

**CONTRIBUTION OF THE REPUBLIC OF BULGARIA  
TO THE ANNUAL REPORT ON THE RULE OF LAW  
IN 2023**

**January 20, 2023  
City of Sofia**

## List of abbreviations used

CA	The Customs Agency
AMoI	Academy of the Ministry of Interior
PPA	Public Procurement Agency
AFCOS	Protection of the European Union Financial Interests Directorate
BNR	Bulgarian National Radio
BNT	Bulgarian National Television
SAPO	Supreme Administrative Prosecutor's Office
SAC	Supreme Administrative Court
SCPO	Supreme Cassation Prosecutor's Office
SCC	Supreme Court of Cassation
SJC;	Supreme Judicial Council
BPGD	Border Police General Directorate
NPGD	National Police General Directorate
BCP	Border crossing points
CPC	Civil Procedure Code
SANS	State Agency for National Security
ISD	Internal Security Directorate
ID	Inspectorate Directorate
UISC	Uniform Information System of the Courts
EC	European Commission
EJTN	European Judicial Training Network
APIA	Access to Public Information Act
ECA	Electronic Communications Act
LMDPOWADMSP	Law on the mandatory deposit of printed and other works and on the announcement of distributors and media service providers
ASA	Amendment and Supplement Act
LNA	Law on Normative Acts
PPA.	Public Procurement Act
CCUAAFA	Counter Corruption and Unlawfully Acquired Assets Forfeiture Act
LRT	Law of Radio and Television
JA	Judiciary Act
ISJC	Inspectorate to the Supreme Judicial Council
CAC	Commission on Appraisal and Competitions
CECBM	Code of Ethical Conduct of Bulgarian Magistrates
CPD	Commission for Protection against Discrimination
CC	Constitutional Court
CCWJSC	Court Card, Workload and Judicial Statistics Commission
ACC	Anti-Corruption Commission
CACIAF	Commission for Anti-Corruption and Illegal Assets Forfeiture
MoI	Ministry Of Interior
MFA	Ministry of Foreign Affairs
MH	Ministry of Health
MC	Ministry of Culture
MJ	Ministry of Justice
CM	Council of Ministers
MF	Ministry of Finance
NRA	National Revenue Agency
NHIF	National Health Insurance Fund
NIJ	National Institute of Justice
PC	Penal Code;
NA	National Assembly
NIS	National Investigation Service
SJCP	Supreme Judicial Council Plenum

## Introduction

As proof of its determination, will and commitment to ensure the irreversibility of the fundamental reforms achieved under the Cooperation and Verification Mechanism (CVM), introduced at the accession of Bulgaria to the European Union, in 2022 the Bulgarian authorities took action to ensure the functioning of a Monitoring mechanism at national level, and set up a High-level council for its implementation. It aims to develop policies and monitor their implementation in the areas under all four pillars of the horizontal Rule of law mechanism. The Council consists of the ministers of the Interior, Finance, Culture, the Secretary General of the Council of Ministers, the Chairperson of the Commission for Anti Corruption and Illegal Assets Forfeiture, as well as the heads of the Judiciary bodies – the presidents of the two supreme courts, the Prosecutor General and the Inspector General of the Inspectorate to the Supreme Judicial Council. A Civil Council was also set up by representatives of relevant professional organizations, as well as recognized non-governmental organizations, to ensure the involvement of civil society.

This approach has been developed and implemented in coordination with the European Commission. Its representatives were invited to the first meeting of the Council, which took place on 19 September 2022. During this first session, the Council discussed measures to implement the recommendations of the European Commission to Bulgaria from the Third Annual Report on the Rule of Law.

Reforms to ensure the rule of law and counter-corruption were also included in the National Recovery and Resilience Plan (NRRP). The findings of the European Commission's annual reports under the horizontal Rule of Law Mechanism and the European Semester were the basis on which the specific commitments in the NRRP were developed.

The projects developed in the context of the Recovery and Resilience Facility will contribute to providing state-of-the-art technical equipment for secure and accessible e-justice, as well as to expanding the use of alternative dispute resolution methods.

In this context, the plan sets out measures for increased accountability of the Prosecutor General to ensure that Bulgaria applies the established international practices of the Council of Europe for impartial and effective justice. The Ministry of Justice has developed a draft legislative change, taking into account the specific proposals and findings of the EC regarding the measures on the rule of law and accountability of the Prosecutor General in the context of the recommendations of the Venice Commission, the EC reports on the CVM and the rule of law and reality in Bulgaria. Taking into account these clear messages of the EC, the Bulgarian authorities provided for a mechanism for investigating the Prosecutor General in case of an alert or a suspicion of misconduct/violations. A judge will be randomly appointed who, in the event of sufficient evidence of a crime committed by the Prosecutor General, will conduct an investigation. This judge will not be able to be replaced by the SJC, the Prosecutor General will not be able to intervene and give him instructions regarding the investigation, and while it is being conducted, the Prosecutor General will be removed from office. The career development of the investigating judge will be protected regardless of the outcome of the investigation, which will cover both actions and inactions of the Prosecutor General.

This mechanism has been carefully considered in view of the considerations of the Constitutional Court in Constitutional case No 7 in case 4/2021, according to which the overall arrangement of the figure of the prosecutor in the investigation against the Prosecutor General or his deputy is not in line with the current constitutional framework, so that it can be implemented, without constitutional amendments to be required, following the recommendations of the Venice Commission.

On December 5, 2022, a draft law amending and supplementing the Criminal Procedure Code, which proposes a framework for the establishment of a mechanism for engaging the criminal liability of the Prosecutor General published for public consultations.

On March 2, 2022, after approval by the Council of Ministers, a draft Law amending and supplementing the Judiciary Act was submitted to the National Assembly. It repeals the “career bonuses” of the members of the Supreme Judicial Council, the Inspector General and the

inspectors of the Inspectorate at the Supreme Judicial Council, as the career growth of magistrates should depend solely on their work as magistrates.

However, on April 14, 2022, the specialized justice was closed, as with Decision No. 7 of 14.07.2022 in c.c No. 9/2022 the Constitutional Court held that the closure of specialized courts and prosecutor's offices was not unconstitutional. The Specialized Criminal Court, the Specialized Criminal Court of Appeal and their respective prosecutor's offices were closed, settling the status of the judges and prosecutors working in them, as well as the closure of pending cases, subject to the principle of permanence of the composition.

During the past year it was established and adopted by the Council of Ministers on 19.03.2021. a new strategic framework with an implementation horizon of 2027 in the field of anti-corruption, which outlined the main guidelines and key anti-corruption activities, which are intended to be implemented in view of the country's commitment to increase trust and attitude in society to address this global problem, which has an impact on human values and fundamental rights.

Strengthening of anti-corruption bodies is a key priority of the government, which is included in the NRRP. One of the measures is to reform the Commission for Anti Corruption and Illegal Assets Forfeiture (CACIAF) in order to build an effective political and financially independent anti-corruption body. The aim is to create an effective anti-corruption body that will focus only on those powers that directly affect the prevention and fight against corruption crimes.

The draft Law on Countering Corruption among Senior Public Office Holders (SPOH) was approved by the Council of Ministers on 01.11.2022. it was adopted at first reading in plenary on 07.12.2022.

The project was presented to the secretariat of GRECO within the framework of the Fifth Evaluation Round of the Republic of Bulgaria, and in its report the evaluation team gives a positive assessment of the provisions of the draft law on the Commission establishment.

Another important element of the reforms implemented in the past year represent the efforts to annul the possibility of acquiring Bulgarian citizenship under reduced conditions against investments made. The amendments to the Bulgarian Citizenship Act, which removed the possibility for Bulgarian citizenship to be acquired against investment, were adopted by the National Assembly on March 24, 2022. They were published in the State Gazette on April 1, 2022.

A key element of the rule of law and of ensuring the effectiveness of the functions of the European Public Prosecutor's Office was also the granting of administrative independence to the European Delegated Prosecutors from Bulgaria by the adopted amendments to the Judiciary Act. For the practical implementation of their administrative provisioning, a separate building was found for their accommodation in very short terms. Ensuring the autonomy of the European Delegated Prosecutors will also contribute to ensuring the proper spending of the funds expected under the National Recovery and Resilience Plan.

These actions testify to the firm determination to continue putting efforts in the direction outlined and cooperation with all European institutions and other authoritative organizations in the field of the rule of law. We believe that they represent a strong guarantee that the direction of reforms in the country will follow consistently internationally recognized and established standards.

## I. The “Justice system” Pillar

### 1. Please provide information on the measures taken to follow up the recommendations received in the 2022 report on the judiciary (if applicable)

- ***On recommendation: “Ensure timely regular promotion competitions to avoid long-term secondment of judges to hold vacant posts, taking into account European standards on the secondment of judges”***

In the implementation of the project “*Increasing professionalism in the judiciary*”, funded under the *Justice Programme of the NFM 2014-2021*, the beneficiary of which is the Supreme Judicial Council (SJC), and the Program operator – Ministry of Justice (MJ), the working group has prepared a comprehensive analysis of the recruitment procedures, selection and career development of magistrates based on analysis of European practice and national legislation. Proposals for improving competition and appraisal legislation have also been developed. Round tables were held with representatives of the different magistrates’ communities, at which the analysis was presented, as well as discussions on the proposals for legislative amendments, which are also in line with the recommendations in the European Commission’s 2022 Rule of Law Report.

A final version of the analysis was approved by decision of the SJC Plenum<sup>1</sup>, which also included conceptual proposals for amendments to the regulations aimed at accelerating and optimizing the competitions in the appointment and promotion of magistrates, increasing the effectiveness of the procedures for appraisal, increasing public confidence in judicial authorities, greater transparency and broad public representation in the selection, appointment, promotion and relocation of magistrates.

The proposals conceptually develop the issue of setting up a special selection committee for the appointments to each of the colleges of the SJC– an auxiliary and permanent body whose powers are related only to holding competitions for taking up magistrate posts.

Another of the proposals presented is that magistrate positions be taken up on the basis of separate competitions for promotion or transfer for each vacant or impending vacancy. The competitions shall be announced by the colleges individually by each body of the judiciary at least twice during the current calendar year and shall be held by competition committees within statutory time limits. A proposal has been formed (based on the analysis of the career advancement procedures of the magistrates in Norway and the Netherlands) to introduce an additional requirement that the candidate for magistrate, who wishes to become one for the first time, possess high personal non-legal qualities necessary to perform the functions of a judge, prosecutor, or investigator. With the initial appointment, a psychological test of the candidates is envisaged and the procedures for its implementation are specified in a special regulation of the SJC, etc.

It is also proposed to reduce the test criteria in the area of appraisal, introducing mechanisms to speed up the conduct of procedures for the appraisal of judges when participating in competitions of a larger number of participants, enabling the judges’ college to allocate the attestations between auxiliary appraisal committees to other regional courts, respectively between auxiliary appraisal committees to the appeal courts, reduce the workload of members of the auxiliary appraisal committees in the courts – for the period during which the appraisal takes place and others.

A team will be formed within the Ministry of Justice to draft legislative amendments.

With the aim of not delaying and conducting the competitions held by the SJC within a reasonable time frame, by decision of the Plenum of the Supreme Judicial Council<sup>2</sup>, amendments and additions were adopted to Ordinance No. 1/09.02.2017 for the competitions for magistrates and for the selection of administrative heads in the bodies of the judiciary. The amendment and addition to the Ordinance, allowing a certain member of a competition commission to recuse before the relevant plenum, aims to ease the procedure for selecting members of competition commissions, elected by the plenums of the Supreme Court of Cassation and the Supreme

<sup>1</sup> under Protocol № 36 of December 15, 2022

<sup>2</sup> under pr. № 27/15.09.2022

Administrative Court, respectively, and the meetings of the prosecutors, respectively of the Supreme Cassation Prosecutor's Office and the Supreme Administrative Prosecutor's Office.

On 29.11.2022 the College of Judges set up a working group with the participants: members of CAC, judges and experts from the administration of the SJC to draft a normative act - Ordinance amending and supplementing Ordinance No 2 of February 23, 2017, on the indicators, methodology and procedure for the appraisal of a judge, a president and a vice-president of a court in order to optimize the procedures for the appraisal, according to the current JA provisions.

- ***On recommendation: Progress on legislative amendments aimed at improving the functioning of the Inspectorate at the Supreme Judicial Council and avoiding the risk of political influence, in particular by involving judicial authorities in the selection of its members***

Information on the proposals for legislative amendments concerning the improvement of the ISJC functioning and avoidance of the risk of political influence and opinions on them is provided by the previous Annual Rule of Law Report.

Meantime, by Decision No. 12 of 27 September 2022<sup>3</sup> Constitutional Court of the Republic of Bulgaria ruled that with the expiration of the term for which they have been elected, the Inspector General and the inspectors in the Inspectorate at the Supreme Judicial Council perform their functions until new Inspector General, respectively inspectors are elected by the National Assembly. It is constitutionally inadmissible to automatically suspend for an indefinite period the activities of the Inspectorate at the Supreme Judicial Council due to the expiration of the powers of the Inspector General and the inspectors and the failure of the National Assembly to elect a new composition of the Inspectorate, ensuring its functioning in accordance with the constitutional prescriptions. The discretionary power of the Parliament is limited and the opposite undermines the democratic order under the rule of law, which is constitutionally established by the will of the sovereign as an element of the Basic Law fundamental structure.

On 24.10.2022 CM submitted to the National Assembly the ASA of the JA, developed in implementation of the measures set out in the NRRP, and the proposals made to supplement the powers of the Inspectorate aimed at improving the functioning of the body.

- ***On recommendation: "Take steps to adapt the composition of the Supreme Judicial Council, taking into account European standards on judicial councils."***

On the basis of Art. 130a, para. 3 of the Constitution of the Republic of Bulgaria the SJC's Judges' College consists of 14 members and includes the presidents of SCC and SAC, six members elected directly by the judges, and six members elected by the National Assembly.

The adaptation of the composition of the Supreme Judicial Council can be carried out only by an amendment to the Constitution if the ratio of the current judges elected by the judicial authorities is expected to change, i.e., the judicial quota by the judges' college.

The draft Law on the amendment and supplement of the Code of Criminal Procedure, developed by the Ministry of Justice, which proposes a framework for the creation of a mechanism for engaging the criminal liability of the Prosecutor General, was approved by a decision of the Council of Ministers of 30 December 2022 and it has been submitted for discussion and adoption by the National Assembly. Relevant to the recommendation is also the proposal for amendment to Art. 16 of the Judiciary Act in the sense that the National Assembly does not elect active prosecutors, investigators and judges as members of the SJC. By excluding the representatives of the Prosecutor's Office and the investigation, as well as the judges, from the quota of the National Assembly in the SJC will be achieved better public representation and participation of lawyers from the non-governmental sector, bar association, academic community, etc. This will also lead to a fairer administration of the judiciary, avoiding the risk of its encapsulation and, above all, reducing the actual influence of the Prosecutor General in the SJC.

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<sup>3</sup>in constitutional case № 7/2022

The project was consulted by the Venice Commission, which held an opinion<sup>4</sup> at its 132 plenary sessions<sup>5</sup>. The measure is also stipulated in the National Recovery and Resilience Plan and represents a guarantee of effectiveness of the mechanism of attributing the Prosecutor General and his deputies of liability.

## **A. Independence**

### **2. Appointment and selection of judges, prosecutors and presidents of courts (incl. judicial review)**

### **3. Irremovability of judges; including transfers (incl. as part of the reform of the court card), the regime of dismissal and retirement of judges, presidents of courts and prosecutors (incl. judicial review)**

#### **4. Promotion of judges and prosecutors (incl. judicial review):**

As of 09.12.2022. a total of 109 magistrates were promoted at various judicial authorities in the country after competitions for promotion in office were held.

5 competitions for the appointment of magistrates to higher positions were finalized - the competitions announced in 2019 for promotion in “judge” for the SJC – Commercial College, for the regional courts – civil, commercial and criminal division, as well as the competition announced in April 2021 for promotion in judge in the administrative courts.

A total of 286 attestations were held and the selection committees evaluated a total of more than 750 candidates.

109 judges were promoted by the SJC (JC) as follows:

- 8 candidates for the SCC-CC, and all 8 magistrates have taken up position in July and September.<sup>6</sup>

- 71 ranked candidates in the regional courts – civil, commercial and criminal division<sup>7</sup>.

- 30 candidates ranked were promoted in “judge” in the administrative courts<sup>8</sup>.

Due to the existence of the prerequisites of Art. 60, para. 1 of the APC for allowing preliminary implementation of the decisions on promotion - protection of a particularly important public interest, since taking up vacant posts for a prolonged period is in the interest of effective implementation of constitutional and legal powers of the judicial authorities, preliminary implementation of the decisions of the JC to promote the participants ranked in the competitions was admitted. The decisions are reasoned by the argument that the postpone or delay in the enforcement of decisions over time will continue to negatively affect the work of the courts, part of which are forced to resort to the institution of secondment in order to ensure the administration of justice in the country. As a result of the preliminary implementation admitted, 96 of those promoted have assumed office, and those promoted by JC decisions of 06.12.2022 are also expected to take up office.

Of the competitions announced in 2021, only the one for promotion and taking up 19 positions for judges in the courts of appeals - the criminal division has not been completed. In connection with the competition, 92 attestations were completed, 2 are at the final stage. The competition is open to 139 candidates and the Selection Board is in an advanced stage of its work.

In 2022, with a view to ensuring the rhythm of the competition procedures for career development, 3 competitions for promotion for 48 positions in different judicial authorities in the country were announced, namely:

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<sup>4</sup> CDL (2022)022 of 24.10.2022

<sup>5</sup> the 132-nd plenary session of the Venice Commission took place from 21-22 October 2022.

<sup>6</sup> The judges were promoted by decisions of the JC under Protocol (pr. 28/12.07.2022 and under pr. № 34/27.09.2022

<sup>7</sup> The judges were promoted by decisions of the JC under pr. № 33/20.09.2022, pr. № 37/11.10.2022, pr. № 42/08.11.2022, under pr. № 42/08.11.2022 and pr. 46/06.12.2022

<sup>8</sup> by decisions of the JC under pr. № 42/08.11.2022 pr. 46/06.12.2022

- 24 positions for judge in the courts of appeal - civil division, on which 242 candidates will be evaluated <sup>9</sup>;

- 18 positions for judge in the courts of appeal - commercial division, on which 201 candidates will be evaluated <sup>10</sup>;

- 6 positions for judge in the Supreme Court of Cassation - Criminal division, on which 53 candidates will be evaluated <sup>11</sup>.

In connection with the competitions announced, 116 appraisal procedures are required to be performed.

For all three competitions, the competition commissions have been formed and work in accordance with the evaluation criteria established in the JA.

In addition, in 2022 the Commission on appraisal and competitions (CAC) has completed 293 attestations of judges.

1 competition for 39 junior judges in the district courts was announced and completed<sup>12</sup>. 613 candidates were evaluated in the competition after taking a written exam. After the second stage of the competition, 39 of those ranked were approved as candidates for junior judges and began their studies at the National Institute of Justice.

For the period from 01.01.2022 until 30.11.2022 The Prosecutor's College of the Supreme Judicial Council has promoted a total of 68 (sixty-eight) magistrates on competitions announced in 2019, 2020 and 2021 of which:

- 5 (five) on a competition for promotion in investigator in the National Investigation Service<sup>13</sup>;

- 21 (twenty-one) on a competition for promotion in "prosecutor" in the Supreme Cassation Prosecutor's Office<sup>14</sup>;

- 42 (forty-two) on a competition for promotion in "prosecutor" in the regional prosecutor's offices<sup>15</sup>.

Three new competitions have been announced in 2022, as follows:

- Competition for promotion and taking up 5 (five) "Prosecutor" positions in the Supreme Administrative Prosecutor's Office<sup>16</sup>, to which 140 candidates are subject to evaluation;

- Competition for promotion and taking up 15 (fifteen) "Prosecutor" positions in the Appellate Prosecutor's Office<sup>17</sup>, to which 250 candidates are subject to evaluation;

- Competition for the transfer and taking up 12 (twelve) prosecutor positions in the district prosecutor's offices<sup>18</sup>, where, as of now, 32 magistrates are being verified on their submitted documents for participation in the procedure.

In connection with those announced in 2022: competition for promotion in "Prosecutor" in the Supreme Administrative Prosecutor's Office and competition for promotion in "Prosecutor" in the Appellate Prosecutor's offices, CAC to the Prosecutors' College of the SJC has opened a total of 78 procedures for extraordinary appraisal.

In addition to the 78 extraordinary procedures, 82 more have been opened during the current year - preliminary (11), with a view to acquiring status of irremovability (31) and periodic

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<sup>9</sup> announced by decisions of the JC under pr. № 31/26.07.2022

<sup>10</sup> announced by decisions of the JC under pr. № 31/26.07.2022

<sup>11</sup> announced by decisions of the JC under pr. № 19/11.05.2022

<sup>12</sup> JC decision № 02/25.01.2022, SG, № 09/01.02.2022.

<sup>13</sup> announced by a decision of the Prosecutor's College of the Supreme Judicial Council under Protocol № 20/02.06.2021,

<sup>14</sup> announced by a decision of the Prosecutor's College of the Supreme Judicial Council under Protocol No. 27/15.07.2020,

<sup>15</sup> announced by a decision of the Prosecutor's College of the Supreme Judicial Council under Protocol № 27/11.09.2019,

<sup>16</sup> announced by a decision of the Prosecutor's College of the Supreme Judicial Council under Protocol № 31/14.09.2022 (prom. In SG, № 78/30.09.2022)

<sup>17</sup> announced by a decision of the Prosecutor's College of the Supreme Judicial Council under Protocol № 31/14.09.2022 (prom. In SG, № 78/30.09.2022)

<sup>18</sup> announced by a decision of the Prosecutor's College of the Supreme Judicial Council under Protocol № 40/09.11.2022 ,(prom. In SG, № 90/11.11.2022 )

(40). The appraisal procedures completed to date by an act of the personnel body are a total of 148, some of which were opened in the previous calendar year.

## **5. Allocation of cases in the courts:**

### **6. Independence (including composition and appointment and dismissal of its members) and powers of the body responsible for the protection of judicial independence (e.g. Council of the Judiciary):**

Since December 2020 "Public register"<sup>19</sup> of cases of violation of judicial independence" is available on the SJC website.

A total of 54 reactions are published of the SJC and judicial authorities for the period 2018-2022, of which 2 for 2022 - Opinion<sup>20</sup> of the SJC Prosecutors' College on a call for the resignation of Ivan Geshev – Prosecutor General of the Republic of Bulgaria, and opinion<sup>21</sup> of the SJCP adopted in connection with a proposal for amendment of the Law on the State budget of the Republic of Bulgaria for 2022. The opinion of the SJC Prosecutors' College was sent to the Representation of the European Commission, the Embassies of the Member States of the European Union in the Republic of Bulgaria, the USA Embassy, the Embassy of the Great Britain and Northern Ireland, the European Parliament, the Council of Europe, the Venice Commission, the Advisory Council of European Prosecutors, The International Association of Prosecutors, the European Network of Councils for the Judiciary, the GRECO Commission and the European Chief Prosecutor.

In 2022, the SJC has held a General Assembly of investigators to elect a member of the SJC<sup>22</sup>, a General Assembly of judges to elect members of the SJC<sup>23</sup>, and a General Assembly of prosecutors to elect members of the SJC<sup>24</sup>. Detailed press releases on their progress have been sent to the diplomatic representations of the EU Member States, the United States and the European Commission representation in Bulgaria. Plan-schedules for their informational and media coverage have also been successfully implemented, and special sections have been created on the website of the SJC. For their conduct, a continuous direct broadcast was carried out through the website of the SJC. The documents of all candidates for members of the SJC from the quota of judges, prosecutors and investigators are published in the Unified e-Justice portal in the "Elections 2022"<sup>25</sup> section. In the sections of each General assembly, the possibility of real-time monitoring of the activity of magistrates in voting with electronic ballot is provided.

### **7. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, immunity from prosecution and criminal/civil (where applicable) liability of judges (including judicial review):**

In 2022, 7 proposals were made to the SJC for the initiation of disciplinary proceedings - 3 of them were on violations established during the integrity checks carried out under Chapter Nine, Section Ib of the JA, and 4 were on violations found in the course and/or closure of cases - systematic non-compliance with the deadlines stipulated in the procedural laws, as well as for action or inaction that unjustifiably delays the proceedings (Art. 307, Para.1, Items 1 and 2 of the JA).

21 alerts were sent to administrative heads of judicial authorities for the imposition of a disciplinary measure under Art. 327 of the JA or for engaging the disciplinary liability of a judge, prosecutor or investigator for delays they have caused in the course and/or closure of a specific case/file.

At an ISJC session held on 01.11.2022, there were adopted models for the closure of cases and files for all courts – district, regional, military, administrative, appeal, SAC and the SCC, as well as for all the prosecutors.

<sup>19</sup> <http://www.vss.justice.bg/page/view/106204>

<sup>20</sup> <http://www.vss.justice.bg/root/f/upload/34/Stanovishte-0.pdf>

<sup>21</sup> <http://www.vss.justice.bg/root/f/upload/34/VSS-17.02.2022.pdf>

<sup>22</sup> 4 and 11 June 2022

<sup>23</sup> 18, 25 and 26 June 2022

<sup>24</sup> 2, 9 and 10 July 2022

<sup>25</sup> <https://evote.justice.bg/>

On 02.12.2022, a Regulation was promulgated to supplement the Regulations for the organization and activities of the ISJC and for the activities of the administration and the experts, in which the procedure has been written for acceptance by the ICSC of reporting samples and accounting for the closure of cases within the framework of statutory specified time limits. The procedure for the preparation of analyzes of the results of the closed cases and files and their publication on the website of the Authority has also been signed<sup>26</sup>.

**8. Remuneration/bonuses/prizes for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the last year), system transparency and access to information:**

According to Art. 218, para. 3 of the JA, the remuneration of judges, prosecutors and investigators shall be determined as by a SJCP decision "*Table 1 of the SJC for determining the maximum basic monthly salaries of judges, prosecutors and investigators*" shall be approved. The gross monthly salary of judges, prosecutors and investigators is formed by adding to the basic monthly remuneration the remuneration for rank and service time. For the accounting year 2021 according to data from the salary report collected and summarized by the judicial authorities as of 31.12.2021, the gross annual salary of a judge/prosecutor of first instance is EUR 27 867 (the net annual salary is EUR 25 080). For a judge/prosecutor from the Supreme structures, the gross annual salary is EUR 48 222 /net annual salary is EUR 43 400/. In 2022, the basic monthly wages are indexed by 10%.

Pursuant to Art. 233, para. 6 of the JA, based on the degree of workload of the relevant judicial authority, the SJC determines an additional remuneration of a judge, prosecutor or investigator. In this regard, the SJCP colleges have adopted rules that regulate the manner and procedure for determining the degree of workload of the judicial authority in determining the amount of the additional remuneration under Art. 233, para. 6 of the JA. The amount of the additional remuneration shall be determined by a decision of the respective college (judges' and prosecutors') of the SJC, according to the degree of workload of the judicial authority. If financial resources are available, additional labor remunerations are also paid in accordance with the "*Rules for determining and paying funds for additional labor remunerations*", adopted by decision of the SJC.

**9. Independence/autonomy of the Prosecutor's Office:**

**10. Independence of bar association (Chamber/Bar Association) and lawyers:**

**11. Significant changes that may affect the general public's perception of judicial independence:**

**B. Quality of justice**

**12. Access to courts (e.g., court/legal fees, legal assistance, language)**

Some amendments and additions to the Legal Assistance Act (LAA) are in force since 27.12.2022, prom. SG No. 102/23.12.2022, which regulate out-of-court methods for resolving disputes as part of effective legal remedies for defending citizens for whom the costs of bringing a case before the court are too high. The scope and field of application of the types of legal assistance in out-of-court procedures and proceedings has been expanded: administrative criminal proceedings, administrative proceedings for issuing and appealing an individual administrative act, in proceedings before non-judicial bodies – arbitration and others, as well as in mediation procedures. The range of persons with access to legal assistance was expanded, including persons with temporary protection status under the Asylum and Refugees Act, persons deprived of their legal capacity or whose deprivation is claimed, persons with physical and mental disabilities. Citizens have been exempted from reimbursement of legal assistance costs in favor of the National Legal Assistance Bureau, in cases where they have been granted legal assistance for social reasons - lack of means to pay an authorized lawyer.

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<sup>26</sup> <http://www.inspectoratvss.bg/bg/page/154>

In order to control the quality of legal assistance and the appropriate spending of state funds for legal assistance, the changes in the LAA regulate procedures for termination of legal assistance, replacement and dismissal of an appointed lawyer - the grounds and the parties at whose request the procedure is initiated.

### **13. Resources of the judiciary (human/financial/material)**

In connection with the functioning of the European Prosecutor's Office and the European delegated prosecutors in the Republic of Bulgaria, the PVSS was given property for management, located at 134 "Georgi Sava Rakovski" str. in the city of Sofia.

### **14. Training of professionals in justice (including judges, prosecutors, investigators, searchers, lawyers, judicial officials)**

From 31 January to 1 February 2022 a round table was held at which the developed standards for judicial training for effective execution of judicial, prosecutor, investigating posts and administrative head office in the judicial authorities were presented. The standards were adopted by the Management Board of the NIJ on 21.03.2022 and they became the basis for the determination of the objectives and the educational content of the overall educational activity of the Institute.

With the support of the Justice Program of the Norwegian Financial Mechanism 2014-2021 in 2022, NIJ established the Human Rights Forum as a sustainable platform for information exchange and expert support in the field of fundamental rights protection and the rule of law. The Forum formed a multi-professional community of judges, prosecutors, investigators and experts as follows:

- Justice for children;
- Judicial ethics and integrity;
- Implementation of fundamental rights.

In 2022, within the ongoing training of magistrates and judicial administration, 224 pieces of training were conducted in face-to-face, distance and hybrid form, in which 7 225 magistrates, court officials and other representatives of the professional community took part.

137 candidates for junior magistrates underwent mandatory 9-month training; 29 newly appointed magistrates underwent mandatory induction training and 100 magistrates participated in promotional training.

The United Nations Office on Drugs and Crime (UNODC) provided the NIJ with the self-study course "Judicial Conduct and Ethics". The Commentary on the Bangalore Principles and the Trainers' Manual was translated and adapted by Bulgarian court trainers. The self-training resource is published in the e-learning Portal of NIJ and is available to the Bulgarian magistrates 24/7.

In 2022, the established 7 research communities of the NIJ finalized work on the following topics: *"Exercise of the power of the Bulgarian courts to refer questions for a preliminary ruling to the Court of Justice of the EU in civil and commercial matters"*, *"Exercise of the power of the Bulgarian courts to refer questions for a preliminary ruling to the Court of Justice of the EU in criminal matters"*, *"Exercise of the power of the Bulgarian courts to make references for a preliminary ruling to the Court of Justice of the EU on administrative matters"*, *"Analysis of the case-law of the courts of appeal in proceedings for the resumption of criminal cases within their jurisdiction under the ASA of CPC (prom., SG No. 42 of 2015)"*, *"Types of acts of the Supreme Judicial Council under Section II and Section II A under Ch. 9 of the Judiciary Act. Procedure for issuing administrative acts, judicial review according the conformity with the law"*, *"Use of special intelligence means at the request of the Prosecutor's Office for the period 2015 – 2020"* and *"Security proceedings and proceedings in a disputed judicial administration under the Family Code"*.

There were 5 meetings by appeal areas, in which 605 representatives of the professional community took part, representing a tool to promote professional discussion among judges, including on ethical issues.

In connection with the changes in Art. 321 of the PC of 28.07.2022, a series of pieces of training on the problems of organized criminal activity with the participation of 214 representatives of the professional community was held.

During the regular training sessions of junior judges, prosecutors and investigators, practical issues arose after the first year of their term of office. The program included current substantive, procedural, organizational issues and ethical issues related to the work of junior magistrates.

On the occasion of the 30-year anniversary of Bulgaria's accession to the European Convention on Human Rights, the Institute organized a series of meetings-discussions with the Bulgarian judge at the European Court of Human Rights, Yonko Grozev, dedicated to the current trends in the case-law of the Court.

On the occasion of the 70-year anniversary of the Court of Justice of the European Union and on the initiative of the President of the Supreme Court of Cassation Galina Zakharova and with the participation of Alexander Arabadzhiev - judge of the Court of Justice of the EU, Alexander Kornezov - judge of the General Court of the EU and Pavlina Panova - President of the Constitutional Court of the Republic of Bulgaria, on 18.11.2022, NIJ organized the "*Dialog between the national courts and the Court of Justice of the European Union*" forum, which included judges of the Supreme Court of Cassation, of the courts in the country and members of the Bulgarian Association for European Law.

NIJ coordinates the participation of 23 magistrates and judicial officials in training sessions organized by partner judicial schools in Member States on topics in the scope of judicial independence, the rule of law, ethics and human rights.

With the support of the USA Embassy, the Handbook on Independence, Impartiality and Integrity in Justice is translated into Bulgarian – a publication of the Institute in Prague for Central and Eastern Europe (CEELI).

#### **15. Digitalisation (e.g., use of digital technologies, in particular electronic communication tools, within the judicial system and with judicial users, including resilience of judicial systems during COVID-19 pandemic)**

By order of the Minister of Justice<sup>27</sup>, a working group was formed with the task of preparing a draft on amendment and supplement act to the Judiciary Act, which aims to achieve the opportunity to carry out smooth work in the justice system in the process of introducing real and full electronic justice. The amendments in turn will also reflect on the e-Justice framework in the Code of Civil Procedure, the Code of Criminal Procedure and the Code of Administrative Procedure.

The draft of the JA's ASA in the e-Justice section was published for preliminary public consultations in the beginning of August 2022. It is published on the public consultation portal with 23.01.2023 being the date for completion of the consultations.

In connection with the accelerated digitalisation of justice, in 2022 NIJ organized a series of training sessions dedicated to e-Justice, the work with the Unified Information System of the courts, the e-learning methodology and the work with various software products in the judicial system.

Upon a NIJ initiative in the period July – October 2022 43 self-training videos have been developed<sup>28</sup> to work with the Unified Information System of courts for judges and judicial officials.

#### **16. Use of assessment tools and standards (e.g., ICT case management systems, judicial statistics and their transparency, monitoring, evaluation, surveys among users of courts or legal professionals)**

#### **17. Geographical distribution and number of courts/jurisdictions ("court card") and their specialization, in particular specific courts or chambers in courts for dealing with fraud and corruption cases.**

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<sup>27</sup> Order № LS-13-128/18.11.2021 of the minister of justice

<sup>28</sup> available 24/7 in the NIJ e-learning Portal, with 185 current users of these resources

To optimize the structure of the district prosecutor's offices upon a proposal of the SJC's Prosecutor's College, the SJC's plenum by a decision of 17.02.2022 has held an option according to which it closes, as of 01.06.2022, for the Regional Prosecutor's Office Sofia: The District Prosecutor's Office Etropole, District Prosecutor's Office Ihtiman, District Prosecutor's Office Pirdop, District Prosecutor's Office Svoge, District Prosecutor's Office Slivnitsa.

As of 01.06.2022, by the same SJC's plenum decision, the judicial regions of the district prosecutor's offices with territorial departments are determined: District Prosecutor's Office Botevgrad, District Prosecutor's Office Elin Pelin, District Prosecutor's Office Samokov, District Prosecutor's Office Kostinbrod.

the decision has set up to the prosecutor's offices mentioned above, as of 01.06.2022, for the Regional Prosecutor's Office Sofia: territorial department in the city Etropole to the DPO Botevgrad, territorial department in Pirdop to the DPO Elin Pelin, territorial department in Svoge to the DPO Kostinbrod, territorial department in Slivnitsa to the DPO Kostinbrod, territorial department in Ihtiman to the DPO Samokov.

## **C. Effectiveness of the judicial system**

### **18. Proceedings Duration**

**Other- please specify**

## **II. "Anti-Corruption Framework" Pillar**

**19. Please provide information on the measures taken to follow up the recommendations received in the 2022 report on the Anti-Corruption Framework (if applicable)**

• ***On the recommendation "Continue to implement measures to improve integrity in specific sectors of public administration, including measures specifically tailored to the police and the judiciary"***

The Ministry of Justice has prepared a draft on JA's ASA, which aims to strengthen the role of the ISJC in preventing and combating corruption in the judiciary, elaborated in the implementation of an NRRP measure.

The bill was submitted to the National Assembly on 24.10.2022. and on 23.11.2022 it was adopted at first voting by the Commission on Legal Affairs at the National Assembly.

The opinion of the Venice Commission on the ASA draft was adopted at its 132 plenary sessions.

The bill stipulates:

- the introduction of an explicit power of the respective colleges of the Supreme Judicial Council (SJC) in Art. 30, para.5 of the Judiciary Act (JA) to adopt a Code of ethical conduct for Bulgarian judges, respectively a Code of ethical conduct for Bulgarian prosecutors and investigators;

- supplement to Art. 54 of the JA, according to which the Inspectorate of the Supreme Judicial Council (ISJC) together with the Commissions on Professional Ethics of the respective colleges of the SJC will annually summarize good and bad practices regarding compliance with ethical rules, in accordance with relevant European and international standards, as the ISJC provides this information to the SJC colleges. On the basis of this review, the power of the Inspectorate to the Supreme Judicial Council is stipulated to make proposals to the respective college of the Supreme Judicial Council for amendment and supplement of the Code of ethical conduct of Bulgarian judges, respectively the Code of ethical conduct of Bulgarian prosecutors and investigators;

- the adoption of a procedure for regular reporting and publication of the results of the analysis and the summary of the closed cases, as well as the ISJC to adopt a model for reporting of the closed cases within statutory time limits when carrying out its activities under Art. 54, para 1, item 2, after consultation with the SJC;

- organizing and conducting anti-corruption training by the ISJC, as well as training for strengthening the integrity and independence of judges, prosecutors and investigators and conflict of interest.

In 2022, 12 inspections have been carried out under Chapter nine, Section Ib of JA, 3 of which have been concluded with proposals to engage the disciplinary liability of magistrates; 4 have been completed by a decision for termination of the inspection due to lack of sufficient data for a committed violation under Art. 175k of JA and 5 files have not expired the deadline for carrying out an inspection.

6 pieces of training are conducted on the topic: *“Practical questions on the declaration of assets and interests by judges, prosecutors and investigators. Role of the declarations in the prevention of conflict of interest and counteraction to corruption in the judiciary”*.

In order to prevent and counteract the conflict of interest in the judiciary, the ISJC continues to work on the implementation of the project under OPGG *“Providing software and methodological security and building of the administrative capacity of the ISJC for prevention of corruption in the judiciary”*. As a result of the implementation of the project, an electronic public register of recusals (EPRR) is established, accessible through an Internet register, which publishes information on the judicial acts containing the adjudication of the court on the recusals requested by the parties in the cases and the reasons by which they were respected or not, as well as the judicial acts objectifying the recusals at the initiative of the court (self-recusals); Internal rules for carrying out integrity and conflict of interest checks and for establishing actions that damage the prestige of the judiciary and checks related to violation of the independence of judges, prosecutors and investigators from the ISJC teams have been adopted; Internal rules for the verification of the asset declarations of the judges, prosecutors and investigators from the ISJC have also been adopted. Work is ongoing on the development of the second register – an electronic public register of electronic declarations, which will ensure online filing of declarations of assets and interests by magistrates.

• ***On the recommendation “Ensure that the institutional reforms of the Anti Corruption Commission and specialized judicial authorities lead to an improvement in the effectiveness of investigations and to robust results in criminal prosecution and final judgments in high-level corruption cases.”***

According to the draft Act on Anti-Corruption Among Senior Public Office Holders, the activity of the new Anti-Corruption Commission (ACC) is focused in two directions. First of all, the activities of the ACC are related to the implementation of a policy on prevention of corruption by collecting and analyzing information about national anti-corruption policies and measures, developing and proposing measures for prevention and counteraction of corruption and coordination of their implementation. The other main direction is related to the detection and investigation of certain crimes, characterized as corrupt, committed by senior public office holders. The bill stipulates the investigation to be carried out by officials of the ACC, appointed as “investigating inspector”. They will be investigative bodies within the meaning of the Code of Criminal Procedure, similar to investigative police officers and investigating customs inspectors. Ensuring that investigations are conducted effectively is that they will be limited in two respects: subject matter – in respect of corruption crimes, and subject – in respect of persons holding senior public positions.

For the first time, the possibility is introduced in case of refusal to initiate pre-trial proceedings in cases of corruption crimes committed by persons holding senior public positions, confirmed by the higher prosecution office, the ACC to appeal this refusal to the relevant court of first instance, whose order is final. Upon revocation of the refusal decree, the court return file to the prosecutor with mandatory instructions regarding the application of the law. The confirmation of the decree by the court shall not prevent the opening of pre-trial proceedings if the prosecutor or a prosecutor from the higher prosecution office find out new circumstances.

The draft Law on Countering Corruption among Senior Public Office Holders (SPOH) was approved by the Council of Ministers on 01.11.2022. It was adopted at first reading in plenary on 07.12.2022.

The project was presented to the secretariat of GRECO within the framework of the Fifth Evaluation Round of the Republic of Bulgaria, and in its report the evaluation team gives a positive assessment of the provisions of the draft law on the Commission establishment.

#### **A. Capacity of the institutional anti-corruption framework (prevention and investigation/prosecution)**

**20. List all changes with respect to the relevant authorities (e.g., national agencies, bodies) responsible for the prevention, detection and prosecution of corruption and resources allocated to each of these bodies (human, financial, legal and technical resources as appropriate), including cooperation between national authorities. Indicate any relevant measure taken for effective and timely cooperation with OLAF and EPPO (where applicable).**

Measures taken to cooperate effectively with the EPPO in 2022:

- Secure the activities of the European Delegated Prosecutors in Bulgaria: In connection with the issues raised by the European Delegated Prosecutors in Bulgaria by the Ministry of Justice is the ASA of the JA<sup>29</sup>. The legislative amendments to the European Delegated Prosecutors shall ensure that their own budget, their own administration, their own secret registry and their own building are provided.

On 12 October 2022, the Council of Ministers adopted a decision granting a free building to the Supreme Judicial Council for the needs of the activities of the European Delegated Prosecutors in Bulgaria.

- Notifications under Regulation (EU) 2017/1939 of 12 October 2017 on the implementation of enhanced cooperation on the establishment of the European Public Prosecutor's Office (EPPO Regulation):

In order to extend the scope of the national authorities competent for the purposes of implementing the EPPO Regulation and the reporting channels of criminal offenses within the competence of the EPPO, the MJ amended the relevant notifications under Art. 117 of Regulation (EU) 2017/1939 of 12 October 2017 on the implementation of enhanced cooperation on the establishment of the European Public Prosecutor's Office.

In accordance with the requirement for notifications under Art. 104 of the EPPO Regulation, the MJ shall notify the EPPO as a competent authority in relations with third parties under the European Convention on mutual assistance in Criminal matters of 1959 and its protocols.

In accordance with the requirement for notifications under Art. 105, para. 3 of the EPPO Regulation, the MJ shall notify the EPPO as a competent authority in relations with EU Member States not participating in the enhanced cooperation on the establishment of the EPPO under the drawn up by the Council in accordance with Art. 34 of the Treaty on European Union, on mutual assistance in criminal matters between the Member States of the European Union and the Protocol of 16 October 2001 to the Convention. Bulgaria has made all the necessary notifications under the Regulation as of now.

On 09.02.2022 an Instruction for the organization of the activities of the Prosecutor's Office of the Republic of Bulgaria in files and cases related to crimes affecting the financial interests of the European Union and for the interaction with the European Public Prosecutor's Office is approved<sup>30</sup>. The purpose of the Instruction is to set up an organization for: achieving timeliness and effectiveness in the conduct of checks and criminal proceedings by the prosecution offices in the country related to crimes that affect the financial interests of the EU; ensuring the interaction with the EPPO in strict compliance with the conditions and deadlines provided for in Council Regulation No 2017/1939 on implementing enhanced cooperation for the establishment

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<sup>29</sup> prom. SG No. 62 of 2022.

<sup>30</sup> Order No RD-02-01 of 09.02.2022 of the Prosecutor General.

of the European Public Prosecutor's Office<sup>31</sup>; aligning the prosecution practice and introducing a uniform standard in the interaction and exchange of information with the European Public Prosecutor's Office.

In accordance with the recommendations of the Report drawn up as a result of the analysis of the current state and the conditions enabling the PORB to ensure an effective criminal investigation in accordance with the standards of the ECHR, incl. the normative environment has been approved, and the implementation of a timing diagram plan has been undertaken, which outlines specific measures of organizational, methodological, training and qualification aspect. An internal organization has been established by order of the Prosecutor General<sup>32</sup> to permanently ensure conditions for increasing the effectiveness of the investigation in accordance with the standards of the ECHR and the case-law of the European Court of Human Rights (ECHR); for the timely communication and manifestation of the necessary activity to secure the procedural actions of the government agents of the MJ in cases brought before the ECtHR against Bulgaria and for the implementation of the judgments of the ECtHR in cases against Bulgaria, where the subject matter of the appeal or case is an ineffective investigation in criminal proceedings.

An instruction for organization of the work of the PORB in files and pre-trial proceedings initiated for trafficking in human beings is approved<sup>33</sup>, aiming to create a unified mechanism in connection with the conduct and supervision of cases for trafficking in human beings; effective protection of victims of this crime; overcoming the difficulties in the prosecution practice; strengthening the capacity to work in cases in trafficking in human beings, improving the inter-institutional, inter-agency and international cooperation in such cases.

- Procedure for selection of European Delegated Prosecutors from Bulgaria:

The total number of European Delegated Prosecutors (EDP) from Bulgaria under Art. 13, para. 2 of the EPPO Regulation increased from 10 to 15. As of now, 9 EDPs have been appointed. Following a selection procedure<sup>34</sup> for six European Delegated Prosecutors from the Republic of Bulgaria, three new candidates were nominated, whose applications were submitted to the attention of the European Chief Prosecutor.

Regarding the Commission for Anti-Corruption and Illegal Assets Forfeiture, in December 2021, a cooperation agreement has been concluded with the European Public Prosecutor's Office (EPPO). In addition to criminal proceedings, the interaction is also carried out in the forfeiture of illegally acquired property.

The Commission continues its cooperation with international organizations and networks, as in December 2022 CACIAF has officially joined the International Association of Anti-Corruption Agencies (IAACA).

## **21. Guarantees for the functional independence of the authorities responsible for the prevention and detection of corruption.**

The draft Law on Countering Corruption among persons holding senior public positions was submitted to the 48 National Assembly with a signature reg. № 48-202-01-27 of 01.11.2022 and it was adopted by the National Assembly at first reading in the plenary hall.

The bill on counter corruption among persons holding senior public positions, proposing different from the previously established ways of forming the composition of the ACC as a collegial body. In order to ensure its functional independence, it is envisaged that two of its members will be elected by the Parliament, one appointed by the President of the Republic, and one elected by the General Assembly of Judges of the Supreme Court of Cassation, accordingly, at the General Assembly of the judges of the Supreme Administrative Court. In order to ensure a transparent procedure for members of the quotas of the General Assemblies of the Supreme

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<sup>31</sup> Prom., OJ of 31.10.2017

<sup>32</sup> Order No RD-04-163 of 10.06.2022 of the Prosecutor General.

<sup>33</sup> Order No RD-02-22 of 18.10.2022 of the Prosecutor General.

<sup>34</sup> open by a decision of the Prosecutor's College of the Supreme Judicial Council under Protocol № 29/27.07.2022

Court of Cassation and the Supreme Administrative Court, it is envisaged that the election of the two members of the commission of these quotas will be carried out under rules adopted by the general assemblies of the two supreme courts.

It is envisaged to chair the Commission on a rotating basis for one year, with the chairperson being determined by lot.

A public procedure shall be established in the election of members from the National Assembly with wide participation of non-governmental organizations, the Supreme Bar Council, higher schools and scientific organizations in the procedure. Such a public mechanism is also envisaged when the President of the Republic appoints a Commission member.

Moreover, the five-year term of office, without the possibility of renewal, and the exhaustively listed grounds for termination of the powers of the members of the Commission, without the possibility of subjective assessment, are also additional guarantees for the independence of that collegiate body.

To ensure the independence and autonomy of investigative inspectors, the draft law stipulates several guarantees:

- It is envisaged that their legal relations will arise, respectively, will be terminated not by the Chairperson of the Commission, but by a decision of the Commission as a collegial body.

- Investigating inspectors shall not be allowed to be assigned other activities outside the criminal investigation activity.

- In exercising their powers, they make decisions based on an internal conviction based on an objective, comprehensive and complete examination of all the circumstances of the case, as being guided by the law.

- The top executives are not allowed to give instructions for the conduct of investigative actions, or in any other way interfere with the investigation.

- It is envisaged lawyers with at least 10 years of legal experience to be appointed as investigating inspectors. Their appointment, as well as that of the staff performing the operational and search activity, is to be implemented after a competition and successfully passing an integrity check, and both categories of employees should also meet certain requirements for incompatibility with the service.

**22. Information on the implementation of the measures stipulated in the strategic anti-corruption framework (if applicable). If any, please indicate appropriate targets and indicators.**

Information is set out in **Annex 1** to the contribution.

**B. Prevention**

**23. Measures to enhance public sector integrity and their implementation (including with regard to incompatibility rules, revolving doors, codes of conduct, ethics training). Please give figures for their application.**

In 2022, two analyzes have been prepared on prevention and increase of integrity in the judiciary:

1. Analysis of the ISJC practice in 2021 under Chapter nine, Section Ia and Section Ib of the JA, which sets out good and bad practices with regard to the observance of ethical rules of conduct by judges, prosecutors and investigators in relation to the declaration of their assets and interests and in relation to compliance with ethical rules, in accordance with established European and international standards;

2. An analysis of the SAC practice on the application of the Code of Ethical Conduct of Bulgarian Magistrates (CECBM) for the period 2017-2021, in which the behavior of magistrates is identified, which will serve to update the CECBM, to take measures of a legislative nature to create a mechanism for deontological prevention, as well as for rethinking the application of Art. 324 of the JA regarding the disclosure of the effective decision on disciplinary proceedings<sup>35</sup>.

In 2022, on the basis of art. 13, para. 1, item 5 of the CCUAAFA, the CACIAF has held 11 decisions on verified alerts in relation to the declarations of incompatibility of the senior

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<sup>35</sup> <http://www.inspectoratvss.bg/bg/page/16>

public office holders and has referred the selection or appointment authority to take appropriate action.

**24. General transparency of publicity in making decisions, including rules on lobbying and their implementation, rules on disclosure of assets and their implementation, gift policy, transparency of funding of political parties)**

The National Recovery and Resilience Plan envisages the “*Entry into force of legislative measures to regulate lobbying activities*”, with December 2023 being the deadline for the implementation of the measure.

The measure envisages the preparation and introduction of legislative measures to regulate lobbying based on good practices from other European countries. Legislative measures for regulating lobbying activities in the Republic of Bulgaria will be prepared in the context of public decision-making.

The measure is also part of “Priority 6. Creating an environment for public intolerance to corruption” of the National Strategy for Prevention and Counteraction of Corruption 2021 – 2027

**25. Rules and measures to prevent conflicts of interest in the public sector. Please indicate the scope of their application (e.g., categories of officials concerned, etc.)**

Internal rules for receiving and considering alerts on corruption or conflict of interest have been adopted by a decision of the CACIAF and for the protection of whistleblowers which aim to ensure acceptance, registration and consideration of each alert in accordance with the requirements of Art. 47 and Art. 48 of the CCUAAFA, in compliance with the principles under Art. 4 of the Act, as well as to ensure protection of the whistleblowers, in accordance with Art. 49 and 50 of the CCUAAFA.

A publication in the mass media shall also be accepted as an alert if it meets the conditions under Art. 48, para. 1, item 2-4 of the CCUAAFA, by carrying out daily media monitoring, on equal treatment of all media, for publications containing data on corruption or conflict of interest concerning senior public office holders.

In order to ensure publicity and accessibility, the official website of the CACIAF has developed a section “Alerts”, which provides an opportunity for online reporting of corruption and/or conflict of interest. The internal rules are published, as well as a sample of the alert.

**26. Measures introduced to ensure the protection of whistleblowers and encourage reporting of corruption.**

A draft law on the Protection of Persons Who File Alerts or Publicly Disclose Information on Violations has been prepared and approved by the Council of Ministers by Decision № 709 of September 29, 2022. The draft law was submitted for consideration in the National Assembly, adopted on the first vote by the Commission on legal issues, Commission on Prevention and Combating Corruption and Commission on Economic and Social Policy and rejected in the hall in the National Assembly, at the first vote, on 14.12.2022.

Internal rules for the protection of the identity of persons who have submitted an alert for review in accordance with Chapter Nine, Section Ib of the JA<sup>36</sup>, approved by the Inspector General, are in force within the framework of the ISJC.

The alerts received in the CACIAF containing data on corruption and conflict of interest for persons holding senior public positions, as well as media publications accepted for alerts, are registered in a special register, with only certain persons having access to it. Employees assigned activities from the receipt to the ruling on received alerts offer their immediate superior specific measures to protect the identity of the whistleblower and, if necessary, and in the availability of data - measures aimed at preventing actions, through which physical and/or mental pressure is imposed. Each whistleblower has the right to signal the CACIAF in case of pressure or other actions under Art. 51 of the CCUAAFA, exercised against him as a result of the submission of this alert.

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<sup>36</sup> <http://www.inspectoratvss.bg/bg/page/123>

**27. List the sectors at high risk of corruption in your Member State and list the relevant measures taken/envisaged to monitor and prevent corruption and conflict of interest in those sectors (e.g. public procurement, health, citizenship against investment, risk or cases of corruption related to EU funds spending, others) and, where applicable, a list of measures to prevent and address corruption committed by organized criminal groups (e.g. for penetration into the public sector).**

In 2022, a total of 561 measures are planned in the anti-corruption plans of the agencies.

The analysis found that the corruption risks specifically identified by the departments were divided into fields as follows:

- 73 risks in field 1 "Corruption risk – management, disposal or spending of budgetary funds and assets, incl. procurement";
- 129 risks in field 2 "Corruption risk – carrying out control activities";
- 46 risks in field 3 "Corruption risk – provision of administrative services, concessions, issuance of licenses and permits, registration regimes";
- 13 risks in field 4 "Corruption risk – competitive procedures/competitions for entering persons in registers or for performance of legally regulated professions";
- 39 risk in field 5 "Corruption risk - gaps in laws and unclear regulations, prerequisite for contradictory interpretation and/or application of normative acts";
- 58 risk in field 6 "Other measures in view of the specific risks in the relevant departments";
- 87 risks in field 7 "Publicity measures".

As a result of the process of aggregation and grouping of a total of 445 specifically identified corruption risks the departments synthesized a list of 64 corruption risks, related to the fields of the model of the anti-corruption plan.

In order to prevent and counteract, as well as reduce the impact of the identified corruption risks in the Anti-Corruption Plan of the NRA for 2022 a total of 30 measures are included, some of which include:

- Timely identification of possible corrupt practices and violations in the process of awarding and executing public procurement by conducting an Inquiry for research and receiving active feedback on the activities under the Public Procurement Act, in the NRA system<sup>37</sup>. ;
- Carrying out control activities – the measures are aimed at reducing the risk of corrupt practices, removing/minimizing the subjective factor of control of legality and expediency through:
  - Rotation of revenue bodies from the "Control" function and rotation of employees, performing selection and ongoing selection of retail outlets for carrying out inspections, of employees carrying out checks on goods with high fiscal risk and inspections at retail outlets. Assignment of inspections on a random basis, joint inspections with other control authorities. Rotation of revenue bodies in the administration of licensing activities under the Gambling Act;
  - Carry out unannounced inspections by the immediate superiors of the revenue authorities at the places of unloading/receiving of goods with high fiscal risk and real-time control of the employees of "Fiscal control" DG at fiscal control posts located at the BCP;
  - Monitoring in the territorial directorates on the automated allocation of audits or inspections;
  - Sending letters of notification to the persons liable and organizing meetings with business representatives in order to timely terminate and prevent the conduct of illegal actions leading to involvement in tax fraud and abuse;
  - Limiting the subjective designation of a responsible public executor for securing and collecting public liabilities of new debtors through the automated functionality which ensures the process;
  - Development and implementation of functionality for mandatory approval by the head of orders for the termination of an executive case, due to expired statute of limitations or uncollectibility of public debts;

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<sup>37</sup> The inquiry is available on the Agency's website via the following link: <https://nra.bg/wps/portal/nra/za-nap/profil-na-kupovacha>

- A survey on the attitudes of the business toward the control actions of the NRA, which is available on the Agency's website<sup>38</sup>.

- Provision of easy and timely access to administrative services, as well as to the necessary information provided by the administration; reduction of direct contact between employees and clients, respectively the possibility of corruption through:

- Provision of access to registers and reports maintained by the NRA in the environment of inter-registration exchange – RegiX;

- Extending the scope of electronically supplied services with QES and/or PIC;

- Automated services and opportunities for obtaining reports and automatic information in continuous mode (24/7) on the information phone of the NRA.

- Loopholes in laws and unclear regulations, which are a prerequisite for contradictory interpretation and/or application of the normative acts – the measures envisaged in this field are aimed at timely initiating legislative changes in order to avoid regulatory gaps, as well as to clarify the provisions for their proper implementation through:

- Changing legislation to avoid contradictory practice and filling regulatory gaps;

- General opinions prepared for unification of the practice of the revenue authorities and public contractors;

- Preparation of annual and extraordinary analyzes of the administrative practice of the NRA and the case law;

- Limitation of personal contact when servicing documents issued by NRA authorities and public contractors, as well as to achieve awareness of the persons liable in order to reduce direct contact with the administration through:

- Service of documents by electronic means issued by employees in the functions "Control", "Collection", "Servicing" and "Supervision on gambling and gambling activities";

- Conducting notification campaigns to persons liable in order to increase the awareness of the clients and reduce the corruption risk.

- Publicity measures – the measures envisaged are aimed at reducing direct contact with the administration, as well as observing the principle of transparency in the activity of the administration related to real estates confiscated and forfeited in favor of the state.

- Training of NRA employees with focus on anti-corruption – the training provided aims to build knowledge and skills in order to effectively counter corruption practices and training.

In 2022, in cooperation with the “Reforms” Directorate-General of the European Commission, the NRA was implementing a project named “Development and implementation of a methodology for assessing corruption risk in the National Revenue Agency of the Republic of Bulgaria”, under which the beneficiary is the Inspectorate and Directorate “Human Resources Management”, HQ of NRA. In the implementation of the project, potential areas of corruption risks in the work of the NRA have been identified. A pilot study and research are conducted on the attitudes of NRA employees and clients of the Agency to identify potential areas of corruption risks in the work of the NRA. Specialized pieces of training for the employees of the two structural units have been conducted by the contractor under the contract, who will apply the methodology for assessing the corruption risk. The results of the pilot implementation of the methodology have served in the development of an anti-corruption plan of the NRA for the next year.

The Customs Agency is also directly involved in the prevention and counteraction of corruption and, within its competence, implements the following measures<sup>39</sup>:

- Carrying out internal checks on alerts received by the Agency for illegal acts of customs officers and taking the statutory actions in case of detection of violations;

- Carrying out analysis and checks on the information on property and income of the customs officers, provided by the NRA to the Customs Agency, pursuant to Art. 42, para. 1 of the Customs Agency's Rules of Procedure;

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<sup>38</sup> <https://nra.bg/wps/portal/nra/kontakti/connection.nap/surveys/polls>

<sup>39</sup> Detailed information on the measures implemented by the Customs Agency are reflected in the Anti-Corruption Plan of the Customs Agency, available on the Agency's website at the following address: <https://customs.bg/wps/portal/agency/home/anticorruption>.

- Conducting anonymous surveys with carriers and passengers passing through the BCP in order to obtain information about the activities of the customs administration, incl. possible corruption practices;
- Conduct a study on the evaluation of internal policies and measures to counter corruption risks at the Customs Agency, together with the Center for study on Democracy;
- Maintaining a “Hot line” for reporting possible misconduct of employees;
- Carrying out a study of professional and psychological fitness in the appointment and promotion in the Customs Agency;
- Rotation of customs officers in accordance with the Customs Agency’s Rules of procedure.

Regarding the Public Procurement Agency, an obligation has been introduced for the members of the evaluation commission to declare the absence of any conflict of interest with the candidates or participants and with the persons representing them, as well as a self-recusal obligation. The existence of a conflict of interest that cannot be removed is a mandatory ground for exclusion of participants/candidates. Specific grounds for exclusion are also the existence of connectivity within the meaning of para. 2, item 45 of the SP of the PPA between candidates / participants in a specific public procurement, non-compliance with the prohibition under Art. 3, item. 8 of the Act on Economic and Financial Relations with companies registered in jurisdictions with preferential tax regime, the persons controlled by them and their beneficial owners, as well as the presence of circumstances under Art. 69 of the CCUAAFA. The assignor may include in the terms of the contract an additional ground for exclusion of candidates/participants identified by a competent authority as having entered into a secret agreement distorting the competition.

The awarding of public procurement in Bulgaria is carried out entirely electronically through the national platform Centralized automated information system “Electronic Public Procurement”. An innovative approach has been used to ensure the protection of information - submitted applications/offers by economic operators are contained in databases only in encrypted form until they are opened by the commission. The functionalities of the platform are realized so that the replacement and/or unauthorized editing and/or access to documents are technically limited.

In 2022, it was prepared, approved by the Council of Ministers and submitted to the National Assembly a draft Law on amendment and supplement of the Public Procurement Act, stipulating measures to curb vicious practices, increase competition and transparency in public procurement, including: Strengthening the preliminary and subsequent control over the conducted public procurement; increasing the sanctions in case of established violations of the law when awarding through negotiated procedures; refining of texts concerning the exceptions to the scope of the PPA; introducing new administrative penal provisions, etc.

In the period from 31.05.2022 until 03.06.2022 a meeting of the Fifth evaluation round of the Group of States Against Corruption (GRECO) of the Council of Europe had been held on the topic: “*Prevention of corruption in central governments (senior executive officials) and law enforcement agencies*”. Monitoring refers to issues related to policies, legal and institutional framework for the prevention of corruption, conflict of interest, the prohibition of performing certain activities, the declaration of property and the accountability of the respective categories of persons. The report will be published on the website of GRECO and the Ministry of Justice.

## **28. Any other appropriate measures to prevent corruption in the public and private sectors**

In 2022, in the course of a conciliation procedure with the CACIAF, 97 bills prepared by the executive authorities were analyzed, in 13 of which shortcomings were identified of the legal norms that can generate corruption risk and 33 proposals for revision of the texts and 2 recommendations were made.

For each of the 11 laws analyzed in 2022, the interested parties (importer, state authorities and other organizations and persons who apply the law and for whom it creates rights and obligations) are identified and they are invited to submit opinions and impact assessment.

## **C. Repressive measures**

### **29. Criminalization, including the level of applicable legal sanctions, for corruption and related crimes, including bribery of foreign officials.**

The Bulgarian Criminal Code criminalizes bribery of officials, including bribery of foreign officials<sup>40</sup>, bribery in the private sector<sup>41</sup>, influence trade<sup>42</sup>, embezzlement<sup>43</sup>, possession<sup>44</sup>, abuse of office<sup>45</sup>, money laundering with a predicate corruption offense<sup>46</sup>. Sanctions for these crimes include imprisonment, imposition of a fine, confiscation of part or all of the property of the sentenced person and deprivation of the right to hold a certain state or public office or to exercise a certain profession or activity. In minor cases, imprisonment may be replaced by probation. In 2022, no such legislative changes have been made.

Building on the existing information system to ensure the collection and storage of information on requests for international cooperation in cases of bribery of foreign officials, including the crime in connection with which the request is made, necessary for their implementation and the nature of the assistance sought is carried out.

A proposal has been made to the National Institute of Justice for planning upcoming training to include topics concerning the investigation and prosecution of criminal offenses related to bribery, including foreign officials, as well as bribery related other crimes, international cooperation in the investigation of such crimes, as well as the tracking of direct and indirect benefits acquired by the offender, respectively enrichment of legal entities by such crimes.

### **30. Data on the investigation and application of sanctions for corruption crimes, including for legal entities and high-level corruption cases and complex cases of corruption) and their transparency, including regarding the absorption of EU funds.**

By order of 28.06.2022 of the SCC president, a working group was formed to develop rules for monitoring proceedings involving defendants holding senior public office, organized crime cases, as well as those against journalists and the media. On the basis of a report of the working group, the President of the SCC issued on 18.10.2022<sup>47</sup> an order by which it was ordered:

1. Introduction of a Unified Catalog of crimes related to corrupt behavior and practices, according to which statistics will be kept in the Supreme Court of Cassation of the Republic of Bulgaria.

2. To create an electronic register of proceedings against journalists and media processed by the SCC.

3. Once a quarter on the SCC website on the Internet to publish lists of upcoming cases with the subject of organized crime, proceedings against journalists and media, as well as those with the subject of corrupt behavior and practices. In the latter case, where the defendant is among the senior public office holders (under Art. 6 of the CCUAAFA), this circumstance shall be noted in an appropriate manner.

4. Immediately after their adjudication, on the SCC website on the Internet, to publish the decisions given in proceedings with the subject of corrupt behavior and practices, organized crime and those conducted against journalists and media.

5. The Supreme Judicial Council and the Ministry of Justice shall be informed once a quarter of the legal acts ruled in proceedings with the subject of corrupt behavior and practices, organized crime and those conducted against journalists and media.

6. Once a quarter – by the 3rd of the month, the chairpersons of the courts of appeal in the country, to send to the SCC tables with summary information about the respective court district about the proceedings initiated with the subject of corrupt conduct and practices, organized crime and cases against journalists and media, as well as information about the court

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<sup>40</sup> art. 301, 302, 302a, 304, 304a

<sup>41</sup> art. 225c

<sup>42</sup> art. 304b, para. 1 and 2

<sup>43</sup> art. 201 to 205

<sup>44</sup> art. 206.

<sup>45</sup> articles 282, 283 and 283a

<sup>46</sup> art. 253 to 253a

<sup>47</sup> [http://www.vks.bg/dela-za-korupcionni-prestaplenia/Zapoved\\_No\\_777\\_18.10.2022.pdf](http://www.vks.bg/dela-za-korupcionni-prestaplenia/Zapoved_No_777_18.10.2022.pdf)

decisions ruled in them. The tables should contain data on the persons against whom the proceedings are being conducted, their capacity, the legal qualification of the act in criminal proceedings, respectively relevant text/texts in civil and commercial proceedings and the final result.

The first data on cases of corrupt conduct and practices, including defendants holding senior public office, organized crime proceedings and those against journalists and media, will be published on the website of the Supreme Court of Cassation in January 2023 and will cover the information for the last quarter of 2022.

The total number of corruption cases initiated in 2022 in the Supreme Court of Cassation is 34. The defendants in four of these cases are senior public office holders (under Art. 6 of the CCUAAFA): head of Customs – Svilengrad (reserved for judgment); Minister of Economy and Energy, member of the Board of Directors and Executive Director of “Mini Bobov dol” EAD and Deputy Minister of Economy and Energy<sup>48</sup>; Deputy mayor of Sofia Municipality, “Transport and Transport Communications” division<sup>49</sup>; Director of an AD, Director of an AD subdivision, assistant of an official, civil claimant – National Railway Infrastructure Company (reserved for judgment).

In annexes to this letter, we present data on the cases initiated for corruption crimes (Annex 2), as well as crimes related to EU funds (Annex 3) for the period 2021 - the first nine months of 2022.<sup>50</sup>

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

Relevant is the information under item 22 and item 29.

**32. Information on the effectiveness of non-criminal measures and sanctions (e.g. recovery measures and administrative penalties) in relation to public and private offenders.**

**Other – please, specify**

<b>III. “Freedom of media and pluralism” pillar</b>
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**33. Please provide information on the measures taken to follow up the recommendations received in the 2022 report on the freedom of media and pluralism (if applicable)**

• *On the recommendation “Improving transparency in the distribution of public advertising, in particular with regard to public advertising negotiated through intermediaries, such as media agencies.”*

At a meeting of the Council for the Implementation of the National Coordination Mechanism for the Rule of Law held on 05.12.2022, the need to form an expert working group was discussed, within which the problems from the third pillar of the report and, accordingly, the implementation of 2022 Report recommendations to this part.

<sup>48</sup> The SCC cancels the appellate verdict of the ASCC in a.g.n.c.c. by Decision No 92/12.09.2022 No. 515/2020 in the following parts: in the criminal-conviction part, in which the defendant R. S. O. is found guilty of committing a crime under Art. 219, para. 4 rel. para. 3 rel. para. 2 of the PC, and the defendant P. S. E. is found guilty of committing a crime under Art. 219, para. 4, Art. 3, para. 1 of the PC; in the civil part, by which the claims are rejected for the difference bigger than BGN 15,977,063.10 to the full claimed amounts of BGN 24,455,475.80 for R. S. O. and BGN 29 151 145,18 for P. S. E., as the court returns the case to the specified parts for re-processing to the Sofia Court of Appeal by another Chamber, from the hearing stage and leaves the sentence in force for its remainder

<sup>49</sup> the SCC leaves in force the ASCC decision in a.g.n.c.c. by Decision No 86/27.05.2022 No 329/2021 - the defendant was found innocent and acquitted of the charge

<sup>50</sup> According to the frequency of collection and aggregation of statistical information about the activity of PORB, established by the Instruction on the organization of the information activity of PORB, the data for 2022 are relevant for the nine months. When presenting the information for the third report - the one carried out in 2021, data are presented for the period 2019 - nine months of 2021. The requirement to provide data for 2019 is explicitly stated by the EC.

In this regard, at a working meeting of the members of the Council held on 08.12.2022, the responsible institutions and organizations from the non-governmental sector, which will be involved in the topics affecting the media environment and access to information, were determined.

The Council will discuss the two priority topics: “*Transparency in the distribution of state advertising*” and “*Unification of the criteria for reporting corruption crimes and cases against journalists, media and civil society activists*”.

At the same time, the SCC continues to adhere in its case law to the opinion that “*the right of opinion, recognized and guaranteed in Art. 39, para. 1 of the Constitution, is duly exercised and there is no element of anti-righteousness in the opinions expressed with a negative assessment, directly or indirectly affecting a particular person as a figure in a particular public field, when his name is commented on or a connection is presumed in view of his position or activity on the public question raised, unless it is a question of the wrongful exercise of a right and freedom of opinion is used, to harm the good name.*” Politicians and public figures should suffer more reproaches, but freedom of speech and expression cannot be used to cause insults and/or slander are decisions<sup>51</sup> summarizing the practice of the SCC related to the limits of permissible criticism toward a public person in informing society. It is stressed that, according to the standards established by the Constitution and the case-law of the ECHR, the balance between the right to free expression, the public interest and the need to protect the right to honor, dignity and good name should be sought.

These criteria are consistently observed in case-law when assessing whether claims brought by prominent political figures against journalists are legitimate.

#### **A. Media authorities and bodies**

##### **34. Measures taken to ensure the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies**

On the budget of the CEM for 2022, determined by the Law on the State budget of the Republic of Bulgaria for 2022, additional resources for staff and maintenance are provided in total amounting to BGN 282 9 thousand, incl. BGN 222 9 thousand for staff costs. With the adoption of the act, it is possible to set a new amount of the basic individual monthly salaries of the employees in CEM, in order to strengthen the administrative capacity of the regulator in terms of assigning additional activities and commitments.

##### **35. Conditions and procedures for the appointment and dismissal of the head/members of the collegial body of media regulatory authorities and bodies**

There are no changes to the legislation related to this topic.

##### **36. Availability and functions of media councils or other self-regulatory bodies**

There are no changes to the legislation related to this topic.

#### **B. Guarantees against state or political interference and transparency and concentration of media ownership**

##### **37. Measures taken to ensure a fair and transparent distribution of public advertising (including all rules regulating this matter)**

In 2022, there are no changes in the Bulgarian legislation regarding state advertising.

Such rules are expected to be regulated by the adoption of the European Freedom of the Media Act, the draft of which is already being discussed between Member States.

##### **38. Guarantees against state/political interference, in particular:**

- **guarantees to ensure editorial independence of the media (private and public)**
- **specific guarantees for the independence of public media managers and management board members (e.g., in relation to appointment, dismissal) and guarantees**

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<sup>51</sup>Decision No 50117/31.10.2022 in civ.c. No 7/2022 of I c.d. of the SCC and Decision No 50118/10.11.2022 in civ. c. No 4883/2021 of I c.d. of the SCC

**of their operational independence (e.g., in relation to reporting obligations and resource allocation), as well as guarantees for pluralism of information and opinions**

**- information on specific legal provisions and procedures applicable to media service providers, including with regard to the issuance/renewal/termination of licenses, the activities of companies, input capital requirements, concentration and corporate governance**

There are no changes to the legislation related to this topic.

**39. Transparency of media ownership and public availability of media ownership information, including on direct, indirect and beneficial owners, as well as on all rules governing this issue**

There are no changes to the legislation related to this topic.

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

**40. Rules and practices guaranteeing the independence and safety of the journalist, including with regard to the protection of journalistic sources and communications**

There are no changes to the legislation related to this topic.

**41. Capacity of law enforcement authorities, including during protests and demonstrations, to ensure the safety of journalists and to investigate attacks against journalists**

The Prosecutor's Office regularly provides information (upon request) on specific cases (on the initiation, course and results of such cases) of injured Bulgarian journalists registered on the Platform for the protection of journalists at the Council of Europe.

In the information for 2021, there are two cases of public importance with journalists who have suffered from crimes, in one of which the perpetrator was convicted with an effective sentence, and in the second the case was brought to the Specialized Criminal Court with an indictment against three persons.

Another significant case from 2020, which was developed in 2022, concerns detention by police officers of a Bulgarian journalist and poet without a warrant for detention. The Sofia City Prosecutor's Office has refused to initiate pre-trial proceedings in the case. This refusal has been annulled by the SCPO. A new ruling of the first instance Prosecutor's Office is pending.

**42. Access to information and public documents (incl. transparency authorities, where available, procedures, costs/fees, time limits, administrative/judicial review of decisions, enforcement of decisions by public authorities, possible obstacles related to the classification of information)**

In 2022, SAC examined an interpretative case initiated by SCIS on the applicants' right of access to materials in administrative proceedings before SCIS on the grounds of refusals, withdrawals and terminations of security clearances. The opened interpretative case is the result of complaints of the applicants, reflected in some of the decisions made by SAC on appeals against decisions of SCIS, limiting the full realization of the right of defense in the proceedings before SCIS. The interpretative decision aims to overcome the contradictory case-law and to achieve in full the objectives of the administrative procedure, while respecting the legitimate rights and interests of the applicants, while also respecting the rules on the protection of classified information as such.

**43. Court cases (incl. SLAPPs - Strategic actions against public participation) and convictions against journalists (incl. libel cases) and measures taken to protect against manifestly unfounded and unlawful claims**

Following the issuance of an order<sup>52</sup> of 18.10.2022 of the SCC President on the creation of an electronic register of proceedings against journalists and media in the Penal and

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<sup>52</sup> [http://www.vks.bg/dela-za-korupcioni-prestaplenia/Zapoved\\_No\\_777\\_18.10.2022.pdf](http://www.vks.bg/dela-za-korupcioni-prestaplenia/Zapoved_No_777_18.10.2022.pdf)

Commercial colleges of the court, it has been found that there were no cases of the category observed.

In the Civil college of the SCC, 3 such cases are initiated:

1. Civil case No 4589/2021, I c.d. (Art. 49 of LOC, Art. 288 of CPC), initiated on a cassation complaint by R. K. Ch. against decision in civ. c. No 1771/2021 of SCC, 4th appeal chamber, confirming decision in civ. c. No. 61421/2018 of SDC, 1stc.d., 29th chamber, by which the claim filed by R.K.Ch. against "Trud Media" EOOD was rejected on a legal basis, Art. 49, para. 1 of LOC for awarding the amount of BGN 10 000 in compensation for non-property damages.

By decision No 50110/25.10.2022, SCC condemns "Trud Media" Ltd. to pay to R. K. Ch. the amount of BGN 3000 as compensation for non-pecuniary damage caused to him by a guilty unlawful omission of employees of the company, consisting in not taking the necessary actions to delete or supplement the information concerning the claimant, in articles published on a website with a domain name of <https://trud.bg>, titled "*Those arrested for assault on journalists of Nova TV became six, searching for the seventh*" and "*six were charged of the attack on journalists of Nova TV*", along with the legal interest on this amount.

2. Civil case No 1393/2022, I c.d. (Art. 49 of LOC, Art. 288 of CPC), initiated on a cassation complaint of P. S. P. against the decision in civ.c. No. 2203/2021 of the Sofia Court of Appeal, which confirmed the SCC decision, rejecting the claim brought on the basis of Art. 49 LOC in conjunction with Art. 45LOC by P. S. P. to order "New Media Group" AD to pay him the sum of BGN 200 000, representing non-property damages from the publication of "The weekend" newspaper.

By decision No. 50446/01.11.2022, the SCC does not allow cassation appeals against appeal decisions.

3. Civil case No 4573/2022, II c.d. (Art. 45 of LOC, Art. 288 of CPC), initiated on a cassation complaint of D. L. C. against the decision in a.civ.c. No. 10179/2020 of the Sofia City Court, by which, after a partial annulment of the first-instance decision of the Sofia District Court, the subjectively joined claims, on the legal basis of Art. 49 of Art. 45 of LOC, of D. L.S. are upheld: against "Selevkidi" OOD for the amount of BGN 2 600, representing compensation for the non-pecuniary damages caused to her by insults and defamatory statements published in the period 13.08.2015 - 26.11.2018 in "Klyuki.bg", "Razkritiya.com" and "kliuki.Net", together with the legal interest; against "Pik News" EOOD for the sum of BGN 1 000, representing compensation for non-pecuniary damages caused to her by insults and defamatory statements published in the period 17.06.2017 - 10.01.2019 in "pik.bg", "Retro.bg" and "Retro" newspaper, together with the legal interest. In this case, a closed sitting is scheduled for 09.05.2023.

**Other- please, specify**

<b>IV. "Other institutional issues related to the principle of interdependence and mutual limitation" Pillar</b>
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**44. Please provide information on the measures taken to follow up the recommendations received in the 2022 report on the control system and balance (if applicable)**

**A. The process of preparation and adoption of laws**

**45. Framework, policy and use of impact assessments and evidence-based policy development, stakeholder and public consultation (in particular consultation of the judiciary and other stakeholders on judicial reforms), as well as transparency and quality of the legislative process.**

**46. Rules and use of rapid procedures and emergency procedures (e.g., percentage of decisions adopted through emergency/urgent procedures compared to total number of decisions adopted)**

#### **47. Constitutional control on laws**

The Constitutional Court of the Republic of Bulgaria is a constitutional jurisdiction that is outside the judicial system. The main powers of the Constitutional Court are to give binding interpretations of the Constitution and to adjudicate on requests for establishing the unconstitutional nature of the laws and other acts of the National Assembly, as well as of the acts of the President. The control on the constitutionality of the laws exercised by the Constitutional Court is an ex-post control. A request for the establishment of an unconstitutional nature of the laws may be made from the day of promulgation of the laws in the State Gazette.

#### **48. COVID-19: providing up-to-date information on significant changes to regimes/measures in emergency situations in the context of the COVID-19 pandemic**

**- judicial review (including constitutional review) of regimes and measures for emergency situations in the context of the COVID-19 pandemic**

**- supervision (including follow-up reporting/investigation) by Parliament of regimes and measures for emergency situations in the context of the COVID-19 pandemic**

**- the processes related to lessons learned/crisis preparedness in terms of the functioning of control and balance mechanisms**

After the declaration of a state of emergency in Bulgaria, respectively an extraordinary epidemic situation, several cases have been brought before the CC on requests to challenge provisions related to the measures introduced in the country and the changes in legislation; provoked by the pandemic.

A CC ruling, which was ruled outside the period of the forthcoming report, but was not mentioned in the previous reports:

Decision No 15/17.11.2020 in c.c. № 4/ 2020.: the case was initiated a little more than a month after the declaration of a state of emergency in the RB in March 2020. The provisions of the Law on Electronic Communications and § 51 of TFP of the Law on Measures and Actions during the State of Emergency are attacked as unconstitutional.

The contested provisions stipulate that the data stored by the enterprises providing public electronic communication networks and/or services, necessary to establish the identifier of the used cells, except for the hypotheses settled up to that point, be stored for a period of 6 months also for the needs of the forced execution of mandatory isolation and hospital treatment of persons under Art. 61 of the Law on Health, who have refused or do not perform mandatory isolation and treatment, and these measures are applied until the need for mandatory isolation and hospital treatment of these persons ceases to exist.

The Constitutional Court rules that the contested provisions are unconstitutional.

For the period following the publication of the EC report for 2022 the following CC decisions have been ruled:

By decision No 13/05.10.2021 in c.c. No. 12/2021, initiated at the request of the Ombudsman, the CC declares as unconstitutional a provision of the Criminal Procedure Code, which allows the participation of the accused via video conference in the proceedings before the court for taking a measure of remand in custody in the pre-trial proceedings.

On 02/03/2022, a c.c. No. 2/2022 is initiated at the request of a group of people's representatives from the 47th National Assembly to establish the unconstitutionality of the decision of the National Assembly adopted on 07.01.2022 on the access to the buildings of the National Assembly in the event of a declared emergency epidemic situation (prom., SG, No. 3 of 11.01.2022). By the contested decision of 07.01.2022, the National Assembly accepts that access to the buildings of the National Assembly in the event of a declared emergency epidemic situation is granted to persons who present either a valid document for a full course of vaccination against COVID-19, or for recovery from illness, or a valid document, certifying a negative result of a polymerase chain reaction test for COVID-19 conducted up to 72 hours before entering the building or a rapid antigen test (up to 48 hours before entering the buildings), or a certificate of the presence of antibodies against SARS-CoV-2.

In the phase of hearing the case on the merits, the National Assembly adopts a Decision to cancel the decision contested before the CC, which is why by Decision of 22.03.2022. CC rejects the request and terminates the proceedings.

## **B. Independent bodies**

### **49. Independence, resources, capacity and powers of national human rights institutions (“NHRI”), of the Ombudsman institutions, if different from the NHRI, of equality bodies, if different from the NHRI, and of supreme audit institutions**

In 2022, the Ombudsman institution has registered a tendency for an increase in complaints filed by citizens and NGOs – a total of 15 206 (+12%). In protection of the rights of Bulgarian citizens, the Ombudsman has twice referred the CC to declare unconstitutional existing legal texts. By CMD 463/20.12.2022, the resources of the labor remuneration institution have been increased with a view to compensating for inflation.

The Commission for Protection against discrimination identifies a problem with the functional immunity of the members of the CPD. The Commission ranks in one of the last places in the allocation of the state budget compared to the other state institutions, and the budget granted to it is extremely insufficient for its normal functioning.

### **50. Statistical data/reports on the follow-up of the recommendations by the NHRI, the Ombudsman institutions, equality bodies and supreme audit institutions over the last two years.**

In 2022, the ombudsman has sent 2002 recommendations to state and municipal authorities, public service providers and private-law entities. 84% of the recommendations are implemented.

## **C. Access and judicial review of administrative decisions**

### **51. Transparency of administrative decisions and sanctions (incl. their publication and rules for the collection of relevant data)**

#### **52. Judicial review of administrative decisions:**

- a brief description of the general regime (in particular competent court, scope, suspensive action, provisional measures and any applicable specific rules or derogations from the general regime of judicial review).

### **53. Follow-up by public administration and public institutions to final (national/supranational) court decisions, as well as available remedies in case of non-compliance**

## **D. A favorable framework for civil society**

### **54. Measures regarding the framework for civil society organizations and human rights defenders (e.g., legal framework and its implementation in practice, incl. registration and dissolution rules)**

From 1 January 2022 till 15 December 2022, the National Council for persons with disabilities held 5 meetings<sup>53</sup>, in which discussed 13 projects of documents and topics concerning the rights of persons with disabilities.

The State shall promote social inclusion activities of persons with disabilities by providing financial support in the form of a subsidy<sup>54</sup> to the nationally representative organizations of and for persons with disabilities for the implementation of activities in the field of active inclusion of persons with disabilities in the community.

### **55. Rules and practices that affect the effective functioning and safety of civil society organizations and human rights defenders. This includes measures to protect against attacks (verbal, physical or online), intimidation, legal threats, including SLAPP**

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<sup>53</sup> Minutes of meetings and other relevant documents are published on the Advisory Councils website: [http://saveti.government.bg/web/cc\\_11/1](http://saveti.government.bg/web/cc_11/1).

<sup>54</sup> Currently, 21 organizations are recognized as national representative organizations of and for people with disabilities and receive a subsidy from the state budget

**(cases, called “judicial harassment” – for harassment of journalists and civil society organizations), negative narratives or smear campaigns, measures that can affect the public perception of civil society organizations, etc. It also includes measures to monitor threats or attacks and specialized support services.**

On 27.04.2022 a proposal for a directive of the European Parliament and of the Council on the protection of persons engaged in public participation from strategic judicial proceedings (“Strategic legal proceedings against public participation” – SLAPP) 2022/0117 (COD) has been adopted. The proposal for a directive is being discussed within the framework of “Civil Law Matters” WG (SLAPP format).

The proposal for a directive introduces specific procedural safeguards and remedies for the defendant in civil and commercial proceedings of cross-border importance, even where those proceedings are initiated in third countries.

Bulgaria in principle supports the objectives that the EC has pointed out as being pursued by the proposal for a directive.

In Bulgaria there is no special framework for counteracting SLAPP, but Art. 57 of the Constitution of the Republic of Bulgaria (CRB) proclaims the general principle of inadmissibility of the abuse of rights, Art. 58, para. 1, second sent. of CRB, raises to the constitutional level the obligation of citizens to respect the rights and legitimate interests of others, and Art. 3 of the Civil Procedure Code (CPC) stipulates that persons participating in court proceedings are obliged to exercise the procedural rights granted to them in good faith and in accordance with good manners. According to case-law, if the court finds abuse of rights, it should refuse protection. In addition, the defendant in the case (in this case a journalist, a human rights defender, etc.) may request the court to declare the claim inadmissible – for lack of legal interest or alternatively – unfounded. In addition, if the abuse of a right also constitutes an unlawful damage, compensation may also be claimed for damages.

The rules in force in the Code of Civil Procedure (CPC), which are relevant in content to the main texts and specific provisions of the Directive, are: Amendment, withdrawal or refusal of the claim – Art. 232 of CPC; Security of expenses and of the claim for damages – Art. 380, para. 3 of CPC and Art. 381, para. 1 of CPC in fine. Termination of the proceedings – Art. 269 of CPC and Art. 280, para. 2 of CPC; Liability for expenses – art. 78, para 3 of CPC and Art. 78, para 4 of CPC. Compensation for damages - Art. 3 of CPC. Sanctions against the abuse of procedural rights - Art. 89, para. 3 of CPC.

#### **56. Organisation of financial support for civil society organizations and human rights defenders (e.g., framework for ensuring access to finance and for financial viability, taxation/incentive/donation systems, measures for equitable distribution of funding)**

Amendments to the tax legislation were adopted in 2022 stipulating the following incentives in the field of taxation of natural and legal persons:

- Increase in the amounts that are deducted from the tax base for child benefits, and the tax refund on the basis of the tax benefit is not subject to enforcement;
- The amount of the legally recognized expenses for income from exercising free profession as a lawyer is increased by 40%;
- A reduced rate of 9% has been introduced: for the supply of an accommodation service; for delivery of books on physical media or carried out electronically, periodical printed works; supplies of food suitable for babies or young children;
- A temporary reduced rate of 9% was introduced by 01.07.2023. for central heating and natural gas;
- A temporary reduced rate of 9% was introduced by 31.12.2023. for: restaurant and catering services; supply of a general tourist service; supply of a service for the use of sports facilities.
- A temporary zero VAT rate has been introduced until 31.12.2023. for bread and flour;
- The threshold for registration under the VAT Act has been increased from turnover of BGN 50 to 100 thousand;
- By 30 June 2025 the following zero rates of excise duty have been introduced:
  1. on motor fuels:

- a) for liquefied petroleum gas – BGN 0 per 1000 kilograms;
- b) for natural gas – BGN 0 per 1 gigajoule;
2. for the heat produced – BGN 0;
3. for electricity – BGN 0 per megawatt hour, under certain conditions.

In connection with the organization of financial support for civil society organizations and human rights defenders in 2022, by a Decree of the Council of Ministers, additional expenses were approved under the budget of the Ombudsman of the Republic of Bulgaria, and with the adoption of the act, it was possible to determine new amount of the basic monthly salaries of the employees in the institution, in connection with the increased number of individual and collective complaints and petitions of the citizens.

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

**E. Initiatives to promote the rule of law culture**

**58. Measures to promote the rule of law culture (e.g., debates in national parliaments on the rule of law, public information campaigns on rule of law issues, civil society contributions, etc.)**

The implementation is ensured of the educational program “*Judiciary – informed choice and civil trust. Open courts and prosecutor’s offices*” (the Program), which is jointly implemented by the SJC and the Ministry of Education and Science (MES), and is implemented for the ninth consecutive year by the judicial authorities.

In 2022, there is an increased number of participants – schools and students, as well as the participation of judges, prosecutors and investigators. A topic on the independence of the judiciary has been included in the lecture course and a leaflet designed for students has been produced.

Educational and information materials were printed with funding from the SJC. In 2022, more than 130 hyperlinks to the websites of judicial authorities and regional media with information on activities carried out under the Program were published on the website of the SJC.

In the academic year 2022/2023, over 133 courts and prosecutor's offices, in partnership with over 240 educational institutions, have applied for participation in the Program. According to data from the judicial authorities, more than 380 magistrates and more than 80 court officials will cover more than 20 000 students in the lecture course. The Administrative Court - Vidin, Regional Court - Vidin, District Court - Kula, District Court - Belogradchik, which created the "Your most important rights and responsibilities as a child" movie, contributed to the Program in 2022.<sup>55</sup> Emphasis is placed on the need for special guarantees and care for children, equality, the value of human dignity and tolerance.

The Regional Court – Kyustendil<sup>56</sup>, together with the district courts in the towns of Dupnitsa and Kyustendil, reported a record number of participants in the regional school competition “In the Land of Justice” 2022 – 170 students, from 15 schools in 6 municipalities in the district of Kyustendil.

Regional Court – Blagoevgrad<sup>57</sup> has reported that the participants in the program have produced information brochures on the topic “Magna Charter– the beginning of a new constitutional civilization”. Prominent participants are also the district courts in the cities of

<sup>55</sup> <https://vidin-adms.justice.bg/bg/news2/21550>

<sup>56</sup> <https://kyustendil-os.justice.bg/bg/news2/22968?fbclid=IwAR2ucXbZpuQ7wp7eWzwrh16gfWpZl18ZneeIkdgFLsoCo-VkL4fbhYinu8>

<sup>57</sup> <https://blagoevgrad-os.justice.bg/bg/news2/23248>

Burgas and Plovdiv, the regional courts in Burgas, Dobrich, Shumen and Kyustendil, the administrative courts in Dobrich, Vidin and Smolyan and Sofia City Prosecutor's Office.

In 2022, 196 judicial authorities, including the Inspectorate of the SJC and the National Institute of Justice, participated in the information campaign "Open doors Day". There is a growing number of judicial authorities that have envisaged initiatives in the information campaign in 2022, compared to 2021, and three times the number of those who provide a hyperlink to publications about the events on their websites has increased.

**Other- please specify**