

*Translation from Bulgarian*

Information provided by the Prosecutor's Office of the Republic of Bulgaria, covering issues within its competence regarding the implementation of the recommendations made to Bulgaria in the Rule of Law Report for 2024, according to the criteria prepared for this, distributed across the four main pillars, namely: Judicial System; Anti-Corruption Framework; Media Freedom and Media Pluralism; Other Institutional Issues.

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<b>I JUDICIAL SYSTEM</b>
<b>A. Independence.</b>
<i>p. 7. Independence/autonomy of the prosecution office</i>

The Prosecutor's Office of the Republic of Bulgaria is part of the judicial system. In December 2023 the National Assembly made amendments to the chapter Judicial Power of the Constitution of the Republic of Bulgaria. Some of these amendments affected the structure and powers of the prosecutor's office, such as the amendment to Art. 126, para. 1 of the Constitution adopted that the same is in accordance with that of the courts hearing criminal cases. The amendments to the Constitution emphasized the human rights protection function of the prosecutor's office in the field of criminal proceedings, and this amendment led to the closure of the Supreme Administrative Prosecutor's Office and to the limitation of the powers of the prosecutor's office with regard to the possibility, which it previously had, to take actions to annul unlawful acts and to participate in civil and administrative cases in the cases provided for by law. The amendments to the provisions of Art. 127, points 5 and 6 led to a reduction in the powers of the prosecutor's office, as they were limited to the possibility of taking actions to challenge unlawful acts only before the court and only in the cases provided for by law. The Prosecutor's Office is now deprived of the possibility to take action to challenge unlawful acts, if this is not expressly provided for by law, as well as to protest unlawful administrative acts before a higher administrative body. Its possibility to participate in cases other than criminal ones is limited only to cases for which this is expressly provided for in law and only when it concerns cases of significant public interest or in the interest of persons in need of special protection.

The amendments to the Constitution affected the mandate and powers of the Prosecutor General, as his mandate was reduced from 7 years to 5 years, and part of his powers regarding supervision of legality and methodological guidance over the activities of all prosecutors were reduced to the approval of general methodological rules for the activities of prosecutors, investigators and other investigative bodies in pre-trial proceedings, which were subject to appeal to the Supreme Administrative Court in accordance with the procedure established by law.

According to the constitutional amendments, in cases of serious violation or systematic failure to fulfil official duties, as well as actions that harm the prestige of the judiciary, the President of the Supreme Court of Cassation, the President of the Supreme Administrative Court and the Prosecutor General could be dismissed by the President of the Republic upon a proposal by one quarter of the members of the National Assembly, adopted by a majority of two thirds of the members of the National Assembly. It was stipulated that the President could

not refuse the dismissal upon a second proposal.

The amendments to the Constitution also concerned the structure of the Supreme Judicial Council (SJC). It was envisaged to establish a separate Supreme Judicial Council and a separate Supreme Prosecutorial Council, which were to exercise their powers independently and coordinate their work through a General Assembly. Regarding the composition of the Supreme Prosecutorial Council (SPC), the amendments provided that it would consist of 10 members, of which the Prosecutor General would be its member by right, two of the members would be elected directly by the prosecutors and one - directly by the investigators, with six of the members to be elected by the National Assembly.

Regarding the provisions of the Constitution regulating the election of the majority of the SPC members from the parliamentary quota, serious concerns arose regarding the preservation of the independence of the prosecution office, as this was noted by both international organizations /Venice Commission/ and specialists in the field of justice in the country.

By Decision No. 13/26.07.2024, issued in constitutional case No. 1/2024, the Constitutional Court ruled that some of the amendments made to the chapter Judicial Power are unconstitutional, insofar as their adoption was conducted by an ordinary National Assembly, and not by the Grand National Assembly, under whose jurisdiction they fall, since they affect the form of state government. As a result of the decision of the Constitutional Court, the SJC will continue to function in separate judicial and prosecutorial colleges, and not in the SJC and the Supreme Cassation Prosecutor's Office (SCPO). The SJC Plenum has also been restored, replaced by the constitutional amendments by the General Assembly of the SJC and SPC. All provisions related to the separation of two councils, as well as with regard to the election of members to the two councils, have been declared unconstitutional by the Constitutional Court, including the regulations on professional and political quotas. The Constitutional Court explicitly stated that the old constitutional provisions were being restored. The amendments to the Constitution, which led to the closure of the Supreme Administrative Prosecutor's Office and the limitation of the powers of the prosecutor's office, remained in force. At present, there is no definition of the concept of "significant public interest". There is a danger of reaching a situation in which the prosecutor finds the existence of an unlawful administrative act that violates the public interest, which, however, cannot be protested because it does not fall within the circle of acts previously outlined by the legislator. The prosecutor is deprived of the opportunity to defend the violated legality, as he cannot do so either before a court or before a higher administrative body, if the legislator has not explicitly provided for this opportunity in the law. The lack of a definition of the concept of "significant public interest" creates a danger that the fair interest will not be satisfied when drafting laws and that there will be no possibility of protection from administrative arbitrariness in relation to the ordinary citizen, who would hardly be able to oppose it on his own.

The constitutional changes concerning the reduction of the Prosecutor General's term of office from seven to five years were also repealed as unconstitutional, thus restoring the seven-year term of office of the Prosecutor General. The Constitutional Court also declared unconstitutional the provision of the amendments that limited the powers of the Prosecutor General to give only "methodological instructions" to prosecutors. Thus, the effect of the previous texts of the Constitution was restored, which granted the Prosecutor General the power to supervise the legality and provide methodological guidance on the activities of all prosecutors. This constitutional power will continue to assist in the activities of the Prosecutor's Office, because its implementation makes it possible to guarantee legal certainty, by creating prerequisites for the accurate and uniform application of laws by all prosecutors in connection with achieving the common, constitutionally enshrined goal of the judiciary - protecting the rights and legitimate interests of citizens, legal entities and the state. The amendments, granting the President of the Republic the power to dismiss the Prosecutor General, the Presidents of the Supreme Court of Cassation (SCC) and the Supreme Administrative Court (SAC) upon a proposal by one quarter of the members of Parliament, adopted by a two-thirds majority of the members of Parliament, as well as revoking his power to refuse release upon a repeated proposal, were declared unconstitutional.

The provision of Art. 129, para. 3 of the Constitution stipulates that upon completion of five years of service as a judge, prosecutor or investigator and after an attestation, by a decision of the judicial, respectively prosecutorial college of the Supreme Judicial Council, judges, prosecutors and investigators become irremovable. With regard to the five-year probationary period envisaged for magistrates to acquire irremovable status, there is a threat to the independence of judges, prosecutors and investigators, to the extent that within this period they

may be exposed to external pressure, given the lack of certainty regarding the possibility of continuing their work after this period, which in turn makes them vulnerable regarding their independence and impartiality in decision-making.

Regarding the amendments to the Judiciary Act, which limited the possibility of seconding prosecutors only to exceptional circumstances, temporarily and for a six-month period within a year, it is important to note that it also has its negative impact on the work of the Prosecutor's Office. Shortening the term for seconding prosecutors does not necessarily lead to an improvement in the work of the relevant structure. The restrictions introduced regarding the term for seconding prosecutors, reduced to a six-month period within a year, lead to the inhibition and delay of criminal proceedings, caused by the objective need for another prosecutor, other than the magistrate with a completed six-month secondment, to familiarize himself with the materials of the proceedings and to take the legally prescribed actions. The legislative amendments limiting the term for secondment of prosecutors significantly impair the effectiveness and timeliness of the investigation.

In addition, since judges, prosecutors and investigators have the same status as magistrates, the same regimes and terms for secondment should be applied to them, since the general principles of the organization of the judiciary should undoubtedly be applied to each of the positions. In this case, this principle is violated, since, in addition to the fact that the law provides for a different term for secondment of prosecutors compared to that of judges, there is also a different procedure, which is incredibly complicated for the secondment of prosecutors compared to that for the secondment of judges.

## **B. Quality of justice.**

*p. 12. Training of professionals in the justice system (including judges, prosecutors, lawyers, court officials, administrative staff/trainees)*

During the period under review, the Prosecutor's Office of the Republic of Bulgaria made serious efforts to improve the professional qualifications of magistrates by organizing training programs on the issues of money laundering and terrorist financing. A total of 75 trainings were conducted, covering 824 prosecutors and 436 investigators. Numerous seminars and conferences were organized on the issues of discriminatory and hate crimes, computer crimes, crimes against the financial interests of the EU and organized crime.

## **II. ANTI-CORRUPTION FRAMEWORK**

*p. II.1. Ensuring a solid track record in investigations, prosecutions and final judgments in high-level corruption cases and ensuring the effective work of the Commission for Countering Corruption*

1. According to the provision of Art. 138a, para. 2 of the Judiciary Act, 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 crimes<sup>2</sup>. The criteria set out in the legislative provision include information and analysis: on initiated and concluded cases for corruption crimes; on corruption crimes of high public interest. Corruption crimes of high public interest are determined on the basis of criteria that include the person's position in the hierarchy of public authorities, the degree of interest affected and the degree of public importance and public interest. Legal regulation regarding persons is contained in the provision of Art. 6, para. 1 of the Anti-Corruption Act.

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<sup>1</sup> Promulgated, SG, issue 48 of 2023. The report for 2023 was sent by letter of the Prosecutor General (issued no. 10/30.04.2024) to the members of the 49th National Assembly (registered under no. 49-427-00- 1).

<sup>2</sup>The report was distributed to the Committee on Legal Affairs and the Committee on Prevention and Counteraction to Corruption in the 49th National Assembly. No opinion of the committees was prepared,

and the report was not submitted for discussion by the members of the National Assembly in the plenary hall.

<sup>3</sup> Positions other than mayor and deputy mayor of a municipality, which are INCLUDED in the scope of the responsible persons under art. 6, para. 1 of the LCC.

The report on the activities of the Prosecutor's Office in combating corruption contains information on the stage at which the cases are, the number of convictions and acquittals, other grounds for the termination of proceedings; analysis of the terms for conducting investigations, the quality of the indictments and the reasons for the specific outcome of the proceedings. Additionally, along with the cases against persons under Art. 6 of the Law on Countering Corruption (of the LCC), in its report the Prosecutor's Office also reports cases of corruption acts committed by other persons holding responsible positions in state and municipal institutions, such as e.g. Director of Regional Directorates of the Ministry of the Interior (RDMI) and Head of the Regional Police Department (RPD), Mayor and Deputy Mayor of a City Hall<sup>3</sup>, Secretary of a Municipality and many others. It is accepted that, although at a lower level in the hierarchy of the respective authority, the corruption acts committed by these officials also significantly contribute to the perception of corruption among the population in their respective areas of activity, therefore they cannot be neglected.

2. In implementation of the measures and actions envisaged in the Plan for the Implementation of the Recommended Actions, approved by the Council of Ministers with Decision No. 998 of December 12, 2022, as well as the Timetable approved by the Prosecutor General, in accordance with the recommendations relevant to the activities of the Prosecutor's Office from the Report of May 18, 2022 for Bulgaria from the Fifth Evaluation Round of the Committee of Experts on the Evaluation of Measures against Money Laundering of the Council of Europe (MONEYVAL), by order of the Prosecutor General<sup>4</sup>, a working group was established to review the Rules for collecting and completing data in the national risk assessment register (NRsA Register) for money laundering and terrorist financing and to prepare a draft for their amendment and supplementation. The working group should also propose a specific organization for reporting data on secured and confiscated property in criminal cases (in accordance with Art. 72 of the Criminal Code and Art. 53 of the Criminal Code and the relevant norms in the special part of the Criminal Code), taking into account the existing international and community requirements in this regard.

3. In accordance with the changes in the distribution of material competence between the investigative bodies under Art. 194 of the Criminal Code, pursuant to § 9 of the Transitional and Final Provisions of the Anti-Corruption Act (of the LCC)<sup>5</sup>, the investigation of crimes falling within the scope of Art. 194, para. 6 of the Criminal Code, as well as any other crime committed in connection with the aforementioned legal provision, committed by the persons under Art. 6, para. 1 of the LCC, as of March 1, 2024<sup>6</sup> shall be conducted by investigative inspectors from the Anti-Corruption Commission.

<sup>4</sup> Order No. RD-09-83 of 02.10.2024 of the Prosecutor General. Official Gazette, issue 84/2023, in force from 01.03.2024.

<sup>5</sup> SG 84/2023 in effect from 01.03.2023

<sup>6</sup> Pursuant to § 79 of the transitional and final provisions of the LCC.

In this regard, the district prosecutor's offices, the Sofia City Prosecutors Office (SCPO) and the military district prosecutor's offices have provided information<sup>7</sup> on the number, status and difficulties encountered in the pre-trial proceedings not concluded by an investigative body, not resolved by a prosecutor and suspended in the district regions for the specified crimes committed by persons explicitly falling within the scope of Art. 6, para. 1 of the LCC.

The obligation of the prosecutor's offices to notify the administrative heads of the relevant appellate region when initiating pre-trial proceedings with the subject matter - crimes falling within the scope of The Unified Catalogue of Corruption Crimes (UCCC)<sup>8</sup>, committed by persons holding high public positions within the meaning of Art. 6, para. 1 of the LCC, when bringing an accused person for a corruption crime and when initiating files on signals/complaints containing data on crimes under the UCCC, continues to be strictly

implemented. The summarized information from the appellate prosecutor's offices is provided daily to Department 01 Specialized in the Supreme Prosecutor's Office.

4. By Order No. RD-04-240 of 10.09.2024 of the Prosecutor General, an organization was established to provide enhanced methodological assistance, exercise supervision over the investigation and exercise ex officio control over prosecutorial acts in criminal proceedings that constitute a particular factual and legal complexity, are of significant importance for judicial/prosecutorial practice and/or represent a significant public interest and for their priority completion. The order (point 1.3) explicitly lists the crimes from the scope of the Unified Catalogue of Corruption Crimes.

The Prosecutor's Office of the Republic of Bulgaria, in accordance with the competence granted to it, interacts with other bodies relevant to the fight against corruption: the Commission for Combating Corruption and the Commission for the Forfeiture of Illegally Acquired Assets<sup>9</sup>, the European Prosecutor's Office, OLAF, AFCOS, Eurojust, the European Court of Justice network and Europol, as well as with other state bodies under the Anti-Corruption Act and the Law on the Confiscation of Illegally Acquired Assets<sup>10</sup>. Full cooperation between the competent institutions determines to an exceptional extent the ability of the state to combat corruption.

<sup>7</sup> according to the letter of the Prosecutor General to the administrative heads of the district and appellate prosecutor's offices (№ 1-38/2024 dated 01.02.2024 r.)

<sup>8</sup> Introduced by Order NO LS-726 dated 18.03.2014, amended and supplemented by Order No RD-04-279 dated 02.10.2017 and Order No RD- 04-425 dated 28.12.2017 of the Prosecutor General

<sup>9</sup> As of the date of submission of this information, no members of the new CAC have been elected by the National Assembly. The transitional and final provisions of the LCC are taken into account - see § 7, para. 2 et seq. - regarding the performance by the existing members of CACIAF upon 8/1 entry into force of the said law - they perform the functions of members of the relevant committees (CAC and CIAF); similarly with regard to the functions of the current Chairman of CIAF, he performs the functions under Art. 14, para. 1 of the Law on Countering Corruption and on the Confiscation of Illegally Acquired Property and Art. 12, para. 1 of the current Rules on the organization and activities of the Commission for Combating Corruption and for the Confiscation of Illegally Acquired Property and its Administration (promulgated in the State Gazette, No. 55 of 2018; amended in No. 89 of 2018} and other internal acts adopted by this Commission, to the extent that they do not contradict the new LCC, including the PPA.

A. Capacity of the institutional framework for combating corruption, prevention and investigation/prosecution
<i>p. 18. List any changes regarding the relevant bodies (e.g. national agencies, authorities) responsible for the prevention, detection and prosecution of corruption and the resources allocated to each of these bodies (human, financial, legal and technical resources as appropriate), including cooperation between national authorities. Indicate any measures taken to ensure effective and timely cooperation with OLAF and EPPO.</i>

Following the reform introduced by the Anti-Corruption Act of October 2023 and the amendments to the Criminal Code of Procedure (CCP) /No. 84 of 2023, effective 1.03.2024/, for the corruption crimes outlined in Art. 3 of the LCC, as well as any other crime committed in connection with those specified in the norm, committed by persons holding public positions within the meaning of this Act, it was stipulated that the investigation is conducted by investigative inspectors from the Anti-Corruption Commission, except when an employee of the Anti-Corruption Commission participated in the commission of the crime. This raises significant concerns, because the investigation of such serious and socially significant cases has been removed from the competence of the investigative bodies, which are part of the independent judicial system, and has been entrusted to inspectors who are not magistrates and do not have this independence in their work. Ensuring a solid track record in terms of investigations, prosecutions and final judgments in cases of high-level corruption would be difficult for a highly politicized body such as the Anti-Corruption Commission.

At the initiative of Department 08 Crimes Against the Financial Interests of the EU and Interaction with

the European Prosecutor's Office at the Supreme Prosecutor's Office, a working group was formed to update the Agreement on interaction and cooperation between the Prosecutor's Office of the Republic of Bulgaria and the Ministry of the Interior in combating offences affecting the financial interests of the European Union. On 11.06.2024, the updated agreement was signed under the leadership of the Prosecutor's Office of the Republic of Bulgaria (PORB) and the Ministry of the Interior, with the operational management and coordination of its implementation by the PORB being conducted by Department 08 at the Supreme Prosecutors Office (SPO).

In accordance with Article 4 of the Agreement on administrative cooperation between OLAF and the Prosecutor's Office of the Republic of Bulgaria, the subject of which is related to issues related to the implementation of communication and exchange of information between the two services,

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<sup>10</sup> LCC and the Law on the Forfeiture of Illegally Acquired Property -SG, issue 84 of 06.10.2023

representatives of the department have been designated as contact persons with OLAF, in accordance with the functional competence of the department.

The management of Department 08 in the SPO and the magistrates of the department have set the goal of developing cooperation with all state bodies and institutions involved in the management and control of European funds. Over 10 coordination and working meetings were held in 2024 with representatives of the Ministry of Finance, Ministry of the Interior, Ministry of Justice. Ministry of Economy. Ministry of Transport, State Fund for Agriculture, etc. The main goal of the initiated meetings was to increase the efficiency of reporting irregularities and crime data to the European Public Prosecutor's Office and improve cooperation with PORB.

Department 08 in the SPO actively works with the AFCOS Directorate - Ministry of the Interior as a specialized structure of the Ministry of the Interior, which carries out control, information and coordination activities in line with the protection of the financial interests of the European Union. Working with AFCOS on specific investigations, including those of OLAF, are part of the department's daily efforts to counter this type of crime. In 2024 Representatives of the department are included in an interdepartmental working group to assist in the processes of preparing a methodology, evaluation and updating the National Strategy for Preventing and Combating Irregularities and Fraud affecting the Financial Interests of the European Union for the period 2021-2027 (National Strategy). The aim of the working group is to support the activities of the external contractor, the Organization for Economic Cooperation and Development (OECD), under the "Improving National Strategies for Combating Fraud to the Financial Interests of the EU" project, funded by the Technical Support Instrument of the European Commission.

In 2024, the department's efforts continue in relation to taking action to prepare a draft legislative amendment regarding the texts on document fraud under Bulgarian criminal law and the implementation of Directive (EU) 2017/1371 on the combating fraud affecting the financial interests of the Union by criminal law. Within two years and long discussions and polemics of the professional and academic community, a special text was developed in the Criminal Code to protect public procurement and which we hope will be submitted by the Ministry of Justice for discussion in Parliament. The need to undertake legislative changes regarding cases related to public procurement is present, as the lack of modern regulation outlines a significant gap in the law, which contributes to the development of a corrupt environment and the resulting adverse consequences affecting the financial interests of the EU, taking into account the absorption of European funds under the Recovery and Resilience Plan in the Republic of Bulgaria.

Within the framework of a three-year project funded by the America for Bulgaria Foundation, with the active participation of Department 08 in the SPO, 4 seminars were organized in 2024, dedicated to the current challenges facing the investigation of crimes against the financial interests of the EU and cooperation with the European Public Prosecutor's Office. At the discretion of the PORB management, prosecutors from Department 08 took part in the organization of the events and as lecturers. Participants in the seminars were prosecutors and investigators from the PORB structure, representatives of all responsible state institutions, paying agencies and

funds, and each of the events was also attended by the European Delegated Prosecutors from the EP Office in Sofia. At the invitation of the department, the lecturer at one of the seminars was the Deputy Head of the Austrian Central Office for the Fight against Corruption and Economic Crime and former European Prosecutor of Austria at the European Public Prosecutor's Office, Ms. Ingrid Maschl-Clausen. In conclusion, the efforts for a long-term policy of open and correct communication on the part of the PORB with the European Public Prosecutor's Office in Sofia, as well as the line of cooperation and interaction with the European Public Prosecutor's Office, which is based on Council Regulation 2017/1939 of 12 October 2017 establishing enhanced cooperation on the establishment of the European Public Prosecutor's Office, the national legal framework and the clear rules and principles established in the internal regulation of the structure and functions of the individual units in the Bulgarian Public Prosecutor's Office.

*p. 19. Guarantees for the functional independence of the bodies tasked with the prevention and detection of corruption.*

The Commission Countering Corruption is the body for preventing and combating corruption and establishing conflicts of interest, in accordance with Art. 7, para. 1 of the Anti-Corruption Act. However, its functional independence is questionable, since it consists of only three members, who are elected entirely by the National Assembly.

The legislator's attempt to create guarantees regarding the functional independence of members of the commission, by providing for the formation of a special nomination commission 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 Court of Audit, is questionable. This is because the law provides in Art. 8, para. 4, that the nomination committee shall consider the motivated proposals for members of the Commission made by members of the National Assembly or by non-profit legal entities for the public benefit, shall carry out a selection for eligibility and, after a public hearing and discussion procedure, shall submit the report under Art. 9, para. 9 to the standing committee of the National Assembly responsible for combating corruption.

The powers granted to a non-parliamentary nomination committee to carry out a selection for eligibility of candidates, to hear them, respectively to submit a report, which committee, which consists of representatives of the judiciary, the executive, the Bar, the Ombudsman and the Court of Auditors, and in which there is no representative of the prosecutor's office, violates the principle of separation of powers. This is so because the selection of members of the committee, which has the powers to investigate corruption crimes, is taken from the National Assembly and conditioned by the assessment of a non-parliamentary body. The question remains open as to how the National Assembly should proceed in the event that a two-thirds majority for candidates is not achieved, and an election is impossible. The answer to this question is not contained in the law.

### **C. Repressive measures**

p. 27. Legal framework related to the criminalization and sanction regime regarding corruption and related crimes, including bribery of foreign officials.

A legal definition of the concept of "corruption" is given in the provision of Art. 3 of the Anti-Corruption Act /Promulgated, State Gazette, No. 84 of 6.10.2023, in force from 6.10.2023, amended and supplemented, No. 13 of 13.02.2024, in force from 13.02.2024/, according to which corruption is present when a person holding a public position under Art. 6, para. 1, commits a crime under Art. 201, Art. 202, para. 1 and 2, Art. 203, para. 1, Art. 219, para. 3 and 4, Art. 220, 224, 225b, 225c, 254a, art. 254b, para. 2, Art. 282, 282a, 283, 283a, 283b, Art. 294, para. 4 in connection with para 2, Art. 301, 302, 302a, 304, 304a, 304b, 305, 305a, 307 and art. 387, para. 3 of the Criminal Code, as well as any other crime committed in connection with the above.

The legal framework determining the criminalization and sanction regime with regard to corruption /texts

concerning the crime of bribery, money laundering, tax crimes/ and related crimes is contained in the Criminal Code, where the factual composition of the individual criminal acts as well as the punishment provided for them is regulated. Criminal liability under Bulgarian law is personal and can only be borne by a natural person - a Bulgarian or a foreign citizen, and the procedure for prosecuting persons who have committed crimes, including corruption crimes, is regulated in the Criminal Procedure Code.

The provision of Art. 83a of the Administrative Offences and Punishments Act regulates special cases of engaging in administrative criminal liability in relation to a legal entity that has enriched itself or would enrich itself from some of the outlined corruption crimes, as well as from all crimes committed on behalf of or in execution of a decision of an organized criminal group, when they were committed by: a person authorized to form the will of the legal entity; a person representing the legal entity; a person elected to a control or supervisory body of the legal entity, or an employee to whom the legal entity has assigned a specific task, when the crime was committed during or on the occasion of the performance of this task. In these cases, the law provides for the imposition of a high amount of a property sanction on the legal entity of up to BGN 1,000,000, but not less than the equivalent of the benefit, when it has a property nature. A sanction of up to BGN 1,000,000 is also imposed when the benefit is not of a property nature, or its amount cannot be established.

An amendment has been made to the Public Procurement Act, creating a new paragraph 8 of Art. 36 (New - SG, issue 88 of 2023, effective 22.10.2024), which provides detailed regulations on the data for each public procurement that should be entered, published and stored in the Public Procurement Register maintained by the Public Procurement Agency.

At present, in view of the CJEU Decision in case C-203/21 of 10.11.2022, which declares the procedure under Art. 83a et seq. of the Law on Administrative Offences and Penalties (LAOP) to be contrary to EU law, a working group has been established to discuss legislative changes to the LAOP regulating the liability of legal entities and the sanctions that will be imposed on them. The aim is that proceedings against legal persons are not limited to cases in which the natural person who committed the crime has been charged or convicted. This includes cases in which the prosecution cannot charge a natural person or decides to suspend or terminate the criminal proceedings, including when the natural person cannot be identified. The aim of the amendments is to introduce autonomy of the proceedings for seeking and enforcing the liability of the legal person from that of the natural person.

Changes are envisaged in Art. 83d, para. 8 of the LAOP. The wording of para. 16 of Art. 83g of the LAOP is also being discussed, providing for the award of costs of the case to the legal entity in cases specified by law, as well as the awarded remuneration for a lawyer, which should not be less than that established in the Law on the Bar. An amendment is also envisaged in the Public Procurement Act, whereby legal entities sanctioned for having enriched themselves or would have enriched themselves from some of the outlined corruption crimes will be entered in the Public Procurement Register.

It is also envisaged to introduce a new procedural figure in the CCP - an interested legal entity, "which is a term used to refer to a legal entity that has enriched itself from a crime, for which it is envisaged to adopt a new Chapter 7 "a" in the CCP.

Specifics are being developed for summoning a legal entity, assuming that the existing norms in the CCP are sufficient. Specific attention is being paid to amending procedural norms concerning: termination of the criminal proceedings in accordance with the Law on Legal Entities /new Art. 289 a CCP/; the issues that the court discusses when passing the verdict, when the Law on Legal Entities participated in the case, in respect of which a reasoned proposal for imposing a sanction has been submitted on the basis of Art. 83a, para. 1 of the Administrative Offences and Penalties Act /new Art. 305 a CCP/. It is also proposed to apply the special intelligence means to a legal entity, and the legal prerequisites for this are being developed.

With the entry into force of the Amendment and Supplement Act of the Extradition and European Arrest Warrant Act /SG No. 1 00 of 01.12.2023 r./ the Extradition and the European Arrest Warrant Act (EEAWA) was supplemented with several new texts. Among them is Art.56a, which introduces judicial control when preparing the European arrest warrant Act (EAWA) by a prosecutor. The orders have significance only within the EU. The said order requests the surrender of fugitive persons who are accused in Bulgarian pre-trial proceedings from the Member State.

With the amendment, judicial control becomes mandatory. Both the act of the prosecutor to detain the wanted person, which presupposes the issuance of an EAWA by a prosecutor to the person, and the EAWA itself



are controlled. The said amendments guarantee effective judicial protection when a Bulgarian prosecutor issues an EAWA for the search for persons who are outside Bulgaria, as well as the synchronization of our national legislation with Framework Decision 584/2002.

*pt. 28. Official data on the number of investigations, pre-trial proceedings and final convictions for corruption crimes (if possible, grouped by type of crime). Please indicate whether the cases concern legal entities; are related to the use of European or national funds; involve high-level corruption. Please indicate which data are publicly available and how political decision-makers are informed about the data.*

1. In the annexes to this report, we present data on cases initiated for corruption crimes<sup>11</sup> (Annex No. 1), from which data on cases initiated for corruption crimes with an alleged perpetrator - high-ranking officials<sup>12</sup> (Annex No. 2), as well as for crimes related to EU funds (Annex No. 3) have been derived. The data are for the period 2023 - the first nine months of 2024.<sup>13</sup>

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<sup>11</sup> According to the Unified Catalogue of Corruption Crimes.

<sup>12</sup> The persons under Art. 6, para. 1 of the LCC, as well as other persons holding responsible positions in state and municipal institutions.

<sup>13</sup> According to the periodicity of collection and summary of statistical information on the activities of the prosecutor's office, approved by the Instruction on the organization of information activities in PORB, the data for 2024 r. are relevant for the nine months. When presenting the information within the competence of PORB, for the fifth annual Report on the Rule of Law, data for the period 2022 - the nine months of 2023 are presented.

2. In each annual report on the activities of the prosecution and investigative bodies, which the Prosecutor General submits to the Supreme Judicial Council (and the SJC sends to the National Assembly), a separate section analyses the results of cases of particular public interest - summarized data on corruption crimes<sup>14</sup>, on organized crime, crimes related to affecting the financial interests of the European Union, trafficking in human beings, tax and financial crimes, drug trafficking.

3. Every first half of the year, in accordance with Art. 138, para. 1, point 12 of the Judiciary Act, the Prosecutor's Office shall prepare a Summary of Information on the Formation, Movement and Completion of Files and Cases in the Prosecutor's Office of the Republic of Bulgaria (PORB). In a synthesized form, in numerical values and graphically by main indicators, the activity of the Prosecutor's Office in the performance of its main legal functions is presented. In a separate section, data on the formation, movement and results of cases of particular public interest are displayed and analysed. The information is provided to the Prosecutor's College of the SJC, the Inspectorate at all and the Minister of Justice.

4. For the first quarter, the first six months, the nine months and annually, in accordance with the 16.2.4 of Section V of the Instruction on the Organization of Information Activities in PORB on Reporting on the Work of the Prosecutor's Office in Countering Corruption and Organized Crime, the Prosecutor General and his deputies are provided with a Report on Cases Initiated for Corruption Crimes<sup>15</sup> Committed by High-ranking Officials and Others Holding Responsible Positions in State and Municipal Institutions, a Standardized Analytical Report on the Status of Cases for Corruption Crimes<sup>16</sup> and a Standardized Analytical Report on the Status of Cases for Organized Crime. The materials provided enable the PORB management to take objective and adequate measures to provide methodological assistance in these cases.

*p. 29. Potential obstacles identified in legislation or practice to the investigation and prosecution, as well as to the effectiveness of criminal sanctions for high-level corruption cases and complex corruption cases (e.g. regulation of political immunity, procedural rules, statute of limitations, cross-border cooperation, pardon).*

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<sup>14</sup> Report on the activities to combat corruption crimes, prepared on the basis of Art. 84, item 16, clause 2 of the Constitution and Art. 138a, para. 2 - new (SG, issue 48 of 2023, 3CB), submitted to the National Assembly.

<sup>15</sup> See footnote no. 11.

<sup>16</sup> Model approved by Order No. RD-04-467/22.12.2023 of the Prosecutor General.

At present, the legislation does not distinguish between misdemeanours and felonies in the Criminal Code, which does not allow for the more lightly punishable acts provided for in the Criminal Code, which are not characterized by factual and legal complexity, nor by a high degree of public danger of the act and the person of the perpetrator, such as those related to reckless crimes, causing minor bodily harm, hooliganism, failure to comply with a court decision, failure to fulfil obligations to subordinates and superiors, theft of low value, when Article 9, paragraph 2 of the Criminal Code cannot be applied - insignificance of the act, etc., to be considered under a simplified procedure, both in the pre-trial and judicial phases of proceedings. This reflects on the activities of the court, prosecutor's office and investigative bodies, because it negatively affects the speed of justice, leads to an increase in the cost of criminal prosecution, reduces the effectiveness of the repressive apparatus, leads to a burden on the courts and delays in the consideration of larger and more dangerous crimes, characterized by a higher degree of public danger of the act and the personality of the perpetrator, such as cases of high-level corruption and complex cases of corruption.

With the constitutional reform of December 2023 /Art. 64, para. 4 of the Constitution/, continuity of the activities of the National Assembly was introduced - the National Assembly functions until the new one is constituted, starting from the swearing-in of the newly elected members of parliament. This leads to continuity with regard to the criminal immunity of the deputies, regulated in Art. 70 of the Constitution, which essentially constitutes a ban on detention and initiation of criminal prosecution against the members of parliament and applies to all their criminal acts, including those committed not in the performance of their duties. The ban on detention and criminal prosecution covers all their forms and actions, and no criminal prosecution actions may be carried out against the members of parliament without appropriate permission.

In addition, the provision of Art. 160, para. 1 of the Electoral Code also provides immunity for candidates for national representatives, which covers the period from the day of registration until the announcement of the election results, during which the registered candidate cannot be detained or brought as an accused, except for a crime of a general nature and with the permission of the Central Election Commission on the basis of a motivated request from the Prosecutor General.

The legislative framework outlined in this way may lead to a situation in which a person at a certain moment finds himself under the protection of both Art. 70 of the Constitution and Art. 160 of the Electoral Code, which further delays and hinders criminal proceedings.

### **III. FREEDOM OF THE MEDIA AND MEDIA PLURALISM**

#### **C. Framework for the protection of journalists, transparency and access to documents.**

*p. 40. Court cases (including strategic legal proceedings against public participation) and convictions against journalists (including defamation cases) and measures taken to defend against manifestly unfounded and unlawful claims.*

In connection with reports of threats and physical assaults on journalists during their coverage of the parliamentary elections held on October 27, 2024, the prosecutor's office has initiated 3 criminal cases. One concerns an attack on a team of "bTV" television in the city of Haskovo, for which pre-trial proceedings have been initiated. The investigation into the case continues, and two persons have been charged as defendants for a crime under Art. 325, para. 1 of the Criminal Code. The other two cases concern inspections carried out in connection with a report of threats made to journalists while covering the election process and allegations of a crime committed against the political rights of citizens. A refusal to initiate pre-trial proceedings has been issued in these cases, since insufficient data on a crime committed by the investigative authorities has been collected.

### **IV. OTHER INSTITUTIONAL ISSUES RELATED TO THE PRINCIPLE OF INTERDEPENDENCE AND MUTUAL RESTRICTION**

#### **D. An enabling framework for civil society.**

*p.52. Rules and practices that affect the effective functioning and safety of civil society organizations and human rights defenders. This includes measures to protect them from attacks (verbal, physical, online), intimidation, legal threats, including SLAPPs (cases, also called "legal harassment" - for harassment against journalists and civil society organizations), negative narratives or smear campaigns, measures that may affect the public perception of civil society organizations, etc. It also includes measures to monitor threats or attacks and specialized support services, as well as available advocacy meetings.*

With the amendments to the Criminal Code, made with the Amendment and Supplement Act to the Criminal Code /Promulgated, State Gazette, No. 67 of 4.08.2023/, racist and xenophobic motives have been introduced as qualifying features in relation to a number of elements of the Criminal Code such as: murder, causing bodily harm, kidnapping; unlawful deprivation of liberty, coercion; threat; surveillance; insult; preaching or incitement to discrimination, violence or hatred on religious grounds through speech, print or other means of mass information, through electronic information systems or in any other way; unlawful destruction or damage to another's movable or immovable property; clear incitement to commit a crime by preaching to a large number of people, through mass media or in any other similar way; committing arson, crimes against confessions - the desecration, destruction and damage of a religious temple, house of prayer, sanctuary or an adjacent building, their symbols, graves or tombstones, for which the Criminal Code provides for a more severe punishment.

For crimes against the equality of citizens, against the labor rights of citizens, "skin colour", "ethnicity", "sexual orientation" are included as a constituent element of the acts.

The Prosecutor's Office works actively in relation to pre-trial proceedings, the subject of which is causing bodily harm for racist and xenophobic motives; for preaching or inciting discrimination, violence or hatred based on race, skin colour, origin, nationality or ethnicity or sexual orientation; for crimes against the labor rights of citizens due to nationality or ethnicity, race, skin colour, religion, social origin, sexual orientation.