

2024 Rule of Law Report - targeted stakeholder consultation

Fields marked with * are mandatory.

Introduction

The annual Rule of Law Report lies at the centre of the Annual Rule of Law Cycle, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues. So far, four editions of the Rule of Law Report have been published in 2020, 2021, 2022 and 2023.

The Commission would like to invite stakeholders to provide contributions to the 2024 Rule of Law Report. This survey provides information on the type of information and topics that will be covered in the 2024 Rule of Law Report, in order to allow stakeholders to provide input. More targeted input may be requested at a later stage of preparation of the 2024 Rule of Law Report, including in the context of country visits, or bilateral contacts.

The 2024 Rule of Law Report will continue to deepen the assessment under the existing four pillars, and will also follow-up on the implementation of the recommendations to Member States, that were issued as part of the 2023 Rule of Law Report. The contribution to be provided should include **(1) information on measures taken to implement the recommendations addressed to the Member State in the 2023 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter and (2) any other significant developments since January 2023^[1] falling under the ‘type of information’ outlined in section II.**

The input should consist of a short summary, if possible in English, covering the areas referred to below. Legislation or other documents may be referenced with a link. Contributions should focus on significant developments since the last Rule of Law Report both as regards the legal framework and its implementation in practice.

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

Type of information

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

A) Legislative developments

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

B) Policy developments

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

C) Developments related to the judiciary / independent authorities

- Important case law by national courts
- Important decision/opinions from independent bodies/authorities
- State of play on terms, nominations and expired mandates for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, heads of independent authorities included in the scope of the questionnaire[2])

D) Any other relevant developments

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

Please also indicate whether the developments reported are linked to the implementation of reforms and investments under the RRP, where applicable.

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

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

About you

* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☒ Civil society organisation/NGO

- ☐ International organisation
- ☐ Judicial association or network
- ☐ Media organisation or association
- ☐ Public authority or network of public authorities
- ☐ Other

* Organisation name

250 character(s) maximum

Bulgarian Institute for Legal Initiatives Foundation (BILI)

Main Areas of Work

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

If "Other", please specify

good governance; parliamentary appointments; legislative process, civil society/education, whistle-blowing, lobbying

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

500 character(s) maximum

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

Transparency register number

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

* Country of origin

Please add the country of origin of your organisation

- ☐ Afghanistan
- ☐ Albania
- ☐ Algeria
- ☐ Andorra
- ☐ Angola
- ☐ Antigua and Barbuda

- ☐ Argentina
- ☐ Armenia
- ☐ Australia
- ☐ Austria
- ☐ Azerbaijan
- ☐ Bahamas
- ☐ Bahrain
- ☐ Bangladesh
- ☐ Barbados
- ☐ Belarus
- ☐ Belgium
- ☐ Belize
- ☐ Benin
- ☐ Bhutan
- ☐ Bolivia
- ☐ Bosnia and Herzegovina
- ☐ Botswana
- ☐ Brazil
- ☐ Brunei Darussalam
- ☒ Bulgaria
- ☐ Burkina Faso
- ☐ Burundi
- ☐ Cabo Verde
- ☐ Cambodia
- ☐ Cameroon
- ☐ Canada
- ☐ Central African Republic
- ☐ Chad
- ☐ Chile
- ☐ China
- ☐ Colombia
- ☐ Comoros
- ☐ Congo
- ☐ Costa Rica
- ☐ Côte D'Ivoire
- ☐ Croatia
- ☐ Cuba
- ☐ Cyprus
- ☐ Czechia
- ☐ Democratic Republic of the Congo
- ☐ Denmark
- ☐ Djibouti
- ☐ Dominica
- ☐ Dominican Republic
- ☐ Ecuador
- ☐ Egypt
- ☐ El Salvador

- ☐ Equatorial Guinea
- ☐ Eritrea
- ☐ Estonia
- ☐ Eswatini
- ☐ Ethiopia
- ☐ Fiji
- ☐ Finland
- ☐ France
- ☐ Gabon
- ☐ Gambia
- ☐ Georgia
- ☐ Germany
- ☐ Ghana
- ☐ Greece
- ☐ Grenada
- ☐ Guatemala
- ☐ Guinea
- ☐ Guinea Bissau
- ☐ Guyana
- ☐ Haiti
- ☐ Honduras
- ☐ Hungary
- ☐ Iceland
- ☐ India
- ☐ Indonesia
- ☐ Iran
- ☐ Iraq
- ☐ Ireland
- ☐ Israel
- ☐ Italy
- ☐ Jamaica
- ☐ Japan
- ☐ Jordan
- ☐ Kazakhstan
- ☐ Kenya
- ☐ Kiribati
- ☐ Kuwait
- ☐ Kyrgyzstan
- ☐ Laos
- ☐ Latvia
- ☐ Lebanon
- ☐ Lesotho
- ☐ Liberia
- ☐ Libya
- ☐ Liechtenstein
- ☐ Lithuania
- ☐ Luxembourg

- ☐ Madagascar
- ☐ Malawi
- ☐ Malaysia
- ☐ Maldives
- ☐ Mali
- ☐ Malta
- ☐ Marshall Islands
- ☐ Mauritania
- ☐ Mauritius
- ☐ Mexico
- ☐ Micronesia
- ☐ Monaco
- ☐ Mongolia
- ☐ Montenegro
- ☐ Morocco
- ☐ Mozambique
- ☐ Myanmar
- ☐ Namibia
- ☐ Nauru
- ☐ Nepal
- ☐ Netherlands
- ☐ New Zealand
- ☐ Nicaragua
- ☐ Niger
- ☐ Nigeria
- ☐ North Korea
- ☐ North Macedonia
- ☐ Norway
- ☐ Oman
- ☐ Pakistan
- ☐ Palau
- ☐ Panama
- ☐ Papua New Guinea
- ☐ Paraguay
- ☐ Peru
- ☐ Philippines
- ☐ Poland
- ☐ Portugal
- ☐ Qatar
- ☐ Republic of Moldova
- ☐ Romania
- ☐ Russian Federation
- ☐ Rwanda
- ☐ Saint Kitts and Nevis
- ☐ Saint Lucia
- ☐ Saint Vincent and the Grenadines
- ☐ Samoa

- ☐ San Marino
- ☐ Sao Tome and Principe
- ☐ Saudi Arabia
- ☐ Senegal
- ☐ Serbia
- ☐ Seychelles
- ☐ Sierra Leone
- ☐ Singapore
- ☐ Slovakia
- ☐ Slovenia
- ☐ Solomon Islands
- ☐ Somalia
- ☐ South Africa
- ☐ South Korea
- ☐ South Sudan
- ☐ Spain
- ☐ Sri Lanka
- ☐ Sudan
- ☐ Suriname
- ☐ Sweden
- ☐ Switzerland
- ☐ Syrian Arab Republic
- ☐ Tajikistan
- ☐ Tanzania
- ☐ Thailand
- ☐ Timor-Leste
- ☐ Togo
- ☐ Tonga
- ☐ Trinidad and Tobago
- ☐ Tunisia
- ☐ Turkey
- ☐ Turkmenistan
- ☐ Tuvalu
- ☐ Uganda
- ☐ Ukraine
- ☐ United Arab Emirates
- ☐ United Kingdom
- ☐ United States of America
- ☐ Uruguay
- ☐ Uzbekistan
- ☐ Vanuatu
- ☐ Venezuela
- ☐ Viet Nam
- ☐ Yemen
- ☐ Zambia
- ☐ Zimbabwe

First name

Bilyana

Surname

Gyaurova-Wegertseder

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

* Publication of your contribution and privacy settings

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

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

☒ I agree with the personal data protection provisions.

[Specific privacy statement targeted stakeholder consultation 2024 rule of law report.pdf](#)

Questions on horizontal developments

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

Overview topics for contribution

[List of topics 2024 RoL Report.pdf](#)

Please provide any relevant information on horizontal developments here

5000 character(s) maximum

Questions for contribution

The following four pillars (I.-IV.) are sub-divided into topics (A., B., etc.) and sub-topics (1., 2., 3., etc.). For each of the topics and sub-topics, you are invited to provide (1) information on measures taken to implement the recommendations addressed to the Member State in the 2023 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter of the 2023 Rule of Law Report and (2) any other significant developments since January 2023[3]. Please always include a link to and reference relevant legislation/documents (in the national language and/or where available, in English). Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices.

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

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

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

Member State covered in contribution [only one choice possible]

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

- ☐ Austria
- ☐ Belgium
- ☒ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary
- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Malta
- ☐ Netherlands
- ☐ Poland
- ☐ Portugal

- ☐ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☐ Spain
- ☐ Sweden

I. Justice System

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

5000 character(s) maximum

Almost the whole year of 2023 was marked by the discussions and negotiations related to the changes and amendments to the Constitution. The 6th amendment has become a fact at the end of 2023 and it is yet to be seen how the texts related to the judiciary will be implemented in practice and in the additional changes to be made in the Judicial System Act and other relevant acts. There is a working group within the MoJ which is tasked with providing further details on the constitutional texts. It is supposed to finish the work by February 29, 2024. In the light of this, it can be said that the implementation of the recommendations from the last years' report is a work in progress. At the same time, it is important to notice that the adopted changes to the Constitution have already been challenged at the Constitutional Court by the President and by some of the parties which are in opposition in the parliament. The challenges do not stop the functioning of the changes and amendments, however, one can't predict how the Constitutional Court will rule. Another important notice in this regard is that the CC is not bound by any terms. The first step for it is to decide on the admissibility of the claims.

A. Independence

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

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

5000 character(s) maximum

There were no legislative changes thereof, however, the year was marked by the preterm ending of the mandate of the Prosecutor General (PG) Mr. Geshev. It created a chilling effect among the rank and file prosecutors, as it showed that: 1. the SJC is still very much influenced by the political establishment; 2. there is no need of solid legal arguments to basically eliminate a person on one of the top leadership positions in the judiciary and 3. everything can happen very quickly if a person becomes politically unacceptable. The election or better said the appointment of the interim PG which happened very quickly and with almost no debate, created tension and led to the fact that the Minister of Justice appealed the election at the Supreme Administrative Court. The court did not hear the case as it came to the conclusion that the minister does not have a legal interest to appeal the decision of the prosecutorial college at the SJC. No other significant appointments were made. It is worth mentioning that the SJC elected the Bulgarian representative and its deputy to Eurojust. It was a surprise that the person elected is an investigator from the National Investigation Office and her deputy is a European delegated prosecutor.

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

5000 character(s) maximum

Secondment of judges continues to be a problem and last year it created tension in the system. The reason for this was the way a number of judges, mainly from the Sofia City Court were seconded to the Sofia Appellate court. It has to be mentioned that the law does not provide for a detailed regulation of the way secondment should be made, so it is much to the discretion of presidents of courts. Over the years this instrument was often used to "punish" judges, keep them dependent or "award" ones who have served the establishment in the system. The problematic with the Sofia Appellate court is that more than 1/3 of the judges there are seconded and some of them are in this position for more than 10 years now. The tension led to the judges from Sofia City Court sending a letter to the President of the Supreme Court of Cassation requesting that the latter initiates a check on the Appellate court on how transfers are made. A commission of 3 judges from the SCC was formed to perform the check. This happened in October and in December it came up with a report confirming that there are some "strange" practices in the Appellate court related to the secondment procedure which might raise questions as to the independence of the seconded judges. The report concludes with recommendations and it is yet to be seen if the President of the Appellate court will take them under consideration. Irremovability of magistrates is still the same - it is received after 5 years in service. It is known that GRECO has a recommendation to shorten this period to 3 years, but this is not considered an issue for the system.

Promotion of judges and prosecutors (incl. judicial review)

5000 character(s) maximum

There are no legislative changes with regard to promotions. As mentioned in the information about the secondment, this instrument is used to get promoted in the system circumventing the competition. It is still very much used, especially because it falls under the sole discretion of the administrative managers of courts and prosecution offices. There is also one very pragmatical circumstance for this - competitions in the system are not organized on a regular basis and this has been a long standing problem in the system. Especially notable were two competitions for promotion for the judges in the civil and penal college at the Supreme Court of Cassation. The one for the penal college was announced back in 2022 and 53 judges applied for 6 places. The results were announced in August 2023. The competition for the civil college is still running. One of the critiques with regard to these types of competitions is that it takes quite a long time from the beginning until the end of the competition and the process should be organized in a better way. There were legislative changes prepared by a working group at the Ministry of Justice which, among others, cover also the competitions. However, they have to be introduced to the parliament and they will for sure undergo some additional corrections, as they have to correspond to the constitutional changes.

Allocation of cases in courts

5000 character(s) maximum

Couple of developments in this sphere. As of the beginning of this year the specialized informational software of the administrative courts will cover all such courts with the exception of the Sofia City Administrative Court (SCAC). The system started operating first in the SAC in the beginning of 2022 and was introduced in a step by step basis to the other administrative courts. It is expected that it will start working in the SCAC by the end of this year. Last year changes and amendments to the JSA were adopted introducing the development of a brand new software system for an integrated case assignment. It shall be relevant to all courts in the country and also allow the inclusion of the cases related to a potential crime perpetrated by the PG and his/hers deputies. An emergency case occurred at the end of 2023 when it became clear that the contract with the company maintaining within the guarantee the random case assignment software has expired and the maintenance can be ceased. At present there is a temporary contract signed for an out of guarantee maintenance of the system. Last, but not least, at a meeting of the Judges College at the end of 2023, an information was presented indicating a problem in the assignment system. Moreover, it was explained that when a judge is on a longer leave and returns to the bench, the system allocates to that judge automatically a lot of cases and that blocks his/hers work. A working group was formed at the Supreme Court of Cassation that will further research on the issue and present solutions and suggestions by the end of January 2024.

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

5000 character(s) maximum

As already mentioned, the most significant reform related to the SJC was the 6th amendment to the Constitution. It separated the SJC into SJC and Supreme Prosecutors Council (SPC). The mandate of its members will be 4 years. The SJC has now 15 members with majority of judges elected by judges (8) and 5 elected by the parliament, the Presidents of the 2 supreme courts remain the ex officio members. The SPC will have 10 members with the majority of 6 elected by the parliament. This is one of the most criticized changes as it shifts completely the balance within the SPC and in theory the members of the parliamentary quota can elect the next Prosecutor General (PG). The new structure of both councils guarantees full independence of the SJC to the extend that it can lead to an encapsulation of these professionals (a potential problem indicated also in the last Opinion of the Venice Commission) and a strong political interference in the SPC. At present, there is a working group at the Ministry of Justice tasked with drafting in further details texts in a new Judicial System Act that shall correspond to the changes in the Constitution. Among others, these have to arrange the rights and obligations of the two new councils, as well as the rights of the so called General Assembly of both councils which will be serving as a bridge between SJC and SPC and has to deal with issues that are common for judges, prosecutors and investigators. Currently, there is also a debate among the members of the acting SJC, whether they can continue to operate in their capacity or should wait for the new law. Opinions differ, nevertheless, they should take a decision, because if they don't continue with their work, this, at some point, will lead to a blockage of the system and all processes related to administering the judiciary.

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

5000 character(s) maximum

One important development to be mentioned here is related to the ethical rules for judges, prosecutors and investigators. Up until 2009, there were separate such rules for the different branches in the judiciary. In 2009 they were combined in an Unified Code of Ethics for Judges, Prosecutors and Investigators. The code was in place until the end of October 2023 when, following changes and amendments to the Judicial System Act, the plenary of the SJC adopted two separate Code of Ethics - one for the judges and another one for the prosecutors and investigators. This was a welcomed change, as they possess different rights and obligations within the system, therefore, facing different ethical dilemmas and issues. What can be evaluated as a negative part of the process is, that it is not known who drafted the two codes; the professional organizations of the magistrates were not involved in the process. Even more, the draft of the codes were not published on the website of the SJC for public consultations; there is also no information if the drafts were internally discussed at a meeting of the Partnership Council within the SJC. All this is an indicator that the system does not take such important instruments seriously and underestimates their effect for the overall improvement of the environment in the judiciary.

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

5000 character(s) maximum

There is no development/change in the system related to this topic. As indicated in the previous contributions, it is a problematic area as the gap among the instances is big. BILI has developed and suggested 4 economic models on how to close it, but it looks like there is no desire within the current SJC to change the situation. At the same time it continues to raise tension in the system, especially at the end of the year when the SJC distributes the so called bonuses. Criteria is still not very clear as well as how the council manages to make such savings in order to distribute them as bonuses. There are different speculations about this, among others that savings are made from free places for magistrates or from not used capital expenditures. Again, the latest changes and amendments in the Constitution will influence also this issue as it calls for a more clear separation of the budgets of the different branches of the system.

Independence/autonomy of the prosecution service

5000 character(s) maximum

As already mentioned, last year was marked by two major events related to the prosecution: the dismissal of Mr. Geshev as a PG and the adoption and enforcement of the changes and amendments to the Constitution that make significant reshuffling in the institution of the prosecution and the PG. It needs to be mentioned that earlier in the year, the parliament finally adopted the long awaited changes and amendments to the SJC and the Criminal Procedure Code, introducing a procedure for investigation and prosecution against the PG and his/hers deputies in cases of suspicion for a crime. This is Bulgaria's response to the ECHR Decision on the "Kolevi vs Bulgaria" case which raised back in 2009 the important question about the untouchable Prosecutor General. The positive news around this significant legislative achievement were somehow shadowed by the fact that later, similar texts were adopted in the 6th amendment to the Constitution. The opinion of most of the experts is that such regulation should not be part of the constitutional framework. Nevertheless, there is a judge from the Supreme Court of Cassation who was elected as an ad hoc prosecutor and she has started her work. With regard to the Constitution - during the discussions accompanying the constitutional changes not only members of the prosecution and penal experts, but also MPs, constitutionals and other professionals have criticized the suggested changes as such that capture politically the prosecution. It will be difficult to talk about the autonomy of the prosecution service as at present its supreme administrative body will be composed by an absolute majority of people elected by the parliament. There is an opportunity left for judges to be elected as members of the Supreme Prosecution Council, however, it is yet to be seen what the parliamentary nominations will be. One can't really say that last year has presented bright examples of prosecutorial autonomy. The impact of the constitutional changes is unclear, especially having in mind that a new PG has to be elected this year.

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

5000 character(s) maximum

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

5000 character(s) maximum

See all of the above regarding the 6th amendment to the Constitution in Chapter 6 "Judicial power". As during the process of their drafting and adoption, it was not explained in a clear and sound way why exactly these amendments are important, why now and why the parliament is hurrying up with them, it remains in the domain mainly of the politicians to continue trying to explain this. BILI did a national representative survey form which it is obvious that the changes and amendments to the Constitution were not among the priorities of the public agenda. See more at: http://www.bili-bg.org/cdir/bili-bg.org/files/BILI_CONSTITUTION_ENG.pdf

B. Quality of justice

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

2)

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

5000 character(s) maximum

As to language and court fees, there are no normative and/or practical changes since the last report. Perhaps the biggest development with regard to accessibility is related to the incorporation of voice to text module in the BG courts. This was a project started in 2019 & was implemented by the SJC. In September 2023 the Plenary of the SJC decided to start including the software in the courts. It has an AI component which allows self-educating and self-improvement. It is envisioned that other state institutions will also use it, mainly such from the Ministry of Interior, Council of Ministers, parliament and others. Additional changes were made to the Legal Aid law broadening it to international civic disputes related to whistleblowing cases (Bulgaria transposed the EU Directive 1937/2019 in 2023 with a separate law). An important change is also the opportunity to request legal aid on domestic violence cases upon discretion of the court.

Resources of the judiciary (human/financial/material)

(Material resources refer e.g. to court buildings and other facilities. Financial resources include salaries of staff in courts and prosecution offices.)

5000 character(s) maximum

The judicial system required for a second year in a row a budget which goes beyond 1 billion BGN. It was cut a little bit, but still it is the largest one together with this for the Ministry of Interior. As also mentioned in the previous contribution, the biggest portion goes for remunerations of magistrates and judicial personnel. The overall perception is that the BG judiciary is well equipped when it comes to resources regardless of the type. The Bulgarian magistrates continue to be among the highest paid state employees in the country and as already mentioned, there are issues related to the big gap in the payments of salaries among the instances. The changes in the Constitution are calling now for a deeper separation of the budgets for the judges/courts and the prosecutors/investigators/prosecution and investigation offices. The pressure to finally start implementing a real programmatic budget is also higher, but it looks like this will not happen this year, at least until not a new membership for the SJC and SPC is elected.

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

The SJC is collecting statistics providing data for the operations in the system, caseload and case management. BILI is not aware, though, of the use of assessment tools among court users and other legal professionals. Some years ago, the MoJ has adopted a methodology to do this, but we have not seen it being implemented beyond the time frame of the project which supported its development. So far, BILI remains among the very few, if not the only, CSO that is doing targeted judicial sociology, including such related to customer satisfaction. We have been advocating for regular performance of such surveys, as they can significantly contribute to the raising of the level of trust in the judiciary, as well as show specific tendencies and challenges.

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

5000 character(s) maximum

C. Efficiency of the justice system

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)

Length of proceedings

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

As mentioned in the last years's contribution, a draft law introducing mandatory mediation on pending cases in the court has been adopted and enforcement shall be on July 1, 2024. Until then the SJC needs to develop secondary legislation and ensure that court will have the space and other equipment necessary to be able to refer cases to a mandatory first mediation meeting. The regulations for training and selection of mediators and organization of the work related to this are also adopted. All the way, the Supreme Bar Council has been objecting the changes, claiming even that they are again the Constitution. So far, it has not challenged them in front of the Constitutional Court. This change is considered a positive one as it will decrease the caseload, especially in the bigger courts and at the same time will provide parties and their lawyers with an opportunity to resolve the case in an amicable way. It will save time and money, as the mediators will be paid by the budget of the judiciary for the first 3 hours of mediation. There is also a working group at the Ministry of Justice which has to draft additional changes and amendments to the Mediation Act related to the out of court mediation, including an improved quality control over the work of the mediators and the mediation centers and possibly the creation of a body which will be responsible for the organization of the mediators in the country. A rather disturbing issue is worth mentioning and it is related to the elections of members to the SJC from the professional quota carried out back in 2022. The elections were appealed by some judges claiming that there were some irregularities related to the e-voting system. A mixed panel by judges from the SCC and the SAC ruled against the claim. One element was particularly disturbing, namely the fact that more than 200 judges have voted from the same IP (the same computer) in the building of the SAC. The claimants have requested information about this fact from the MoJ using the Access to Public Information Act, but did not get an answer. After the formation of the regular government, the information was requested again and it showed that not more than 20 something judges have entered the building of the SAC in the days and times of the voting. This official information contradicts to the previous statements of both the caretaker composition of the MoJ and the President of the SAC. This has led the Bulgarian Judges Association to publish in November 2023 a statement appealing that the SJC performs a separate check up on the topic and the prosecution acts too. In fact the prosecution has initiated a check up to see if there is a computer crime perpetrated, but so far there are no results from this check up. The BJA has called for the introduction of machine voting when the time for the next elections comes (most probably in the fall of 2024). The plenary of the SJC had a separate meeting to discuss the issue at which people from the company which owns the machines for parliamentary and local elections were invited. The president of the SAC is even calling for the development of a new software for the e-voting. To this meeting were also invited the Head of the BJA and the attorney on the case from 2022. However, after waiting for more than 4 hours, the plenary of the SJC voting against hearing their statement and opinion. The issue is of crucial importance as it not only undermines the trust in the voting system, but it undermines the very understanding about the independence of the judiciary in all its actions and especially when it selects the people who will be taking the important administrative and personnel issues for the system.

II. Anti-Corruption Framework

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

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

5000 character(s) maximum

It is also difficult to say that the other recommendations which are not related to the judiciary have been adhered to. The new Anti-corruption law was adopted, however, the leadership of the new Commission for Prevention of Corruption is not elected, there is even no procedure initiated at the parliament. The deadline expired on January 6. Furthermore, there is also no piece of legislation regulating the asset forfeiture as at present the previously existing one body is divided into two new ones. Finally, there is no track-record "of prosecution and final judgments in high-level corruption cases including through the institutional reforms of the Anti-Corruption Commission". On the contrary, after the dismissal of Mr. Geshev from the position of PG, the interim one has not clearly showed that the prosecution will improve its efficiency and effectiveness thereof. It was recently that the public learned that emblematic investigations like "Barcelonagate" have been watered down by the prosecution.

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

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

5000 character(s) maximum

In the fall of 2023 the parliament adopted yet another piece of legislation related to tackling corruption - the new Law on Prevention of Corruption. It is meant to bring order in the chaos of anticorruption regulation in BG. It creates a new Commission for Prevention of Corruption and separates the current one into two bodies. The new Commission will deal with conflict of interest; high-level corruption and asset declarations, as well as preventative measures. However, the parliament failed to elect the members of the Commission and its Head although the deadline has expired. It needs to be said that at present the Anti-corruption Commission is operating outside its mandate and is not separated as the new law prescribes. This hampers effective work related to combating corruption. At the same time, the Head of the current Commission has passed successfully the competition for prosecutors and has become a prosecutor. Currently, the competition has been appealed which stopped the execution of the decision for the prosecutors. A positive development is the fact that, according to the new law, there will be a special nomination commission which will review the candidates and present a report about all candidates to the parliament. The nomination commission has to also organize a public hearing before presenting the report to the leading parliamentary committee. Nominations can be made also by CSOs registered in public benefit. There is high expectation among society and experts that the Commission for Prevention of Corruption is formed as combating corruption was one of the main priorities of the current government. With regard to the European delegated prosecutors (EDP), in October 2023, the Prosecutorial College at the SJC elected the missing 7 EDP from the Bulgarian quota of 15.

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

5000 character(s) maximum

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

5000 character(s) maximum

In March 2021 the then government adopted the new National Strategy for Prevention and Combating Corruption 2021-2027. The turbulent political events from the last 2 years have led to little implementation of the Strategy. The current government announced an update of the Strategy at a meeting of the National Council on Anti-corruption policies. It is expected that the draft of the updated Strategy is put for public consultations.

B. Prevention

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

5000 character(s) maximum

The only recent development in this regard is that the Council of Ministers is going to create an inter-institutional working group tasked with drafting changes and amendments to the Law on the Administration and a Code of Ethics for High Public Officials. The establishment of the working group is meant as a direct response to the recommendations Bulgaria has received from the GRECO's fifth round of evaluation and the recommendations from the last years' RoL EC report. The group is supposed to finalize its work by the end of June 2024.

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

5000 character(s) maximum

Please see answers in Page "Other institutional issues"

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

5000 character(s) maximum

If available to you, for the three preceding questions, you are also invited to provide figures on their application, such as number of detected breaches/irregularities of the various rules in place and the follow-up given (investigations, sanctions, etc.).

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

5000 character(s) maximum

In January 2023 the Protection of Whistleblowers Act (PWA) was voted by the Bulgarian Parliament, as part of the requirements under the Bulgaria's Recovery and Resilience Plan. The legislation, officially called Act for Protection of Whistleblowers and Persons Publicly Signaling for Frauds, implements the provisions of Directive (EU)2019/1937, and provides for the very first time the local legal system with the notion of whistleblowing. The approach with one centralized institution, dealing with the administration and control

over whistleblowing, was chosen. This is the Personal Data Protection Commission (PDPC). The Commission has successfully coped several years ago with the task of introducing the strict GDPR and protection of personal data requirements, and its choice as the body, responsible for whistleblowing, seems quite appropriate. Especially, in the situation, where an active anticorruption agency has not been established yet. PDPC, however, suffers from the same deficiency as many regulative institutions within the Bulgarian Executive – the mandate of its managing body has expired 4 years and 8 months ago. PDPC, further developed the PWA's by-laws, prescribing in details the procedures for signaling. The by-laws introduce a special system for registration of all signals. It is called Unique Identical Number (UIN), and obliges any person, responsible for receiving signals for frauds, regardless of being part of internal or external channel, to register the signal on the servers of the Commission, as soon as gets the signal, and to submit relevant data (name of whistleblower; name of related company/institution; scope of the signal). Although the UIN system was developed to give PDPC the ability to follow cases in real time, it raises concerns among business entities and unions, who presumed that PDPC could become an institution, who legally, but not rightfully, would collect too much data, related to private business issues, even in cases, where no wrongdoings have been proven.

A probable weak side of PWA is that the possibility for anonymous signaling is not allowed, which raises questions whether there will be enough trust in society in the provisions of the Act. This, together with, the mentioned novelty of the whole idea of whistleblowing, makes the practical implementation and usage of the PWA's procedures uncertain, requiring more active popularization, and proactive enforcement. A signal that the whole building of whistleblowing is a work in progress in Bulgaria is the fact that PWA was amended twice in 2023.

During the short period PWA is in force in Bulgaria, it is notable that there is not a single self-activation of PDPC in cases where data for frauds was revealed publicly, via media, although the year was marked by plenty of scandals.

Sectors with high-risks of corruption in your Member State:

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

5000 character(s) maximum

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

5000 character(s) maximum

C. Repressive measures

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

In October 5 the Bulgarian Parliament voted amendments in the Public Procurement Act (PPA). However, the changes in PPA, concerning the private hospitals, were rejected, once again, although they were part of the initial draft, with the votes of GERB, and the pro-Russian opposition power "Revival". Private hospitals are still not a subject to the PPA, and like this do not conduct public procurement, even though their activities are fed by large amount of public money. This is still a basic difference between publicly owned hospitals and private ones. Moreover, private hospitals do not fall in the scope of Ordinance #5 of 17 June 2019, concerning the financial activity standards applied by state and municipal medical institutions for hospital care and complex oncology centers.

From 2004 to 2012, the PPA provided obligation for private hospitals to conduct public procurement. Initially, private hospitals were defined as contractors in the Act if more than half of their revenue comes from the state budget. Since 2011, the requirement for conducting public procurement is: the medical facility should be funded with more than 50% of public funds, and since 2012: more than 30% of the revenue for the previous year must have been accrued from public funds. While this obligation was in place, private hospitals were against it and insisted on its revocation, with the following argument: from public funding point of view, it does not matter for the National Health Insurance Fund budget what costs a hospital incurred to provide a service, as the payment for it is fixed. After the adoption of Directive 2014/24, a brand new PPA was adopted in Bulgaria in 2016, where private medical institutions are exempt from the obligation to conduct public procurement. In 2020, it became clear that the European Commission had initiated proceedings against Bulgaria for excluding private medical institutions from the circle of public-legal entities

and from the obligation to conduct public procurement solely on the basis of their form of ownership. Bulgaria has been a party in the proceedings for violating the Treaty on the Functioning of the European Union due to an incorrect interpretation of the concept of “public-legal entity”. In addition, the legal proceeding against Bulgaria affects yet another aspect of the Public Procurement Act in hospitals, namely the possibility of some unregistered medical products being procured by hospitals without public procurement. Despite the efforts in the period 2020 – 2023 for private hospitals to become obliged entities under the PPA too, the amendments from October 2023 once again leave private hospitals outside the entities obliged to conduct public procurement, although practice explicitly shows there are cases where the lack of public procurement in private medical facilities leads to damaging the NHIF budget.

III. Media pluralism and media freedom

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

5000 character(s) maximum

A. Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

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

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

5000 character(s) maximum

Safeguards against state / political interference, in particular:

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

5000 character(s) maximum

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

5000 character(s) maximum

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

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

IV. Other institutional issues related to checks and balances

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

5000 character(s) maximum

In 2023 Rule of Law Report for Bulgaria, it was underlined that “there are no specific obligations for the registration of lobbyists or reporting of contacts between public officials and lobbyists” (Rule of Law Report 2023: 22), which is also a correct observation by GRECO that recommends: “rules be introduced on how persons entrusted with top executive functions engage in contacts with lobbyists and other third parties who seek to influence the government’s legislative and other activities” (GRECO 2023:25). Bulgaria has committed to adopt regulation on lobbying in strategic documents such as the National Anti-Corruption Strategy for 2021-2027 (Measure 4: Research of good practices, development and discussion of a concept and proposal of legislative measures for regulating lobbying activities in the Republic of Bulgaria in the context of public decision-making) and the National Recovery and Resilience Plan (component “2.G.1 Business Environment).

In September 2023 a working group with the Ministry of Justice was formed and BILI participates in it. MoJ published a Draft of Concept Paper for Regulation of Lobbying Activities in November 2023 giving 1-month time period for public consultations. BILI along with other renowned civil society organizations published Opinion on the Draft Concept (http://www.bili-bg.org/cdir/bili-bg.org/files/OPINION_ENG.pdf). Whilst we encourage the government to take measures for regulation of lobbying, we have some considerations: 1) the Concept Paper makes a wide interpretation in definitions of “advocacy” and “lobbying” that might lead to inaccuracies and errors in the regulation of lobbying, thus interfering in the value of democratic society, defined as “public participation in the decision-making process” and limit civic participation in politics; 2) we do not support the drafting of a separate law for regulation of lobbying, but rather combination of the two regulatory approaches - normative provisions and schemes for voluntary self-regulation through adoption of special texts including standards of behavior, ethical norms, etc., in existing laws (anti-corruption legislation, access to information, legal framework of administration); 3) regarding the body maintaining the transparency register, our opinion favors the National Assembly, which by its decision can create this register, in which interested associations or other persons voluntarily register to perform lobbying, and determine the rules for its maintenance, giving instructions, etc., designating the Commission for Prevention and Countering Corruption as the executor of the decision; 4) ethical norms regarding the behavior of MPs are contained in Section II of ROCNA, but adherence to them must be controlled, there should be transparency for violations and measures taken; 5) it is necessary to adopt corresponding norms of ethical behavior for the parliamentary staff/administration of the National Assembly, which should be included in the Rules for the work of the administration of the National Assembly; 6) the concept imposes disproportionately more responsibilities, obligations, and punishments on citizens compared to public institutions; 7) the concept does not consider the risks, through the adoption of a separate law for regulating lobbying, of potential collision between the definitions in the concept, the functions of the supervisory body, and the existing texts in the Criminal Code and other normative acts; 8) the concept lacks consideration of positive incentives for the registration of lobbying subjects (for example, the right to attend meetings of collective

bodies, councils, right of access to buildings and facilities of public institutions under the respective admission regime, etc.)

A. The process for preparing and enacting laws

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

[1] This includes also the consultation of social partners

5000 character(s) maximum

The short life of the current (49th) parliament has showed a continuation of the rather negative trend - most draft laws are prepared within the parliament and not by the Executive, i.e. the relevant ministry. In the case with the amendment to the Constitution critiques were expressed (even in the Opinion of the Venice Commission) that motives were scarce and could not explain in depth the necessity of some of the reforms. There was also no impact assessment made. The fact that the parliament was going to change the Constitution has put on hold some other changes related to the judiciary. After these changes, perhaps the other most important piece of legislation which was adopted last year, was about the separation of the current Anti-corruption Commission into two. Yet again, the draft was made in-house, i.e. in the parliament and was not subject to public consultations. It is a general opinion that the quality of the pieces of legislation coming out of the parliament continues to deteriorate and this contributes to the low levels of trust in this institution.

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

5000 character(s) maximum

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

5000 character(s) maximum

Regime for constitutional review of laws

5000 character(s) maximum

B. Independent authorities

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

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

5000 character(s) maximum

The political crisis 2021-2023 has worsen the situation with the expired mandates of regulatory bodies as more institutions operate beyond their legal mandate. By the time of completing the contribution, there are 16 institutions and 77 individuals outside their mandates as some of them are already stepping into their third mandate. Among them are important ones as the Inspectorate to the SJC, the Data Protection Commission, the National Health Insurance Fund. Others have to be established and yet again the parliament did not adhere to its one time frame. The most "shining" example is about the new Commission for Prevention of Corruption.

In 2022 the Constitutional Court issued DECISION No. 12/27.09.2022 under Constitutional Case 7/2022 on a request about the expired mandate of the Inspectorate to the SJC and if they continue to exercise their powers beyond the legal termination of the mandate. The CC said that: "Overcoming an unconstitutional situation, such as is present in the present case (both the 44th, 45th, 46th and 47th National Assemblies did not form the political will to elect the composition of the Inspectorate at the SJC in accordance with the constitutional prescriptions), imposes a priority protection of continuity as a competing higher value with another such value - the mandate, in order to guarantee the implementation of the functions assigned by the Basic Law to the Inspectorate and the constitutionally established balance of authorities in the constitutional state of law. This protection is socially necessary and socially justified in order to ensure the rule of law." The Court assumed that continuity is more important than mandate in order to secure the institutional functioning of the state and prevent constitutional crisis. However, the Court also said that such situation cannot be unlimited, because such unlimited prolonging of extraordinary mandates is unconstitutional: "The continuation of the performance of the assigned functions could be defined as an "insubstantial extension" of the mandate, because it does not affect the established term and procedure for electing the relevant state body, as provided for in the Basic Law. It is a protective mechanism applicable in exceptional situations in which the members of a certain collective constitutionally established body, minimally necessary for its functioning, are not selected, and in the absence of other, expressly established, constitutional (legal) mechanisms for the continuation of the activity of the state body. To admit that such a protective mechanism is excluded from the spirit and reason of the Constitution means that the creation of an unconstitutional situation is allowed, since the disobedience of the rule of law (to the established for all the same, general rules) by a state body empowered with constitutive competence, is a delegitimization of the established democratic state order. This also applies to the National Assembly, which most directly represents and directly expresses the will of the holder of state power, and in such a situation, relying on this will, for the non-fulfillment of the functions assigned to it by it, opposes the constitutional limitations of state power."

Therefore, the CC said that albeit a reasonable extension of a mandate is possible, the opposite (unreasonable prolonging of legal mandates) is unconstitutional. The current situation with the mandates is beyond reasonable extension as the majority of members of bodies are in the second half of a following mandate. The situation worsens with the current political majority as it failed to respond to minimum legal and good governance standards when appointing regulators. Two cases from the last two years are new to the practice of the Constitutional Court – they are related to the procedures for election of the chairman of the Energy and Water Regulatory Commission (EWRC) (Decision of the National Assembly from 09.02.2022) and the dismissal of the chairman of the National Audit Office (Decision of the National Assembly from 20.01.2023). Both cases are emblematic, not because they are in favour of the institutions which challenged the procedures at the CC, but because in them the Court discusses at length some key democratic and legal principles as predictability, legal certainty and good governance. Several questions remain open for broad discussion: how to guarantee the independent status of constitutionally established bodies which oversee compliance with the principles of the rule of law; what are the obligations of the legislative body in terms of their application; why the National Assembly decides not to comply with a

decision of the Constitutional Court, etc. In the case of NAO, there was a second in the CC that also ruled unanimously against the actions of the parliament. The former Chairman of NAO has already won all his other cases in the regular courts. CONTINUOUS BELOW

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

5000 character(s) maximum

The current majority in parliament continues to divert from good practices when appointing authorities. This motivated 11 renowned CSOs, led by BILI, to address the National Assembly, demanding more publicity, transparency, objectivity, equality, predictability of the appointment procedure, accountability of the appointing body: http://www.bili-bg.org/cdir/bili-bg.org/files/NS_OBRASHTENIE_ENG.pdf

A positive development thereof is the newly adopted Art. 91b. (1) in the Constitution: The National Assembly observes the principles of openness, transparency, publicity and justification when electing members of bodies that are wholly or partially elected by it, in order to guarantee their independence.

(2) Election decisions are adopted by a two-thirds majority of all members of parliament, when this is provided for by law. This gives opportunity for constitutional supervision in case the parliament deviates from these principles when appointing bodies. However, the two-thirds requisite is very broad and unmotivated and in the light of the political crises that the country experienced may further prevent smooth process of renewing the regulators. This provision (of Art. 91 b, para. 2) was contested to the Constitutional Court by the President of the Republic. "The possibility of electing different bodies with different majorities sharply raises the question of the criteria based on which the necessity of such differences in majorities will be determined". The Constitutional Court is not bound by deadline to decide on the President's claim, but if any of the provisions are proclaimed unconstitutional it creates risk for having legal gaps in the current legal framework as the old statutes of the Constitution are not automatically reinstated. BILI carried out a series of analyses on the role, function and independence of the top executive managers in the framework of the executive power. To summarize, our findings show: Overlap and duplication of the functions of state agencies with some functions also performed by the ministries; shortcomings in the implementation of coordination with the Council of Ministers; limited capacity for policy development; lack of parliamentary control; lack of criteria preceding the decision to establish an agency; the primary model for determining the heads of state agencies – political appointments (the only additional criterion is political trust and agreement with the government's goals and program); additional requirements (mainly regarding professional experience and the prohibition of dual citizenship) exist for less than half; the mandate defined for some of the heads of state agencies does not influence political decisions regarding personnel changes; a fragmented structure of the administration leads to duplication and overlap of functions, hampers coordination and implementation of sectoral and horizontal policies, and creates conditions for the overspending of public resources (Strategy for the Development of the State Administration 2014 – 2020); in most cases, the appointment and dismissal of High Administrative Ranks (VAR) are carried out without justified reasons and are highly politicized; generally, there are no specially developed mechanisms for selection and appointment to the executive bodies; for most administrative structures, no specific requirements are envisaged; there are few positions that are filled on a competitive basis – through a competition, evaluation of a presented concept, or vision for the development of the administration, etc.; there is a deficit regarding the transparency and publicity of the appointment procedures; the mandate defined for some of the heads of administrative structures does not influence political decisions for personnel changes. The existing general legal framework in practice renders the mandate of the High Administrative Ranks meaningless; the mandate defined for some of the heads of administrative structures does not influence political decisions for personnel changes. The existing general legal framework in practice renders the mandate of the High Administrative Ranks meaningless.

C. Accessibility and judicial review of administrative decisions

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

5000 character(s) maximum

Judicial review of administrative decisions:

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

5000 character(s) maximum

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

5000 character(s) maximum

After the adoption of the amendments to the Constitution that provide for each court to be able to challenge texts in the laws at the Constitutional Court, the first such case is already a fact. It comes from the largest first instance court in Bulgaria - the Sofia Regional Court and is related to a recent amendment in the Family Code prohibiting the marriage of under-aged people. At present, it is still early to say how the CC will start building a practice under its broadened rights.

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

5000 character(s) maximum

D. The enabling framework for civil society

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

5000 character(s) maximum

Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures for protection from attacks – verbal, physical or on-

line –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

E. Initiatives to foster a rule of law culture

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

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

Contact

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