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2024 Rule of Law Report
Country Chapter on the rule of law situation in Bulgaria

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2024 Rule of Law Report

The rule of law situation in the European Union

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ABSTRACT

On 15 September 2023, in line with the 2006 decision setting up the Cooperation and Verification Mechanism (CVM), the European Commission formally closed the CVM, as Bulgaria had satisfactorily fulfilled all the benchmarks and all recommendations set under the mechanism. Monitoring continues under the Rule of Law report as for all EU Member States.

A comprehensive constitutional reform was adopted to improve judicial independence and to address long-standing concerns. The reform anchors the mechanism for the accountability and criminal liability of the Prosecutor General in the Constitution, which was also recently used in practice; it limits his/her powers; and divides the Supreme Judicial Council into two separate councils. The procedures for appointment and dismissal of the Prosecutor General and the two Presidents of Supreme Courts have been amended. A draft new Judicial System Act aims to ensure the politically independent appointment and dismissal of the Prosecutor General, but concerns have been raised as to its limitations. The draft law also addresses the concerns regarding the composition of the Inspectorate to the Supreme Judicial Council, the long-term secondments to higher positions, and envisages changes to the digitalisation of justice. The availability of electronic communications continues to improve. There have been calls to extend judicial review for cases of dismissal of investigations for victimless crimes.

Following the adoption of a reform, the Commission for Counteracting Corruption and Illegal Assets Forfeiture was divided into two separate bodies (the Anti-Corruption Commission and the Commission for Illegal Assets Forfeiture) and their performance remains to be assessed. A mid-term review of the National Strategy for Prevention and Countering Corruption is under preparation. A robust track-record in high-level cases of corruption remains to be established. Work has started on a Code of Conduct, as serious gaps remain in the integrity of top executive functions. Rules on asset and interest disclosure for public officials are systematically implemented, but the effectiveness of verifications and sanctions is lacking. Work proceeded on legislation to regulate lobbying and make it more transparent, although it is still at early stage and will need to be adopted by the Government. Investigations and legal proceedings linked to the abolished investor citizenship scheme continued.

Concerns remain about the lack of sufficient safeguards to secure the independence of the media regulator. Notwithstanding the existence of several registers for media ownership information, shortcomings regarding the enforcement of the media ownership disclosure obligations remain. There has been some further progress as regards transparency in the allocation of state advertising. While legal safeguards for editorial independence are in place, indications of political and economic influence over the media remain. The Government has resumed the work on a draft law to strengthen the independence of public service media, while the media regulator has not yet appointed a new Director General of the national television. The positive trend as regards access to public information continues although some obstacles remain. While the Government has taken steps to protect journalists from strategic lawsuits against public participation, journalists continue to encounter various difficulties and threats in their activities.

The Council for the monitoring of the judicial reform was merged with the Rule of Law Council, allowing for wider participation of civil society. Concerns have been raised at the fact that a significant number of independent and regulatory authorities continue to operate with an expired mandate. The constitutional reform improved the access to constitutional justice. Concerns regarding the quality of the legislative process continue. The Ombudsperson was attributed new competences though financial and human resources have not been sufficiently reinforced. The work of the Council for Civil Society Development is blocked due to the political situation.

RECOMMENDATIONS

Overall, concerning the recommendations in the 2023 Rule of Law Report, Bulgaria has (made):

- Some further progress on taking steps to adapt the relevant legislative framework to avoid long-term secondment of judges to fill in vacant positions, taking into account European standards on secondment of judges.
- Some progress on advancing with the preparation of legislative amendments aiming at improving the functioning of the Inspectorate to the Supreme Judicial Council and avoiding the risk of political influence, in particular by involving judicial bodies in the selection of its members.
- Fully implemented the recommendation to step up efforts to adapt the composition of the Supreme Judicial Council, taking into account European standards on Councils for the Judiciary.
- No progress yet on ensuring an improved effectiveness of investigations and a robust track record of prosecution and final judgments in high-level corruption cases and significant progress on the institutional reforms of the Anti-Corruption Commission.
- No progress on improving the integrity of top executive functions, taking into account European standards, in particular by ensuring that clear integrity standards for the Government as well as an appropriate sanctioning mechanism are in place.
- Some further progress on advancing with the work aimed at improving transparency in the allocation of state advertising, in particular with regard to state advertising contracted through intermediaries, such as media agencies.

On this basis, and considering other developments that took place in the period of reference, and in addition to recalling the relevant commitments made under the Recovery and Resilience Plan and the relevant country-specific recommendations under the European Semester, it is recommended to Bulgaria to:

- Take steps to adapt the relevant legislative framework to avoid long-term secondment of judges to fill in vacant positions, taking into account European standards on secondment of judges.
- Advance with the draft legislative amendments aiming at improving the functioning of the Inspectorate to the Supreme Judicial Council and avoiding the risk of political influence, in particular by involving judicial bodies in the selection of its members.
- Take forward the plans to adopt a mechanism for introducing safeguards in the appointment procedure of the Parliament-elected members of the Supreme Prosecutorial Council, ensuring their independence and taking into account European standards, particularly in view of the Council's role in the appointment and dismissal of the Prosecutor General.
- Ensure a robust track record of investigations, prosecutions and final judgments in high-level corruption cases and the effective performance of the Anti-Corruption Commission.
- Improve the integrity of top executive functions, taking into account European standards, in particular by ensuring that clear integrity standards for the Government as well as an appropriate sanctioning mechanism are in place.
- Further advance with the work aimed at improving transparency in the allocation of state advertising, in particular with regard to state advertising contracted through intermediaries, such as media agencies.

I. JUSTICE SYSTEM

The judicial system of Bulgaria[1] includes a total of 182 courts which are ordinary and specialised. As a general rule, the ordinary courts hear cases in three instances, with the system of these courts comprising 113 district courts, 28 regional courts and 5 courts of appeal. The specialised courts include military and administrative courts. The Supreme Court of Cassation is the court of last instance in cases heard by ordinary and military courts, while for administrative cases, the Supreme Administrative Court is the court of last instance. The judiciary also includes the Prosecutor's Office. The Constitutional Court of Bulgaria reviews the constitutionality of laws and gives interpretative decisions[2]. The Prosecutor's Office has a unified structure and is headed by the Prosecutor General[3]. Bulgaria participates in the European Public Prosecutor's Office (EPPO). The Supreme Judicial Council (SJC) and the Supreme Prosecutorial Council (SPC) are the highest administrative authority in the Bulgarian judiciary. They are responsible for managing the judiciary and ensuring its independence. Judges, prosecutors and investigators[4] are appointed, promoted, transferred and dismissed by their respective Council (Judicial or Prosecutorial)[5]. In addition to the SJC and the SPC, activities of magistrates are supervised by the Inspectorate. The Supreme Bar Council is an independent and self-governing body established by law[6].

Independence

The level of perceived judicial independence in Bulgaria is now very low among both the general public and companies. Overall, 24% of the general population and 25% of companies perceive the level of independence of courts and judges to be 'fairly or very good' in 2024[7]. The perceived judicial independence among the general public has decreased in comparison with 2023 (30%), as well as in comparison with 2020 (37%). The perceived judicial independence among companies has decreased in comparison with 2023 (33%), as well as with 2020 (43%). The main reason cited by the general public for the perceived lack of independence of courts and judges is the perception of interference or pressure from the

1 For a description of the judicial structure see e.g. CEPEJ (2021), Study on the functioning of the judicial systems in the EU Member States.

2 See 2021 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 2.

3 Art. 126 to 128 from the Constitution.

4 Following the reform of the Anti-corruption law of October 2023, there are four types of investigators in Bulgaria – police investigator (under the supervision of the Ministry of Interior), customs investigators (under the supervision of the Customs Agency), investigative inspectors (under the supervision of the Anti-corruption Commission) and investigative magistrates. The latter work in the National Investigative Service or in investigative units which are part of prosecutors' offices at regional level. Procedurally, they are all under the supervision of prosecutors. Procedural supervision means that all decisions by an investigator can be overturned by a supervising prosecutor. The supervising prosecutor is, in turn, subject to a supervision by a hierarchically superior prosecutor, which could also be the Prosecutor General.

5 The Supreme Judicial Council is composed by 15 members, eight of them are elected by their peers, five of them are elected by the Parliament and two, the Presidents of the two Supreme Courts, are *ex officio* members. The Supreme Prosecutorial Council is composed of 10 members, two of them are elected by their peer prosecutors, one is elected by their peer investigative magistrate, six are elected by the Parliament and the Prosecutor General is an *ex officio* member.

6 See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 3.

7 Figures 51 and 53, 2024 EU Justice Scoreboard, and Figures 50 and 52, 2022 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

Government and politicians, while the reason cited by companies is the interference or pressure from economic or other specific interests[8].

A comprehensive constitutional reform was adopted to improve judicial independence and to address long-standing concerns. On 20 December 2023, Parliament adopted amendments to the Constitution which specify that national courts are the bearers of the judicial power. Other amended provisions concerned the Supreme Judicial Council and the attached Inspectorate to improve judicial independence, and limited the powers of the Prosecutor General, thereby addressing long-standing concerns[9]. Some amendments also concerned the powers of the President of the Republic in relation to appointing interim government. The reform was consulted with the Venice Commission and its recommendations have been largely taken into account[10]. The constitutional amendments have been challenged before the Constitutional Court in two separate cases[11]. The first case concerns the amendments limiting the powers of the President of the Republic[12], while the second case challenges the entire reform, including also the amendments related to judicial independence[13]. The decisions are still pending. In the meantime, a working group within the Ministry of Justice drafted a new Judicial System Act to implement the newly adopted constitutional reform, which was published for a preliminary public consultation[14]. Upon summarising the received opinions, the Ministry of Justice plans to consult the Venice Commission on the proposed draft law. This opportunity could be used to also ask for a re-examination of the constitutional reform and a confirmation that their recommendations were taken into account[15].

The constitutional reform limited the powers of the Prosecutor General, thus addressing long-standing concerns. As mentioned in previous Rule of Law Reports, a combination of the powers and position allowed the Prosecutor General to exert considerable influence over the Prosecutor's Office and the magistracy as a whole[16]. The constitutional amendments are addressing these concerns. The Prosecutor General is no longer the hierarchical superior to all administrative heads and prosecutors. With the constitutional reform, he/she is solely the hierarchical superior of the Supreme Prosecutor's Office and its administrative head[17]. The reform also transferred the preparation of the methodological guidance from the Prosecutor

8 Figures 51 and 53, 2024 EU Justice Scoreboard. In Bulgaria, 42% of the companies are either fairly or very confident that their investments are protected by the law and courts in the Member State. 30% of the surveyed companies see the quality, efficiency or independence of justice as one of the main reasons for concern about investment protection in the country. Figures 55 and 56, 2024 EU Justice Scoreboard.

9 See 2020, 2021, 2022 and 2023 Rule of Law Reports, Country Chapter on the rule of law situation in Bulgaria, pp. 3-5.

10 Venice Commission opinion (CDL-AD(2023)039).

11 Both challenges argue that the reform should have been passed via a Grand National Assembly in line with Articles 153-163 of the Constitution.

12 Challenge by President of the Republic – Constitutional case No. 1 of 2024.

13 Challenge by the Members of Parliament - Constitutional case No. 2 of 2024.

14 The document was published on 6 March 2024, with a one-month consultation period. The period for public discussion of the draft Judicial System Act was extended until 7 May 2024 due to the numerous proposals received from the bodies of the judiciary and professional organisations of magistrates.

15 Information received from the Ministry of Justice in the context of the country visit to Bulgaria.

16 See 2020, 2021, 2022 and 2023 Rule of Law Reports, Country Chapter on the rule of law situation in Bulgaria, pp. 3-5.

17 See Art. 126(1) and (2) of the Constitution.

General to the Supreme Prosecutor's Office[18]. In addition, judicial review by the Supreme Administrative Court over the methodological guidance has been introduced. This is a welcomed development by stakeholders, who had argued that the methodological guidance was used to exert influence over prosecutors[19]. Furthermore, the amendments constrained the power of legality supervision[20] by allowing its subsequent limitation in law[21]. Finally, the Prosecutor General's competence to seize the Constitutional Court was limited[22]. All these provisions are further specified and developed in the draft new Judicial System Act. Upon reviewing the opinions received in the public consultation procedure, the Ministry of Justice plans to consult the Venice Commission on the draft amendments.

The mechanism for the effective accountability and criminal liability of the Prosecutor General and his/her deputies was used in practice and is now anchored in the Constitution. As mentioned in previous reports[23], the lack of a possibility for an effective criminal investigation of the Prosecutor General and his/her deputies had been a long-standing issue, which was raised by the European Commission[24], the European Court of Human Rights (ECtHR)[25] and the Council of Europe[26]. A mechanism was created to address this, as part of Bulgaria's Recovery and Resilience Plan (RRP)[27], by legislative amendments adopted on 26 May 2023. The new mechanism[28] was triggered on 7 July 2023. Following a notification by the Prosecutor's Office, a judge with the rank of Supreme Court judge was randomly selected[29] to become an *ad hoc* prosecutor for the investigation of the Deputy Prosecutor General (currently interim Prosecutor General). After some delays[30], the judge was reappointed on 18 October 2023[31] as an *ad hoc* prosecutor[32]. There have been some

[18] Under Art. 126(3) of the Constitution the Prosecutor General would ultimately need to validate the guidance prepared by the Supreme Prosecutor's Office.

[19] Information received from Anti-corruption Fund Foundaiton and Bulgarian Institute For Legal Initiatives in the context of the country visit to Bulgaria.

[20] Supervision of legality was the term used in the Constitution referring to the legality of the prosecution activities, including those conducted by the prosecutors.

[21] See Art. 127(2) and (3) of the Constitution.

[22] See Art. 150(3) of the Constitution.

[23] See 2020, 2021, 2022 and 2023 Rule of Law Reports, Country Chapter on the rule of law situation in Bulgaria, pp. 3-5.

[24] Progress report Bulgaria 2019, COM(2019)498, p. 6.

[25] ECtHR, judgment of 5 November 2009, *Kolevi v. Bulgaria*, paras. 121-127, 129, 135 and 136.

[26] Council of Europe, Supervision of the execution of the European Court's judgments, Committee of Ministers Decisions (2019-2023), the latest one being CM/Del/Dec(2023)1483/H46-10 and CM/Notes/1483/H46-10 of 7 December 2023, and H/Exec(2023)10 of 22 September 2023. See also Committee of Ministers (Interim Resolution CM/ResDH(2019)367 of 5 December 2019 and CM/Notes/1362/H46-6 of 3-5 December 2019; Venice Commission Opinion (CDL-AD(2019)031).

[27] See Milestone 222 of the Bulgarian RRP. The assessment related to the topic of Milestone 222 in the Rule of Law report does not prejudge the assessment of the fulfilment of the measures in the framework of the Bulgarian Recovery and Resilience Plan.

[28] When legal grounds for starting an investigation against the Prosecutor General and his/her deputies exist, a notification is sent to the chair of the Criminal Chamber of the Supreme Cassation Court (SCC). Subsequently, a randomly selected judge is appointed as a prosecutor responsible for the investigation of the Prosecutor General and his/her deputies.

[29] Using the system for random allocation of cases.

[30] See Prosecutor's Chamber of the Supreme Judicial Council meeting Protocol No. 26-27 of 5 and 19 July 2023.

[31] See Prosecutor's Chamber of the SJC Protocol No. 38 of 18 October 2023.

[32] As to the length of the *ad hoc* prosecutor's mandate see Art. 411a para. 5 of the Criminal Procedure Code and Art. 173a para. 3 of the JSA.

procedural[33] and practical[34] issues raised by stakeholders[35] regarding the implementation of the mechanism, although there had been a positive assessment of the mechanism up to the reappointment of the *ad hoc* prosecutor[36]. The challenge of this mechanism by the Prosecutor General before the Constitutional Court is still pending[37]. The constitutional reform anchored the mechanism in the text of the Constitution[38].

There is a judicial review for prosecutorial decisions not to open an investigation and there have been calls for extending it for cases of dismissal of investigations for victimless crimes. As mentioned in the 2023 Rule of Law Report, as part of Bulgaria's RRP[39], a law was adopted introducing the possibility of judicial review against decisions of prosecutors not to open investigations in the stage of the preliminary inspection[40]. Recently, there have been calls from the Council of Europe[41] and other relevant stakeholders[42] to

[33] For example, the case that triggered the mechanism was filed by the Prosecutor's Office. In this situation, there would be no possibility for a judicial review of a decision not to open an investigation. Moreover, some of the decisions that the *ad hoc* prosecutor takes before he/she decides on indictment are subject to an internal control by the Prosecutor General and his/her deputies. The draft new Judicial System Act envisages changes to these rules, but it remains unclear whether they would remove the potential influence of the Prosecutor General over the preliminary inspection phase. See also open letter to Commissioner Reynders by Association of European Administrative Judges (AEAJ), European Association of Judges (EAJ), Judges for Judges Association, *Magistrats Européens pour la Démocratie et les Libertés* (MEDEL).

[34] For example, the *ad hoc* prosecutor had to meet on multiple occasions with the interim Prosecutor General, the person she is supposed to investigate, in order to resolve practical issues such as where she will sit and who will provide her with the necessary administrative support to exercise her tasks. Furthermore, while waiting for the appointment of the *ad hoc* prosecutor, the Prosecutor's Office requested the evidence of the first case that triggered the mechanism from the Supreme Court of Cassation. Due to the lack of procedural rules related to this situation, the chair of the Criminal Chamber of the Supreme Court of Cassation gave the evidence to the Sofia City Prosecutors Office explaining that refusal to give access might be considered a criminal offence and she could be prosecuted by the same Prosecutor's Office that filed the request. Council of Europe, Supervision of the execution of the European Court's judgments, Committee of Ministers Notes of 11-13 June 2024, (CM/Notes/1501/H46-10), point B, 4, b).

[35] Information received from Bulgarian Institute For Legal Initiatives, Anti-Corruption Fund Foundation, Institute For Market Economics, Center For The Study Of Democracy and Initiative Justice For All in the context of the country visit to Bulgaria. See also Council of Europe, Supervision of the execution of the European Court's judgments, Committee of Ministers Analysis, H/Exec(2023)10 of 22 September 2023. Council of Europe, Supervision of the execution of the European Court's judgments, Committee of Ministers Notes of 11-13 June 2024, (CM/Notes/1501/H46-10), point B, 4, b).

[36] Information received from Supreme Court of Cassation, Ministry of Justice, Bulgarian Institute For Legal Initiatives, Anti-Corruption Fund Foundation And Institute For Market Economics in the context of the country visit to Bulgaria. Council of Europe, Supervision of the execution of the European Court's judgments, Committee of Ministers Notes of 11-13 June 2024, (CM/Notes/1501/H46-10), Analysis by the Secretariat, General Measures, point 1.

[37] See Constitutional Court Case No. 10/2023.

[38] See Art. 130(4) of the Constitution.

[39] See Milestone 222 of the Bulgarian RRP. The assessment related to the topic of Milestone 222 in the Rule of Law report does not prejudge the assessment of the fulfilment of the measures in the framework of the Bulgarian Recovery and Resilience Plan.

[40] See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 6. The subsequent decisions, to suspend an investigation or to not prosecute were not covered by the reform. See Figure 59, 2022 EU Justice Scoreboard. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 6.

[41] See also Council of Europe, Supervision of the execution of the European Court's judgments, Committee of Ministers Decision, CM/Del/Dec(2023)1475/H46-12 of September 2023, para. 4; CM/Del/Dec(2023)1483/H46-10 of December 2023, para. 3. CM/Notes/1475/H46-12 of September 2023, p.

explore the possibility of extending the judicial review to decisions to suspend or terminate investigations for offences for which there is no recognised victim status (i.e., victimless crimes). These calls come against the background of several victimless crime cases related to high-level corruption, that have been opened and then terminated without the possibility for a judicial review[43].

Stakeholders have raised concerns regarding the structure for the investigation of magistrates within the Sofia City Prosecutor's Office. Following recent examples of cases against magistrates[44], stakeholders have raised concerns about the fact that there is only one specialised department within one Prosecutor's Office in Bulgaria competent to deal with cases involving magistrates – the Sofia City Prosecutor's Office[45]. According to the latest activity report of this Office, there is a specialised department within it dealing solely with cases related to magistrates[46]. Moreover, the magistrates working in this specialised department are appointed exclusively, and without clear criteria, by the administrative head of this Prosecutor's Office, who is a direct subordinate to the Prosecutor General[47]. Consequently, this means that there are 10 prosecutors, exclusively selected by the administrative head of this Prosecutor's Office, in the whole country dealing with cases concerning any offence that may be committed by a magistrate. This raises concerns regarding prosecutorial autonomy and possible concerns regarding judicial independence[48].

The recommendation regarding the composition of the Supreme Judicial Council has been fully implemented. The 2023 Rule of Law Report recommended to Bulgaria to '[s]tep up efforts to adapt the composition of the Supreme Judicial Council, taking into account European standards on Councils for the Judiciary'[49]. The concerns raised in the previous Rule

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1. H/Exec(2023)10 of September 2023, p. 1-3; CM/Notes/1501/H46-10 of 11-13 June 2024. See also Venice Commission opinion (CDL-AD(2023)039), para. 91.

42 Publication of the Anti-corruption Fund Foundation 'What needs to change in the criminal justice', of March 2023, p. 23. Information also received from Bulgarian Institute For Legal Initiatives, Anti-Corruption Fund Foundation, Institute For Market Economics, Center For The Study Of Democracy And Initiative Justice For All in the context of the country visit to Bulgaria.

43 See Press release of the Prosecutor's Office of 24 August 2023 regarding the case of former Prime Minister's house pictures. See Press release of the Prosecutor's Office of 17 October 2023 regarding the so-called 'Barcelona-gate', See Press release of the Prosecutor's Office of 12 December 2023 regarding the former Prime Minister and former Minister of Finance.

44 This is exemplified by a recent case of an investigation launched against a prosecutor for opening a case against an alleged head of an organised crime group. This crime group had been suspected of having infiltrated the judiciary and intimidating magistrates. See Press release of the Sofia City Prosecutor's Office of 19 February 2024 regarding the case and publishing the decision to open an investigation.

45 See Art. 35(4) of the Criminal Procedure Code. Information received from Initiative Justice For All, Anti-Corruption Fund Foundation and Bulgarian Institute For Legal Initiatives in the context of the country visit to Bulgaria.

46 See Report on the activity of the Sofia City Prosecutor's Office, p. 148. The total number of prosecutors working in this Prosecutor's Office is 184 from which only 10 are part of the abovementioned department. Stakeholders have informed that currently the number is even lower. The authorities are justifying the creation of such department as a response to the need for specialisation of work on this category of cases and explain that the rules for random allocation of cases apply within this department.

47 Information received from Initiative Justice For All, Anti-Corruption Fund Foundation and Bulgarian Institute For Legal Initiatives in the context of the country visit to Bulgaria.

48 Council of Europe, Supervision of the execution of the European Court's judgments, Committee of Ministers Notes of 11-13 June 2024, (CM/Notes/1501/H46-10), point B, 4, a) and b).

49 See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 2. The Commission assessed that '[n]o progress [was made] yet on taking steps to adapt the composition of the

of Law Reports[50] as regards the potential influence of the Prosecutor General and the fact that judges elected by their peers[51] did not form a majority in the SJC[52], were addressed by the recent constitutional reform of 20 December 2023. The reform separated the SJC into two councils. The SJC, solely responsible for judges, is now composed of 15 judges – eight of them are elected by their peers, five by Parliament, and the remaining two, the Presidents of the two Supreme Courts (Supreme Court of Cassation and Supreme Administrative Court), are members *ex officio*[53]. The Supreme Prosecutorial Council (SPC), responsible for prosecutors and investigative magistrates, is now composed of 10 members – two of them are elected by their prosecutor peers, one is elected by their investigative magistrate peers, six are elected by Parliament, and the Prosecutor General is a member *ex officio*[54]. Before adopting the reform, the authorities consulted the Venice Commission, which confirmed that this composition of the SJC is in line with previous Venice Commission recommendations and with the established standards[55]. In light of the amendments brought about by the aforementioned constitutional reform, the recommendation made in the 2023 Rule of Law Report is considered to be fully implemented.

A draft reform provides more clarity and safeguards for the election procedure of peer elected members of the Supreme Judicial Council. The draft new Judicial System Act includes a reform of the election procedure for the peer-elected members of the SJC and SPC[56]. This reform addresses an issue found with the 2022 elections for peer-elected judges of the SJC[57]. The elections for the Judges' Chamber were challenged before a mixed panel of the Supreme Administrative Court and the Supreme Cassation Court because of alleged irregularities in the e-voting system, namely suspicions that the number of people who e-voted from the building of the SAC did not match the number of people who were present[58]. The panel of judges decided that the elections were conducted according to the established procedure and maintained the validity of their outcome[59]. Following an access to documents

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Supreme Judicial Council, taking into account European standards on Councils for the Judiciary.' See also Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para 27 – '*Not less than half the members of such councils should be judges chosen by their peers from all levels of the judiciary and with respect for pluralism inside the judiciary.*'

50 See 2020 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 3-5. See 2021 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 5-7. See 2022 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 6-8. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 6-8.

51 The *ex officio* judges do not count as peer elected judges. Venice Commission opinion (CDL-AD(2020)035), para. 44.

52 Venice Commission opinion (CDL-AD(2020)035), para. 44; JSA, Art. 16(3) and (4) – Since the Judicial Chamber (14 members) was presided by either one of the *ex officio* members (the President of the Supreme Court of Cassation or the President of the Supreme Administrative Court) a majority could be reached, both in the Plenary of the SJC and the Judicial Chamber, without the votes of the judges elected by their peers.

53 Art. 130a(1) of the Constitution. See also Figure 57 of the 2024 EU Justice Scoreboard.

54 Art. 130a(2) of the Constitution.

55 Venice Commission opinion (CDL-AD(2023)039), para. 47 confirmed consistency with Recommendation CM/Rec(2010)12. The election procedure for the Parliament-elected members was criticised by the Venice Commission due to the lack of an anti-deadlock mechanism but it will be further specified through the new Judicial System Act which draft was tabled on 6 March 2024.

56 See Section II of Chapter II of the Draft JSA.

57 The procedures for election of peer elected members took place in June-July 2022. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 7.

58 Mixed Judicial Panel of the SSC and SAC, Case No. 18 of 27 June 2022.

59 Mixed Judicial Panel of the SSC and SAC, Decision No. 1 of 21 July 2022.

request, which was granted by the Ministry of Justice, the suspected irregularities were confirmed in November 2023[60]. To address the issue, the draft new Judicial System Act envisages that votes can be cast using paper ballots or through the e-vote system, which would be strengthened with a multi-factor authentication login[61].

The constitutional reform has changed the appointment and dismissal procedures for the Prosecutor General and the Presidents of Supreme Courts. With the constitutional reform and the separation of the SJC into two councils, the procedure for appointment and dismissal of the three highest ranked magistrates changed. Before the reform, the Prosecutor General and the two Presidents of Supreme Courts[62] were proposed for appointment following a vote in the Plenary of the SJC and appointed by the President of the Republic. Their dismissal was also the responsibility of the President of the Republic on a proposal by the Plenary of the SJC. In both cases, the President of the Republic has limited discretion[63]. With the reform, the final step of appointment and dismissal by the President of the Republic remains. However, the powers to propose for appointment and to propose a dismissal of the two Presidents of Supreme Courts are now given to the SJC[64], and to the SPC when concerning appointment and dismissal of the Prosecutor General[65]. The procedure, as it relates to the two Supreme Courts' Presidents has been welcomed, as it ensures greater judicial independence with a majority of judges elected by their peers and without the involvement of prosecutors in the SJC[66]. However, the exclusive power of the SPC to propose the Prosecutor General for appointment has also raised concerns with stakeholders[67]. They have warned against the risk of politicisation of the SPC due to the higher number of Parliament-elected members in the SPC[68], and the fact that no prosecutors or investigators can be elected through the Parliament quota[69]. These rules could allow the Parliament to indirectly elect the Prosecutor General through their quota in the SPC[70]. To address these

60 See Opinion of the Bulgarian Judges Association (BJA) of 22 November 2023.

61 See Section II of Chapter II of the draft JSA. As to the authentication process, currently, the administrative heads of courts receive the individual passwords for e-vote for each magistrate in their court in a paper format. Then these are distributed to each magistrate. The same draft law would also address the issues raised in the 2023 Rule of Law Report by removing the new disciplinary proceeding against members of the SJC that was prohibiting them to exercise legal profession for 2 years. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 8.

62 Supreme Court of Cassation and Supreme Administrative Court.

63 The President can reject the appointment of a candidate and return the vote back to the Plenary of the SJC. If the vote is confirmed again, the President is obliged to appoint the candidate.

64 See Art. 130b(2), p.2.

65 See Art. 130b(3), p.2. See also Figure 65 of the 2024 EU Justice Scoreboard.

66 Venice Commission opinion (CDL-AD(2023)039), para 51 and 52.

67 Written contributions from MEDEL, Bulgarian Judges Association, Bulgarian Institute For Legal Initiatives, Institute For Market Economics And Center For The Study Of Democracy for the preparation of the 2024 Rule of Law Report. Information also received from President of the Supreme Court of Cassation, President of the Supreme Administrative Court, Prosecutor General, Anti-Corruption Fund Foundation, Justice for All Initiative and Supreme Bar Council in the context of the country visit to Bulgaria. See also Venice Commission opinion (CDL-AD(2023)039), para 61-71.

68 The Parliament-elected members are 6 out of 10 total members of the SPC.

69 This was done as part of Bulgaria's commitments under the Recovery and Resilience Plan (RRP).

70 Written contributions from MEDEL, Bulgarian Judges Association, Bulgarian Institute For Legal Initiatives, Institute For Market Economics And Center For The Study Of Democracy for the preparation of the 2024 Rule of Law Report. Information also received from President of the Supreme Court of Cassation, President of the Supreme Administrative Court, Prosecutor General, Anti-Corruption Fund Foundation, Justice for All Initiative and Supreme Bar Council in the context of the country visit to Bulgaria. See also Venice Commission opinion (CDL-AD(2023)039), para 61-71.

concerns, the Ministry of Justice proposed in the draft new Judicial System Act (JSA) a novel mechanism for the proposal for appointment and appointment of the members to the SJC and SPC elected by the Parliament[71]. The preliminary proposals for appointment would be open to members of Parliament, Supreme Bar Council, and the three highest-ranking law faculties in Bulgaria, and civil society organisations with a proven track record of active work in the area of justice for at least 5 years would be allowed to make proposals to individual members of Parliament who can in turn accept or reject them[72]. These proposals would then be sent to an *ad hoc* Nomination Committee composed of five members[73] that would draft a report with a recommended assessment for each candidate[74]. The Legal Affairs Committee of the Parliament would then continue with the procedure. The National Assembly will elect one by one every member of the SJC and of the SPC with the two-thirds majority of the members of the Parliament[75]. While it appears that these safeguards could help mitigate risks of political influence over the Parliament-elected members of the SJC and SPC, stakeholders underscore that the mechanism could still grant a disproportionate role to the members of Parliament in the process of election[76]. Stakeholders consider that the establishment of a Nomination Committee is a positive development, but it needs a more prominent role that would not be limited to simple administrative tasks[77].

Some progress has been achieved regarding political influence and the functioning of the Inspectorate to the Supreme Judicial Council (ISJC). The 2023 Rule of Law Report recommended to Bulgaria to '[a]dvance with the preparation of legislative amendments aiming at improving the functioning of the Inspectorate to the Supreme Judicial Council and avoiding the risk of political influence, in particular by involving judicial bodies in the selection of its members'[78]. As mentioned in previous Rule of Law Reports[79], the

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71 See Section III of the draft JSA.

72 Art. 52(2), pp. 1-3 draft JSA.

73 Art. 53(1) draft JSA – the Supreme Court of Cassation, the Supreme Administrative Court, the Supreme Prosecutor's Office, the Ministry of Justice and the Ombudsperson Office appoint one member each. The rules of procedure of the Nomination Committee would be drafted by the Legal Affairs Committee of the Parliament.

74 This would be done following an open procedure with a live-streamed hearing of the candidates. The report would be published on the website of the Parliament and would be sent to the Legal Affairs Committee of the Parliament. See Art. 54 and 56 draft JSA.

75 Art. 54 to 56 draft JSA.

76 They would propose candidates, draft the rules of procedure for the Nomination Committee, and appoint the candidates. According to the Council of Europe, it appears possible to mitigate to some extent the risk of politicised decisions by giving a strong role to the nomination committee proposed in the draft Judiciary Act of March 2024 for assessing and preferably ranking candidates to be appointed by parliament and by allowing sufficiently broad range of stakeholders including NGOs to directly or indirectly propose candidates. See Council of Europe, Supervision of the execution of the European Court's judgments, Committee of Ministers Notes of 11-13 June 2024, (CM/Notes/1501/H46-10), Analysis by the Secretariat, General measures, point 1. Information received in the context of the country visit to Bulgaria.

77 Written contributions from Bulgarian Institute For Legal Initiatives, Institute For Market Economics, Anti-Corruption Fund Foundation And Center For The Study Of Democracy in the context of the country visit to Bulgaria.

78 See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 2. The Commission assessed that '[n]o progress [was made] yet on advancing with the legislative amendments aiming at improving the functioning of the Inspectorate to the Supreme Judicial Council and avoiding the risk of political influence, in particular by involving judicial bodies in the selection of its members.'

79 See 2020, 2021, 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, pp. 7-9.

Inspectorate[80] oversees the activity of the judiciary, assesses the integrity and potential conflicts of interest of magistrates, and is responsible for proposing opening of disciplinary proceedings regarding magistrates to the SJC. The draft new Justice System Act, that was published for preliminary consultations on 6 March 2024, changes the appointment procedure of the Inspector General and inspectors to address concerns regarding its functioning and the risk of political influence[81]. As recommended in the 2022 and 2023 Rule of Law Reports, the appointment procedure would include the Plenaries of the Supreme Court of Cassation and the Supreme Administrative Court, as well as the Common Assemblies of the prosecutors of the Supreme Prosecutor's Office and the investigative magistrates of the National Investigative Service[82]. Additionally, the draft law envisages quotas for magistrates coming from the ranks of judges and from the ranks of prosecutors[83]. The reform in its current form would address concerns raised, but the process is still ongoing. Therefore, some progress has been achieved to address the recommendation made in the 2023 Rule of Law Report.

Some further progress has been achieved regarding avoiding long-term secondment of judges to fill in vacant positions. The 2023 Rule of Law Report recommended to Bulgaria to '[t]ake steps to adapt the relevant legislative framework to avoid long-term secondment of judges to fill in vacant positions, taking into account European standards on secondment of judges'[84]. The draft new Judicial System Act is aiming at addressing in a more stable manner the remaining issues in this area. As mentioned in the 2023 Rule of Law Report, a solution, albeit temporary, was found to address the concern regarding the regular competitions for appointment and promotion, while the concerns regarding long-term secondments remained[85]. The widespread use of secondments may have a negative effect on seconded magistrates if they are faced with the risk of a termination of their secondment against their will. This increases the power of the administrative heads[86] because they are competent to decide on secondments and their termination[87], which may create situations of dependence[88]. European standards in the area highlight that secondments of judges with or without consent require the necessary guarantees to prevent any risk of judicial independence being

[80] Art. 132a of the Constitution – the Inspectorate consists of an Inspector General and ten inspectors, who are independent and elected by Parliament.

[81] See 2022 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 8.

[82] Art. 381, draft JSA.

[83] Art. 379, draft JSA – five inspectors would come from the ranks of the judges and would have experience with civil, commercial and administrative cases; two inspectors would also come from the ranks of judges and would have experience with criminal cases; three inspectors would come from the ranks of prosecutors and investigative magistrates.

[84] See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 2. The Commission assessed that '[s]ignificant progress on ensuring timely ordinary competitions for promotion to avoid longterm secondment of judges to fill in vacant positions, taking into account European standards on secondment of judges'.

[85] See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, pp. 9-10. According to the register maintained by the Supreme Judicial Council, as of November 2023, there are 191 seconded judges, 105 of them being seconded for more than a year, with the longest secondment being 140 months.

[86] Administrative heads are the presidents of the different territorial divisions of Courts and the administratively superior prosecutors heading each of the territorial divisions of Prosecutor's Offices.

[87] The Judicial Chamber can also terminate prematurely secondments when during the secondment there are violations of the terms and conditions provided in the JSA, or in case of necessity for staffing the body of the judiciary from which the judge is seconded. See Art. 30(5), point 18 of the JSA.

[88] See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, pp. 9-10.

jeopardised[89], including when a secondment is terminated without the judge's consent[90]. The draft new Justice System Act would address the issue of long-term secondments by removing the possibility of seconding a judge to a vacant position for more than 12 months[91]. Additionally, the draft law also envisages to restructure the appraisal and competition procedures to ensure that there are no more backlogs of appraisals that would delay the competition, and that there are regular competitions that would ensure a timely filling of positions in the judiciary[92]. The reform in its current form would address concerns raised, but the process is still ongoing. Therefore, some further progress has been achieved to address the recommendation made in the 2023 Rule of Law Report.

Several committees were created to investigate cases of intimidation of magistrates and possible infiltration of the judiciary. The parliamentary and judiciary committees[93] were tasked with inquiring about the circumstances surrounding a recently murdered man believed to have been the head of an organised crime group[94] involved in intimidation of magistrates [95] and possible infiltration of the magistracy[96]. Stakeholders have informed that there were two such groups, one led by a former investigative magistrate[97]. The authorities have explained that there are no mechanisms in place to prevent such situations. However, there are some measures for countering the intimidation and possible infiltration once they have occurred[98]. In particular, the Minister of Justice can grant, and has in some cases granted, security to the intimidated magistrate, while the Prosecutor's Office is tasked with investigating the intimidation and possible infiltration[99]. In the event that the allegations also concern the

[89] Secondments are being done on a temporary basis and in exceptional circumstances. See also for the specific case of Bulgaria - Venice Commission opinion (CDL-AD(2017)018), paras. 86 and 87.

[90] As regards EU law requirements, see CJEU, Judgment of 16 November 2021, *Prokuratura Rejonowa w Minsku Mazowieckim*, Joined Cases C-748/19 to C-754/19, EU:C:2021:931, points 72-90.

[91] Art. 324, draft JSA.

[92] See Art. 72 to 81 draft JSA.

[93] On 7 February 2024 the Parliament took a decision to establish such an ad hoc committee, see also State Gazette No. 13 of 2024; on 13 February 2024, the SJC took a decision to establish such an *ad hoc* committee, see also Protocol No. 4 of the SJC of 13 February 2024; and on 6 March 2024 the SPC tasked the whole Council with this matter, see Protocol No. 9 of the SPC of 6 March 2024.

[94] See hearings in Parliament from 15, 22, 29 February and 14 March 2024. Magistrates and formerly accused persons who are familiar with the situation were heard in Parliament. According to their statements, the organised crime group was operating through the already closed Specialised Criminal Court and Specialised Prosecutor's Office.

[95] The judge who was heard both in the Parliamentary and the SJC committees has had personal security ensured by the Ministry of Justice since 2019 due to threats received by the murdered man.

[96] See Publication by the Anti-corruption Fund Foundation of 4 June 2021.

[97] Information received from Bulgarian Institute For Legal Initiatives, Anti-Corruption Fund Foundation, Center For The Study Of Democracy, Institute For Market Economics, Initiative Justice For All And Bulgarian Judges Association in the context of the country visit to Bulgaria. The former investigative magistrate is involved in the 'Eight dwarfs' investigation reported in the previous Rule of Law Reports. One of the investigations currently being conducted by the *ad hoc* prosecutor against the current Prosecutor General is about possible ties with this former investigative magistrate. See also open letter to Commissioner Reynders by Association of European Administrative Judges (AEAJ), European Association of Judges (EAJ), Judges for Judges Association, *Magistrats Européens pour la Démocratie et les Libertés* (MEDEL). Council of Europe, Supervision of the execution of the European Court's judgments, Committee of Ministers Notes of 11-13 June 2024, (CM/Notes/1501/H46-10), point B, 4, a).

[98] Information from Ministry of Justice, Ministry of Interior, Prosecutor General, Supreme Court of Cassation, Supreme Administrative Court, Supreme Judicial Council and Supreme Prosecutorial Council in the context of the country visit to Bulgaria.

[99] Information from Ministry of Justice, Prosecutor General, Supreme Court of Cassation, Supreme Judicial Council and Supreme Prosecutorial Council in the context of the country visit to Bulgaria.

Prosecutor General and his/her deputies it is then up to the *ad hoc* prosecutor to investigate their possible involvement in such schemes[100]. Nevertheless, stakeholders have doubted the effectiveness of those measures[101].

Quality

The law on mandatory judicial mediation was declared unconstitutional. As mentioned in the 2023 Rule of Law Report, the law on mandatory judicial mediation, which was adopted in 2023, was expected to enter into force on 1 July 2024[102]. This reform is a part of the RRP commitments of Bulgaria[103]. The later date of entry into force of these law and regulations[104] aimed to ensure that the necessary conditions are in place[105] for the introduction of the mediation institution, otherwise the reform could not have been implemented[106]. However, as mentioned in the 2023 Rule of Law Report, the Supreme Bar Council has submitted a request for a constitutionality check in March 2024 claiming that mandatory mediation limits the parties' right to free access to court and is therefore unconstitutional[107]. On 1 July 2024, the Constitutional Court declared unconstitutional the whole set of provisions of in the Mediation Act and the Civil Procedure Code establishing mandatory judicial mediation[108].

A new draft law envisages changes to the Judicial System Act related to the digitalisation of justice. The draft amendments to the Judicial System Act that that were developed and tabled before the publication of the 2023 Rule of Law Report were not further pursued[109]. However, it is rather the draft new Judicial System Act that would introduce concrete provisions related to the digitalisation of justice [110]. These provisions concern the use of digital files in the judiciary, the creation of digital systems and their common integration[111]. The draft also envisages a more prominent role for the Ministry of e-Government in preparing and implementing new tools and new platforms[112]. The draft Judicial System Act sets out deadlines for electronic handling of cases in the judiciary[113]. Namely, cases that have been initiated before 1 July 2021 could be conducted entirely on paper; cases that have been initiated between 1 July 2021 and 1 January 2025 could be

[100] One of the investigations currently being conducted by the *ad hoc* prosecutor against the current Prosecutor General is about possible ties with this former investigative magistrate.
[101] Information received from Bulgarian Institute For Legal Initiatives, Anti-Corruption Fund Foundation, Center For The Study Of Democracy, Institute For Market Economics, Initiative Justice For All And Bulgarian Judges Association in the context of the country visit to Bulgaria.
[102] See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, pp. 11-12.
[103] See Milestone 227. The assessment related to the topic of Milestone 227 in the Rule of Law report does not prejudge the assessment of the fulfilment of the measures in the framework of the Bulgarian Recovery and Resilience Plan.
[104] See Protocol No. 30 of the Judges Chamber of the SJC of 31 October 2023.
[105] Building and providing material for the judicial mediation centres in all district courts /113/ and regional courts /28/, or 141 centres in total, selection and training of mediators in the judicial centres.
[106] Input from Bulgaria for the 2024 Rule of Law Report, p. 14.
[107] See Constitutional Case No. 11 of 6 March 2024. Information received from the Supreme Bar Council in the context of the country visit to Bulgaria.
[108] See Constitutional Decision No. 11 of 1 July 2024.
[109] See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 12.
[110] See Chapter 22 draft JSA.
[111] See Chapter 22 Section I and II draft JSA.
[112] Idem.
[113] See §21 of the final and transitional provisions of the draft JSA.

conducted both on paper and online; cases started after 1 January 2025 would be conducted only in online form[114].

The availability of electronic communications within the justice system continues to improve. The authorities have implemented or finalised several new electronic tools[115]. The Single e-Justice Portal (SEJP) was upgraded to allow for the execution of procedural actions in electronic form, electronic summons and electronic payment[116]. Moreover, the SEJP provides the possibility of online registration for users, the creation and management of profiles of legal practitioners, electronic request for access to cases, new electronic services for initiation of court proceedings, filing of documents in pending cases and electronic payments through a virtual POS terminal[117]. The authorities have also developed but not yet implemented a voice-to-text system using Artificial Intelligence (AI) for the courts[118]. According to the 2024 EU Justice Scoreboard, secure electronic communication is available to some extent for communication between courts, while not being available for communications between courts and legal professionals[119]. It continues to be impossible for most court staff and judges to work remotely in a secure manner[120]. Access to digital tools for the different aspects of judicial proceedings continues to be limited, with the introduction of the possibility to see information online regarding court fees[121]. The projects under the RRP aiming to improve the digitalisation of justice have not been put in place yet[122].

Efficiency

The possibility of gathering disaggregated data for civil and commercial cases will be made available for 2023. The authorities have informed that a common understanding has been reached with the European Commission for the Efficiency of Justice (CEPEJ) and as of 2024[123] they will be able to provide disaggregated data on the length of civil and commercial proceedings in all three instances[124]. This would be possible for the first time since the first edition of the EU Justice Scoreboard in 2013. At the same time, the length of court cases related to bribery and administrative justice continues to be among the most efficient in the EU[125].

[114] See §19, 20 and 21 (1) of the final and transitional provisions of the draft JSA.
[115] Input from Bulgaria for the 2024 Rule of Law Report, pp. 15-17.
[116] Input from Bulgaria for the 2024 Rule of Law Report, p. 15.
[117] Input from Bulgaria for the 2024 Rule of Law Report, p. 16.
[118] Input from Bulgaria for the 2024 Rule of Law Report, pp. 16-17.
[119] Figure 45, 2024 EU Justice Scoreboard. The percentage of female judges at the Supreme Courts is of around 80%, currently the second highest percentage among supreme courts within the EU. See Figure 38, 2024 EU Justice Scoreboard.
[120] Figure 44, 2024 EU Justice Scoreboard. See also 2021, 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, pp. 12-13.
[121] Figures 47 and 48, 2023 EU Justice Scoreboard. Currently, it is only possible to consult electronic files and to receive information online about court fees. However, it is still not possible to initiate proceedings online, and the official court documents cannot be served electronically.
[122] They were planned for end 2023, which was delayed. The other project is planned for end 2024.
[123] The data published by the European Commission for the Efficiency of Justice (CEPEJ) does not present the data for year in which it is published but the data from two years ago. For example, the 2024 publication presents the data for 2022.
[124] Input from Bulgaria for the 2024 Rule of Law Report, p. 17.
[125] Figures 9, 10 and 23 2024 EU Justice Scoreboard.

II. ANTI-CORRUPTION FRAMEWORK

The Commission for Counteracting Corruption and Illegal Assets Forfeiture (CACIAF) was split into two bodies: the Anti-Corruption Commission, (ACC) and the Commission for Illegal Assets Forfeiture (CIAF). The ACC remains responsible for both preventing and sanctioning high-profile corruption and for implementing rules on asset declarations and conflicts of interests. It also gained investigative powers for corruption cases involving high-profile persons. The CIAF remains responsible for the confiscation of illegally acquired assets. Other institutions, such as the National Investigation Service, the State Security Service, the Internal Security Directorate, and the Chief Inspectorate provide various additional functions in the prevention and repression of corruption. Regular regional and appellate judicial authorities remain responsible for all corruption cases, including at high-level. The National Anti-Corruption Council continues to operate as an inter-ministerial advisory body.

The perception among experts and business executives is that the level of corruption in the public sector remains high. In the 2023 Corruption Perceptions Index by Transparency International, Bulgaria scores 45/100 and ranks 26th in the European Union and 67th globally[126]. This perception has been relatively stable over the past five years[127]. The 2024 Special Eurobarometer on Corruption shows that 85% of respondents consider corruption widespread in their country (EU average 68%) and 32% of respondents feel personally affected by corruption in their daily lives (EU average 27%)[128]. As regards businesses, 88% of companies consider that corruption is widespread (EU average 65%) and 57% consider that corruption is a problem when doing business (EU average 36%)[129]. Furthermore, 16% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 32%)[130], while 14% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 31%)[131].

A mid-term review of the National Strategy for Prevention and Countering Corruption is under preparation. A working group, set-up by order of the Prime Minister, is evaluating the implementation of the strategy for the year 2022[132]. The same working group prepared

[126] Transparency International (2024), Corruption Perceptions Index 2023, pp. 2-3. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

[127] In 2019 the score was 43, while in 2023 the score was 45. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last five years.

[128] Special Eurobarometer 548 on Citizens' attitudes towards corruption in the EU (2024). The Eurobarometer data on citizens' corruption perception and experience is updated every year. The previous data set is the Special Eurobarometer 534 (2023).

[129] Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). The Eurobarometer data on businesses' attitudes towards corruption as is updated every year. The previous data set is the Flash Eurobarometer 524 (2023).

[130] Special Eurobarometer 548 on Citizens' attitudes towards corruption in the EU (2024).

[131] Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024).

[132] To note that this is two years later than planned. In its RRP (milestone 226), the Government has committed to providing yearly implementation reports on the 2021-2027 anti-corruption strategy. According to the RRP, the timeline for fulfilment of milestone 226 is Q1 2026. Bulgaria committed to provide 'Annual analyses on the implementation of the National Strategy for Preventing and Combatting Corruption (2021-2027) and its

proposals for a mid-term revision of the Strategy and action plan and will, in the near future, also prepare an implementation report for the year 2023[133]. While the annual report for the implementation of the Strategy for the year 2022 and the revised Strategy were discussed and endorsed by the National Anti-Corruption Council in October 2023, it is still not formally adopted by the Government[134]. The preliminary results of this report show that only 18% of planned activities of the Strategy were fully implemented in 2022[135]. The formal approval of the 2022 implementation report, and the revision of the Strategy as well as the drafting of the implementation report for the year 2023 remain to be proceeded further[136]. Civil society organisations criticised both the implementation and the revision of the current strategy, which according to them is insufficiently based on a thorough and evidence-based needs analysis.[137]

Following the adoption of a reform, the Commission for Counteracting Corruption and Illegal Assets Forfeiture was divided into two separate bodies (the Anti-Corruption Commission and the Commission for Illegal Assets Forfeiture) and their performance remains to be assessed. The 2023 Rule of Law Report recommended to Bulgaria to '[e]nsure an improved effectiveness of investigations […] in high-level corruption cases including through the institutional reforms of the Anti-Corruption Commission[138].' The institutional reforms, dividing the previous Commission for Counteracting Corruption and Illegal Assets Forfeiture into two separate bodies, were adopted on 6 October 2023[139]. This reform (to be assessed as part of Bulgaria's RRP[140]) aims to advance the anti-corruption institutional

associated Roadmap and annual reporting on the progress of implementation in the context of the European Rule of Law mechanism'. See also 2022 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 15. The assessment related to the topic of Milestone 226 in the Rule of Law report does not prejudge the assessment of the fulfilment of the measures in the framework of the Bulgarian Recovery and Resilience Plan.

133 This includes participation of relevant ministries and government bodies as well as civil society. The aim is to align the Strategy with recommendations from European and international bodies and to take into account new legal initiatives. Input from Bulgaria for the 2024 Rule of Law report pp. 24-25 and information received in the context of the country visit from the Anti-Corruption Council and contribution received from the Bulgarian Institute for Legal Initiatives, p. 19.

134 And as a consequence, it is not yet publicly available. Written contribution from the Anti-Corruption Council in the context of the country visit to Bulgaria.

135 Input from Bulgaria for the 2024 Rule of Law report p. 25.

136 Report from the meeting of the National Council on Anti-Corruption Policies on 18 October 2023 and information received in the context of the country visit from the Anti-Corruption Council.

137 Contribution received from the Centre for the Study of Democracy for the 2024 Rule of Law Report, p. 17 and from the Bulgarian Institute for Legal Initiatives for the 2024 Rule of Law Report, p. 19.

138 See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 2. The Commission assessed that '[n]o progress [was made] on improving the effectiveness of investigation and a robust track-record of prosecution and final convictions in high-level cases of corruption including through the institutional reform of the Anti-Corruption Commission and specialised judicial authorities.'

139 Input from Bulgaria for the 2024 Rule of Law report, pp. 4 and 18-19. See also the Countering of Corruption Act SG, No. 84 of 06.10.2023. The new Anti-Corruption Commission is specialised in the activities of detection and investigation of corruption crimes, identification of conflict of interest, acceptance and verification of declarations and prevention of corruption. The scope of persons covered by the legislation, and as such, by the ACC, has significantly increased. The Commission for Illegal Assets Forfeiture will continue to carry out the activity of establishing, securing and confiscating illegally acquired property as well as functions of managing, storing and protecting the property on which precautionary measures imposed in the proceedings initiated by it. Discussions on changing the mandate and legislation of the CIAF are at an early stage.

140 Council Implementing Decision on the approval of the assessment of the recovery and resilience plan for Bulgaria, SWD(2022) 106 final and COM(2022) 172 final. Two specific milestones on the reform of the

framework. Stakeholders criticised a lack of transitionary provisions in the legislation[141], as the Commission was split immediately upon entry into force of the law, leading to a lack of capacity and operational difficulties in continuing to perform its regular tasks[142]. Additionally, the reform transferred the exclusive competence to investigate corruption crimes of high-level officials to the ACC as of 1 March 2024. Newly hired investigative inspectors were supposed to take over ongoing investigations and start new investigations on all high-level officials within the scope of the law[143]. However, the level of preparedness of the ACC and its ability to appropriately investigate since 1 March 2024 – including as regards the recruitment of sufficient investigative inspectors – will need to be monitored[144]. The ACC confirms that, since then, investigative measures were carried out in connection with five cases and states that its action led to 26 persons being indicted[145]. Simultaneously, Parliament has not yet nominated the three members of the ACC (i.e. its collegial leadership), which, according to the law, had to be in place by January 2024[146]. The significant role of the Parliament in both nominating[147] and appointing the members of the ACC raises questions over its political independence[148]. The introduction of an independent Nomination Committee[149] is intended to mitigate these concerns. This would require the swift adoption of the rules of procedure with a view to ensuring the political independence of the ACC members. According to the Government and the ACC itself, the ACC remains fully

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Anti-Corruption Commission are envisaged under the Bulgarian RRP, namely the milestones 218 (titled: Entry into force of the legislative amendments reforming the Anticorruption and the Illegal Assets Forfeiture Commission) and 220 (titled: Anti-Corruption body set up and operational). The assessment related to the topic of Milestone 218 and 220 in the Rule of Law report does not prejudge the assessment of the fulfilment of the measures in the framework of the Bulgarian Recovery and Resilience Plan.

141 Information received in the context of the country visit from the Prosecutor General, the Bulgarian Institute for Legal Initiatives and the Anti-Corruption Fund, and Contribution received from the Centre for the Study of Democracy for the 2024 Rule of Law report, p. 16 and the Bulgarian Institute for Legal Initiatives, p. 18.

142 Contribution received from the Centre for the Study of Democracy for the 2024 Rule of Law report, pp. 14 and 16-17 and Information received in the context of the country visit from Centre for the Study of Democracy, the Bulgarian Institute for Legal Initiatives and the Anti-Corruption Fund

143 Input from Bulgaria for the 2024 Rule of Law report, p. 19.

144 At the time of publication of this report, the leadership of the ACC was still not appointed while it would need to take on an estimated 170 cases with c.15 investigative inspectors which raises questions over the ACC's readiness. While an initial competition for recruitment of 13 inspectors has been announced, it remains unclear whether this procedure is finalised. Information received in the context of the country visit from the Anti-Corruption Commission, the Prosecutor General, the Bulgarian Institute for Legal Initiatives and the Anti-Corruption Fund and Anti-Corruption Fund (2023), Analysis of new Anti-Corruption Law: 'New investigative bodies cannot compensate for lack of vision for comprehensive criminal justice reform' and Dnevnik (2024), How the new Anti-Corruption Commission works - like the old one, but with more powers.

145 So far, one major investigative action of the ACC is publicly known to have taken place in April 2024. The action involved searches and arrests linked to the Bulgarian Customs, including the head of Customs. Pre-trial proceedings have been initiated. Dnevnik (2024), The action in customs: It became clear who ordered it, the director and three others are accused.

146 The deadline for appointing the leadership was 6 January 2024. Contribution received from the Bulgarian Institute for Legal Initiatives for the 2024 Rule of Law report, p. 18.

147 The law gives both Parliament and civil society organisation the right to nominate candidates, which have to fulfil certain criteria. Candidates then have to be appointed by Parliament through a two-thirds majority. See art. 8-10 of the Countering of Corruption Act.

148 International standards in relation to Anti-Corruption Commissions, such as the UN Convention against Corruption, generally recommend giving responsibilities for nominating and appointing the leadership to different institutions. See also 2023 Justice Scoreboard, fig. 58 and Contribution received from the Centre for the Study of Democracy for the 2024 Rule of Law report, p. 17.

149 Art. 8(4) of the Countering of Corruption Act.

functional while awaiting these further steps. Its regular activities, including the system for prevention of conflicts of interest and for asset declaration, continue as before[150]. Subject to addressing swiftly the practical implementation, as the Commission has been reformed establishing the Anti-Corruption Commission (ACC), and the Commission for Illegal Assets Forfeiture (CIAF), there is significant progress on this part of the recommendation made in the 2023 Rule of Law Report.

There has been no progress yet in establishing a robust track-record of high-level cases of corruption. The 2023 Rule of Law Report recommended to Bulgaria to '[e]nsure an improved effectiveness of investigations and a robust track-record of prosecution and final judgments in high-level corruption cases including through the institutional reforms of the Anti-Corruption Commission[151]'. Accurate reporting, including disaggregated data, on high-level corruption cases is still lacking. The Prosecutor General's Office and the Supreme Court of Cassation continue to report different streams of data on corruption and high-level corruption cases, which makes it difficult to establish a clear picture. Regular annual reporting on high-level corruption cases, envisaged under the RRP to improve accuracy and reliability of data, has not yet started[152]. Under its own mechanism[153], the Supreme Court of Cassation tracks six cases related to high-level corruption on which it rendered a decision in 2023[154]. The Prosecutor General's office reported in relation to corruption in general[155], not on high-level corruption, 82 new pre-trial proceedings and 27 indictments in the first 9 months of 2023[156] (a lower number compared to 2022[157]). Stakeholders maintain the view that the prosecution is largely ineffective in relation to high-level corruption, with charges not brought or indequately brought forward even in cases of well-substantiated allegations or publically available evidence. They also consider that a number of highly public allegations of high-level corruption were either dismissed or not proceeded further in early stages[158].

[150] Input from Bulgaria for the 2024 Rule of Law report, pp. 22-23 and Information received in the context of the country visit from the Ministry of Justice and the Anti-Corruption Commission.

[151] See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 2. The Commission assessed that '[n]o progress [was made] on improving the effectiveness of investigation and a robust track-record of prosecution and final convictions in high-level cases of corruption including through the institutional reform of the Anti-Corruption Commission and specialised judicial authorities.'

[152] This concerns milestone 222 under Bulgaria's RRP. The reports are expected to include data on the number of the high-level corruption cases filed, the number of cases concluded, detailed descriptions of the grounds for conclusion (both in the investigative stage and trial stage), number of convictions and acquittals, as well as indicators defining the cases for high-level corruption. Council Implementing Decision on the approval of the assessment of the recovery and resilience plan for Bulgaria, SWD(2022) 106 final.

[153] 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 17.

[154] Input from Bulgaria for the 2024 Rule of Law report, p. 29 and Annex 4 – Data on corruption cases from the SCC.

[155] The prosecutor's office reports that these cases are 'initiated for corruption offences with an alleged perpetrator, accused or perpetrator in a position of authority or in a specific capacity (managerial and control functions)'. This definition appears to cover some high-level corruption cases, but also other proceedings involving lower-level civil servants. Input from Bulgaria for the 2024 Rule of Law report, Annex 3 – Data on corruption cases from the Prosecution Office.

[156] Input from Bulgaria for the 2024 Rule of Law report, Annex 3 – Data on corruption cases from the Prosecution Office.

[157] The Prosecutor General's office reported 144 new pre-trial proceedings in relation to corruption, and 48 indictments brought to the courts, in cases in the first nine months of 2022. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 17.

[158] Contribution received from the Bulgarian Institute for Legal Initiative for the 2024 Rule of Law Report, p. 18 and from MEDEL, p. 15, Center for the Study of Democracy (2024), The State Of State Capture and information received in the context of the country visit from the Anti-Corruption Fund, the Bulgarian

Further analysis by stakeholders confirmed that the ratio of convictions in high-level corruption cases appears low with few cases reaching the final stages of proceedings[159]. GRECO has expressed similar concerns[160]. A number of additional challenges in investigating and prosecuting such cases are also signalled by the Supreme Court of Cassation. This includes the lifting of immunity of high-level figures, short statutes of limitations and a formalistic criminal procedure code[161]. While acknowledging that results could be improved, the prosecutors have indicated that the limited results are also related to the formalistic criminal procedure code as well as the multiple and frequent legislative changes. Prosecutors are also criticial of the performance of corruption investigators. They have however not identified any actions for improvement that can be undertaken by the Prosecution office[162]. Sanctions by third countries on a number of former and current Bulgarian political figures related to high-level corruption remain in place and are in themselves a signal of serious shortcomings[163]. On this basis, it is not possible at this stage to conclude that there are concrete results in establishing a robust track record of prosecution and final judgments in high-level corruption cases, and as such there has been no progress yet on this part of the implementation of the recommendation made in previous years.

Regional and appellate judicial bodies have fully taken over corruption cases since the the closure of the specialised judicial authorities in the fight against corruption. The Specialised Prosecutor's Office and Specialised Criminal Courts in the fight against corruption and organised crime were closed in 2022, with their competences and cases transferred to the regional and appellate level judicial authorities with the necessary safeguards[164]. While stakeholders generally agree that the former specialised bodies did not produce enough results[165] and see the new structure as an improvement, it remains too early

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Institute for Legal Initiatives and the Centre for the Study of Democracy. Civil society insists proceedings are marred with political interference, a lack of a proactive stance and proper investigative actions by the prosecutor and a mixed quality of the indictments. Recent examples include cases in the so called 'Barcelonagate' scandal involving a former Prime Minister and Minister from a leading political party, but also the 'Eight Dwarfs' case. See Kapital Insights (2023), The end of Barcelonagate? and BTA (2023), Sofia city prosecution terminates Barecelonagate money laundering case and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, pp. 17-18.

159 Monitoring work and analysis by civil society signal 4 convictions but 19 acquittals in the high-level cases it monitors, with no new final convictions being reported during 2023. The report also stresses the growing number of criminal proceedings (17) terminated by prosecutors without clear reasoning at the pre-trial stage. Anti-Corruption Fund (2024), Anti-Corruption institutions 2023: a freezing point, 2023 annual report, pp. 14-30.

160 GRECO Fifth Evaluation Round – Evaluation report, recommendation xiii, para. 119. 'The [evaluation team] firmly believes that at present, Bulgaria's criminal justice response to corruption cases involving [top executive functions] is unsatisfactory and needs to be addressed as a matter of urgency.'

161 Input from Bulgaria for the 2024 Rule of Law report, p. 30.

162 Information received in the context of the country visit from the Association of Public Prosecutors and the Prosecutor General, and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, pp. 17-19.

163 On 10 February 2023, the US and UK sanctioned a number of current or former Government official under their Global Magnitsky Act, referring to allegations of corruption. Notably, this included some individuals against whom investigations or indictments were previously halted or dismissed within the Bulgarian justice system. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 18

164 2022 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, pp. 15-16 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 19.

165 See also hearings in Parliament from 15, 22, 29 February and 14 March 2024, where magistrates and formerly accused persons made allegations of criminal influence within the already closed Specialised Criminal Court and Specialised Prosecutor's Office.

to draw firm conclusions[166]. The prosecution highlights some advantages of the past model, stating it provided for adequate prosecutorial independence to tackle the most difficult cases, although they also admit disadvantages[167]. Concerning cooperation with the European Public Prosecutor's Office (EPPO), following concerns expressed by the EPPO[168], the Ministry of Interior concluded an agreement with the EPPO in September 2023 to ensure independent access of the EPPO to specialised police investigators[169]. The EPPO itself reported 17 corruption cases among its open cases in Bulgaria in 2023 (6% of the total open cases)[170].

Work on a legislative reform in the area of foreign bribery has not progressed further. Detection, investigation and prosecution of foreign bribery cases is seen as ineffective and cointinues to be criticised by the OECD[171]. Work on a specific legislative reform in the area of foreign bribery remains ongoing. Under the 2021-2027 Anti-Corruption Strategy, a working group is to examine ways to improve liability of legal persons and other legislative changes relevant in the area of foreign bribery, in line with OECD recommendations[172]. Due to the complex work, the working group within the Ministry of Justice postponed the deadline of its final report from the end of 2023 and is still working on concrete legislative proposals, however, a concrete proposal has not been published so far[173]. In early 2024, one piece of draft legislation providing for higher monetary sanctions for legal entities and a new algorithm for determining the amount of the sanctions (an amendment of the Law on Administrative Offences and Sanctions) aiming to implement the OECD recommendations, was submitted for public consultation.

Work continues on corruption prevention measures aimed at improving the integrity of specific sectors of the public administration, including the police and the judiciary. The Ministry of Interior continues to implement various projects to improve the integrity of the police, and particularly the border police, including integrity tests[174]. The Ministry, together with the Anti-Corruption Commission, is developing a corruption risk assessment

[166] Information received in the context of the country visit from the Anti-Corruption Fund, Centre for the Study of Democracy and the Institute for Market Economics.

[167] These were not further specified. Information received in the context of the country visit from the Association of Public Prosecutors and the Prosecutor General.

[168] 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 19.

[169] Input from Bulgaria for the 2024 Rule of Law Report, pp. 21-22 and 28 and EPPO (2024), Bulgaria: Designated police officers to work exclusively on EPPO investigations.

[170] EPPO (2024), Annual Report 2023, p. 19.

[171] OECD (2023), Bulgaria Phase 4 Follow-up Report, p. 4 'The [OECD] Working Group [on Bribery] remains seriously concerned about Bulgaria's enforcement situation' and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 19.

[172] OECD (2021), Phase 4 evaluation of Bulgaria, p. 54 (para.197) and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 19.

[173] Written contribution from the Ministry of Justice received in the context of the country visit to Bulgaria and OECD (2023), Bulgaria Phase 4 Follow-up Report, p. 3 'Critical recommendations such as those pertaining to the foreign bribery offence or the liability of legal persons thus remain, to date, unimplemented'. See also Contribution received from the Centre for the Study of Democracy for the 2024 Rule of Law Report, p. 20

[174] See for instance European Commission (2023), Report of the third voluntary fact-finding mission to Bulgaria – latest developments in the application of the Schengen acquis, p. 11. 'Over the last year, the Bulgarian authorities continued the implementation of measures to fight integrity breaches and corruption. An anti-corruption plan for 2023 was elaborated by the Intradepartmental Coordinating Council of Combating Corruption. In accordance with this plan, the Ministry of Interior has continued to implement specific measures in areas of increased corruption risk (road traffic control, border control, etc.), as well as general horizontal measures to prevent and counter corruption, including ethics and anti-corruption trainings for law enforcement authorities.'

methodology for its employees, including the police, with the aim to roll this out during 2024[175]. A working group continues to assess the open recommendations from GRECO[176], such as the operational independence of the police from the Ministry of the Interior[177] and a lack of dedicated anti-corruption policies, such as a detailed code of conduct for the police, risk assessment and rules on gifts[178]. This work is channelled through a specific action plan within the Ministry of Interior[179]. The Government reports draft amendments to further develop and upgrade the ethical rules for those officials with police functions and to enhance the regulations on the independence of police activities have been prepared, while new rules on donations were issued and ethics committees and advisors have been appointed within the Ministry of Interior. As regards the judiciary, the codes of conduct for judges and prosecutors[180] were adopted in 2023, including clear provisions on integrity and prevention of corruption[181]. These codes were in principle welcomed by the Venice Commission, which however also recommended some improvements and stressed that complementary rules on disciplinary proceedings are needed in the Judicial System Act[182]. The Inspectorate to the Supreme Judicial Council (ISJC) signals that a number of training courses on integrity – in particular on the asset declaration system for magistrates – were carried out; and it has prepared comparative analyses with other EU Member States that aim to further improve integrity among magistrates[183]. Of the 16 integrity checks carried out by the Inspectorate in 2023, three led to disciplinary proceedings[184].

Work has started on a comprehensive code of conduct to address the serious gaps in the integrity of top executive functions. The 2023 Rule of Law report recommended to Bulgaria to '[i]mprove the integrity of top executive functions, taking into account European standards, in particular by ensuring that clear integrity standards for the Government as well

[175] Input from Bulgaria for the 2024 Rule of Law Report pp. 23 and 28 and information received in the context of the country visit from the Ministry of Interior and written contribution from the Internal Security Directorate received in the context of the country visit to Bulgaria.

[176] In particular for the police, some key recommendations from GRECO include: Operational independence of the police, including instructions; sponsorships and donations; a dedicated anti-corruption policy; a comprehensive risk assessment; a code of ethics; and rules on gifts and strengthened integrity checks. GRECO Fifth Evaluation Round – Evaluation report, paras 124, 127, 135, 142, 146, 162, 181.

[177] GRECO, Fifth Evaluation Round – Evaluation report, para 124.

[178] GRECO, Fifth Evaluation Round – Evaluation report, para 142, 146 and 162.

[179] Information received in the context of the country visit from the Ministry of Interior and the Internal Security Directorate.

[180] Making corruption prevention systems for the judiciary more robust, including through the Inspectorate to the Supreme Judicial Council (ISJC) and adopting the codes of conduct is a commitment under the RRP (see milestone 219). The assessment related to the topic of Milestone 219 in the Rule of Law report does not prejudge the assessment of the fulfilment of the measures in the framework of the Bulgarian Recovery and Resilience Plan.

[181] Code of Ethical Conduct of Bulgarian Judges and Code of Ethical Conduct of Bulgarian Prosecutors and Investigators. See also Written contribution received in the context of the country visit from the Inspectorate to the Supreme Judicial Council

[182] Venice Commission opinions (CDL-AD(2024)004) and (CDL-AD(2024)005). Further minor amendments to the codes, including increased attention for whistleblowers and measures against favouritism and corporatism, are also recommended by the Venice Commission.

[183] Work however on the electronic public register of declarations, which should facilitate online submissions of assets and interest declarations of magistrates remains suspended co as the contract for these services was terminated for a third time. Written contribution received in the context of the country visit from the Inspectorate to the Supreme Judicial Council.

[184] Input from Bulgaria for the 2024 Rule of Law Report, p. 25.

as an appropriate sanctioning mechanism are in place[185]'. Important gaps have been noted by GRECO[186] and civil society[187]. In particular, there are no legal requirements on the integrity or incompatibilities of persons hired for ministers' private offices[188], and there is no comprehensive code of conduct, or sanctioning mechanism for top executive functions in place. A working group, set up at the start of 2024, is drafting proposals for a code of conduct for top executive functions, in line with commitments in the Anti-Corruption Strategy[189]. The working group aims to present a draft document by June 2024[190]. In general, integrity provisions for top-level functions remain fragmented, with various institutions having differing provisions, and no plans have been announced to address this shortcoming[191]. Moreover, it is still unclear whether the Chief Inspectorate and various ministerial inspectorates have appropriate functional independence to carry out their corruption prevention tasks adequately[192]. As the integrity framework was not improved, there has been no progress on the recommendation made in the 2023 Rule of Law Report.

The rules on asset and interest disclosure for public officials are systematically implemented but effectiveness of verifications and sanctions is lacking. On declarations of assets, from January 2023 until 6 October 2023, 10 965 declarations of assets were received by the CACIAF while 13 349 verifications of declarations (both submitted in 2022 and 2023) were carried out, resulting in 660 decisions establishing an administrative violation[193]. Since 6 October 2023, the ACC sought to finalise the work of receiving the regular submission of declarations of those required to do so in 2023 establishing 30 administrative violations[194]. Additionally, the CACIAF – until 6 October 2023 – undertook action on 491 reports from citizens in which it could provide support to criminal investigations[195], while the ACC continued this work on 149 such reports[196]. On conflicts of interest, from January until 6 October 2023, the CACIAF initiated 314 procedures (on the

[185] See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 2. The Commission assessed that '[s]ome progress [was made] regarding corruption prevention measures aimed at improving the integrity of specific sectors of the public administration, including the police and the judiciary.'

[186] GRECO Fifth Evaluation Round – Evaluation report, para. 3: 'The integrity framework applicable to public officials does not cover PTEFs in a sufficient manner: no code of ethics applies to them, and there is no awareness-raising on integrity matters, nor any established mechanism for confidential counselling on ethical issues.'

[187] See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 21.

[188] GRECO Fifth Evaluation Round – Evaluation report, recommendation i and ii, para. 31 and 33. According to GRECO, these persons and their functions should also be made public in an online register.

[189] The working group is working on amendments to the Law on Administration and a Code of Conduct. It includes representatives of civil society. Input from Bulgaria for the 2024 Rule of Law Report, p. 25, Contribution from the Bulgarian Institute for Legal Initiatives for the 2023 Rule of Law Report, p. 19 and written contribution from the Anti-Corruption Council received in the context of the country visit to Bulgaria.

[190] Contribution from the Bulgarian Institute for Legal Initiatives for the 2024 Rule of Law Report, p. 19 and information received in the context of the country visit from the Anti-Corruption Council and the Bulgarian Institute for Legal Initiatives.

[191] Contribution from the Centre for the Study of Democracy for the 2024 Rule of Law Report, p. 17.

[192] GRECO Fifth Evaluation Round – Evaluation report, paras. 78-79.

[193] Compared to 11 915 declarations received and 750 decisions on violations for 2022. The administrative violations concern cases of both failure to submit and wrongly submitted asset declarations. Commission for Counteracting Corruption and Illegal Assets Forfeiture, Activity Report 2023, pp. 4-5

[194] Anti-Corruption Commission (2024), Activity Report 6.10.2023-31.12.2023, p. 6

[195] Commission for Counteracting Corruption and Illegal Assets Forfeiture**,** Activity Report 2023, p. 20

[196] Anti-Corruption Commission (2024), Activity Report 6.10.2023-31.12.2023, p. 9

basis of 230 reports) that resulted in 122 decisions regarding senior public officials (finding 12 conflicts of interests)[197], while from 6 October 2023 until the end of that year, the ACC initiated 105 procedures (on the basis of 74 reports) that resulted in 22 decisions regarding senior public officials (finding 5 conflicts of interest)[198]. A draft regulation on the declaration of assets of certain public officials is in preparation, given the scope of persons covered by the system was widened with the aforementioned reform of the ACC[199]. The increase in responsibilities of the ACC by this reform is seen by civil society organisations as potentially negatively affecting the existing asset declaration system, as the ACC's already limited resources might need to be used for this as well[200]. Civil society organisations continue to voice concerns over structural issues in particular the control mechanism, which they consider formalistic, superficial and non-dissuasive, as well as the lack of results of the asset and interest declaration system, which was not reformed by the new legislation[201]. This may result in irregularities going unnoticed as also underlined by GRECO[202]. Clear rules on the declaration of gifts to top executive persons remain lacking[203].

The rules on revolving doors were reformed and work on legislation to make lobbying more transparent has started. Following commitments to adopt legislative measures to regulate lobbying under the framework of the RRP[204], the Government has prepared a concept paper on possible lobbying legislation aiming to define lobbying into law and setting up a transparency register requiring lobbyists to register their activity, information on this activity and funds spent . The concept paper was adopted by the Council of Ministers in July 2024, following which legislative drafting will start[205]. Civil society organisation have actively participated in this work, although stakeholders noted that a broad definition of lobbying could possibly restrict the operating environment of civil society[206]. The President of the National Audit Office has been named as the body that would possibly manage a future

[197] Commission for Counteracting Corruption and Illegal Assets Forfeiture**,** Activity Report 2023, p. 17

[198] Anti-Corruption Commission (2024), Activity Report 6.10.2023-31.12.2023, p. 7

[199] Written contribution from the Ministry of Justice in the context of the country visit to Bulgaria

[200] Information received in the context of the country visit from the Justice for All Initiative and the Anti-Corruption Fund; and Anti-Corruption Fund (2024), Anti-Corruption institutions 2023: a freezing point, 2023 annual report, p. 35 and pp. 38-41.

[201] Contribution from the Centre for the Study of Democracy for the 2024 Rule of Law Report, p. 18, Anti-Corruption Fund (2024), Anti-Corruption institutions 2023: a freezing point, 2023 annual report, pp. 38-41 and Center For The Study Of Democracy (2023), Second Good Governance Report: Implementing Effective Instruments for Asset Declaration and Politically Exposed Companies. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, pp. 15-16 and 21-22.

[202] GRECO Fifth Evaluation Round – Evaluation report, recommendation ix, para 111-112. GRECO States that 'verifications of property, income, asset and interest declarations, whether by the Anti-Corruption Commission, or other authorised bodies […] were not sufficiently comprehensive, which allowed considerable irregularities to pass unnoticed.' (par. 111). GRECO Fifth Evaluation Round – Evaluation report, recommendation ix, para 112.

[203] GRECO Fifth Evaluation Round – Evaluation report, para. 95 and Contribution from the Centre for the Study of Democracy for the 2023 Rule of Law Report, p. 15.

[204] Notably, a concept note shall be prepared on the regulation of lobbying, and legislative measures shall be adopted to regulate lobbying activities in the context of public decision-making. The assessment related to the topic of Milestone 223 in the Rule of Law report does not prejudge the assessment of the fulfilment of the measures in the framework of the Bulgarian Recovery and Resilience Plan.

[205] Input from Bulgaria for the 2024 Rule of Law Report, p. 25.

[206] Several organisations advocate for a restricted definition of lobbying that focuses on for-profit actors. Written contribution from the Bulgarian Institute for Legal Initiatives, the Access to Information Programme and the Center for the Study of Democracy received in the context of the country visit to Bulgaria, and Contribution from the Bulgarian Institute for Legal Initiatives for the 2024 Rule of Law Report, p. 25.

transparency register and has welcomed this role[207]. GRECO has in the past also strongly recommended authorities to introduce rules governing the interactions between top executive functions and lobbyists[208]. Rules on revolving doors also underwent a targeted reform, as the 2023 Countering Corruption Act places restrictions for the period of one year on certain persons. For example, those who managed public procurement procedures with EU funds, are prohibited from participating in such procurements in their new functions for a period of 12 months[209], while high-ranking politicians are also prohibited from joining firms in policy areas on which they worked for the same time period[210].

Audits on political party financing continue, although it remains unclear if allegations of criminal behaviour are appropriately followed-up. The National Audit Office (NAO) remains responsible for carrying out audits on the consistency of financial activities, revenue, expenditure and management of assets made available to political parties, including managing the Unified Public Register of political parties[211]. In June 2023, the NAO published for the first time 19 audit reports that had been sent to the Prosecutor's Office in the period 2016-2020 on suspicions of criminal activity. The NAO did this after criminal proceedings – a responsbility of the prosecution – related to these reports were completed or ended inconclusively[212]. Overall, of 25 audit reports sent to the Prosecutor's Office on suspicion of criminal behaviour during the period 2018-2022, 13 reports were closed during the initial investigation stage, while there is no data on the remaining 12, raising questions about effective prosecutorial follow-up to the identified allegations of criminal behaviour[213]. Following the dismissal of the former chair of the NAO by Parliament and subsequent ruling by the Constitutional Court that this was done in a manner incompatible with the Constitution[214], the Court, in November 2023, also declared in a separate case that the appointment of an interim chair by Parliament was unconstitutional[215]. A new chair was in the meantime appointed in July 2023, for a full mandate[216]. The insitution itself continues to signal a lack of resources to carry out its tasks[217].

Amendments to the recent whistleblowers legislation were adopted by Parliament. As reported in the 2023 Rule of Law Report, an initial whistleblower protection system was adopted on 2 February 2023 aiming to align Bulgarian law with the EU Whistleblowers Directive[218]. A first amending law was adopted in October 2023[219], which addresses several

[207] Written contribution from the National Audit Office received in the context of the country visit to Bulgaria.
[208] This also includes an element of transparency towards the public. GRECO Fifth Evaluation Round – Evaluation report, recommendation xiii, para. 74.
[209] Article 87 of the 2023 Countering of Corruption Act.
[210] Article 86 of the 2023 Countering of Corruption Act.
[211] 2022 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 18.
[212] There has been no follow-up after this announcement by the NAO. Input from Bulgaria for the 2024 Rule of Law Report, p. 26.
[213] Written contribution from the National Audit Office received in the context of the country visit to Bulgaria. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, pp. 22-23.
[214] 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, pp. 22-23.
[215] Constitutional Court Decision No. 7 of 21 November 2023.
[216] Bulgarian Parliament (2023), Decision on the election of chair for the Bulgarian National Audit Office.
[217] Written contribution from the National Audit Office received in the context of the country visit to Bulgaria.
[218] Directive (EU) 2019/1937. 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, pp. 23-24.
[219] The initial whistleblowers legislation was the law adopted on 2 February 2023. The Law of 5 October 2023 on Amendments and Supplements to the Whistleblower Protection Act provided for the further amendments. Input from Bulgaria for the 2024 Rule of Law Report pp. 21 and 27.

of the shortcomings of the initial law, in particular some aspects as regards the personal and the material scope and the interim relief measures that should be available to whistleblowers[220]. According to information provided by the Bulgarian authorities, amendments are under preparation to address remaining shortcomings, but these remain to be submitted to Parliament. This commitment is also included in Bulgaria's RRP[221]. Moreover, in 2023 the Ombudsman's powers for conducting an external audit of whistleblowing and whistleblower protection activities were implemented through the creation of a new expert unit[222]. Following these amendments, civil society organisations continue to stressa lack of results and impact on the ground of the whistleblowing system regarding the fight against corruption at this stage[223]. Moreover, civil society organisations continue to criticise the designation of the Commission for Data Protection as the competent authority, noting that it lacks capacity and expertise on the relevant legislation in order to serve as an efficient whistleblower authority, in particular in corruption cases[224].

Public procurement remains an area at high risk of corruption, and investigations and legal proceedings linked to the abolished investor citizenship scheme continued. Businesses' attitudes towards corruption in the EU show that 36% of companies in Bulgaria (EU average 27%) think that corruption has prevented them from winning a public tender or a public procurement contract in practice in the last three years[225]. As such, public procurement continues to be considered as an area at high risk of corruption. Public procurement legislation was amended in October 2023[226] to improve transparency and integrity[227]. Civil society studies indicate that the public procurement system as a whole lacks integrity measures both at the national and local levels[228], and that in some specific instances, such as private hospitals working with certain public funds (such as National Health

[220] See Transparency International How Well do EU Countries Protect Whistleblowers? - Transparency.org, and by the Southeast Europe Coalition on Whistleblower protection Transposition of the EU 2019/1937 Directive on Whistleblower protection in Southeast Europe - Publication - Center for the Study of Democracy (csd.eu).

[221] Milestone 217 of Bulgaria's RRP provides that Bulgaria '[introduces] the requirements of Directive (EU) 2019/1937, notably: the creation of confidential internal and external channels for reporting irregularities and corruption; the establishment of verification mechanisms of the submitted signals; providing protection and support measures to whistle-blowers; ensuring provision of feedback and publicity on the results of the performed inspections based on signals'. The assessment related to the topic of Milestone 217 in the Rule of Law report does not prejudge the assessment of the fulfilment of the measures in the framework of the Bulgarian Recovery and Resilience Plan. Discussions on the fulfilment of this milestone are ongoing.

[222] Amendments and Supplements to the Whistleblower Protection Act, SG N. 11 of February 2, 2023 (in § 5 of the Final Provisions the respective amendments are made to the Ombudsman Act). Resolution of MC N 147 of September 20, 2023. Input from Bulgaria for the 2024 Rule of Law Report p. 38, Law of 5 October 2023 on Amendments and Supplements to the Whistleblower Protection Act

[223] Contribution from the Centre for the Study of Democracy for the 2024 Rule of Law Report, p. 14 and p. 19 and Contribution from the Bulgarian Institute for Legal Initiatives for the 2024 Rule of Law Report, pp. 19-20.

[224] Tsabala, K. et. al., Transposition of the EU 2019/1937 directive on whistleblower protection in Southeast Europe: Challenges and lessons learned, Southeast European Coalition on Whistleblower Protection.

[225] Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). This is 9 percentage points above the EU average.

[226] This was done as part of the Bulgarian Recovery and Resilience Plan – Milestone 242. The assessment related to the topic of Milestone 242 in the Rule of Law report does not prejudge the assessment of the fulfilment of the measures in the framework of the Bulgarian Recovery and Resilience Plan.

[227] Public Procurement Agency (2023), Amendments to the Public Procurement Act are adopted.

[228] Center for the Study of Democracy (2023), Bridges to Nowhere. State Capture and Corruption Risks in Fiscal Transfers and Public Procurement at the Local Level in Southeast Europe.

Insurance Fund), certain entities (notwithstanding they are for the most part financed by public money) remain out of the scope of the Public Procurement Act[229]. In addition, as reported previously, investigations and legal proceedings concerning Bulgarian citizenship previously granted under the country's investor citizenship scheme, abolished in 2022, continue[230]. Even after their abolition, investor citizenship schemes continue to expose a high risk of corruption, as new allegations emerged, including corruption and fraud to avoid proper due diligence in the granting of citizenship[231]. A parliamentary investigation committee has been set-up to further investigate these cases [232].

III. MEDIA PLURALISM AND MEDIA FREEDOM

The Bulgarian legal framework is based on a set of constitutional safeguards and legislative measures, such as the Radio and Television Act[233]. The Access to Public Information Act regulates access to public information and the re-use of public sector information.[234] The Compulsory Deposit of Copies of Printed and Other Works Act contains requirements regarding media ownership transparency ('Law on Deposit of Copies')[235]. The institutional framework consists of the media regulator – the Council for Electronic Media (CEM) – and the National Council for Journalistic Ethics and its executive body – the Ethics Commission[236].

Concerns remain about the lack of sufficient safeguards to secure the independence of the media regulator. In the latest Media Pluralism Monitor, independence and effectiveness of the media regulator scored a risk of 37%, unchanged from the 2023 MPM edition[237]. The regulator indicated that it faced pressure as regards its activities by certain politicians and political parties[238]. As previously stated, the CEM indicated that due to its budget it has faced difficulties to attract staff in view of the low salaries proposed[239]. The 2024 Media Pluralism Monitor noted that a general amendment to the Constitution was passed in the Parliament in December 2023, which aims to guarantee more independence for regulatory bodies, such as

[229] Contribution from the Bulgarian Institute for Legal Initiatives for the 2024 Rule of Law Report pp. 21-22.
[230] 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 23.
[231] Mediapool (2024), The 'Gleb Mishin' scheme: Over 4 000 people from the former USSR are trying to get a BG passport.
[232] Decision of the National Assembly of 14 February 2024. See also, Bulgarian Telegraph Agency (2024), CC-DB's Atanas Atanasov Heads Ad Hoc Committee on Possible Illegal Granting of Bulgarian Citizenship
[233] Radio and Television Act available at Lex.bg - Закони, правилници, конституция, кодекси, държавен вестник, правилници по прилагане. Bulgaria ranks 59th in the 2024 Reporters without Borders World Press Freedom Index compared to 71st in the previous year.
[234] Access to public information Act, available at Access to Public Information Act (government.bg).
[235] The enforcement of the Law on Deposit of Copies is carried out by the Ministry of Culture.
[236] The media self-regulatory body acts on the basis of the Code of Ethics adopted in 2004 and signed by a number of media outlets. The decisions of the Ethics Commission (the executive body of the NCJE) are only binding on the signatories of the Bulgarian Media Code of Ethics and voluntary for other media players. In 2023, the Ethics Commission took decisions in 21 cases (contribution from *Reporters sans frontières* for the 2024 Rule of Law Report). The NCJE reported a rise in complaints in the first two months of 2024, with a majority of them relating to disinformation but also the war in Ukraine (information received in the context of the country visit).
[237] 2024 Media Pluralism Monitor, p. 13. It is noted that stakeholders considered that the CEM could be more effective in its monitoring and enforcement regarding the activities of media. Information received in the context of the country visit from the Association of European journalists and Access to Information programme.
[238] Information received in the context of the country visit from the CEM.
[239] Information received in the context of the country visit from the CEM.

the CEM. This constitutional amendment would need to be implemented through ordinary legislation to become effective in practice. This would ensure that in the future – once a law is passed – members of the Parliamentary quota of the CEM would be selected after a vote by a two thirds majority of the members of the Parliament, as compared to simple majority today[240].

Notwithstanding the existence of several registers for media ownership information, shortcomings regarding the enforcement of the media ownership disclosure obligations remain. In addition to the CEM public register covering media ownership structures of radio and television operators[241], the Ministry of Culture hosts a public register based on declarations made by any media outlet of its beneficial ownership and the funding received from public funds, political parties, etc[242]. Stakeholders consider that this register is not easily accessible and that the system based on self-declarations is not effective in practice given the insufficient enforcement of these obligations[243]. Although the legal framework is in place, not all media declare their ultimate owners[244]. Stakeholders consider that the situation is most complex as regards certain non-transparent online media which are usually vehicles for spreading disinformation[245]. The expert working group set up within the Ministry of Culture in 2021 to consider changes to the Law on the Deposit of Copies continues the reflections on how to improve the functioning of the register and the related availability of media ownership information[246].

There has been some further progress as regards transparency in the allocation of state advertising. The 2023 Rule of Law Report recommended Bulgaria to 'advance with the work aimed at improving transparency in the allocation of state advertising, in particular with regard to state advertising contracted through intermediaries, such as media agencies'[247]. The expert working group set up in June 2023 to discuss topics affecting the media environment, including the transparency in the distribution of state advertising, identified this matter as one of the priority topics[248]. In October 2023, amendments to the Public Procurement Act were adopted which aim to bring some transparency when awarding state advertising to radio and

[240] See Article 91b of the Bulgarian constitution and MPM 2024, p. 14.

[241] See 2021 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p.16. A link to the register is available at Собствеността в медиите (cem.bg).

[242] The public register on media ownership, accessible online.

[243] Information received in the context of the country visit (Access to information programme, For the truth project).

[244] The indicator of transparency of media ownership scores low risk (29%) as it did in previous years, due to the existence of legal provisions (2024 Media Pluralism Monitor, p. 9 and 16).

[245] 2024 Media Pluralism Monitor, p. 18. Information on the lack of transparency received in the context of the country visit from NCJE. Contribution from *Reporters sans frontières* for the 2024 Rule of Law Report which refers to the increase in 'mushroom and binge websites'.

[246] Information received in the context of the country visit from the Ministry of Culture. Discussions in the expert group have for instance reflected on whether to consider the declaration of media ownership as a pre-condition for benefitting from state advertising.

[247] In the 2023 Rule of Law Report, the Commission concluded that some progress was made on the recommendation given the setting up of an expert group to discuss topics affecting the media environment, including transparency in the distribution of state advertising.

[248] On 26 June 2023, the Council for the Rule of Law adopted a concept note which stresses the commitments of the Bulgarian authorities to take measures to implement the recommendation on state advertising, as well as other questions relevant for media pluralism and media freedom in Bulgaria. Input from Bulgaria for the 2023 rule of law report.

television broadcasters and on-demand media services[249]. In particular, contracting authorities are required to send a procurement award notice for publication in the public procurement register within 30 days after the conclusion of a contract subject to the exemption which applies to such media service providers[250]. Moreover, the authorities shall provide for the publication of a notice of completion of a public procurement contract or a framework agreement and specify the funds paid to each media service provider, where applicable. While this is seen as a step towards more transparency, stakeholders have noted that there are still a number of shortcomings with the existing framework in particular as regards transparency on funds granted through intermediaries[251]. Stakeholders consider that the overall picture regarding allocation of state advertising has not improved in practice[252]. The negative impact is felt, in particular, at local and regional level, where there are claims of state advertising being used as a means to buy influence[253]. Overall, some further progress has been made on the recommendation made in the 2023 Rule of Law Report.

While legal safeguards for editorial independence are in place, indications of political and economic influence over the media remain. The principle of editorial independence from economic and political actors is set out in the Radio and Television Law and features in the Code of Ethics of Bulgarian media[254]. In the 2024 Media Pluralism Monitor report, the indicator on 'Political independence of the media' scored a risk of 50%[255]. The report notes that the media market is highly dependent on political and economic influences, particularly as regards local media[256]. Moreover, it refers to risks to editorial independence given certain practices of commercial entities influencing editorial content[257]. Stakeholders noted several recent changes in the editorial teams of some media outlets[258]. Finally, apart from general competition rules, which are underpinned by economic considerations, no specific media concentration rules are in place[259]. One notable aspect is the trend of vertical integration, with businesses buying telecom and media outlets[260].

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[249] Input from Bulgaria for the 2024 rule of law report referring to the publication of the amended law in the official journal No. 20 of 18 October 2023. See also CEM statement dated 18 October 2023 regarding the amendments to the Public Procurement Act.

[250] This concerns contracts with a value which is equal to or greater than BGN 10 000 (approximately EUR 5 000).

[251] Information received in the context of the country visit from the CEM, Access to Information Programme and Association of European Journalists. Most notably, these changes do not encompass contracts of value below 10,000 leva and do not cover contracts concluded with media agencies.

[252] Contribution from *Reporters sans frontières* for the 2024 Rule of Law Report; information received in the context of the country visit from For the Truth Project.

[253] Information received in the context of the country visit from for the truth project. Contribution from *Reporters sans frontières* for the 2024 Rule of Law Report. The 2024 Media Pluralism Monitor indicates that the lack of an adequate legal framework on the transparency of allocation of state advertising continues to have a negative impact on the media sector, especially on local and regional media (p. 21).

[254] Art. 5 of the Radio and Television Law; Section 3 of the Code of Ethics. See also Article 11 of the Radio and Television Law, specifically for rights granted to journalists of electronic media.

[255] 2024 Media Pluralism Monitor, p. 19.

[256] 2024 Media Pluralism Monitor, p. 24.

[257] 2024 Media Pluralism Monitor, p.18.

[258] Editors of the news programmes of the two leading Bulgarian TV channels BTV and Nova have been changed in February 2024, see С усещане за Пеевски: шефовете на новините на 'Нова' и bTV сменени в синхрон (capital.bg). See information received in the context of the country visit from BNR.

[259] See 2022 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria.

[260] According to the Media Ownership Monitor project, there is a high concentration of media in Bulgaria, with two foreign investors having several stakes in media and telecommunication companies; most recently in

The Government has resumed the work on a draft law to strengthen the independence of public service media, while the CEM has not yet appointed a new Director General of the Bulgarian national television. The media regulator CEM appoints the Directors-General of the Bulgarian national radio (BNR) and television (BNT) following a public competition and after hearings of the relevant candidates. The management boards of the BNR and the BNT consist of five members each and are endorsed by the media regulator upon proposal by the Directors-General[261]. Since the unsuccessful appointment of a new Director-General of BNT by CEM in 2022, the present Director-General continues to work *ad interim* for an unspecified period of time[262]. This outcome has been considered as a source of concern by stakeholders due to the continued uncertainty and risks to the independence of the broadcaster[263]. The 2024 Media Pluralism Monitor considers that independence of public service media scores a high risk of 94%. Work on the envisaged[264] revision of the law, previously reported[265], which aims to strengthen the independence of public service media and define in more detail the public service remit and the related financing, has resumed with the intention to introduce the draft law in the Parliament this year[266].

While some obstacles remain, the positive trend as regards access to public information continues. Stakeholders note that the practices of active publication of information on the websites of the institutions continues. At the same time, some of the known obstacles, such as administrative refusals, are still present[267]. A stakeholder reported instances of use of the General Data Protection Regulation as grounds to refuse access to video material of police violence against journalists[268].

While the Government has taken steps to protect journalists from strategic lawsuits against public participation (SLAPP cases), journalists continue to encounter various difficulties and threats in their activities. The working group on the media environment and access to information set up by the Council for the Rule of Law in June 2023 has been working on proposals to guarantee the protection of journalists from SLAPPs[269]. In this regard, a positive development relates to proposals, which could lead to amendments to the Civil Procedure Code, and that include the possibility for a fast-track procedure for SLAPP

2024, United Group (which owns among others telecom operator Vivacom and Nova Broadcasting Group) acquired Bulsatcom; PPF is the owner of telecom operator Yettel and BTV. See for more information United Group completes the acquisition of Bulsatcom (broadbandtvnews.com). See also 2024 Media Pluralism Monitor, p. 7.

261 Art. 58(1) Radio and Television Act.

262 This is due to the fact that following the unsuccessful appointment of a new Director General in 2022, one of the candidates in the competition launched a court case against it. A new procedure for appointment can only take place once this case is resolved, and this is expected to happen not earlier than June 2024. Contribution from *Reporters sans frontières* for the 2024 Rule of Law Report.

263 Contribution from *Reporters sans frontières* for the 2024 Rule of Law Report; information received in the context of the country visit from Association of European journalists.

264 See 2022 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, which referred to the draft law introduced in Parliament in 2021.

265 See 2022 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 22.

266 Information received in the context of the country visit from the Ministry of Culture of Bulgaria, BNR and ABBRO.

267 2024 Media Pluralism Monitor, p.12. Information received in the context of the country visit from Access to information programme.

268 See information received in the context of the country visit from Access to information programme.

269 Input from Bulgaria for the 2024 rule of law report; contribution from Center for the study of democracy for the 2024 Rule of Law Report.

cases, a prohibition of preliminary injunctions against journalists, and early terminations of such cases[270]. Moreover, the previously reported amendments to the Criminal Code regarding lower fines in case of insults and defamation cases against public officials and public figures were adopted in August 2023[271]. Stakeholders reported on the ongoing use of SLAPPs cases against journalists[272]. The defamation claim made in 2023 against a media service provider seeking a compensation of approximately EUR 500 000 (BGN 1 million) has been dismissed at first instance[273], while another large case was settled in September 2023[274]. Apart from lawsuits, other attacks against journalists are reported, for example online harassment and threats which continue to be a common form of external pressure[275]. Stakeholders reported, in particular, threats and intimidation by public institutions and political actors[276]. This is particularly the case for critical journalists at the local level, which have been for instance banned from entering municipal administrations or have not been informed about upcoming briefings by certain mayors[277]. Some journalists also faced physical threats and assaults[278] or received death threats and were granted police protection[279]. Since the 2023 Rule of Law Report, two new alerts regarding attacks and harassment of journalists were registered on the Council of Europe Platform to promote the protection of journalism and safety of journalists[280]. There were also eight alerts reported by the Media Freedom Rapid Response mechanism covering among others physical assaults, intimidation and defamation lawsuits[281]. The authorities have informed that a working group created by the Ministry of Interior reviewed the measures and practices implemented to ensure the safety of journalists and adopted an Action Plan[282]. Among others, the Action Plan aims to ensure to a greater extent the protection and safety of journalists during protests and demonstrations, online safety in relation to the prevention of online attacks and threats to journalists, and effective cooperation between government authorities, the media sector and civil society.

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[270] Input from Bulgaria, confirmed by the Ministry of Culture in the context of the country visit. Information received in the context of the country visit from the Access to information programme. Contribution from the Center for the study of democracy for the 2024 Rule of Law Report.

[271] Contribution from *Reporters sans frontières* for the 2024 Rule of Law Report. See also Media Pluralism Monitor, p. 12.

[272] See contribution from *Reporters sans frontières* for the 2024 Rule of Law Report and information received from Association of European Journalists in the context of the country visit. A register of cases against journalists and the media is made available on the website of the Supreme Court of Cassation but its usefulness does not seem proven so far to identify SLAPP cases: https://www.vks.bg/dela-jurnalisti-i-medii.html

[273] Information received in the context of the country visit from Access to Information programme.

[274] Eurohold sued media outlet Bivol for 500,000 million euros in 2021 – the case was settled in September 2023. Information received in the context of the country visit from Access to Information programme.

[275] Information received in the context of the country visit from the Association of European Journalists.

[276] 2024 Media Pluralism Monitor, p. 13; contribution from *Reporters sans frontières* for the 2024 Rule of Law Report; information received in the context of the country visit from the Association of European Journalists.

[277] MPM 2024, p. 12. Information received in the context of the country visit from the Association of European Journalists and for the truth project. A research project on Local Media for Democracy by the ECMPF also refers to this external pressure from political actors and authorities, which impact the local media market, see factsheet on Bulgaria.

[278] See contribution from *Reporters sans frontières* for the 2024 Rule of Law Report which refers to verbal and physical attacks against journalists during a coverage of a protest. 2024 Media Pluralism Monitor, p. 13.

[279] See 2024 Report by the Platform on the safety of journalists, p. 37.

[280] This concerns (i) the coverage of a protest against the Bulgarian Football Federation in November 2023 when journalists had been physically assaulted, detained or obstructed by the police, and (ii) a defamation lawsuit against two investigative journalists.

[281] See European Centre for Press and Media Freedom, Media Freedom Rapid Response – Bulgaria.

[282] Input from Bulgaria for the 2024 Rule of Law Report.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Bulgaria is a representative democratic republic with a directly elected President, a unicameral National Assembly and a Constitutional Court in charge of constitutional review of laws and interpretative decisions. The National Assembly has a final decision-making power when adopting laws[283]. Bulgaria has two national human rights institutions. First, the Ombudsperson is an independent constitutional body, elected by the National Assembly and tasked with the promotion and protection of human rights and fundamental freedoms. Second, the Commission for the Protection against Discrimination is a body that implements policies in the spheres of gender equality and non-discrimination.

The Council for monitoring of the judicial reform was merged with the Rule of Law Council, allowing for wider participation of civil society. The Rule of Law Council continues to function effectively[284]. On 5 July 2024, an amendment to the Decree establishing the Rule of Law Council merged it with the Council for monitoring of the judicial reform[285]. This action does not change the competences of the Rule of Law Council, as it already includes monitoring the justice system, but it aims at increasing the number of CSOs' representatives present in the Council[286]. This was welcomed by the relevant organisations working in the area of justice and anti-corruption[287].

Concerns have been raised regarding the significant number of independent and regulatory authorities which continue to operate with an expired mandate. As mentioned in the 2023 Rule of Law Report[288], a number of independent and regulatory authorities are operating under a prolonged expired mandate[289]. This creates a potential risk that decisions of

[283] Art. 87 of the Constitution: any member of the National Assembly or the Council of Ministers has the right to introduce a draft law. It is adopted by the National Assembly in two readings. The adopted draft law is sent to the President of the Republic of Bulgaria, who signs a decree for its promulgation. The draft is then published in the State Gazette and enters into force three days after its publication, unless the act provides otherwise.

[284] The Rule of Law Council met twice in September and October 2023 with the European Commission in the context of follow-up meetings related to the implementation of the recommendations of the 2023 Rule of Law Report.

[285] The Council for monitoring the judicial reform existed since 2014; Information received from the Ministry of Justice in the context of the country visit to Bulgaria.

[286] The members of the Council include representatives of the relevant Governmental authorities for each topic, judicial authorities and civil society organisations (CSOs). The CSOs are represented by 11 members from professional and non-governmental organisations with proven experience in dealing with justice, anti-corruption, media pluralism and other issues related to checks and balances. See Art. 7 of the Decree of the Council of Ministers No. 240.

[287] Information received from Bulgarian Institute For Legal Initiatives, Anti-Corruption Fund Foundation, Initiative Justice For All in the context of the country visit to Bulgaria.

[288] 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, pp. 29-30.

[289] Currently, these are: Supreme Judicial Council – five members and Supreme Prosecutorial Council – six members (quota of the National Assembly); Inspectorate to the Supreme Judicial Council – Inspector General and ten Inspectors; Commission for Personal Data Protection – Chairman and four members of the board (it is noted that Art. 52 of the General Data Protection Regulation requires a certain degree of independence of the national authority for data protection); National Competition Authority – President, Vice-President and five members; Commission for Public Oversight of Statutory Auditors – Chairman and four members; Committee for disclosing the documents and announcing affiliation of Bulgarian citizens to the State Security and intelligence services of the Bulgarian National Army – Chairman, Deputy Chairman, Secretary and six members; Financial Supervision Commission – Chair; National Social Security Institute – Governor; Bulgarian Fiscal Council – Chairman and four members; Commission for Protection against

these authorities could be influenced, due to a lack of secure tenure[290]. The constitutional reform adopted in December 2023 introduced a new provision declaring that Parliament respects the principles of openness, transparency, publicity and justification in the selection of the members of the bodies that are wholly or partially elected by it, in order to guarantee their independence[291]. On 19 January 2024, Parliament elected two judges to the Constitutional Court, explicitly mentioning that they will be appointed for nine years[292]. The decision was disputed by both stakeholders[293] and the President of the Republic[294], as it seems to go against a previous ruling of the Constitutional Court, which clarifies that these two judges should stay in office for seven and not nine years[295]. On 23 January 2024, the appointment was challenged before the Constitutional Court[296]. On 9 July 2024, the latter declared the appointment to be constitutional but the length of the mandate to be against the previous interpretation given by the Constitutional Court and lowered it from 9 to 7 years[297].

The constitutional reform limited the powers of the President in the procedure of appointing an interim government and improved the access to constitutional justice. The constitutional reform adopted on 20 December 2023 introduced two changes to the

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Discrimination – Chairman, Deputy Chairman and three members; Public Enterprises and Control Agency – one member of the Supervisory Board; National Council of the Bulgarians living abroad – President and six members. There are also authorities for which the mandate was prematurely terminated without appointing a new person on the position or have been reformed: Anti-corruption Commission – three members, and Commission for Illegal Assets Forfeiture – Chairman; Energy and Water Regulatory Commission – Chairperson; National Bureau for Control over Special Intelligence Means – one member. It is noted that there is a pending request for a preliminary ruling regarding the *ad interim* functioning of the Inspectorate to the Supreme Judicial Council, see Court of Justice of the European Union, preliminary ruling request of 22 May 2023, *Inspektorat kam Visshia sadeben savet*, Case C-313/23.

290 This situation creates a potential risk of taking decisions with a form of prior compliance. This means that institutions are more likely to take decisions, which would comply with the predicted reaction/position of the current or future authorities responsible for renewing their mandates due to the threat of premature termination of the already expired mandate. According to stakeholders, a recent example is that of the chair of the Bulgarian National Audit Office. Furthermore, upon a request by members of Parliament of the 48th National Assembly, the Constitutional Court reviewed the constitutionality of the decision on the dismissal of the chair and decided that the members of Parliament removed the chair in violation of the Constitution, invalidating Parliament's decision. See Constitutional Court Decision No. 5 of 22 June 2023 on Case No. 5 of 20 January 2023. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, pp. 28-29. See also European Semester, Country Report on Bulgaria, p. 15 and 18; and European Semester Country Specific Recommendations for Bulgaria number 2 on page 10.

291 Art. 91b of the Constitution.

292 See two Decisions of Parliament of 19 January 2024, published in State Gazette No. 7 of 2024.

293 Information received from Bulgarian Institute For Legal Initiatives, Anti-Corruption Fund Foundation, Institute For Market Economics, Center For The Study Of Democracy, Initiative Justice For All in the context of the country visit to Bulgaria. It was noted that prior their appointment one of the nominees had been involved in a number of legislative initiatives that are currently being challenged before the Constitutional Court, and that the same one of the nominees was, before its appointment, the leader of the biggest political group in Parliament. For more on the methods of appointment of Constitutional Courts, see Figure 66 of the 2024 EU Justice Scoreboard.

294 The President of the Republic requested the interpretation of the Constitution regarding the length of the mandate and then challenged the appointment of the two judges.

295 See Constitutional Court Decision No. 1 of 11 January 2024. Prior to the appointment, clarifying that according to the Constitution, judges of the Constitutional Court, appointed with a delay, exercise their powers only for the remaining term of the mandate, counted from the constitutionally due moment for the renewal of the composition of the Court (i.e., 7 instead of 9 years)

296 Constitutional Court Case No. 3 of 23 January 2024.

297 Constitutional Court Decision No. 12 of 9 July 2024.

system of checks and balances in the country. Firstly, it structured the way the President of the Republic appoints an interim government[298]. Before the reform, the President was able to appoint the whole interim government, which was then free to carry out all tasks that would normally be carried out by a regular government[299]. After the reform, the President appoints an interim Prime Minister from a shortlist of candidates[300]. Then, in consultation with the political parties in Parliament and on a proposal by the candidate interim Prime Minister, the President appoints the interim Government. The main task of the interim government is now limited to organising the forthcoming elections. Other limitations can be introduced by law[301]. The second change introduced by the constitutional reform was the expansion of access to constitutional justice[302]. Following the reform, any court, at the request of a party to the case or on its own initiative, may seize the Constitutional Court with a request to determine any inconsistency between the law applicable to their specific case and the Constitution[303]. This is considered a welcome development by stakeholders[304]. On 23 January 2024, the President challenged the constitutional changes regarding his role in the appointment of interim government before the Constitutional Court[305].

Rules for law-making have been improved but there are problems over implementation and concerns regarding the quality of the legislative process continue. As mentioned in the 2022 and 2023 Rule of Law Reports, and in line with the commitments of the RRP[306], improved rules for law-making in the Parliament have been adopted[307]. However, the implementation of these rules continues to raise some concerns[308]. Since the majority of the legislative initiatives have been proposed by members of Parliament[309], these do not go through the same mandatory procedure as for the government, including impact assessment and public consultations[310]. For draft laws tabled by members of Parliament, the Rules of Procedure of Parliament state that these drafts should be subject to public consultations and impact assessments. However, these rules – similarly to the Law on Normative Acts, which

[298] Art. 99(5) – (7) of the Constitution.

[299] E.g. drafting laws; adopting decisions on appointment that are of the competence of the government etc.

[300] Art. 99(5) of the Constitution - The interim Prime Minister is appointed from among the Chairman of the National Assembly, the Governor or Deputy Governor of the Bulgarian National Bank, the Chairman or Deputy Chairman of the National Audit Office and the Ombudsperson or his/her deputy.

[301] Art. 99(7) of the Constitution.

[302] Art. 150 of the Constitution.

[303] Art. 150(2) of the Constitution. See also Figure 64 of 2023 EU Justice Scoreboard.

[304] Information received from Ombudsperson, BCNL, OSI, BHC and Deystvie in the context of the country visit to Bulgaria. It is noted that stakeholders had shown a preference for the possibility for an individual constitutional complaint, which was provided for in an earlier draft of the constitutional reform, but ultimately not retained in the final text.

[305] Constitutional Court Case No. 3 of 2024. The President of the Republic considers that for amending the constitutional provisions related to his powers and the appointment of *ad interim* government it is necessary to use the procedure requiring a Grand National Assembly rather than adopting them through the ordinary National Assembly.

[306] Milestone 241 under the RRP.

[307] See 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 23 and p. 29.

[308] Information received from BCNL, OSI, BHC, Deystvie, Bulgarian Institute For Legal Initiatives And Institute For Market Economics in the context of the country visit to Bulgaria.

[309] About 62% of the drafts were tabled by members of Parliament. See National Assembly. Study of the law-making activity of the National Assembly (April 2023 – December 2023), p. 7.

[310] Information received from BCNL, OSI, BHC, Deystvie, Bulgarian Institute For Legal Initiatives And Institute For Market Economics in the context of the country visit to Bulgaria.

applies to drafts tabled by the government – have the same power as a law[311], however, it seems to not have the same enforceability as a law. In that context, stakeholders have expressed criticism that the impact assessment and public consultations carried out by the Members of Parliament are often done *pro forma*[312]. The Centre for Regulatory Impact Assessment conducted a survey in August 2023 regarding the use of impact assessments and how to improve the framework for regulatory impact assessment in the country[313]. In 72% of the cases the respondents are of the opinion that there are problems with impact assessment and public consultations due to the non-compliance and inefficient implementation of legal and bylaw requirements and the methodological guidelines and rules[314]. In 52% of the cases the respondents believe that the regulatory reform can become more effective mainly through a change in the current legal framework, by the introduction of uniform requirements and standards for impact assessment and public consultations for Parliament and government draft laws[315]. According to a study prepared by Parliament itself, in 90% of the draft laws there is no information about public consultations or discussions organised by the proposer to determine the problems and reasons necessitating the adoption of the draft law. In 93% of the draft laws, the arguments and different points of view of the stakeholders were not included, and in 67% there was no analysis on the compatibility of the draft laws with EU law[316]. Stakeholders also reported that the practice of introducing legislative changes through amendments to other, unrelated, acts between the first and the second reading has been reintroduced over the past year[317]. A notable example of the past year is the adoption of final and transitional provisions through the Criminal Procedure Code amendments that suspend certain provisions of the recently adopted constitutional reform[318]. According to the Commission recommendation on promoting engagement and effective participation of citizens and civil society organisations in a democracy, an enabling environment for civil society organisations, it is important to allow them to effectively engage in public policy-making[319].

[311] Constitutional Court Decision No. 7 of 4 June 2010.

[312] Information received from BCNL, OSI, BHC, Deystvie, Bulgarian Institute For Legal Initiatives And Institute For Market Economics in the context of the country visit to Bulgaria.

[313] See Centre for Regulatory Impact Assessment, Results of Online Survey 'Regulatory Reform In Bulgaria - Five Years - Stagger Or Development?'.

[314] A considerable percentage (36%) cite as the reason the poor regulations in the Regulations for the organization and activities of the National Assembly. See Centre for Regulatory Impact Assessment, Results of Online Survey 'Regulatory Reform In Bulgaria - Five Years - Stagger Or Development?', p. 3.

[315] See Centre for Regulatory Impact Assessment, Results of Online Survey 'Regulatory Reform In Bulgaria - Five Years - Stagger Or Development?', pp. 7-8.

[316] See National Assembly. Study of the law-making activity of the National Assembly (April 2023 – December 2023), pp 40-43.

[317] This practice allows to circumvent the public consultations as such are not envisaged in the rules and there is no obligation for public discussions when these are made. This is especially true for the changes made in the final and transitional provisions. Information received from BCNL, OSI, BHC, Deystvie, Bulgarian Institute For Legal Initiatives And Institute For Market Economics in the context of the country visit to Bulgaria.

[318] See amendments of the Criminal Procedure Code, adopted on 23 February 2024, in State Gazette No. 18, 2024. These were vetoed by the President of the Republic, and his veto was accepted by Parliament. See Decree No. 48 of the President of the Republic or 23 February 2024, in State Gazette No. 18. In Bulgaria, 22% of the surveyed companies perceive the frequent changes in legislation or concerns about quality of law-making process as a reason for the lack of confidence in investment protection. Figure 56, 2024 EU Justice Scoreboard.

[319] Commission recommendation on promoting the engagement and effective participation of citizens and civil society organisations in public policy-making processes (C/2023/8627 final).

The Ombudsperson was attributed new competences, while financial and human resources have not been adequately reinforced. The Ombudsperson has an A-status accreditation as a National Human Rights Institution (NHRI)[320]. Under the Whistleblower law[321]the Ombudsperson is tasked with the external audit of the Commission for Protection of Personal Data, which is the responsible authority for receiving whistleblower reports[322]. This extension of the competences of the Ombudsperson was accompanied by additional financial and human resources[323]. However, some other competences have been attributed for which the Ombudsperson did not receive additional support[324]. While the Ombudsperson does not consider having insufficient resources at this stage, this discrepancy has been identified as a possible challenge in the near future for the effective performance of its duties[325].

On 1 January 2024, Bulgaria had 89 leading judgments of the European Court of Human Rights pending implementation, a decrease of four compared to the previous year[326]. At that time, Bulgaria's rate of leading judgments from the past 10 years that remained pending was at 53% (compared to 55% in 2023) and the average time that the judgments had been pending implementation was 6 years and 9 months (compared to 6 years and 10 months in 2023)[327]. The supervision of the previously oldest leading pending judgment[328], concerning excessive use of force by law enforcement agents and previously pending implementation since 2000, has now been closed. However, outstanding questions concerning general measures continue to be examined under the heading of a more recent group of cases[329]. As regards the respect of payment deadlines, on 31 December 2023 there were 13 cases in total awaiting confirmation of payments (compared to 46 in 2022)[330]. On 1

[320] There are two National Human Rights Institutions in the country – the Ombudsperson, which has an A-status accreditation from Global Alliance of National Human Rights Institutions (GANHRI), and the Commission of the Protection against discrimination, which has a B-status accreditation from GANHRI. As regards the other NHRI, the Commission of the Protection against discrimination, it continues to work with an expired mandate. Its Chairperson, Deputy and members have been operating with an expired mandate since July 2022.

[321] See Law on the Ombudsman, SG N. 11 of February 2, 2023. Resolution of MC N 147 of September 20, 2023, Input from Bulgaria for the 2024 Rule of Law Report p. 38. See also Decree 190 of 5 October 2023, published in State Gazette No. 88 of 2023.

[322] Art. 30 of the Whistleblower law of 2 February 2023.

[323] Information received from the Ombudsperson in the context of the country visit to Bulgaria.

[324] Related to the Common Provisions Regulation, the Ombudsperson is now part of the committees for overseeing the implementation of the Charter of Fundamental Rights in Bulgaria. Information received from the Ombudsperson in the context of the country visit to Bulgaria.

[325] Information received from the Ombudsperson Office in the context of the country visit to Bulgaria.

[326] The adoption of necessary execution measures for a judgment by the European Court of Human Rights is supervised by the Committee of Ministers of the Council of Europe. It is the Committee's practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken.

[327] All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2024. See the Contribution from the European Implementation Network for the 2024 Rule of Law Report, p. 2.

[328] Judgment of the European Court of Human Rights of 18 May 2000, *Velikova v. Bulgaria*, 41488/98.

[329] Judgment of the European Court of Human Rights of 1 July 2014, *Dimitrov and Others v. Bulgaria*, 41488/98, pending implementation since 2014.

[330] Council of Europe (2024), Supervision of the execution of judgments decisions of the European Court of Human Rights – 17th Annual Report of the Committee of Ministers – 2023, p. 137.

July 2024, the number of leading judgments pending implementation had increased to 90[331]. It is noted that the Ministry of Justice presented a project for creating a national mechanism for the effective execution of European Court of Human Rights judgments[332].

The work of the Council for Civil Society Development is blocked due to the political situation. As mentioned in the 2023 Rule of Law Report, the Council started operating and one of their main goals is to create a national funding mechanism for civil society organisations (CSOs)[333]. This is supposed to address the difficulties of CSOs to receive EU funding (through state agencies dealing with EU funds) caused by the fact that they are considered as commercial entities and the state applies the same state aid restrictions as for private companies receiving EU funding[334]. Due to the political situation[335], the Council managed to meet only three times since its creation in 2022. Despite the previous agreement with the interim Government in the spring of 2023 that such a funding mechanism is possible in the current legislative framework, the members of the Council were informed by the regular Government, in power until March 2024, at the moment of their last meeting, that establishing such a mechanism would require an amendment to the law[336]. The planned rotation in the Government did not take place and new elections took place on 9 June 2024. Once a new Government is appointed the work of the Council will resume. It should be noted that the mandate of the current members of the Council will elapse by the end of this year and new ones will be appointed. This would entail that the work on developing a national mechanism for funding would be further delayed.

The draft law for the registration of foreign agents tabled by members of one political group in the Parliament continues to be a serious concern while most political parties did not take part in the discussions. As mentioned in the 2023 Rule of Law Report, the draft law for the registration of foreign agents was tabled at Parliament on 28 April 2023[337] for the second time. On 17 January 2024, the draft law was discussed in the plenary of the Parliament. However, given the decision of most political parties not to take part in the discussion, no vote took place in the absence of sufficient *quorum*[338]. The draft envisages to set up a system where every entity, including CSOs, academics, and journalists, that receives

[331] Data according to the online database of the Council of Europe (HUDOC).

[332] See Press release of the Ministry of Justice of 10 April 2024. A draft Decree of the Council of Ministers on the establishment of a Coordination Mechanism for the implementation of the judgments of the ECtHR in fulfilment of Bulgaria's international legal obligations is also prepared and soon will be published for public consultations.

[333] See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, pp. 30-31.

[334] Written contribution from European Civic Forum (2024) - Civic Space Report 2024 Bulgaria (Bulgarian Center for Not-for-Profit Law), p.16. Information also received from BCNL, OSI, BHC and Deystvie in the context of the country visit to Bulgaria. As explained by stakeholders, the main restrictions are related to the *de minimis* rule for receiving EU funds through national intermediaries (i.e. that is, less than EUR 200 000 in any rolling 3-year period).

[335] The convening of Council meetings is done by the cabinet of the Deputy Prime Minister. Following the elections of April 2023, a government was established only in July 2023. The first meetings were convened only in the autumn of 2023.

[336] Written contribution from BCNL following the country visit to Bulgaria. Information also received from OSI, BHC and Deystvie in the context of the country visit to Bulgaria.

[337] See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, p. 31.

[338] See Transcript of the meeting of the 49th National Assembly 76th Session, of 17 January 2024. It is noted that only the party that proposed this and another smaller party stayed for discussions. This is similar to the situation described in the 2023 Rule of Law Report, where there was also a clear opposition by most of the political parties against this same draft law that was now re-tabled.

more than EUR 500 (BGN 1000) from a foreign state or entity – not including the EU Member States and funding coming through the EU – should be put in a register of foreign agents and they should state everywhere in their online or offline presence that they are a 'foreign agent'[339]. Serious concerns have been raised as this draft law could have a stigmatising effect and negatively affect the civic space in the country, which continues to be rated as narrowed[340].

[339] Stakeholders have reported that this resembles almost entirely the Russian (as to the labelling in the offline and online presence of the entity) and Hungarian (as to the labelling, mandatory registration and imposed threshold for amount of money above which the registration would be mandatory) laws on the same topic. It should be also recalled that the combination of the labelling and mandatory registration stigmatises CSOs and create a climate of distrust with regard to them, apt to deter natural or legal persons from other Member States or third countries from providing them with financial support. See Court of Justice of the European Union, judgment of 18 June 2020, Commission v. Hungary, C-78/18, paras. 50, 54, 56, 58 and 118. An open letter signed by 180 CSOs was published on the website of the Bulgarian center for not-for-profit law. See also Venice Commission Opinion (CDL-PI(2024)013), paras. 97-101.

[340] See rating given by CIVICUS, Bulgaria. Ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed. See also an open letter signed by 180 CSOs was published on the website of the Bulgarian center for not-for-profit law.

Annex I: List of sources in alphabetical order*

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Annex II: Country visit to Bulgaria

The Commission services held virtual meetings in February 2024 with:

- Access to Information Programme
- Anti-Corruption Council
- Anti-corruption Fund Foundation
- Association of Bulgarian Radio and TV Operators
- Association of European Journalists – Bulgaria
- Association of Prosecutors in Bulgaria
- Audio-Visual regulator – Council for Electronic Media
- Bulgarian center for not-for-profit law
- Bulgarian Helsinki Committee
- Bulgarian Industrial Association
- Bulgarian Institute for Legal Initiatives
- Bulgarian Judges Association
- Centre for the Study of Democracy
- Commission for countering corruption
- Commission for forfeiture of illegally acquired assets
- Constitutional court
- Deystvie
- For the truth project
- Group of academics
- Inspectorate to the Supreme Judicial Council
- Internal Security Directorate – Ministry of Interior
- Institute for Market Economics
- Justice for All Initiative
- Ministry of Culture
- Ministry of Interior
- Ministry of Justice
- National Audit Office
- National Council for Journalistic Ethics
- Office of the Prosecutor General
- Ombudsperson
- Open Society Institute
- Public service media – Bulgarian National Radio
- Supreme Administrative Court
- Supreme Bar Council
- Supreme Court of Cassation
- Supreme Judicial Council

* The Commission also met the following organisations in a number of horizontal meetings:

- Amnesty International EU
- Centre for Democracy and Technology Europe

- Centre for European Volunteering
- Civil Liberties Union for Europe
- Civil Rights Defenders
- Civil Society Europe
- Culture Action Europe
- Democracy Reporting International
- European Centre for Non-Profit Law
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Free Press Unlimited
- International Federation for Human Rights
- International Planned Parenthood Federation
- International Press Institute
- Irish Council for Civil Liberties
- JEF Europe
- Open Society Foundations
- Philanthropy Europe Association
- PICUM
- Reporters Without Borders
- SOLIDAR
- Transparency International EU