Preliminary questions:

<u>On Justice system</u>

1. In the general introduction of your input, you mentioned the commitment of Bulgaria to implement the Kolevi decision. Could you share with us on the main lines, also in the context of the Recovery and Resilience Facility and the Bulgarian Plan?

We are developing a mechanism to investigate the Prosecutor General and his deputies.

We envisage the investigation to be carried out by a judge to be appointed a prosecutor. This judge will not be able to be removed by the SJC and the chief prosecutor will not be able to intervene and instruct him/her on the investigation. While the investigation is on going, the Prosecutor General will be removed from office.

The proposals are in line with the current constitutional framework, but we are ready to initiate amendments to the Constitution.

- In response to the EC Rule of Law reports and the recommendations of the European Semester, we have adopted an approach to include reforms with political commitments in the National Recovery and Resilience Plan (NRRP) and in the National Development Programme BULGARIA 2030. In this way we demonstrate determination to implement the country's international commitments to guarantee the rule of law.
- The planned measures are aimed at implementing long-standing recommendations of the Council of Europe. The government has given priority and is firmly committed to the implementation of the ECtHR's judgements and in 2021 adopted a Roadmap with specific measures and deadlines.
- In order to ensure that the implementation of the Kolevi decision will be in line with the established Council of Europe international standards and practices for effective justice and to demonstrate strong political commitment, the government formulated in the Plan for Bulgaria measures for increased accountability and an effective mechanism for seeking accountability from the Prosecutor General.
- The Kolevi decision explicitly links the general issue of the refusal to institute criminal proceedings to the specific influence of the Prosecutor General over the influence of other prosecutors and the related practical impossibility of investigating and removing him. In this sense, the reform of the criminal procedure and the setting up of an accountability mechanism for of the Prosecutor General are two interrelated measures to overcome the problems of insufficient efficiency of criminal proceedings in Bulgaria. The measures are in line with the current constitutional framework and do not affect the possible constitutional reform in this direction. Deeper reform requires and will need a broader political consensus.
- The draft NRRP envisages a mechanism for investigating the Prosecutor General in case of a signal or suspicion of illegal actions/violations. A judge will be appointed at random to conduct an investigation if there is sufficient evidence of a crime committed by the Prosecutor General. This judge will not be able to be removed by the SJC, the Prosecutor General will not be able to intervene and instruct him on the investigation, and while it is under way, the chief prosecutor will be removed from office. The career development of the investigating judge will be protected, regardless of the outcome of the investigation. The investigation will be able to cover both actions and inactions of the Prosecutor General.
- At the same time, we recognize that the best option is to undertake reforms in the judiciary by amending the Constitution. Both the ruling coalition and the President, as well as

opposition parties, have declared their readiness to discuss them with a view to reforming the judiciary.

- The Ad-Hoc Parliamentary Committee for Discussion of Amendments to the Constitution of the Republic of Bulgaria, formed on 3 February to discuss reforms in the Constitution related to citizens' rights, rule of law, independence and accountability, also testifies to the strong political commitment of the judiciary reform.

2. What are the safeguards for judicial independence related to the draft law for the Specialised structures, including irremovability of judges? Is there a possibility of judicial review for the decisions of the Supreme Judicial Council when reappointing magistrates following the adoption of the draft law?

It is planned to open judicial, prosecutorial and investigative positions in the regional and appellate bodies of the judiciary, corresponding to the closed positions (magistrate and administrative), in accordance with the workload.

Until all vacant positions are filled, the magistrates who have not been reappointed to their positions shall submit new applications for reappointment to the remaining vacant positions in the relevant bodies of the judiciary.

Decisions on reappointment may be challenged before a three-member panel of the Supreme Administrative Court within 14 days of their announcement.

The procedure provided for in the Transitional and Final Provisions is in accordance with the terms and conditions regulated in Art. 194, para. 1 of the Judicial System Act (JSA). There is an obligation for the respective Chambers of the SJC to open judicial, prosecutorial and investigative positions in the regional and appellate bodies of the judiciary within 30 days from promulgation of the law, corresponding to the closed positions (magistrate and administrative). The distribution of the positions opened in the judiciary should be in accordance with the level of workload of the same, and in the case of the courts it is explicitly stated that it is relevant to that of the respective criminal department. The aim is to avoid disproportion in the workload of the courts as a result of the opening of new magistracy positions.

Following the adoption of a decision by the relevant panel of the SJC to open positions in the respective judicial bodies, the magistrates should, within 14 days of the promulgation of the law, submit an application to the relevant panel of the Supreme Judicial Council, stating their desire to be reassigned to the vacant positions at the regional or appellate level.

It is also envisaged that when submitting more than one application for reappointment, the relevant chamber of the Supreme Judicial Council shall decide on the reappointment of magistrates in accordance with previously adopted and announced criteria, which include the latest comprehensive appraisal, the duration of the length of service in the judiciary and the general length of legal experience, as well as previous holding of a judge’s position in the court for which the application was submitted. Judges, prosecutors and investigators who have not been reassigned to their posts shall submit new applications for reassignment of the remaining vacant positions to the relevant judicial authorities. This procedure shall apply until all vacancies are filled.

Based on Art. 36, para. 1 of the JSA, the interested parties may challenge the decisions of the Colleges of the Supreme Judicial Council within 14 days of their announcement. The appeal does not stay the enforcement of the decision, unless the court decrees otherwise. Paragraph 2 of the same article stipulates that the appeal is examined by a three-judge panel of the Supreme Administrative Court. According to Article 36, para. 3 of the JSA, the judgement of the three-judge panel of the Supreme Administrative Court is not subject to cassation appeal with the exception of the cases, the subject of which are the acts under art. 30, para. 2, item 17 (by-laws issued by the plenum of the SJC in cases provided by law) and proceedings under Chapter Sixteen, Section I (disciplinary liability of judges, prosecutors and investigators, the administrative heads

of the court, the prosecution and the investigation, their deputies and the members of the Supreme Judicial Council).

These criteria are specific, clear and incontrovertible in line with the current legal framework and with the rules of the Supreme Judicial Council for reappointment of magistrates. These aim to secure transparent and objective reappointments of all the concerned magistrates.

The draft amendments to the JSA were submitted to the National Assembly on 2 March. The debates on the proposal of the Ministry of Justice have been scheduled to start on 16 March.

3. Could you elaborate on the draft law regarding the Specialised Criminal Courts and Specialised Prosecutor's Office (in particular, on the envisaged specialisation following the adoption of the law)?

The jurisdiction of the crimes falling under the jurisdiction of the Specialized Criminal Court has been transferred to the regional and district courts under the general rules of exclusive and local jurisdiction.

Cases of corruption at the highest levels of government will be brought before the regional courts, and the instance control will be before the courts of appeal and the Supreme Court of Cassation.

The Sofia City Court, as the first instance, has jurisdiction in addition to cases of crimes of general nature, carried out by judges, prosecutors and investigators, by other persons with immunity and by members of the Council of Ministers, as well as cases within the competence of the European Public Prosecutor's Office

The Transitional and Final Provisions also propose amendments to the Code of Criminal Procedure (CCP), which directly result from the changed substantive law, regulating the jurisdiction of crimes within the jurisdiction of the specialized criminal court, and introduce provisions on the termination of pending court proceedings. The concept of the current criminal procedure law, laid down in Art. 35, para. 1 of the CCP, is that the district court is the main court of first instance. At the same time, criminal cases, which deal with crimes of higher legal complexity and require longer professional and life experience, have traditionally been under the exclusive jurisdiction of the regional courts. The change in Art. 35, para. 2-6 of the CCP adheres to the established long tradition in our criminal procedure law.

The jurisdiction of the crimes falling under the jurisdiction of the Specialized Criminal Court has been transferred to the regional and district courts under the general rules of the exclusive and local jurisdiction. An exception is provided only in respect of the crimes under Art. 201 - 205, Art. 212, para. 1 - 4, 212a, 226, 251, 285, 287, 288 and 289, performed by: Deputy Ministers, Chairmen of state agencies and state commissions, executive directors of executive agencies and their deputies, the manager of the National Social Security Institute, the manager of the National Health Insurance Fund, the Executive Director and the Directors of the Territorial Directorates of the National Revenue Agency, the Director of the Customs Agency, heads of customs, customs bureaus and checkpoints, members of the Commission for Anti-Corruption and Illegal Assets Forfeiture and the National Bureau for control of special intelligence means, district governors and deputy district governors, members of the Supreme Judicial Council, the Chief Inspector and inspectors in the Inspectorate of the Supreme Judicial Council, the mayors and deputy mayors of municipalities, the mayors and deputy mayors of districts and the chairmen of municipal councils, who remain under the exclusive jurisdiction of the district courts. According to the current legislation, these proceedings are under the jurisdiction of the Specialized Criminal Court with the argument that this overcomes the local dependencies and contacts between the representatives of the local and judicial authorities. The proposed amendment, the assignment of these criminal proceedings to the regional courts will ensure the conduct of pre-trial and judicial proceedings by magistrates with the necessary professional experience and experience, without concentrating cases in the same court, and the instance control will be before the courts of appeal

and the Supreme Court of Cassation, which would not be possible if considered by the district courts.

In addition to the cases of crimes of general nature committed by judges, prosecutors and investigators, by other persons with immunity and by members of the Council of Ministers, the cases of crimes under Chapter One of the Special Part of the Criminal Code also fall under the jurisdiction of the Sofia City Court. "Crimes against the Republic" (unless they have jurisdiction over military courts). The high social significance of the criminal proceedings instituted under Chapter One of the Special Part of the Criminal Code requires that the case law on them be unified. For similar reasons, it is envisaged that the cases of jurisdiction of the European Public Prosecutor's Office will be heard by this court. An additional consideration is for European delegated prosecutors to appear only before the Sofia City Court, as appearing before various courts in the country would make their work more difficult.

4. Do you have any plans as regards changes to the composition of the Supreme Judicial Council, also in light of the last several Venice Commission opinions, which criticise this aspect as non-compliant with the recommendations of the Council of Europe?

The Coalition Agreement stipulates that the current SJC be reformed and transformed from a permanent body into a body that makes decisions at sessions within its mandate, assisted by permanent commissions.

In measure 2.4 of the NRRP we propose that the National Assembly **not be able** to elect prosecutors and investigators as members of the SJC for the following reasons:

The principle of separation of powers is enshrined in the Bulgarian Constitution. This principle is not absolute. The Constitution provides for an internal balance and control mechanisms so that the exercise of public power is in the public interest and does not lead to arbitrariness.

The Bulgarian Constitution provides for 11 members of the SJC to be elected by judges, prosecutors and investigators and 11 by the National Assembly. This is not accidental. The constitutional legislator has obviously laid the democratic foundations in the administration of the judiciary. The idea is, and it is in line with the spirit of the Constitution, to have representatives in the SJC and the public, namely - lawyers from the non-governmental sector, the bar, academia. If the constitutional legislature sought self-government, it would provide for all members to be elected by judges, prosecutors and investigators, or limit the election of the National Assembly to magistrates. By the way, the international standard for the management of the judiciary is also pluralism. This pluralism can be combined with special rules for the supremacy of judges specifically in the judiciary.

The inclusion of lawyers outside the judiciary in the SJC will lead to a fairer management of the judiciary, avoid the risk of encapsulation of the system and, above all, reduce the influence of the Prosecutor General.

- The Agreement on Joint Governance of the Republic of Bulgaria in the period 2021-2025 stipulates that the current SJC be reformed and transformed from a permanent body into a body that takes decisions at sessions within its mandate, assisted by standing committees - within 4 months of signing the agreement.
- In line with the commitments in the signed coalition agreement, the Ministry of Justice remains firmly committed to implementing the recommendations of the Venice Commission's opinions. We emphasize that changes in the composition of the SJC require constitutional reform and, accordingly, a broader political dialogue and consensus is needed and will be sought.
- The Ministry of Justice has sent letters to a number of high-ranking representatives of the judiciary, magistrates and professional legal organizations, as well as to the leaders of the

academic legal community in our country with a call to submit their proposals for drafting legislative amendments to the Judicial System Act. The expected proposals are on a number of topics, including optimizing the organization and activities of the Supreme Judicial Council and the Inspectorate of the Supreme Judicial Council. After summarizing the received proposals, the Ministry of Justice will initiate a broad public debate on the topic of changes in the JSA.

- With regard to the composition of the SJC, we should emphasize the extremely important role of the Minister of Justice, confirmed in the decision of the Constitutional Court of 8 February, which undoubtedly legitimizes the possibility of the Minister of Justice to demand early termination of the mandates of the "Big Three". This is one of the important guarantees against the encapsulation of the judiciary, and in fact the Minister comes to the exercise of these powers when the other mechanisms set out in the Constitution and the Judicial System Act are not activated.

5. Do you envisage any new criteria for the election of the members of the Supreme Judicial Council, including the members elected by the Parliament?

In the draft National Recovery and Resilience Plan we propose a measure that the National Assembly cannot elect prosecutors and investigators as members of the SJC in order to avoid the risk of encapsulation of the system and reduce the influence of the Prosecutor General.

6. In your written input, you inform us about a draft law that is currently under public consultation, which concerns the Inspectorate to the Supreme Judicial Council. Could you elaborate on this draft law? What are the envisaged changes? Is there any increase of the powers of the Inspectorate, taking into account the recommendations of the Venice Commission?

The working group in the Ministry of Justice identified problems regarding the possible ways to implement some of the proposals made. The work continues.

The question refers to the following preliminary information provided by Bulgaria in the document "Input of the Republic of Bulgaria to the Third Annual Report on the Rule of Law", January 24, 2022: By letter from the Inspectorate to the Supreme Judicial Council (ISJC), based on analyzes and identified best practices under the project "Support for the enhancement of the capacity of the Inspectorate to the Supreme Judicial Council", funded by the Structural Reform Support Service of the European Commission, proposals have been made for amendments to JSA. By Order № LS-13-88/21.12.2020 of the Minister of Justice a working group has been formed with the task to prepare a draft Law to Amend and Supplement the JSA. The working group has finalized its activities. The draft produced is in the process of discussion and coordination.

In Part I. Justice system, Independence section of Commission Staff Working Document: 2020 Rule of Law Report, Country chapters: Rule of law situation in Bulgaria (SWD(2020) 301 final) notes:

"A motion for a reform of the Inspectorate to the Supreme Judicial Council has been proposed. Under the current regime, the Inspectorate scrutinizes the activity of the judiciary, carries out checks on the integrity and potential conflicts of interest of magistrates, and proposes the opening of disciplinary proceedings regarding magistrates to the SJC. The Inspectorate consists of an Inspector General and ten Inspectors, who are independent and elected by the National Assembly. The risk of political influence has been previously raised by the Venice Commission. Following the project "Support for the enhancement of the capacity of ISJC", the

Inspectorate itself made a motion for an amendment of the JSA that would require the Inspector General and the Inspectors to be proposed by other bodies, such as the plenaries of the Supreme Cassation Court and the Supreme Administrative Court or the General Meetings of magistrates and professional organizations, rather than the members of Parliament. Nevertheless, the Inspectorate is currently working on the basis of a mandate that has expired, under the principle of continuity. Aside from the composition of the Inspectorate, concerns have been raised by stakeholders in relation to the activity of this body. Concerns have been raised that under the provision that allows the Inspectorate to propose disciplinary proceedings for magistrates, the SJC and the Prosecutor General have been informing the Inspectorate to trigger an inspection, which resulted in pressure on individual judges".

During the internal analysis within the Ministry of Justice, problems have been identified regarding the possible ways to implement some of the proposals made. This requires the consideration of the issues raised by the Inspectorate at the Supreme Judicial Council to continue by a working group to be formed in the Ministry of Justice on optimizing the organization and activities of the Supreme Judicial Council and the Inspectorate at the Supreme Judicial Council; improving the procedures for conducting competitions, selection of administrative heads and attestation in order to accelerate them and objective result; refining the procedures for disciplinary proceedings in view of the accumulated practical experience and increasing the efficiency of the training activities of the National Institute of Justice. The questions asked are linked to the work of the new working group (detailed in the answer to question 8) with a view to considering and discussing them in the overall context of the topic.

7. In your written input, you mention several working groups to address important issues, such as ordinary competitions for judges, secondments, legal aid act, alternative dispute resolution and mediation. Could you share with us a timeline for the concrete and tangible results from all these working groups?

Working groups have been established to prepare proposals for legislative amendments to:

- the Judicial System Act

- the legal framework of mediation as an alternative form for out-of-court disputes resolution

- the relevant legislative acts in order to expand the circle of persons for whom legal aid and inclusion of persons with disabilities are allowed - initially set deadline until 30 March 2022.

At the end of 2021 a working group was formed in the Ministry of Justice to prepare proposals for **legislative amendments to the Judiciary Act**.

The focus of the discussion are the topics for improving the procedure for conducting competitions in the judiciary and speeding up the process, making changes to the institute of secondment, as well as providing the necessary regulations to achieve trouble-free work in the judicial system in the process of introduction of real and full e-justice, including by presenting a parallel opportunity to work with written and electronic documents, according to the technical capabilities of the systems serving this process, as well as the optimization, connection and full interaction of the Unified Information System of the Courts with the Unified Portal for e-Justice. This, in turn, is likely to reflect on the regulation of e-Justice in the Code of Civil Procedure, the Code of Criminal Procedure and the Code of Administrative Procedure.

At present, the working group continues its activities. Meetings were held on 2 and 16 December 2022, at which the discussions were focused on the issues of e-justice.

Alternative Dispute Resolution and Mediation:

A working group has been established at the Ministry of Justice (MoJ) with the subject: "Study of the need to amend the legal framework of mediation as an alternative form of out-of-

court disputes resolution and, if necessary, draft amendments to regulations related to the institute of mediation".

In the course of the work, proposals have been submitted for the introduction of a mandatory mediation procedure for certain categories of family, commercial, bond and administrative disputes, as well as a proposal for the introduction of a mandatory first information meeting, which is to be considered. The working group has not finalised its activities.

Simultaneously with the Decision of the Plenum of the Supreme Judicial Council (SJC) under item 45 of Minutes № 13/08.07.2021 a working group was formed, which based on the one adopted by the Judicial Chamber of the SJC under item 20 of Minutes № 4/09.02.2021 "Concept for the introduction of mandatory judicial mediation in civil and commercial matters", which should:

- Prepare a plan of the necessary changes in the work of the court and the court centers on mediation, including the necessary procedural and legislative amendments, and their coordination with the interested groups - judges, lawyers, mediators; identification of the groups of cases for which mandatory mediation will apply and the procedures to be followed;
- Prepare qualification criteria and standards for selection of mediators;
- Prepare a model and rules for training of judges and mediators - initial and current;
- Prepare models for introduction of systems for control and guarantee of the quality of the conducted mediations (co-mediation with the newly accepted mediators, feedback from the parties and analysis of the activity of the mediators);
- Prepare draft legislative amendments,

So far, 4 meetings of the working group have been held. Rules for the work of the group have been adopted. The groups of cases to which a form of mandatory judicial mediation will be applied are currently being discussed, and it appears to be wider than the scope of cases considered in the working group at the Ministry of Justice, for which the introduction of mandatory mediation has been adopted.

The proposals for legislative changes prepared by the working group at the SJC will be presented to the MoJ for summarizing all proposals for legislative amendments in the field of mediation, finalizing the draft regulations for amendments in the field of mediation and submitting them to the Council of Ministers and the National Assembly.

Legal aid:

By order № LS-13-51/29.04.2021, amended by order № LS-13-77/26.06.2021 and LS-13-85/08.07.2021 of the Minister of Justice an interdepartmental working group was established with the following task:

1. To carry out an analysis in order to supplement the conditions on the basis of which legal aid is granted, to reduce the threshold for legal aid and court fees, in connection with measure 17 of the Action Plan in response to the recommendations and identified challenges contained in in the Report of the European Commission of 30 September 2020 on the 2020 Rule of Law, Situation in the rule of law in Bulgaria, proposed by the competent institutions, adopted by Decision № 806 of the Council of Ministers of 2020.

2. To draft amendments and supplementation to the relevant normative acts in order to expand the scope of persons for whom legal aid and inclusion of persons with disabilities are allowed, receiving monthly allowances under the terms and conditions of the Law on Integration of Persons with Disabilities, as well as persons for whom their placement under guardianship is requested; unification of the regime for providing legal aid with the regulation for exemption from state fees.

In the approved Plan for implementation of measures in response to the recommendations and the identified challenges contained in the Report of the European Commission of 30 September 2020 on the 2020 Rule of Law, Situation in the rule of law in Bulgaria, an indicative

term for implementation of measure 17 of 2 (two) years is provided. Nevertheless, the term initially set by the Minister of Justice is 30 March 2022. In view of the need to update the composition of the working group - replace members and appoint a new leader, it will also be necessary to extend the term of work of the group.

To date, the Working Party has received Guidelines from the Council of Europe Committee of Ministers on the efficiency and effectiveness of legal aid schemes in the field of civil and administrative law, adopted on 31 March 2021, and an Explanatory Memorandum in English and Bulgarian language. The guidelines were prepared by the Drafting Group on Legal Aid Schemes (CDCJ-GT-SAJ2) of the European Committee on Legal Cooperation (CDCJ) and are by their nature a practical tool that presents good practices and offers practical solutions to address existing inconsistencies and gaps in Member States' legal aid approaches in the field of civil and administrative law.

8. Do you envisage any legislative amendments as regards breaches of ethical rules and consequent disciplinary proceedings for magistrates?

We are studying the need for legislative amendments aimed at:

- ***Optimization of the organization and the activity of the Supreme Judicial Council and of the Inspectorate at the Supreme Judicial Council;***
- ***Improving the procedures for conducting competitions, selection of administrative heads and attestation in order to accelerate them and objective result;***
- ***Clarification of the procedures for the disciplinary proceedings;***
- ***Increasing the efficiency of the training activities of the National Institute of Justice.***

In early February 2022, the Ministry of Justice sent letters to the regional courts, administrative courts, appellate courts in Sofia, Varna, Burgas, Plovdiv, Veliko Tarnovo, the Specialized Criminal Court, the Appellate Specialized Criminal Court, the Specialized Prosecutor's Office, the Appellate Specialized Prosecutor's Office, Universities providing training in Law, the Supreme Judicial Council, the Inspectorate of the Supreme Judicial Council, the Supreme Court of Cassation, the Supreme Administrative Court, the Prosecutor General, the Chamber of Investigators in Bulgaria, the Association of Prosecutors in Bulgaria, the Union of Judges in Bulgaria, the National Investigation Service, the National Institute of Justice and the Supreme Bar Council with a request to receive information on proposals on:

- Optimization of the organization and activity of the Supreme Judicial Council and of the Inspectorate at the Supreme Judicial Council in the context of the established European and international standards for the activity of this type of bodies;
- Improving the procedures for conducting competitions, selection of administrative heads and attestation in order to accelerate them and objective result;
- Clarification of the procedures for disciplinary proceedings in view of the accumulated practical experience;
- Increasing the efficiency of the training activities of the National Institute of Justice.

The answers received will be analyzed and the relevant proposals will be included in the implementation of a legislative initiative by the Minister of Justice. A working group is to be set up to consider and discuss the above issues.

9. Could you elaborate on any action/initiative following the Parliamentary report on the exploitation of secret surveillance over a number of citizens, including magistrates, journalists and members of civil society? Do you have any information as to the use of the Pegasus spyware in Bulgaria?

10. Have you started preparing the implementation of the ruling of the European Court for Human Rights on the issue of the use of secret surveillance (*Case of Ekimdzhiev And Others V. Bulgaria*)?

After the decision enters into force, the Minister of Justice will propose to the Minister of Interior the establishment of an interdepartmental working group to analyze the legal framework for the application of special intelligence tools and access to electronic communications in the light of the problems identified by the ECtHR and prepare appropriate legislative changes.

In the meantime, the Minister of Justice met with the applicants in the case and discussed their views on the measures to implement the ruling.

The Bulgarian government takes very seriously the decision of the ECtHR in the case of Ekimdzhiev and Others v. Bulgaria, which identifies serious shortcomings in the legal framework for the use of special intelligence tools and its enforcement practices, as well as in the legal framework and practices for retention and access to traffic. After the decision enters into force, the Minister of Justice will propose to the Minister of Interior the establishment of an interdepartmental working group to analyze the legal framework on application of special intelligence means and access to electronic communications in the light of the problems identified by the ECtHR and prepare relevant amendments to the Special Intelligence Means Act, the Electronic Communications Act, the Code of Criminal Procedure and the applicable bylaws. Many of the problems identified by the decision are familiar to experts in the field, as they became apparent in the implementation of the Association for European Integration and Human Rights and Ekimdzhiev v. Bulgaria (2007 decision). The case group is under close scrutiny by the Committee of Ministers, and over the years some issues have been discussed at expert level, both at national level and with partners in Strasbourg. In this sense, the Bulgarian state is ready to start concrete work on legislative amendments. In the meantime, the Minister of Justice met with the applicants in the case and discussed their views on the measures to implement the decision.

11. Could you elaborate on the role of the judiciary on authorising and supervising the use of secret surveillance?

The information is contained in the answer to question 10.

12. Could you elaborate on the new legislation that eliminates the possibility of acquiring citizenship through investment? Do you envisage such legislation to deal with the merit passport scheme?

A bill is being discussed in the National Assembly, which envisages the elimination of the possibility of acquiring Bulgarian citizenship under relaxed conditions against investments made.

Changes to the regime for the acquisition of Bulgarian citizenship for special merits to the Republic of Bulgaria in the public and economic spheres, in the field of science, technology, culture or sports have not been discussed.

The Ministry of Justice is consistent in its opinion that the possibility of acquiring Bulgarian citizenship on easy terms in exchange for investments should be dropped. The lack of sustainability of the investments made, as well as a significant and lasting result for the Bulgarian economy in connection with the investments of foreign citizens of third countries - candidates for acquisition of Bulgarian citizenship by naturalization, pursuant to Art. 12a and Art. 14a of the Bulgarian Citizenship Act are only part of the motives of the draft law amending the Bulgarian Citizenship

Act submitted by Decision № 12 of the Council of Ministers of 14 January, proposing the repeal of Art. 12a and Art. 14a of the Act. These two provisions regulate the possibility of acquiring Bulgarian citizenship on easy terms against investments. We believe that the investments that can be made by foreign citizens should be a prerequisite for legal long-term or permanent residence in the territory of the Republic of Bulgaria, and not to provide an opportunity to apply for Bulgarian citizenship under relaxed conditions. The bill also takes into account the findings of the European Commission that the regimes for granting citizenship and residence permit against investment pose a number of risks to Member States and the Union as a whole, including security, money laundering, corruption, circumvention of European Union rules and tax evasion.

At its meeting held on 2 February, the Committee on Constitutional and Legal Affairs supported in the first vote the bill submitted by the Council of Ministers. On 17 February, the National Assembly adopted at first reading the amendments to the Bulgarian Citizenship Act. On 9 March, the Committee on Constitutional and Legal Affairs held a discussion for a second vote on the bill. It decided to set up a working group on the pending applications for Bulgarian citizenship that have already been submitted under the scheme.

At the moment, no changes to the regime for the acquisition of Bulgarian citizenship for special merits to the Republic of Bulgaria in the public and economic spheres, in the field of science, technology, culture or sports have been discussed. A proposal for the acquisition of Bulgarian citizenship on this basis is made by the Minister responsible for the relevant field in which the Republic of Bulgaria has an interest in the naturalization of the person or in which he/she has special merits. The latest amendments to the Bulgarian Citizenship Act (promulgated, SG, issue No. 21/2021) introduced the requirement to motivate the proposals of the ministers under Art. 16 of the Bulgarian Citizenship Act. This requirement was regulated at the secondary level - in Ordinance № 1 of 1999 on the application of Chapter Five of the Bulgarian Citizenship Act, but the importance of this circumstance requires its regulation in a higher hierarchical normative act.

13. Could you elaborate on measures taken as a result of the COVID-19 pandemic, having an impact on the justice system, including regarding the digitalisation of justice?

The following were introduced:

- rules for the exercise of procedural rights in electronic form in civil and criminal proceedings

- possibility for preparation of court acts in electronic form

- rules for summoning and informing the victim about the course of the criminal proceedings

- rules for service of summons, notices and papers in the judicial phase of criminal proceedings

- rules for sending a report of a crime

- legal definition of "email address"

- videoconferencing in civil and administrative proceedings, as well as expanding the possibilities for using videoconferencing in criminal proceedings

- Automated information system "Unified Register of Experts" and upcoming electronic information system "National Register of Arrests"

I. Law to Amend and Supplement the Code of Civil Procedure (promulgated, SG, issue No. 110 of 29 December 2020), which establishes rules for exercising procedural rights in electronic form within the framework of civil and criminal proceedings, as follows:

1. The amendments to the Code of Civil Procedure regulate:

- Rules for service of notices and summons to e-mail address:

The regulation stipulates that the service of court acts may be carried out at an electronic address for service served by the party:

- through the Single E-Justice Portal;

- through a qualified electronic registered mail service in accordance with Regulation (EU) № 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28 August 2014), "Regulation (EU) № 910/2014".

In case the party is not registered in Single E-Justice Portal or has not chosen a qualified e-mail registered service, but has indicated an e-mail address, service shall be served at the specified address. If it is impossible to serve in the specified ways, the current address of the party shall be served, and in the absence of such - the permanent one.

On the other hand, no electronic service has been introduced in respect of a party that has not provided an electronic address, i.e. a party which is not interested in service under this procedure would not be bound by negative legal consequences.

The amendments to the Code of Civil Procedure provide that the service of credit and financial institutions, including those collecting receivables from consumers, insurance and reinsurance companies and traders who supply energy, gas, or provide postal, electronic communications or water supply and sewerage services of notaries and private bailiffs, government agencies and municipalities is carried out only by e-mail.

The service of a lawyer takes place through the Single E-Justice Portal or at any place where he is on duty outside his office.

An obligation has been introduced for the plaintiff to indicate an e-mail address in the statement of claim, as well as an obligation for the defendant to indicate an e-mail address in the response to the statement of claim, if any, and an indication of whether they wish to be served;

- The possibility of paying fees and other obligations to the court electronically:

In case the request for protection and assistance is made in electronic form according to Art. 102f in the Single E-Justice Portal, the due state fee is reduced by 15 percent. Upon withdrawal of the consent for service in this way, the difference up to the full amount of the due state fee shall be paid by the plaintiff within one week. Reducing the due state fee would motivate the parties to choose this way of performing procedural actions in electronic form, which would significantly accelerate the introduction of e-justice.

- The performance of procedural actions in electronic form are regulated in the new chapter eleventh "a" of the Code of Civil Procedure "Procedural actions and acts in electronic form";

- The creation of a legal definition of "e-mail address", according to which "e-mail address" is a personalized space in the single portal for e-Justice, through which individuals receive electronic statements, messages, subpoenas and court papers, qualified e-mail address, as well as email address.

2. The amendments to the CCP regulate as follows:

- Preparation of judicial acts in electronic form:

It is envisaged that the judicial acts will be drafted as an electronic document in the unified information system of the courts and will be signed with a qualified electronic signature.

- The exercise of procedural rights and the performance of procedural actions in electronic form by the parties:

It is envisaged that the victim, the private prosecutor, the private plaintiff, the civil plaintiff, the civil defendant, as well as the defence counsel will be able to make requests, remarks and objections, as well as to be able to appeal against court acts electronically.

- The rules for summoning and notifying the victim about the course of the criminal proceedings:

An opportunity has been created for the body initiating the pre-trial proceedings to notify the victim if he/she has indicated not only an address for summons in the country but also an e-mail address.

➢ Rules for service of summons, notices and papers in the trial phase of criminal proceedings:

A basic principle in the e-summons system is the principle of voluntariness on the part of the participants in the process: they should express their consent to receive summonses, messages and papers electronically, and the consent can be withdrawn at any time. Service may be effected by means of an electronic address for service in the Single E-justice Portal, certified by a copy of the electronic record, stamped with a qualified electronic time stamp of the court.

In case of service via a qualified e-mail registered service, the service will be considered completed by withdrawing the sent papers from the addressee. Confirmation of receipt is not required, and the electronic identification of the person will be performed in accordance with the procedure set out in the Judicial System Act.

In the court phase the service of summonses, notices and papers of the victim of the crime, the aggrieved legal entity, the private plaintiff, the private prosecutor, the civil plaintiff, the civil defendant and their attorneys, as well as of a witness, expert, translator, interpreter or technical assistant. Service may be effected by e-mail for service in the Single E-Justice Portal, by a qualified e-mail registered service or by e-mail.

➢ Rules for sending a report of a crime:

A regulation has been created for sending a message for a committed crime also electronically, if it is signed with a qualified electronic signature in compliance with the requirements of the law. With the message the person has the opportunity to express his consent to be summoned and to receive messages at the e-mail address specified by him.

➢ Creating a legal definition of "e-mail address", according to which "e-mail address" is a personalized space in the single portal for e-Justice, through which individuals receive electronic statements, messages, subpoenas and papers from the courts, qualified e-mail address, as well as an email address.

Legislative amendments related to E-Justice should ensure equal effectiveness of the judiciary and their administrations in exercising their powers. At the same time, they must provide at least the same level of security for the realization of procedural rights of citizens and security of turnover in general, which has been achieved so far with the existing rules for the exchange of information and documents on paper.

The proposals made are in line with the specifics of electronic notification to the parties, while sufficient guarantees are created both to ensure proper service of communications and the implementation of procedural actions and acts in electronic form.

In this way the desired effect will be achieved - on the one hand related to the use of information and communication technologies to improve access to justice, and on the other - leading to optimizing and speeding up the judicial process, but with the obligatory observance of all guarantees for protection of the rights of the participants in the proceedings.

II. <u>The amendments to the Code of Civil Procedure (CCP) (promulgated, SG, issue No. 98/2020),</u> as well as the amendments to its final provisions in the Code of Administrative Procedure (CAP) and in the Code of Criminal Procedure (CCP), which to regulate the use of videoconferencing in civil and administrative proceedings, as well as to expand the possibilities for the use of videoconferencing in criminal proceedings, as follows:

In particular, the amendments to the Code of Civil Procedure and the Code of Administrative Procedure regulate the use of videoconferencing in interrogations and hearings in civil and administrative proceedings, in which the administrative body or the court and witnesses, experts, parties or translators are physically located in different places on the territory of the country.

The possibilities for using videoconferencing as a way to gather evidence in the conduct of individual investigative actions and separate court proceedings in cases where the participants

in the pre-trial proceedings, respectively the court proceedings are located in different places on the territory of the country or outside the country in order to give the bodies of the pre-trial proceedings and the court greater flexibility in the reproduction of evidence and means of proof in criminal proceedings.

The amendments to the Code of Civil Procedure, the Code of Administrative Procedure and the Code of Criminal Procedure in the field of videoconferencing are a consequence of the need to speed up civil, administrative and criminal proceedings and reduce the costs of their implementation. Last but not least, there is a need to update the legislation on evidence-gathering instruments. In view of the global processes and the workload of our judicial system, the application of videoconferencing in civil, administrative and criminal cases has serious potential.

III. Draft Law to Amend the Code of Civil Procedure, which regulates the electronic information system "National Register of Liens" in the Republic of Bulgaria, through which information on movable property with a registration regime, on which liens are imposed in enforcement cases, will be centralized in one database.

The main objective of the bill is to establish an information system serving the National Register of Liens, including a module for electronic public sale, and exchange of information electronically with other registers in order to develop electronic services provided to citizens and businesses. This objective corresponds to the one set in the Updated Roadmap for the implementation of the Updated Strategy for the Development of e-Government in the Republic of Bulgaria 2019 - 2023, strategic objective 1: Transforming the administration and public institutions into digital, specific objective 1.1. Ensuring interoperability by default - Measure 11 "Development and implementation of an electronic information system "National Register of Arrests".

The specific objectives are related to:

- transition to a fully centralized information system and database on seized items;
- providing an opportunity for electronic exchange of data in connection with the provision of information between eligible authorities and persons related to seized items;
- implementation of electronic services for automated access to the National Register of Arrests;
- providing access to databases and registers, for providing real-time up-to-date information for the description of the seized property and all elements related to the lien, which determine its imposition;
- guaranteeing not only the moment of surprise in case of lien (entry of real-time circumstances in the register and continuous access to the information in it), but also prevention of the possibility to dispose of the property due to its identification as seized at the time of action by the competent authority;
- providing an opportunity for real-time notification by electronic means to the interested parties, in case of imposition and change of the circumstances regarding the lien;
- providing an opportunity for notifying eligible authorities and persons in case of lien, in order to take the appropriate actions within its competence.

The project will contribute to the development of electronic services that are provided to citizens and businesses, as well as provide an opportunity for interaction between systems when checking for lien of property of a person. This will achieve maximum information of citizens, businesses and government agencies, will reduce the ability to dispose of seized items.

The construction of an information system serving the National Register of Arrests, including the system for electronic public auctions, will have a number of positive effects on the activity of the judicial system in our country.

The results that will be expected to be achieved with the introduction of the envisaged regulatory changes are the following:

- creation of a unified database of liens imposed on all movables that are subject to registration under special laws;

- providing an opportunity to inform the rightful bodies and persons about the imposed lien, by electronic notification;

- increasing the transparency between the interested parties (creditors, creditors, bailiffs, banks, trustees in bankruptcy, members of companies, holders of securities, etc.) by providing electronic access to the information in the register;

- increasing the security of the civil turnover through the possibility for inspection by the parties before concluding a transfer transaction regarding the property;

- providing an opportunity for quick and reliable inquiries when examining the condition of the property of commercial companies, for the purpose of acquisition and merger operations, as well as when checking the creditworthiness of companies;

- public and publicly available information on the liens of movable property will allow for quick and reliable inquiries in the study of the condition of the property of companies, sole traders and unlimited liability partners, for the purposes of insolvency proceedings.

The proposed draft Law to Supplement the Civil Procedure Act stipulates that through the information system National Register of Liens the Ministry of Justice will provide electronic administrative services to each person in compliance with the requirements of the Electronic Government Act. The bill also provides for 6 months from its entry into force amendments to Tariff № 1 to the State Fees Act for fees collected by Courts, the Prosecutor's Office, Investigation Services and the Ministry of Justice, adopted by Decree № 167 of the Council of Ministers, adopted by Decree № 167 of the Council of Ministers of 1992. The manner of using the services will be regulated in the ordinance envisaged to be issued within 6 months from the entry into force of the law.

The bill was approved by Decision № 63 of the Council of Ministers of 21 January 2021 and submitted to the 44th National Assembly on the same date, where it was adopted at the first vote in the plenary hall (plenary session of 24 February 2021).

Due to the expiration of the mandate of the 44th National Assembly, the draft law amending the Code of Civil Procedure was not considered in a second vote in plenary.

Given the short existence of the 45th and 46th National Assemblies, no repeated actions have been taken to submit the bill through the Council of Ministers.

The Ministry of Justice has prepared a set of documents regarding a draft Decision of the Council of Ministers approving a draft law to supplement the Code of Civil Procedure, which was sent on the basis of Art. 32, para. 1 of the Rules of Procedure of the Council of Ministers and its administration for re-approval.

At the moment, the received notes and proposals on the bill are reflected, after which it will be submitted to the Council of Ministers for approval and sending to the National Assembly for adoption in accordance with the relevant procedure.

IV. Law to Amend the Judicial System Act (promulgated, SG, issue No. 86 of 2020), which create regulations for:

1. The Automated Information System (AIS) "Unified Register of Experts", which contains the data entered in the lists of specialists approved as experts. The AIS "Unified Register of Experts" creates an opportunity for the bodies of pre-trial and judicial proceedings to quickly and easily find experts with appropriate specialty to prepare the necessary expertise. Through the establishment and implementation of a single national register, a convenient interface for the selection of experts is created on the basis of set criteria in need of specific expertise and level of knowledge.

The reason that justifies the proposed change is to create an opportunity for the bodies of pre-trial and court proceedings to quickly and easily find experts with appropriate specialty to prepare the necessary expertise.

The information system "Unified Register of Experts" is a centralized database and consists of public and non-public part.

2. The Information System of Enforcement (ISSI) in the Republic of Bulgaria, through which the information on the movement of enforcement cases is centralized in a unified database. The system will be available to every user in the country or abroad. The main purpose of the law is to provide centralized electronic access to data on the formation, movement and completion of enforcement cases in the Republic of Bulgaria as the beginning of the process of building an effective, secure and coherent electronic environment of the enforcement process.

14. Concerning the promotion of judges and prosecutors, you indicated that a working group is formed to draft amendments of the Judicial System Act including inter alia on improving the procedure for competitions and making changes to the institute of secondments. Could you please elaborate on the results?

The information provided in relation to question 7 in the respective section is relevant.

<u>On Anti-corruption framework</u>

1. With respect to the announced amendments to the legislation to determine the powers of the independent Anti-corruption commission, could you please elaborate on the envisaged nomination and appointment process for its chairman and members?

The Anti-Corruption Body should be headed by members elected by the National Assembly, and their removal will be again by the National Assembly, but only on limited grounds, such as gross violation, conviction, serious illness, etc.

The Anti-Corruption Body and its members will report to the National Assembly.

- As set out in the Agreement on Joint Governance of the Republic of Bulgaria in the period 2021-2025, the Bulgarian government is determined to strengthen the activities of anti-corruption bodies, as one of the planned measures is to reform the activities and structure of CACIAF The same measure is included as a reform in the National Recovery and Resilience Plan.
- The measure will be achieved through the practical introduction of the legislation, with a focus on ensuring the functioning of the Anti-Corruption Commission. This will include elements such as the appointment of management, the selection and allocation of appropriate human, financial and technical resources, etc.
- We envisage the anti-corruption body to be headed by members elected by the National Assembly, and their removal will be again by the National Assembly, but only on limited grounds, such as gross violation, conviction, serious illness, etc.
- The Anti-Corruption Body and its members will report to the National Assembly as follows:

– Quarterly reports to the Standing Anti-Corruption Commission of the National Assembly;
– Substantiated allegations of corruption to be sent by the Committee on Prevention and Counteraction to Corruption in the National Assembly to the Anti-Corruption Commission/Unit;
– The Committee on Prevention and Counteraction to Corruption in the National Assembly will be able to hear the leadership of the Anti-Corruption Commission/Unit upon request.

2. Could you update on the implementation results of the anti-corruption strategy for 2021-2027 (adopted in March 2021), in terms of number, type of actions taken, and kind and level of sector/s involved?

Some of the measures of the Anti-Corruption Strategy for the period 2021-2027 have been formulated and as stages of the National Recovery and Resilience Plan measures aimed at combating corruption with a horizon of implementation until 2026 are envisaged.

- The strategy includes seven priorities and measures to them - Strengthening the capacity and increasing transparency in the work of anti-corruption bodies and units; Counteraction to corruption crimes; Strengthening the capacity and improving the work of the bodies in charge of control and sanctioning powers in the administration; Increasing the transparency and accountability of local government; Freeing citizens from "petty" corruption; Creating an environment for public intolerance of corruption; Timely response to the need to update the anti-corruption measures set out in the National Strategy for Prevention and Counteraction to Corruption, including in response to recommendations made by international institutions.
- In order to strengthen the efforts aimed at combating corruption, as well as on the instructions of the European Commission, some of the measures of the Anti-Corruption Strategy for the period 2021-2027 are formulated and as stages of the **National Recovery and Resilience Plan aimed at combating corruption** with a horizon of implementation until 2026.
- In the plan we have set measures that will involve both the executive and public enterprises, and which measures are aimed at:
  - introduction of periodic independent analyses of the implementation of the National Strategy for Prevention and Counteraction to Corruption (2021-2027) and the Roadmap to it and annual reporting of progress to the European Commission within the horizontal mechanism for the rule of law;
  - strengthening the capacity and increasing the transparency of anti-corruption bodies/units;
  - strengthening the capacity of the ISJC to prevent and combat corruption among members of the judiciary and the establishment of an Advisory Board;
  - increasing the integrity of public administration employees and providing measures to prevent corrupt practices;
  - introduction of tools for counteracting corruption and promoting integrity in the work of public enterprises;
  - whistle-blowers' protection for signals for breaches of legislation through elaboration and adoption of legal regulations and preparation of a concept for regulation of lobbying and adoption of legislative measures.

3. It is indicated that the "National Corruption Prevention and Counteraction Strategy includes a total of 64 measures, of which 62 cover 6 major corruption risk, and 2 measures are aimed at publicity of the Ministry's efforts to prevent and combat corruption". Can you please clarify the type of measures?

This is the Anti-Corruption Plan of the Ministry of Interior for 2021.

4. Are there updates concerning possible amendments to the Criminal Code as to improve the efficiency of investigations and trials?

The Ministry of Justice is in the process of forming a working group for amendments to the CCP and JSA in implementation of judgements of convictions for deaths and violence caused by civil servants (police officers and prison staff), as well as the ineffective investigation of such acts.

Improving the efficiency of investigations and court proceedings requires legislative amendments, especially to the Criminal Code of Procedure.

Many of the problems of the criminal procedure in Bulgaria have been identified in the groups of judgements of the ECtHR S.Z./Kolevi and Velikova. The Roadmap for the implementation of the judgements of the ECtHR, adopted by the Council of Ministers Decision № 586/06.08.2021, included many issues related to the effectiveness of criminal proceedings. The Ministry of Interior has formed working groups to implement the measures in connection with violations of Art. 2 and 3 of the Convention (the right to life and the prohibition of torture inhuman and degrading treatment or punishment) due to the ineffective investigation of complaints against the actions of the police and other civil servants. The latest recommendations of the Committee of Ministers for the implementation of the Velikova group of judgements from December 2021 were sent by letter to the Minister of Justice to the Minister of Interior to be taken into account by the working groups.

At the same time, the Ministry of Justice is in the process of forming a working group to amend the Criminal Code of Procedure and the JSA in implementation of the above-mentioned judgements of convictions and the recommendations of the Committee of Ministers for reform in the criminal process.

The National Recovery and Resilience Plan also included some of these issues in the form of effective criminal justice measures.

5. On the Prosecutor's Office, it is indicated that a working group, which should produce a methodological act for the application of the legislation related to the activities of the EPPO. Could you elaborate on this?

The issue should be raised at the meeting with the Prosecutor General

According to information received from the Prosecutor's Office of the Republic of Bulgaria, by order RD-02-01/09.02.2022 of the Prosecutor General in order to establish an organization to achieve timeliness and efficiency in conducting inspections and criminal proceedings related to crimes affecting financial interests of the European Union and unification of prosecutorial practice in these cases and to ensure interaction with the European Public Prosecutor's Office, as required by Council Regulation № 2017/1939 establishing enhanced cooperation for the establishment of a European Public Prosecutor's Office and in accordance with the Notification of the Ministry of Justice under Art. 117 of the Regulation, which determines the bodies competent for the purposes of its implementation, an Instruction on the organization of the activity of the Prosecutor's Office of the Republic of Bulgaria in files and cases related to crimes affecting the financial interests of the European Union and on the interaction with the European Prosecutor's Office has been approved.

a) What are the latest legislative update concerning the legislation on lobbying and the law on the protection for whistleblowers?

The composition of the working group is to be updated, which will study the good European practices and prepare a concept for the regulation of lobbying by 6 November 2022.

A draft law has been drafted on the protection of whistle-blowers or persons publicly disclosing information on breaches. A comprehensive preliminary impact assessment is to be carried out and a public discussion and inter-ministerial coordination will be launched. The draft is proposed for inclusion in the legislative program of the Council of Ministers for the first half of 2022.

Regarding the issue of legislation on lobbying: By Order № LS-13-19/19.02.2021 of the Minister of Justice an interdepartmental working group was established with the task to study the good European practices and to prepare by November 6, 2022 concept for the regulation of lobbying in accordance with the recommendations and standards of the EC, Recommendation CM/Rec(2017)2 of the Council of Europe Committee of Ministers to the Member States on the regulation of lobbying activities in the context of public decision-making served as a basis for drafting a bill in implementation of measure 19 of section II "Legal framework for combating corruption" of Annex to item 1 to Decision of the Council of Ministers № 806 of 6 November 2020 approving the Implementation Plan of measures in response to the recommendations and identified challenges contained in the European Commission's Report of 30 September 2020 on the 2020 Rule of law, the rule of law situation in Bulgaria, and to organize public consultations on the concept. In order to fulfill the task of the working group, the following materials have been translated from English into Bulgarian:

1. Recommendation CM/Rec(2017)2 of the Council of Europe Committee of Ministers to the Member States on the legal regulation of lobbying activities in the context of public decision-making;
2. Explanatory Memorandum to Recommendation CM/Rec(2017)2;
3. Council Recommendation on the principles for transparency and integrity in lobbying.

In view of the dynamic political situation in the previous year and the existence of caretaker governments, the working group has not been active. The composition of the working group is to be updated and a new leader is to be appointed.

Regarding the draft law on the protection of whistle blowers: By Order № LS-13-76/25.06.2021 of the Minister of Justice an interdepartmental working group was established with the task to prepare the necessary amendments and supplements for transposition into national law of the requirements of Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law. On 16.09.2021 on the Portal for public consultations and on the website of the Ministry of Justice were published a Consultation document on a draft law on the protection of whistle-blowers or persons publicly disclosing information on breaches and structure of the bill.

At present, a draft law has been drafted on the protection of whistle blowers or persons publicly disclosing information on breaches. A comprehensive preliminary impact assessment is to be carried out, after which the procedures for public discussion and interdepartmental coordination will be launched. The draft is proposed for inclusion in the legislative program of the Council of Ministers for the first half of 2022.

6. Concerning senior public officials (including ministers and mayors), members of the Parliament, could you kindly update on the implementation of ethical standards of conduct in terms of:

a) Number and type of cases generated (open, assessed and terminated, with or without sanctions);
b) Number and type of education, training or awareness raising events or initiatives taken;
c) Number and type of counselling, advices provided to senior officials (such as ministers, mayors, members of the Parliament, members of the judiciary or police force), including the most recurrent/important topics

<u>On other issues related to checks and balances</u>

1. New requirements in the Rules of Organization and Procedure of the National Assembly provide for a public discussion and an assessment of expected consequences of the future law, including financial ones. Where such consequences are identified, could you please explain how is it ensured that legislative changes do not unnecessarily interfere with the acquired rights of those concerned? What types of transitional measures can be adopted (e.g. transitional arrangements after entry into force, e.g. adaptation period)?

2. Could you inform us about the state of play of the process for setting up the Post-Monitoring Mechanism centred in a Coordination and Cooperation Council? More particularly, we have read in your input that the NGO is now reinstated as member of the Council. Could you inform us as to any development?

The Citizens' Council may be formed upon assigning a Deputy Prime Minister overseeing the judicial reform. It will become operational upon the repeal of the 2006 EC Decision establishing the Cooperation and Verification Mechanism.

In order to avoid duplication of effort and optimal use of resources, cooperation to ensure the rule of law should take place within the framework of the horizontal Rule of Law Mechanism.

- As a result of the decision of the Supreme Administrative Court, which entered into force on 01.01.2022, repealing the act of the Minister of Justice in the form of an announcement on the website of the Ministry of Justice, the election of the NGOs determined by lot is respected, namely the Bulgarian Institute for Legal Initiatives Foundation, the Bulgarian Chamber of Commerce and Industry Association and the Transparency International Association, which should be included in the Citizens' Council with the Coordination and Cooperation Council.
- This ensures the constitution of the Citizens' Council of the Council as a whole, which is attended by up to 8 members, including one representative of an organization with experience in preventing and combating corruption, one representative of an organization with experience in judicial reform and one representative of the employers' organizations recognized at national level.
- According to Art. 7, para. 13 of the Council of Ministers Decree № 240/2019, the members of the Civil Council should be determined by an order of the two co-chairs of the Council, who according to Art. 6, para. 1 of the decree are the Deputy Prime Minister overseeing judicial reform and the representative of the Supreme Judicial Council. To date, a Deputy Prime Minister overseeing the judicial reform has not being assigned and the relevant responsibilities are vested with the Minister of Justice. Upon such a development, the Strategic Development and Programs Directorate (acting as the secretariat of the Coordination and Cooperation Council) will take the necessary organizational action to finalize the procedure.
- The lack of an established Citizens' Council does not prevent the functioning of the Council. In accordance with the transitional and final provisions (§ 5) of Decree № 240 of 24 September 2019 establishing a National Mechanism for Monitoring the Fight against Corruption and Organized Crime, Judicial Reform and the Rule of Law and the Coordination and Cooperation Council, the Council began its work with the entry into force of the repeal of the European Commission Decision of 13 December 2006 establishing a Cooperation and Verification Mechanism of progress in Bulgaria to address specific benchmarks in the areas of judicial reform and the fight against corruption and organized crime. To date, no repeal of the European Commission's decision has been initiated.

- Although the EC has repeatedly confirmed that co-operation with Bulgaria will take place only within the framework of the EU's new horizontal rule of law mechanism, the CVM has not yet been formally repealed. The existence of such a "gray zone" is not to the benefit of Bulgaria, the other Member States and the EC. In this regard, we expect the EC to proceed with the annulment of the Decision establishing of the CVM. Attention needs to be focused on the effectiveness and results of measures aimed at guaranteeing the rule of law.
- The Ministry of Justice considers the horizontal Rule of Law Mechanism to be an important tool that contributes to consolidating the rule of law in the EU and exchanging good practices between Member States. We note the importance of the second annual report on the horizontal Rule of Law mechanism for the development of civil society in Bulgaria, as well as the extremely important role in significant processes to strengthen the independence of the judiciary and to strengthen the rule of law. In Bulgaria, there is a Council for Civil Society Development with competences for the development and implementation of policies in support of civil society in order to ensure effective cooperation and sustainable interaction between the state and civil society. According to the Decision of the Council of Ministers of 16 February 2022, the Council is chaired by the Deputy Prime Minister for Good Governance and includes 14 NGOs with a term of 3 years. In this context, we continue our determined efforts for active cooperation and dialogue with representatives of civil society in the decision-making process.

3. Could you elaborate on any improvements regarding the stakeholder consultation and impact assessment in the decision-making process?