministerial working group prepared an Annual Report on the implementation of the measures included in the Roadmap for the Implementation of the National Strategy for Preventing and Combating Corruption in the Republic of Bulgaria (2021-2027) for 2022 (adopted by the NCAP at a meeting held on 18 October 2023) and drafts of an updated strategy and roadmap for its implementation. According to the data in the annual report, out of the total of 84 activities identified for the implementation of the measures under the respective priorities, 15 have been fully implemented, 33 are in the process of implementation, 27 are ongoing (have no beginning and no end) and 9 have not been implemented, i.e. only 18% of the planned activities have been implemented during the reporting period. The annual report, as well as the updated strategy and the implementation roadmap are to be adopted by the Council of Ministers.

In 2023, Anti-Corruption Commission is implementing the measures from the Roadmap for the implementation of the National Strategy for the Prevention and Counteracting Corruption in the Republic of Bulgaria (2021 - 2027) in implementation of Priority 5, measure 5. "Upgrading the activity for the preparation of anti-corruption plans and preparation of a methodology for evaluating the effectiveness of the implementation of the anti-corruption plans". The Commission annually prepares a report on the analysis of the anti-corruption plans of primary and secondary bodies with a budget for the relevant year and a report on the analysis of the reports on the implementation of the anti-corruption plans. In implementation of measure No. 6 "Promoting activities to increase transparency in the activities of the executive authorities" on the website of the Commission "Internet reception" is functioning, through which the possibility of electronic submission of inquiries by interested parties is realized. is provided. The website also maintains an electronic form for reporting corruption and/or conflict of interest. In the "Current" column, information is regularly published regarding the submission of property and interest declarations and the activity of establishing a conflict of interest. The register of draft laws against which the Commission has exercised its powers to reconcile corruption risks is also available.

B. Prevention

23. Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training).

Increasing integrity in the public sector is included in the National Strategy for the Prevention and Counteracting Corruption in the Republic of Bulgaria (2021 - 2027), Priority 1, Measure 5 "Development of a Code of Ethical Conduct for Persons Holding Senior Public Positions in the Executive Power", providing for the amendment of the Law on Administration and the drafting of a Code of Ethical Conduct for persons holding senior public positions in administration.;

In 2023, an inter-ministerial working group on the regulation of lobbying produced a concept for the regulation of lobbying in line with EC recommendations and standards, Recommendation of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision-making. In relation to a finding of incompatibility, the Anti-corruption Commission has the power to investigate reports of public office holders and refer the selection or appointment authority to take appropriate action.

To enhance the integrity of the judicial system, the Inspectorate of SJC conducted 16 audits in 2023 under Chapter Nine, Division Ib of the Judiciary Act. Three of them are concluded with proposals for the disciplinary responsibility of magistrates; 7 were concluded with a decision to terminate the inspection, due to the lack of sufficient data for a violation under Art. 175k JA; for 6 files, the deadline for carrying out the inspection has not expired. On the three proposals, disciplinary proceedings were initiated before the relevant composition of the SJC, which as of 31.12.2023 had not ended. In order to prevent corruption and increase the integrity of the judicial system, two analyses were prepared: Analysis of the completed proceedings under the Code of Ethical Conduct of Bulgarian Magistrates formed before the professional ethics commissions of the judicial authorities for 2021 and Analysis of the good and the bad practices regarding compliance with the ethical rules according to the relevant European and international standards in connection with the inspections under Chapter Nine, Sections Ia and Ib of the JA.³⁴ These analyses, as well as the previous two analyses – Analysis of the practice of the Supreme

³⁴ <https://www.inspectoratvss.bg/bg/page/16>

Administrative Court under Chapter Nine, Section Ia and Section Ib of the JA for 2021 and Analysis of the practice of the Supreme Administrative Court on the implementation of the Code of Ethical Conduct of Bulgarian Magistrates for the period 2017-2021, prepared in 2022, are available to the magistrates for whom they are intended, and are guidelines for what behavior is considered a violation of the Code of Ethical Conduct of Bulgarian Magistrates, in force at the time of the analysis. The analyzes contribute to the introduction of good practices in the field of prevention and counteraction of corruption and to improving the results of the fight against corruption in the judicial system. On 12.07.2023, the Inspectorate of SJC sent the SJC materials regarding the ethical rules and principles in the Republic of Romania, the Republic of Italy, the Republic of France, the Kingdom of Spain, the Kingdom of Belgium, links to the three analyzes prepared by the Inspectorate, regarding the application of the Code of Ethical Behavior of Bulgarian Magistrates, guidelines given by the European Commission and other materials to help the Collegia of the SJC in preparing the Code of Ethical Conduct of Bulgarian Judges and the Code of Ethical Conduct. of the Bulgarian prosecutors and investigators.

In connection with the accession of the Republic of Bulgaria to the Organisation for Economic Cooperation and Development (OECD), the administration of the Council of Ministers is designated as the coordinating institution for the Public Governance Committee. One of the legal instruments included is the OECD/LEGAL/0435 Recommendation of the Council on Public Integrity, for which the Inspectorate General is the lead.

Statistical information on the checks carried out in 2023 on the declarations of incompatibility submitted and on changes in the declared circumstances in the declarations of incompatibility (Article 49(1)(1) and (3) of the CCA and Article 35(1) and (3) of the CACIAF) by the inspectorates under Article 46 of the Administration Act can be provided after 30 April 2024, the deadline for the preparation of the summary report by the Inspectorate General.

24. General transparency of public decision-making (including rules on lobbying and their enforcement, asset disclosure rules and enforcement, gifts policy, transparency of political party financing)

Based on information received by the Prosecutor General about completed criminal proceedings as a result of criminal data referred by the Bulgarian National Audit Office (BNAO), 19 audit reports (including parts of audit reports) were published for the first time on the website of the BNAO in June 2023.

In 2023, the BNAO adopted new models of declarations under the Election Code, which require the provision of more extensive information on the origin of funds donated by individuals or provided by candidates and members of initiative committees in the course of an election campaign. The new templates were implemented for the parliamentary elections in April 2023 and for the local elections in October 2023.

25. Rules and measures to prevent and address conflicts of interest in the public sector. Please specify the features and scope of their application (e.g. categories of officials concerned, types of checks and corrective measures depending on the category of officials concerned)

For questions 23-25, please provide figures on their application, such as number of detected breaches/irregularities of the various rules in place and the follow-up given (investigations, sanctions, etc.).

The Counter Corruption Act sets out provisions governing the conditions and procedures for establishing conflicts of interest in respect of persons holding senior public office and persons referred to in § 2(1) of the Additional Provisions of the CCA.

By Order No. P-197 of 24.10.2023 of the Prime Minister, an interdepartmental working group was established and tasked with drafting a Regulation on the organisation and procedure for the verification of declarations and the establishment of conflicts of interest. Once the work of the inter-ministerial working group is completed (by 31 January 2024), the draft Regulation will be sent for inter-ministerial coordination and submitted for consideration at a meeting of the Council of Ministers in accordance with Section II, Chapter Three of the Rules of Procedure of the Council of Ministers and its Administration. The Ordinance will also include provisions on the organisation and procedure for carrying out checks to establish conflicts of interest for the persons referred to in Section 2(1) of the Supplementary Provisions of the Judicial System Act, with the exception of the experts referred to in Article 55(2) of the Judicial System Act.

By legal instrument: OECD/LEGAL/0316 – Recommendation of the Council on OECD Guidelines for Managing Conflict of Interest in the Public Service the lead institution is the administration of the Council of Ministers, respectively the Inspectorate General.

Statistical information on conflict of interest checks carried out by the inspectorates under Article 46 of the Administration Act in 2023, as well as on reports of conflict of interest, can be provided after 30.04.2024 – the deadline for the summary report by the Inspectorate General.

26. Measures in place to ensure whistleblower protection and encourage reporting of corruption, including the number of reports received and the follow-up given

In 2023, the competent authorities and obliged persons took measures to implement the Act on protection of persons, reporting information or publicly disclosing information about breaches (Whistleblowers Protection Act).³⁵

By Order No. P-197 of 24.10.2023 of the Prime Minister, an interdepartmental working group was established and tasked with drafting a Regulation on the organisation and procedure for the verification of declarations and the establishment of conflicts of interest. Once the work of the inter-ministerial working group is completed (by 31 January 2024), the draft Regulation will be sent for inter-ministerial coordination and submitted for consideration at a meeting of the Council of Ministers. It will also include provisions for the protection of whistleblowers and corruption whistleblowers.

Internal rules for the implementation of the Whistleblowers Protection Act were approved by order of the Chief Inspector of the ISCJ dated 04/05/2023. For the period from 04.05.2023 (the entry into force of the Whistleblowers Protection Act) to 31.12.2023, one report was received. Proceedings for consideration of the report have been terminated due to unfulfilled instructions - an incomplete form according to the application form approved by CPDP.

The Ministry of Interior approved rules for the organization of the work on reception and initial processing of signals received on the telephone lines and the website for signals of the Ministry, which include provisions for the protection of senders. Internal Security Directorate employees process signals, where every signal received is also registered. The identity of the sender who wishes to keep his identity confidential is subject to protection. In these cases, in the copy that is provided for verification, the data of the sender are deleted and replaced with the serial number from the register kept in the Internal Security Directorate. According to Art. 13 of the Whistleblowers Protection Act, by order of the Minister of Interior of July 2023, Rules for internal whistleblowing and subsequent actions on them are adopted. Internal rules for the organization and procedure for verifying declarations and establishing conflicts of interest have also been approved. A ban has been introduced to reveal the identity of the sender and to disclose facts and data that became known in connection with the consideration of the signal, as well as an obligation to protect the documents from unauthorized access.

27. Sectors with high risks of corruption in your Member State:

- Measures taken/envisaged for monitoring and preventing corruption and conflict of interest in public procurement

- list other sectors with high risks of corruption and the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. healthcare, citizen/residence investor schemes, urban planning, risk or cases of corruption linked to the disbursement of EU funds, other), and, where applicable, list measures to prevent and address corruption committed by organised crime groups (e.g. to infiltrate the public sector)

The 2023 report analysed the anti-corruption plans of 31 departments, in which a total of 583 measures were implemented. It was established that the corruption risks specifically identified by the departments are distributed by spheres as follows: 64 risks in sphere 1 "Corruption risk - management, disposal or spending of budget funds and assets, incl. procurement"; 160 risks in area 2 "Corruption risk - performance of control activity"; 58 the risk in sphere 3 "Corruption risk - provision of administrative services, concessions, issuance of licenses and permits, registration regimes"; 12 risks in area 4 "Corruption risk - competitive procedures/contests for entering persons in registers or for exercising legally regulated professions"; 44 the risk in area 5 "Corruption risk - loopholes in the laws and unclear legal acts leading to contradictory interpretation and/or application of the legal acts"; 52 risks in area 6

³⁵ See the information under item A. "The Institutional framework capacity to fight against corruption (prevention and investigation/prosecution)

"Other measures in view of specific risks in the relevant departments"; 91 risks in area 7 "Publicity measures". A summarized list of 62 corruption risks related to the areas of the anti-corruption plan model has been prepared, to be used by the participating departments in the process of identifying and formulating the specifically identified corruption risk. In the report for 2023, based on the statistical data presented, certain trends were identified and proposals were made to upgrade the activity and increase its practical focus and effectiveness.

The Anti-corruption Commission monitors the effect of the proposed legislative changes by performing a follow-up analysis of the request of the adopted legislative acts that have gone through a conciliation procedure, entered into force and acted within a period of no less than 12 months. For each of the 7 issues of the law analysed in 2023, the interested parties (importers, state authorities and other organizations and persons who implement the law and for whom it creates rights and obligations) are identified and they are invited to submit an opinion and impact assessment. Based on these opinions, as well as monitoring of judicial practice, publications in the media and other information, a subsequent analysis of the impact of the adopted legislative acts is carried out. In order to ensure accountability, publicity and transparency, all accepted conciliatory opinions, subsequent analyzes and proposals for changes in anti-corruption legislation are published on the Commission's website.

In 2023, the Ministry of the Interior implemented a number of measures aimed at monitoring the risk of corruption. 24 tests were carried out to establish the performance of official duties (integrity checks) of traffic control officers, and checks were carried out on 160 officers from the Regional Directorates of Interior.

The scope of the introduced system "Video recording of security activities and traffic control" has been expanded, and the General Directorate "Gendarmerie, Special Operations and Counterterrorism" is also included in the monitoring of the actions of employees. As a result of this monitoring, the necessary disciplinary sanctions were taken against the employees who committed violations.

As part of a project under the Operational Program "Good Governance", new electronic administrative services have been developed (in the areas of "Bulgarian identity documents", "Control of general dangerous vehicles" and "Traffic police"), available on the Ministry of Interior's electronic services portal from beginning of 2024. In the field of control of general dangerous goods, 20 new electronic services are introduced, in addition to the existing 26 services. With this, all services in this area will now also be offered as electronic services.

In the implementation of a project on the topic "Prevention and Counteraction to Corruption", financed under the "Home Affairs" Programme of the Norwegian Financial Mechanism, in the period 25 September - 17 November 2023, six three-day training seminars were held in the districts of Varna, Burgas and Blagoevgrad on line of prevention and countering corruption, the first two of which are international. During the seminars, 210 police officers from the SDVR and the 27 regional directorates of the Ministry of the Interior were trained.

In accordance with Art. 15, para. 7 of the Law on the Ministry of Interior regarding the interaction of investigating police officers with the European delegated prosecutors when carrying out the activity of investigating crimes under the competence of the European Public Prosecutor's Office, on September 15, 2023, an Agreement was signed between the Ministry of Interior and the European Public Prosecutor's Office, which created the necessary organizational prerequisites for good cooperation between these authorities in the investigation process in accordance with the European Public Prosecutor's Office Regulation.

In 2023, a draft Methodology for assessing the corruption risk in the Ministry of the Interior was developed, the implementation of which is planned for the beginning of 2024. It aims to map and update the corruption risks in the Ministry of the Interior.

In 2023, an Ordinance was adopted on the terms and conditions for determining the psychological suitability of civil servants in the Ministry of the Interior, which provides for an additional psychological examination of the employees of the Ministry of the Interior in cases of maladaptive and risky behavior.

From February 2023, the Ordinance on the conditions and procedure for establishing the abuse of narcotic substances shall apply. In the case of established use or abuse of narcotic substances, employees are subject to the disciplinary penalty of "dismissal".

28. Any other relevant measures to prevent corruption in public and private sector

C. Repressive measures

29. Criminalisation, including the level of sanctions available by law, of corruption and related offences, including foreign bribery.

30. Data on the number of investigations, prosecutions, final judgments and application of sanctions for corruption offences (differentiated by corruption offence if possible)⁹, including for legal persons and high level and complex corruption cases and their transparency, including as regards to the implementation of EU funds

In 2023, according to administrative order, the Internal Security Directorate of the Ministry of Interior received more than 320 reports with data on possibly committed acts of corruption, including from the telephone line, reports the website of the Ministry of Interior, as a result of the activities of the directorate. Until the month of October 2023, 64 reports were received with data on possibly committed acts of corruption. During the same period, there were 21 reports of bribery offered to officials who refused to accept it, and pre-trial proceedings were initiated against the perpetrators. After inspections, it was established that for 46 employees there were preliminary data on serious violations of official discipline and disciplinary proceedings were initiated under Art. 207 of the Law on the Ministry of Interior. 26 employees have been temporarily removed from their positions, with the view that the position they hold gives them the opportunity to influence citizens and employees or to hinder and make it difficult to reveal the objective truth in the disciplinary proceedings conducted against them. At the initiative of Directorate for Combating Organised Crime, more than 20 pre-trial proceedings for corruption of Ministry of Internal Affairs officials were initiated. 52 disciplinary proceedings have been concluded, including those initiated in the previous period, 28 employees have been disciplinary dismissed. 15 disciplinary proceedings were terminated on the basis of Art. 209 of the Law on the Ministry of Interior - insufficient evidence of a disciplinary violation has been collected. In the remaining 9 closed proceedings, no evidence of corruption was collected, but other violations of official discipline were found and the guilty officials were imposed different types of disciplinary punishments.

In Appendix 3 to this report, the Supreme Cassation Prosecutor's Office provides statistical data on cases initiated for corruption-related offences in the period 2022 – first three quarters of 2023. The number of cases in segments "Actual corruption crimes", "Crimes of officials with probable corruption motive", "Abuse of official position by officials and crimes of non-officials with probable corruption motive" amounts to 2 361.³⁶

The total number of criminal corruption cases initiated at the SCC in 2023 (involving offences included in Annexes 1 and 2 to Order No. 777/18.10.2022³⁷ of the President of the SCC) and those in which a final judgment was rendered in 2023 is 48. Of these, 6 are "high-level corruption cases", all of which have been decided by the Supreme Court of Cassation.

Cases of corruption offences involving defendants who do not hold senior public office are distributed by type of offence as follows: offence under Article 301 of the Criminal Code – 4 cases; offence under Article 302, item 1 of the Criminal Code – 10 cases; offence under Article 304 of the Criminal Code – 3 cases; offence under Article 304a of the Criminal Code – 2 cases; offence under Article 304b of the Criminal Code – 1 case; offence under Article 219, par. 3 of the Criminal Code – 1 case; offence under Article 220 of the Criminal Code – 4 cases; offence under Article 242, par. 4 in conjunction with par. 1 (c) of the Criminal Code – 2 cases; offence under Article 256, para. 2 of the Criminal Code – 2 cases; offence under Article 280, para. 2, item 5, last paragraph of the Criminal Code – 1 case; offence under Article 282 of the Criminal Code – 4 cases; offence under Article 311, para. 1 of the Criminal Code – 4 cases; offence under Article 167, para. 2 – 4 of the Criminal Code – 1 case; offence under Article 201 of the Criminal Code – 1 case; offence under Article 202, para. 1, item 1 and item 2 – 1 case; offence under Article 203, para. 1 of the Criminal Code – 1 case. Information on corruption cases filed/decided in the Supreme Court of Cassation in 2023, grouped by type of crime is listed in Appendix 4 to this report.³⁸

³⁶ Appendix 3 – Cases initiated for corruption-related offences in 2023 – Supreme Cassation Prosecutor's Office

³⁷ https://www.vks.bg/dela-za-korupcionni-prestaplenia/Zapoved_%E2%84%96_777_18.10.2022.pdf

³⁸ Appendix 4 – Proceedings/decisions in 2023 of the Supreme Court of Cassation on corruption cases

31. Potential obstacles to investigation and prosecution as well as to the effectiveness of criminal sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning)

According to the Supreme Court of Cassation, possible obstacles to the investigation and prosecution of high-level corruption cases could include immunity from prosecution established in the Constitution and in a number of laws, procedural rules, and expiry of the statute of limitations for prosecution.

Immunity: Some persons holding public office (under Article 6 of the Counter Corruption Act) enjoy immunity from prosecution. These are for example: The President and Vice President; Members of the Parliament; Members of the European Parliament from the Republic of Bulgaria; the President and Judges of the Constitutional Court; the Presidents of the Supreme Court of Cassation and the Supreme Administrative Court, the Prosecutor General, their deputies, the administrative heads of the judiciary and their deputies, members of the Supreme Judicial Council, the Inspector General and inspectors in the Inspectorate of the Supreme Judicial Council, judges, prosecutors and investigators; the Ombudsman. The immunity is functional – these persons cannot be held criminally liable for actions related to the performance of their functions. For some of these persons, the Constitution and a number of laws provide for a procedure for the lifting of immunity in the event of evidence of the commission of a crime of a general nature (e.g. for MPs, ombudsman). In this sense, immunity should not be seen as an obstacle to criminal prosecution, but only as a factor that may cause some delay in proceedings. For other persons than those mentioned, functional immunity is not an obstacle to the initiation of a criminal prosecution, so it does not impede the investigation and prosecution.

Limitation: The expiration of the limitation period provided for in the Criminal Code shall bar prosecution. For corruption offences, the limitation period is ten or fifteen years, depending on the penalty provided for in the specific offence. The expiration of a period that exceeds the prescribed period by one half, notwithstanding the suspension and interruption of the statute of limitations, precludes criminal prosecution, an "absolute" statute of limitations occurs. In the past year, only one of the cases heard by the SCC was dismissed due to the expiry of the prescribed limitation period.

Procedural rules: Although there is a perception that the Bulgarian criminal procedure is extremely formal, the procedural rules seek to balance the requirements of a fair trial with those of hearing and deciding cases within a reasonable time.

Findings from the analysis of the SCC decisions: A review of the reversal judgments shows that the main reason for the reversal of the judgments are problems related to the proof of the offence charged and the lack of reasons for the judgments. However, the relative number of quashed judgments is small.

32. Information on effectiveness of non-criminal measures and of sanctions (e.g. recovery measures and administrative sanctions) on both public and private offenders.

Other – please specify

III. Media pluralism and media freedom

33. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding media pluralism and media freedom (if applicable)

By order No. LS-13-109/14.08.2023 of the Minister of Justice and the Representative of the Supreme Judicial Council, the working group on media environment and access to information to the Council for the implementation of the National Coordination Mechanism for the Rule of Law is established, which includes representatives of the Union of Bulgarian Journalists, the Council for Electronic Media, the Supreme Bar Council, the Ombudsman of the Republic of Bulgaria, the Commission on Journalistic Ethics, the Bulgarian Association of Regional Media - BARM, the Association of Bulgarian Radio and Television Broadcasters - ABRO, the Association of European Journalists, the Bulgarian national television and the Bulgarian National Radio.

On 3 October 2023, the expert working group on media environment and access to information held an online technical meeting with representatives of the European Commission, where the follow-up actions on the recommendation addressed to Bulgaria with the Annual Report on the Rule of Law under Pillar III were discussed - media pluralism and freedom, namely "Making progress on work aimed at improving transparency in the distribution of state advertising, in particular with regard to state advertising contracted through intermediaries such as media agencies".

Publicity measures have been taken and a statutory obligation has been established for public organisations to publish all expenditure documents for media services to which the Public Procurement Act (PPA) does not apply. In this regard, the Law on Amendments and Supplements to the Public Procurement Law was adopted by the National Assembly on 5 October 2023 (promulg. No 88 of 2023) containing measures to introduce more transparency in the conclusion of contracts for the purchase of programme time or the provision of broadcasts to be awarded to media service providers and for the acquisition, development, production or co-production of material for broadcasts intended for audiovisual media services or radio services to be awarded by radio service providers or audiovisual media service providers. The specific measures to implement the recommendation in the annual Pillar III - Media Pluralism and Freedom of the Media Report are set out in paragraphs 10, 11, 13, 14 and 16.

Pursuant to its power under Article 124 of the CRB to exercise supreme supervision over the accurate and uniform application of the law and its duty to protect the rights and legitimate interests of citizens, legal persons and the State, subject only to the law. The Supreme Court of Cassation continues to maintain in its case law that it is not unlawful conduct to express an opinion negatively evaluating a person, directly or indirectly affecting his public standing, when his name is commented on or suggested in connection with a public matter related to his office, activity or occupation. It is necessary that it is not a perverse exercise of the right under Article 39(1) of the Constitution and that freedom of opinion is not used to damage the reputation of another. A negative assessment of a person, which for one reason or another stands out in public life, cannot give rise to liability if it does not affect the dignity of the person (i.e. if it does not constitute the offence of insult or defamation). It is a matter of case-by-case assessment as to whether the specific statement with negative content towards the person concerned, in addition to an assessment and opinion on a public matter, does not also objectify an allegation of a specific defamatory fact. In this sense is the Judgement No. 50084/24.11.24/11/2023³⁹ on civil in case no. No. 3487/2022 of the Second Session of the SCC, summarizing previous practice of the SCC (Decision No. 213/26.01.2021 in civil case No. 970/2020, Decision No. 278/27.11.2019 in civil case No. 1140/2019, Decision No. 62/06.03.2012 in civil case No. 1376/2011, Decision No. 369/26.11.2015 in civil case No. 2098/2015, Decision No. 204/12.06.2015 in civil case No. 7046/2014, all these of IV Civil Chamber, and Decision No. 484/09.06.2010 in civil case No. 1438/2009 of III Civil Chamber of the Supreme Court of Cassation).

The Supreme Court of Cassation rules on topical issues related to the dissemination of information via Facebook, holding that internet social networks, including Facebook, are designed for the exchange of information and content (files, photos, audio, video, etc.) between users who have registered an account on the relevant social network. Facebook allows the user to make adjustments to whom information posted on a profile will reach. If the setting is "Public", the post is available to all other users until it is deleted or the corresponding personal profile is deleted, and only if it has not been previously distributed by other users. Therefore, in determining the amount of the compensation payable for non-material damage resulting from a defamatory statement contained in a post on a personal Facebook profile with the 'Public' setting, it must be accepted as a fact of law that the audience of the open-access post is unlimited (apart from the number of users of the relevant online social network). It is not a matter of proof as to how many specific users the publication containing the defamatory statement from which the damages are recoverable reached. In this sense is Judgement No. 50038/25.05.2023 in civil case No. 1608/2022 of the II Civil Chamber of SCC.⁴⁰

The Supreme Court of Cassation gives guidance to the courts as to the manner in which an assessment of contributory negligence is to be made in a situation where there are multiple identical or similar publications in different media concerning the same person, holding that whether media publications or statements disseminated by the media constitute one or more torts depends on the facts of the particular case. In all cases, however, where the media publications are owned by different persons

³⁹ <https://www.vks.bg/pregled-akt.jsp?type=ot-delo&id=49B6045962BF71ADC2258A71003EB267>

⁴⁰ <https://www.vks.bg/pregled-akt.jsp?type=ot-delo&id=22E406BF377BA5DFC22589BA0032026F>

and there is tortious conduct by employees of each publication, there is more than one tort (the employees of each media outlet are committing a tort for which the respective contracting-publisher is vicariously liable under section 49 of the Obligations and Contracts Act). The joint and several liability under Article 53 of the Obligations and Contracts Act is conditional not on the number of torts, but on contributory causation of the damage. Contributory liability of the tortfeasors is not only present in the case of co-perpetration, but also where the tortfeasors are unaware that they are causing damage jointly with other persons. It is relevant whether there is indivisible damage which is causally linked to the acts or omissions of two or more persons. Where publications are carried out over a period of time by media outlets owned by different persons, joint and several liability under Article 53 of the Obligations and Contracts Act will arise if the subject matter and content of the publications are similar and affect the same non-material goods of the injured party, so that each of the publications causes the indivisible harm. If the subject matter of the publications is different, or if they affect different moral goods of the injured party, the torts are independent in nature and each tortfeasor will be liable for the damage caused by it. In this sense is Judgement No. 206/07.12.2023 in civil case No. 4573/2022 of the II Civil Chamber of the SCC⁴¹.

Recommendation: Advance with the work aimed at improving transparency in the allocation of state advertising, in particular with regard to state advertising contracted through intermediaries, such as media agencies.

Within the framework of an expert working group on media environment and access to information of the Council for the Implementation of the National Coordination Mechanism for the Rule of Law proposals for measures to ensure transparency of state advertising from the Association of Bulgarian Broadcasters (ABRO) was submitted. An opinion was also received from the Ministry of Culture proposing legislative changes to the rules on transparency of ownership of media service providers in Bulgaria. These proposals are to be discussed in the next meetings of the working group. In the framework of this working group, the SCC committed to maintain an electronic register for certain categories of cases, including those against journalists and media⁴², to work in cooperation with the Union of Journalists in Bulgaria.

The register was established by Order No. 777/18.10.2022⁴³ of the President of the SCC for introducing a Unified Catalogue of Crimes of Corrupt Conduct and Practices; creating an Electronic Register of Proceedings against Journalists and Media; publishing up-to-date lists of cases of corruption crimes, organized crime and cases against journalists and media.

In order for the Supreme Court of Cassation to provide the institutions and the public with the most accurate and up-to-date information on the categories of cases mentioned in the Order, and on other categories, such as those on human trafficking, for example, on 07.11.2023 a change request was sent to the SJC by the President of the SJC under the contract concluded between the SJC and "Information Services" JSC for the public procurement with the subject "Expansion of existing, addition of new functionalities and integrations and optimization of the Unified Information System of the Courts". The request states that the requested functionality in the EJIS is necessary in connection with the legal and regulatory obligations of the SCC to aggregate information on cases opened and completed at all levels of the general courts. Such a need arises, but is not limited to, Decree No. 240/24.09.2019 of the Council of Ministers on the Establishment of the National Coordination Mechanism for the Rule of Law and of the Council for its Implementation (SG No. 76/27.09.2019), the National Programme for the Prevention and Combating of Trafficking in Human Beings and Protection of Victims for 2023, etc

A. Media authorities and bodies

34. Measures taken to ensure the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies

35. Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies

⁴¹ <https://www.vks.bg/pregled-akt.jsp?type=ot-delo&id=3969BED06EECF5AAC2258A7E004C788C>

⁴² <https://www.vks.bg/dela-jurnalisti-i-medii.html>

⁴³ https://www.vks.bg/dela-za-korupcionni-prestaplenia/Zapoved_%E2%84%96_777_18.10.2022.pdf

36. Existence and functions of media councils or other self-regulatory bodies

B. Safeguards against government or political interference and transparency and concentration of media ownership

37. Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)

38. Safeguards against state / political interference, in particular:

- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions - information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licences, company operation, capital entry requirements, concentration, and corporate governance

39. Transparency of media ownership and public availability of media ownership information, including on direct, indirect and beneficial owners as well as any rules regulating the matter

In the framework of the expert working group on media environment and access to information to the Council for the Implementation of the National Coordination Mechanism for the Rule of Law, an analysis of the existing regime in the current legislation regarding the brightening of media ownership is being prepared.

Proposals for measures to improve the functioning of the Register under Article 7 of the Law on the Compulsory Deposit of Printed and Other Works and on the Listing of Distributors and Media Service Providers, maintained by the Ministry of Culture, are discussed. This register shall contain mandatory entries in respect of all printed works, audiovisual and electronic documents, sound recordings and films produced in the Republic of Bulgaria and subject to deposit.

C. Framework for journalists' protection, transparency and access to documents

40. Rules and practices guaranteeing journalist's independence and safety, including as regards protection of journalistic sources and communications, referring also, if applicable, to follow-up given to alerts lodged with the Council of Europe's Platform to promote the protection of journalism and safety of journalists.

In connection with the recommendations of the European Commission on the issues of media pluralism and freedom of the media, with an emphasis on the protection of journalists, a working group was created in the Ministry of Interior, which reviewed the measures and practices implemented to ensure the safety of journalists. As a result of the group's activity, an Action Plan was proposed and approved with measures in the direction of activity, which aim to ensure to a greater extent the protection and safety of journalists during protests and demonstrations; online safety in relation to the prevention of online attacks and threats to journalists and effective cooperation between government authorities, the media sector and civil society, etc. In implementation of the Action Plan, the creation of a specialized section with cyber security advice on the website www.cybercrime.bg, aimed at all Internet users, is in the process of development. The tips are intended to contribute to increasing the level of cyber security of users, incl. and that of journalists. Special emphasis will be placed on the position of women in the media, journalists from minority groups and those covering equality issues.

The "Press Center and Public Relations" Directorate in the Ministry of Interior has a well-established practice of maintaining constant contact 24/7 with media representatives.

The topic of protecting journalists during mass events is also included in the curriculum of the Academy of the Ministry of Interior. In the bachelor's and master's degrees of the training of the Academy, topics related to the protection of the rights of journalists are considered, including topics regarding

objects and subjects of mass communication, the media as a tool of influence. and as a source of information on internal security, media and terrorism, ensuring the safety of journalists when covering sports events, etc.

The Academy of the Ministry of Interior is planning to conduct a course for updating the professional qualification on the topic "Protecting the rights of journalists in the performance of their professional activities". The purpose of the course is to train police officers exercising police powers on the issues of protecting the rights of journalists at mass events to guarantee freedom of speech and the right to freely inform and cover issues of public interest. The course will be held at the workplace through the electronic platform of the Academy.

41. Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists

42. Access to information and public documents by public at large and journalists (incl. transparency authorities where they exist, procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities, possible obstacles related to the classification of information)

The Supreme Administrative Court (SAC) considers applications submitted to it for access to public information that is created or stored at the SAC in accordance with the procedures and within the time limits provided for in the current Access to Public Information Act. Decisions to grant access to public information or to refuse to grant access to public information shall be appealed before the relevant administrative court, in accordance with the Administrative Procedure Code. The decision of the administrative court shall not be subject to cassation appeal. Requests from the media to provide information shall also be dealt with in this way. In 2023, there were no refusals and no appeals against refusal of access to public information on requests by journalists and media.

Data on all cases before the SAC of public interest shall be published on the website in a timely manner. Where a case of public interest has been expressly declared, media representatives shall be allowed to attend public hearings. Reporters, photographers and cameramen shall be admitted to the courtrooms. The SAC press office also responds promptly to individual media enquiries, provides information in connection with investigations into cases of public interest and organises periodic meetings with journalists.

In 2023, the Supreme Administrative Court issued Interpretative Decision No. 1 of 17.01.2023 concerning the right of access of the applicants to materials in administrative proceedings before the State Commission on Information Security (SCIS) in connection with refusals, revocation and termination of permissions to access classified information. After its ruling, the administrative proceedings before the SCIS, based on received complaints, are being examined with the participation of the complainant. In this way, the realization of the applicant's right to defense at the stage of the administrative proceedings is guaranteed, given the protection of national security, which classified information by definition affects.

Some administrative cases dealt with by the SAC during the period, which are of significant public interest, should be noted:

- SAC overturned as unlawful the CEC's decision ordering that the November 5, 2023 ballot be conducted by paper ballot only. In the remaining part, concerning the elections for mayors and municipal councillors held on 29 October 2023, the appeals admitted for consideration were dismissed.

- Administrative case No. 10416 of 2023 was initiated on complaints of "We Continue the Change – Democratic Bulgaria", PP "Edineniye", by the candidate for mayor and candidate for municipal councillor of Shumen Municipality Nedelcho Nedelchev, by the candidate for municipal councillor of Sofia Municipality Petar Slavov, as well as by a group of individuals in their capacity as voters. SAC accepted that the requirements of the Electoral Code could be fulfilled for the conduct of the ballot in compliance with the statutory procedure, the certification under Article 213a, paragraph 2 of the Code being carried out by the competent authorities. SAC has described the procedure provided for in the law in the reasons for its decision. With regard to the elections held on 29 October 2023, the SAC dismissed the appeals because, at the time of the CEC's contested decision, no certification decision had been issued under Article 213 bis of the Electoral Code, of which the Minister of e-Government in the letter had notified the Commission cited in the reasons. Such coordination was received after the adoption of the contested decision by the CEC, which was signed by the Bulgarian Institute for Standardisation, the Bulgarian Institute of Metrology and the Deputy Minister of the Ministry of e-Government. The latter has

been designated to carry out these actions by Order No MEU-14646/19.09.2023 of the Minister for Electronic Government. In view of the foregoing, the Chief Justices hold that both at the time of the adoption of the impugned decision and at the present time, there is no decision duly issued by the competent authorities within the meaning of Article 213a(2) of the Electoral Code.

- Next, the Supreme Administrative Court annulled as incorrect a decision of the Sofia City Administrative Court in administrative case No. 6188 of 2022, which annulled a decision of the Commission for Protection against Discrimination (CPD) of 10 June 2022, in relation to a complaint filed against Milena Slavova by two individuals and the LGBT youth organisation Action. The reason for the complaint to the CPD was the singer's post on her personal Facebook profile, which was perceived by the two individuals and the Youth LGBT organization "Action" as containing offensive definitions and baseless accusations of immoral behaviour directed at the LGBT community on the basis of the protected characteristic "sexual orientation", constituting "harassment", which is why they have referred to the CPD with a request to establish a violation of the prohibition of discrimination in the form of "harassment". The CPD ruled in its decision that there was no discrimination and therefore the two individuals and the LGBT Youth Organisation "Action" lodged an appeal against the CPD's decision before the Sofia City Administrative Court. The Court of First Instance upheld the appeals and remanded the Commission's act for a new ruling. Milena Slavova and the Commission for Protection against Discrimination lodged cassation appeals before the Supreme Administrative Court against the decision of the Administrative Court Sofia-city. The supreme magistrates held that the overall conduct of the cassation appellant Milena Slavova demonstrated the distinction she made between "participants in gay pride parades" and "persons with homosexual orientation" and overturned the ACCC's act.

On the subject of independence and transparency: In March 2023, a meeting was held between SAC magistrates and representatives of the Organization for Security and Co-operation in Europe's (OSCE/ODIHR) Office for Democratic Institutions and Human Rights (ODIHR) mission to monitor the early elections for MPs in Bulgaria on 2 April 2023. Ms. Tana de Zulueta (Italy), Head of Mission, represented ODIHR. During the meeting, the Head of Mission received comprehensive information on the role of the Supreme Administrative Court and the administrative courts in the country in ensuring transparency and equality of arms in the electoral process.

43. Lawsuits (incl. SLAPPs - strategic lawsuits against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against manifestly unfounded and abusive lawsuits

In the framework of the expert working group on media environment and access to information at the Council for the implementation of the National Coordination Mechanism for the Rule of Law, proposals for changes in the amendments to the legislation guaranteeing the protection of journalists and defenders of the rights of involved with public participation, from strategic litigation ("strategic anti-public participation litigation" - "SLAPP cases").

On 21 December 2023, a meeting of the expert work was held with the participation of representatives of the doctrine, the judiciary and practice. The main aims and provisions of the proposal for a Directive of the European Parliament and of the Council on the protection of persons involved in public participation from manifestly unfounded claims or abuse of judicial proceedings⁴⁴ were discussed, as well as proposals from representatives of the doctrine, the judiciary and the practice of the introduction of specific legal mechanisms in the Civil Procedure Code, which would guarantee the protection of journalists and human rights defenders in strategic legal proceedings in compliance with the principle of equality of the parties, such as the introduction of the possibility of early termination of the case, special rules for the admission of collateral for the claim and admissibility of these claims, procedural means for engaging the claimant's responsibility in the case of an unfounded claim/ the possibility of the defendant to claim costs/ compensation, etc. At the conclusion of the meeting, the members of the working group decided to submit their conceptual notes to the Ministry of Justice by 15 January 2024, which would form the basis of a general conceptual document, as a starting point for specific legislative changes in the civil process.

According to the Working Group's timetable, concrete proposals for amendments to the Code of Civil Procedure should be made by the end of January 2024.

⁴⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022PC0177>

IV. Other institutional issues related to checks and balances

44. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the system of checks and balances (if applicable)

At present, the Constitutional Court continues to function with 10 judges. It is necessary for the National Assembly to elect two persons from its quota as Constitutional Judges to fill the vacant seats in order to bring the Constitutional Court to the constitutionally required 12 judges. On 12 December 2023, the National Assembly adopted, by a decision, the Procedural Rules for the nomination of candidates, the submission and public disclosure of documents, the hearing of candidates and the election of judges to the Constitutional Court of the Republic of Bulgaria from the quota of the National Assembly. The [procedure](#) is pending and proposals for candidates may be made by Members of the National Assembly until 11 January 2024. In the autumn of 2024, the term of office of four more judges will expire, one of them from the quota of the National Assembly⁴⁵.

In the period since the publication of the 2023 EC Report, the following CoJ decisions have been delivered:

- **Decision No. 7 of 21.11.2023 in Constitutional Case No. 12/2023**⁴⁶ – the case was initiated at the request of the President of the Republic of Bulgaria; by its decision the CC declared unconstitutional part of the decision of the National Assembly of 07.07.2023 on the amendment of the procedural rules for the election of the President of the Bulgarian National Audit Office;

- **Decision No. 9 of 07.12.2023 in Constitutional Case No. 4/2023**⁴⁷ – the case was initiated at the request of a group of MPs to establish the unconstitutionality of several provisions of the Electoral Code. The challenged provisions of the Electoral Code, in whole or in part, are part of a normative complex that regulates voting by machine ballot. The contested § 54 of the Law on Amendment and Supplementing the Electoral Code (prom. SG, No. 104 of 2022) repeals § 145 Transitional and Final Provisions of the Law on Amendment and Supplementing the Electoral Code (promulg. SG 39 of 2016; amended SG 85 of 2017, SG 94 of 2018 and SG 17 and 21 of 2019), which creates the possibility of experimental remote electronic voting and prescribes the mechanisms for its implementation. In the operative part of its decision, the Constitutional Court declared unconstitutional the provisions of: Article 212, paragraph 5 in the part "as well as in the cases in which there is no person to whom the Central Election Commission has entrusted the activities on the technical provision and maintenance of the technical voting device, fluent in Bulgarian, to install and maintain the technical devices for machine voting" and Article 213b, paragraph 1 in the part "received more than four percent of the valid votes at the last parliamentary elections held" of the Electoral Code (promulgated by the State Gazette, No. 19 of 5 June 2011). 03.2014, last amended, issue 104 of 30.12.2022). The application for a declaration that the provisions of Article 206(1) in the part "may, at its option," and "by paper ballot or"; Article 206(3); Article 212(4); Article 213c; Article 268(4) and (5); Article 271 in the part "by counting the ballot papers from the machine voting"; Article 430 in the part "by counting the ballot papers from the machine voting" of the Electoral Code (promulgated, SG, No. 19 of 5 June 2009) are unconstitutional is dismissed. 03.2014, last amended and supplemented, issue 104 of 30.12.2022), as well as §54 of the IDIC Law (promulgated, SG 104 of 30.12.2022).

- **Procedural Order No. 10 of 11.12.2023 in Constitutional Case No. 20/2023**⁴⁸, by which the CC rejected the request of a group of MPs and thus terminated the proceedings for a binding interpretation of Article 155(1) and (2) of the Constitution in the matter: "Is a three-quarters majority of all Members of the National Assembly required for each of the three votes on the adoption of a law to amend and supplement the Constitution as set out in Article 155(1) of the Constitution, and does the absence of such a quorum for any of the three votes necessarily refer each of them to a new examination under Article

⁴⁵ This information is also reflected in the fourth EU Rule of Law Report 2023.

⁴⁶ <https://www.constcourt.bg/bg/act-9623>

⁴⁷ <https://www.constcourt.bg/bg/act-9643>

⁴⁸ <https://www.constcourt.bg/bg/act-9644>

155(2), first sentence, of the Constitution?". The Court's main argument is that *"To hold that the Court must exercise its power to interpret the Basic Law on the modalities of amendments to it by the National Assembly (ordinary) under Article 155 of the Constitution, in the particular circumstances indicated concerning a constitutional process already set in motion, risks shifting the constitutional jurisdiction away from the unfolding of the democratic process and, in the present case, allowing the functions of the National Assembly and the Constitutional Court to be conflated."*

- **Decision No. 2 of 14.02. 2023 in Constitutional Case No. 1/2022**⁴⁹ – the case was initiated on the request of the Plenum of the Supreme Administrative Court to give a binding interpretation of Article 4(1), Article 119(2), Article 120(1) and Article 125 of the CRB in relation to the answer to a specific question; in the operative part of the judgment, the CC held that 'the principle of the rule of law enshrined in Article 4(1) of the CRB does not require that all disputes concerning the legality of acts and actions of administrative authorities be examined by the specialised administrative courts established under Article 119(2) of the CRB.

- **Decision No. 3 of 25.04.2023 in Constitutional Case No. 18/2022**⁵⁰ – the case was initiated on the request of the Council of Ministers of the Republic of Bulgaria to give a binding interpretation of Article 126, paragraph 2 in the part "supervision of legality" in relation to Article 127 of the Constitution on the issue: "Does the systematic interpretation of Article 126, paragraph 2 in relation to Article 127 of the CRB allow the Prosecutor General, supervising the legality of the activity of the prosecutors, to assign them to carry out checks for compliance with the legality in all spheres of government and of all administrative levels?", as well as to establish the unconstitutionality of the provision of Article 145, paragraph 1, item 3 in the part regarding the words "and actions" and "and revisions", and item 6 in the part regarding the words "or other offense " from the Law on the Judiciary (JSA; promulgated SG No. 64 of 07.08.2007, last amended and supplemented, No. 11 of 02.02.2023);

- **Decision No. 4 of 06.06.2023 in Constitutional Case No. 3/2021**⁵¹ – the case was initiated on the request of the President of the Republic of Bulgaria to give a binding interpretation of Article 84(1), Article 88(3) and Article 101(1) of the Constitution as provisions in relation to the answer to a specific question; in the operative part of the decision the CC held that "it is not permissible for a law adopted by the National Assembly to be amended, supplemented or repealed before it has been promulgated in the SG".

A. The process for preparing and enacting laws

45. Framework, policy and use of impact assessments and evidence based policy-making, stakeholders' 12/public consultations (including consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process both in the preparatory and the parliamentary phase.

46. Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions).

47. Rules and application of states of emergency (or analogous regimes), including judicial review and parliamentary oversight.

48. Regime for constitutional review of laws

B. Independent authorities

49. Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

⁴⁹ <https://www.constcourt.bg/bg/act-9451>

⁵⁰ <https://www.constcourt.bg/bg/act-9487>

⁵¹ <https://www.constcourt.bg/bg/act-9500>

By Decision of the National Assembly of 20 January 2023, the Chairman of the Bulgarian National Audit Office was released after his term expired. With a decision of 22 June 2023, the Constitutional Court declared the decision unconstitutional. By Decision of 28.07.2023 the National Assembly elected a new Chairman of the BNAO. A procedure for the election of vice-chairmen and members of the BNAO was opened, but it was not completed until the end of 2023.

With a ruling dated 15 November 2022, the Constitutional Court rejected the request of the Council of Ministers for a mandatory interpretation of Article 126, paragraph 2 in the part "supervision of legality" in relation to Article 127 of the CRB, terminating the constitutional proceedings in this part, and admitted the request to establish the unconstitutionality of the provision of the Code of Criminal Procedure concerning the scope of the powers of the prosecutor's office for consideration; in the operative part of its decision, the Constitutional Court rejects the request of the Council of Ministers.

50. Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years

In 2023, the Ombudsman's powers as a national human rights institution were expanded with the responsibility for conducting an external audit of whistleblowing and whistleblower protection activities under the Whistleblower Protection Act.⁵² For this purpose, a new expert unit was created in the ombudsman's administration and provided with the necessary financial and human resources.⁵³ Nearly 78,000 citizens in 2023 received protection of their rights through checks on complaints, signatures from citizens and initiative committees, sudden checks based on recommendations of the ombudsman to authorities and institutions. The Ombudsman turned to the Constitutional Court with request to declare the illegality of legal provisions due to violation of human rights and made 31 proposals for amendments and additions to the Bulgarian legislation in order to protect fundamental rights and freedoms.

In 2023, the Bulgarian National Audit Office verified the implementation of 452 recommendations and 153 sub-recommendations. With the highest relative share are implemented recommendations - 55.87%, partially implemented are 12.73%, recommendations in the process of implementation are 4.79%. 19.67% of the recommendations were reported as unimplemented, 4.79% were found to be unimplementable due to significant changes.

C. Accessibility and judicial review of administrative decisions

51. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)

By order of the Minister of Justice, a working group was formed in 2023 and drafted a Law amending the current Administrative Procedure Code, with proposals related to the Court of Justice of the European Union (CJEU) judgement of 24.11.2022 in case C-289/21.

Next, during the period under review, the Supreme Administrative Court continued to use the Single Registry Information System (SRIS), which has a link to the Single e-Justice Portal (SEJP). As of 2 January 2024, all administrative courts in the country, with the exception of the Sofia City Administrative Court, will start using the implemented Single Registry Information System. Through the application of modern information systems and technologies, the introduced system aims to increase the efficiency and transparency in the activities of the administrative justice and the quality of the services offered. The use of SRIS promotes e-justice in the country by building a collaborative environment and portal for citizens and businesses and facilitating their access to the database of SAC and administrative court decisions. A link has also been established between the SRIS and the Unified Court Information System (UCIS) used by all general courts. A link has also been developed between the SAC and the administrative courts, allowing the electronic case file to be sent with the paper case file when instance control is exercised.

In 2023, the Supreme Administrative Court continued to implement investment C10.I2 of the NRRP "Digitization of key court processes in the administrative justice system". The first main activity of the project was implemented, namely "Study of leading best practices on digitalization of workflows

⁵² Law on the Ombudsman, SG N. 11 of February 2, 2023

⁵³ Resolution of MC N 147 of September 20, 2023

in the administration of justice in other countries". Within the framework of this activity, two visits were organised and carried out to study the international experience reflecting the best practices in EU member states, including legislation, in the field of digitisation of workflows in the administration of justice in other countries for the needs of the judiciary. This was achieved by seconding magistrates and judicial officers from the SAC and administrative courts who participated in various activities within the framework of the visits organised. A review of existing policies and practices adopted in Member States on established experiences related to the digitisation of the judiciary was carried out. The activity culminated in the preparation of a report including the results of the survey of international experiences, including recommendations and proposals for change. Activity 6 also developed the technical specifications for the development and implementation of a module for the interconnection of the SRIS with the Electronic Summons Portal of the SJC and that of the Ministry of e-Government on the parties to administrative cases and for the development and implementation of an information module enabling the digital remote filing and receipt of electronic documents in court cases by the parties and their legal representatives.

52. Judicial review of administrative decisions:

- short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review)

53. Rules and practices related to the application by all courts, including constitutional jurisdictions, of the preliminary ruling procedure (Art. 267 TFEU)

The preliminary reference as a procedural remedy in pending judicial proceedings is regulated in Article 628 et seq. of the CCP, and based on Article 144 APC in conjunction with Article 628 CCP it may also be applied in administrative judicial proceedings. It is also admissible where it is necessary to interpret a provision of EU law or an act of the EU authorities, which is relevant for the proper determination of the case by the national court. The Constitutional Court of the Republic of Bulgaria has so far not referred for a preliminary ruling under Article 267 TFEU.

54. Follow-up by the public administration and State institutions to final (national/supranational, including the European Court of Human Rights) court decisions, as well as available remedies in case of non- implementation

D. The enabling framework for civil society

55. Measures regarding the framework for civil society organisations and human rights defenders (e.g. legal framework and its application in practice incl. registration and dissolution rules)

56. Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures for protection from attacks – verbal, physical or on-line –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services.

Changes to the Criminal Code adopted in July 2023 provide for tougher penalties for crimes committed out of hate and homophobic motives. Qualified compositions are included when the acts were committed for racist or homophobic motives or motives related to sexual orientation.

The Ministry of the Interior follows a consistent policy of preventing and not allowing any form of discrimination and intolerance on ethnic, religious or other grounds. Within the framework of its powers, the Ministry of Interior takes all necessary actions to counter hate crimes.

Part of the functional competences of the Cybercrime Directorate, established in 2023 in the Genral Directorate for Combating Organised Crime, is the observance of human rights in the online environment, and among the activities are regular monitoring and work on signals received by non-governmental organizations and individuals. Effective cooperation with the non-governmental sector

contributes to the rapid response to the removal of materials containing hate speech from the Internet and social networks when crimes are detected.

Since 2019, regular cooperation has been established between local police structures and the LGBT community. Trainings are conducted on countering hate crimes motivated by sexual orientation and/or gender identity. The topic of human rights is part of the training of the Academy of the Ministry of Interior and training centers.

57. Organisation of financial support for civil society organisations and human rights defenders (e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, measures to ensure a fair distribution of funding)

58. Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process (e.g. measures related to dialogue between authorities and civil society, participation of civil society in policy development and decision-making, consultation, dialogues, etc.)

E. Initiatives to foster a rule of law culture

59. Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society, education initiatives, etc.)

For 2023, the Ministry of Justice was awarded as "Institution that best organized the provision of access to information". Nominations for the prestigious awards are made by civil society and are organized by the "Access to Information" Program. In the past year, the Public Relations and Protocol Directorate of the Ministry of Justice prepared and distributed to all media and social networks more than 100 press releases on the Ministry's legislative proposals, public consultations and parliamentary debates. More than 30 meetings were held with ambassadors of different countries with the aim of being acquainted with the progress of our country in the field of the rule of law in connection with judicial reform.

More than 40 interviews of the Minister of Justice and his deputies were conducted in leading national media with an emphasis on the changes to the Constitution, the mechanism of control of the Prosecutor General and the fight against domestic violence. 7 information campaigns were organized for the introduced new electronic services for fast and efficient access to justice. The Minister of Justice and experts from the Ministry gave a series of lectures to students and teachers from higher education institutions and judges of all levels to familiarize them with the need for legislative changes and the function of the individual units of the Ministry.

The implementation of the Judiciary-Informed Choice and Civic Trust Education Programme of the SJC has been secured. "Open Courts and Prosecution Offices" Programme is implemented in cooperation with the Ministry of Education and Science (MES). This is the tenth consecutive year that the Programme has been implemented by the judiciary. With the exception of the pandemic period of COVID 19, the trend of annual increase in the number of participants – schools and pupils, as well as of the lecturers – judges, prosecutors and investigators, who are also supported by various local institutions and organizations relevant to the prevention of juvenile delinquency, including educators, psychologists, doctors, lawyers, representatives of law enforcement agencies, is maintained. The programme is aimed at forming legal literacy and culture among students, increasing their confidence in the judiciary and respect for the law, and explaining the principles of the independence of the judiciary. The SJC annually provides educational and informational materials to all covered students, including Constitution of the Republic of Bulgaria, 11 types of leaflets, 4 types of posters and posters. In 2023 on the website of the SJC, under the section "Educational Program. News"⁵⁴ section, as well as on the Facebook page of the SJC, more than 250 hyperlinks to the websites of the judiciary and regional media with information on activities carried out under the Programme were published. In the academic year 2023/2024, more than 130 courts and prosecutor's offices, in partnership with more than 350 educational institutions, have requested participation in the Programme. According to the judicial authorities, more than 450 magistrates and more than 100 judicial officers will cover more than 27 thousand students in the lecture course.

⁵⁴ <https://vss.justice.bg/page/view/6563>

The activity of the judiciary is also demonstrated in the sustained and successful implementation of the Open Doors Day information campaign under the slogan "Open to the Judiciary". In 2023, more than 180 courts and prosecutor's offices, including the National Institute of Justice, are participating in the campaign, and due to the high interest of the target groups – schoolchildren and students, most of the judicial authorities are holding the initiative more than two or three times. The practice of providing hyperlinks to information on the initiatives implemented, which are published on the website of the SJC and on its Facebook page⁵⁵, has been consolidated.

Under the project "NIJ - a modern institution for judicial training", financed by OPDU, the National Institute of Justice gives the opportunity to 50 representatives of the professional community to participate in the XXX Congress of the International Federation of European Law (FIDE), held in the period May 31-3 . June 2023 A key panel in the program was devoted to mutual trust, recognition and the rule of law. With the consent of the United Nations Office on Drugs and Crime (UNODC), the self-training course "Judicial Conduct and Ethics" has been translated into Bulgarian and is available on the NIJ e-learning Portal. In 2023, 52 Bulgarian judges, prosecutors and investigators completed this course. With the financial assistance of the Embassy of the United States of America, the translation of the Manual on Independence, Impartiality and Integrity of the Judicial System into Bulgarian has been provided. CEELI Institute's Thematic Compendium of International Standards, Policies and Good Practices. The manual is available to all registered users of the NIJ e-learning portal.

The Institute developed proposals for improving the model of mandatory initial training of candidates for junior judges, which were discussed at the public discussion organized on 7-8.12.2023 under the patronage of the Chairman of the Management Board of the NIJ, Judge Galina Zakharaova. The discussion includes "the Knowledge is Responsibility" forum available on the NIP e-learning portal, which provides a platform for ideas and suggestions for the development of judicial training. At the public consultation, the NIP's initiatives to create an "Academy for Judicial Leaders" and "Alumni Club of the NIJ" were presented.

Other – please specify

Appendices

Appendix 1 – Trainings of justice professionals provided by the National Institute of Justice in 2023

Appendix 2 – Information on the trainings in Ministry of Interior in 2023

Appendix 3 – Cases initiated for corruption-related offences in 2023 – Supreme Cassation Prosecutor's Office

Appendix 4 – Proceedings/decisions in 2023 of the Supreme Court of Cassation on corruption cases

⁵⁵ <https://vss.justice.bg/page/view/7165>