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Post-monitoring dialogue with Bulgaria

Report¹

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Co-rapporteurs: Ms Thórhildur Sunna ÆVARSDÓTTIR, Iceland, Socialists, Democrats and Greens Group, and Ms Deborah BERGAMINI, Italy, Group of the European People's Party

Summary

Bulgaria joined the Council of Europe in 1992. Until 2000, it was under a full monitoring procedure. By means of [Resolution 1211 \(2000\)](#), the Parliamentary Assembly decided to close the full monitoring procedure and open a post-monitoring dialogue on a number of outstanding concerns arising from non-fulfilment of Bulgaria's commitments entered into upon accession and obligations incumbent upon every member State under Article 3 of the Statute of the Council of Europe ([ETS No. 1](#)) with regard to democracy, the rule of law and human rights. Since 2000, the progress in addressing these outstanding concerns has been systematically assessed by the Assembly.

In the present report, the co-rapporteurs recognise the unquestionable progress achieved by Bulgaria in terms of the crucial reforms and legislative framework put in place in the areas of judiciary, fight against high-level corruption, media, human rights of minorities, combating hate speech and violence against women and consider that the authorities have reliably demonstrated the will to ensure sustainability and irreversibility of reforms. They also point to some remaining issues of concern and call on the authorities to address them without delay. They propose to close the post-monitoring dialogue with Bulgaria and review the progress in the framework of the periodic reviews.

1. Reference to committee: [Resolution 1115 \(1997\)](#).



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A. Draft resolution²

1. Bulgaria joined the Council of Europe in 1992. Until 2000, it was subject to the full monitoring procedure. By means of [Resolution 1211 \(2000\)](#), the Parliamentary Assembly decided to close the full monitoring procedure and open a post-monitoring dialogue on a number of outstanding concerns arising from non-fulfilment of Bulgaria's commitments entered into upon accession and obligations incumbent upon every member State under Article 3 of the Statute of the Council of Europe ([ETS No. 1](#)) with regard to democracy, the rule of law and human rights. Since 2000, the progress in addressing these outstanding concerns has been systematically assessed by the Assembly.
2. The Assembly refers to its most recent resolution on post-monitoring dialogue with Bulgaria, namely [Resolution 2296 \(2019\)](#) in which it recognised the unquestionable progress achieved in terms of the crucial reforms and legislative framework put in place but resolved not to close the post-monitoring dialogue until remaining issues in the areas of judiciary, fight against high-level corruption, media, human rights of minorities, combating hate speech and violence against women are addressed, with a view to ensuring sustainability and irreversibility of reforms.
3. Bulgaria should be commended for having overcome the political crisis and instability illustrated by five consecutive early parliamentary elections held on 4 April 2021, 11 July 2021, 14 November 2021 (on the day of the presidential election), 2 October 2022 and 2 April 2023.
4. The Assembly welcomes the establishment of a coalition government in June 2023 and its demonstrated sustained political will and commitment to achieve the full accomplishment of the commitments and obligations reflected in [Resolution 2296 \(2019\)](#) as confirmed by its continued co-operation with Council of Europe monitoring mechanisms including the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) of the Assembly and the European Commission for Democracy Through Law (Venice Commission).
5. The Assembly notes with satisfaction that the authorities have been able to assemble the parliamentary majority required for the constitutional changes that are indispensable for the establishment of a fully independent judiciary and safeguarding sustainability and irreversibility of the reform. Amendments to Chapter VI of the Constitution with regard to the system of governance of the judiciary and of the prosecution service address some long-standing concerns of the Assembly. In particular, the abolition of the plenary Supreme Judicial Council and creation of two separate councils, one for judges and one for prosecutors and investigators, each responsible for the appointment, promotion, transfer, dismissal and disciplining of, respectively, judges and prosecutors, fulfil major recommendations of the Venice Commission.
6. Furthermore, a thorough transformation of the prosecution service, aimed at ensuring individual autonomy and independence of prosecutors, and the revision of the role and powers of the Prosecutor General with a view to limiting excessive powers in the judicial system and ensuring the Prosecutor General's accountability are also in line with Venice Commission's recommendations.
7. While the constitutional amendments in the field of judiciary constitute, overall, considerable progress in the accomplishment of Bulgaria's commitments and obligations, it should be regretted that not all issues with regard to the judicial system have been addressed in the ongoing reform. In particular the five-year probationary period for judges has been retained. Moreover, the broad and vaguely defined role of the Inspectorate of the Judiciary and the lack of safeguards which would prevent interference with the substance of the courts' decision making, are a matter of concern.
8. The Assembly welcomes the measures undertaken by the Bulgarian authorities with a view to combating high-level corruption. It welcomes the adoption, on 6 October 2023, of the Anti-Corruption Act which introduced a new structure and new powers for the Commission for Counteracting Corruption and the Commission for Illegal Assets Forfeiture, in particular the power to investigate corruption offences committed by persons holding public positions. The lack of this power was one of the main weaknesses of the former Anti-Corruption Commission.
9. The amendments to the Criminal Procedure Code, adopted on 26 May 2023, which provide for judicial review of prosecutors' decisions not to open investigations particularly regarding corruption-related crimes should also be assessed positively.

2. Draft resolution adopted unanimously by the committee on 6 March 2024.

10. The Assembly notes with satisfaction the adoption, on 27 January 2023, of the long-awaited Law on the Protection of Whistleblowers or Persons Publicly Disclosing Information about violations, which provides for a comprehensive and streamlined legal framework for reporting and whistle-blower protection in compliance with democratic standards. The amendments to the Law on Public Procurement aimed at ensuring more transparency mark further progress. Moreover, the Assembly notes the ongoing work on new legislation in the areas of lobbying and foreign bribery.

11. The Assembly takes note of the Group of States against Corruption (GRECO) Second Compliance report on Bulgaria, assessing the implementation of the recommendations of the Fourth Evaluation Round on the Prevention of Corruption in respect of members of parliament, judges and prosecutors, which concluded that out of 19 recommendations, Bulgaria has implemented 16, and that the three remaining recommendations have been partly implemented.

12. The Assembly refers to GRECO's Fifth Evaluation Round report on Bulgaria evaluating the effectiveness of the framework in place to prevent and combat corruption among persons entrusted with top executive functions and members of the police, in which it formulated 28 recommendations to be reviewed in 2024. The Assembly urges the Bulgarian authorities to fully implement GRECO recommendations included in fourth and fifth rounds.

13. Despite some high-level corruption scandals in the country, a solid track-record of final convictions in high-level corruption cases has been lacking in Bulgaria to date. In 2023, Bulgarian political figures were sanctioned in third countries in cases related to high-level corruption after the judicial proceedings against them had been halted in Bulgaria. The Assembly expects that the effectiveness of the newly introduced anti-corruption measures will be demonstrated through a better track-record of final convictions in high-level corruption cases.

14. Over 90 leading judgements of the European Court of Human Rights concerning Bulgaria are pending implementation; with more than half of them pending for at least 10 years. The Assembly calls on the authorities to co-operate with the Committee of Ministers of the Council of Europe with a view to making tangible progress in the execution of the judgments of the European Court of Human Rights.

15. The Assembly notes with satisfaction that Bulgaria has considerably improved its framework as regards freedom of expression. A number of positive developments should be noted, including amendments to the Criminal Code providing for better protection of journalists in cases of alleged defamation with regard to public officials, adopted in July 2023. The alleviation of criminal liability has addressed a long-standing recommendation of the Council of Europe. A major improvement in the jurisprudence of national courts with regard to defamation charges against journalists in application of the case law of the European Court of Human Rights should be acknowledged.

16. Regrettably, persisting problems include high levels of media concentration and a lack of transparency in media ownership, distribution and media providers. The Assembly calls on the Bulgarian authorities to introduce legislative measures addressing these concerns.

17. The Assembly remains concerned about the fragile situation of the Roma population which is the largest minority group and constitutes almost 5% of the population in Bulgaria. While a number of programmes, strategies and action plans have been implemented in recent years to improve the situation of Roma, no significant progress has been noted, and the statistics relating to the employment, housing, material situation, education and health of the Roma population continue to be alarming. The Assembly urges the Bulgarian authorities to pursue their efforts in order to achieve tangible progress in the integration and inclusion of the Roma population.

18. The Assembly notes with satisfaction that a number of measures have been taken to combat hate speech. The latest amendments to the Criminal Code adopted in July 2023 provide for a more extensive definition of hate speech and crime, and for more severe punishment for these offences. National campaigns and training have considerably contributed to increasing public and professional awareness.

19. The Assembly recognises considerable progress achieved with regard to combating violence against women. It commends Bulgaria in particular for the adoption, in July and August 2023, of the amendments to the Criminal Code, which cover the protection of victims of domestic violence from an early stage, irrespective of the legal status of their relationship. Furthermore, the amendments to the Law on Protection from Domestic Violence give additional rights to the victims. At the same time, the Assembly urges the Bulgarian authorities to increase budgetary resources for shelters for victims of domestic violence.

20. While the overall progress in the fulfilment of Bulgaria's commitments and obligations is not questioned, some remaining shortcomings still require remedy. The Assembly calls on the Bulgarian authorities to continue the ongoing constitutional reform and address other outstanding issues in close co-operation with the Venice Commission and Council of Europe legal experts.

21. The Assembly recalls that all successive early parliamentary elections in 2021-2023 were observed by its *ad hoc* committees for the observation of elections. The legal framework was adequate for the conduct of democratic elections and fundamental freedoms were respected. Overall, the consecutive elections were considered to be competitive and well managed by the election administration.

22. The Assembly notes that in September 2023, the European Commission terminated the Co-operation and Verification Mechanism in respect of Bulgaria, following the satisfactory fulfilment of all the benchmarks and recommendations under this mechanism in the field of the judiciary, fight against corruption and organised crime.

23. Against this background, the Assembly resolves to close the post-monitoring dialogue with Bulgaria and follow the developments in the country with regard to the rule of law, pluralist democracy and human rights in the framework of its periodic reviews.

B. Explanatory memorandum by Ms Thórhildur Sunna Ævarsdóttir and Ms Deborah Bergamini, co-rapporteurs

1. Introduction

1. Bulgaria joined the Council of Europe in 1992 and was under a full monitoring procedure until 2000. In 2000, by means of [Resolution 1211 \(2000\)](#), the Parliamentary Assembly decided to close the full monitoring procedure and engage in a post-monitoring dialogue “on the issues referred to in paragraph 4 [of [Resolution 1211 \(2000\)](#)] or any other issue arising from the obligations of Bulgaria as a member State of the Council of Europe”. Since then, three reports have been submitted to the Assembly by the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) in 2010, 2013 and 2019.

2. In 2014, the Assembly’s monitoring procedure underwent some changes. In particular, the Assembly decided that from then on, a report on the post-monitoring dialogue should include a draft resolution which either states that the post-monitoring dialogue should be concluded or establishes concrete deadlines for the fulfilment of outstanding commitments. In the latter case, the failure to meet those deadlines, if so stated in the following report submitted to the Assembly, would imply the return to the full monitoring procedure (paragraph 13 of the terms of reference of the Monitoring Committee).

3. In other words, according to the Rules, since 2014, the Monitoring Committee may prepare at most two reports and the second one, in its draft resolution has to propose to the Assembly to either close the post-monitoring dialogue or return the country to the full monitoring procedure. The Monitoring Committee, as indicated in paragraph 1, already submitted one report since the entry into force of the new rules, in 2019. Following a debate, the Assembly adopted [Resolution 2296 \(2019\)](#) in which it enumerated six outstanding concerns with regard to the human rights and the functioning of democratic institutions in Bulgaria and resolved to assess the progress made in these areas in June 2020. The concerns included: high-level corruption, transparency of media ownership, human rights of minorities, hate speech and violence against women.

4. However, from July 2020 until recently, Bulgaria was confronted with a major political crisis which resulted in five consecutive early parliamentary elections held on 4 April 2021, 11 July 2021, 14 November 2021 (on the day of the presidential election), 2 October 2022 and the last one on 2 April 2023. For the majority of this period, Bulgaria was governed by technical provisional governments. We will deal with the political context of the functioning of democratic institutions in chapter 2 below.

5. We were appointed rapporteurs on 1st February 2022 (Thórhildur Sunna Ævarsdóttir) and on 13 September 2023 (Deborah Bergamini).

6. In the preparation of the present report, we were confronted with the difficult task of ascertaining whether developments in the six areas of concern since June 2019 justify a proposal to the Assembly to close the post-monitoring dialogue or to return Bulgaria to a full monitoring procedure.

7. In order to carry out this task, we undertook a fact-finding visit to Sofia on 17-19 September 2023. During our visit, we met the highest representatives of the legislative, executive, and judicial authorities of the country, including the Speaker of the Parliament, the Prime Minister and the Ministers of Justice and of the Interior, leaders of parliamentary political groups, the Prosecutor General and the President of the Supreme Court. These meetings created an excellent opportunity for political dialogue. At the same time, we devoted a great deal of time to exchanges of views with representatives of civil society whose expertise and first-hand experience greatly contributed to our understanding of the situation on the ground. In addition, on 23 November 2023, we held an online meeting with the Deputy Prime Minister and Minister for Foreign Affairs who was away from Sofia during our visit.

8. In the current report, we have also relied on the legal opinions provided by the European Commission for Democracy through Law (Venice Commission) on the draft amendments to the constitution,³ on the draft amendments to the criminal procedure code and the Judicial System Act,⁴ on the draft amendments to the Judicial System Act concerning the Inspectorate to the Supreme Judicial Council,⁵ and on an Urgent Interim Opinion on the draft new Constitution.⁶

3. [CDL-AD\(2023\)039](#).

4. [CDL-AD\(2022\)032](#).

5. [CDL-AD\(2022\)022](#).

6. [CDL-AD\(2020\)035](#).

9. We also took into account the findings and conclusions of the relevant institutions and monitoring mechanisms attached to the conventions of the Council of Europe to which Bulgaria is a Party. In particular we based ourselves on the report on Bulgaria prepared by the Commissioner for Human Rights,⁷ the Evaluation and Compliance reports of the Fourth and Fifth Evaluation Rounds prepared by the Group of States against Corruption (GRECO),⁸ the Fifth Round Evaluation Report by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL),⁹ the evaluation report of the Third Evaluation Round by the Group of Experts on action against trafficking in Human Beings (GRETA),¹⁰ the Fourth Opinion on Bulgaria adopted by the Advisory Committee on the Framework Convention for the Protection of National Minorities,¹¹ and the Government's comments,¹² the Resolution of the Committee of Ministers on the implementation of the Framework Convention for the Protection of National Minorities by Bulgaria¹³ as well as the Fifth Report submitted by Bulgaria.¹⁴ We also acquainted ourselves with the European Commission against Racism and Intolerance (ECRI) report on Bulgaria in the framework of the sixth monitoring cycle and the Government's comments¹⁵ as well as with the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)¹⁶ and the Government's comments.¹⁷

10. The Assembly observed the presidential and parliamentary elections mentioned in paragraph 4 and debated the respective reports¹⁸ prepared by the *ad hoc* committees. In the present report we have also used the findings of these observation missions.

11. The relevant judgments of the European Court of Human Rights constituted another valuable source of information on the state of democracy in the country. We also relied on the Committee of Ministers' documents on the supervision of the execution of judgements of the Court.¹⁹

12. In 2007, Bulgaria became a member of the European Union. Upon Bulgaria's accession, the European Commission established a mechanism called the Co-operation and Verification Mechanism (CVM) with a view to addressing outstanding concerns, notably in the areas of judiciary, corruption, and organised crime. To date, 13 yearly reports have been published, the last one in October 2019.²⁰ We have used the findings of successive CVM reports in the present report. In September 2023, the European Union closed the Co-operation and Verification Mechanism for Bulgaria which remains subject to yearly European Commission Rule of Law reports. Before reaching the final conclusion in the present report, we visited, on 12 February 2024, the European Commission Directorate monitoring the rule of law in EU member States (DG-Just) and held an exchange of views with the officials responsible for Bulgaria.

13. Moreover, in 2016, five prosecutors from EU member States, aided by the Structural Reform Support Service prepared an independent analysis of the structural and functional model of the Prosecutor's Office and an analysis of its independence. We have acquainted ourselves with the findings of this analysis.

14. We believe that the information gathered from such a variety of sources has enabled us to prepare an objective and well-balanced report, assessing the progress accomplished by Bulgaria with regard to the functioning of democratic institutions, and in particular the extent to which the reforms undertaken by the authorities have addressed the concerns expressed by the Assembly in [Resolution 2296 \(2019\)](#) and whether the reform process is sustainable, irreversible and sufficiently entrenched in Bulgarian politics.

15. We submitted the preliminary draft report to the Monitoring Committee which, at its meeting on 4-5 December 2023, decided to send it to the Bulgarian authorities for comments. The present report was revised in the light of the authorities' comments received on 9 February 2024.

7. [CommDH\(2020\)8](#).

8. 4th Round Second Compliance Report [GrecoRC4\(2019\)24](#) published on 17 January 2020 and 5th Round Evaluation Report [GRECO/Eval5Rep\(2022\)9](#) published on 19 January 2023.

9. [Moneyval\(2022\)1](#) adopted in May 2022.

10. [GRETA\(2021\)04](#) published on 29 April 2021.

11. [ACFC/OP/IV\(2020\)001Final](#) adopted on 26 May 2020.

12. [GVT/Com/IV\(2020\)002](#) received on 7 October 2020.

13. [CM/ResCMN\(2021\)1](#) adopted on 13 January 2021.

14. [ACFC/SR/V\(2021\)008](#).

15. [ECRI report](#) on Bulgaria published on 4 October 2022.

16. [CPT/Inf\(2022\)20](#).

17. [CPT/Inf\(2022\)21](#).

18. [Doc. 15292](#), [Doc. 15355](#), [Doc. 15428](#), [Doc. 15656](#) and [Doc. 15774](#).

19. 16th Annual report of the Committee of Ministers of the Council of Europe on the supervision of the execution of judgments and decisions of the European Court of Human Rights.

20. [COM\(2019\)498final](#).

16. Last but not least, we would like to extend our gratitude to the Bulgarian parliamentary delegation to the Assembly and to its Secretariat for the excellent co-operation in the organisation of our visit to the country as well as the help in contacting and collecting information from different authorities, and to the Head of the Council of Europe Liaison Office to the European Union for having facilitated our visit to Brussels.

2. Political context

17. The last presidential election took place in November 2021. The winning candidate, Rumen Radev representing the BSP (Socialist Party) received 66,72% of the votes against 31,80% for the candidate of the ruling party (GERB – Citizens for European Development of Bulgaria). Ms Iliana Iotova was the running mate of Mr Radev.

18. The period between July 2020 and April 2023 was marked by a political crisis and instability following mass demonstrations. These were triggered by numerous corruption scandals surrounding, *inter alia*, the allocation of EU funds, infrastructure projects and government subsidies. Consecutive parliamentary elections did not lead to stable governments until April 2023.

19. While these contextual factors remain outside the remit of the current monitoring report, it is obvious that they have inevitable impact on the functioning of democratic institutions and on the reform process. In this respect we wish to underscore the progress which has been achieved despite the difficult political situation and repeated elections and to commend the Bulgarian authorities on their commitment to fulfil all obligations linked to the membership of the Council of Europe.

20. Following the April 2023 early parliamentary elections, six political parties and coalitions entered the 240-seat parliament: GERB-SDS won 69 seats (2 more than in October 2022); it was closely followed by PP-DB (a coalition between We Continue the Change (PP) founded in May 2021 and Democratic Bulgaria) which won 64 seats (9 less than in the previous parliament). The far right and pro-Russian party Revival obtained 37 seats (10 more); DPS (representing minorities) 36 seats, BTS (socialists) 23 seats and ITN (There is such a People) 11 seats.

21. On 6 June 2023, Bulgaria's Parliament approved a coalition of the two biggest political groups - the GERB and PP-DB. According to the coalition agreement, Mr Nikolay Denkov from the PP-DB will be Prime minister for the first nine months and then the position will be taken over by Ms Mariya Gabriel from GERB who until then will be Deputy Prime minister and Foreign minister.

22. The coalition government has agreed on a pro-European Union agenda including top priorities: membership in the Schengen area and the European Monetary Union. It is determined to fight the Russian Federation influence in Bulgaria's security sector. Reform of the judiciary and fight with high-level corruption are high on the domestic agenda.

23. The European elections in May 2019 were won by GERB (31,07%), followed by the Socialist Party (24,26), the DPS (16,55%) and the Movement for Rights and Freedoms (7,36%). Mayoral and municipal elections took place on 27 October 2019. The ruling GERB party won 15 out of 28 mayoral seats (as compared to 22 in 2015). It registered a slight fall in support in smaller cities but maintained its grip on key industrial and tourist centres.

3. Outstanding areas of concern identified in [Resolution 2296 \(2019\)](#)

3.1. *Judiciary and high-level corruption*

24. It is impossible to efficiently fight corruption without an independent judiciary and for this reason we deal with both issues in one chapter.

25. The judicial system in Bulgaria underwent major reform carried out by the then government in 2014, endorsed by the parliament in 2015 and followed by further legislative process in 2015-2017. The changes introduced in that period have contributed to undeniable progress in the field of the judiciary and addressed many concerns expressed by national stakeholders and the international community including the Assembly.²¹ While, in its opinion,²² the Venice Commission raised a number of concerns which had not been addressed in 2015-2017, it should be stressed that the majority of them were the subject of the latest

21. [Resolution 1915 \(2013\)](#).

22. [CDL-AD\(2017\)018](#).

constitutional reform which the authorities launched following the formation of the government in May 2023 and which was adopted by the National Assembly on 20 December 2023 by a prevailing majority of 165 votes in favour, 71 votes against and 1 abstention.

26. We commend the authorities for having assembled the parliamentary majority required for the revision of the Constitution indispensable for the establishment of a fully independent judiciary and safeguarding sustainability and irreversibility of the reform. Amendments to Chapter VI of the Constitution with regard to the system of governance of the judiciary and of the prosecution service address some long-standing concerns of the Assembly.

27. The composition, method of appointment and functioning of the Supreme Judicial Council (SJC), as well as the role played by the Prosecutor General in this body, were crucial issues of the recent constitutional reform.

28. The 2015-2017 reform created two separate chambers within the SJC (one for judges composed of 14 members and one for prosecutors/investigators composed of 11 members). While the Plenary SJC was stripped of most of its powers regarding the appointment, disciplining and removal of judges and prosecutors (these powers went to the two distinct chambers), it retained nomination/dismissal powers vis-à-vis the two Chief Justices (the President of the Supreme Court of Cassation and the President of the Supreme Administrative Court) and the Prosecutor General, as well as the power to remove elected judicial members, and some regulatory powers.

29. The Prosecutor General retained an increased influence within the Prosecutorial Chamber of the SJC and remained the hierarchical superior of the prosecutorial members as well as lay members who have a prosecutorial background. Overall, it was a source of serious concern that the prosecutors, and the Prosecutor General in particular, were significantly involved in the governance of judges, *inter alia* with regard to certain non-disciplinary matters.

30. The Bulgarian authorities have made several attempts to remedy these subsisting shortcomings in the organisation and the operation of the SJC by elaborating amendments in 2019 and 2020. It is worth noting that the Ministry of Justice has requested opinions from the Venice Commission on both occasions which demonstrates the authorities' will to co-operate. However, due to political instability and repetitive parliamentary elections, these amendments have been dropped.

31. The constitutional amendments adopted in December 2023, abolished the plenary of the SJC and created two independent Councils, one for judges and one for prosecutors and investigators. The abolition of the plenary SJC addresses the concern that the prosecutors, and the Prosecutor General in particular, are excessively involved in the governance of judges.

32. The new Supreme Judicial Council is composed of 15 members including the President of the Supreme Court of Cassation who will chair it, the President of the Supreme Administrative Court as well as 8 judges elected by their peers and 5 practicing lawyers with 15 years of experience elected by the National Assembly by a two-thirds majority. This composition complies with the Recommendation of the Committee of Ministers²³ which states that "not less than half the members of such councils should be judges chosen by their peers from all levels of the judiciary and with the respect of pluralism inside the judiciary."

33. The new Supreme Prosecutors Council (SPC) is composed of 10 members including the Prosecutor General, 2 prosecutors elected directly by their peers, 1 member elected directly by investigators and 6 members elected by the National Assembly by a two-thirds majority. The public quota in the composition of the SPC has increased as compared to the one under the previous law.

34. The term of office of the members of the SJC and SPC is four years. They cannot be re-elected immediately after the expiry of this period. The selection procedure is transparent and monitored by public and professional organisations.

35. The powers related to the appointment, promotion, transfer, dismissal and disciplining of judges and prosecutors will now be concentrated within the respective councils. The appointment and dismissal of the Presidents of the Supreme Court of Cassation and Supreme Administrative Court will be transferred from the President to the SJC. This change addresses a long-standing concern about the powers of prosecutors in the SJC.

23. [CM/Rec\(2010\)12](#).

36. An important amendment to the Law on the Judicial System adopted in 2023 in the framework of the execution of the SZ/Kolevi group of judgements by the European Court of Human Rights provided that a decision to remove a judge from his/her position shall be taken by the SJC in adversarial proceedings including hearings. This decision is subject to judicial review.

37. Under the system introduced in 2015-2017, the issue of the role of prosecutors in the judicial governance was closely related to the more general question of the overall position of the Prosecutor General within the Bulgarian judicial system. In particular, the lack of an effective mechanism for the accountability and criminal liability of the Prosecutor General and his/her deputies as well as of a judicial review of prosecutorial decisions not to open an investigation have been long-standing issues. The lack of a possibility for an effective criminal investigation against the Prosecutor General and his/her deputies was raised by the European Court of Human Rights (*Kolevi v. Bulgaria*, judgment of 5 November 2009) and by the Council of Europe in general. During our visit, we were informed by the Anti-corruption agency of the limits that this imposed on the fight against corruption. We will come back to this question in paragraphs 61-83.

38. Furthermore, the prosecution was in charge of the “general supervision of legality”. This vaguely defined competence gave to the prosecutors coercive powers in administrative cases including private disputes. In consequence, prosecutors could intervene in the name of the State, conduct checks and issue binding orders. This has been identified as a concern in previous Opinions of the Venice Commission.

39. The recently adopted constitutional amendments address the majority of these issues and introduce a thorough transformation of the prosecution service with a view to ensuring its accountability and efficiency while safeguarding individual autonomy of prosecutors.

40. Before the most recent constitutional reform, the Prosecutor General was appointed for a non-renewable term of seven years following a selection procedure and nomination by the SJC which was then confirmed by the President of the Republic. Candidates could be presented on the initiative of members of the prosecutorial chamber of the SJC or by the Minister of Justice.

41. The appointment of the Prosecutor General in October 2019 amply demonstrated the shortcomings of this procedure. The non-governmental judicial and human rights groups questioned the candidate’s professionalism, integrity, and independence. As he was the only candidate, the President vetoed his appointment arguing that “nominating a single candidate not only deprives the procedure of competitiveness but also takes away prestige and legitimacy from the future chief prosecutor”. The President’s veto was overridden by the vote in the SJC and Mr Geshev was confirmed as Chief Prosecutor. His alleged inaction as Deputy Prosecutor General with regard to high-level corruption and subsequent appointment for the highest post in the prosecution were one of the causes of the mass demonstrations in July 2020. In June 2023, in a positive development, the heavily criticised Prosecutor General was dismissed.

42. The constitutional amendments stipulate that the Prosecutor General be appointed for a non-renewable term of five years and dismissed by the President of the Republic following a proposal of the SPC. This complies with the Venice Commission’s Opinion which says that renewable terms of office may substantially jeopardise the independence of a post-holder. We commend the authorities that following the Venice Commission recommendation, the original provision enabling a second mandate has been deleted. Candidates for Prosecutor General may be presented by three members of the SPC and by the Minister of Justice. The President shall not veto any appointment or dismissal following the re-offering of the proposal.

43. The constitutional amendments clarify the Prosecutor General’s powers and limit their concentration. As mentioned above, they remove his/her excessive powers over judges in the SJC. Furthermore, they reinforce the independence of the prosecutors in the SPC. As demonstrated in paragraph 33, they give a clear prevalence to members elected by parliament, securing very little representation for the prosecutors in the SPC.

44. However, according to the Venice Commission Opinion,²⁴ such a composition of the SPC goes beyond the need to ensure the accountability and the effectiveness of the prosecution service and creates a risk of control of this institution by the governing majority. Despite the Venice Commission’s recommendation to reconsider the composition of the SPC with a view to providing a fairer representation of the elected prosecutors, the amendment was adopted in its original form. In their comments, the authorities drew our attention to the amendment to Article 117, paragraph 2, of the Constitution which expressly stipulates that the judiciary shall be independent. As the Prosecutor’s Office is part of the judiciary, prosecutors and investigators

24. [CDL-AD\(2023\)039](#).

shall only be subservient to the law. This clarification which did not exist until the recent reform is important, the authorities argue, as in future interpretations it will draw a better distinction between a party and an arbitrator in the proceedings.

45. According to the amended Constitution, the Prosecutor's Office will no longer have the power of "general supervision of legality" but shall monitor compliance with the law by challenging allegedly unlawful acts before the court in the cases provided for by the law or where, in addition to the cases on criminal offences, it also participates – in the instances provided for by law – in other cases, defending significant public interest or persons who need special protection.

46. The constitutional amendments also provide for the accountability and criminal liability of the Prosecutor General and his/her deputies. In a very important positive development, on 26 May 2023, the National Assembly adopted a Law amending and supplementing the Criminal Procedure Code; it established a mechanism for the accountability and criminal liability of the Prosecutor General and his/her deputies. The Law also stipulates that prosecutors' decisions not to open investigations can be subject to judicial review. The new law addresses long-standing concerns expressed by the Venice Commission and the Assembly.

47. These constitutional amendments mean that a majority of previous Assembly recommendations have been implemented. This has been confirmed by the Venice Commission which welcomed the amendments, pointing out that they can be considered as strengthening judicial independence.

48. However, in its 2023 Opinion,²⁵ the Venice Commission pointed out that some outstanding concerns have not been properly addressed in the recent judicial reform. For example, a five-year probationary period for judges has been retained in the constitutional amendments currently being debated in the parliament, despite calls on the authorities to change it, including in [Resolution 2296 \(2019\)](#). According to the Venice Commission and GRECO, probationary periods for judges undermine their independence. It should be noted however that, according to the current law, the acquisition of tenure will be decided by the independent SJC. This provides some safeguard against arbitrary or politically motivated terminations of the probationary period.

49. The powers of the Minister of Justice provided for by the recent amendments, to make proposals for the appointment, promotion, demotion, relocation and release from office of prosecutors and investigating magistrates as well as to make proposals for releasing from office judges could interfere with the independence of judges and the autonomy of prosecutors and investigating magistrates.²⁶

50. Another concern relates to the amendment which established the Inspectorate of the Judiciary, a subsidiary organ of the SJC, to be composed of the Inspector General and ten inspectors elected by the National Assembly by a two-thirds majority of its members for a term of five years renewable once. The Inspectorate existed before the current reform and by an amendment of 2015 it received stronger powers in areas such as integrity, verification of declarations of interest and of private assets of magistrates as well as examination of cases where integrity of magistrates has been put into question. On the same occasion, the Inspectorate's role was also strengthened with regard to disciplinary proceedings. As a result, the current Inspectorate is competent to examine virtually every aspect of the activities of courts, prosecution offices, individual judges and prosecutors including internal organisation and working arrangements, consistency of the jurisprudence, financial situation of magistrates, their assets, their behaviour in the private sphere etc.

51. In its Opinion²⁷ adopted as a follow-up to a request in 2016 by the Monitoring Committee, the Venice Commission expressed the view that the increased powers of the Inspectorate might represent a danger for the independence of the judiciary. Even if the formal decision-making power remains with the SJC, entrusting the Inspectorate with so many new functions, which often overlap with the functions of the SJC, may result in shifting the real power from the SJC to the Inspectorate. It also stressed the importance of the procedure for the nomination of the Inspector General and 10 inspectors which would minimise the risk of political attachment which would compromise the independence of the judiciary.

52. In October 2021, the European Court of Human Rights gave a judgment regarding disciplinary proceedings against a judge before the SJC (case *Todorova v. Bulgaria*). While the Court confirmed that the disciplinary proceedings comprised a number of procedural guarantees, it considered that, together with the sanctions, they amounted to an interference with the exercise of the magistrate's right to freedom of expression.

25. Idem.

26. In their comments, the authorities have argued that these powers of the Minister of Justice did not interfere with the independence of the judiciary as the final decision belongs respectively to the SJC or SPC.

27. [CDL-AD\(2017\)018](#).

53. Regrettably, the Venice Commission recommendations reiterated by Assembly [Resolution 2296 \(2019\)](#) and the European Commission have not been addressed in the recently adopted constitutional amendments. The functions of the Inspectorate remain broad and vaguely defined. According to the Venice Commission, the delimitation of powers with regard to carrying out inspections and initiating disciplinary proceedings between the Inspectorate and the Judicial and Prosecutorial Councils is not clear which makes it difficult to understand the exact role of the Inspectorate. Moreover, there are no safeguards against possible interference with the substance of courts' decision making. There is no explicit provision stating that the Inspectorate cannot review the decisions taken by courts in individual cases. Consequently, there is a serious threat of a shift of the real power from the two future Councils to the Inspectorate.

54. Furthermore, while the requirement of a two-thirds majority is important for guaranteeing the non-political nature of the appointment, the selection and nomination process of candidates is equally important and both independent Councils – for judges and prosecutors/investigators – should be involved in this process. Similarly, despite earlier recommendations, the amendments do not provide for an anti-deadlock mechanism in case of failure to secure the required number of votes. In their comments to the preliminary draft report, the authorities have pointed out that in order to address these issues, the Minister of Justice had set up a working group tasked with the preparation of a draft law amending and supplementing the Judiciary System Act with regard to the functioning of the Inspectorate and improving and speeding up the procedures concerning promotions and appraisals.

55. While the constitutional amendments constitute, overall, a step in the right direction and address many earlier concerns with regard to the Bulgarian judiciary, their adoption procedure raises some concern. The draft amendments were introduced on 28 July 2023 by 166 MPs (out of 240) on the basis of the agreement between the political forces within the National Assembly²⁸ and made public. The vote on the first reading of the amendments took place on 8 December 2023, the second reading on 19 December and the third reading on 20 December 2023. While we commend the authorities for assembling the required majority, it appears that the political agreement for a constitutional change came as a surprise not only to the general public but also to some stakeholders.²⁹ The Venice Commission has always underlined that constitutional amendments should be based on a broad consensus among the political forces and within society. The Venice Commission also pointed out³⁰ that as regards the legislative process, an impact assessment should be done before the adoption of the legislation.

56. On the other hand, it should be acknowledged that the pace of the legislative process was partly the result of international pressure for reform and delays caused by political instability. As mentioned earlier, the evaluation of the progress accomplished by Bulgaria in complying with democratic standards cannot be considered in abstraction from the constraints imposed by repetitive elections. We are fully aware of difficulties encountered by the Bulgarian authorities and once again we commend them for their commitment and political will to comply with the obligations declared, without any ambiguity.

57. The legality of the legislative process is a potentially more serious concern. According to some constitutional experts, the proposed changes require the convocation of the Grand National Assembly based on Article 153 of the Constitution and the jurisprudence of the Constitutional Court.³¹ The case has been referred to the Constitutional Court which has not rendered its decision yet.

58. The implementation of the reform which would safeguard its irreversibility and sustainability is another challenge. During our meetings in Brussels, we have heard some positive assessments of the progress in this area. A working group, as already mentioned, is preparing draft amendments to the Judiciary System Act and other implementing measures in co-operation with EU experts.

59. Finally, it is to be regretted that not all issues with regard to the judicial system have been addressed in the ongoing reform, which represents a missed opportunity.

28. The amendments were signed by the MPs from the following parliamentary groups: We Continue the Change-Democratic Bulgaria; GERB-SDF and the Movement for Rights and Freedoms.

29. The representative of the opposition in the Bulgarian delegation to the Assembly, Mr Ivan Ivanov (SOC), has informed us, in his comments to the preliminary draft report, of the reasons for the rejection of the constitutional amendments by the BSP. In particular, he referred to the risk of politisation of the Prosecutor General and the prosecution service. He complained about the lack of a wide public debate and consensus in society, and, more generally, about hasty procedure for adoption.

30. [CDL-AD\(2023\)039](#).

31. *Idem*.

60. The level of perceived judicial independence in Bulgaria continues to be very low despite recent improvements. Overall, in 2023, only 30% of the general population and 33% of companies perceived the level of independence of courts and judges to be “fairly or very good”. In 2016, the first figure was higher; it decreased however in 2021 and 2022 (32% and 31% respectively).³² It is to be hoped that the ongoing reform will contribute to the increase in confidence in the judiciary in Bulgaria.

61. With regard to the high-level corruption, we note with satisfaction that the Bulgarian authorities have undertaken a number of important measures aimed at increasing efficiency of the prevention of and fight against corruption. The current government, which was formed in April 2023, declared the fight against corruption to be one of its top priorities. The updated National Strategy for Preventing and Countering Corruption 2021-2027 and its associated Road Map are being implemented.

62. The already mentioned Law amending and supplementing the Criminal Procedure Code adopted by the National Assembly on 26 May 2023, marked an important progress by establishing an effective mechanism for the accountability and criminal liability of the Prosecutor General and his/her deputies. With the same law, prosecutors’ decisions not to open investigations can be subject to judicial review, particularly investigations regarding serious and corruption-related crimes.

63. On 21 September 2023, amendments to the Anti-Corruption Act were adopted by the National Assembly. They mainly aim at safeguarding the political independence and the efficiency of the Anti-corruption Commission which was established under the previous law in 2019. The amended law provides for the division of the Commission into two separate bodies: Commission for Counteracting Corruption and Commission for Illegal Assets Forfeiture.

64. In accordance with the amended law, the Commission for Counteracting Corruption will be composed of three members selected from among candidates proposed by the National Assembly or non-profit legal entities for public benefit. Candidates will be considered and selected by a special nominating committee composed of five independent members appointed by the Supreme Court of Cassation, the Supreme Bar Council, the Ministry of Justice, the Ombudsperson, and the Audit Chamber respectively. Selection procedure will include public hearings. The draft rules of procedure for the selection process are currently being elaborated with the experts from the European Commission.

65. Crucial changes have been introduced with regard to the Commission for Counteracting Corruption’s powers: according to the amended law it will have the power to investigate corruption offences allegedly committed by persons holding public positions. Under the previous law, the Commission did neither have the powers nor tools to carry out investigative activities. Furthermore, it could not bring charges before the court and in this respect was totally dependent on the prosecution service. Before the recent reform of the prosecution service (described in the previous chapters), this total dependence was combined with the lack of accountability of the Prosecutor General and of judicial review of his decisions on whether or not to bring cases to the court. This has resulted in a lack of high-profile cases before the courts.

66. Indeed, despite the high number of proceedings for establishing existence of a possible conflict of interest which have been initiated since the establishment of the Anti-Corruption Commission under the unamended law, a solid track-record of final convictions in high-level cases of corruption has been totally lacking. During our visit, we met the Chairperson *ad interim* of the agency before the revision of its structure and powers. He confirmed the weaknesses of the former anti-corruption law, and expressed conviction that the amendments which at that time were undergoing legislative process, would considerably improve the situation.

67. In another positive development, on 27 January 2023, the National Assembly adopted the Law on the Protection of Whistleblowers or Persons Publicly Disclosing Information about Violations. The new law provides for a comprehensive and streamlined legal framework for reporting and whistle-blowers’ protection which complies with democratic standards.

68. Amendments to the Law on Public Procurement aimed at increasing transparency were adopted on 5 October 2023.

69. In 2020, the Code of Conduct for State Administration Employees was adopted by the Council of Ministers.³³ While this is a positive development, it is regrettable that the Code does not cover persons with top executive functions. According to GRECO, serious gaps remain in the legislation relating to the integrity of

32. EU Justice Scoreboard.

33. Decree No. 57 of 2 April 2020.

persons with top executive functions. The National Anti-Corruption Strategy for 2021-2027 envisages drawing up a Code of Ethics for persons holding senior public positions in the executive. We hope that in their future comments, the authorities will inform us about the state of fulfilment of this recommendation.

70. In September 2022, the authorities set up a working group to examine the issue of lobbying which remains unregulated in the present legislation. There are no specific obligations for the registration of lobbyists or the reporting of contacts between public officials and lobbyists. On 11 November 2023, the working group published a Concept Note for the Regulation of Lobbying Activities in the Republic of Bulgaria, and it is now subject to public consultation. The Law is expected to be adopted mid-2024.

71. Similarly, work continues on new legislation in the area of foreign bribery. The working group was expected to formulate proposals by the end of 2023 with regard to improving the liability of legal persons and other relevant legislative changes in line with the Organisation for Economic Co-operation and Development recommendations (OECD).³⁴

72. Progress has been also acknowledged by GRECO. In January 2020, GRECO published the Second Compliance report on Bulgaria, assessing the implementation of the recommendations of the Fourth Evaluation Round on the Prevention of Corruption in respect of members of parliament, judges, and prosecutors. The report concluded that Bulgaria has implemented 16 out of 19 recommendations and that the three remaining recommendations have been partly implemented. In particular, a procedure has been put in place to tackle breaches of ethical rules by MPs with a parliamentary committee having the power to impose sanctions in case of infringements. Moreover, an independent review into the prevention of conflicts of interest and the verification of asset declarations of MPs was established.

73. With regard to judges and prosecutors, additional rules on integrity checks including through regular asset declarations have been established. The principle of random case allocation has been put in place in respect of both judges and prosecutors.

74. The three partially implemented recommendations concerned the composition of the College of Judges within the SJC which is now the subject of the ongoing constitutional reform. The five-year probationary period for judges, mentioned in paragraph 48, and the application of supplementary remuneration for judges which remains subject to broad discretionary decisions mean that the risk of undue influence remains.

75. The GRECO Fifth Evaluation Round report on Bulgaria published in January 2023, evaluated the effectiveness of the framework in place to prevent and combat corruption among persons entrusted with top executive functions (Prime Minister, ministers, secretaries general, chiefs of political cabinets, advisers, experts etc.) and members of the police (civil servants of the Ministry of the Interior with law enforcement functions). It underscored that Bulgaria's criminal justice response to high-profile corruption cases is unsatisfactory and needs to be addressed as a matter of urgency. It formulated 28 recommendations with regard to transparency and oversight of executive activities of government including the introduction of rules on incompatibilities and vetting of persons hired at the discretion of government; the adoption of a comprehensive code of conduct for persons entrusted with top executive functions to be complemented with clear guidance regarding conflicts of interest and other integrity related matters (contacts with third parties, gifts and other benefits, ancillary activities, contracts with State authorities, post-employment restrictions etc.); the establishment of a credible and efficient supervisory mechanism envisaging specific sanctions for violations and tools for their enforcement. GRECO urged for more pro-active and systematic investigations and prosecutions for corruption offences linked to top executive functions, a removal of procedural impediments and effective and proportionate sanctions.³⁵ The state of implementation of these 28 recommendations will be evaluated by GRECO in 2024. In their comments to our preliminary draft report, the authorities have informed us of further progress in fulfilment of pending recommendations, in particular with regard to the establishment of clear and transparent rules for the additional remuneration within the judiciary. The authorities have set up a working group which drafted an action plan to address GRECO recommendations. We call on the authorities to continue ensuring progress in the fulfilment of these recommendations.

76. The new laws and regulations are expected to remedy the situation which remains worrying. Over the last years, Bulgaria has been shaken by scandals over allegations of purchases of luxury properties below market prices by prominent politicians and State officials involving corruption, fraud, and tax-evasion

34. OECD (2021) Phase 4, evaluation of Bulgaria.

35. [GRECO/Eval5Rep\(2022\)9](#).

(“apartmentgate”). The revelations led to the resignation of a number of high-level politicians including the former Minister of Justice, two deputy ministers, the deputy chairman of GERB (ruling party) and the Head of the Anti-corruption Commission. However, no charges have been brought before the courts.

77. In March 2022, former top executive officials (notably the former Prime Minister and the then leader of the opposition, the Finance Minister as well as the Head of the Press Centre of GERB) were detained on suspicion of corruption as part of a police operation. They were all released the following day as no charges were brought by the Prosecutor’s Office.³⁶ The administrative court ruled that the arrest warrants were issued illegally.³⁷

78. A number of Bulgarian political figures were sanctioned in third countries in 2023 in cases related to high-level corruption. On 10 February 2023, the United States and United Kingdom sanctioned several current and former government officials for corruption under their Global Magnitsky Act. Some of them had earlier been subject to investigations or indictments within the Bulgarian judicial system but the proceedings had been halted or dismissed.³⁸

79. The perception of public sector corruption among experts and business executives remains very high. In the 2022 Corruption Perception Index of Transparency International, Bulgaria scored 43 on a scale from 0 (highly corrupt) to 100 (very clean). It ranked 72nd among the 180 countries in the index. The 2022 Special Eurobarometer on Corruption shows that 88% of respondents considered corruption widespread in their country (EU average 68%) and 30% of respondents felt personally affected by corruption in their daily lives (EU average 24%).

80. Allegations of endemic corruption were among the underlying reasons for widespread public protests which started on 9 July 2019 in Sofia and other cities and lasted 282 days until the resignation of the Prime Minister was accepted by the National Assembly on 16 April 2021. This was followed by five consecutive early elections as already mentioned in Chapter 2.

81. One of the difficulties in properly evaluating the situation is the lack of accurate reporting, including disaggregated data on high-level corruption cases. The Prosecutor General’s Office and the Supreme Court of Cassation continue to report different streams of data on corruption which makes it difficult to have a clear picture. There is no regular reporting on high-level corruption cases thus making accuracy and reliability of data problematic.³⁹ In their comments, the authorities drew our attention to the recently adopted amendments to the Law on the Judicial System which oblige the Prosecutor General to submit an annual report to the National Assembly on the activities of the Prosecutor General’s Office with regard to corruption cases including detailed information on ongoing and resolved cases and relevant comparable statistics.

82. The Supreme Court of Cassation has started differentiating between high-level and regular corruption cases since the end of 2022. As of mid-2023 it had tracked eight cases related to high-level corruption and six cases had been initiated. As for the Prosecutor General’s Office, it had reported 144 new pre-trial proceedings and 48 indictments forwarded to the court in the first nine months of 2022.⁴⁰

83. It is too early to see the concrete results of all the positive developments in the fight against high-level corruption, but we do hope that the newly adopted legislation, in line with recommendations of the European institutions, will bring about considerable improvement. We expect the authorities to fully implement the amendments and to address the persisting concerns.

3.2. The media

84. Bulgaria has considerably improved the status of freedom of expression. In 2023, Reporters without Borders ranked Bulgaria 71st out of 180 countries as compared to 111th in 2019. However, according to Reporters without Borders the overall situation is fragile and unstable and the few independent voices in Bulgaria work under constant pressure.

85. We have noted a number of positive measures taken by the authorities with a view to improving the situation. In particular, on 28 July 2023, amendments to the Criminal Code provided for better protection of journalists in cases of alleged deformation of public officials. The alleviation of criminal liability has addressed a long-standing recommendation of the Council of Europe. It should also be acknowledged that in recent

36. Idem.

37. Decisions by the Sofia City Administrative Court of 24 August 2022, 1 November and 31 December 2022.

38. [SWD\(2023\)802final](#).

39. Idem.

40. Idem.

years there has been a major improvement in the jurisprudence of national courts with regard to defamation charges brought against journalists in application of Article 10 of the European Convention on Human Rights (ETS No. 5) and the case law of the European Court of Human Rights in this respect.

86. The media market in Bulgaria is diverse but to a great extent dependent on political and economic influences. Having a large number of media outlets does not necessarily result in a more pluralistic media scene. According to the Centre for Media Pluralism and Media Freedom, the overall situation of risks to media pluralism remains challenging with the indicator showing a high risk (76%).⁴¹

87. Persisting problems include high levels of media concentration and a lack of transparency in media ownership, distribution, and media providers, already highlighted by our predecessors in their report debated in 2019. Unfortunately, there has been no progress in this respect. The general rules in the Bulgarian competition law do not include sector-specific provisions for the media market which the Law on Radio and Television does not regulate either. For example, the legislation does not provide for concentration thresholds in case of media mergers.

88. Consequently, Bulgaria is among the five European countries with the highest concentration of media ownership with a rate amounting to 66%.⁴² Horizontal media ownership concentration is estimated to be as high as 96% and cross-media ownership concentration at 88%. The top four major owners in the broadcasting sector have an aggregated market share of 93,35%. The top four major press owners have 79,7%.

89. The problem of the concentration of ownership is further aggravated by insufficient transparency in ownership. The actual level of concentration is impossible to track due to a lack of precise data, which is considered as a risk in itself. Information available on market shares is based solely on partial advertising revenue data. Although there are formal legal provisions for the disclosure of media ownership (Mandatory Deposition of Print and Other Works Act, Radio and Television Act, Commercial Register Act), the present legal requirements are not effectively implemented in practice, in particular as regards online media.

90. In 2020, the Law on Radio and Television was amended, and a Public Register of the Council of Electronic Media was established. The register includes information on the ownership structure and on the actual owners of the suppliers as well as on legal entities and private individuals exercising control over the management of media service providers. In addition, the public register, established by the Ministry of Culture, is based on declarations on ownership and funding received from different sources. Even though envisaged by law, sanctions for not complying with the transparency obligations have never been imposed on media outlets. As a result, not all media declare their ultimate owners and sources of financing. During our visit, the representatives of civil society complained that in some cases, the actual owners of a given media remain unknown to the public.

91. There is a need for reliable and accessible media market data including market shares of owners in all media sectors, circulation and distribution figures, data on online media concentration etc., which would allow for precise monitoring and evaluation of media pluralism in Bulgaria.

92. In their comments to the preliminary draft report, the authorities have informed us that the Expert Working Group on Media Environment and Access to Information set up by the Minister of Justice on 14 August 2023, has been tasked with the elaboration of proposals on possible measures to improve the functioning of the Register under the responsibility of the Ministry of Culture.⁴³

93. Ownership is frequently used as a tool for advancing political and business interests. While legal safeguards against owner influence over editorial content exist, they appear to be insufficient. There are serious shortcomings in the legal and self-regulatory instruments ensuring editorial independence: there are no mechanisms granting social protection to journalists in case of changes of ownership or editorial line; no regulatory safeguards ensuring that decisions regarding appointments and dismissals of editors-in-chief are not influenced by commercial interests; no measures stipulating that the exercise of the journalistic profession is incompatible with activities in the field of advertising. This facilitates the owners' interference in editorial content. However, the 2023 Media Pluralism Monitor indicator on "Political independence of the media" rated a medium risk of 42% as compared with a high risk (92%) in 2021.

41. 2022 Country Report on Bulgaria, Centre for Media Pluralism and Media Freedom.

42. Council of Europe Platform to promote the protection of journalism and safety of journalists.

43. The working group includes representatives of the Union of Bulgarian Journalists, the Council for Electronic Media, the Supreme Bar Council, the Ombudsperson, the Commission for Journalistic Ethics, the Bulgarian Association of Regional Media, Association of Bulgarian Radio and TV Broadcasters, the Association of European Journalists, Bulgarian National TV and Bulgarian National Radio. It is tasked with reflection on improving different aspects of the media environment and it works in close co-operation with experts from the European Commission.

94. One of the biggest problems that affects media pluralism is the non-transparent and unregulated allocation of State advertising to certain media outlets as well as the distribution of EU funds. The high degree of media dependence on income from advertising and a non-transparent distribution of funds to the media are powerful tools for the authorities to influence news reporting.

95. An important measure to remedy this situation constituted the adoption, on 8 October 2023, of the amendments to the Public Procurement Act increasing transparency in the conclusion of contracts for the purchase of programme time or the provision of broadcasts which are awarded to media providers.

96. Other measures have also been taken to improve the implementation of existing legislation notably through the introduction of an additional control mechanism and the publication of a list of advertising contracts.

97. Investigative journalists covering organised crime and high-level corruption are frequently targeted by smear campaigns, strategic lawsuits against public participation (SLAPPs), threats and at times physical assaults, which do not appear to be met with adequate legal and political responses from the authorities. While the legislative framework for the protection of journalists seems to be in place, efficient tools for safeguarding the media from violations of press freedom are lacking. The authorities, in their comments, drew our attention to the fact that the already mentioned Expert Working Group is preparing proposals for amendments to the Code of Civil Procedure on the introduction of legal mechanisms to protect journalists and human rights defenders from SLAPPs.

98. There are also concerns with regard to legislation on the composition, independence and effectiveness of the Council for Electronic Media, the national media authority.

99. Protection of the right to information through more effective implementation of the Access to Public Information Act by State institutions is another issue. While some concerns remain (such as administrative refusals) in terms of access to information functionalities of institutional websites and increasing the number of institutions responding within the statutory deadlines and giving full access to the requested information, positive trends can be noted.

100. Political and corporate interests are preventing the majority of Bulgarian media and journalists to act as a check on power and in the public interest.

3.3. Human rights of minorities

101. In her last report on Bulgaria published in March 2020, the Council of Europe Commissioner for Human Rights, noted with alarm “the rampant intolerance manifested towards minority groups in Bulgaria, affecting especially Roma, Muslims, migrants and asylum seekers, persons identifying as ethnic Macedonians and LGBTI people”. The negative attitude towards minorities is often reflected in media coverage which associates minorities with criminality and presents them as creating a danger to the values or interests of the majority population.⁴⁴

102. The situation of the Roma population which constitutes the largest minority group in Bulgaria (almost 5 % of population) remains a concern. Our predecessors referred in their report to cases of mob violence leading to attacks on Roma population and demolition of Roma houses.⁴⁵ While such incidents have not been repeated since 2019, there has not been much progress in the integration and inclusion of Roma.

103. 15% of Roma children do not attend school. There is a *de facto* segregation in education for Roma pupils because the majority of Roma families live in areas inhabited by their communities. The schools attended by Roma children are often sub-standard. Only an estimated 9% of Roma have secondary education and just 0,5% have a university degree.

104. Long-term mass unemployment among the Roma population is the most serious indicator of their socio-economic exclusion and poverty. Despite the government’s efforts including positive policies and strategies to counter this phenomenon, only 23% of economically active Roma are employed as compared to 53,5% average in the Bulgarian society as a whole. Roma NGOs consider these figures to be underestimated. While the reasons for this inequality are complex, the marginalisation and discrimination of the Roma population contribute to reducing the employment opportunities available to them. Due to their lack of employment, a number of Roma do not have health insurance.

44. Report on Bulgaria, 2020, Commissioner for Human Rights of the Council of Europe.

45. [Doc. 14904](#).

105. The material situation of the Roma population is generally very poor. Housing remains a major concern. The lack of social housing is a problem affecting Bulgarian society as a whole but its impact on the Roma population is disproportionate, affecting approximately 200 000 families. Furthermore, many Roma houses are built either illegally or without compliance with sanitary and safety requirements. Concerns linked to the issues of forced evictions and demolitions of Roma settlements have been denounced by different bodies of the Council of Europe, including the Assembly, since Bulgaria's accession. Following the developments in Voyvodinovo,⁴⁶ a number of affected people have lodged a complaint before the European Court of Human Rights.⁴⁷ The Court indicated interim measures in this case and demolition orders have been suspended.

106. The Bulgarian authorities have declared their commitment to the execution of the Court judgements in the Yordanova cases and have engaged in a dialogue with the Committee of Ministers in this respect. The relevant legislative proposals have been prepared by the inter-ministerial working group and they are at the stage of consultation with all stakeholders including municipalities, regional governors, and the Directorate for National Building Control. The authorities in their comments have informed us about the progress in the execution of the Yordanova group judgements and in particular about the state of preparation of the law on the proportionality in cases of eviction, in co-operation with Council of Europe experts.⁴⁸

107. Meanwhile, on several occasions the Supreme Administrative Court has directly referred to the European Court of Human Rights judgments on the violation of Article 8 of the Convention in relevant domestic cases, thus practically applying the principles and criteria set out in the planned law which is under consultation.

108. The vicious circle of social exclusion and discrimination causes further impoverishment among the Roma population. The absence of reliable statistics is also a problem.

109. At the same time, it has to be acknowledged that the Bulgarian authorities demonstrate political will and make efforts regarding Roma integration. The National Strategy for Equality, Inclusion and Participation of Roma (2021-2030) and the National Action Plan (2022-2023) established objectives in four areas in which the situation of Roma is particularly disadvantageous: education, health, housing, and employment. It is also planned to establish a Council of NGOs monitoring the implementation of the Strategy.

110. In particular, the National Action Plan provided for programmes for inclusive education at municipal level. It also envisaged expanding the network of health mediators. It is planned to introduce an amendment to the relevant law to guarantee medical care to pregnant women without health insurance. With regard to employment, the Plan provided for increasing the number of labour mediators and the establishment of an electronic register facilitating job searches. In 2022, as many as 26 235 unemployed persons identifying themselves as Roma were included in vocational guidance, training, and employment programmes. Overall, unfortunately, the situation of the Roma population has not much improved since the last report.⁴⁹

111. A very tiny Macedonian minority (according to 2021 census 1 143 persons, less than 0,5%) is not recognised by the authorities, as defined under the Framework Convention for the Protection of National Minorities (ratified by Bulgaria in 1999), due to a strict application of formal criteria and despite repeated requests expressed by the group's representatives. As a result, Macedonians are not included in programmes concerning minorities, do not receive assistance and have no representatives in consultative bodies, their language is not taught, and they are prevented from establishing a party.

112. However, recognition by the State as a minority is not a prerequisite to qualify for protection under the Convention, and the Macedonians are very active in lobbying for their rights, while the authorities are very sensitive about this issue.

113. The major concern in this respect remains the execution of the European Court of Human Rights judgments in *UMO Ilinden and others v. Bulgaria* case regarding the violation of Article 11 of the Convention (freedom of association). They concern the unjustified refusals of the Bulgarian courts in 1998-99, 2002-2004, 2010-2013 and 2014-2015 to register an association the aim of which is to achieve "the recognition of the Macedonian minority in Bulgaria." In their comments, the authorities have informed us about the progress in the execution of this group of judgements monitored by the Council of Europe Department for the Execution of Judgments of the European Court of Human Rights.

46. Idem.

47. *Silviya Andonova Paketova and Others v. Bulgaria*, No. 17808/19, communicated on 5 July 2019.

48. We have also been informed about the work carried out by the Ministry of Justice in the framework of the project financed by the Norway Financial Mechanism "Enhancing the national capacity for the effective implementation of the judgements of the European Court of Human Rights".

49. Idem.

114. Bulgaria has had difficult relations with neighbouring North Macedonia over a number of controversial issues with regard to minorities, language, historical and educational issues. This resulted in Bulgaria's efforts to block North Macedonia's accession to the European Union. Only on 24 June 2022, under heavy EU pressure, did Bulgaria's Parliament approve the lifting of the veto on opening EU accession talks with North Macedonia.

115. In 2018, police recorded 46 hate crimes in Bulgaria including violent attacks against people and attacks against property. Roma and Sinti people as well as refugees and Muslims were among the victims. Six cases were prosecuted and 158 people were sentenced.

116. With regard to the rights of LGBTI people, on 20 February 2023, the Supreme Court of Cassation ruled that transgender people will no longer be eligible to change documents in accordance with their gender identity, as the constitution and legislation "are built on the understanding of the binary existence of the human species", according to the text of the judgment. 28 judges voted in favour, but 21 expressed dissenting opinions. Legal experts stated it was rare to see the Supreme Court so starkly divided on an issue and expected that the plaintiffs would file an application with the European Court of Human Rights.

3.4. Hate speech

117. During our visit, the authorities provided us with extensive information on measures undertaken to combat hate speech. The relevant legislation contains the main elements prescribed by international standards. In 2020, amendments to the Law on Radio and Television introduced stricter measures against the use of hate speech and incitement to violence, hatred or terrorist acts in the audio-visual media and online platforms and strengthened the powers of the media regulator (the Council for Electronic media) in this respect.

118. The latest amendments to the Criminal Code adopted in July 2023 provide for more severe punishment for hate speech and crimes. The criteria defining hate speech were expanded to include colour, origin and sexual orientation.

119. The Ministry of the Interior is monitoring content posted online with a view to detecting human rights abuses. It also receives alerts from non-governmental organisations and individuals.

120. A number of public awareness measures have been introduced: civic education has been included in all stages of school and pre-school education. Training of law enforcement agents on anti-LGBTI hate crimes has been introduced in co-operation with the LGBTI community. The Council of Europe [manual](#) "Policing Hate Crime against LGBTI persons: Training for a professional Police Response" has been translated into Bulgarian and disseminated to all police structures. In 2022-2023, the Commission for Protection against Discrimination organised a national campaign to increase public awareness on protection against discrimination and hate speech. The SJC jointly with the Ministry of Education conduct an educational programme on the subject involving more than 15 000 students. In 2023, the question of hate speech was integrated in the curriculum on human rights and protection from discrimination of the Academy of the Ministry of Interior. A number of *ad hoc* trainings and seminars have been organised for police officers and prosecutors.

121. It would be interesting to know what measures are being taken to eliminate hate speech in the parliament and whether specific sanctions are foreseen in the Code of Conduct in this respect. We look forward to the authorities' comments on this subject.

122. Despite all these measures, hate speech remains a serious concern in Bulgaria. While it is widespread, it is often under-reported mainly due to a fear of disclosing sexual orientation/identity and/or a lack of confidence in law enforcement agents' efficiency to prosecute the offenders. According to a survey conducted by a Bulgarian NGO in 2019, 73% of LGBTI respondents had experienced hate speech online in the preceding five years. Of these victims, 34% did not report the incidents; 24 % reported them to the relevant social media platforms and only 3% reported cases to the police.⁵⁰

123. Hate speech affects mainly Roma, Muslims, migrants and asylum seekers, persons identifying as ethnic Macedonians, as well as LGBTI people. Shifts in targets among these groups often depend on the political agenda of the moment. For example, during the migration crisis, hate speech was mostly directed against migrants, in particular those from Muslim countries. Recently, it has shifted back to Roma and LGBTI people.⁵¹

50. ECRI report on Bulgaria (sixth monitoring cycle) adopted on 22 June 2023.

124. Of particular concern is hate speech in political discourse. This is particularly noticeable during electoral campaigns but is present also outside the electoral period. In June 2023, a member of VRMO (Bulgarian national movement) was fined and prohibited from publishing materials amounting to racism and hate speech against Roma and other ethnic minorities on his website by a decision of Bulgaria's Commission for Protection Against Discrimination. The European Court of Human Rights, in its 2021 judgment in the case of *Budinova and Chaprazov v. Bulgaria*, found that the anti-Roma statements made by a Bulgarian politician constituted a violation of Article 8 (right to private and family life) in conjunction with Article 14 (prohibition of discrimination) of the Convention.

125. In their comments, the authorities have pointed out that there has been significant improvement in the elimination of hate speech from political discourse over the period of 20 years which has passed since the events in the case *Budinova and Chaprazov*. In few cases of discriminatory public speaking, the domestic courts have followed the case law of the European Court of Human Rights.

3.5. Violence against women

126. It has to be acknowledged that considerable progress has been achieved with regard to the protection of women. In order to address the issue of violence against women, the government adopted a National Strategy for promoting equality between women and men (2021-2030). The accompanying Action Plan contains specific measures aimed at combating domestic violence.

127. In July 2023, the National Assembly adopted amendments to the Criminal Code which provide the definition of an "offence committed in the context of domestic violence" thus enabling victims to benefit from protection at an early stage, namely the first committed act of violence.

128. In August 2023, following a shocking case of violence against an 18-year-old woman by her ex-boyfriend, which sparked mass outrage in the country, additional amendments to the Criminal Code were adopted by the parliamentary majority in an extraordinary session. They provide for the protection of people who have experienced violence in the context of an intimate relationship outside marriage or cohabitation.

129. At the same time, the amendments to the Law amending and supplementing the Law on Protection from Domestic Violence were adopted. They provide for quick and effective protection for victims of domestic violence. The amendments expand the range of victims that are granted protection and increase the scope of protection measures against domestic violence. Moreover they facilitate access to justice and optimise court proceedings by, *inter alia*, expanding the jurisdiction for cases of domestic violence. In addition, the amended law provides for the establishment of a National Council for Prevention and Protection against Domestic Violence and an accompanying mechanism for the co-ordination between the competent authorities, municipalities, and the judiciary.

130. These legislative changes are most welcome as they also address some shortcomings identified by the Court's judgment mentioned in the next paragraph.

131. According to police statistics, 18 women were killed in the first three months of 2023. Women's rights activists claim that due to under-reporting and unclear statistics, this figure is underestimated. In 2022, the European Court of Human Rights delivered a judgment in the case *Y and others v. Bulgaria*⁵² in which it concluded to a violation of Article 2 of the Convention due to inefficient protection against domestic violence followed by the death of the victim.

132. In their comments, the authorities provided us with detailed information on the recently introduced awareness-raising measures, legal framework and organisational and capacity building measures to combat against domestic violence.

133. Bulgaria signed the Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, "Istanbul Convention") in April 2016. However, the question of its ratification has created a very heated debate in the country. In February 2018, a group of 75 members of the National Assembly (mainly from the Socialist Group) asked the Constitutional Court for a ruling on the conformity of concepts such as "socially constructed roles", "stereotyped roles" and the term "gender" with the Constitution. In July 2018, the Court declared the Istanbul Convention unconstitutional. In consequence, Bulgaria is not subject to the evaluations by GREVIO, the independent monitoring body attached to the Istanbul Convention.

51. Idem.

52. Application No. 9077/18.

134. During our visit, civil society interlocutors highlighted the insufficient material basis for the protection of women. We were told that there are 24 shelters for victims of domestic violence which is not enough. In some places, allegedly, women without children are not admitted. This information, received from the activists, was rejected by the authorities, who did however admit that the insufficient number of shelters is a problem.

135. It is clear that specific budgetary provisions have to be foreseen for ensuring sufficient number of shelters for all victims of domestic violence throughout the country. We urge the authorities to effectively address these concerns.

4. Conclusions

136. After having carefully ascertained the progress accomplished by Bulgaria in six areas of concern enumerated in [Resolution 2296 \(2019\)](#), we have decided to propose to the committee, and if agreed, to the Assembly, to close the post-monitoring dialogue with Bulgaria.

137. At the same time, however, we suggest that the Monitoring Committee devotes one of its future periodic reviews within a few years to the implementation of the reforms with regard to the rule of law, pluralist democracy and human rights as well as their irreversibility and sustainability. It would be also important to ascertain the way in which the authorities will address some outstanding concerns indicated in the present report.