Contribution of the Republic of Bulgaria to the first annual Rule of Law Report

Sofia, May 2020

Introduction

Bulgaria remains strongly committed to ensuring rule of law in the European Union and building on the reforms implemented to ensure the independence and efficiency of the judicial system. These efforts were reflected in the Commission's October 2019 report on the progress of Bulgaria under the Co-operation and Verification Mechanism. The Commission concluded that Bulgaria has met all benchmarks of the Mechanism and suggested its withdrawal. This decision is pending and in the meantime a post-monitoring mechanism at the highest level has been set up to ensure, in cooperation with civil society, the irreversibility of these processes. We also began work on establishing a Civil Council under the Coordination and Cooperation Council, which is set to carry out post-monitoring. Due to the state of emergency with regard to COVID-19, the deadline for submission of an application has been extended in order to allow more NGOs to apply.

Since the introduction of the Mechanism in 2007, we have made great strides in reforming the judicial system and fighting corruption and organised crime. As a result, the actions taken and the reforms implemented are ostensible and irreversible. Over the last decade or so, Bulgaria, in cooperation with the European Commission and with the input of experts from Member States, amended the Bulgarian Constitution twice, improved the work of the Supreme Judicial Council and established an Inspectorate with the Supreme Judicial Council in order to promote the good management of the judiciary and to raise the ethical standards of the magistrates.

We initiated fundamental changes to several key pieces of legislation. Broad amendments to the Judicial System Act were adopted in 2016 to ensure the full implementation of the Updated Strategy to continue the reform of the judicial system, as approved by the National Assembly in 2015. These changes, made in close collaboration with stakeholders and representatives of the community of professionals, contributed to the improvement of legislation in a number of areas, from the career growth of magistrates to the internal management of the judiciary.

Over the years, there have been significant improvements in areas such as the random allocation of cases in courts, e-justice and the analysis of the workload of the judiciary and magistrates, magistrate training, etc. The willingness demonstrated by magistrates and civil society to express their views openly in support of the reforms is a key success factor.

The objectives of the Updated Strategy to continue the reform in the judicial system, as approved by the National Assembly in January 2015, are pursued apace. Its strategic and specific objectives are met thanks to cooperation between a number of institutions of the executive and the judiciary, using the European Social Fund for this purpose.

Mechanisms have been put in place for public reporting of the activities in the reform of the judiciary to ensure the rule of law. A Council for Implementation of the Updated Strategy to continue the reform of the judicial system was set up with the Minister of Justice, involving representatives of state institutions, professional ogranisations and NGOs. In addition to monitoring the implementation of the Strategy, the Council will also act as a well-known forum for discussing draft legislative amendments in the field of justice.

In 2018, decisive steps were taken by drafting and adopting new consolidated legislation to counteract corruption among senior public officials. At the same time, the reform of the procedural law changed the jurisdiction of corruption offenses at high levels of power, and they went under the specialized criminal courts which have proved their efficiency. The capacity of the internal control structures in the state institutions was also strengthened.

I. Justice System

A. Independence

1. Appointment and selection of judges and prosecutors

Judges, prosecutors and investigators are appointed, promoted, transferred and dismissed by the Judges' College of the Supreme Judicial Council, respectively the Prosecutors' College, in accordance with the Constitution of the Republic of Bulgaria (CRB) and the Judicial System Act (JSA).

1.1. The post of junior judges, junior prosecutors and junior investigators and the initial appointment in a district, regional and administrative court and the respective prosecutor's offices takes place after a centralized competition.

The Commission on Appraisal and Competitions with the respective college of the Supreme Judicial Council conducts an eligibility check on the documents of the candidates.[1] Candidates found ineligible may challenge the decision.[2] The respective College of the Supreme Judicial Council appoints five-member competition committees to conduct the competitions - one habilitated legal scholar, as well as four members with the status of sitting judge, prosecutor or investigator, respectively. The competition includes an anonymous written examination – a case study and a test, followed by an oral examination. Grading is based on the six-point system, with an oral examination being allowed for candidates who have received a minimum score of 4.50 in both the case study and the test. Only candidates who have received a grade "Good 4.00" or higher in the oral examination take part in the final ranking.

The decision of the respective College of the Supreme Judicial Council adopting the final list of approved candidates for junior judges, junior prosecutors and junior investigators is forwarded to the National Institute of Justice for inclusion mandatory initial training. A person may be appointed if he or she has passed the relevant examinations after completing the course of mandatory initial training. After the expiry of a period of two years, the junior judge, junior prosecutor or junior investigator is appointed to the position of a regional court judge, a regional prosecution office prosecutor or, respectively, a district investigation department investigator, without another competition being held.

The respective College of the Supreme Judicial Council adopts a decision on the initial appointment of the candidates at a regional, district and administrative court and the respective prosecutor's offices in the order of the ranking until the vacancies for which the competition was announced are filled.

The decisions of the respective College of the Supreme Judicial Council adopting the final list of approved candidates for junior judges, junior prosecutors and junior investigators, and on the initial appointment of the candidates at a regional, district and administrative court and the respective prosecutor's offices, are subject to appeal within 7 days of their announcement. An appeal stays the enforcement of the decision, unless the court decrees otherwise. The Supreme Administrative Court, sitting in a public session, examines the appeal and pronounces by a judgment within one month from the receipt of the appeal at the Court

[1] To hold a university degree in law; to have undergone the internship provided for in this Act and is licensed to practise law; to possess the required moral integrity and professional standing complying with the Code of Ethical Conduct of Bulgarian Magistrates; to have not been sentenced to deprivation of liberty for an intentional criminal offence, notwithstanding any subsequent rehabilitation; to no be an elected member of the Supreme Judicial Council who has been released from office on disciplinary grounds for damaging the prestige of the Judiciary; to not suffer from a mental illness, as well as to have practised law for a certain period upon initial appointment at a regional, district and administrative court and the respective prosecutor's offices.

[2] Any candidates who have been denied entry in the competition may challenge their denial of entry before the respective college of the Supreme Judicial Council, with the decision of the Supreme Judicial Council being subject to appeal before the Supreme Administrative Court. The Supreme Administrative Court, sitting in camera, examines the appeal within seven days and its judgement is final.

together with the administrative case file, summoning the appellant, the administrative authority and the interested parties. The judgment is final.

1.2. The administrative heads in the bodies of the judiciary are appointed to a management position for a term of five years with the right of reappointment (art. 129, para. 6 of the CRB). The vacant positions for heads of the judicial bodies are occupied following an election. In order to enter the election, candidates submit detailed curriculum vitae, a their concept of work and other documents which, in the judgment of the candidates, are relevant to their professional standing or moral integrity. The Commission on Appraisal and Competitions with the respective college of the Supreme Judicial Council checks the documents and admits the candidates who meet the legal requirements. The names of candidates are announced on the website of the Supreme Judicial Council together with brief curriculum vitae and their concepts of work. The lists of candidates admitted to and denied entry into the election are announced on the website of the Supreme Judicial Council at least 14 days prior to the date of conduct of the election. The list of persons denied entry into the election also specifies the grounds for the denial of entry. Within three days after the announcement of the lists, the candidates who have been denied entry may lodge a written objection with the respective College of the Supreme Judicial Council. The decision denying a candidate entry into the election is subject to appeal before the Supreme Administrative Court.

Non-profit legal entities registered for the pursuit of public benefit activities, higher educational establishments and scientific organisations, as well as the professional organisations of judges, prosecutors and investigators, may submit opinions about a candidate to the respective College of the Supreme Judicial Council, including questions to be put to said candidate. Anonymous opinions and alerts are ignored. The opinions and questions as submitted are published on the website of the Supreme Judicial Council and no specific data constituting classified information, including facts related to candidates' private life, are published.

Candidates for administrative heads of a court are heard by the general assembly of the court concerned. The prosecutors and the investigators at the prosecution office concerned may express an opinion about the candidate for administrative head.

The procedure for the election of administrative heads is conducted by the respective college of the Supreme Judicial Council through an interview. The decisions of the respective college of the Supreme Judicial Council is subject to appeal before the Supreme Administrative Court.

1.3. The Chairman of the Supreme Court of Cassation, the Chairman of the Supreme Administrative Court and the Prosecutor General are appointed and dismissed by the President of the Republic, at the proposal of the Supreme Judicial Council Plenum for a period of seven years without the right to re-election. The President may not deny an appointment or release upon a repeated proposal (art. 129, para. 2 of the CRB).

Nominations for a chair of the respective court may be made by not fewer than three of the members of the respective college of the Supreme Judicial Council, the Minister of Justice, as well as the plenary of the Supreme Court of Cassation and the plenary of the Supreme Administrative Court. Nominations for a Prosecutor General may be made by not fewer than three of the members of the respective college of the Supreme Judicial Council, as well as by the Minister of Justice. Any such nominations are accompanied by detailed reasons in writing and a personnel record for the candidate in a standard form endorsed by the respective college of the Supreme Judicial Council. The candidates submit a written concept of work to the respective college. All documents submitted are published on the website of the Supreme Judicial Council not later than two months before the public hearing.

Candidates for chair of the Supreme Court of Cassation and for chair of the Supreme Administrative Court are heard, respectively, by the plenary of the judges of the Supreme Court

of Cassation and of the Supreme Administrative Court. Hearings are public and are streamed live on the website of the Supreme Judicial Council.

Non-profit legal entities designated for the pursuit of public benefit activities, professional organisations of judges, prosecutors and investigators, higher educational establishments and scientific organisations may submit opinions about a candidate to the Supreme Judicial Council, including questions to be put to said candidate. Anonymous opinions and alerts are ignored. The opinions and questions as submitted are published on the website of the Supreme Judicial Council.

The Commission on Appraisal and Competitions and the Commission on Professional Ethics with the respective College draw up reports on the professional standing and moral integrity of the candidates, submitting with these the nominations to a discussion and vote by the respective college of the Supreme Judicial Council. The reports contain a conclusion regarding of the commission regarding the legal requirements to occupy the position; the existence of data that call into question the moral integrity, qualification, experience and professional standing of the candidate; the specific background, qualities and motivation for the position concerned.

The report of each commission is published on the website of the Supreme Judicial Council at least 14 days before the application of the relevant candidate is put to the vote.

The Plenary of the Supreme Judicial Council adopts a decision on the election of a candidate by a majority of not less than seventeen votes of the its members in a secret ballot and immediately sends said decision to the President of the Republic. Where none of the candidates has gained seventeen or more of the votes of the members of the Plenary of the Supreme Judicial Council in the first round of voting, the election proceeds in respect of the two candidates who have gained the most votes.

Bulgaria has a long-standing practice as regards the appointment of senior judicial officers in the context of transparency and openness of the competition procedures. The principle of self-regulation of magistrates was affirmed through the provision of a wide range of staffing powers to the individual colleges of the Supreme Judicial Council (judges and prosecutors and investigators) and to the General Meetings of the judiciary.

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

1. Irremovability of magistrates

Having completed a five year term of office as a judge, prosecutor or investigator, and upon attestation, by decision of the Judges' College and the Prosecutors' College of the Supreme Judicial Council respectively, judges, prosecutors and investigators become irremovable (Art. 129, para. 3 of the CRB and art. 207 of the JSA).

In cases where the aggregate score from the appraisal for acquisition tenure is negative, the respective college of the Supreme Judicial Council denies the acquisition of tenure by a decision and the person appraised is released from office. The decision of the relevant chamber whereby the proposed aggregate score in the appraisal is adopted or a new aggregate score is determined is subject to appeal before a three-member panel of the Supreme Administrative Court. The judgment of the Court is final.

2. Reassignment and transfer of magistrates

2.1. Reassignment

In the cases of closure of courts, prosecutor's offices and investigating authorities or upon numerical reduction of the positions in these occupied, the respective College of the Supreme Judicial Council opens the respective positions in another judicial authority of an equal degree, if possible in the same appellate district, and reappoints judges, prosecutors and investigators to said positions without a competition. If there is mutual agreement to exchange a position of an equal degree of judges at another court, of prosecutors at another prosecutor's office, of

investigators at another investigation department, and provided the administrative heads thereof consent, they are transferred without a competition being held by a decision of the respective College of the Supreme Judicial Council.

2.2. Transfer

According to the Judicial System Act, transfer means moving to a position of an equal or lower degree of a judge at another court, of a prosecutor at another prosecutor's office, and of an investigator at another investigation department. It is done through a competition and the procedure is described with in item 3, Promotion of Judges and Prosecutors.

2.3. Secondment

Article 227 of the Judicial System Act lays down the terms and conditions for secondment of magistrates:

A judge, prosecutor or investigator may be seconded where necessary for not more than 12 months with their advance written consent. In exceptional cases, a magistrate may be seconded even without their consent for a period of up to three months. Any such magistrate may not be re-seconded to the same judicial authority. These terms do not apply where a judge, prosecutor or investigator is seconded to an unoccupied full-time position.

Should it prove impossible to form a panel for the examination of a case, judges are seconded for the examination of the specific case until its disposal at the respective instance in conformity with the standard rules and the random selection principle through electronic assignment. In cases where the relevant act requires invariability of the panel, the judge continues to sit in the cases of the court whereat said judge works, and after the completion of the secondment also completes the cases at the court to which said judge has been seconded.

A judge, prosecutor or investigator is seconded after considering the rank held for the position to which said magistrate is seconded, their professional service and experience, a score from an appraisal and an opinion of the immediate administrative head thereof.

An order is issued for each secondment, stating reasons to the effect that the judge, prosecutor or investigator is seconded in the interest of the service.

2.4 Release from office

Magistrates are released from office only upon: 1. reaching the age of 65, 2. resignation, 3. judgment which has the force of *res judicata* for a penalty of deprivation of liberty for an intentionally committed criminal offence; 4. permanent de facto inability to perform their duties for more than a year; 5. serious infringement or systematic neglect of their official duties, as well as actions damaging the prestige of the judiciary; 6. a decision of the respective chamber of the Supreme Judicial Council refusing the acquisition of tenure; 7. incompatibility with positions and activities as prescribed by the law, and 8. reinstatement in office after wrongful dismissal (CRB and JSA).

Magistrates are released from office by the respective college of the Supreme Judicial Council.

3. Promotion of judges and prosecutors

The promotion, as well as the reassignment to vacant positions in courts, prosecutor's offices and investigating authorities, is carried out after a competition.

Promotion in position means moving to a position of a higher degree in a judicial authority of the same type. Transfer means moving to a position of an equal or lower degree of a judge at another court, of a prosecutor at another prosecutor's office, and of an investigator at another investigation department.

A judge moves to the position of a prosecutor or investigator, a prosecutor moves to the position of a judge or investigator, and an investigator moves to the position of a judge or prosecutor by a competition for promotion or transfer, including, *inter alia*, testing of their knowledge to occupy the position concerned by means of a written examination.

Competitions are held by five-member competition commissions - one habilitated legal scholar in the respective subject matter, holding the academic position of associate professor or professor, as well as four members with the status of sitting judge, prosecutor or investigator.

The ranking for promotion and transfer takes into account the results of the last appraisal and checks by the superior judicial authorities and by the Inspectorate with the Supreme Judicial Council, the data of the personnel file and an assessment of the cases and case files examined and disposed of, selected by the competition commission and presented by the candidates. This is the basis for the aggregate score of the professional characteristics of the candidate. The respective college of the Supreme Judicial Council adopts a decision on the promotion or transfer of a judge, prosecutor or investigator in the order of the ranking until the vacancies are filled. The decisions of the respective College of the Supreme Judicial Council is subject to appeal before the Supreme Administrative Court.

The provisions of the Judicial System Act also provide for promotion without transfer to a higher rank. Promotion without transfer of a judge, prosecutor and investigator to a higher rank and respective increase of the remuneration may be effected where a "very good" aggregate score has been received from the last appraisal, said magistrate has served at least three years in the respective position or a position having a co-equal status and has practised law for the period by law in order to occupy the position corresponding to the higher rank.

4. Allocation of cases in courts

The legal requirement that cases be randomly assigned was enshrined in the Judicial System Act before 2007, namely before Bulgaria's accession to the EU. With the subsequent amendment of the law of 07.02.2020, the scope of the distribution of cases and files was broadened, and besides the need to allocate them on the principle of random selection, the obligation of uniformity of this distribution was introduced. The principles of objectivity, impartiality and fairness to which the functioning of the judicial system is subject are reflected in the existing version of the Judicial System Act, namely:

"Art. 9. (1) The distribution of cases and files in the bodies of the judiciary shall be carried out on the principle of random selection through uniform electronic distribution in accordance with the order of their receipt in compliance with the requirements of Art. 360b.

(2) The principle of random selection in the allocation of cases in the courts apply within the colleges or departments, and within the prosecutor's office and the National Investigation Service within the departments. "

The principle of random selection is realized through electronic distribution of the files and cases submitted to the court and the prosecutor's office.

Information related to the formation and movement of prosecutor's files and pre-trial proceedings in Prosecutor's Offices is registered in the Centralized Web-based Information System – WIS. Its structure follows the stages of the criminal proceedings and the established rules on processing of affairs and accountability at the Prosecutor's Office, and her reference module allows for the extraction of a significant number of statistical and operatives references. The activities started in 2014 for the broadening of functional abilities of WIS guarantee a high level of security, ensure the allocation of files and cases in accordance with the principle of Art. 9 of the Judicial System Act while simultaneously provide automatic balance to the workload of individual magistrates, create conditions of searching a specific type of information, follow due dates and optimize the movement of files between Prosecutor's Offices. The 2017 developed version of WIS (WIS-3) funded under the Good Management Operative Program[3] ensures electronic processing of affairs between all Prosecutor's Offices. An internal electronic processing of affairs has been introduced as a pilot project in the Prosecutor's Offices in one of

[3] Project: "Introduction of e-justice in the Prosecutor's Office of the Republic of Bulgaria through electronic processing of affairs, provision of open data and electronic services for Comprehensive Administrative Services to citizens and institutions"

the five regions of appeal. Nine electronic services for citizens, companies and state institutions have been created and are functioning. Access to the information in the WIS is provided to the Inspectorate at the Supreme Judicial Council and the Prosecutors' College. The Centralized Information System of the Investigation Services has also been updated.

In view of the reliability and security of the software product used in courts, on 18.04.2019 the Supreme Judicial Council Plenum decided on protocol No. 10 to carry out technical expertise of the software for random distribution by inviting all interested parties to submit to the Supreme Judicial Council website an offer with assignment: "Analysis of the Centralized System of Random Allocation of Cases information security with a view to limiting the internal and external vulnerabilities of the system".

Pursuant to a contract signed on 13.01.2020, the task was fulfilled. The Supreme Judicial Council Plenum, by a decision under Protocol No. 8 of 09.04.2020, adopted the report on the information security audit of the Centralized System of Random Allocation of Cases in order to limit the internal and external vulnerabilities of the system. After detailed discussion and analysis of the report, steps were taken to address the specific internal and external vulnerabilities of the system identified by the audit team.

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

Legal status and composition of the Supreme Judicial Council

The Supreme Judicial Council represents the judiciary, ensures and stands up for its independence, designates the complement and working arrangements of the courts, prosecution offices and investigating authorities, and provides financial and technical support for their operation without interfering in the implementation of said operation.

The Supreme Judicial Council is a standing body. It is represented by one of its elected members, designated by decision of the Plenary of the Supreme Judicial Council.

At constitutional level, the Supreme Judicial Council is regulated in Article 130 of the Constitution of the Republic of Bulgaria. It is comprised of 25 members. Sitting on it ex officio capacity are the Chairman of the Supreme Court of Cassation, the Chairman of the Supreme Administrative Court and the Prosecutor General. Eligible for election to the Supreme Judicial Council are jurists of high professional and moral integrity with at least 15 years of professional experience. Eleven of the members of the Supreme Judicial Council are elected by the National Assembly by a two-thirds majority of the national representatives and eleven are elected by the bodies of the judiciary. The Judges' College of the Supreme Judicial Council consists of 14 members and includes the Chairmen of the Supreme Court of Cassation and of the Supreme Administrative Court, six members elected directly by the judges and six members elected by the National Assembly. The Prosecutors' College of the Supreme Judicial Council consists of 11 members and includes the Prosecutor General, four members elected directly by the prosecutors, one member elected directly by the investigators and five members elected by the National Assembly.

Procedure for election of members of the Supreme Judicial Council:

Election of members from the quota of the National Assembly

Nominations of members of the Supreme Judicial Council are made by the National Representatives for each college. Nominations of candidates are examined by the specialised standing committee of the National Assembly. Each candidate submits to the committee preparing the election a written concept on his or her work as member of the Supreme Judicial Council. The candidates also submit a statement of property and the sources of the funds used to acquire the property, as well as a statement of private interests. The nominations together with detailed *curriculum vitae* of the candidates and their documents, the name and reasons of

the member of Parliament who has nominated the respective candidate, all concepts and statements are published on the website of the National Assembly.

Non-profit legal entities registered for the pursuit of public benefit activities, higher educational establishments and scientific organisations may submit opinions about a candidate to the commission, including questions to be put to said candidate. Anonymous opinions and alerts are ignored. The opinions and questions as submitted are published on the website of the National Assembly.

The committee hears each candidate who presents their concept to it. The hearing is conducted at a public meeting of the committee. A full verbatim record of proceedings is drawn up for the hearing and is published on the website of the National Assembly. Considering the opinions received, the members of the committee may also require additional documents, which the candidates must submit.

The committee prepares a detailed and reasoned report on the professional standing and moral integrity of the candidates, thereby moving the nominations for a debate and taking a vote at the National Assembly. Said report includes an opinion on the performance of the candidate, prepared after his or her hearing by the committee, and a conclusion on: 1. the minimum legal requirements to occupy the position; 2. the existence of data that call into question the candidate's moral integrity, qualification, experience and professional standing; 3. the specific background, qualities and motivation for the position concerned; 4. the public reputation of the candidate and the public support for him or her. The report is published on the website of the National Assembly.

The National Assembly elects each member of the Supreme Judicial Council individually, by a majority of two-thirds of members of Parliament.

The members of Supreme Judicial Council of the 2016 Judiciary quota are elected directly by secret ballot by the judges, by the prosecutors and by the investigators, respectively. The General Assembly of Judges for the election of members of the Supreme Judicial Council is convened jointly by the Chairperson of the Supreme Court of Cassation and by the Chairperson of the Supreme Administrative Court. The General Assembly of Prosecutors and the General Assembly of Investigators for the election of members of the Supreme Judicial Council are convened by the Prosecutor General. Candidates for elected members of the Supreme Judicial Council representing the judges, prosecutors and investigators may be nominated, respectively, by each judge, prosecutor or investigator. The nominations are put forward in writing and must be reasoned considering the personal accomplishments, professional standing and moral integrity of the candidate. The nominations with the reasons attached and the names of the nominators are made public on the website of the Supreme Judicial Council. Candidates submit in writing detailed *curriculum vitae*, their reasons and a concept on the activity of the Supreme Judicial Council, as well as documentary proof of conformity to the requirements of the law, a declaration related to incompatibility or on any circumstances that may lead to private interests, as well as on their property status. Documents are then published on the website of the Supreme Judicial Council. For each nomination received, the respective college of the Supreme Judicial Council requires detailed information on all inspections from the Inspectorate with the Supreme Judicial Council. The Judges' Chamber of the Supreme Judicial Council pronounces on the admissibility of each nomination with regard to the required educational attainment, length of practising law and submission of the envisaged documents regarding the judges candidates for members of the Supreme Judicial Council, and the Prosecutors Chamber pronounces so regarding the prosecutors and investigators candidates. The decisions are made public immediately on the website of the Supreme Judicial Council. The decisions on the admissibility of nominations are subject to appeal through the respective chamber of the Supreme Judicial Council before a panel consisting of three judges of the Supreme Court of Cassation and two judges of the Supreme

Administrative Court, designated on the basis of the random selection principle through electronic assignment.

The Supreme Judicial Council compiles lists of the sitting judges, prosecutors and investigators, which serve as rolls for voting.

The General Assembly meets on two consecutive Saturdays. On the first Saturday, the General Assembly elects an election committee and voting sections and hears candidates. Judges, prosecutors, investigators, non-profit legal entities designated for the pursuit of public benefit activities may address opinions on the candidates and questions to them to the respective college of the Supreme Judicial Council. The opinions and questions are published on the website of the Supreme Judicial Council. The members of the General Assembly and of the committee may address questions to the candidates, including on the basis of the opinions received. The committee are obliged to ask all questions received.

After candidates are heard, the vote is held on the following Saturday. The vote is direct – one magistrate, one vote and by secret ballot. The election is considered valid if more than one-half of the judges or, respectively, prosecutors or investigators included in rolls have voted. In case these prerequisites do not apply, a new election is conducted on the following day. The rules of conduct for the election and the vote are covered in detail by the Judicial System Act.

A tally sheet is drawn up on the results of the election in each of the sections. On the basis of the tally sheets, the election committee pronounces by a decision on the results of the election, and said decision includes the names of the members elected to the respective chamber and the number of votes by which they have been elected. The decision of the election commission by which the result of the election is declared is subject to appeal before a panel consisting of three judges of the Supreme Court of Cassation and two judges of the Supreme Administrative Court, designated on the basis of the random selection principle through electronic assignment.

Powers of the Supreme Judicial Council:

The Supreme Judicial Council exercises its powers through a Plenary, a Judges' College and a Prosecutors' College (CRB).

The Plenary consists of all members of the Supreme Judicial Council. **The Plenary of the Supreme Judicial Council:** 1. approves the draft budget of the judiciary; 2. adopts a decision to terminate the mandate of an elected member of the Supreme Judicial Council upon resignation; final judicial act for a committed crime; permanent de facto inability to perform his/her duties for more than one year; disciplinary removal from office or deprival from the right to pursue legal profession or activity; 3. organises the qualification of judges, prosecutors and investigators; 4. decides on organisational issues common to the judiciary; 5. holds a hearing and approve the annual reports of the Supreme Court of Cassation, the Supreme Administrative Court and the Prosecutor General, submitted by the Supreme Judicial Council, on the application of the law and on the activities of the courts, the Prosecutor's Office and the investigating bodies. 6. manages the immovable property of the judiciary; 7. makes a proposal to the President of the Republic for the appointment and dismissal of the Chairman of the Supreme Court of Cassation, the Chairman of the Supreme Administrative Court and the Prosecutor General; 8. exercises other powers, as set out in law.

Colleges, each acting within its professional domain, perform the following functions: 1. appoint, promote, relocate and release from office the judges, prosecutors and investigators; 2. make periodic attestations to judges, prosecutors, investigators and administrative heads in the judicial authorities and decide on matters related to acquisition and restoration of tenure; 3. impose disciplinary sanctions; 4. appoint and dismiss the administrative heads in the judicial authorities; 5. resolve matters related to the organisation of the operation of the respective system of judicial authorities; 6. exercise other powers as set out in law.

The meetings of the Plenary of the Supreme Judicial Council are chaired by the Minister of Justice. The Minister does not take part in voting. The Judges' College of the Supreme Judicial Council is chaired by the Chairman of the Supreme Court of Cassation. The Prosecutors' College of the Supreme Judicial Council is chaired by the Prosecutor General. The Minister of Justice may attend the meetings but does not take part in voting (Art. 130b of the CRB).

A 2018 decision of the Judges' College of the Supreme Judicial Council adopted **Standards of Judicial Independence.**[4] A Mechanism for action of the Judges' College of the Supreme Judicial Council in cases of undermined independence and/or attempts to pressure judges and the Court was adopted by a 2020 decision.[5]

A Mechanism for public reaction to the Prosecutors' College in case of undermined independence and integrity of prosecutors and investigators was adopted by a 2019 decision of the Prosecutors' College.[6]

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

6.1. Accountability

According to the Constitution of the Republic of Bulgaria, the National Assembly hears and approves the annual reports of the Supreme Court of Cassation, the Supreme Administrative Court and the Prosecutor General submitted by the Supreme Judicial Council and relevant to the application of the law and on the activities of the courts, the Prosecutor's Office and the investigating bodies. The National Assembly may hear and approve other reports of the Prosecutor General on the activities of the Prosecutor's Office on the application of the law, combatting crime and the implementation of the criminal policy.

The Chairperson of the Supreme Court of Cassation draws up a summarized annual report on the application of the law and on the operation of the courts, with the exception of the administrative courts. The Chairperson of the Supreme Court of Cassation draws up a summarized annual report on the application of the law and on the operation of the administrative courts. The Prosecutor General draws up a report on the application of the law and on the operation of the Prosecutor's Office and the investigative bodies. The Supreme Judicial Council hears the Chairpersons of the Supreme Court of Cassation and the Supreme Administrative Court and the Prosecutor General. In the course of the hearing, the members of the Council may also ask questions in writing received from members of the public, institutions and non-governmental organisations in connection with the report, which are answered by the Chairpersons of the Supreme Court of Cassation and the Supreme Administrative Court and the Prosecutor General. Prior to being laid before the National Assembly, these reports are approved by the Plenary of the Supreme Judicial Council. Not later than 31 May, the Plenary of the Supreme Judicial Council also prepares and lays before the National Assembly an annual report on the activity thereof together with the annual report on the activity of the Inspectorate with the Supreme Judicial Council. The Plenary prepares and makes public an annual report on the independence and transparency of the operation of the judicial authorities and of its own activity, which is submitted for public consultation. The Chairpersons of the individual courts also prepare annual reports on the operation of the courts, which are made available to the higher court. These reports are also published on the website of the relevant court.

The reports are deliberated after the National Assembly hears the Chairpersons of the Supreme Court of Cassation and the Supreme Administrative Court and the Prosecutor General.

[4] http://www.vss.justice.bg/root/f/upload/20/Standarts-2018.pdf

[5] http://www.vss.justice.bg/root/f/upload/26/%20%D0%A1%D0%9A-0.pdf

[6] http://www.vss.justice.bg/root/f/upload/22/Mehanizam_publichna_reakcia_PK.pdf

When the report is deliberated, members of Parliament may also ask questions in writing received from members of the public, institutions and non-governmental organisations in connection with the report, which are answered by the Chairpersons and the Prosecutor General.

Every three months, the Committee on Legal Affairs invites the Prosecutor General to discuss the implementation of the law and the activities of the Prosecutor's Office and the investigative bodies, including legislative amendments, resource provision, difficulties, related to performing the functions of the judiciary, results in fight against crime, including corruption, interaction with the investigative bodies. Deliberations are held on the initiative of the Chair of the Supreme Court of Cassation, the Chair of the Supreme Administrative Court or the Prosecutor General. The Committee prepares and provides to the Members of the National Assembly reports on the results of such discussions.

By virtue of the Judicial System Act, the sessions of the Plenary and of the colleges of the Supreme Judicial Council are public and are streamed live on the Internet, except in cases where proposals for the imposition of a disciplinary sanction or documents containing information classified under the Classified Information Protection Act are discussed. The sessions of the Plenary and the colleges to interview the candidates and elect the administrative heads and the Chairpersons of the two Supreme Courts and the Prosecutor General are also streamed live online via the website of the Supreme Judicial Council, while the election of the Prosecutor General is broadcast live on national television.

6.2 Disciplinary liability

According to the Judicial System Act, a disciplinary sanction is imposed on a judge, prosecutor and investigator, the administrative heads of the court, the prosecuting magistracy and the investigating magistracy and their deputies for the commission of a breach of discipline. A breach of discipline constitutes a culpable failure to discharge official duties, as well as damaging the prestige of the judiciary. The following constitute breaches of discipline:1. any systematic failure to keep the deadlines provided for in the procedural laws; 2. any act or omission that unjustifiably delays the proceedings; 3. any act or omission, including a breach of the Code of Conduct of Bulgarian Magistrates, which damages the prestige of the judiciary; 4. any failure to discharge other official duties.

The following disciplinary sanctions may be imposed on a judge, prosecutor, investigator, administrative head and deputy administrative head: 1. reprimand; 2. reduction of the basic labour remuneration by 10 to 20 per cent for a period of six months to one year; 3. demotion in rank for a period of six months to one year; 4. demotion in position for a period of six months to one year; 5. release from office as an administrative head or deputy administrative head; and 6. release from office on disciplinary grounds.

The gravity of the breach, the form of culpability, the circumstances surrounding the commission of the breach and the behaviour of the offender are taken into consideration when determining the disciplinary sanction. In determining the type and size of the disciplinary sanction for systematic failure to keep the deadlines provided for in the procedural laws or any act or omission that unjustifiably delays the proceedings, the individual workload of the judge, prosecutor or investigator liable for disciplinary sanction should also be taken into account, as well as the workload of the judicial authority where the offence was committed.

Disciplinary proceedings are instituted by an order or, respectively, by a decision of the sanctioning authority within 6 months from the discovery, but not later than three years from the commission of the breach. Where the time limits have lapsed, no disciplinary proceedings are initiated, and any proceedings already initiated are terminated. No disciplinary proceedings are initiated, and any proceedings already initiated are terminated, where the legal relationship with the magistrates has been terminated.

Disciplinary sanction on judges, prosecutors and investigators is imposed by the respective College of the Supreme Judicial Council, and the reprimand sanction is imposed by

a reasoned order of the administrative head. The administrative head notifies the respective College of the Supreme Judicial Council of the sanction imposed under, transmitting to them the case file and the order immediately after said order has been served on the person held liable for a breach of discipline. The respective college of the Supreme Judicial Council may confirm or revoke the reprimand sanction imposed. The decisions of the respective college is subject to appeal before the Supreme Administrative Court. Where it determines that there are grounds for the replacement of the sanction imposed by a more severe sanction, the respective college of the Supreme Judicial Council institutes disciplinary proceedings.

The disciplinary sanction of release from office (dismissal) on disciplinary grounds is imposed for a systematic failure to discharge, or another serious breach of, official duties and for actions damaging the prestige of the Judiciary.

The institution of disciplinary proceedings for the imposition of a disciplinary sanction on magistrates, an administrative head and a deputy administrative head, may be proposed by the respective administrative head, by a superior administrative head, by the Inspectorate with the Supreme Judicial Council and by the Minister of Justice.

By a decision, the respective college of the Supreme Judicial Council initiates disciplinary proceedings on a proposal received. The respective College designates, from among its members, on the basis of the random selection principle for the assignment of cases, a three-member disciplinary panel and a presiding member of the panel, who also serves a rapporteur. The ex lege members of the Supreme Judicial Council (the Chairperson of the Supreme Court of Cassation, the Chairperson of the Supreme Administrative Court and the Prosecutor General) cannot be members of the Disciplinary Board. Copies of the proposal for imposition of a disciplinary sanction and of the written evidence attached to it are sent to the disciplinary defendant, who may file written objections and state evidence.

Before imposing a disciplinary sanction, the sanctioning authority hears the person held liable for a breach of discipline or accepts their written explanations. Where the person held liable for a breach of discipline has not been heard or the written explanations thereof have not been requested, the court revokes the disciplinary sanction imposed without examining the case on the merits, unless the person has refused to give explanations or to be heard.

The disciplinary defendant and the author of the proposal are notified of the hearing conducted by the disciplinary panel. Hearings conducted by the disciplinary panel are held in camera. The person held liable for a breach of discipline has the right to be represented and assisted in the proceedings by a lawyer or another judge, prosecutor or investigator appointed by him or her.

The disciplinary panel ascertains the facts and circumstances surrounding the offence, being allowed to gather verbal, written and material evidence, including through the services of a delegated member, as well as to hear expert witnesses under the Administrative Procedure Code. The author of the proposal or a representative authorised by them, the disciplinary defendant and his or her defence counsel are heard by the disciplinary panel in case they attend the hearing.

The disciplinary panel adopts a decision establishing the facts subject to proof, expressing an opinion regarding the circumstances and the legal basis for the imposition of a disciplinary sanction, and proposing the type and extent of the sanction. The decisions of the disciplinary panel are adopted by a majority of more than one-half of its members. Within three days following the adoption of the decision, the disciplinary panel submits said decision to the presiding officer of the respective college of the Supreme Judicial Council for the scheduling of its hearing.

The respective college of the Supreme Judicial Council may:

1. impose the sanction as proposed by the disciplinary panel or, respectively, by the proposer;

2. reject the proposal for the imposition of a disciplinary sanction by the disciplinary panel or, respectively, by the proposer and: (a) not impose a disciplinary sanction; (b) impose a more lenient sanction or (c) impose a more severe sanction.

Where a more severe sanction is imposed, the respective College notifies the person held liable for a breach of discipline of the more severe sanction and afford said person an opportunity to be heard or to give written explanations.

The decision of the respective college of the Supreme Judicial Council decision imposing a disciplinary sanction is adopted by a majority of not less than eight votes for the Judges' College, and not less than six votes for the Prosecutors' College. Any and all decisions have to be reasoned. The decision of the respective college of the Supreme Judicial Council is communicated immediately to the person held liable for a breach of discipline and to the proposer according to the procedure established. The decision can be appealed before the Supreme Administrative Court by the person on whom a disciplinary sanction has been imposed and by the proposer if no disciplinary sanction has been imposed, or the one imposed is less severe than the one proposed.

An appeal does not stay the enforcement, unless the Supreme Administrative Court adjudicates otherwise. The appeal is examined by a three-judge panel of the Supreme Administrative Court within two months from its receipt by the Court. The judgement of the three-judge panel of the Supreme Administrative Court is subject to a cassation appeal before a five-judge panel of the Supreme Administrative Court. The five-judge panel examines the case within two months from the receipt of the cassation appeal. The enforceable decision in the disciplinary proceedings is made public on the website of the Supreme Judicial Council.

6.3.Ethical rules

The Supreme Judicial Council adopted a Code of Conduct of Bulgarian Magistrates.

The operation of the Judges' College and the Prosecutors' College is assisted, respectively, by a standing Commission on Professional Ethics. The Commission on Professional Ethics with each chambers conducts enquiries, collects the requisite information and draws up an opinion regarding the moral integrity possessed by candidates in the competitions for assuming a position in judicial authorities, as well as of candidates for administrative heads and of candidates for deputy administrative heads.

One of the legal requirements for the appointment of a person as a judge, prosecutor and investigator is that he or she possesses the required moral integrity and professional standing complying with the Code of Conduct of Bulgarian Magistrates (Art. 162, para. 3 of the JSA). Eligibility for appointment as Chairperson of the Supreme Court of Cassation, Chairperson of the Supreme Administrative Court and Prosecutor General is subject to an ability to adhere to and to enforce a high standard of ethics (Art. 170, para. 5, item 1 of the JSA).

The oral examination during the competitions for junior judges, junior prosecutors and junior investigators, as well as for initial appointment to the judiciary, involves an interview with the candidate on issues of the Code of Conduct of Bulgarian Magistra (Art. 184, para. 6 of the JSA).

The appraisal of the magistrates takes into account compliance with the rules of the relevant code of conduct by a judge, prosecutor or investigator, administrative head and a deputy administrative head (Art. 197 of the JSA) shall be taken into account.

A breach of discipline means any act or omission on the part of a judge, prosecutor and investigator, including a breach of the Code of Ethical Behaviour of Bulgarian Magistrates, which damages the prestige of the Judiciary (Art. 307, para. 3; item 3 of the JSA).

7. Remuneration/bonuses for judges and prosecutors

The Chairs of the Supreme Court of Cassation and of the Supreme Administrative Court, the Prosecutor General and the Director of the National Investigation Service draw a basic

monthly remuneration equal to 90 per cent of the remuneration of the Chair of the Constitutional Court. The basic monthly remuneration for the lowest judicial, prosecutorial or investigating magisterial position is set at double the amount of the average monthly salary of employees in the public sphere according to data of the National Institute of Statistics. The remunerations for the rest of the positions in judicial authorities are set by the Plenary of the Supreme Judicial Council (Art. 218 of the JSA).

Judges, prosecutors and investigators receive supplementary remuneration for continuous work as a judge, prosecutor and an investigator in the amount of 2 per cent of the basic monthly remuneration for each year of length of service, but not more than 40 per cent. Upon release from office, any judge, prosecutor or investigator with more than 10 years of service in such office is entitled to a pecuniary compensation amounting to as many gross monthly remunerations as is the number of years served in the judicial authorities but not more than 20.[7]

The 2018 decision of the Plenary of the Supreme Judicial Council, as amended in 2019, established Rules for determining and paying additional remuneration, and the 2019 decisions of the respective colleges also established Rules for performance evaluation of magistrates in specialised courts and prosecutor's offices. The rules provide for clear, objective and transparent criteria for the payment, within the budget of the judiciary, of a performance bonus; for results achieved on specific tasks; based on the workload of the respective judicial authority; for the judges and prosecutors in the specialised court and prosecutor's office and the investigators in the investigation department of the specialised prosecutor's office. The amount of the magistrates' performance bonus is determined by their administrative head, taking into account their contribution to the reported performance in the respective judicial authority for the year.

8. Independence/autonomy of the prosecution service

According to Article 117(2) of the Constitution of the Republic of Bulgaria, the judiciary is independent. In the performance of their functions, all judges, court assessors, prosecutors and investigators answer only to the law.

Article 126 of the Constitution of the Republic of Bulgaria states that the structure of the Prosecutor's Office corresponds to that of the courts. The prosecuting magistracy consists of a Prosecutor General, a Supreme Cassation Prosecutor's Office, a Supreme Administrative Prosecutor's Office, a National Investigation Service, appellate prosecutor's offices, an appellate specialised prosecutor's office, a military appellate prosecutor's office, district prosecutor's offices, a specialised prosecutor's office, military district prosecutor's offices and regional prosecutor's offices. The structure of the district prosecutor's offices includes District Investigation Departments, and the structure of the specialised prosecutor's office - an Investigation Department. Administrative departments have been set up in the District Prosecutor's Offices with general competence.

In line with its constitutional powers under Article 127 of the Constitution of the Republic of Bulgaria, the primary function of the Prosecutor's Office is to ensure that legality is observed by leading the investigation; supervising its legality; may conduct investigation; by bringing charges against criminal suspects and supporting the charges in indictable cases; by overseeing the enforcement of penalties and other measures of compulsion; by acting for the rescission of all unlawful acts; by taking part in civil and administrative suits whenever required to do so by law.

[7] Judges, prosecutors and investigators are annually paid financial resources for robes or clothing in the amount of two average monthly salaries of employees in the public-financed sphere. The compulsory social and health insurance of judges, prosecutors and investigators is covered at the expense of the budget of the judiciary. Judges, prosecutors and investigators must be insured against accident at the expense of the budget of the judiciary.

The amendments of the Judicial System Act in 2016 introduced a new paragraph 5 in Article 136, which states that the Prosecutor General exercises supervision as to legality and provides methodological guidance regarding the work of all prosecutors and investigators for an accurate and uniform application of the laws and protection of the legitimate rights and interests of citizens, legal persons and the State. According to subparagraph 6 of Article 138 of the Judicial System Act, the Prosecutor General issues written instructions and directions regarding the activity of the prosecuting magistracy, discharging their functions under Article 136(5); According to the Judicial System Act, upon the revocation of a prosecutorial act, written and reasoned directions may be given solely regarding the application of the law, without affecting the inner conviction of the prosecutor. In cases where a superior prosecutor revokes a prosecutorial act by reason of a failure to perform the steps necessary for revelation of the objective truth, said prosecutor gives directions as to what steps should be performed for establishing or verifying what facts. The prosecutor who received the directions may lodge an objection with a prosecutor of the superior prosecution office with regard to the prosecutor who gave the directions. This introduces additional safeguards for the prosecutors' independence in forming their inner conviction.

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

According to Article 134(1) of the Constitution of the Republic of Bulgaria, the bar is free, independent and autonomous and assists citizens and legal entities in the defence of their rights and legitimate interests.

According to Article 134(2) of the Constitution of the Republic of Bulgaria, the organisation and manner of activity of the bar are set out in law. The Bar Act contains the rules for the acquisition and loss of the right to practice law, the pursuit and organisation of the profession of lawyer, as well as the establishment and termination of law firms.

The pursuit of the profession of lawyer as an activity is implemented in compliance with the principles of independence, exclusivity, self-governance and self-sustainability.

Attorneys-at-law can become members of any Bar Association they choose. Within the jurisdiction of a single district court there is only one Bar Association. Admission to the Bar is carried out in compliance with the principle of self-governance of the Bar, and the Bar Council rules in a decision.

Bar Association bodies means: the General Assembly, the Bar Council, the Control Board, the Disciplinary Tribunal and the Chairperson of the Bar Association. The General Assembly examines the activity report, adopts the budget, elects delegates to take part in the General Assembly of the attorneys-at-law of the country. The Bar Council manages the operation of the Bar Association, convenes General Assemblies and implements their decisions; assists the Supreme Bar Council in organising and conducting examinations; keeps registers; protects the professional rights of the attorneys-at-law; institutes and maintains disciplinary charges against association members; participates in the arrangement of legal aid, etc. The Control Board monitors the purposeful implementation of the budget and the administration of the property of the Bar Association, on which it prepares and presents a report before the General Assembly. The Disciplinary Tribunal initiates and examines disciplinary cases against attorneys-at-law and imposes disciplinary sanctions provided for by law. The Chairperson of the Bar Council represents the Bar Association; organises and manages the overall operations of the Bar Council; convenes and chairs the sessions of the Bar Council.

The supreme bodies of the Bar are the General Assembly of Attorneys-at-Law of the Country, the Supreme Bar Council, the Chairperson of the Bar Council, the Supreme Control Board and the Supreme Disciplinary Tribunal. The General Assembly of Attorneys-at-Law of the Country examines and adopts the report of the Supreme Bar Council, the report of the Supreme Control Board and the report of the Supreme Disciplinary Tribunal, elects the

members of the other supreme bodies of the Bar. The Supreme Bar Council convenes and organises General Assemblies, sets the admission fees and annual contributions for the attorneys-at-law, keeps and maintains registers, rules on appeals against decisions of Bar Councils, organises a training centre for attorneys-at-law, makes proposals to the Chairpersons of the Supreme Courts for the issuance of interpretative judgements, gives opinions on constitutional, interpretative cases and draft regulations, prepares sample documents and manages property, appeals to the Constitutional Court. The Chairperson of the Supreme Bar Council organises and manages the work of the Council and represents it, discharges obligations stemming from the laws, regulations and decisions of General Assembly of Attorneys-at-Law of the Country, as well as from decisions of the Supreme Bar Council. The Supreme Control Board inspects the financial operations of the Supreme Bar Council and controls the activities of Control Boards of the respective Bar Associations. As a first-instance, the Supreme Disciplinary Tribunal has jurisdiction over disciplinary cases instituted against members of Bar Councils, Control Boards and Disciplinary Tribunals of the association, of the Supreme Bar Council, the Supreme Control Board and the Supreme Disciplinary Tribunal, and as a second-instance it appeals against decisions of Disciplinary Tribunals at Bar Associations.

The Bar bodies, with the exception of the General Assemblies, have a term of office of three years, while supreme Bar bodies have a term of four years. The election is made by a regular General Assembly, voting by secret ballot with a majority of more than half of the Bar Association members present.

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

By virtue of Art. 132a of the Constitution of the Republic of Bulgaria, an Inspectorate has been established with the Supreme Judicial Council, which inspects the activity of the judiciary, without affecting their independence. The Inspectorate consists of a chief inspector and ten inspectors, who are independent in the performance of their functions and are subject only to the law. With an amendment to the Constitution (SG, n 100/18.12.2015) the powers of the Inspectorate with the Supreme Judicial Council were substantially supplemented, assigning it to carry out inspections for integrity and conflict of interests of judges, prosecutors and investigators, their property declarations, as well as and to establish the existence of actions that damage the prestige of the judiciary and those related to the violation of the independence of judges, prosecutors and investigators. The new powers were further developed in Chapter Nine, Section Ia and Section Ib of the Judicial System Act (SG, n 62/2016) and are being implemented since January 1, 2017. This has strengthened the preventive effect of the obligation to submit declarations for the presence of personal interests and publicity of asset declarations. The new provisions of the Constitution strengthen the accountability and transparency, while also preventing dependencies in the judiciary. The accountability mechanisms, including the public scrutiny, provided for under these reforms are aimed at increasing public confidence in the independence and impartiality of the judiciary and at ensuring that all citizens are equal before the law.

The amendments to the Judicial System Act (SG, n 62/2016) introduced the requirement for specialization of inspectors, as an additional guarantee for high professionalism in the conduct of their activities.

If as a result of an inspection performed a wrongdoing is uncovered, the Inspectorate notifies the administrative head of the respective body of the judiciary and the respective chamber of the Supreme Judicial Council. The Inspectorate at the Supreme Judicial Council can make proposals for disciplinary proceedings to impose disciplinary sanctions on judges, prosecutors, investigators and administrative heads of the judiciary.

➢ The latest **Act amending and supplementing the Judicial System Act** (promulgated, SG No 11/7.02.2020) refined the 2016 regulation in the following important areas:

- Temporary removal from office of a magistrate when charged with premeditated indictable offense;

The goal was to bring the legal framework on the release from office of judges, prosecutors and investigators in line with Constitutional Court Judgment No 2 of 2019, as well as with the recommendations of the Venice Commission in this regard, set out in Opinion No 855/2016 of 9 October 2017.

According to the Judgment of the Constitutional Court, "to deprive the respective Colleges of the possibility to assess whether the magistrate should be suspended, by being obligated to comply with the prescription of the legislator in Article 230(1) of the Judicial System Act, is incompatible with the principle of independence of the judiciary", which is why this text, as well as part of the provision of paragraph 2 were declared unconstitutional. According to the Constitutional Court, it is appropriate and constitutional to allow the Supreme Judicial Council to assess whether or not the specific protection of the reputation of the judiciary should be put into effect or not.

In Opinion No 855/2016, the Venice Commission recommended that, when a judge was removed, the Supreme Judicial Council had to review the substance of the accusations and decide whether the evidence against the judge is persuasive enough (without necessarily being "beyond reasonable doubt") and whether it calls for a suspension…(§46). With regard to the suspension period, it is recommended that the Supreme Judicial Council sets a relatively short time limit for the investigation.

In view of the above, the new revision of Article 230 provides in all cases that an assessment should be made by the relevant College to allow the removal from office and that it must be provide an opportunity for a hearing or submission of a written statement from the relevant magistrate, thereby introducing a pleading element. It is envisaged that the suspension period in the pre-trial phase of the criminal proceedings should not be longer than the one under Article 234(8) of the Code of Criminal Procedure, and in the event of a change in circumstances, both during pre-trial and court proceedings, the dismissed magistrate may request to be reinstated. There is a special rule for automatic removal if a magistrate is taken into custody or placed under house arrest, and if such measures are amended, the continued removal again becomes subject to review by the relevant College. Removal from office is subject to judicial review in all cases, and both the suspended magistrate and the prosecutor's office have the right to appeal.

- Waiver of the obligation of magistrates to declare membership in professional organisations;
- Establishment of auxiliary appraisal committees with the courts, which will provide valuable and substantial assistance to the Supreme Judicial Council during the appraisal with the speed of implementation of the appraisal procedures in the country.
- Clarifications with regard to the powers of the Inspectorate during the integrity checks (for violations under Art. 175j of the Judicial System Act: integrity, conflict of interest, actions that damage the prestige of the judiciary and those related to violation of the independence of judges, prosecutors and investigators). The amendments to the Judicial System Act establish two phases for processing a signal for the violation of art. 175j of the Judicial System Act. The powers of the Inspectorate at the Supreme Judicial Council under each of these phases are separately regulated. In the first phase, a preliminary assessment of the admissibility of the signal is made. The potential need for immediate actions to eliminate shortcomings is also assessed. This two-prong assessment has to be completed within a month of receiving a signal. Already at this stage, the Inspectorate at the Supreme Judicial Council may request

information from state bodies, local authorities and local administration, the judiciary and other institutions. The actual inspection – which represents the second phase - is carried out within two months after the completion of the preliminary investigation. The Inspector General can further extend this term once by up to two months. During this phase, hearings of persons relevant to the inspected case can take place. Summoned citizens are obliged to assist the Inspectorate at the Supreme Judicial Council. The Inspectorate is allowed to require, in the framework of its' inspections, the disclosure of banking and insurance secrets, as well as tax and social security information. Overall, the new provisions of the Judicial System Act have increased the efficiency of the Inspectorate at the Supreme Judicial Council in carrying out integrity checks.

- In 2019, the Ministry of Justice initiated **amendments to the Code of Criminal Procedure**. By Decision No 736 of 7 December 7 2019, the Council of Ministers approved a draft Act supplementing the Code of Criminal Procedure, which was tabled before the National Assembly at the beginning of December 2019.

The draft Act implements recommendations on a key decision of the European Court of Human Rights. The proposed draft Act seeks to implement the recommendations of the EU Co-operation and Verification Mechanism by introducing an effective and consistent constitutional model, ensuring the investigations against the Prosecutor General. The legislative changes related to the investigations against the Prosecutor General are in line with the recommendation of the European Commission's Structural Reform Support Service regarding the reform of the prosecutor's office and its interaction with other institutions, including a mechanism for reporting progress to the general public.

- The draft Act was sent for **opinion to the European Commission for Democracy through Law (Venice Commission)**. At the beginning of November 2019, the Commission organised a visit to Bulgaria aimed at analysing the views of a wide range of stakeholders. The visit was hosted by the Ministry of Justice, which organised meetings with representatives of all parliamentary groups and the judiciary.
- The draft Act tabled before the National Assembly for discussion and adoption was in full compliance with the recommendations of the Opinion of the Venice Commission, which was published on 9 December 2019.

In order to avoid different interpretations and hesitations, both in the legal and the political circles, in view of the draft Act amending and supplementing the Code of Criminal Procedure, which was tabled before the National Assembly, on 18 December 2019 the Council of Ministers approved a request to the Constitutional Court for a binding interpretation of a constitutional provision concerning the mechanism for investigation against the Prosecutor General. Constitutional Case No 15/2019 of 20.12.2019 was initiated on the request by the Council of Ministers.

- Regarding the ethical regulations: In 2019 the Inspectorate at the Supreme Judicial Council jointly worked with the Legal Cooperation Department of the Council of Europe on the project "Support to improve the capacity of the Inspectorate at the Supreme Judicial Council of the RB". This project was financially supported by the European Commission's Structural Reform Support Service. It was implemented in cooperation with the Ministry of Justice under measure 1.3.9 ("Capacity building of the Inspectorate at the Supreme Judicial Council to monitor systemic corruption factors in the work of the judiciary") of strategic goal 1 of the Updated Strategy for the Judiciary Reform (Ensuring the independence of the court and other judiciary through effective measures against corruption, political and economic pressure and other dependencies). The project allowed studying the best practices in terms of judicial inspection in two EU Member States - France and Spain. Adapting these practices to the Bulgarian legal and institutional context will be another step forward in strengthening the effective control by the Inspectorate at the Supreme Judicial Council.

In 2012, a Civil Council with the Supreme Judicial Council was established with the main purpose of involving the civil and professional organisations to improve the functioning of the justice system in the Republic of Bulgaria, to provide objective civil monitoring of its work and the implementation of the regulatory framework. The establishment and functioning of the Civil Council with the Supreme Judicial Council was evaluated positively in several Commission reports on progress in Bulgaria under the Co-operation and Verification Mechanism. (Commission Report of 22.01.2014 and Commission Technical Report of 28.01.2015) From its inception in 2012 until 31 December 2019, the Civil Council adopted a total of 123 acts and held 63 meetings.

In 2020, the Partnership Council with the Supreme Judicial Council held its first two meetings.

The Council is regulated in the Judicial System Act and is intended to implement dialogue on all matters related to the professional interests of judges, prosecutors and investigators. It consists of three elected members of the Supreme Judicial Council, designated by the Plenary, of representatives of each of the professional organisations is not less than 5 per cent of the respective number of judges, prosecutors and investigators, as well as of representatives of the judges, prosecutors and investigators who are not members of any such organisations. The organisation and operation of the Partnership Council are regulated by a regulation of the Plenary of the Supreme Judicial Council.

B. Quality of justice

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

Court fees

According to Article 60(1) of the Constitution of the Republic of Bulgaria, citizens must pay taxes and duties established by law proportionately to their income and property.

The basic principles regarding the regulation of stamp duty collected in civil and administrative proceedings are set out in the Code of Civil Procedure and the Code of Administrative Procedure.

Stamp duties on the cost of action and court costs are collected with relevance to processing the case. Where the action is unappraisable, the amount of the stamp duty is determined by the court. Where the subject matter of the case is a right of ownership or other rights *in rem* to a piece of immovable property, as well as in actions for the existence, for annulment or for rescission of a contract which has as its subject any rights *in rem* to a piece of immovable property and for conclusion of a final contract having such subject, the amount of the stamp duty is set at one-fourth of the cost of action.

There exist simple and proportionate stamp duties. Simple duties are determined on the basis of the material, technical and administrative expenses required for the proceeding. Proportionate taxes are determined on the basis of proprietary interest. Stamp duty is collected upon presentation of a motion for protection or facilitation and upon the issuance of the document for which duty is paid, according to a rate schedule adopted by the Council of Ministers.

The percentage of the proportionate stamp duty in enforcement cases decreases while proprietary interest increases, but the stamp duty may not exceed the maximum amount set in the rate schedule. The sum total of all proportionate stamp duties payable by the execution debtor or by the execution creditor in an enforcement proceeding may not exceed one-tenth of the debt except where the minimum amount of said duties as set in the rate schedule exceeds this amount. For a debt of an amount exceeding forty-five minimum wages, said sum total may not exceed one-fifteenth of the debt but may not be lower than three minimum wages. The sum total of stamp duties excludes duties in connection with the handling of appeals against steps performed by the enforcement agent, as well as for notifying joint execution creditors and for

the joinder of these. In cases where the sum total of the duties has been reached and the execution creditor moves for further enforcement steps, the duties for said steps are payable by the execution creditor and are not recoverable from the execution debtor.

The specific amount of the remaining stamp duty collected in civil proceedings is set out in the Rate Schedule of stamp duty collected by courts under the Code of Civil Procedure, as adopted by the Council of Ministers.

The specific amount of the stamp duty collected in administrative proceedings is set out in Rate Schedule No 1 to the Stamp Duty Act of fees collected by the courts, the prosecutor's office, the investigative services and the Ministry of Justice, as approved by the Council of Ministers.

The fees in cassation proceedings of court administrative cases are set out in the Code of Administrative procedure.

The cassation appellant pays in advance a state fee amounting to BGN 70, where the appellant is an individual, sole trader, state or municipal body, or another person performing public functions, or an organisation providing public services, and amounting to BGN 370, where the appellant is an organisation. In cases involving claims to which a monetary value can be assigned, these fees are not payable. Instead a fee determined as a percentage of that monetary value is due.

In cases involving claims to which a monetary value can be assigned, the state fee payable by individuals, sole traders, organisations, state or municipal bodies, other persons performing public functions, and organisations providing public services, is proportional and amounts to 0.8 per cent of the monetary value assigned to the claim, but no more than BGN 1 700, and in cases where the monetary value assigned to the claim exceeds BGN 10 000 000, the amounts to BGN 4 500.

Irrespective of whether a monetary value can be assigned to the case or not, the fees in cassation appeals in cases related to pension, health and social insurance and assistance amount to BGN 30 for individuals and sole traders and BGN 200 for organisations, state or municipal bodies, other persons performing public functions, and organisations providing public services.

Waiver of fees and costs:

According to the Code of Civil Procedure, fees and costs for proceedings in the cases are not deposited by the plaintiffs who are factory or office workers or cooperative members in respect of any actions arising from employment relationships; in respect of any actions for maintenance obligations; in respect of any actions for damages sustained as a result of a tort or delict, for which a sentence has become enforceable. Fees are also not deposited on any actions brought by a prosecutor and by the ad hoc representatives of the party whose address is unknown, appointed by the court.

Fees and costs relevant to proceedings are not deposited by any natural persons who have been found by the court to lack sufficient means to pay said fees and costs. Considering the petition for waiver, the court takes into account the income accruing to the person and to their family; the property status, as certified by a declaration; the family situation; the health status; the employment status; the age; other circumstances ascertained.

In the above cases, the costs relevant to proceedings are paid from the sums allocated under the budget of the court.

The exemption from stamp duty in administrative proceedings is regulated in a similar way.

Legal aid:

The Legal Aid Act regulates legal aid in criminal, civil and administrative matters before courts of all instances. It is provided by lawyers and financed by the State. Legal aid is granted to natural persons.

The Minister of Justice elaborates, coordinates and conducts the state policy in the sphere of legal aid. Legal aid is organised by the National Legal Aid Bureau (NLAB), an independent state body, and Bar Councils.

Legal aid is of the following types: 1. pre-litigation advice with a view to reaching a settlement prior to bringing legal proceedings or to bringing a case before a court, including providing legal aid on national legal aid hotline and at regional consultation centre; 2. preparation of documents for bringing a case before a court; 3. representation in criminal, civil and administrative proceedings; 4. representation upon detention under Article 72(1) of the Ministry of the Interior Act, under Article 16a of the Customs Act and under Article 124b(1) of the State Agency for National Security Act. Legal aid for pre-litigation advice and preparation of documents is free of charge and is available to a wide range of individuals identified by law.[8]

The legal aid system relating to legal representation covers cases in which the assistance of a lawyer, a stand-by defence counsel or representation is mandatory as set out in law.

The legal aid system also covers cases in which an accused, a defendant, or a party to a criminal, civil or administrative matter is unable to pay for the assistance of a lawyer, wishes to have such assistance, and the interests of justice require this.

In civil and administrative matters, legal aid is granted in cases where, on the basis of evidence presented by the relevant competent authorities the court, respectively the President of the NLAB, determines that the party is unable to pay a lawyer's fee. The court, respectively the President of the NLAB, arrives at such determination taking into consideration established criteria.[9]

13. Resources of the judiciary (human / financial)[10]

According to Article 117 of the Constitution of the Republic of Bulgaria, the judiciary has an independent budget. The budget of the judiciary is approved annually by the State Budget of the Republic of Bulgaria Act and is formed by its own revenues and subsidies through which it provides the expenditure part.

As the primary authorising officer of the budget of the judiciary, the Supreme Judicial Council is responsible for the execution of financial management and control in all structures,

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[8] 1. persons and families who satisfy the eligibility requirements for receipt of monthly social assistance benefit under the Social Assistance Act; 2. persons and families who satisfy the eligibility requirements for assistance with a targeted heating allowance for the preceding or current heating season; 3. persons who use social or integrated health and social services for residential care, pregnant women and mothers at risk of abandoning their children who use social services to prevent abandoning; 5. children placed with foster families or with immediate or extended family members according to the procedure established by the Child Protection Act; 5. a child at risk within the meaning given by the Child Protection Act; 6. persons referred to in Articles 143 and 144 of the Family Code and to persons who have not attained the age of 21 years, in accordance with Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ, L 7/1 of 10 January 2009) and the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (OJ, L 192/51 of 22 July 2011); 7. victims of domestic or sexual violence or of trafficking in human beings who are unable to pay and wish to avail themselves of the assistance of a lawyer; 8. persons applying for international protection according to the procedure established by the Asylum and Refugees Act, in respect of which the granting of legal aid is not due on another legal basis; 9. foreigners in respect of whom a coercive administrative measure has been applied and foreigners accommodated at a special facility for temporary accommodation of foreigners according to the procedure established by the Foreigners in the Republic of Bulgaria Act, who are unable to pay and wish to avail themselves of the assistance of a lawyer; 10. persons who have been refused statelessness status in the Republic of Bulgaria or whose statelessness status has been withdrawn or for whom the procedure for determining statelessness status has been terminated according to the procedure established by the Foreigners in the Republic of Bulgaria Act, who are unable to pay and wish to avail themselves of the assistance of a lawyer.

[9] The income accruing to the person and to their family; the property status, as certified by a declaration; the family situation; the health status; the employment status; the age; other circumstances.

[10] Further information is contained in the Commission Communication to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions, EU Justice Scoreboard 2019, section 3.2.2. Resources
https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1562062740889&uri=CELEX:52019DC0198

programmes, activities and processes managed by them in compliance with the principles of legality, sound financial management and transparency.

Human resource management is a key point in building an effective judicial system. This is an ongoing process that combines issues relating to competitions and elections, appraisal, promotion of magistrates, disciplinary liability, regulation of the unequal workload of magistrates.

The efforts of the Supreme Judicial Council over the years have been consistently focused on establishing objective standards for workload, as well as introducing organisational measures to address workload imbalances between judicial authorities and individual magistrates. The specific measures related to overcoming uneven workloads have different expressions, but the established approach is to use all possible legal means to overcome this major issue in the operation of the judicial system. Such measures taken in 2019 and 2020 are increasing and optimising the staffing of judges; monitoring continuously the workload measurement system; carrying out procedures for the re-appointment of judges; the process of optimising less loaded military courts, optimising the judicial administration through the even and justified distribution and redistribution of staff; proposals for legislative changes.

In addition, the Supreme Judicial Council is developing a new concept on the role and functions of judicial assistants. The aim of the new concept is to establish a true specialised administration, which can be entrusted with the movement of court documents, so the judge can examine the cases on the merits. A Catalogue has been prepared of the procedural steps that could be assigned to judicial assistants in civil and commercial cases.

The policy of the Judges' College of the current Supreme Judicial Council has been to maintain the number of judicial employees, which appears to be optimal, and the magistrates/judges ratio indicates that judges are supported by sufficient administration for the proper functioning of justice. The efforts are aimed at enhancing the quality of work of the administration, some of which have found expression in the idea for a new concept for judicial assistants.

At the proposal of the Prosecutor General for a decision in principle to optimise the judicial map of the regional prosecutor's offices, in 2017 the Prosecutors' College deliberated and approved the optimisation of the regional prosecutor's offices, to be carried out based on a single model, and the creation of territorial divisions. The implementation of the single model was also related to the reorganisation of the financial and economic activities, which were taken from the prosecutor's offices and assigned to the district prosecutor's offices.

Following a detailed analysis of the workload of the respective regional prosecutor's offices proposed for merger, as the first stage of structural optimisation of the Prosecutor's Office of the Republic of Bulgaria, by a 2018 decision of the Plenary of the Supreme Judicial Council, it was decided to close 11 regional prosecutor's offices outside the district centres and to re-open them as territorial divisions of the regional prosecutor's offices in the respective regional centres as of 1 January 2019.

By decision of the Supreme Judicial Council Plenum, dated 29.07.2019 under Protocol No. 20, following a work meeting with the participation of the administrative heads of the appellate, district and regional Prosecutor's Offices and the members of the Prosecutorial Board, as of 01.01.2020 another 29 regional Prosecutor's Offices were closed and there were territorial divisions of the regional Prosecutor's Offices in the regional cities opened.

This process will continue until the number of regional Prosecutor's Offices is optimized, in accordance with the changed demographic, economic and social conditions, so as to ensure effective distribution of human resources in places with a balanced workload and equal access of citizens to law enforcement and law enforcement agencies.

14. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics, monitoring, evaluation, surveys among court users or legal professionals)[11]

According the Judicial System Act, every six months the Judges' College and the Prosecutors' College require and summarise information from the courts, the prosecuting magistracy and the National Investigation Service on their operation.

In 2015, the Supreme Judicial Council adopted Rules for Judicial Workload Assessment. Since the beginning of April 2016, the Rules for Judicial Workload Assessment have been in use in conjunction with the specially designed Judicial Workload Calculation System. This system offers a means of measuring the workload of judges in a way regulated by the Rules for Judicial Workload Assessment. The determination of the judicial workload is taken as an estimate of the time it takes to hear and decide a particular case, taking into account the factual and legal complexity, as well as the additional activities of the judge that he or she performs in connection with the administration of justice.

In order to monitor the implementation of the Rules for Judicial Workload Assessment and their improvement, working parties have been set up on the three main types of cases – civil and commercial, criminal and administrative. The parties include judges from all over the country and from different instances. As a result of the activity and at the proposal of the working parties, the Rules for Judicial Workload Assessment have been amended and supplemented by the Supreme Judicial Council on multiple occasions. By decision of 2 April 2019, the Judges' College of the Supreme Judicial Council adopted an amendment to the Rules for Judicial Workload Assessment, which will come into force with the introduction of the Unified Courts Information System developed as part of project No BG05SFOP001-3.001-00001 "Creating an Optimisation Model for the Judicial Map of the Bulgarian Courts and Prosecutor's Offices and developing a Unified Courts Information System", funded by the Operational Programme "Good Governance".

At present, the Judges' College of the Supreme Judicial Council does not use case weighing as a method for determining the number of judges required in the judiciary. Decisions on the optimisation of the staffing of the courts are made on the basis of the staff workload, the number of cases received, the number of pending cases and the number of closed cases. By a 2009 decision of the Supreme Judicial Council, the statistical forms for reporting on the work of the district, regional, military, administrative and appellate courts were approved. These will be updated in the event of legislative changes or when additional information on the operation of the courts has been collected. The statistical tables are compiled by the Supreme Judicial council and published on the website under the section "Judicial Statistic".

By decision of 1 October 2015, the Supreme Judicial Council adopted a Methodology for control and verification of the statistical data reflecting the activities of the judicial authorities and judges in the Republic of Bulgaria, developed within the framework of the Project "Increasing the competence of judicial employees, the statisticians, in the judiciary and of members of the Professional Qualification, Information Technology and Statistics Committee and the Committee on the Analysis and Reporting of the Workload of the Judicial Authorities". The annual statistical reports on the activities of the courts are prepared in accordance with the adopted Methodology. On the basis of the data collected, a summary table of judicial workload is prepared, containing data by levels and geographical jurisdictions on: the number of received cases, the number of pending cases and the closed cases; the number of judges by position and the months worked (judges who actually worked), the workload by office and the actual workload regarding received cases, pending cases and the closed case were calculated. The

[11] Further information is contained in the Commission Communication to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions, EU Justice Scoreboard 2019, section 3.2.3. Assessment tools https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1562062740889&uri=CELEX:52019DC0198

average workload, which is decisive for the workload of the respective court, was also calculated at court level.

On the basis of the statistical summary tables and in compliance with the Judicial System Act, an annual Analysis of the activity of the courts (excluding the Supreme Court of Cassation and the Supreme Administrative Court) is prepared. Based on this, the Supreme Judicial Council carries out its functions in determining the number of judges in the individual courts.

By decision dated 11.12.2014 the Supreme Judicial Council Plenum, under Protocol No. 60, adopted Rules on assessing workload of Prosecutor's Offices and individual workload of all prosecutors and investigators. On account of the analysis of the data following their implementation, a Work Group, in which participants were also of representatives of the Prosecutors' College, suggested amendments to the Rules, adopted by Decision, dated 18.12.2019 of the Prosecutors' College. As of 01.01.2020 they have been enforced at a trial stage.

15. Other – please specify

One of the important activities of the supreme courts is the adoption of interpretation decisions or interpretation decrees. In case of contradictory or incorrect practices in the interpretation and application of the law, interpretative decisions are adopted by the General Assembly of the respective colleges of the Supreme Court of Cassation or the Supreme Administrative Court. In case of contradictory or incorrect case law between the Supreme Court of Cassation and the Supreme Administrative Court, the General Assembly of the Judges of the respective colleges of the two Courts shall adopt a joint interpretative decree.

The Chairman of the Supreme Court of Cassation, the Chairman of the Supreme Administrative Court, the Prosecutor General, the Minister of Justice, the Ombudsman or the Chairman of the Supreme Bar Council may apply for an interpretative decision or interpretative decree.

Interpretative decisions and interpretative decrees are binding for the bodies of the judiciary and the executive, for the bodies of local government, as well as for all bodies issuing administrative acts.

In 2019, the General Assembly of the respective colleges of the Supreme Court of Cassation issued 12 interpretative decisions regarding controversial or incorrect practices on various issues. Two interpretative decrees were issued by the respective colleagues of the Supreme Court of Cassation and the Supreme Administrative Court.

In 2019, another 12 interpretative cases were instituted by the Supreme Court of Cassation and by the Supreme Administrative Court.

The ongoing project "Creating an Optimisation Model for the Judicial Map of the Bulgarian Courts and Prosecutor's Offices and developing a Unified Courts Information System", funded by the 2014-2020 Operational Programme "Good Governance" (OPGG), whose beneficiary is the Supreme Judicial Council, envisages a reform of the judicial map. By a decision reflected in a July 2019 protocol on the Judicial Map, Workload and Judicial Statistics Committee with the Judges' College of the Supreme Judicial Council, it was upheld that all issues relating to the reform of the judicial map of the regional courts are resolved simultaneously, comprehensively and subject to a comprehensive analysis of all relevant factors, not only in terms of the workload of the judiciary but also in terms of demographic trends, socio-economic factors, infrastructure and access to justice (road infrastructure, distance between towns, specific characteristics of the region, etc.), with the Commission discussing proposals on the optimisation of the regional courts' structure and the reform of the judicial map.

C. Efficiency of the justice system

16. Length of proceedings [12]

The fundamental principles of the Code of Civil Procedure stipulate that the court must examine and adjudicate in cases within a reasonable time. The Code of Administrative Procedure states that courts must examine and adjudicate, within a reasonable time, in each motion submitted before them. The court must render judgment within one month after the hearing at which the examination of the case was completed.

According to the Code of Civil Procedure, some claims are considered by the court in summary proceedings with shortened procedural time limits.[13]

Some special laws also provide for summary proceedings in administrative cases (e.g. the Election Code provides for shortened terms of appeal against some of the decisions of the Central Election Commission). The criminal procedure also contains mechanisms for shorter proceedings – conducting summary proceedings, concluding an agreement, shortened pre-trial proceedings, rules for speeding up the criminal proceedings.

According to Article 2b of the Act on the Liability for Damage Incurred by the State and the Municipalities, the state is liable for any damages caused to citizens and to legal persons by infringement of the right to a hearing within a reasonable time under Article 6(1) of the European Convention on Human Rights.

Any claims are examined under the Code of Civil Procedure and the court takes into account the overall duration and subject of the proceedings, their factual and legal complexity, the behaviour of the parties and of their procedural or legal representatives, the behaviour of the other participants in the proceedings and of the competent bodies, as well as any other facts, which may be of relevance to the proper resolution of the dispute. The filing of a claim for compensation for damage under a pending procedure does not preclude the filing of a claim after the completion of the procedure as well.

The State and municipalities owe compensation for all damage to property or any other damage being the direct and immediate consequence of damaging behaviour and regardless of whether inflicted by the officer concerned in a culpable manner.

The Judicial System Act has a special procedure governing the treatment of applications submitted by citizens or legal persons against instruments, acts or omissions of the judicial authorities which infringe upon the right of the citizen or legal person to be heard within a reasonable time. Compensation is determined and paid in compliance with the case-law of the European Court of Human Rights in an amount not exceeding BGN 10 000. The applications are submitted through the Inspectorate with the Supreme Judicial Council to the Ministry of Justice and no fee is paid for considering applications. The Inspectorate at the Supreme Judicial Council verifies the facts set out in the motion for delay of justice, and reflects its findings in a statement. The statement must contain information on the general period of the proceedings, the period of delays for which the competent authority is responsible, as well as the delays due to actions or omissions of the applicant or his legal or procedural representative. The prepared statement of findings is sent to the Minister of Justice (Art. 60d, para. 3 and Art. 60e JSA). The verification of the circumstances and the pronouncement on the application is implemented within 6 months from the receipt of said application. The funds necessary to pay the sums under

[12] In addition to the information presented in the section, additional information is contained in a Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions, EU Justice Scoreboard 2019 Section 3.1.2 . Overall efficacy data https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1562062740889&uri=CELEX:52019DC0198

[13] 1. for labour remuneration, to pronounce a dismissal wrongful and to revoke such dismissal, for compensation for the period of unemployment due to the dismissal, and for correction of the grounds for the dismissal as entered in the work book or in other documents; 2. for eviction from premises leased or loaned for use; 3. for establishment and cessation of an infringement of rights under the Copyright and Neighbouring Rights Act, the Patents and Utility Models Registration Act, the Marks and Geographical Indications Act, the Industrial Designs Act, the Integrated Circuit Topography Act, and the Protection of New Plant Varieties and Animal Breeds Act; 4. for ascertainment and cessation of violation of rights under the Consumer Protection Act; 5. other actions whereof the examination in a summary proceeding is set out in law.

signed settlement agreements are covered by the State budget. Persons who have received compensation under this procedure may not seek compensation on the same grounds by legal action.

Each quarter, the Inspector General sends information about any infringements that have been found to the Supreme Judicial Council and information about any payments of compensation to the Minister of Justice. Every six months, the respective college of the Supreme Judicial Council analyses the reasons for infringements and adopts measures to rectify them.

17. Enforcement of judgements

1. Enforcement of judgements in civil cases:

Failure to comply with an enforceable judgment in civil cases is subject to enforcement. Coercive enforcement is covered in Part Five of the Code of Civil Procedure, Enforcement Proceedings

Proceedings begin with the issuance of a writ of execution by the court. The writ of execution is a court act certifying the right of enforcement and authorising it to be exercised, obliging and authorising the enforcement agents to proceed with the enforcement of the claim at the request of the creditor.

Coercive enforcement is carried out by public and private enforcement agents. The status of the state public enforcement agent is regulated in the Judicial System Act, and that of private enforcement agents – in the Private Enforcement Agents Act.

The execution creditor may levy the enforcement against any corporeal thing or receivable owned by the execution debtor. The precautionary measures imposed by the enforcement agent and the enforcement methods undertaken must be proportionate to the amount of the obligation, taking into consideration all data and circumstances in the case, the procedural behaviour of the execution debtor and the possibility of the receivable remaining unsettled. The execution debtor may propose that enforcement be levied against another corporeal thing or receivable or be performed solely by some of the methods of enforcement demanded by the execution creditor. If the enforcement agent determines that the method of enforcement proposed by the execution debtor is can satisfy the execution creditor, the enforcement agent levies the enforcement against the corporeal thing or receivable named by the execution debtor.

Enforcement may not be levied against some corporeal things owned by any execution debtor who is a natural person.[14] Execution debtors may not avail themselves of unseizability in respect of any corporeal things which are pledged or mortgaged, where the pledgee or the mortgagee is an execution creditor.

If enforcement is levied against labour remuneration or against any other remuneration for work whatsoever, or indeed against a pension to an amount exceeding the minimum wage,

[14] corporeal things for habitual use of the execution debtor and their family specified in a list adopted by the Council of Ministers; the food which the execution debtor and their family need for one month and, applicable to farmers, until the next harvest, or its equivalent in other agricultural produce if said food is not available; the heating, cooking and lighting fuel needed for three months; the machinery, tools, devices and books which the execution debtor needs in his or her personal capacity, where said debtor practises a liberal profession, or which an artisan needs for the practice of their skilled craft; the land tracts owned by the execution debtor where said debtor is a farmer: orchards and vineyards of an aggregate surface area not exceeding 0.5 hectares, or cropland and meadows of a surface area not exceeding 3 hectares, and the machinery and implements needed for the farming, as well as the fertilizers, the plant protection products and sowing seed: for one year; the necessary two head of draught animals, one cow, five sheep or goats, ten beehives and the domestic fowl, as well as the feed needed for the sustenance thereof until the next harvest or until the animals are turned out to graze; the dwelling unit owned by the execution debtor, if said debtor and any of the family members with whom said debtor lives together have no other dwelling unit, regardless of whether the execution debtor resides therein; if the dwelling unit exceeds the housing needs of the execution debtor and their family members specified by a regulation of the Council of Ministers, the part of said dwelling unit in excess of said needs is sold if the conditions under Article 39(2) of the Ownership Act apply; the corporeal things and receivables provided for in another law as not subject to enforcement.

only the statutory amounts above the guaranteed minimum may be withheld. The limitations above do not apply to any maintenance obligations. In such cases, the sum for maintenance as awarded is withheld in full, and the deductions for the other obligations of the party found against and for maintenance obligations for a past period are made on the balance of all income accruing to said debtor. Enforcement against receivables for maintenance is inadmissible. Enforcement against student grants is admitted solely in respect of maintenance obligations.

The execution creditor may appeal against the following actions of the enforcement agent – the refusal of the enforcement agent to perform an enforcement step sought; the refusal of the enforcement agent to conduct a new appraisal of the corporeal thing; the stay, termination and conclusion of the enforcement. The execution debtor may appeal against the decree on a fine and the levy of the enforcement against any property which the execution debtor considers unseizable; the seizure of a movable thing or the eviction of the execution debtor from an immovable, by reason of not being duly notified of the enforcement; the designation of a third party as a keeper if the requirements of the law are not complied with; the refusal of the enforcement agent to stay, to terminate or to conclude the enforcement; the costs of enforcement.

The appeal is lodged care of the enforcement agent with the district court exercising jurisdiction over the place of the enforcement. The appeals lodged by the parties are examined in camera, except where witnesses or expert witnesses must be heard. The execution debtor may also contest the enforcement by means of an action. The action of the execution debtor may be founded solely on facts which have occurred after conclusion of the trial in the proceeding where under the enforcement title has been issued.

The private enforcement age not is liable for any damages inflicted as a result of legally non-conforming coercive enforcement under the terms established by Article 45 of the Obligations and Contracts Act. The liability for any such damages inflicted by the public enforcement agent is under Article 49 of the Obligations and Contracts Act. The coercive enforcement is likewise legally non-conforming where the enforcement agent has imposed injunctions which are manifestly disproportionate to the amount of the obligation under the enforcement case.

2. Enforcement of court decisions in administrative cases.

The enforcement of administrative acts and judgments in administrative cases is governed by Title Five of the Code of Administrative Procedure.

The enforcement authority, in respect of enforcement against individuals and organisations, is the administrative authority which issued or should have issued the administrative act, unless another authority is specified in the enforcement title or in the law. Enforcement against an administrative authority is carried out by the enforcement agent within the geographical jurisdiction where the place of performance of the obligation is situated.

The enforcement authority is obligated to carry out the enforcement in the manner specified in the enforcement title. Where no such manner is specified or where the manner specified is impracticable, the enforcement authority determines manners and means of enforcement which, considering the peculiarities of the specific case, will ensure most effective performance of the obligation and the manners and means which are most favourable to the individuals or organisations in respect of whom or which or in favour of whom or which the enforcement is carried out, where it is possible to carry out said enforcement in several equally effective manners.

The enforcement authority is obligated to carry out the enforcement in the manner specified in the enforcement title. In the event of failure of this obligation, the guilty officials are fined.

Enforcement commences *ex officio*, on the initiative of the authority which issued or should have issued the administrative act. Enforcement may furthermore commence on the

initiative of a superior authority, of the Prosecutor or the Ombudsman, or at a written request of an individual or organisation concerned. An official transcript of the enforcement title must be presented with any such request.

The enforceable obligation is contestable by means of a legal action solely on the basis of facts which occurred after the issuance of the enforcement title.

The decrees, actions and omissions of the enforcement authorities are appealable. The right to appeal is granted to the parties to the enforcement proceedings and third parties to these whose rights, freedoms or legitimate interests are affected by the proceedings.

The appeal is lodged through the agency of the enforcement authority to the administrative court exercising jurisdiction over the place of performance. If it revokes the decree appealed, the court has discretion to adjudicate in the matter of the appeal, and if it revokes another action, the court orders the enforcement authority to re-perform said action validly or not to perform said action. Where the omission appealed is legally non-conforming, the court orders the enforcement authority to perform what is due, establishing a time limit for this. The decision is not subject to appeal.

The state incurs pecuniary liability for any damages to individuals and organisations as a result of wrongful coercive enforcement if the administrative enforcement authority is a state body, and the municipality incurs such liability if said authority is a municipal authority, regardless of whether the detriment has been inflicted culpably.

The legal consequences which have arisen from any statutory instrument of secondary legislation which has been declared void or which has been revoked as nullifiable are settled *ex officio* by the competent authority. In this regard, the enforcement of judgments involves taking action to amend the statutory instruments in compliance with the court's reasoning, and with a view to the specifics of the administrative procedure for their adoption, the ministry responsible for the disputed and respectively repealed instrument prepares the draft regulation, implements a procedure for public consultations regulated in the Statutory Instruments Act, performs interagency coordination and submits the draft regulation for consideration by the Council of Ministers.

II. Anti-corruption framework

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

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

In 2015 significant amendments to the Constitution of the Republic of Bulgaria were made in relation to the judiciary.They were an important step towards establishing and maintaining the rule of law in the country and further consolidatingthe democratic nature of the political system. The main purpose of the new powers of the Inspectorate at the Supreme Judicial Council (related to the integrity checks of magistrates and their property declarations) is the creation of mechanisms for the prevention of conflicts of interest and illegal external influence over the judiciary. The nexus between asset declaration checks and the inspections for conflict of interest has significantly facilitated the uncovering of illegal influence over and violation of the functional independence of the judiciary.

In 2018, following decisive steps were taken by drafting and adopting new consolidated legislation to combat corruption among senior public officials. At the same time, the reform of the procedural law changed the jurisdiction of corruption offenses at the high echelons of

power, and they were conferred on specialised criminal courts, which had proven effective. The capacity of the internal control structures in the state institutions was also strengthened.

On the basis of the Commission for Forfeiture of Illegally Acquired Assets, the Act on Counteracting Corruption and on Seizure of Illegally Acquired Property (promulgated, SG No 7/2018) created a new single independent anti-corruption body - the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property, as an independent specialised standing state body for the implementation of anti-corruption policy and unlawfully acquired assets forfeiture.

The focus of the Act on Counteracting Corruption and on Seizure of Illegally Acquired Property is the reform of the institutional framework in the field of prevention and combating corruption, aimed at greater efficiency and better coordination between existing bodies and units in the public administration. The Commission for Prevention and Ascertainment of Conflict of Interest, the Centre for Prevention and Countering Corruption and Organised Crime with the Council of Ministers, the competent unit of the Bulgarian National Audit Office related to the activity under the Public Disclosure of Financial Interests of Officials Holding High State and Other Positions Act as hereby superseded, and the competent specialised directorate of the State Agency for National Security related to the suppression of acts of corruption among senior public office holders merged into the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property.

The leading role of the Commission for Forfeiture of Unlawfully Acquired Assets was recognised. This was aimed at creating the necessary link between the functions of corruption prevention, verification of declarations of assets, identification of conflicts of interest and forfeiture of unlawfully acquired assets, with the activities for combating corruption being strengthened by way of gathering, analysing and verifying information where there is reason to believe that senior public office holders commit acts of corruption. This merger of functions is important as conflicts of interest and corruption are often at the root of illicit enrichment of the individuals concerned. This allows to keep and further develop the results achieved so far and the established good practices in the field of civil confiscation.

The Commission is a collective body which consists of five members: a Chairperson, a Deputy Chairperson and three other members. Each of these has to be a Bulgarian national and has to possess high moral and professional qualities. The Chairperson must have practised law for at least 10 years, the Deputy Chairperson must have at least 5 years of relevant experience, and the other members – at least 5 years of professional experience. The Chairperson of the Commission is elected by the National Assembly on a nomination by the members of Parliament. The Deputy Chairperson and the other members of the Commission are elected by the National Assembly on a nomination by the Chairperson of the Commission. The independence of the Commission is ensured through the proposed principles and procedures governing its structure, which aim at guaranteeing transparency, accountability and publicity of its activities. Parliamentary scrutiny and statutory mechanisms for interaction with the institutions of other branches provide legal guarantees for the independence of the newly created body.

The powers and functions of the Commission can be summarised as follows:

- operational: relating to the acceptance and verification of declarations of assets and interests, checks on reports received from citizens and through the media, carrying out checks on the property status, on proceedings for ascertainment of conflict of interests and forfeiture proceedings; counter-corruption by way of disclosing acts committed by senior public office holders;

- analytical: preparing analyses and developing methodologies for corruption risk assessment. It is expressly envisaged that the analysis and proposals for anti-corruption measures prepared by the Commission is provided to the competent authorities, which are then obliged to rule on them and inform the Commission of any measures taken.

In view of its competence and greater experience in handling cases of high legal and factual complexity, the Specialised Criminal Court examines corruption cases in which the persons holding senior public positions have been brought before justice under the Code of Criminal Procedure.[15] Corruption cases against persons in senior official positions are heard under the general procedure, but by a court with national jurisdiction and only for the listed offenses. The cases relevant to offences outside the ones specified in Article 411a of the Code of Criminal Procedure are heard by the general courts, including Sofia City Court, for persons with immunity and ministers.

The investigation of cases of specifically listed corruption offences is conducted by investigators when the offences have been committed by senior public office holders in accordance with the Act on Counteracting Corruption and on Seizure of Illegally Acquired Property. Outside these cases, the detection and investigation of corruption offences falls within the competence of the Ministry of Interior - Directorate General National Police, Directorate General Combating Organised Crime and the units Economic Police and Combating Organised Crime in the Regional Directorates of the Interior.

In the area of combating domestic corruption - the prevention, detection and investigation of offences committed by Interior Ministry officials is conferred on **Directorate Internal Security** (DIS), which is directly under the authority of the Minister of the Interior. Among the tasks of the Directorate Internal Security are conducting integrity tests and monitoring certain activities, such as traffic and border control, including through the installed video recording systems.

Directorate Inspectorate is another supervisory authority directly under the Minister of the Interior. It assists structures of the Ministry of Interior in clearing reports of conflict of interest, accepting, storing and checking declarations under the Act on Counteracting Corruption and on Seizure of Illegally Acquired Property and counteracting and detecting breaches of the codes of conduct[16].

The established Inspectorates in all Ministries, agencies and other state bodies are an important administrative tool for the prevention of corruption.[17] The inspectorates' independence, capacity and powers have been strengthened in recent years. The inspectorates were established by the Administration Act and are directly subordinated to the Ministers. At each ministry, the inspectorates exercise administrative control over the activity of budget authorisers by sub-delegation. The inspectorates carry out unscheduled and scheduled checks

[15] Members of Parliament, Members of the Council of Ministers and Deputy Ministers; chairpersons of state agencies and state committees, executive directors of executive agencies, and their deputies; the Governor of the National Social Security Institute, the Governor of the National Health Insurance Fund, the Executive Director and directors of the territorial directorates of the National Revenue Agency; the Director of the Customs Agency, heads of customs, customs offices and points; member of the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property and the National Special Intelligence Means Control Bureau; district governors and deputy district governors; judges, prosecutors and investigators; members of the Supreme Judicial Council, the Chief Inspector and the inspectors in the Inspectorate to the Supreme Judicial Council; mayors and deputy mayors of municipalities, mayors and deputy mayors of districts and chairpersons of municipal councils.

[16] Code of Conduct for officials in the Ministry of Interior and the Code of Conduct for civil servants in the state administration, 2020

[17] Chief inspectorate reporting directly to the Prime Minister; 17 inspectorates reporting directly to Ministers ; 8 inspectorates reporting directly to chairpersons of state agencies, commissions and executive directors of agencies (Customs Agency, National Revenue Agency); 4 inspectorates reporting directly to heads of structures reporting to the National Assembly.

of structures, activities and processes in the administration; make an assessment of the corruption risk and propose measures for such risk limitation; collect and analyse information and carry out checks for detection of offences, corrupt practices and ineffective administration functioning; see to the observance of laws, secondary legislation and intra-departmental acts on the organisation of work of the administration employees; conduct checks of reports about unlawful or irregular actions or omissions of administration employees; supervise and inspects employees' declarations of assets and interests and checks for conflicts of interest; alert the prosecuting authorities if any data of committed crime has been found upon conduct of check-ups.

The National Council on Anti-Corruption Policies - an inter-agency body with advisory, coordination and control functions, was established to observe and implement the measures within the scope of the 2015-2020 National Strategy for Prevention and Combating Corruption, as adopted by a Council of Ministers Decision in 2015. The Council is chaired by the Deputy Prime Minister for the Justice Reform and the Minister of Foreign Affairs, and his or her Deputy is the Minister of Justice. The Council includes representatives of the executive, the Vice-Chairs of the Supreme Courts, the Deputy Prosecutor General, the Vice-Chair of the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property (specialised independent anti-corruption body), the Chief Inspector of the Inspectorate with the Supreme Judicial Council, etc. The Council prepares national strategic documents, programmes and plans for prevention and counteraction of corruption, sets priorities and measures for the anti-corruption policy, monitors and reports on their implementation. The National Council on Anti-Corruption Policies approves reports on the implementation of measures under the National Strategy which are published on the website of the Council. A Civil Council has been set up with the National Council on Anti-Corruption Policies and will provide dialogue and monitor civil society on anti-corruption issues. At present, the Civil Council consists of 11 members - representative per each of seven NGOs that are active and have a track record in preventing and combating corruption; one representative from each of two associations supporting small and medium-sized enterprises and one representative for each of two nationally recognised employers' organisations.

B. Prevention

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

The system of declaration in the Republic of Bulgaria ensures the publicity and transparency of the property and income of senior public office holders, their spouses or *de facto* cohabitants, and of their children who have not attained majority, and serves as a means of preventing corruption and a first measure in combating it. The system of declaration can also serve to identify management-specific problems that can be solved by declaring property and income.[18]

Declarations are accessible via the Register of Senior Public Office Holder published on the website of the Commission.

[18] As at 31 January 2020, audits had been carried out on 8 573 persons who submitted annual declarations, as well as on 324 opening declarations and 416 final declarations submitted. The number of persons audited has increased by more than 800 compared to 2018. In connection with the 2019 local elections, a comprehensive campaign was conducted to inform, clarify, accept and process declarations of assets and interests of obliged persons, extremely urgent actions have been taken, both for the automation of the activity and to increase the protection of the information.

The Act on Counteracting Corruption and on Seizure of Illegally Acquired Property contains the legal framework of the conflict of interest and it is provides that the decisions of the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property on the identified conflict of interests of senior public office holders and the refusals to initiate forfeiture proceedings are to be published immediately on the website of the Commission in compliance with the requirements of the Personal Data Protection Act and the Classified Information Protection Act. The Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property must also publish on its Internet site all judgments on the court cases in which the Commission has participated, including the judgments which have not become enforceable and which are appealable, as well as the rulings on the termination of court proceedings, including the rulings which have not become enforceable.[19]

A conflict of interest arises where a senior public office holder has a private interest that may affect the impartial and objective execution or performance of their official powers or duties. Private interest is any interest which results in a tangible or intangible benefit for a senior public office holder, or for any parties related to them, including any obligation assumed. The declarations of assets and interests declarations must contain data that would prevent decisions in the private interest, including for affiliates.

The act provides for limitations **after vacation of senior public office** (revolving doors). A person in respect of whom a conflict of interest has been ascertained does not have the right to hold public office in the course of one year after the decision becomes enters into force. For one year after vacating their office, a senior public office holder does not have the right to conclude employment contracts, contracts for consultancy services or other contracts for the performance of management or monitoring functions with any commercial corporations, sole traders, cooperatives or non-profit legal entities in respect of which said office holder has taken any steps for the disposition, regulation or control or has concluded any contracts therewith during the last year of execution or performance of the official powers or duties thereof, nor to be a partner, to own participating interests or shares, to be a managing director or member of a management body or monitoring body of any such commercial corporation, cooperative or non-profit legal entity, with the restrictions also applying to any affiliates. A former senior public office holder who, during the last year of execution or performance of their official powers or duties, participated in the conduct of any public procurement procedures or in any procedures related to the provision of resources from any funds belonging to the European Union or made available by the European Union to the Bulgarian State, does not have the right to participate or to represent any natural or legal person in any such procedures before the institution wherein said office holder held office or before any legal person controlled by said institution within one year after vacating office. The prohibition of participation in public procurement procedures or in procedures related to the provision of resources from any funds belonging to the European Union or made available by the European Union to the Bulgarian State also applies to any legal person in which the person has become a partner, owns participating interests, or is a managing director or member of a management body or monitoring body after vacating office.

[19] As at 31.01.2020, the following data are available: Decisions ascertaining a conflict of interest - 106; Decisions ascertaining a conflict of interest in pending proceedings under the repealed act - 52; Discontinued proceedings - 63; Decisions in forfeiture proceeding under Article 13(4) of the Act on Counteracting Corruption and on Seizure of Illegally Acquired Property -101; Rulings for termination - 158.

An amendment to the Judicial System Act (SG, issue 62 of 2016, in force from 01.01.2017) has introduced an obligation for judges, prosecutors and investigators to submit asset and interest declarations to the Inspectorate at the Supreme Judicial Council. The Judicial System Act defines the information that magistrates need to provide with regard to their property and interests, those of their spouses or persons with whom they are in de facto cohabitation on a marital basis, as well as of minor children. Within one month following the expiration of the deadlines for the submission of the declarations, Inspectorate at the Supreme Judicial Council publishes on its website the submitted declarations in compliance with the Personal Data Protection Act. A list of the persons who have not submitted declarations in time is also published. Within 6 months after the expiration of the term for submission of the respective declaration, the Inspectorate at the Supreme Judicial Council shall verifies the authenticity of the declared information by comparing them with the data collected from the respective public registers. The Judicial System Act provides for administrative penal liability for persons who have not submitted in time an asset and interest declaration or a corrective declaration in the cases where change has occured orinconsistencies have been revealed.

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

The rules for preventing conflict of interest in the public sector are set out in Chapter Eight, Conflict of Interest, of the Act on Counteracting Corruption and on Seizure of Illegally Acquired Property. Where a senior public office holder has a private interest, said office holder is obliged to recuse himself or herself from the execution or performance of a particular official power or duty, notifying the electing or appointing authority. The electing or appointing authority is obliged to recuse a senior public office holder if said authority has reason to believe that said office holder has a private interest in connection with a particular official power or duty.

The Commission carries out checks to determine whether or not there is a conflict of interest with regard to senior public office holder by collecting, processing and analysing documents and evidence collected during the check.[20]

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

A regulation for reporting corruption and protection of whistleblowers was introduced with the entry into force of the Act on Counteracting Corruption and on Seizure of Illegally Acquired Property. The persons entrusted with examining the alert are obliged not to disclose the identity of the whistleblower; not to make public any facts and data of which they have become aware in connection with the examination of the alert and to safeguard the written documents entrusted thereto against unauthorised access by third parties.

The Chairperson of the Commission may seek the assistance of the Ministry of Interior for taking additional measures for the protection of the whistleblower. Any person who has

[20] In 2019, the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property has received a total of 166 alerts on which proceedings have been initiated to carry out an inquiry to determine whether or not there is a conflict of interest. 162 Commission decisions were adopted as follows: 14 decisions ascertaining a conflict of interest; 87 decisions that did not ascertain conflict of interest; 61 decisions discontinuing the proceedings. By final judgments the Supreme Administrative Court upheld 6 Commission decisions ascertaining a conflict of interest and repealed 2 decisions. To compare, in 2018 3 Commission decisions ascertaining a conflict of interest were upheld by final judgment and none were repealed. In the course of ascertaining a conflict of interest or a lack thereof, the checks performed following alerts have increased by 40% compared to 2018, and the number of sanctions imposed in the case a conflict of interest was ascertained (fines and confiscation of property in this regard) has grown by more than 90%.

been discharged, persecuted or subjected to acts leading to mental or physical harassment by reason of having submitted an alert, is entitled to compensation for any damage to property and personal injury sustained them, according to a judicial procedure.

In 2019, the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property received 965 alerts falling within its competence which required actions and checks on its part, including interviews of persons. Under these, checks on 893 alerts were completed, reports were prepared and the Commission ruled on them. Regarding the other signals, evidence gathering and reference activities were carried out, documents were requested, persons were interviewed and a cross-check on documents was carried out.[21]

An analysis of the anti-corruption plans of primary and secondary budget spending units performed by the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property revealed that the agencies were in the process of developing inter-agency documents that contain rules for the protection of whistleblowers.

New provisions were introduced to the Judicial System Act in 2016 for the protection of whistleblowers in case where the integrity of judges, prosecutors or investigators has been compromised (Art. 175p and Art. 175q). After the submission of the alert, its author falls under special protection and is shielded from adverse consequences that might take place as a result of his/her signal. The following guarantees ensured in this respect:

- The persons entrusted with the examination of the signal are barred from disclosing the identity of the whistleblower, as well as the facts and data that have become known to them in connection with the examination of the alert. They are obliged to protect the written documents entrusted to them from unauthorized access by third parties (Art. 175p, para 2 of the JSA);
- The Inspector General of the Inspectorate at the Supreme Judicial Council must approve the necessary rules for the protection of the identity of the whistleblower (Art. 175p, para 6 of the JSA);
- The above information is classified.
- The Inspector General can seek the assistance of the Ministry of Interior for taking additional measures for protection of the whistleblower (Art. 175p, para 5 of the JSA);
- The whistleblower can seek compensation before a court for the pecuniary and non-pecuniary damage incurred in the event of his dismissal, prosecution or mental or physical harassment for filing a signal (Art. 175q of the JSA).

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

In the National Strategy for Prevention and Combating Corruption 2015-2020, Priority 5 "Freeing citizens from petty corruption", item 8 sets out the measure *for development of sectoral anti-corruption plans for high-risk sectors.*

One of the main preventive activities of the National Council on Anti-Corruption Policies is aimed at introducing anti-corruption plans in all Ministries and some agencies. In 2018, the Council adopted uniform Guidelines for the preparation of anti-corruption plans, their content and approval. Each Ministry develops and implements annual anti-corruption plans and reports

[21] A training was held on increasing the capacity of the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property for prevention and detection of corruption offenses by senior public office holders, managing and safeguarding secured assets, and procedures for transparency and protection of witnesses and whistleblowers - No BG05SFOP001-2.006-0054. There was also a specialised training on the subject: Protection and Transparency (45 employees of the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property were trained).

and publishes them on its website. In order to build on good practices, the anti-corruption plans are subject to annual analyses by the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property. In this regard and according to the Act on Counteracting Corruption and on Seizure of Illegally Acquired Property, the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property gather, summarises and analyses information on the national anti-corruption policies and measures; In carrying out this activity, an analysis of the 2018 Reports on the Implementation of the Anti-Corruption Plans and the 2019 Anti-Corruption Plans was conducted with reference to 35 primary and secondary budget spending units. For the first time ever during the examination of the 2018 Reports on the Implementation of the Anti-Corruption Plans for 2018, the implementation of a total of 783 anti-corruption measures planned by the agencies could be traced. An analysis was also performed on the measures adopted by the executive authorities and the deadlines for their implementation, as well as the measures not taken and the reasoning for that in relation to the identified weaknesses in the analysis of the 2018 anti-corruption plans prepared by the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property. The three analyses are objectified in separate reports approved by a Commission decision, which are also forwarded to the National Council on Anti-Corruption Policies.

The prevention and combating of corruption in the judiciary, the Ministry of Interior and the control bodies are among the priorities of the effective National Anti-Corruption Strategy (2015-2020).

In line with this strategy, the Ministry of Interior adopts and implements annual anti-corruption plans. General and horizontal measures, as well as specific measures in the identified areas with an increased risk of corruption, such as border control, road traffic control, public procurement, etc., are implemented.

The capabilities of state-of-the-art technologies are used to prevent and counteract corruption in risk areas and in general (CCTV, electronic registers, electronic services, etc.). In the area of road traffic control, video surveillance has been installed in all company vehicles. A project to equip patrol cars with video surveillance systems is being implemented.

Anti-corruption training is included in all courses and programmes of the Academy of the Ministry of Interior (initial training, advanced training, etc.). There are also regular and distance training courses held for updating the professional qualification. The training focuses on the sectors with the highest risk of corruption.

Measures are being implemented to strengthen the administrative capacity of the investigating authorities, including to improve the skills for detecting and investigating cases of corruption and corruption offences according to the Unified Catalogue of Corruption Offenses adopted by the Prosecutor’s Office, and the investigative activity in this area is supervised.

A policy of transparency and increased public awareness of the actions taken in the field of prevention and combating corruption in the Ministry of Interior is implemented.

All declarations of incompatibility are checked in accordance with the requirements of the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property and the acts for its implementation, as well as on the declarations of assets and interests in accordance with the procedure set out in law. If data is received regarding MoI officers committing corruption, disciplinary proceedings are instituted against them, and if proven guilty, the disciplinary sanction “dismissal” is imposed, and a copy of the materials is sent to the Prosecutor's Office.

The Ministry of the Interior implements a number of good practices formulated within the National Council on Anti-Corruption Policies (an interagency coordination council, possibility to submit alerts through all channels, including via electronic form, register of alerts with anonymization of the sender's data, rotation, etc.). An **Internal Council** for Prevention and Counter-Corruption functions within the Ministry of Interior, which monitors the implementation of the National Strategy, the Concept for Prevention and Counter-Corruption in the Ministry of Interior (2016-2020) and the annual anti-corruption plans. The measures to respect and promote ethical standards in police work are supervised within the **Standing Committee** on Human Rights and Police Ethics at the Ministry of Interior. In addition, all main structures of the Ministry are involved in the prevention of corruption in the Ministry of Interior.

In 2014, the Bulgarian government adopted the National Strategy for the Development of Public Procurement Sector in Bulgaria for the period 2014-2020 and approved a plan for its implementation.

In order to increase the efficiency and legality of public procurement, the Strategy envisages 14 measures in five areas of impact: legislative framework; implementation of legislation; publicity and transparency; capacity development and professionalism; control system. The implementation plan covers 45 activities that are consistent with the measures in the strategy. In addition to some activities that are (given their nature) ongoing, and the introduction of e-procurement is still in process, all other activities have been fulfilled. One of the important activities and measures implemented in accordance with the Strategy is the adoption at the beginning of 2016 of new national public procurement legislation transposing the EU Directives of 2014.

In order to support the establishment of lawful procurement practices, additional guidance and tools have been provided by the Public Procurement Agency, including practical guidance on the implementation of public procurement law, methodological handbook on specific topics, standardized procurement contracts and contractual clauses, new standard e-forms (also used in public procurement procedures below EU thresholds), etc.

Significant progress has been made with regard to capacity building and enhancing professionalism in the sector as implemented activities include developing a training programme and organising regular training events for different target groups (such as contracting authorities, managing authorities of operational programs, control bodies, judges, etc.), increasing the capacity of the Public Procurement Agency, etc.

The scope of external ex-ante control has been extended and measures aimed at unifying control practice and enhancing the governance and control of the European Structural and Investment Funds (joint guidance on performing ex-post procurement controls, checklist updates and methodology for verification, analysis of practical results, regular exchange of information and sharing of experience and good practices, etc.).

Besides the provisions on publicity and transparency in EU Directives, some additional requirements are envisaged at national level, too (such as the publication of information on low-value public procurement contracts, the publication of subcontracts, etc.). Enhancing publicity and transparency is also provided by and the introduction of a centralized national e-procurement platform and legislative changes in this regard.

It should be also taken into account that under the Act on Economic and Financial Relations with Companies Registered in Preferential Tax Jurisdictions, Controlled Persons and Their True Owners companies registered in preferential tax jurisdictions, persons associated with them and their beneficiaries, are not entitled to participate in procurement procedures (including as members of associations), with except for the cases listed in the Act). When, on

the basis of false information provided, each of the exceptions is applied to a candidate / participant in a procurement procedure covered by the prohibitions of the law, the latter must be excluded from participation, if the procedure has not been completed, respectively. The contract for the award of which this candidate / tenderer has been selected shall not be concluded or must be terminated without notice if it has already been concluded. Where the contract has already been fulfilled, the law also provides for the repayment of all payments received, in which case the contracting authority does not owe any compensation.

The Public Procurement Agency exercises external ex-ante control over public procurement, and external ex-post control over the implementation of the Public Procurement Act (including control over the performance of public procurement contracts and framework agreements) is carried out by the National Audit Office and the Public Financial Inspection Agency.

The system of appeals against decisions, actions and omissions of contracting authorities in connection with public procurement procedures is two-instance and the bodies empowered to hear appeals are the Commission for Protection of Competition (first instance) and the Supreme Administrative Court (second instance).[22][23]

In order to place emphasis on public procurement characterized by greater value and higher risk, simplifying the control process and reducing the public expenses associated with its implementation, amendments to the Public Procurement Act have been made since March 1, 2019. These changes envisage optimization of the scope of the different types of control exercised by the Public Procurement Agency, incl. by introducing (or changing) value thresholds with regard to the procurement procedures / procurement contracts to be controlled; assessment of the need to use external experts to verify the technical specifications and evaluation methodology; elimination of the second stage of random selection control when the procurement procedure is a public competition; introducing an obligation for contracting authorities to provide written reasons for non-compliance with recommendations made by the Public Procurement Agency during the first stage of random selection.

At the end of 2019 changes to the Public Procurement Act considerable part of which was directed towards the introduction of a centralized automated information system "Electronic Public Procurement /CAIS" EPO/. On the development of the platform itself, the equipment was delivered and basic and specialized software was installed - 18 out of a total of 32 modules foreseen in two stages, training of administrators and end users is being conducted, a Call Centre has been established and maintenance activities are being implemented. Currently, all Stage 1 modules are operational. These include: e-Registration, e-Notification, e-Sender, ESPD; e-Access, Information exchange; e-Submission; e-Opening, Mini competition within Framework Agreement, e-Catalogue, e-Reporting, e-Invoicing, as well as 4 administrative modules. Some Stage 2 modules are operational, too.

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[22] Further information on public procurement reform in 2014-2018 and the existing institutional and legal framework (including various control mechanisms as well as additional measures aimed at improving transparency, legality and integrity) may be found in the Assessment Report elaborated by experts of the International Bank for Reconstruction and Development in the framework of the implementation of the Consultation Agreement between Public Procurement Agency and the International Bank for Reconstruction and Development on 2 November 2017, which is available at: https://www2.aop.bg/wp-content/uploads/2019/05/Bulgaria-RAS-Procurement-Report-Component-3-BG.pdf.

[23] Cooperation agreements signed by the Public Procurement Agency and other bodies with powers related to public procurement contracts (including the 2017 multilateral cooperation agreement on prevention and fighting conflict of interests) are also publicly available (https://www2.aop.bg/metodologiya/sporazumeniya-za-sytrudnichestvo/).

A new Public Procurement Portal (including the website of the Public Procurement Agency) has been developed and put into operation. Buyer's profiles are already made part of the CAIS 'EPO' and introduced to contracting authorities/contracting entities and the public. The rest Stage 2 modules are under development.

In accordance with the schedule adopted by the Council of Ministers (Decree №332 of 13 December 2019), as of 1 January 2020 central administrative bodies and their territorial structures, other bodies established by law, mayors of large municipalities and some sectoral contracting entities with significant experience are required to use the e-procurement platform.

With the amendments and supplements to the PPA adopted in December 2019, certain provisions regarding powers of the Executive Director of the Public Procurement Agency related to, inter alia, monitoring of public procurement, were changed. More detailed provisions on collection and exchange of information for monitoring purposes were introduced with following in the RIPPA.Based on the International Bank for Reconstruction and proposals and recommendations and after discussions with key public procurement stakeholders, measures are planned to further improve the procurement system. Activities have already begun. A new procurement strategy for the period 2021-2027 is also to be developed.

In the field of healthcare in 2019, the process of putting into operation the e-platform for medicinal products has been completed, which will allow for faster and better quality response to the needs of contracting authorities, increasing competition and achieving more favorable conditions for contracting authorities in the sector. The increased use of electronic means and tools and the integration of the platform with existing e-registers will also greatly contribute to effectively counteracting and preventing corruption in the sector.

The Inspectorate with the Supreme Judicial Council, which is an independent body and outside the executive, carries out checks on the integrity and the conflicts of interest of judges, prosecutors and investigators, their property declarations, as well as for ascertaining any actions damaging the prestige of the judiciary and such violating the independence of judges, prosecutors and investigators. The Inspector General and the inspectors are independent and obey only the law when performing their duties. A project is being implemented to strengthen the capacity of the Inspectorate at the Supreme Judicial Council to conduct the so called "integrity checks" of judges, prosecutors and investigators (Project "Ensuring software and methodological support and building the administrative capacity of the Inspectorate at the Supreme Judicial Council for the prevention of corruption in the judiciary). A grant agreement has been signed between the Inspectorate at the Supreme Judicial Council as a beneficiary and the Managing Authority of the Operational Program "Good Governance". The Operational Program is co-financed by the European Union through the European Social Fund. The Supreme Judicial Council is a partner in its implementation.

The project aims to:

- ensure effective measures for the prevention of conflicts of interest while also ensuring transparency and protection of the independence of the judiciary;
- increase the effectiveness of prevention of conflicts of interest through a public e-register of asset and interest declarations of judges, prosecutors and investigators;
- draft internal rules for the verification of asset and interest declarations , for checks on the integrity and conflict of interests of magistrates;
- allow for the identification of such actions which might compromise the prestige of the judiciary;
- increase the effectiveness of inspections related to the violation of the independence of judges, prosecutors and investigators.

The project envisages the development of two e-public registers. One is for the electronic declarations for the prevention and establishment of conflicts of interest and for the property

declarations. the second one is for- the recusals of magistrates (including the requests for recusal and their motives, the reasons for their acceptance or rejection, as well as the ruling from the higher court).

In view of the new powers vested in the Inspectorate at the Supreme Judicial Council related to the integrity checks of magistrates, Bulgaria has submitted a technical assistance request to the Structural Reform Support Service (SRSS) under the Structural Reform Support Programme (SRSP) in order to strengthen the capacity of the Inspectorate at the Supreme Judicial Council for prevention of corruption. The project was approved at the end of 2017and was finalised in February 2020, when an analytical report was presented, outlining the good practices identified by the Inspectorate at the Supreme Judicial Council in relation to integrity checks. It included also proposals for legislative changes concerning the Inspectorate, based on studied best practices. The proposed measures are due for deliberation and implementation.

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

The Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property consults each draft act prepared by the executive authorities regarding the presence of corruption risk and performs an ex-post analysis of the impact of the law. [24]

For the first time ever in 2019, the implementation of 783 anti-corruption measures planned by 35 first and second level spending units was supervised, and three important projects directly aimed at enhancing the expert capacity of the staff of the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property in different areas of activity, as outlined by law, were completed.

On the subject of Chapter Nine of the Act on Counteracting Corruption and on Seizure of Illegally Acquired Property (counter-corruption by way of disclosing acts committed by senior public office holders) the number of checks performed has increased by almost 50% (ex-ante checks within the meaning of the Judicial System Act assigned the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property by the Prosecutor's Office of the Republic of Bulgaria, and checks on received alerts of corruption), and aside from that, 9 specialised operations were carried out jointly with the Specialized Prosecutor's Office.

During the reporting period, the number of decisions taken by the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property in relation to its powers under Chapters Ten, Eleven and Twelve of the Act on Counteracting Corruption and on Seizure of Illegally Acquired Property (the powers for identification of unlawfully acquired assets, request to the court for precautionary measures and forfeiture to the state coffers of unlawfully acquired assets), increased more than three-fold compared to 2018, while at the same time, these decisions were based on the fundamentally different regulations.

In 2019, after a period of creating the material conditions for this in the previous period, the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property began to effectively exercise in principle its new power conferred on it under the Act on Counteracting Corruption and on Seizure of Illegally Acquired Property - to manage and safeguard property subject to collateral on the basis of the law.

[24] In 2019, a total of 79 draft acts were consulted and a follow-up analysis was performed of the impact of the adopted legislative acts that were subject to a consultation in the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property. The number of draft acts consulted is over 25% higher than in 2018.

On the basis of a signed agreement between the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property and the University of National and World Economy, during the 2018/2019 academic year, a master's program in Anti-Corruption was opened with the assistance of the Commission.

One of the measures put in place in the current anti-corruption strategy is to limit the human factor intervention in the delivery of administrative services and to exercise control functions in the fight against "petty" corruption. A great number of various measures have been implemented, aimed at the introduction of electronic services, official collection of information (including compliance with the requirement for one-off collection and creation of data, reduction of the documents required from the service applicants, removal of services), standardisation of services such as procedure, number and type of documents required, period of validity of issued documents, transformation of regimes which provide for assessment of expediency into regimes which provide only for a legality check, etc.

Employees of state authorities, with the exception of those holding technical positions - the administrations of the executive, legislative, judicial, local and other state bodies, are also required to file declarations of incompatibility and declarations of property and interests and are subject to inspection by the inspectorates of the administrations or commissions bodies set up for this purpose. In the performance of their duties, such persons are also bound by the provisions on conflict of interest. These issues are regulated in the Ordinance on the Organization and Procedure for the Verification of Declarations and for Establishing Conflict of Interests, adopted by Decree No. 209 of the Council of Ministers of 26 September 2018.

At this stage, since the end of 2019 a working party with an extremely wide representation of the institutions and representatives of the non-governmental sector is preparing a draft of a new anti-corruption strategy after 2020 and an analysis of the implementation of the existing one.

C. Repressive measures

25. Criminalisation of corruption and related crimes

Corruption and related crimes are regulated in the Special Part of the Criminal Code of the Republic of Bulgaria in accordance with international instruments[25]. Conditionally, they can be grouped into three groups:

1/Actual Corrupt Crimes - fully correspond to the definition of the Civil Convention against Corruption and the obligations arising from the Criminal Convention against Corruption[26]

2/ Crimes related to the broader notion of corruption – non-compliant actions of officials, with probable corrupt motive, corrupt impact of external factors and foreign interest[27]

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[25] Civil Convention against Corruption (prom. SG No. 102 of 21.11.1995)
Criminal Convention against Corruption (prom. SG No. 42/2001)
United Nations Convention against Corruption (prom. SG No. No. 89/2006)
Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (prom. SG No. 67 of 12.06.1998), Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector

[26] Chapter Six, "Crimes against the economy", Section I , "General economic crimes" - Art. 224, Art. 225b, Art. 225c, Chapter Eight , "Crimes against activities of state bodies, public organisations and persons performing public functions", Section IV, "Bribery" – Art. 301 - 307 of the Criminal Code, Chapter Eight "a" "Crimes against Sport" – Art. 307c – 307d of the Criminal Code

[27] Chapter Six, "Crimes against the economy" – Art. 240, para. 3, item 6 of the Criminal Code, Art. 248a, para. 4 of the Criminal Code, Art. 253, para. 3, item 3 of the Criminal Code, Art. 253b – Art. 256, para. 2 of the Criminal Code, Art. 260a – Art. 260c of the Criminal Code, Art. 278, para. 5, Art. 278b, para. 2 and para. 3, Chapter Eight, Section II "Malfeasances" – Art. 280, Art. 282, Art. 282a, Art. 283, Art. 283a, Art. 283b, Art. 284 - 285, Section III "Crimes against Justice" - Art. 288, Art. 294,

3/Crimes criminalising the conduct of officials and other persons, not necessarily influenced by external factors or the interest of another, but constituting abuse of position of officials and crimes of non-officials with a possible corrupt motive[28].

Legislative changes related to the expansion of competence[29] and restructuring of specialized bodies predetermine processes of significant changes and efforts in personnel for regulatory provision regarding the effective interaction with the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property, National Agency for National Security, National Revenue Agency, Customs Agency.

The regulatory framework in the area of securing and seizing (confiscating) property acquired through criminal activities[30]. According to the requirements of Directive 2014/42/EU of the European Union and the Council from 3 April 2014[31] we introduced definitions for "direct and indirect proceeds" which cover entirely the definition of "proceeds" under art. 2, item 1 of the Directive (art. 53, para. 3, item 1 and item 2 of the Criminal Code), the opportunities for a property to be deprived have been expanded (art. 53, para. 1, (a) of the Criminal Code) and we created an adequate mechanism for management of secured property until its subsequent confiscation (seizure)[32] with a judicial act in force.

The obligations related to the collection and compilation of statistic data on the securing and seizure of property acquired from criminal activities, as well as the annual submission of said data to the EC, are assigned to the National Statistical Institute.

According to the requirements of Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law[33] foreign officials were included in the group of persons who may bear criminal responsibility (art. 201, para. 2 of the Criminal Code) and we expanded the possibility of applying corporate responsibility to crimes under art. 201 – 203 of the Criminal Code[34].

26. Review of sanctioning (criminal and non-criminal) for corruption crimes, including legal entities

The Prosecutor's Office of the Republic of Bulgaria introduced an Uniform Accountability Act[35], which makes it possible to monitor trends in the prosecution's anti-corruption and anti-organised crime activities, analysing persistent problems in the investigation of cases of particular public interest stemming from recommendations in EC reports and European Court of Human Rights rulings.

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para. 4 and Art. 299 of the Criminal Code, Chapter Nine "Crimes related to documents" - Art. 310, para. 1, Art. 311, para. 1 of the Criminal Code, Art. 387 of the Criminal Code, etc.

[28] Chapter Three, Section III "Crimes against the Political Rights of Citizens" – Art. 167, para. 2 – 4, Art. 167a, Art. 169, Art. 169c, Chapter Five, Section III "Embezzlements" – Art. 201 – Art. 203 of the Criminal Code, Chapter Seven, Section I "General Economic Crimes" - Art. 226 of the Criminal Code, Chapter Eight, Section III "Crimes against Justice" – Art. 291, para. 1 of the Criminal Code, Chapter Nine "Crimes related to documents" – Art. 312 of the Criminal Code, Chapter Eleven, Section III "Crimes against Peoples' Health and the Environment" – Art. 354a, para. 2, Art. 354b, para. 2, item 3 of the Criminal Code.

[29] Act to amend and supplement the CPC (SG No. 63/2017, effective 05.11.2017) – Expansion of the competence of the Specialized Prosecutor's Office

[30] Act to amend and supplement the Criminal Code (SG No. 7/22.01.2019)

[31] OB, L 127 from 29 April 2014, amendment OB, L 138 from 13 March 2014.

[32] Art. 13, para. 1, item 13 of the Anti-corruption and Forfeiture of Illegally Acquired Assets Act

[33] OB, L 198/29 from 28 July 2017.

[34] SG No. 83/2019

[35] Order of the Prosecutor General RD-04-279/02.10.2017 in implementation of measure No. 2 of the Action Plan of the Prosecutor's Office of the Republic of Bulgaria for the implementation of the Independent Analysis of the Prosecutor's Office, as well as the recommendations of the Report on Bulgaria's Progress under the CVM, dated 25.02.2017, establishing a mechanism for public reporting on progress in cases of organized crime and corruption.

An organisation for priority work and accountability of prosecutors' offices in the country on corruption cases has been established.[36] Data on criminal proceedings involving corruption crimes committed by persons holding high offices of state and/or performing responsible and supervisory functions in state institutions and local self-government bodies shall be reported in the Common Catalogue of Corruption Crimes established for this purpose.

The implementation of the mechanism of special supervision by providing timely methodological assistance to investigative bodies and supervising prosecutors by prosecutors of higher levels of the Prosecutor's Office ensures a high degree of efficiency in criminal proceedings and the continued promotion of European Court of Human Rights standards. The quality of interaction with European and other international partners in counteracting crime is also considerably higher.

The current legislation provides for adequate criminal sanctions for acts of corruption. Notwithstanding the penalties provided for in Art. 37, para. 1, item 1a - 9 of the Criminal Code, the general rule of Art. 53, para. 2, letter "b" of the Criminal Code allows the forfeiture in favour of the State of all "direct and indirect benefits[37] acquired from the crime if they are not returnable or recoverable, and if the benefit is absent or alienated, its equal value shall be awarded".

The use of the procedural methods for applying the precautionary measures under Art. 72 and Art. 72a of the Criminal Procedure Code (freezing of assets) guarantees the actual execution of financial penalties (fine, confiscation, forfeiture in favour of the state).

The regulatory and structural changes that have occurred allow effective implementation of the interaction with the Commission for Counteracting Corruption and for Seizure of Illegally Acquired Property in the implementation of the activities under Chapter Nine by the bodies under Art. 16, para. 2 of Anti-corruption and Forfeiture of Illegally Acquired Assets Act and the management of the property to which the measures have been applied[38].

There is a nearly 50% is the increase in cases supervised by the Specialized Prosecutor's Office for Corruption Crimes. The number of acquitted persons with a final judgment, as well as their proportion of the number of all persons subject to a final judgment, has significantly decreased.

According to the recommendations of the Organization for Economic Co-operation and Development the advanced regulatory framework in the Administrative Violations and Penalties Act (art. 83a – 83g)[39] introduced the standards for corporate responsibility under art. 3 of the Second Protocol to the EU Convention on the protection of the European Communities' financial interests (1997), art. 2 and art. 3 of the Organization for Economic Co-operation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997) and art. 26 of the UN Convention against Corruption by ensuring that administrative (non-criminal) sanctions are applied to legal persons simultaneously and independently of criminal proceedings against the natural persons, perpetrators of the criminal act.

[36] In implementation of the Package of measures taken by the management of the Prosecutor's Office of the Republic of Bulgaria to implement the recommendations in the EC report under the CVM, dated 22.01.2014. – Order No. AC-726/18.03.2014 amended by Order No. RD-04-279/02.10.2017.

[37] Legal definition - Art. 53, para. 3 of the CC

[38] Instruction No. 2/05.09.2018, prom. SG No. 82/05.10.2018, effective 05.10.2018

[39] Act to amend and supplement the Administrative Violations and Penalties Act (SG No. 81/2015, in force from 21.11.2015)

27. Potential obstacles to investigation and prosecution of high-level and complex corruption cases

Relevant factor in overcoming deficiencies that obstruct effective enforcement is the need to fully update the substantive legal framework in line with the country's changed socioeconomic conditions and technological developments.

Full protection of these public relations can be ensured through regulatory solutions:

- encouraging bona fide procedural behaviour, excluding criminality for the bribery giver, if voluntarily so reported, albeit not immediately, even in situations where the person was not subject to blackmail;

- allowing a voluntary agreement between the defence and the prosecutor in respect of persons cooperating with the prosecution who have uncovered particularly serious corruption;

- allowing the removal of criminal responsibility for provocation to bribery (Art. 307 of the Criminal Code).

A serious challenge for the investigating authorities is the provision of competent and highly qualified specialists – trained professionals (experts) and translators for the purposes of the criminal proceedings. In addition to their limited range in the various areas of the economy, their professional dependence on the persons under investigation, and not rarely on their affiliates, is exacerbated. This current problem significantly affects the effectiveness and timeliness of ongoing investigations.

The significant imbalance in the workload of prosecutors and investigators of the Specialised Prosecutor's Office requires the continuation of the consistently applied organizational measures (reallocation of vacant and occupied positions from prosecutors' offices with less work; utilization of the possibilities of posting under the JSA) in order to achieve optimal strengthening of the staff according to the increased volume of activities.

Material and technical support to investigative bodies, upgrading the qualifications and efficiency of joint investigation teams in line with ECHR standards remain relevant to date.

III. Media pluralism

A. Media regulatory authorities and bodies

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

The Council for Electronic Media is an independent specialised body which regulates media services in the cases and according to the procedure provided for in its dedicated Act. The Council for Electronic Media is an independent specialised body guided by the public interest, protecting the freedom and pluralism of speech and the independence of media service providers.

The Council for Electronic Media is vested with the powers to exercise supervision over the broadcasting activities of media service providers as to compliance with the Radio and Television Act; to elect and remove the Directors General of the Bulgarian National television (BNT) and the Bulgarian National Radio (BNR); to endorse, upon nomination by the Directors General, the members of the management boards of BNR and BNT. The Council for Electronic Media makes decisions on the grant, alteration, revocation, transfer and termination of a radio and television broadcasting licence. The regulatory body referred to maintains and regularly updates a public register of linear and non-linear media services, as well as a list of undertakings distributing Bulgarian and foreign programme services.

The Council for Electronic Media monitors the protection of children from adverse content, and also carries out specialised monitoring of the activity of media service providers

upon the handling of an election campaign and to provide said monitoring to the Central Election Commission.

The broadcasting of Horizon, the most popular and widely followed programme of the Bulgarian National Radio, was suspended on 13 September 2019. After examining all the facts and circumstances of that particular case, including meetings with the management of the media, with journalists and trade unions, the Communications Regulation Commission, the Commission for Electronic Media decided to terminate the term of office of the Director General of BNR early on grounds cited in the Radio and television Act, i.e. them committing a gross violation of the provisions regarding the principles of pursuit of the broadcasting activities of radio and television broadcasters, related to the citizens' right to information.

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

The Council for Electronic Media is a five-member collective body. Three members are elected by the National Assembly and two are appointed by the President of the Republic of Bulgaria. The term of office of the members of the Council for Electronic Media is 6 years. The composition of the Council for Electronic Media rotates every two years from the quota of the National Assembly and every three years from the quota of the President. The law limits the terms of office to two and these cannot be successive.

Eligibility to the Council for Electronic Media is limited to persons holding Bulgarian citizenship who hold a degree of higher education and possess professional experience in the following spheres: electronic media, electronic communications, journalism, law or economics. An additional requirement for the members is to enjoy public authority and professional acknowledgement. The following persons are ineligible for membership of the Council for Electronic Media: persons who have been sentenced to imprisonment for premeditated indictable offences or sole traders, owners of the capital of commercial corporations, partners, managing directors, managerial agents or members of management and auditing bodies of commercial corporations and cooperatives. There are statutory prohibitions on taking up other positions during their term of office and afterwards, as well as on engaging in certain activities afterwards.[40]

The term of office of a member of the Council for Electronic Media is terminated prior to its formal expiry on the event of removal of said person from office or in the event of death. Early dismissal takes place in the event of resignation; in the event of permanent actual inability to discharge his or her duties in the course of more than six months; upon establishment of incompatibility with the requirements of the Radio and Television Act; upon entry into force of a sentence imposing a penal sanction of deprivation of liberty for a premeditated offence; upon entry into effect of an act which ascertains any conflict of interest under the Act on Counteracting Corruption and on Seizure of Illegally Acquired Property.

[40] The members of the Council for Electronic Media may not occupy any other salaried position under a contract of employment; hold elected office in any state or municipal bodies, in the governing bodies of any political parties and coalitions, or in any trade unions; be members of the management, auditing and supervisory bodies of any commercial corporations or cooperatives; be consultants or members of management, auditing and supervisory bodies of any media service providers, or acquire interests or shares in any such broadcasters or in any advertising agencies; be consultants or members of management, auditing and supervisory bodies of any non-profit organisations which are media service providers; receive remuneration in any form whatsoever from any media service provider, save according to intellectual property legislation. The restriction on members of the Council not serving as consultants or members of management, auditing and supervisory bodies of any media service providers, or acquiring interests or shares in any such broadcasters or in any advertising agencies applies for two years after the expiry of their term of office, while regarding NGOs which are media service providers, the restriction on serving as consultants or members of management, auditing and supervisory bodies applies for one year.

The meetings held by the Council for Electronic Media are valid if as many members are present as necessary for making decisions on the agenda. Decisions are made in person and by physically present members, voting by open ballot. The Council for Electronic Media makes decisions by a simple majority of all its members, except for decisions on the election and early termination of the chairperson of the regulatory body, as well as on the endorsement of the management boards of the BNR and the BNT, which require a majority of two-thirds of all members. Decisions of the Council for Electronic Media are subject to appeal before the court.

B. Transparency of media ownership and government interference

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

During the 2014-2020 programming period, Bulgaria has guaranteed compliance with the principle of sound financial management and control in the use of EU funds for information and communications by complying with the requirements of Regulation (EU) No 1303/2013 and the provisions of the European Structural and Investment Funds Management Act. The Monitoring Committee of the Partnership Agreement between Bulgaria and the European Commission has adopted a National Communication Strategy.

In implementation of the National Communication Strategy for the 2014-2020 programming period[41], a methodology for the allocation of the financial resources for information and communication of operational programmes and financial instruments co-financed through the European Structural and Investment Funds (ESIF) has been introduced).[42][43]

In pursuance of the National Communication Strategy, each Managing Authority (MA) develops an Annual Action Plan, which includes a variety of activities, channels and media that are appropriate to promote the implementation of the programmes. At the beginning of each calendar year, the Annual Action Plans of the Operational Programs are published on the Unified Information Portal of the ESIF in Bulgaria.

The MA complies with the budgets for information and communication of the programmes with the Methodology. Each Managing Authority determines the type of media to work with in order to fulfil the specific objectives of the respective Operational Programme and the messages reaching their target audience. The choice of media is made either by announcement of public procurement or by a procedure prepared in advance and approved by the Head of MA for selecting media to purchase broadcast time or provide broadcasts. According to the Methodology, the allocated resources for contracting without a procedure under the Public Procurement Act cannot exceed 30% of the annual budget for communications of the respective Operational Programme, of which 80% represent the funds directed to national media and 20% to regional electronic media.

The implementation of all information and communication activities performed by the MA under the programmes is public and available every month on the Unified Information

[41] https://www.eufunds.bg/bg/taxonomy/term/609

[42] https://www.eufunds.bg/sites/default/files/uploads/eip/docs/2018-12/Methodology.pdf

[43] The methodology has been in place since the summer of 2016 and was created after a detailed analysis of the information and publicity measures, which were criticised during the first programming period (2007-2013) and were subject of suspicion for lack of a unified approach in the selection process in the communication activities and media channels for their coverage. The methodology avoids focusing on a financial resource in media channels of the same type and allows equal access by competitive selection of all media sources, including the Internet and online media, press, news agencies and others.

Portal. [44] According to the time limits set in the Methodology, a summary of its implementation is published quarterly.[45]

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

The Supreme Judicial Council holds annual meetings with journalists with a view to improving communication and interaction.

The Supreme Judicial Council has several public initiatives aimed at civil society, with an focus on adolescents. Successful practices for introducing models for active dialogue between the judiciary and citizens are:

- The educational programme "The Judiciary - an informed choice and civic trust. Open courts and prosecutor's offices" implemented jointly with the Ministry of Education and Science (MES), for which the Supreme Judicial Council was awarded in the Council of Europe's Crystal Scales of Justice competition in 2017. The educational program was launched as a pilot in the 2014/2015 school year with the free participation of 46 courts and prosecutor's offices, while over the last three years about 160 courts and prosecutor's offices have been permanently involved in it and have permanently covered about 15 000 students in the country. In May 2018, the Educational Programme was met with great interest during the first European Judicial Network Exhibition and, after a vote among participants, it was voted second as an example of Leading Positive Change.

In 2019, the Supreme Judicial Council provided students covered by the Educational Programme with 15 000 issues of the Constitution of the Republic of Bulgaria and certificates for the students participating in the Educational Programme; 12 000 issues of five pamphlets describing the Supreme Judicial Council, the judiciary, the rights and obligations of the witnesses and victims of crime, answered the five questions that aroused the greatest interest among the students participating in the Educational Programme. 2 000 posters for promotion of the Educational Programme were printed, as well as 1 000 more for promotion of the Open Day. The information materials were developed with the participation of court employees, magistrates and members of the Supreme Judicial Council, and their printing was funded by the Supreme Judicial Council.

The Plenary of the Supreme Judicial Council annually provides funding to the courts and prosecutors' offices, which participate individually or jointly in providing educational materials, securing initiatives, activities and a prize pool.

On 14 June 2019, the Supreme Judicial Council organised the National Conference Challenges and Prospects for the Educational Programme Judiciary - an informed choice and civic trust. Open courts and prosecutor's offices on the occasion of the fifth anniversary of the Programme.

In 2019, the Supreme Judicial Council and the German Foundation for International Legal Cooperation provided train-the-trainer training for lecturers in the educational programme on the topic of Getting to Know the Law and the Judiciary – A Special Type of Lesson, which was attended by over 70 magistrates - administrative heads, judges, prosecutors, investigators and court employees.

[44] https://www.eufunds.bg/bg/node/456
[45] https://www.eufunds.bg/bg/node/464

• Open Day information campaign in the judicial authorities under the slogan Openly about the Judiciary.

In the period from 2013 to 2019, the number of judicial authorities in which Open Day was held increased greatly, and due to the high interest, in some courts the initiative was held more than once a year. In 2019, 226 judicial authorities, including 178 courts, 43 prosecutors, the Supreme Judicial Council and the National Institute of Justice declared their participation in the initiative.

In recent years, the Supreme Judicial Council approved the holding of a national student essay contest, the winners being awarded on the Council's Open Day. The 2019 contest was on the topic Openly about the Judiciary and featured an unprecedented number of students – 139.

There is also a one-month internship programme in the administration of the Supreme Judicial Council for law students. Participants are approved following a pre-selection test and they receive certificates upon successful completion of the internship. A total of 203 law students have participated in the Programme from its inception until 31 December 2019.

32. Rules governing transparency of media ownership

According to the Radio and Television Act, the following are eligible to apply for pursuit of radio and television broadcasting activities: natural persons who are sole traders and legal persons registered under Bulgarian legislation; and legal persons registered under the legislation of a Member State of the European Union, or of another State which is a Contracting Party to the Agreement on the European Economic Area. Legal restrictions for legal persons have also been introduced. [46] In the procedure for issuance of licence or registration applicants must submit certain statutory documents, including documents proving the origin of their capital during the last three preceding years as from the date of submission of the documents, including an audited financial statement; a list of the media enterprises in which said applicants are shareholders or partners. The Council for Electronic Media also maintains a Public Register in which it records data on the legal and natural persons exercising control over the management of media service providers, as well as data on the management bodies, including personnel, of the media service providers.

The Act on the Obligatory Deposition of Printed and Other Matters, and on Disclosing the Distributors and Providers of Media Services introduced the obligation for every media service provider to submit to the Ministry of Culture, annually by June 30th, a form declaration approved by the Minister of Culture identifying its actual owner, and containing information as to whether that actual owner holds a public office, as well as information about each financing received during the previous calendar year, its amount and grounds for this, including data on the person who has made the financing. Where the person who actually controls the content of the media service and/or the editorial policy is different from the actual owner of the media service provider, that is stated in the declaration.

The declaration has to indicate all contracts and their value concluded by the media service provider in the course of the preceding calendar year with state or local authorities, or companies with state or municipal participation in the capital, including as a result of public procurement, with political parties, advertising contracts with persons performing activities

[46] Ineligible applicants are those whose insurance business authorisation has been denied or revoked or have some affiliations, persons who cannot prove ownership of their property or capital or are listed under the Information on Non-performing Loans Act are inadmissible; persons that have been declared bankrupt or have been in bankruptcy or liquidation proceedings in the last five years preceding the application for a license; persons that, in the last year preceding the application for a licence, have been denied the same type of licensed activity or their license has been revoked under this law.

subject to regulation, as well as those contracts which have received funding from the European Structural and Investment Funds or from other international financial institutions and donors.

In the event of a change of its beneficial owner has occurred, the media service provider declares the change and indicate whether the beneficial owner holds a public office. The media service provider must also publish up-to-date information about its beneficial owner on its website.

A Working Party has been set up within the Ministry of Culture to ensure implementation of the provisions of Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities. The draft Act amending and supplementing the Radio and Television Act prepared by the working party provides for an obligation for the Council for Electronic Media to include in its registers a link to information concerning their ownership structure, including the beneficial owners in compliance with the requirement of Article 5(2) of Directive (EU) 2018/1808.

C. Framework for journalists' protection

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

Under Article 10 of the Radio and Television Act, the fundamental principles guiding the activities of media service providers are: guaranteed right to freedom of expression of opinion, guaranteed right to information; protection of confidential sources of information. The Radio and Television Act ensures that any opinion can be freely expressed in media services.

Journalists and artists who have concluded contracts with media service providers may not be given any instructions or directions as to the practice of their pursuits by persons and/or groups outside the management bodies of media service providers. Public criticism of media service providers by their employees cannot be treated as disloyalty to the employer.

Journalists who have concluded contracts with media service providers have the right to refuse to perform an assignment, provided it is not related to implementation of the provisions of the Act or of the relevant contracts and if it is contrary to their personal convictions; technical editing of programme material or of news may not be refused.

Editorial statutes for work in the sphere of current affairs may be agreed between the owners and/or management bodies of media service providers and the journalists who have concluded contracts with them. Editorial status must contain specific definitions and measures to protect the freedom and personal responsibility of journalistic work in the performance of the task; protection of journalists from external "pressure", professional and ethical standards for journalistic activity in the respective media service providers; ways of making decisions relating to journalism; setting up an internal body for resolving journalistic work disputes.

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

Regardless of whether journalists or representatives of other professions are targeted, every report is handled professionally and thoroughly by the Ministry of Interior and is reported to the Prosecutor’s Office. As regards the capacity of officials, all of them undergo training under approved topical plans for conducting vocational training, with particular attention paid to the requirements of the investigation activity. Measures are being implemented to strengthen

the administrative capacity, with a particular focus on investigative capacity, aim at a quality, objective, impartial and comprehensive conduct of the investigation in cooperation with other police and state authorities with powers in this area.

The Special Part of the Criminal Code does not provide for the qualification of victims of crimes against the person – the exercise of the profession of "journalist". In this respect, the investigation of such criminal offences is carried out by the methods of gathering evidence provided for in the procedural law.

Ensuring the safety of citizens as well as detecting the perpetrators of crimes requires serious efforts and resources from the authorities of the Ministry of Interior.

The adequate and swift response of the institutions, even in cases unrelated to the journalistic profession, corresponds to the public intolerance of attacks against media representatives.

An example of the significant contribution and the high level of expert capacity of prosecutors and investigative bodies dealing with cases for attacks against the person is the fast detection (within 2 days), the timely surrender to a court, on the basis of the executed European Arrest Warrant by the competent judicial authorities of the Federal Republic of Germany (on 09 October 2018), and the subsequent punishment by a sentence effective on 08.05.2019 of the perpetrator of three serious violations against journalist Viktoriya Marinova from Ruse.[47]

The strong public outcry following the temporary interruption of broadcast of the Horizon programme of the Bulgarian National Radio, served as grounds for the public accountability of the activities undertaken in the competency of the Prosecutor's Office by the Prosecutor General before the Interim Committee to examine the facts and circumstances related to the interruption of the broadcasting of BNR's Horizon programme, as well as the allegations of political pressure on management and journalists from BNR at the 44th National Assembly.

35. Access to information and public documents

The Radio and Television Act stipulates that media service providers have the right to receive any information as they may need from state and municipal bodies, unless this information contains any secret as set out in law. Media service providers must use any information received accurately and non-tendentiously.

The Access to Public Information Act regulates the right of access to public information and to the re-use of public sector information. Access to official information contained in regulations, or where provided for by law, is ensured through promulgation. Access to other official information is free and is effected in accordance with the Act. Access to official public information is also free, with two statutory time limits. In order to ensure transparency and maximum facilitation of access to public information, public entities regularly publish statutory up-to-date information on their websites.

The Legal Information System of the Council of Ministers provides free access to all decrees, orders and decisions, including minutes approved by the governments of the Republic of Bulgaria.

In 2019, the Public Information Access Platform was launched.[48] The platform constitutes a unified, centralised, web-based system through which applications for access to public information can be submitted and through which the public information published in response

[47] On 06 October 2018 – rape, molestation and murder – on 08.05.2019 a sentence of 30 years imprisonment under initial "strict" regime has entered into force.
[48] https://pitay.government.bg/PDoiExt/

becomes publicly accessible to all. 475 institutions registered on the Platform in 2019. In 2019, a new Open Data Portal with enhanced functionality was also launched.[49]

36. Other - please specify

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

37. Stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), transparency of the legislative process, rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions).

The Statutory Instruments Act lays down the general rules for preparing, drafting, issuing and adopting statutory instruments. The principles for drafting statutory instruments are: necessity, justification, predictability, openness, coordination, subsidiarity, proportionality and stability. In the process of developing a draft statutory instrument, public consultations are held with citizens and legal entities. Before the tabling of a draft statutory instrument for issuance or adoption by the competent authority, the author of the draft publishes it on the website of the relevant institution together with the rationale, or report respectively, and the *ex-ante* impact assessment provided. When the author of the draft is a body that belongs to the executive, the draft is published on the Public Consultations Portal and when the author is a local government, the draft is posted on the website of the relevant Municipality and/or Municipal Council. The period for submission of proposals and opinions on the drafts posted for public consultations is not less than 30 days. In exceptional situations and with an explicit description of the reasons in the rationale, or the report respectively, the Statutory Instruments Act allows the author of the draft to set a different period but no less than 14 days. Upon completion of public consultations and before the adoption or respectively the issuance of the statutory instrument, the author of the draft publishes information about any submitted proposals together with reasons for the rejected ones on the website of the relevant institution. Draft acts are accompanied by an impact assessment and the laws in force are subject to evaluation of their enforcement.

The Rules of Organisation and Procedure of the National Assembly regulate the submission, consideration and voting of draft legislation. Draft acts, along with the motives to them and the *ex-ante* impact assessment, are submitted to the President of the National Assembly and are immediately registered in the draft act public register. When draft acts have been submitted by Members of the National Assembly, the *ex-ante* impact assessment follows the methodology annexed to these Rules. For each draft act, an information file is put together, reflecting the process of discussion on the draft in the National Assembly, and is added to *ex-officio* until its adoption or rejection.

The President of the National Assembly allocates draft acts between the Standing Committees within three days of their receipt. Standing Committees discuss said draft acts not earlier than 24 hours after their receipt by the members of the respective Committee. They then present to the President of the National Assembly with a motivated report within a time limit in line with the legislative program and the adopted one-week or two-week schedule for the

[49] https://data.egov.bg/

work of the National Assembly. Reports on draft acts are submitted to the National Assembly by the Committees in charge for a first vote not later than two months from the date of their submission and are published immediately on the webpage of the Committee in charge within the website of the National Assembly.

Draft acts, along with their supporting documents and the report of the Committee in charge to which they have been assigned, are circulated among Members of the National Assembly no later than 24 hours prior to the beginning of the sitting at which they are set to be considered. In respect of draft acts submitted by Members, the Chair of the committee in charge requests the opinion of the Council of Ministers or the relevant line Minister. For draft acts pertaining to the judicial system, the Chair of the committee in charge calls for the opinion from the Supreme Judicial Council. Members of the public and legal entities have the right to submit written opinions on draft acts. All reports received are posted without delay on the website of the committee in charge within the website of the National Assembly.

Draft acts are put to the vote twice, at two separate sessions. By way of derogation, the National Assembly may decide to conduct both votes in the same session, if during deliberations on the draft act no amendments or supplements have been made. The Members of the National Assembly may make written proposals for amendments and supplements to a draft act that has passed the first vote or to a drawn up single consolidated draft act within 7 days of its passage, respectively of its provision to the Members of the National Assembly, who adduce arguments. The proposals are entered in a public register of the National Assembly. By way of derogation, the National Assembly may decide to extend this period by a maximum of three weeks or to reduce it, but to not less than three days.

The draft report for a second vote is published on the website of the committee in charge within the website of the National Assembly. Within 14 days from the committee in charge passing the draft act, said committee submits to the National Assembly a report containing the written proposals of the Members of the National Assembly, along with the opinions of the committee on these, as well as the committee's proposals concerning the draft act under consideration. The report is published immediately on the website of the committee in charge within the website of the National Assembly.

In order to implement the Updated Strategy for Continuing the Reform in the Judiciary (Strategy), as adopted by the Council of Ministers in 2014 and approved by the National Assembly on 21 January 2015, by Council of Ministers Decree No 3 of 2016, a Council for Implementation of the Updated Strategy to continue the Reform of the Judicial System was set up (the Council). It is an advisory body to the Council of Ministers chaired by the Minister of Justice. The Council coordinates the state policy regarding the implementation of the Strategy and supervises the implementation of the strategic goals set in it, **and also deliberates on the proposals for changes in the regulations** relating to the implementation of the Strategy. Members of the Council are representatives of the judiciary and the executive, professional organisations of judges, prosecutors and investigators, representatives of academia, as well as non-governmental organisations with experience in the field of judicial reform. Council meetings address key issues for the implementation of the objectives of the Strategy and its Roadmap.

38. Regime for constitutional review of laws

According to Article 149(1) of the Constitution of the Republic of Bulgaria, the Constitutional Court rules on constitutionality of acts. The Constitutional Court acts on an initiative from not fewer than one-fifth of all Members of the National Assembly, the President,

the Council of Ministers, the Supreme Court of Cassation, the Supreme Administrative Court or the Prosecutor General. Should it find a discrepancy between an act and the Constitution, the Supreme Court of Cassation or the Supreme Administrative Court suspends the proceedings on a case and refers the matter to the Constitutional Court. The Ombudsman and the Supreme Bar Council may approach the Constitutional Court with a request for declaring as unconstitutional a law which infringes human rights and freedoms. The possibility for the Constitutional Court to also be approached by the Supreme Bar Council was introduced with the amendments to the Constitution adopted in 2015. This way, the institute of indirect constitutional complaint was introduced into the Bulgarian model of constitutionality control.

A ruling of the Constitutional Court requires a majority of more than half of the votes of all 12 judges. Rulings of the Constitutional Court are promulgated in the State Gazette within 15 days from the date on which they are issued. A ruling comes into force three days after its promulgation.

B. Independent authorities

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

The Commission for Protection against Discrimination is an independent specialised state body for the prevention of discrimination, protection against discrimination and ensuring equal opportunity. It is a national human rights body with a B status accredited by the United Nations.

The Commission consists of 9 people, including at least four lawyers. The National Assembly elects 5 members, including the Chairperson and the Deputy Chairperson of the Commission, while the President of the Republic of Bulgaria appoints 4 members of the committee. The term of office of the members of the Commission is 5 (five) years.

The Commission reports only to the National Assembly. In compliance with the Paris Principles, the National Equality Body in the Republic of Bulgaria is established as an independent body.

All individuals on the territory of the Republic of Bulgaria are subject to protection against discrimination. “There shall be no direct or indirect discrimination of individuals on the basis of sex, race, nationality, ethnic belonging, human genome, citizenship, origin, religion or faith, education, beliefs, political affiliations, personal or public status, disability, age, sexual orientation, marital status, ownership of property, or any other feature established in a law or international treaty that the Republic of Bulgaria is signatory to.”

The Commission examines complaints and reports on protection against discrimination and issues decisions ascertaining violations of the Protection against Discrimination Act or other acts governing equal treatment, the offender and the victim; decrees the prevention and suspension of the violation and the restoration of the original situation; imposes the sanctions provided for and implements administrative enforcement measures; makes mandatory prescriptions for compliance with the Protection against Discrimination Act or other laws governing equal treatment, or where it considers the complaint/report to be unfounded. No stamp duty is charged for proceedings initiated before the Commission for Protection against Discrimination.

The Commission may be approached via a complaint, report or at its own initiative. In the event of the Commission for Protection against Discrimination acting on its own initiative, a written report is prepared by a member or members of the Commission for Protection against Discrimination to the President of the Commission.

The decisions of the Commission for protection against Discrimination are individual administrative acts and as such are subject to appeal before the court under the procedure set out in the Code of Administrative Procedure. The appeal of the decision of the Commission for Protection against Discrimination does not suspend the fulfilment of its compulsory prescriptions, unless the court orders otherwise (Article 77 of the Protection against Discrimination Act). The determination of compensation in the cases of discrimination (including the amount of the compensation) lies with the judiciary.

The Commission for Protection against Discrimination exercises *ex-post* control over the compliance with its coercive administrative measures. A special administrative penal provision has been introduced for the persons that fail to comply with a decision of the Commission for Protection of Competition, the amount of the sanctions being significantly higher than the other administrative penal provisions in the regulation. The Commission for Protection against Discrimination develops and implements national and international policies in the field of prevention and protection against discrimination. The Commission for Protection against Discrimination also carries out preventive activity, which is especially effective in the implementation of joint partnerships with public institutions and local authorities in the regions of the country through regional representatives.

The Commission has appointed its regional representatives (RRs) on the territory of the country - the regional cities. The main responsibility of the regional representative is to accept and process complaints and reports from citizens in the region by registering them with the Commission. Regional representatives have advisory functions and provide methodological assistance. Each citizen can receive adequate consultation from the regional representative in the respective region.

Ombudsman

The Ombudsman is a public defender that promotes and protects human rights and fundamental freedoms. The Ombudsman is a supreme independent constitutional body that is elected publicly and transparently by the National Assembly for a period of five years. The Ombudsman may be re-elected to the same office only once.

The Ombudsman is independent in his or her activities and obeys only the Constitution, the laws, and the ratified international treaties to which the Republic of Bulgaria is a party and is guided by his or her personal conscience and morality. The Ombudsman enjoys the same immunity as a member of Parliament.

In 2019 the institution of the Ombudsman of the Republic of Bulgaria was accredited by the United Nations with the highest A STATUS, in accordance with the Paris Principles, as a National Human Rights Institution.

The latest amendments to the Ombudsman Act from 2018 vested in the institution the power to receive and deal with complaints and reports of violations of citizens' rights and freedoms, not only on the part of state and municipal authorities and their administrations, or by persons entrusted with the rendering of public services, but also by private entities. In exercising this power, the Ombudsman can also make proposals and recommendations for the promotion and protection of the endangered citizens' rights and freedoms from private entities.[50] The trend in recent years for an increased number of complaints is a result of the high

[50] 49 961 citizens and representatives of organisations received assistance from the Ombudsman in 2019, and the number of completed checks on complaints and reports was 13 762. (2018 – 12 258). Crucial to the effect of the Ombudsman's activity as a public defender is the degree of implementation of the recommendations as a result of checks made on complaints and

confidence in the Ombudsman, the assistance received by citizens and organisations and last but not least the consistent policy of actively opening the institution to the public through meetings with non-governmental organisations and professional associations, meetings with citizens united for the resolution of a particular problem, holding round tables on specific topics, more frequent visits to specialised institutions, increasing the time for personal visitations in the reception room and organising various types of open days in a number of towns.

The Ombudsman may approach the Constitutional Court with a petition to establish unconstitutionality of any law whereby any rights and freedoms of citizens are violated; submits a request for an interpretative decision or interpretative decree to the Supreme Court of Cassation and/or the Supreme Administrative Court.[51]

The Ombudsman receives and considers complaints and reports regarding violations of citizens' rights and freedoms; makes proposals and recommendations for reinstatement of the violated rights and freedoms to the respective authorities and private entities; mediates between the administrative authorities and the persons concerned for overcoming the violations committed and reconcile their positions; protects children's rights. The Ombudsman may act on his or her own initiative, too, when he or she has established that the conditions necessary for protection of citizens' rights and freedoms have not been created.

With regard to rulemaking, the Ombudsman makes proposals and recommendations for elimination of the reasons and conditions which create prerequisites for violation of rights and freedoms, including proposals for regulatory amendments; submits opinions to the Council of Ministers and the National Assembly on bills relevant to human rights.[52]

The public defender monitors and promotes effective implementation of signed and ratified international instruments in the field of human rights, and also makes proposals and recommendations to the Council of Ministers and the National Assembly concerning the signing and ratification of international acts in the field of human rights.[53]

The Ombudsman functions as a National Preventive Mechanism within the meaning of and in conformity with the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment adopted on 18 December 2002.[54]

Since 2019, the Ombudsman of the Republic of Bulgaria has administrated the Monitoring Council established under the Persons with Disabilities Act.

The activities of the Ombudsman and his or her administration are financed by the state budget and/or other public sources.

C. Accessibility and judicial review of administrative decisions

reports from citizens - for 2019 the implemented and partially implemented recommendations of the Ombudsman account for 96% of overall recommendations.

[51] In 2019, the Ombudsman submitted five requests to the Constitutional Court to declare a law unconstitutional, approached the Supreme Court of Cassation with two requests for an interpretative decision to overcome contradictory jurisprudence, and the Supreme Administrative Court initiated two interpretative cases at the request of the Ombudsman.

[52] By amendments to the Code of Civil Procedure (CCP) which were proposed by the Ombudsman and became effective on 23 December 2019, citizens receive further protection of their rights through: the court's obligation to monitor unfair terms and conditions in contracts *ex officio*, the obligation imposed on applicants in ordering proceedings, including banks, to provide the contracts and the terms and conditions to these, as well as through the established additional options for suspension of enforcement, including during the course of the proceedings. The change was necessary in connection with infringement proceedings against Bulgaria for non-compliance with the EU law regarding unfair terms in consumer contracts. In 2019, the total number of legislative proposals made and the opinions given in draft legislation were 13.

[53] The Ombudsman monitors the implementation of the following international legal acts in Bulgaria: The European Convention on Human Rights, the EU Charter of Fundamental Rights, the UN Convention on the Rights of Persons with Disabilities, the UN Convention on the Rights of the Child, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the UN Convention on the Elimination of All Forms of Discrimination against Women.

[54] 55 detention centres were inspected in 2019 and recommendations were made to improve the policy.

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

According to the Constitution of the Republic of Bulgaria, citizens and legal entities are free to challenge any administrative act which affects them, except those listed expressly in an act. Statutory exceptions are rare and are mainly related to national security issues.

The Administrative Procedure Code and the Administrative Violations and Sanctions Act contain detailed rules for the judicial challenge of individual and general administrative acts and regulations.

Acts may be contested in respect of their lawfulness. The grounds for dispute are lack of competence of the body issuing the act, non-compliance with the established form of the act, substantial violation of administrative (procedural) rules, contradiction with substantive provisions, non-compliance with the purpose of the act.

Individual administrative acts are communicated to all stakeholders within three days of their issue.

A public consultation takes place prior to the issuance of any general administrative acts. The initiation of proceedings for the issuance of a general administrative act is made public through the mass communication media, through disseminating the draft among organisations of the persons concerned, or in another suitable way. The same procedure is used for notification of the act; it is sent via a separate message to individual stakeholders or organisations which participated through proposals, objections or otherwise in the procedure for the issue of the act.

Statutory instruments are subject to the Statutory Instruments Act, which requires mandatory prior public consultation like with draft legislation.

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

Pursuant to the Code of Civil Procedure, an enforceable judgment is binding upon the court which has rendered said judgment and on all courts, institutions and municipalities in the Republic of Bulgaria. Enforcement of judgements is regulated by the Code of Civil Procedure.

The Criminal Code stipulates that any failure to enforce a judgment constitutes a crime: "A person that obstructs or prevents the enforcement of a judgment or does not observe an order for protection against domestic violence or a European protection order in any way whatsoever shall be punished by imprisonment of up to three years or a fine of up to BGN 5 000."

The regulatory framework for the enforcement of final judgments regarding the appeal of administrative acts is regulated in the Code of Administrative Procedure. The Code regulates the binding force of a judgment - it is effective *inter partes* and if the contested act is revoked, the judgment is effective *erga omnes*.

The guarantees for the implementation of the enforced judgment by the public administration and the state institutions are clearly stated in the Code of Administrative Procedure. There is a peremptory legal provision regulating that any acts and actions performed by the administrative authority in contravention with an effective judgment of court are null and void. An administrative penalty is provided for any official that fails to perform an obligation arising from an effective judicial act, as well as special legal proceedings for its enforcement. The Code of Administrative Procedure regulates the implementation of both administrative acts and judgments in administrative cases.

D. The enabling framework for civil society

42. Measures regarding the framework for civil society organisations

According to the Constitution of the Republic of Bulgaria, an act creates conditions conducive to the setting up of cooperatives and other forms of association of citizens and legal entities in the pursuit of economic and social prosperity. All citizens are free to associate. The organisation(s) activity must not be contrary to the country's sovereignty and national integrity, or the unity of the nation, nor can it incite racial, national, ethnic or religious enmity or an encroachment on the rights and freedoms of citizens; no organisation can establish clandestine or paramilitary structures or seek to attain its aims through violence. The act establishes which organisations are subject to registration, the procedure for their termination, and their relationships with the state.

The Non-Profit Legal Entities Act regulates the establishment, registration, organisation, activities and dissolution of non-profit legal entities. The types of non-profit legal entities are associations and foundations. Non-profit legal entities choose freely their objectives and may identify themselves as organisations pursuing activities in the public or private benefit. Such determination is set forth in their statute, their articles of association or the amendments to these. Non-profit legal entities choose freely the means for attaining their objectives.

The state may support and promote non-profit legal persons designated to pursue activity to the public benefit through tax and other financial and economic incentives, as well as through financing under terms and conditions laid down in dedicated acts and in compliance with the rules for state aid. The state pursues a policy in support of development of civil society organisations and creates conditions for the promotion and financial support of civil initiatives. The state policy in the field of civil society organisations is carried out by the Council of Ministers. Funds from the state budget are allocated and spent annually for promotion and financial support of projects of public relevance to non-profit legal persons conducting activity to the public benefit.

The Act on the Commercial Register and the Non-Profit Legal Entities Register governs the registration, record-keeping, storage and access to the register of non-profit legal persons, as well as the effects of the entries, deletions and disclosures therein.

In 2020, a procedure for electing the first Civil Society Development Council provided for in the Non-Profit Legal Entities Act has been launched. The Rules of Procedure of the Council and the Rules for Election of its Members were adopted by the Council of Ministers in 2019.

The Council's primary objective is to develop and implement policies to support the development of civil society. The functions of the Council are to advise on all draft legal instruments, strategies, programmes and plans that relate to the activities of civil society organisations; to coordinate and monitor the implementation of the Strategy for Supporting the Development of Civil Organisations in the Republic of Bulgaria and the Action Plan for the Strategy; to collect information on civil organisations financed by public funds in order to determine the effectiveness of the funds allocated; to conduct an annual review of the needs and problems of civil society organisations, as well as their results and achievements; to support the process of interaction between state and local authorities and civil organisations; to determine priorities and adopt the rules and procedures, and allocate the funds for promotion and financial support of projects of public relevance to non-profit legal persons conducting activity to the public benefit.

The Council consists of 15 members. The Chair of the Council is the Deputy Prime Minister responsible for the implementation of the Strategy for Support of the Development of Civil Society Organisations in the Republic of Bulgaria. The Chair takes part in non-voting capacity when making decisions. The term of office of the Council is 3 years. The other 14 members of the Council may be non-profit legal entities with at least 5 years of experience in

carrying out community service activities in support of civil society development and civic participation. Members are not remunerated for their participation in the work of the Council.

The members of the Council are determined elected between non-profit legal entities themselves through a competitive and transparent procedure which involves the public announcement of the procedure for election of members of the Council on the website of the Portal for Public Consultation; pre-registration of all organisations wishing to participate in the election; nomination of candidate organisations for members of the Council; election of candidates by voting of pre-registrants; the organisations which receive the most votes nominate their representative for a member of the Council and his or her alternate.

A web-based electronic platform for registration and election of Council members has been developed. The Council election procedure began on 20 February 2020 and is expected to be finalised in May 2020. All announcements related to the different stages of the election process are published on the government's Portal for Public Consultation[55]. In order to promote the procedure, the government organised a media information campaign in cooperation with non-governmental organisations.

43. Other - please specify

[55] https://strategy.bg