

2023 Rule of Law Report - targeted stakeholder consultation

Fields marked with * are mandatory.

Introduction

The annual Rule of Law Report lies at the centre of the European rule of law mechanism, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues. So far, three editions of the Rule of Law Report have been published in 2020, 2021 and 2022.

In the preparation of the first three editions of the Rule of Law Report, the Commission has relied on a diversity of relevant sources, including from Member States, country visits, and stakeholders' contributions collected through the targeted stakeholder consultation [1]. The information provided has informed the Commission's country-specific assessments in preparing the Report. Building on the positive experience from the first three editions of the Rule of Law Report, the Commission is now inviting stakeholders to provide written contributions for the preparation of the 2023 Rule of Law Report through this targeted consultation.

The contribution to be provided should include (1) information on measures taken to implement the recommendations addressed to the Member State in the 2022 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter and (2) any other significant developments since January 2022 [2] falling under the 'type of information' outlined in the next section.

The input should be short and concise and summarise information related to one or more of the areas referred to in the template. You are invited to focus on the areas that relate to the scope of work and expertise of your organisation. Existing reports, statements, legislation or other documents may be referenced with a link (no need to provide the full text). Stakeholders are encouraged to make references to any contributions already provided in a different context or to Reports and documents already published. Contributions should focus on significant developments both as regards the legal framework and its implementation in practice.

If you wish to submit information concerning several Member States, you will have to fill-in the questionnaire separately for each Member States (due to the size of the questionnaire). There is no limit to the number of contributions submitted by a single participant. In such cases, you are not required to repeat the information in the section "about you" that is non-mandatory nor the information on horizontal developments.

Please provide your contribution by **20 January 2023**. Should you have any requests for clarifications or encounter difficulties in filling in the questionnaire, you can contact the Commission at the following email

address: rule-of-law-network@ec.europa.eu.

[1] For the consultation for the 2022 Report, see https://ec.europa.eu/info/publications/2022-rule-law-report-targeted-stakeholder-consultation_en

[2] Unless the information was already submitted in the consultation for the previous Rule of Law Reports.

Type of information

The topics are structured according to four pillars: I. Justice system; II. Anti-corruption framework; III. Media pluralism; and IV. Other institutional issues related to checks and balances. The replies could include aspects set out below under each pillar. This can include challenges, current work streams, positive developments and best practices:

Legislative developments

- Newly adopted legislation
- Legislative drafts currently discussed in Parliament
- Legislative plans envisaged by the Government

Policy developments

- Implementation of legislation
- Evaluations, impact assessment, surveys
- White papers/strategies/actions plans/consultation processes
- Follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- Important administrative measures
- Generalised practices

Developments related to the judiciary / independent authorities

- Important case law by national courts
- Important decision/opinions from independent bodies/authorities
- State of play on terms, nominations and expired mandates for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, heads of independent authorities included in the scope of the questionnaire[1])

Any other relevant developments

- Respondents are free to add any further information, which they deem relevant; however, this should be short and to the point.

If there are no changes, it is sufficient to indicate this and the information covered in the contributions for the previous Rule of Law Reports should not be repeated.

[1] Such as: media regulatory authorities and bodies, national human rights institutions, equality bodies, ombudsman institutions, supreme audit institutions and, where they exist, transparency authorities.

About you

* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☒ Civil society organisation/NGO
- ☐ International organisation
- ☐ Judicial association or network
- ☐ Media organisation or association
- ☐ Public authority or network of public authorities
- ☐ Other

* Organisation name

250 character(s) maximum

Bulgarian Institute for Legal Initiatives Foundation (BILI)

Main Areas of Work

- ☒ Justice System
- ☒ Anti-corruption
- ☐ Media Pluralism
- ☒ Other

If "Other", please specify

good governance; parliamentary appointments; legislative process, civil society/education

Please insert an URL towards your organisation's main online presence or describe your organisation briefly:

500 character(s) maximum

BILI is an independent, non-partisan organization with a strong focus on judicial reform and anticorruption. Established in 2006 it is among the most vocal and critical NGOs in Bulgaria. BILI is a member of various Civic Councils within the Minister of Justice and the Council of Ministers. BILI was recently elected co-chair of the OGP Council in BG ; www.bili-bg.org, <https://www.facebook.com/BulgarianInstituteForLegalInitiatives/>; <https://www.youtube.com/@bilifoundation343>

Transparency register number

Check if your organisation is in the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making

* Country of origin

Please add the country of origin of your organisation

- ☐ Afghanistan
- ☐ Albania
- ☐ Algeria
- ☐ Andorra
- ☐ Angola
- ☐ Antigua and Barbuda
- ☐ Argentina
- ☐ Armenia
- ☐ Australia
- ☐ Austria
- ☐ Azerbaijan
- ☐ Bahamas
- ☐ Bahrain
- ☐ Bangladesh
- ☐ Barbados
- ☐ Belarus
- ☐ Belgium
- ☐ Belize
- ☐ Benin
- ☐ Bhutan
- ☐ Bolivia
- ☐ Bosnia and Herzegovina
- ☐ Botswana
- ☐ Brazil
- ☐ Brunei Darussalam
- ☒ Bulgaria
- ☐ Burkina Faso
- ☐ Burundi
- ☐ Cabo Verde
- ☐ Cambodia
- ☐ Cameroon
- ☐ Canada
- ☐ Central African Republic
- ☐ Chad
- ☐ Chile
- ☐ China
- ☐ Colombia
- ☐ Comoros
- ☐ Congo
- ☐ Costa Rica
- ☐ Côte D'Ivoire
- ☐ Croatia
- ☐ Cuba
- ☐ Cyprus
- ☐ Czechia

- ☐ Democratic Republic of the Congo
- ☐ Denmark
- ☐ Djibouti
- ☐ Dominica
- ☐ Dominican Republic
- ☐ Ecuador
- ☐ Egypt
- ☐ El Salvador
- ☐ Equatorial Guinea
- ☐ Eritrea
- ☐ Estonia
- ☐ Eswatini
- ☐ Ethiopia
- ☐ Fiji
- ☐ Finland
- ☐ France
- ☐ Gabon
- ☐ Gambia
- ☐ Georgia
- ☐ Germany
- ☐ Ghana
- ☐ Greece
- ☐ Grenada
- ☐ Guatemala
- ☐ Guinea
- ☐ Guinea Bissau
- ☐ Guyana
- ☐ Haiti
- ☐ Honduras
- ☐ Hungary
- ☐ Iceland
- ☐ India
- ☐ Indonesia
- ☐ Iran
- ☐ Iraq
- ☐ Ireland
- ☐ Israel
- ☐ Italy
- ☐ Jamaica
- ☐ Japan
- ☐ Jordan
- ☐ Kazakhstan
- ☐ Kenya
- ☐ Kiribati
- ☐ Kuwait
- ☐ Kyrgyzstan
- ☐ Laos

- ☐ Latvia
- ☐ Lebanon
- ☐ Lesotho
- ☐ Liberia
- ☐ Libya
- ☐ Liechtenstein
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Madagascar
- ☐ Malawi
- ☐ Malaysia
- ☐ Maldives
- ☐ Mali
- ☐ Malta
- ☐ Marshall Islands
- ☐ Mauritania
- ☐ Mauritius
- ☐ Mexico
- ☐ Micronesia
- ☐ Monaco
- ☐ Mongolia
- ☐ Montenegro
- ☐ Morocco
- ☐ Mozambique
- ☐ Myanmar
- ☐ Namibia
- ☐ Nauru
- ☐ Nepal
- ☐ Netherlands
- ☐ New Zealand
- ☐ Nicaragua
- ☐ Niger
- ☐ Nigeria
- ☐ North Korea
- ☐ North Macedonia
- ☐ Norway
- ☐ Oman
- ☐ Pakistan
- ☐ Palau
- ☐ Panama
- ☐ Papua New Guinea
- ☐ Paraguay
- ☐ Peru
- ☐ Philippines
- ☐ Poland
- ☐ Portugal
- ☐ Qatar

- ☐ Republic of Moldova
- ☐ Romania
- ☐ Russian Federation
- ☐ Rwanda
- ☐ Saint Kitts and Nevis
- ☐ Saint Lucia
- ☐ Saint Vincent and the Grenadines
- ☐ Samoa
- ☐ San Marino
- ☐ Sao Tome and Principe
- ☐ Saudi Arabia
- ☐ Senegal
- ☐ Serbia
- ☐ Seychelles
- ☐ Sierra Leone
- ☐ Singapore
- ☐ Slovakia
- ☐ Slovenia
- ☐ Solomon Islands
- ☐ Somalia
- ☐ South Africa
- ☐ South Korea
- ☐ South Sudan
- ☐ Spain
- ☐ Sri Lanka
- ☐ Sudan
- ☐ Suriname
- ☐ Sweden
- ☐ Switzerland
- ☐ Syrian Arab Republic
- ☐ Tajikistan
- ☐ Tanzania
- ☐ Thailand
- ☐ Timor-Leste
- ☐ Togo
- ☐ Tonga
- ☐ Trinidad and Tobago
- ☐ Tunisia
- ☐ Turkey
- ☐ Turkmenistan
- ☐ Tuvalu
- ☐ Uganda
- ☐ Ukraine
- ☐ United Arab Emirates
- ☐ United Kingdom
- ☐ United States of America
- ☐ Uruguay

- ☐ Uzbekistan
- ☐ Vanuatu
- ☐ Venezuela
- ☐ Viet Nam
- ☐ Yemen
- ☐ Zambia
- ☐ Zimbabwe

First name

Bilyana

Surname

Gyaurova-Wegertseder

Email Address of the organisation (this information will not be published)

[REDACTED]

* Publication of your contribution and privacy settings

You can choose whether you wish for your contribution to be published and whether you wish your details to be made public or to remain anonymous.

- ☐ Anonymous - Only your type of respondent, country of origin and contribution will be published. Organisation name, URL, transparency register number, first name and surname given above will not be published. **To maintain anonymity, please refrain from mentioning the name of your organisation and any details from which your organisation can be identified in the rest of your contribution.**
- ☒ Public - Your personal details (name, organisation name, transparency register number, country of origin will be published with your contribution).
- ☐ No publication - Your contribution will not be published. Elements of your contribution may be referred to anonymously in documents produced by the Commission based on this consultation.

☒ I agree with the personal data protection provisions.

[Specific privacy statement targeted stakeholder consultation 2023 rule of law report.pdf](#)

Questions on horizontal developments

In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

Overview topics for contribution

Please provide any relevant information on horizontal developments here

5000 character(s) maximum

Questions for contribution

The following four pillars (I.-IV.) are sub-divided into topics (A., B., etc.) and sub-topics (1., 2., 3., etc.). For each of the topics and sub-topics, you are invited to provide (1) information on measures taken to implement the recommendations addressed to the Member States in the 2022 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter of the 2022 Rule of Law Report and (2) any other significant developments since January 2022^[1]. Please include a link to and reference relevant legislation/documents (in the national language and/or where available, in English) if relevant. Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices.

If there are developments you consider relevant under each of the four pillars that are not mentioned in the sub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

Information provided in reply to the first question under each pillar, related to the follow-up to the recommendations, does not need to be repeated in subsequent parts of the questionnaire, but can be cross-referenced in the subsequent questions, where relevant. All other questions are not limited to the recommendations, but as in previous years, cover the entire scope of the Report.

[1] Unless already covered in the input for the previous Rule of Law Reports.

Member State covered in contribution [only one choice possible]

If you wish to submit information concerning several Member States, please fill in the questionnaire separately for each Member State. There is no limit to the number of contributions submitted by a single participant.

- ☐ Austria
- ☐ Belgium
- ☒ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary

- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Malta
- ☐ Netherlands
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☐ Spain
- ☐ Sweden

I. Justice System

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the justice system (if applicable)

3000 character(s) maximum

Bulgaria is still undergoing a very turbulent political period reflecting on several parliamentary snap elections, as well as one regular election for a President. This unstable political situation has affected the judiciary too and the implementation of the recommendations from the 2022 report. Nevertheless, some steps have been taken in that regard. The National coordination RoL mechanism had its first meeting on September 19, 2022 at which the MoJ had presented an analysis of the recommendations as well as measures planned to implement them. Some of the recommendations are directly connected to the adoption of legislative changes, which given the current situation creates a challenge. Other have a deadline for implementation by June 2023. It has to be noted that the Ministry of Justice has put significant efforts in pushing the implementation process forward; it is difficult to say the same about the Supreme Judicial Council which basically didn't take any initiative related to the recommendations. The National mechanism had another meeting before the end of last year, but no additional progress was made.

A. Independence

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

(The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts)

3000 character(s) maximum

Among the few legislative changes made last year was the one again in art. 28, 1 revoking the possibility for members of the SJC members to advance in the system circumventing the competition. The change brought back an earlier provision saying that when the mandate of an elected member expires or is terminated preterm or when an elected member resigns, then he/she returns to the position he/she has occupied before in the judicial system or such equal to the level previously occupied. For this, the respective elected SJC member has to submit a request to the respective SJC College 14 days prior the expiration/termination of the mandate. In our contribution from last year we have predicted that this change might happen, because of the composition of the last parliament. Another issue which might be described as problematic is related to the General Assemblies (GA) in the courts when it comes to election of court presidents. Changes in the law from 2016 provided that the GA can express a preference toward one candidate over another in the competition for president. Their preference is not obligatory to the respective College at the SJC. However, what is observed in practice is that the Judges College rarely elects the candidate preferred by the GA. Furthermore, the protocols from these GA are not timely published on SJC website and this hinders CSOs to ask the candidates questions based on information obtained from these GA. Among the important elections from last year can be mentioned the re-election of Mr. Sarafov as Director of the National Investigation Service. He was the only candidate and there were no surprises in that election. An exemplary election was the one for President of the District court of Blagoevgrad - it shows very clearly the networks in the judiciary and how nepotism can effectively influence the work of a whole court district. More information (in BG only) can be found here - http://www.bili-bg.org/12/1004/news_item.html Another election which had couple of editions was the one of Bulgarian European Delegated Prosecutors. The Chief EP has increased the number of BG EDP from 10 to 15 which called for additional elections. There were two which failed last year. One of the candidates who was the first under the line appealed the decision of the Prosecutorial College (PC), but the Supreme Administrative Court ruled against it. It was in November 2022 when yet another election was carried out, but not all 15 places were filled in. There are 3 more BG EDP to be elected, but the PC has not initiated a procedure. Meanwhile one of the already elected EDP resigned, so the PC has to fill 4 empty positions. Currently there is an open procedure for the election of the BG representative and a deputy one to Eurojust.

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)

3000 character(s) maximum

As in the last years' contribution legal framework did not change. Irremovability is received after 5 years on the bench or as a prosecutor /investigator. Changing it would require amendment to the Constitution. Tenure is not a topic of discussion. All magistrates are retired at the age of 65 years. After that they cannot hold any position within the judiciary. While still acting magistrates, they are required to declare any retirement insurance they have in a retirement fund if its total amount is above 5 000 Euro. It is within the rights of the Inspectorate to the SJC to double check the declared information and it might request additional information from the respective pension fund and/or insurance company. When retiring a magistrate with more than 10 years of service is entitled to a compensation amounting to the number of brute monthly salary for each year of service, but not more than 20. The way this compensation is calculated is determined by the SJC. The retirement regime is the same for all magistrates regardless if regular ones or presidents of courts /prosecution offices. They receive no different pension than any other pensioner. Discussions related to the reform of the judicial map were part of the work of the SJC and it did some public consultations on the topic in various judicial districts. BILI participated in two such events contributing with a tailored survey on the attitudes of citizens and business towards the closing of courts. The surveys are available in BG only here: http://www.bili-bg.org/cdir/bili-bg.org/files/Report_BIPI_quant_290622_Stara_Zagora_final.pdf ; http://www.bili-bg.org/cdir/bili-bg.org/files/Report_BIPI_Pernik_f.pdf Final outcome of this activity was a decision of the SJC from October 2022 to give up the idea of closing/restructuring the judicial map. This is yet another SJC which is refusing to deal with a very serious issue for the system. The development of the 4 different models for the re-design of the judicial map were a good start, however, it was not properly communicated to the judges and led to an unnecessary rejection of the whole idea for this reform. At the same time, it remains a very needy one as it is related directly to the quality and delivery of justice in the country and the very understanding of the role of the court.

Promotion of judges and prosecutors (incl. judicial review)

3000 character(s) maximum

There are no specific changes on this issue. It should be mentioned that promotion is done through a competition. According to the law there should be a 9 months period in between competitions. In case some places are freed in this period, they should be filled in by candidates who were "under the line" in the previous completion and have a note which is not less than 5 (very good).

Allocation of cases in courts

3000 character(s) maximum

Probably the most important development under this section is the revocation of the specialized courts and prosecution offices. The draft law was adopted during the regular government and the work of the 47 parliament. It earned a lot of attacks coming mainly from the prosecution. After the enforcement of the law, the SJC took a decision that the judges and the prosecutors from the former specialized courts and prosecutions can be transferred to other courts and prosecution offices according to their desire. Most of them remained in Sofia and the judges from the first instance specialized court were transferred to the Sofia City Court. Their cases were redistributed according to the random case assignment rules. The judges panels were not kept. This is not the case with the judges from the specialized appellate court who went to the Sofia Appellate Court, but the panels were kept. The prosecutors were transferred to the Sofia City Prosecution Office and the Appellate Prosecution respectively. In discussions with judges BILL understood that there are problems with some of the redistributed cases in terms of work poorly done, terms unnecessary prolonged and so on. An issue worth mentioning in this section is related to a peculiar allocation of specific cases in the Supreme Administrative Court (SAC). It is about the cases connected to the laboratory at the border namely at Kapitan Andreevo. The case gained a lot of media attention as it was discovered that this privately owned laboratory had made significant violations of the control regulations and has accumulated quite a finances as a result of its activity. Claims were submitted to SAC and all of them were allocated using the random case assignment system to court pannels at SAC in all with which the President of SAC was either a member of the pannel or a reporting judge. The official explanation in a large press release of SAC explained that because at that time he was on shift, his name came up in all three cases. At the same time, it is known that as a President of SAC his caseload is reduced to 50% and all three cases were submitted in a period of almost a month, but allocated in one single day. All this left the society and media with the impression that the random case assignment was not so random after all. This impression was additionally increased by the fact that all court decisions were in favour of the private laboratory despite the publicly available information about the problems at the border.

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)

3000 character(s) maximum

The SJC continues to be a problem creator and a problem solver for the Bulgarian judiciary. Its current composition has already proved its inefficiency and has been criticized in various reports of different monitoring bodies. Last year was marked by three major events directly related to the SJC: the expiration of its mandate on October 4; the inability of the current parliament to elect the 11 members from its quota and the election of the 11 members only from the professional quota with a domination in the elected members of presidents of courts and heads of prosecution offices. BILI has observed all 3 elections and made profiles of the candidates: investigators: http://www.bili-bg.org/12/1021/news_item.html; judges: http://www.bili-bg.org/12/1029/news_item.html; prosecutors: http://www.bili-bg.org/12/1034/news_item.html It is to be noted that among the elected magistrates are the head of the Association of the prosecutors in Bulgaria and the chair of the Chamber of the investigators. BILI has registered as an observer of the elections and our representatives were present at the Court palace in Sofia to monitor the ballot voting of those who did not use the electronic system. A position on the voting can be found here - http://www.bili-bg.org/12/1033/news_item.html We did receive signals about problems with the electronic voting and it was no surprise that after the elections two claims were submitted to the court. The claims are related to problems with the electronic voting /mainly about its secrecy/ for the judges from the professional quota. Court hearings are pending. Unfortunately after the expiration of the SJC mandate there was no new composition as the parliament was not able or did not want to elect the 11 members of its quota. One of the arguments made in the public space were about the lack of time, however, the procedural time frame did allow for the timely execution of the election procedure. The main obstacle became the Constitutional provision for the 2/3 majority needed for the election of the SJC members. The fragmented parliaments from last and this year make it very difficult to form the majority needed to perform the election. It is for the first time in the modern history of Bulgaria that the parliament is unable to elect its representatives in the supreme administrative body of the judiciary. That sends a very bad signal not only to the magistrates, but to the society as a whole as it clearly shows the inability of the MPs to work together in the interest of the state and not in the interest of their political parties.

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)

3000 character(s) maximum

The only new development in that area was the fact that changes and amendments to the Judicial System Act were developed introducing the separation of the Unified Code of Ethics of the Magistrates in two - one for the judges and another one for the prosecutors and investigators. In addition to this, there are changes suggested related to the Inspectorate to the SJC - it will be responsible for providing anti-corruption training to magistrates and for doing substance work in connection with corruption within the judiciary. The scope of these changes and amendments was included in the National Recovery and Resilience Plan. It is important to notice that there were negative statements against the changes introduced in the part concerning the ISJC coming from the National Institute of Justice and the Inspectorate itself. The changes are pending in the parliament. They have passed first reading in the Legal Issues Committee, but having the uncertain political situation and the prospect of new snap elections becoming more realistic, it is difficult to say if these changes and amendments will be adopted and enforced.

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

3000 character(s) maximum

This is one of the very sensitive topics related to the judiciary and there is no much desire on behalf of the SJC to do a meaningful reform on it. At the same time it continues to cause tension inside the system and among the magistrates from the different instances. BILI is the only CSO pushing for changes in the way main and additional remuneration is set. After touring the country in 2021 with two members from the SJC to discuss with judges and prosecutors how the current situation can be changes, on February 24, BILI together with the SJC organized a big conference. There, we presented couple of different models altering the way remunerations are determined at the moment and closing to some extent the big gap which currently exists among the instances. There was a lot of discussion during the conference, however, there is no genuine will to introduce changes in the system and to improve it. We are of the opinion that changes should be in the law making the process of setting the main and additional remunerations more transparent and predictable for every magistrate regardless of the instance. At the same time, this issue is related also to the topic of the social status of a magistrate and how it is established during his/her career and after that.

Independence/autonomy of the prosecution service

3000 character(s) maximum

The only fact worth mentioning is about the changes and amendments to the Criminal Procedure Act regulating for the first time the establishment of an accountability mechanism for the Prosecutor General. The work initiated at the MoJ last year and continued by the caretaker Minister of Justice culminated in adoption at first reading of the draft in the Legal Issues parliamentary Committee on January 18, 2023. Before that, there were quite lengthy discussions at the Committee with various stakeholders including the current PG. The draft law received very positive evaluation by both the Venice Commission and the Committee of Ministers tasked with monitoring the implementation of the decisions of the ECHR. However, as mentioned in the previous section, it is doubtful that the draft will go through the whole legislative procedure and become a law.

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

3000 character(s) maximum

N/A for the work of the organization

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

3000 character(s) maximum

B. Quality of justice

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section

2)

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

3000 character(s) maximum

Broadening the scope of the legal aid was included in the Recovery and Resilience Plan of Bulgaria with a deadline for implementation the last quarter of 2022. So far this is the only piece of legislation which was adopted and enforced by the current parliament. According to the changes legal aid now can be received also on administrative cases, as well as on ADR procedures. Another important change is the inclusion of indigenous people and such put under prohibition among the ones who can be subject to receiving legal aid if their income is not sufficient for hiring a lawyer. There are also norms regulating the misuse of legal aid. The enlargement of both the scope and the subjects of the legal aid is a positive development and it is yet to be seen how this will affect the Bulgarian legal aid system. There are no significant developments related to the court fees and language.

Resources of the judiciary (human/financial/material)

(Material resources refer e.g. to court buildings and other facilities)

3000 character(s) maximum

In the last couple of years the judiciary is among the branches of the state which have the largest budgets. It is only the law enforcement system which has a higher budget. For the current year the SJC requested a budget which goes beyond the psychological barrier of 1 billion BGN. The largest amount of the budget goes for remunerations and as already mentioned this is among the least reformed areas in the system. Overall resources are sufficient, it is the lack of programmatic budgeting and the not very good managed spending which are problematic. The absence of fully operating e-justice is also an indicator for the lack of capacity in the system to manage and organize complex innovative and financial processes. CSOs and professional organizations have urged the SJC to speed up the full implementation of e-justice in order to save money which can be redistributed for other activities in the system, but this is still not the case.

Training of justice professionals (including judges, prosecutors, lawyers, court staff)

3000 character(s) maximum

no particular developments

Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)

3000 character(s) maximum

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)

3000 character(s) maximum

Geographical distribution and number of courts/jurisdictions ("judicial map") and their specialization, in particular specific courts or chambers within courts to deal with fraud and corruption cases

3000 character(s) maximum

See above the part about irremovability of judges and the part of the specialized courts and prosecution offices.

C. Efficiency of the justice system

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section

2)

Length of proceedings

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

One piece of legislation which is also part of the NRRP is about the introduction of a mandatory court referred mediation on particular civil and commercial cases. Bulgaria has, since 2004, a Mediation Act, however, mediation did not get a momentum in the country. Institutional support was lacking and a large part of the mediation/ADR related activities were performed by CSOs. As a result some court mediation centers were established where mediators on a purely voluntary basis are providing mediation services on pending cases. More than a year ago the SJC adopted a Concept Paper introducing the idea of mandatory mediation. A working group was established and it developed changes and amendments to the Mediation Act as well as to the Civil Procedure Code and some other relevant pieces of legislation. The draft is currently pending in the parliament with high chances to be adopted. It will be a real boost for the court referred mediation and it will indirectly stimulate parties to try to mediate and settle before going to the court. It will also give more time to judges and release case load in some of the largest first instance courts in the country. Overall, it is viewed as a positive reform. Criticism was coming mainly from the attorneys.

II. Anti-Corruption Framework

Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission's attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the anti-corruption framework (if applicable)

3000 character(s) maximum

2022 was far from being fruitful for Bulgaria's attempts for building operational anti-corruption framework. The political instability, the narrowmindedness and fears of leading politicians, the inter-institutional quarrels, and the already traditional involvement of the prosecutor general in the politics, blocked all the efforts. An exclusion are the Ministry of Justice's activeness (under the chair of two Ministers in the period), aiming to propose long belated amendments. Noteworthy are the Ministry's drafts for: amendments to the Criminal-procedural code (answers to the prescriptions of the Venice Commission, and to dozens of decisions of the European Court of Human Rights against Bulgaria); Protection of the Persons Signaling or Publicly Reporting Data for Breaches Draft Act (PPSPRDBA); Combating Corruption among High Level Public Officials Draft Act (CCHLPO). None of them, however, became a fact, and the perspective for this seems rather vague in the foreseeable future.

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

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 authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable)

3000 character(s) maximum

Bulgaria could claim the title World Champion in the Number of Anti-corruption bodies, as there are some 46 institutions, which have responsibilities in that field. The need of new law, determining the structure and the powers of the Commission for Combating Corruption and Confiscation of Illegally Acquired Property was at stake during most of the year, but this produced nothing, but fierce clashes in the parliament and in media. The debate of to restructure the currently existing Commission was more political than professional. The present edition of the Commission still meets high public mistrust, which was not overcome after the media revelations in 2019, concerning unlawful activities of members and the Commission, and the failure of the institution after that to adequately respond to the expectations for more transparency and reactivity. Indicative for the present state of the Commission is the fact that for most of the year 2022 it has been functioning without a chairperson. It seems that because of lack of political agreement and the still existing political instability, the work related to the formation of two new commissions or something else, has been put on hold. This increases the mistrust in the anti-corruption work in general and sends a bad signal to society as a whole. With regard to the EPPO, in the "Justice System" part we have described the situation with the Bulgarian EDP. What was achieved last year, was a legislative change in the Judicial System Act providing for more independence of the EDPs. They got the possibility to work separately from the other prosecutors in a separate building. The Council of Ministers assigned a building in downtown Sofia for the purposes of the BG EDP. It is now up to the SJC to start technical and supply work so that the building is operational for the EDPs.

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

3000 character(s) maximum

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

3000 character(s) maximum

We were not able to find any information as to the level of implementation of the new governmental Anti-corruption Strategy 2021-2027.

B. Prevention

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

3000 character(s) maximum

High level public officials are still excluded from the Ethics Code of the Public Administration Servants (this is noted also in the recently published GRECO report on Bulgaria). Training on these issues is provided sporadically and there is no fully developed course for public servants on ethics, integrity, nepotism and conflict of interest.

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

3000 character(s) maximum

Bulgaria still does not have any legislation, regulating lobbying. In the same time the prioritization of this problem is often exaggerated, as the issue is used by certain political circles as a tool for refocusing public attention from the real needs of anti-corruption legislation. The debate is also used to cover the unwillingness of the institution, responsible for the effective control over financing and transparency to do their work. Furthermore, politicians are constantly blaming certain media, CSOs and other activists for lobbying in one way or another. The issue about regulation of lobbying activities has been raised first in the pre-accession period. One possible explanation for the fact that Bulgaria still does not have a regulatory framework of this activity, is that politicians themselves do not really want this.

Rules and measures to prevent conflict of interests in the public sector. Please specify the scope of their application (e.g. categories of officials concerned)

3000 character(s) maximum

Measures in place to ensure whistleblower protection and encourage reporting of corruption.

3000 character(s) maximum

In 2022 Bulgaria's institutions joint efforts on the implementation of the Directive (EU)2019/1937 were quite unsatisfactory. As mentioned in the previous consultation BIL was part of the working group at the MoJ. All hopes for an act for protection of whistleblowers happened to be a mirage, as in mid-December, 2022 the National Assembly, with the negative voting of GERB, Bulgarian Socialist Party, Party Revival, Rights and Freedom Movement, and Bulgarian Rise Party, rejected the two competing drafts for Protection of the Persons Signaling or Publicly Reporting Data for Breaches Act. The two projects, submitted by Democratic Bulgaria Party, and the Council of Ministers (both developed within the Ministry of Justice during the mandate of two Ministers), were quite identical. Probably in order to attract as many as possible players in the heterogeneous landscape of the Bulgarian Parliament, they both envisaged the same negative concessions in the proposed procedures for whistleblowing. For example, the possibility for anonymous signaling, which was adopted by the very first draft, presented to the public in 2021 by the then provisional Minister of Justice, was not in the drafts, submitted to the Parliament in December 2022. Another unnecessary novelty is the inclusion of the imperative obligation for the institutions, dealing with whistleblowing, not to process signals for breaches, which has happened more than two years before the signaling itself. The rejected drafts had their merits, as well. The most important is that they were introducing a centralized institution, which would work as an external channel for signaling. According to both of the projects this would have been the Commission for Combating Corruption and Confiscation of Illegally Acquired Property (CCCIAP). GERB categorically rejected the option CCCIAP to be the institution in charge for the whistleblowing protection, and at the beginning of this year issued almost an identical draft-law. The difference is that GERB's draft provides for the Commission for Personal Data Protection to serve as an external channel for signals. As a result of all the fussy and unpragmatic political battles Bulgaria is still the sole EU member which has no mechanisms at all for protection of whistleblowers, and even the very concept of whistleblowing is literally unknown to the local legislation. On January 18, this draft was adopted at first reading in the Legal Issues Commission, however, it is doubtful that it will become a law, as most of the prognosis go for yet another pre-term elections.

List the sectors with high-risks of corruption in your Member State and list the relevant measures taken /envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. public procurement, healthcare, citizen investor schemes, 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)

3000 character(s) maximum

- Public procurement
- Public health funding and spending – both for public and private hospitals (in Bulgaria private hospitals are still not obliged to organize any public procurement, regardless of the fact that a great portion of their incomes are formed by public money)
- State and municipality investments in transport infrastructure
- Energy sector – capital investments and market
- Defense industry and trade
- Protection of Environment (woodcutting; trash recycling)
- Political Party Financing

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

3000 character(s) maximum

C. Repressive measures

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

3000 character(s) maximum

Data on investigation and application of sanctions for corruption offences, including for legal persons and high level and complex corruption cases and their transparency, including as regards to the implementation of EU funds

(Please include, if available the number of (data since 2019): indictments; first instance convictions; first instance acquittals; final convictions; final acquittals; other outcomes (final) (i.e. excluding convictions and acquittals); cases adjudicated (final); imprisonment / custodial sentences through final convictions; suspended custodial sentences through final convictions; pending cases at the end of the reference year)

3000 character(s) maximum

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)

3000 character(s) maximum

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

III. Media Freedom and Pluralism

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding media freedom and pluralism (if applicable)

3000 character(s) maximum

A. Media authorities and bodies

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

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

3000 character(s) maximum

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 licenses, company operation, capital entry requirements, concentration and corporate governance

3000 character(s) maximum

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

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

Rules and practices guaranteeing journalist's independence and safety, including as regards protection of journalistic sources and communications

3000 character(s) maximum

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

3000 character(s) maximum

Access to information and public documents (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)

3000 character(s) maximum

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

IV. Other institutional issues related to checks and balances

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the system of checks and balances (if applicable)

3000 character(s) maximum

Bulgaria's political crisis deepened in 2022 as another snap election were organized in October 2022. The political instability and governance turbulence has been leading to a constitutional crisis. Currently, as of January 2023 13 institutions are out of mandate, among them: Supreme Judicial Council, Inspectorate to the SJC, Bulgarian National Bank, National Audit Office, National Social Security Institute, etc. These public institutions, some of the instituted by the constitution, have oversight and control powers over the government. Operating out of mandate, their members or chairpersons may be in a position of anticipatory behavior, taking decisions in favor of those in power, influenced by the uncertainty of their tenure. The plenary of the Supreme Administrative Court requested an interpretive decision by the Constitutional Court if it is constitutionally permissible members of the SJC and ISJC, incl. the Chief Inspectorate to keep their positions out of mandate in case the National Assembly hasn't appointed new members. In its Decision 12 /27.09.22 the Constitutional Court decided that those members continue to hold position until new members are appointed. By analogy, this might be applied to other public institutions. There has been dissenting opinions by three judges in the Constitutional Court. <https://www.constcourt.bg/bg/Acts/GetHtmlContent/2ddbc14c-bcdc-4e8c-afb6-f2442517228a>

In a recent study of BILI Foundation, it was proven that the managers of agencies of the executive powers are appointed or dismissed on a politicized pattern, basing solely on the rationale of the respective minister /prime-minister. No selection procedures are organized and there is a high level of dependence of those agencies. The majority of them operate public resources, including European funds. In the last year the independence and efficiency of these institutions have deteriorated. See more here: http://www.bili-bg.org/cdir/bili-bg.org/files/High_Level_Public_Appointments_Analysis_Summary.pdf (ENG Summary) http://www.bili-bg.org/cdir/bili-bg.org/files/_%D0%9D%D0%B0%B7%D0%BD%D0%B0%D1%87%D0%B5%D0%BD%D0%B8%D1%8F_%D0%98%D0%92-%D0%91%D0%98%D0%9F%D0%98.pdf (full version in BG)

The political crisis affects not only checks and balances system, but also postponing important reforms in public administration in regard to integrity of public servants and anti-corruption measures. Some of these measures are part of the Bulgaria's RRP, but are not enacted by the parliament yet (public procurement trainings, public companies' transparency, whistleblowers' protection, reform of CACIAF, et al.) In 2022 several corruption scandals in the system of Mol regarding institutional umbrella from police officers over the drug dealer Georgi Semerdziev who killed two girls in a car accident.

A. The process for preparing and enacting laws

Framework, policy and use of impact assessments and evidence based policy-making, stakeholders'[1] /public consultations (particularly consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process

[1] *This includes also the consultation of social partners*

3000 character(s) maximum

The short lives of the last 4 parliaments (45th, 46th, 47th and 48th National Assemblies) made impossible enacting important pieces of legislation. Furthermore, each following parliament starts from zero and those bill that has reached some phase of the legislative process shall start from the very beginning, thus wasting time and resources.

The cited National Assemblies followed the bad practice the majority of bills to be deposited by members of parliament/group of member than the government. Only 9% of bills were proposed by the Council of Ministers in the 46th parliament, In the 47 National Assembly the bills proposed by the government is as it follows, respectively for: 1st session – 55%, 2nd session – 27.9%, 3rd session – 24,6%. For the period 19 October – 30 December, 2022 – 29,1% of drafted bills were proposed by the Council of Ministers, the majority of them in regard to the judiciary.

Due to the short duration of parliaments, members of parliament have deteriorated the legislative process in another manner by imposing normative requirements by decisions and not by amending or adopting laws. Another malpractice in the Bulgarian political process is that the parliament is seizing and diverting discretionary power from the executive. The political explanation is that political groups in the parliaments are exerting control over a government that lacks parliamentary majority in the parliament and is appointed by the president. Thus, ad-hoc parliamentary majorities adopt various decisions that requires the government to undertake actions in a pallet of policies. The decisions are with vague motives and do not require impact assessment, which means that the parliament is by-passing it.

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)

3000 character(s) maximum

Regime for constitutional review of laws

3000 character(s) maximum

COVID-19: provide update on significant developments with regard to emergency regimes/measures in the context of the COVID-19 pandemic

- judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic
- oversight (incl. ex-post reporting/investigation) by Parliament of emergency regimes and measures in the context of COVID-19 pandemic
- processes related to lessons learned/crisis preparedness in terms of the functioning of checks and balances

3000 character(s) maximum

B. Independent authorities

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

(Cf. the website of the European Court of Auditors: <https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#>)

3000 character(s) maximum

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

3000 character(s) maximum

C. Accessibility and judicial review of administrative decisions

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

3000 character(s) maximum

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)

3000 character(s) maximum

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

3000 character(s) maximum

D. The enabling framework for civil society

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)

3000 character(s) maximum

In 2022 no significant changes were made in regard to the framework for civil society organizations operation. However, the pro-Russian far-right political party “Vazrazhdane” appealed to the Prosecutor General with, signaling for activities of civil society organizations as “thread to the national security” and exposing personal data of hundreds of civil society activists. They also carried out a bill to “forbid foreign financing” of civil society organizations and media, including from European Union funds, which resembles Russian and Hungarian laws on “foreign agencies”. Such actions further shrink the space for civil society organizations and is accompanied by smear campaigns against NGOs and activists.

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.

3000 character(s) maximum

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)

3000 character(s) maximum

After a lot of backs and forth, in February 2022 the Council of Ministers established a Council for the Development of Civil Society. It is meeting on a regular basis and it was said that the state will be providing approx. 1 million BGN to CSOs. There is no public information as to the establishment of a mechanism for the allocation of this amount to BG CSOs - rules, procedures, principles. To the extent we know, the Council has developed priority areas to be supported.

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.)

3000 character(s) maximum

As mentioned previously, this is happening mainly through participation in various civic councils attached to existing institutions or councils under the auspices of the Council of Ministers and/or respective ministries.

E. Initiatives to foster a rule of law culture

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 etc.)

3000 character(s) maximum

The SJC has this initiatives for open doors of the courts and for magistrates to go and meet with pupils. The prosecution recently participated in a similar project together with the National Children Network. BILLI has developed an educational movie for children in the high school, explaining the abstract concept of Rule of Law. The movie is available here - <https://www.youtube.com/watch?v=g53XGMmi7rQ> with subtitles in English.

Other - please specify

3000 character(s) maximum

Contact

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