

Annual Rule of Law  
Report - Council of  
Europe input

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

2021

**Directorate General Human Rights and Rule of Law (DG I)**

Bulgaria

# I Justice System

## A. Independence

### CEPEJ

CEPEJ – Country profile Bulgaria - Scoreboard (2019 data) *(content of the link will be available after acceptance of the CEPEJ Study for the Scoreboard by DG-Just)*

[CEPEJ Country Profiles Bulgaria Scoreboard](#)

CEPEJ European Judicial Systems Evaluation Report – Evaluation cycle 2018-2020 (2018 data) – Part 2 Country profile Bulgaria

[CEPEJ Evaluation Report - Country Profiles - Bulgaria](#)

CEPEJ website – General Country profile Bulgaria (including answers to the Evaluation Scheme)

[General CEPEJ Country profile](#)

European Judicial Systems CEPEJ Evaluation Report – Evaluation cycle 2018-2020 (2018 data) – Part 1 Tables, graphs and analysis

[CEPEJ Evaluation Report 2020 Part 1](#)

CEPEJ Dynamic database of European judicial systems

[CEPEJ-STAT](#)

### 1. Appointment and selection of judges and prosecutors

#### GRECO

<https://www.coe.int/en/web/greco/evaluations/bulgaria>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

### 2. Irremovability of judges, including transfers of judges and dismissal

#### GRECO

<https://www.coe.int/en/web/greco/evaluations/bulgaria>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2019)031 English 09/12/2019 - Public

[Bulgaria - Opinion on draft amendments to the Criminal Procedure Code and the Judicial System Act, concerning criminal investigations against top magistrates adopted by the Venice Commission at its 121st Plenary Session, Venice, 6-7 December 2019](#)

### 3. Promotion of judges and prosecutors

#### GRECO

<https://www.coe.int/en/web/greco/evaluations/bulgaria>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

#### 4. Allocation of cases in courts

GRECO

<https://www.coe.int/en/web/greco/evaluations/bulgaria>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

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

GRECO

<https://www.coe.int/en/web/greco/evaluations/bulgaria>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

#### 6. Accountability of judges and prosecutors, including disciplinary regime and ethical rules.

Department for the Execution of Judgments of the European Court of Human Rights

**S.Z. and Kolevi v. Bulgaria ENHA:** The S.Z. case concerns ineffective investigations into rape, false imprisonment and incitement to prostitution (procedural violation of Article 3). The European Court found a “systemic problem” of ineffectiveness of criminal investigations in Bulgaria. The Kolevi case relates primarily to the ineffectiveness of the investigation into the murder of the first applicant (a high-ranking prosecutor) which occurred in 2002, owing to the lack of guarantees in Bulgarian law for the independence of criminal investigations concerning the Chief Prosecutor (who was suspected by the second, third and fourth applicants to be implicated in the murder) and “high-ranking officials close to him” (procedural violation of Article 2).

Presentation on Hudoc.exec : [Kolevi](#)

Latest decisions: [CM/Del/Dec\(2020\)1377bis/H46-9](#)

Latest submissions : [DH-DD\(2021\)142](#)

GRECO

<https://www.coe.int/en/web/greco/evaluations/bulgaria>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2019)031 English 09/12/2019 - Public

[Bulgaria - Opinion on draft amendments to the Criminal Procedure Code and the Judicial System Act, concerning criminal investigations against top magistrates adopted by the Venice Commission at its 121st Plenary Session, Venice, 6-7 December 2019](#)

#### 7. Remuneration/bonuses for judges and prosecutors

#### 8. Independence/autonomy of the prosecution service

GRECO

<https://www.coe.int/en/web/greco/evaluations/bulgaria>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

#### 9. Independence of the Bar (chamber/association of lawyers)

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

GRECO

<https://www.coe.int/en/web/greco/evaluations/bulgaria>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

## 11. Other - please specify

### PACE

Democracies facing the Covid-19 pandemic

Rapporteur : Mr Ian LIDDELL-GRAINGER, United Kingdom, EC/DA

[Doc. 15157](#)

Consultative Council of European Judges (CCJE)

Statement by the President of the CCJE on the role of judges during and in the aftermath of the COVID-19 pandemic: lessons and challenges (24 June 2020)

<https://rm.coe.int/ccje-2020-2-statement-of-the-ccje-president-3-lessons-and-challenges-c/16809ed060>

Opinion No. 23 (2020) of the CCJE on the role of associations of judges in supporting judicial independence (6 November 2020)

<https://rm.coe.int/opinion-23-en-ccje-2020/1680a03d4b>

Consultative Council of European Prosecutors (CCPE)

Opinion No. 15 (2020) of the CCPE on the role of prosecutors in emergency situations, in particular when facing a pandemic (19 November 2020)

<https://rm.coe.int/opinion-no-15-ccpe-en/1680a05a1b>

The European Commission for Democracy through Law – Venice Commission

[CDL-AD\(2020\)035-e](#), Bulgaria - Urgent Interim Opinion on the draft new Constitution, endorsed by the Venice Commission on 11 December 2020, at its 125th online Plenary Session (11-12 December 2020)

[https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2020\)035-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)035-e)

### GRECO

[9 December 2020 – International Anti-Corruption Day - Newsroom \(coe.int\)](#)

GRECO President: “No quarter to corruption in healthcare, governments must lead by example”

### CPT

I : Right of access to a lawyer in police custody (The safeguard of access to justice (pillar 1 (*Justice*)).  
(based on the report on the CPT’s 2017 periodic visit ([CPT/Inf \(2018\) 15](#), paras. 20 and 32))

- Access to a lawyer was generally granted at best at the end of the 24-hour custody and, sometimes, only during the first court hearing. In many cases, this resulted from the wording of legal provisions which continued to give grounds to an interpretation of the 24-hour police custody as a sort of “administrative” detention to which (in particular) free legal aid was not applicable. Consequently, as a rule, lawyers (almost always *ex officio*) usually only arrived after the detained person had already been interviewed and after his/her confession or statement had already been drafted by the police.
- Pursuant to the Law on the Ministry of Interior (LMI), persons (including criminal suspects) may be detained by the police on their own authority for a maximum of 24 hours. Reportedly, domestic courts and some of the legal scholars tend to consider that detention as “administrative” in nature, thus not forming part of criminal procedure *stricto sensu* – which could partially explain the tendency amongst some police officers not to count the initial 24 hours into the total period of police custody of criminal suspects. See also the Bulgarian Helsinki Committee’s Alternative Report on the Implementation of CAT, [https://issuu.com/bghelsinki/docs/2017-alternative\\_report\\_cat](https://issuu.com/bghelsinki/docs/2017-alternative_report_cat), as from page 12.
- Number of allegations of physical ill-treatment during police questioning.

## B. Quality of justice

### CEPEJ

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[CEPEJ Evaluation Report 2020 Part 1](#)

CEPEJ Dynamic database of European judicial systems

[CEPEJ-STAT](#)

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

13. Resources of the judiciary (human/financial)

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

15. Other - please specify

European Commission for the Efficiency of Justice (CEPEJ)

<https://www.coe.int/en/web/cepej/country-profiles/bulgaria>

## C. Efficiency of the justice system

### CEPEJ

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GRECO

<https://www.coe.int/en/web/greco/evaluations/bulgaria>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2017)018 English 09/10/2017 - Public

[Bulgaria - Opinion on the Judicial System Act, adopted by the Venice Commission at its 112th Plenary Session \(Venice, 6-7 October 2017\)](#)

CDL-AD(2015)022 English 23/10/2015 - Public

[Opinion on the draft Act to amend and supplement the Constitution \(in the field of the Judiciary\) of the Republic of Bulgaria, adopted by the Venice Commission at its 104th Plenary Session \(Venice, 23-24 October 2015\)](#)

16. Length of proceedings

17. Enforcement of judgements

18. Other - please specify

European Court of Human Rights - country profile

[https://echr.coe.int/Documents/CP\\_Bulgaria\\_ENG.pdf](https://echr.coe.int/Documents/CP_Bulgaria_ENG.pdf)

Execution of Judgments of the European Court of Human Rights - country factsheets

<https://rm.coe.int/1680709740>

## 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 that have occurred since these documents were published.

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

PACE

[The progress of the Assembly's monitoring procedure \(January-December 2020\)](#)

Rapporteur: Mr Michael Aastrup JENSEN, Denmark, ALDE

[Doc. 15211](#) (see in particular Bulgarie (2.3.1.)

[Resolution 2357 \(2021\)](#) especially §§ 8.5, 9.5 et 10.5 on Bulgaria

GRECO

[Guidelines addressed to GRECO 50 Member States](#)

[Corruption Risks and Useful Legal References in the context of COVID-19](#)

[Published 21/04/2020](#)

[Office of the Commissioner for Human Rights](#)

[Corruption undermines human rights and the rule of law](#) [Corruption undermines human rights and the rule of law - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 19 January 2021

GRECO

<https://www.coe.int/en/web/greco/evaluations/bulgaria>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors  
3<sup>rd</sup> round: incrimination and transparency of Party Funding

19. List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Where possible, please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant).

## B. Prevention

### GRECO

Guidelines addressed to GRECO 50 Member States

Corruption Risks and Useful Legal References in the context of COVID-19

Published 21/04/2020

### GRECO

<https://www.coe.int/en/web/greco/evaluations/bulgaria>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

20. Integrity framework: asset disclosure rules, lobbying, revolving doors and general transparency of public decision-making (including public access to information)

21. Rules on preventing conflict of interests in the public sector

22. Measures in place to ensure Whistle-blower protection and encourage reporting of corruption

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

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

## C. Repressive measures

### GRECO

<https://www.coe.int/en/web/greco/evaluations/bulgaria>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

25. Criminalisation of corruption and related offences,

26. Overview of application of sanctions (criminal and non-criminal) for corruption offences (including for legal persons)

27. Potential obstacles to investigation and prosecution of high-level and complex corruption cases(e.g. political immunity regulation)

Department for the Execution of Judgments of the European Court of Human Rights

S.Z. and Kolevi v. Bulgaria ENHA: The S.Z. case concerns ineffective investigations into rape, false imprisonment and incitement to prostitution (procedural violation of Article 3). The European Court found a “systemic problem” of ineffectiveness of criminal investigations in Bulgaria. The Kolevi case relates primarily to the ineffectiveness of the investigation into the murder of the first applicant (a high-ranking prosecutor) which occurred in 2002, owing to the lack of guarantees in Bulgarian law for the independence of criminal

investigations concerning the Chief Prosecutor (who was suspected by the second, third and fourth applicants to be implicated in the murder) and “high-ranking officials close to him” (procedural violation of Article 2).

Presentation on Hudoc.exec : [Kolevi](#)

Latest decisions: [CM/Del/Dec\(2020\)1377bis/H46-9](#)

Latest submissions : [DH-DD\(2021\)142](#)

### III Media pluralism

#### A. Media regulatory authorities and bodies

28. Independence, enforcement powers and adequacy of resources of media authorities and bodies

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation Rec \(2000\) 23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector](#)

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

#### *B. Transparency of media ownership and government interference*

30. The transparent allocation of state advertising (including any rules regulating the matter)

31. Public information campaigns on rule of law issues (e.g. on judges and prosecutors, journalists, civil society)

Office of the Commissioner for Human Rights

Report by Council of Europe Commissioner for Human Rights following her visit to Bulgaria from 25 to 29 November 2019. Issues: racism, intolerance and discrimination; violence against women and domestic violence; and media freedom (published on 31 March 2020 with reference CommDH(2020)8).

<https://rm.coe.int/report-on-the-visit-to-bulgaria-from-25-to-29-november-2019-by-dunja-m/16809cde16>

Office of the Commissioner for Human Rights

[Time to take action against SLAPPs - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 27 October 2020

32. Rules governing transparency of media ownership

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation CM/Rec\(2018\)1 of the Committee of Ministers to member States on media pluralism and transparency of media ownership](#)

PACE

The impact of the Covid-19 pandemic on human rights and the rule of law  
(Rapporteur : [Mr Vladimir VARDANYAN](#), Armenia, EPP/CD)



[Doc. 15139](#) / See also the [Opinion](#) by the Committee on Culture, Science, Education and Media on the aforementioned report.

PACE

The progress of the Assembly's monitoring procedure (January-December 2020)

Rapporteur: Mr Michael Aastrup JENSEN, Denmark, ALDE

[Doc. 15211](#) (see in particular Bulgaria (2.3.1.)

[Resolution 2357 \(2021\)](#) especially §§ 8.5, 9.5 et 10.5 on Bulgaria

## C. Framework for journalists' protection

33. Rules and practices guaranteeing journalist's independence and safety and protecting journalistic and other media activity from interference by state authorities

Office of the Commissioner for Human Rights

Concerning police violence against journalists during the demonstrations in Sofia

[Bulgaria must investigate police violence against journalists - View \(coe.int\)](#) - 3 September 2020

34. Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation CM/Rec\(2016\)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors](#)

35. Access to information and public documents

Office of the Commissioner for Human Rights

[Access to official documents is crucial – let's make it a reality - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 1 December 2020

36. Other - please specify

Office of the Commissioner for Human Rights

[Tapping the full potential of Equality Bodies for a fairer Europe Tapping the full potential of Equality Bodies for a fairer Europe - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 26 June 2020

Platform to promote the protection of journalism and safety of journalists

<https://www.coe.int/en/web/media-freedom/bulgaria>

Freedom of expression chapters of the annual reports of the Secretary General of the Council of Europe featuring indicators on media pluralism and transparency of ownership, media independence and safety of journalists as well as country-specific assessments:

2018

<https://rm.coe.int/state-of-democracy-human-rights-and-the-rule-of-law-role-of-institutio/168086c0c5>

2017

<https://edoc.coe.int/en/an-overview/7345-pdf-state-of-democracy-human-rights-and-the-rule-of-law.html>

2016

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680646af8](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680646af8)

2015

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=090000168058e01e](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168058e01e)

## IV Other institutional issues related to checks and balances

### A. The process for preparing and enacting laws

37. Stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), transparency of the legislative process, 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).

### 38. Regime for constitutional review of laws

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2017)016 English 19/06/2017 - Public

[Bulgaria - Joint opinion on amendments to the electoral code, adopted by the Council for Democratic Elections at its 59th meeting \(Venice, 15 June 2017\) and by the Venice Commission at its 111th Plenary Session \(Venice, 16-17 June 2017\)](#)

### B. Independent authorities

39. independence, capacity and powers of national human rights institutions, ombudsman institutions and equality bodies

### C. Accessibility and judicial review of administrative decisions

40. modalities of publication of administrative decisions and scope of judicial review

41. implementation by the public administration and State institutions of final court decisions

### D. The enabling framework for civil society

42. Measures regarding the framework for civil society organisations

43. Other - please specify

#### Department for the Execution of Judgments of the European Court of Human Rights

Transparency of administrative decisions and scope of sanctions (incl. their publication and rules on collection of related data) and judicial review (incl. scope, suspensive effect)

**C.G. and Others group (1365/07) (ENHA):** The cases in this group concern shortcomings in the procedure for judicial review of decisions to expel foreign nationals on national security grounds, such as lack of adversarial proceedings and lack of review of the factual elements substantiating the threat to national security or of the proportionality of the expulsion. They also concern the lack of public judicial decisions (violations of Articles 8 and 13). In its decisions, the Committee of Ministers insisted on the need to prepare and adopt legislative amendments aimed at introducing a system of open and closed judgments whereby, in cases where it is impossible to publish the complete judgment because of the risk to national security, the gist of the factual findings and reasoning is nonetheless made public.

Presentation on Hudo.exec : **C.G. and Others**

Latest decisions: **CM/Del/Dec(2020)1369/H46-8** (new examination scheduled for March 2021)

Latest submissions : **DH-DD(2021)23-rev2**

Expert Council on NGO Law report on criminalisation of NGO activity in relation to migration and a compendium of developments 2017-2019 in NGO law, freedom of association

<https://rm.coe.int/expert-council-conf-exp-2020-1-ngos-developments-in-standards-mechanis/16809ccd3a>

<https://rm.coe.int/expert-council-conf-exp-2019-1-criminal-law-ngo-restrictions-migration/1680996969>

**Private Office procedure on human rights defenders interacting with the Council of Europe**

[https://www.coe.int/en/web/secretary-general/news-2019-thorbjorn-jagland/-/asset\\_publisher/9j1gCsAwfdMt/content/revised-private-office-procedure-on-human-rights-defenders-interacting-with-the-council-of-europe](https://www.coe.int/en/web/secretary-general/news-2019-thorbjorn-jagland/-/asset_publisher/9j1gCsAwfdMt/content/revised-private-office-procedure-on-human-rights-defenders-interacting-with-the-council-of-europe)