

LIBERTIES RULE OF LAW REPORT 2022

BULGARIA



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Foreword

This country report is part of the Liberties Rule of Law Report 2022, which is the third annual report on the state of rule of law in the European Union (EU) published by the Civil Liberties Union for Europe (Liberties). Liberties is a non-governmental organisation (NGO) promoting the civil liberties of everyone in the EU, and it is built on a network of national civil liberties NGOs from across the EU. Currently, we have member and partner organisations in Belgium, Bulgaria, the Czech Republic, Croatia, Estonia, France, Germany, Hungary, Ireland, Italy, Lithuania, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden.

Liberties, together with its members and partner organisations, carries out advocacy, campaigning and public education activities to explain what the rule of law is, what the EU and national governments are doing to protect or harm it, and to gather public support to press leaders at EU and national level to fully respect, promote and protect our basic rights and values.

The 2022 Report was drafted by Liberties and its member and partner organisations and covers the situation in 2021. It is a ‘shadow report’ to the European Commission’s annual rule of law audit. As such, its purpose is to provide the European Commission with reliable information and analysis from the ground to feed its own rule of law reports and to provide an independent analysis of the state of the rule of law in the EU in its own right.

Liberties’ report represents the most in-depth reporting exercise carried out to date by an NGO network to map developments in a wide range of areas connected to the rule of law in the EU. The 2022 Report includes 17 country reports that follow a common structure mirroring and expanding on the priority areas and indicators identified by the European Commission for its annual rule of law monitoring cycle. Thirty-two member and partner organisations across the EU contributed to the compilation of these country reports.

Building on the country findings, the 2022 Report offers an overview of general trends on the rule of law in the EU and compiles a series of recommendations to national and EU policy makers, which suggest concrete actions the EU institutions and national governments need to take to address identified shortcomings.

[Download the full Liberties Rule of Law Report 2022 here](#)

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Bulgaria

About the authors



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The Bulgarian Helsinki Committee (BHC) is an independent, non-governmental, not for profit organisation of the civil society for defending basic human rights in the Republic of Bulgaria: political, civil, cultural, and social. It was established in 1992. The organisation's focus is on defending the most vulnerable members of Bulgarian society: children, women, people with disabilities, unpopular minorities, and people deprived of liberty.



The Association of European Journalists – Bulgaria is a member of the international Association of European Journalists, uniting journalists from 30 European countries. AEJ is an independent international association that supports critical journalism in the process of European integration and freedom of information and of the media. The Association is an independent observer in the Media Committee of the Council of Europe.

Key concerns

None of the systemic problems in the Bulgarian justice system was solved in 2021, the main factor being political instability and the prolonged inability to form a government. Thanks to this, however, the topic of justice reform became popular and is being placed at the centre of political debates.

With the change in the balance of political forces, the issue of corruption in the high levels of government was put on the table. Despite the lack of concrete results, a lot of data has been made public and has received attention that was lacking before.

Media freedom and pluralism remained in serious doubt in 2021. The particular influence of some media outlets close to the previous government and to the Prosecutor's Office was not seriously affected, and there are still no mechanisms to highlight unregulated influence in the media.

Civil society organisations are still threatened by SLAPPs and incidents of physical violence. 2018 and 2019 saw a period of smear campaigns against the Istanbul Convention and 'gender ideology', and in 2021 there were no major changes to the hostile atmosphere for NGOs. Cooperation with them remained timid and sluggish.

In 2021, the political crisis prevented Bulgaria from making progress on human rights. This was not the case before the crisis, but the formation of a new government by the long-standing opposition opens a window for change that may unfortunately be shorter than expected.

State of play

- ⊖ Justice system
- ⊖ Anti-corruption framework
- ⊖ Media environment and freedom of expression and of information
- N/A Checks and balances
- ⊖ Enabling framework for civil society
- ⊖ Systemic human rights issues

Legend (versus 2020)

- Regression: ↓
- No progress: ⊖
- Progress: ↑

Justice system ⊖

Key recommendations

- The institutions with legislative initiative – the Council of Ministers and the Parliament – should carry out a thorough reform of the legal framework of the judiciary to ensure effective self-government of judges, balanced control over the prosecution and the possibility for the Chief Prosecutor to be investi-

gated by an independent body in case they are suspected of committing crimes.

- There should be strengthened cooperation with a wide range of experts from NGOs who have previously shed light on problems in the judiciary.
- Decisions on changes to the judicial map must be made after increased consultation with the judicial and legal community.

Judicial independence

Appointment and selection of judges, prosecutors and court presidents

The year 2021 was marked by a political crisis in Bulgaria. On April 4, regular parliamentary elections were held after the third government of Prime Minister Boyko Borissov (GERB/ European People's Party) completed its full term. The elections produced a serious shift in the political landscape, with six parties represented in the parliament, three of which were until recently part of the opposition and extra-parliamentary. After a failure to form a government, a second parliamentary election was held on July 11, where the same six parties were again represented, but, for the first time in many years, GERB came in second place behind one of the opposition parties. After a second failure to constitute a government on November 14, with a record low turnout, the 47th Parliament of Bulgaria was elected,

where another drastic reshuffle took place and two new parties, now seven in total, took the place of one of the dropped opposition parties. GERB again remained in second place, and the parties that were opposition until recently managed to establish a coalition government after tough negotiations.

After several months of a caretaker government with no legislative powers during the period under review, no legislative amendments were made to ensure the independent and transparent selection of the Chief Prosecutor or the Presidents of the two Supreme Courts. Problems remained regarding the selection procedure before the Supreme Judicial Council (SJC) and, above all, the strong influence of the parliamentary and prosecutorial quota within it, which continued this year to demonstrate unanimity and unity in voting on important decisions related to staffing and disciplinary responsibility, including of the Chief Prosecutor himself.

The latest example came in December, when, in a matter of minutes, the prosecutorial collegium of the SJC voted unanimously in favour of all the appointments proposed by Chief Prosecutor Ivan Geshev, including a promotion for investigator Yassen Todorov – a member of the previous SJC and one of the most ardent

opponents of calls to reform the prosecution and pass measures ensuring the accountability of the Chief Prosecutor.¹ Todorov was promoted to Deputy Director of the National Investigation Service. In 2017, Todorov was filmed by journalists entering with a bag the office of the businessman and gambling magnate Vasil Bozhkov. Subsequently, Todorov was also filmed leaving Bozhkov's office without the bag, whose content is unknown, then getting into the car of a former deputy speaker of parliament.²

Irremovability of judges, transfers, dismissal and retirement regime of judges, court presidents and prosecutors

In January, the Ethics Committee of the SJC refused to consider a report filed by the BHC for damaging the prestige of the judiciary and the Chief Prosecutor. The basis for the report is that, in July 2020, through the website of the Prosecutor's Office, the spokeswoman of the Chief Prosecutor announced the imminent disclosure of materials in an ongoing pre-trial proceeding, the defendant in which is Vasil Bozhkov, who has been under scrutiny in the media for suspected illegal activities and connections with organised crime groups. The materials were actually distributed later that day by the Specialized Prosecutor's Office.³

1 See <https://defakto.bg/?p=97252>.

2 See <https://www.mediapool.bg/shefat-po-etikata-na-vss-yasen-todorov-zasnet-da-izliza-ot-ofisa-na-vasil-bozhkov-news264107.html>.

3 See the document in Bulgarian at <https://www.bghelsinki.org/web/files/richeditor/documents/internal/communications/2020-ivss/2020-07-20-signal-do-ivss.pdf>.

They are recordings of intercepted telephone conversations with Bozhkov, in which he commented that Prime Minister Borissov and the Chief Prosecutor Geshev should be replaced.

At this point, Bozhkov – subsequently placed on a US sanctions list under the Magnitsky Act⁴ – was out of the country and took steps to form an opposition political party,⁵ while mass protests were being held in the capital and other Bulgarian cities demanding the resignation of Prime Minister Boyko Borissov and Chief Prosecutor Ivan Geshev. A number of media outlets, sympathetic to the GERB government, circulated the claim that the protests were organised and paid by Bozhkov. The report, filed in the SJC’s Ethics Committee, points out that this is a selective and one-sided publication of compromising materials in a pending pre-trial proceeding and does not serve to establish the truth in the case, but rather serves political purposes – to discredit the mass protests against the government and against the Chief Prosecutor himself.

The Ethics Committee of the SJC responded that, according to Article 312 of the Judicial System Act (JSA), a proposal for disciplinary punishment of a prosecutor can only be made by a limited number of persons, including the Inspectorate of the SJC.⁶ Earlier, in September 2020, the Inspectorate of the SJC refused to propose disciplinary proceedings against the Chief Prosecutor for these actions.⁷

On July 22, 2021, the SJC held a hearing on a proposal by the interim Minister of Justice Yanaki Stoilov for the early dismissal of Chief Prosecutor Geshev on the basis of Article 129, para. 3(5) of the Constitution.⁸ The grounds for the motion were both the selective and tendentious disclosure of materials on the pre-trial proceedings against Bozhkov and the neglect of the principle of random case assignment in the Prosecutor’s Office, as well as other conducts of the Chief Prosecutor.⁹ The SJC decided by 12 to 8 votes that the minister’s proposal was inadmissible due to the lack of authority to submit such proposals.

4 See <https://www.state.gov/public-designation-of-five-bulgarian-public-officials-due-to-involvement-in-significant-corruption/>.

5 See <https://www.investor.bg/analizi/85/a/bojkov-pred-bloomberg-nujdaem-se-ot-nov-politicheski-proekt-305898/>.

6 See the SJC letter at <https://www.bghelsinki.org/web/files/richeditor/documents/internal/communications/2020-ivss/2021-01-21-vss-etichna-komisia.pdf>.

7 See <https://www.bghelsinki.org/web/files/richeditor/documents/internal/communications/2020-ivss/2020-09-16-stanovishte-na-ivss.pdf>.

8 A serious violation or systematic failure to perform his duties, as well as actions that undermine the prestige of the judiciary.

9 See the proposal as well as enclosed materials and responses from the Chief Prosecutor at <http://www.vss.justice.bg/root/f/upload/32/Predlojenie-MP.pdf>

Subsequently, the minister appealed the decision before the Supreme Administrative Court (SAC) and requested the Constitutional Court to rule on whether it is within his powers under Article 130c(3) of the Constitution to make a proposal for the early dismissal of the Chief Prosecutor under Article 129, para. 3(5) of the Constitution. The case, No. 17/2021, remained pending before the Constitutional Court during the reporting period.¹⁰

Allocation of cases in courts

The three-page proposal by interim Minister of Justice Stoilov lists the grounds for Geshev's early release, mostly grouped into five categories, and is accompanied by a 108-page report by the interim Interior Minister. Among the reasons for the proposal is the disregard of the principle of random allocation of cases through the creation of specialized departments in the Sofia District and Regional Prosecutors' Offices. In addition, staff members in these departments were seconded from other Prosecutors' Offices, which calls into question their independence. In Section III on page 9 of his report, the Minister of the Interior points out that Ivan Geshev introduced non-public rules, not in line with the norm of Article 9 of the JSA, allowing for the allocation of cases with a decision of the administrative head of the respective Prosecutor's Office – not on a

random basis. The report lacks details on the source of this information.

On October 29, interim Minister Stoilov was appointed by the president as a judge in the Constitutional Court and Ivan Demerjiev became the interim minister in his place. On December 9, Minister Demerjiev submitted a new request for Ivan Geshev's early dismissal from the post of Chief Prosecutor, this time based entirely on the issue of the random allocation of cases in the Prosecutor's Office.¹¹ Unlike the previous interim minister's proposal, this new proposal was not published on the SJC website. Instead, on December 15, the SJC's prosecutorial chamber announced that it was returning the proposal to the Minister for elaboration because, according to the prosecutors who attended the SJC meeting, "the proposal does not provide clarity on the facts and the legal conclusions put forward, it is necessary to clarify what violations have been committed and [under] what procedure it should be considered."¹² The announcement underlines that the meeting was chaired by Ivan Geshev, but he did not vote.

The announcement of the proposal on the website of the Ministry of Justice¹³ makes it clear that the previous Minister of Justice had already sent a letter to numerous administrative heads in the courts and the Prosecutor's Office, including the Chief Prosecutor, requesting

10 See the case at <https://constcourt.bg/bg/Cases/Details/603>.

11 See <https://segabg.com/node/200556>.

12 See <http://www.vss.justice.bg/page/view/107782>.

13 See <https://www.justice.government.bg/home/index/ea047070-4883-48d7-b9f6-3ce887ec6e56>.

information on the internal acts adopted by the respective administrative heads ensuring the application of the principle of random allocation. The first such letter to Ivan Geshev was sent in the end of August, and a second one in mid-September. The Prosecutor's Office, however, did not respond to this inquiry.

Promotion of judges and prosecutors

At the end of March, Prosecutor Dimitar Frantishek Petrov, who headed the Specialised Prosecutor's Office after Ivan Geshev's election for Chief Prosecutor, received the highest rank in the system as a supreme prosecutor. This was the proposal of the interim head of the Specialised Prosecutor's Office, Valentina Madjarova. The rank elevation was voted on by the SJC without debate or controversy. Elevating one's rank is not a promotion, but it brings a pay raise – BGN 440 (app. EUR 220) to the basic salary.¹⁴

Petrov is known from the interviews with Iliya Zlatanov, a businessman and former majority owner of the Izamet elevator factories, who in 2020 publicly revealed an attempt to misappropriate his company by a group of investigators, prosecutors, and lawyers. Zlatanov claims that Petrov personally visited the notorious restaurant The Eight Dwarfs – the group's centre for meetings and instructions.¹⁵ Zlatanov's daughter also claims that Petrov conducted a search of their home, during which large quantities of

gold were found and seized. The family claims to have seen the gold being loaded into the car of a woman who was in a relationship with the investigator and was also part of the group. A public prosecutor's inquiry (not a formal investigation) has been launched, the outcome of which has not yet been announced.

In December, Petrov was one of the three prosecutors against whom disciplinary proceedings were initiated in the SJC in relation to the Eight Dwarfs case. The proceedings were initiated following a motion submitted by interim Justice Minister Ivan Demerjiev, who told the media that he submitted the motion due to the inaction of the institutions to investigate the case since the publication of the journalist investigation on the matter in June 2020.¹⁶ By the end of the reporting period, the SJC had issued no decisions.

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

The increased pressure from the Committee of Ministers of the Council of Europe, various EU institutions, as well as from civil society on the implementation of the ECtHR's judgment in the *Kolevi v. Bulgaria* case forced the government of Prime Minister Borissov to demonstrate some efforts towards justice

14 See <https://www.clubz.bg/node/111542>.

15 Full four-part documentary on the case is published with English subtitles at <https://youtu.be/BuldtVxkaY>.

16 See <https://defakto.bg/?p=96993>.

reform in the last year and a half of his mandate. Such attempts for reform initiated at the end of 2019, during 2020, and at the beginning of 2021 were so flawed in design that their failure was expected, and it became necessary to prolong deadlines for the preparation of further measures. Thus, the time leading up to the end of this government's term was effectively wasted.

After the end of the Borissov's term in May, Bulgaria was governed by two caretaker governments until the elections in November, after which a new regular government was formed in mid-December. Both the new opposition parties in Parliament and the Ministers of Justice of the two caretaker governments and the new regular cabinet have stated the need for justice reform, which includes measures ensuring accountability of the Chief Prosecutor, replacing Ivan Geshev as the Chief Prosecutor, and reforming the SJC.

The incident regarding the motion for Chief Prosecutor Geshev's early dismissal, which occurred on top of existing tensions among the judicial community, divided over the need for a comprehensive justice reform, triggered a crisis in judicial circles. In September, judges of the Supreme Court of Cassation (SCC) addressed a letter to the members of the SJC elected by them, calling on them to resign and thus terminate the council.¹⁷ No resignations

were submitted. Thus, in October, when two new members of the College of Judges had to be elected due to the resignation of two members, just over 30% of the Bulgarian judges participated in the vote, which required 50% participation. This necessitated a second vote where the threshold was 33%, but only 26% voted.¹⁸ Thus, no new members were elected.

In the 46th Parliament (July 21 – September 16), the Democratic Bulgaria party submitted a bill for, *inter alia*, early termination of the mandate of the SJC, but the term of office of this parliament was not long enough for the proposal to be considered.¹⁹ In December, Atanaska Disheva – a member of the SJC's panel of judges – said publicly that calls for a change in the SJC's membership were redundant as its term expires on October 3, 2022, and a procedure to elect new members by law could be opened as early as February 2022.²⁰

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal liability of judges

In 2021, no significant advancements were achieved in the implementation of the ECtHR's judgment in the case Kolevi v. Bulgaria, concerning the assassination of a senior magistrate and suspicions by him and his relatives that the assassination was ordered

17 See <https://news.lex.bg/?p=62933>.

18 See <https://defakto.bg/?p=94102>.

19 See bill No. 46-154-01-52/31-08-2021 at <https://www.parliament.bg/bg/bills/ID/163823>.

20 See <https://defakto.bg/?p=97144>.

by the then Chief Prosecutor Nikola Filchev (currently advisor to the Chief Prosecutor Geshev²¹).

At the end of 2020 and beginning of 2021, the government of Boyko Borissov submitted, and the National Assembly adopted, a bill strongly criticized by civil society organisations and introducing the new figure of the Special Prosecutor for the investigation of the Chief Prosecutor.²² In response to the amendments introducing the Special Prosecutor, the president referred parts of the new legislation to the Constitutional Court for review of their compliance with the constitution – Article 46(8), Article 194(6), Article 213a(2), and Article 411a(4) of the Criminal Procedure Code (CPC), as well as Article 136(11) of the Judicial System Act (JSA). On May 11, 2021, the Constitutional Court delivered a judgment in Case No. 4/2021²³ repealing all these five provisions (leaving others referring to the Special Prosecutor in place due to the limited scope of the presidential referral).

In addition, the attempts to start the procedure for the early release of Chief Prosecutor Ivan Geshev are the subject of a pending case before the Constitutional Court. During the heated debate in the plenary of the SJC, the question was raised as to whether there was any procedure at all for the early removal of

the Chief Prosecutor and whether it should be disciplinary in nature or otherwise, and therefore which principles of disciplinary procedure it should be subjected to, including the statute of limitations. The discussion did not reach any conclusions on these issues. In the other case, the procedure appears to have been defined as disciplinary by the petitioner himself and was considered by the prosecutorial chamber of the SJC, but was referred back to the Minister with a request for clarification of the same nature: to explain what offences had been committed and under what procedure and in what manner it should be dealt with. In the meantime, however, a new government has been formed and whether the new Minister of Justice will respond to the prosecutorial chamber remains to be seen.

Independence/autonomy of the prosecution service

In July 2021, the Prosecutor's Office announced²⁴ that it was continuing its investigation into the so-called Barcelonagate – an alleged international money laundering scheme linked to former Bulgarian super-model Borislava Yovcheva, who in the past was alleged to have had intimate relations with Prime Minister Borissov. The allegations were first published at the end of 2015 by Bulgarian opposition media, but the

21 See <https://prb.bg/bg/news/42531-sys-zapoved-na-glavnija-prokuror-e-syzdaden-ek-59>.

22 See decision of CoE's Council of Ministers from 11 March 2021 (CM/Del/Dec(2021)1398/H46-6), §§ 5–7, retrieved from https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a1abfa.

23 See <https://constcourt.bg/bg/Acts/GetHtmlContent/a4b67d2a-45f2-4cf7-8682-566c38ef4ddf>.

24 See <https://www.segabg.com/hot/category-bulgaria/prokuraturata-tursim-prane-na-pari-barselonageyt>.

Bulgarian Prosecutor's Office ignored them. It was only after the Spanish publication *El Periodico* wrote on the subject in 2020²⁵ that the Bulgarian Prosecutor's Office decided to launch an investigation. However, nothing more was reported about developments in the case before the end of the year.

On September 10, Chief Prosecutor Geshev was spotted exchanging text messages on his phone with Borissov's PR Sevdelina Arnaudova during his hearing with the opposition parties in the parliament. Geshev and Arnaudova confirmed this²⁶ but downplayed the nature of their conversation, which was never made public. Earlier in the year, Arnaudova was named by Vasil Bozhkov – a defendant in various criminal proceedings and sanctioned by the US under the Magnitsky Act – as an intermediary in a corruption scheme involving PM Borissov aiming to shield Bozhkov from government inspections and sanctions. Following the publication of pictures of Geshev and Arnaudova privately communicating during the hearing, the BHC has asked for Geshev's resignation over doubts about his integrity,²⁷ but he has not commented publicly on the request.

In November, the Bulgarian chapter of the Radio Free Europe (RFE/RL) published²⁸ a journalistic investigation revealing that former Interior Minister from the cabinet of PM Borissov and MOP candidate Mladen Marinov are linked through at least two individuals to the scandal that became known as the Eight Dwarfs – the case of the alleged racketeering and a business embezzlement scheme led by former and current senior investigators and prosecutors with the help of the local police and a prominent private security firm.²⁹ One of the embezzled properties was a businessman's SUV, which was bought by Marinov's daughter shortly after it was appropriated. The injured businessman also claimed before investigative journalists that Marinov's brother was the driver of one of the racketeers in the case.

In July 2020, the media received scandalous photographs of Borissov from an anonymous person, showing him sleeping on a bed, next to which there is a bedside table with a gun on it and an open drawer full of gold bars and large euro banknotes.³⁰ In December 2020, the Prosecutor's Office found no reasons for investigation in the case.³¹ The Prosecutor's Office

25 See <https://www.elperiodico.com/es/politica/20200221/primer-ministro-bulgaria-mossos-investigacion-blanque-7848274>.

26 See <https://www.svobodnaevropa.bg/a/31456386.html>.

27 See <https://www.bghelsinki.org/bg/news/20210915-open-letter-geshev-arnaudova>.

28 See <https://www.svobodnaevropa.bg/a/31554590.html>.

29 Full four-part documentary on the case is published with English subtitles at <https://youtu.be/BuldtVxkaY>.

30 See <https://btvnovinite.bg/bulgaria/tarsi-se-mata-hari-mvr-razpita-borisov-obzor.html>.

31 See <https://www.banker.bg/obshtestvo-i-politika/read/prokuraturata-ne-otkri-chii-sa-pachkite-i-kiulcheta-v-shkafcheto-na-borisov>.

interest in the case resumed after the election of a regular government in December 2021.³² Borissov's interrogation was scheduled for January 2022, and was, however, initiated and conducted by the police, not the prosecution.

Quality of justice

Digitalisation of the justice system

At the end of December 2020, the SJC voted on the proposal of the judicial chamber to phase in the new Unified Court Information System, funded by the European Union, and set different deadlines for implementation for different courts.³³

In April 2021, however, the president of the Supreme Court of Cassation (SCC), Lozan Panov, informed the SJC that the system lacked important functionalities for the work of the court, which hindered its implementation. Panov points out that in February the creator of the software acknowledged the problems, but that there has been no progress in fixing them, which makes it impossible to conduct the necessary training for working with the system before the deadline for its implementation in the SCC, which is June 1.³⁴

In July, a closing event was held on the European project, where it was announced that the system is for the internal use of the courts and will not be able to serve e-justice to citizens. For the latter purpose, two other systems will need to be built, again financed with EU funds. It was also announced that the system has been introduced in all courts except the administrative courts, the Supreme Administrative Court, and the SCC.³⁵

At the same time, in a long and detailed scathing letter, 69 SCC justices criticized both the system and the developer's attempts to impose its vision of what features and functions this system should entail. "This software is clearly not in line with the objectives of the project under which it was developed," the letter reads, and continues: "This software does not take into account the fact that in the system of legal guarantees for the protection of the rights and legitimate interests of citizens, judicial safeguards are supreme, because the court in its activities should be independent and subject only to the law, and not to the requirements of an obscure programme."³⁶

Sofia Bar Council issued a statement in support of the letter,³⁷ and the Supreme Bar Council issued a statement calling the flaws in

32 See <https://webcafe.bg/bulgaria/prokuraturata-proveryava-snimkite-s-noshtnoto-shkafche-na-borisov.html>.

33 See <https://defakto.bg/?p=79378>.

34 See <https://defakto.bg/?p=86332>.

35 See <https://defakto.bg/?p=90872>.

36 See <https://defakto.bg/?p=90956>.

37 See <https://defakto.bg/?p=91298>.

the system “dangerous.”³⁸ In October, interim Justice Minister Yanaki Stoilov held a meeting with SCC judges. “The hasty introduction of a fully e-justice system could be a failure for the judiciary. A transition period of several years is needed to preserve classical justice along with e-justice,” the minister said after the meeting and committed the ministry to draft the necessary legislative changes for this to happen.³⁹

Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation

The restructuring of the judicial map has been declared a priority in the work of the SJC for at least the last six to seven years. In January, the judicial chamber of the SJC chose the “radical” version to change the judicial map.⁴⁰ It generally provides for a major shift in subject-matter jurisdiction between the district, regional, and appellate courts, for district judges to move to the regional level and regional judges to the appellate level, and for some district courts to be divisions of others. Plus, it creates “divisions” in the Sofia Court of Appeal and a new model of competing for promotions.

The decision was not well received by judges and the legal profession. The Supreme Bar Council

issued a strong letter against the reform model,⁴¹ and it was subsequently criticised by local authorities and the Ombudswoman.⁴² At the end of July, interim Justice Minister Yanaki Stoilov said that without a new debate on the issue, there would be no closure of courts.⁴³ This led two judges, members of the SJC, to resign in June 2021.⁴⁴

38 See <https://defakto.bg/?p=91853>.

39 See <https://defakto.bg/?p=94365>.

40 See <https://defakto.bg/?p=80804>.

41 See <https://defakto.bg/?p=88018>.

42 See <https://defakto.bg/?p=88349>.

43 See <https://defakto.bg/?p=89324>.

44 See <https://news.lex.bg/?p=59172>.

Anti-corruption framework –

Key recommendations

- The new leadership of the Ministry of Interior has to find mechanisms to work effectively with the prosecution in the case of former tax official Borislav Kolev.

Investigation and prosecution of corruption

Effectiveness of investigation and application of sanctions for corruption offences

After the failure to form a government at the beginning of the year, in mid-May the president appointed a caretaker government. Soon after taking office, the interim Minister of Regional Development and Public Works, Violeta Komitova, told the media about numerous irregularities in the ministry, including the EU-funded construction of the Hemus motorway.¹ At the beginning of June, the Court of Auditors published a report independently confirming many of the violations, including that the state-owned company “Motorways” had impermissibly outsourced activities worth billions of leva to dozens of external companies

– in violation of the Public Procurement Act.² For several months the issue has been the subject of an exchange of serious accusations between Minister Komitova, former Regional Minister Nikolay Nankov and some of the builders involved in the project.

On November 5, on the eve of the combined parliamentary and presidential elections, Interior Ministry Secretary-General Petar Todorov revealed to the media that tens of millions of leva, allocated in advance for the construction of the highway, were withdrawn and taken away in sacks. A month later, on December 7, the General Directorate for Combating Organised Crime (GDCOC) arrested the man suspected of the scheme. Borislav Kolev, a former tax official and soccer referee, was charged with money laundering. Part of the scheme included shell companies that were registered days before the money was transferred to them. Todorov reports that 14 people were arrested because of operational information that document destruction was being prepared. Also involved in the probe was the State Agency for National Security, whose chairman, Plamen Tonchev, reports that several withdrawals of huge sums of money allocated for the construction of the highway were identified. On the same day, a spokeswoman for the Chief Prosecutor made a public statement that the Prosecutor’s Office was also working on the highway case and

1 See <https://bntnews.bg/news/regionalniyat-ministar-ustanovi-stroezh-bez-razresheniya-i-avansovo-plash-tane-pri-inspekciya-na-obekt-po-am-hemus-1158715news.html>.

2 See <https://segabg.com/hot/category-economy/luzhite-na-gerb-za-avtomagistrali-lusnaha-pulna-sila>.

expressed dissatisfaction with the duplication of activities.³

On December 12, the Prosecutor's Office organised two media briefings at which it announced that it had initiated pre-trial proceedings for an attempt by the head of the GDCOC, Kalin Stoyanov, and other officials to put pressure on prosecutors to violate their duties in this investigation. Two hours later, at a briefing held by the Chief Prosecutor Ivan Geshev and the leadership of the Prosecutor's Office, a statement was made that a bunch of national and international institutions and embassies would be informed about the case.

Later on the same day, the Interior Ministry organised a briefing at which it was explained that the actions assessed by the prosecution as pressure were the insistence by the Ministry of Interior that prosecutors attend an interrogation at which the accused, Kolev, would make a confession. To confess, Kolev demanded the prosecution to commit not to protest his house arrest with a request for a more severe pre-trial supervision measure. However, prosecutors have refused any plea agreement and the accused has refused to testify. The Interior Ministry accuses prosecutors of thwarting a confession by their actions, which in this case is key to furthering the investigation.⁴

On December 29, it was announced that the Prosecutor's Office summoned for questioning in the case the already appointed regular Minister of the Interior Boyko Rashkov.⁵

These cases add to the systemic failure by the prosecution service to investigate and prosecute suspected corruption by politicians and high-level officials, exemplified by the lack of progress as regards inquiries over the so-called Barcelonagate, mentioned above.

Media environment and freedom of expression and of information —

Key recommendations

- Protect journalists and media from Strategic Lawsuits Against Public Participation (SLAPPs) or other forms of institutional harassment. This should include the training of prosecutors and judges to recognize and prevent SLAPPs. In many cases, there are indicators that some prosecutors and judges are engaged in SLAPPs. A more transparent and well-managed judicial system would prevent that.

3 See <https://btvnovinite.bg/bulgaria/kak-zapochna-sagata-hemus-i-zadochnite-prestrelki-mezhdu-mvr-i-prokuraturata.html>.

4 See <https://www.capital.bg/4293020>.

5 See <https://btvnovinite.bg/bulgaria/aferata-hemus-prokuraturata-vika-na-razpit-vatreshnija-ministar.html>.

There is also a need to reform the Civil Procedure Code and the Criminal Procedure Code to prevent these abusive lawsuits.

- Protect journalists and media from all kinds of threats to their physical safety: a better protection should be provided by the Ministry of Interior, the Prosecutor's Office and Special Services.
- Distribute public funds to media, according to clearly defined and transparent criteria, and stop buying media comfort and stop funding outlets that do not respect ethical and professional standards. This recommendation is addressed to central and local authorities distributing public funds to the media. They should promote the work of the National Council for Journalism Ethics in order to build confidence in quality journalism and stop funding outlets that violate ethical standards.

Media and telecommunications authorities and bodies

Independence, enforcement powers and adequacy of resources of media and telecommunication authorities and bodies

Due to the political interference and appointment of political figures without relevant experience, the trust in Council of Electronic Media (CEM) in Bulgaria is relatively low.

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

There is a need for substantial changes to be made in the selection of the members of the CEM and their appointment in order to strengthen the capacity of the body and to build confidence in it. Three out of five members of CEM are appointed by the Parliament and two by the President. The criteria for appointment are very vague and there is no real competition but rather, appointment of persons loyal to the majority in the Parliament or to the President. As a result, in many cases as members of the Council are appointed figures that lack the expertise and the experience for such a position.

Public trust in media

The ongoing COVID-19 pandemic has taken a dramatic toll on the Bulgarian society – not only in terms of the record number of preventable deaths, but also in the shape of a dramatic decline in trust in science, media, and public

institutions. It has reshaped and radicalised the public dialogue, creating sharp divisions that challenge the main principles and foundations of the democratic society. The phenomenon, framed by the World Health Organisation as an “infodemic”, severely affected the country, which remains EU’s least vaccinated country and among the ones with the highest COVID-related death rate. The reasons for those dark statistics are complex, but the problems related to the country’s outdated education system, low media literacy and troubled media environment play an important role in the picture.

Amid the unprecedented wave of disinformation surrounding the pandemic, the people’s capacity to choose reliable media sources is of key importance. However, according to a 2020 survey by the European Broadcasting Union, Bulgaria tops the EU rankings in terms of trust in the social media – the main generator of fake news. In addition, it is the only EU member state where this trust is on a continuous rise.

Meanwhile, the reputation of traditional media remains low, as pointed out by the Open Society Institute’s latest survey of the trust in public institutions, published in January 2022.⁶ According to the report, only 30% of Bulgarians declare they trust the media, while the number among younger people aged between 18 and 29 is even lower – 27%.

This predominant mistrust comes together with Bulgaria’s traditionally low level of media literacy (lowest in the EU according to the Open Society Institute’s 2021 Media Literacy Index⁷). Statistics show that half of Bulgaria’s children, aged nine to 17, and 40% of their parents can’t differentiate between true and false information, according to a 2016 survey conducted by the Safe Internet Centre.⁸ At the same time, the series of lockdowns have caused an undoubted blow on the educational system, although it is worth admitting that Bulgaria achieved satisfying results in the transfer to remote education.

Issues like political and economic pressure, self-censorship, lack of good-quality journalism, smear campaigns, etc., specific to Bulgaria’s media environment further complicate the picture and make citizens particularly vulnerable to propaganda. Furthermore, disinformation could have adverse effects on their decision-making capacities as citizens and voters.

Safety and protection of journalists and other media activists

Smear campaigns

Smear campaigns against journalists and activists are not unusual for the Bulgarian media landscape. For instance, outlets such

6 See <https://osis.bg/?p=4020>.

7 See <https://osis.bg/?p=3749>.

8 See <https://www.safenet.bg/images/sampleddata/files/DML-BG.pdf>.

as PIK, BLITZ, TRUD or some anonymous sites are engaging in such campaigns against critics of former ruling party GERB or Chief Prosecutor Ivan Geshev.

Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists and media activists

In September 2021, for the first time, Bulgaria's Interior Ministry admitted that police officers used unauthorized violence against the journalist Dimitar Kenarov during a wave of anti-government rallies in 2020. Kenarov had been beaten, handcuffed and arrested unlawfully, states a letter sent to AEJ-Bulgaria and the Anti-Corruption Fund and signed by the caretaker Interior Minister Boyko Rashkov. In June 2021, Rashkov launched a new internal probe into the case. It has identified "a number of violations of the professional discipline by senior and other employees" of the police headquarters in Sofia and Plovdiv, which have been filed to the disciplinary authorities in charge. In addition to that, "taking into account the existing evidence," the case has been forwarded to the Sofia Regional Prosecutor's Office. The letter comes shortly after *Sega Weekly* newspaper announced that a senior prosecutor upheld an earlier decision not to investigate the police's actions against Kenarov.

The case indicates how the protection of fundamental rights such as integrity of person and freedom of expression, which are enshrined

in the Constitution, depends on the political situation, rather than respecting the law.

Lawsuits and prosecutions against journalists (including) SLAPPs and safeguards against abuse

SLAPPs remain a problem for Bulgarian journalists. In December, the Sofia City Court found that Boris Mitov, now a journalist for RFE/RL's Bulgarian Service, and Stoyana Georgieva had caused physical and mental anguish to Svetlin Mihailov, a former chairman of the City Court.⁹ The City Court ordered them and the website that published the articles four years ago to pay him damages amounting to 60,000 BGN (some 30,700 EUR). In 2018, Mitov was working with the news website Mediapool in covering Mihailov's bid to become head of the Sofia City Court, Bulgaria's largest district court. At the time, Georgieva was the editor-in-chief of Mediapool. Four of those articles were examined by the court, and judge Daniela Popova ruled on December 21 that they contained "defamatory allegations against [Mihailov]." Lawyers for Mitov and Georgieva argued that the articles in question contained information about Mihailov, including questions about his sizable wealth and property, that had appeared at the time and since then in other publications.

Other journalists and media outlets such as Nikolay Stoyanov from Capital Weekly and the Bivol website are subjects of court litigation that have the traits of SLAPPs.

⁹ See <https://defakto.bg/?p=97767>.

Freedom of expression and of information

Censorship and self-censorship, including online

The situation with self-censorship in the media did not undergo significant improvement in 2021. AEJ-Bulgaria's flagship biannual press freedom survey, published in 2020,¹⁰ showed that the culture of political and economic pressure in Bulgaria is strengthening amid the sharp deterioration of the media environment. The COVID-19 pandemic has only made things worse for journalists who face a shortage of funds, limited transparency and threats of increased censorship in the face of political, economic and judicial pressure.

All of the above leads to a major deficit in the Bulgarian democratic system which far exceeds the difficulties of journalism itself – namely the loss of the role of the media as a watchdog and a reliable source of information for society. This complex environment, characterised by information overload where the borders between facts and lies have been blurred, revealed the need for a holistic approach. It should include robust efforts for capacity building in the media that includes high quality training in the field of journalism, media management and analysis, combined with civic educational activities aimed at significantly developing the media literacy skills for people of all ages.

Enabling framework for civil society –

Key recommendations

- The government and parliament should strengthen the use of civil society organisations and their expertise and inputs in drafting and discussing laws.
- The framework governing civil society organisations needs to be reformed both in the direction of more transparency of their funding sources, including through public registers, and in the direction of more incentives, e.g. in terms of court fees, tangible and intangible incentives for employees, etc.
- The government should stop denying the right to self-determination to people claiming to be ethnically Macedonian and treating such ethnicity as a challenge to Bulgarian national identity.
- Bulgaria should recognise the elevated social dangerousness of crimes motivated by the real or presumed sexual orientation or

10 See <https://aej-bulgaria.org/wp-content/uploads/2020/10/Журналистика-без-маски-2020-г.-годишно-изледване-за-свободата-на-словото-в-България.pdf>.

gender identity of expression of the victim and enhance punishment for such crimes.

- Bulgaria should promptly improve the legal framework governing surveillance.

Regulatory framework

Freedom of association, including registration rules

The most significant restriction on the freedom of association in 2021 in Bulgaria remained the refusal of the Bulgarian authorities to allow the registration of an association of Bulgarian citizens identifying themselves ethnically as Macedonians. Bulgarian courts issued final rulings in such cases in May,¹¹ June,¹² and August.¹³ Of these, the one from June is among the most telling about the atmosphere of acute chauvinism on the issue advocated by Bulgarian institutions. In its judgment in that case, the court found that the wording of the statutes of the appealing association, which referred to a Macedonian ethnic minority, to be “creat[ing] the impression

of the existence of a minority Macedonian ethnic group on the territory of the Republic of Bulgaria, deprived of its rights or having such rights violated, opposed to the rest of the Bulgarian citizens and repressed by the state. In these circumstances, the establishment of an association with the aims and means set out in its constitutive act essentially pursues the artificial creation, imposition and promotion of the idea of the existence among a certain part of the Bulgarian population of an ethnic identity, other than the national one, without such having been formed historically.” Many other cases have been decided at first instance and are awaiting judicial review.

Attacks and harassment

Verbal and physical attacks

Following the second general election of the year on June 11, the 46th Parliament was formed. Although it lasted less than two months, the new, highly critical opposition, until recently non-parliamentary parties, established a Special Committee to investigate the use of tear gas, force and aids by the Ministry of Interior during a series of protests on July 10 and September 2, 2020, and to investigate the facts and circumstances of

11 See Judgment No. 320 of 31.05.2021 in Case No. 301/2021 of the Sofia Court of Appeals, retrieved from <https://legalacts.justice.bg/Search/GetActContentByActId?actId=Ya70VT1Dza8%3D>.

12 See Judgment No. 339 of 08.06.2021 in Case No. 302/2021 of the Sofia Court of Appeals, retrieved from <https://legalacts.justice.bg/Search/GetActContentByActId?actId=ytFnggQx4G0%3D>.

13 See Judgment No. 544 of 18.08.2021 in Case No. 727/2021 of the Sofia Court of Appeals, retrieved from <https://legalacts.justice.bg/Search/GetActContentByActId?actId=fpzCFfSQNWQ%3D>.

the use of special intelligence on protesting citizens, opposition leaders and members of political parties of the opposition.¹⁴ The 2020 protests were directed against the government of Boyko Borissov and the Chief Prosecutor Ivan Geshev. At an extraordinary open meeting of the Special Committee in August, security camera footage from the area in front of the Council of Ministers was shown. The video footage shows how for 17 minutes, seven youths were dragged, hit, including with police batons, and thrown behind the pillars of the building. Nikolay Hajigenov, MP, told the committee that the footage was sought for over a year, eventually being found in a drawer at the Sofia Directorate of Internal Affairs and that it was provided to him by the interim Minister of Internal Affairs.¹⁵ In response to the records, the Sofia District Prosecutor's Office announced that four Interior Ministry officers were being investigated for police violence and that the case is under enhanced supervision.¹⁶ In December, as part of the supervision of the execution of the *Velikova* group of cases before the European Court of Human Rights, the Committee of Ministers of the Council of Europe invited Bulgarian authorities to provide information on the outcome of any inquiry or investigation in the reported instances of police violence during the 2020 rallies.¹⁷

On May 15, a pride parade was held in Burgas for the first time, and became the first such event outside the capital city. According to initial plans, it was to include a gathering and a march. On the day of the pride, however, Burgas police allowed a counterdemonstration to deviate from its originally stated route and the crowd of anti-pride protesters to surround members of the LGBTI community. They yelled threats and threw vegetables at the latter, and police instructed the pride organisers not to hold their march due to the security risk.¹⁸

Eighteen incidents of violence against the LGBTI community were recorded in May and June in the days before and immediately after Sofia Pride. Many of these were related to vandalism of property, mostly by putting stickers on windows and doors of LGBTI community spaces. In several cases, mobs of extreme nationalists entered community events without violent acts, causing fear among participants and compromising the status of safe spaces. In one case, extreme nationalists handed out leaflets with homophobic and transphobic defamations, including allegations of child sexual molestation tendencies among LGBTI people. Following a complaint to the police and respective ID checks of those who distributed the leaflets, the case

14 Information about and documents of the 10 July and 2 September Special Committee are available at <https://www.parliament.bg/bg/parliamentarycommittees/2867?date=9999-12-31>.

15 See <https://nova.bg/news/view/2021/08/13/336673>.

16 See <https://defakto.bg/?p=91505>.

17 See [https://hudoc.exec.coe.int/eng?i=CM/Del/Dec\(2021\)1419/H46-10E](https://hudoc.exec.coe.int/eng?i=CM/Del/Dec(2021)1419/H46-10E), § 5.

18 Details derived via personal correspondence with the organiser.

is pending before the national equality body, the Commission for the Protection against Discrimination.¹⁹

In each of the three election campaigns during the year, the extreme nationalist party VMRO-BND – a coalition partner of Boyko Borissov’s government – and its individual members made election promises to restrict the right to peaceful assembly of LGBTI people by banning pride parades and to take various measures against “gender ideology” and protect Bulgarian children from it. One of the cases in June²⁰ was sent to the Central Election Commission as a complaint about election materials violating good morals by inciting discrimination – a violation of Article 183(4) of the Electoral Code. The Commission ruled that the disseminated agitation constituted an exercise of freedom of expression and enjoyed the protection of the Constitution.²¹ In a judicial review, the Supreme Administrative Court ruled that the protection under Article 183(4) of the Electoral Code is enjoyed not by citizens but by other candidates in the election campaign.²²

On October 30, at the height of the campaign for the parliamentary and presidential elections,

an attack was carried out on the LGBTI community centre Rainbow Hub in Sofia.²³ During a community event, about 10 people burst in after tricking Gloria Philipova, a staff member, into opening the door. According to Philipova, the first intruder punched her in the face, and she recognized him as Boyan Rasate, a long-time well-known ultranationalist leader and presidential candidate. The invaders smashed all the property in the hub – all the furniture and equipment. Rasate was arrested,²⁴ and prosecutors announced that he had been charged with “hooliganism.” The case became the occasion for advocacy efforts to criminalise hate crimes on the grounds of sexual orientation and gender identity. Despite the initial widespread public reaction, including from various leaders of political parties contesting the elections, no steps were subsequently taken by the authorities to address the issue.

Legal harassment, including SLAPPs, prosecutions and convictions of civil society actors

In 2021, the tort claim proceedings against a civil activist from the umbrella organisation National Network for Children, Alexandra

19 Case No. 356/2021 of the Commission for Protection against Discrimination.

20 See <https://vmro.bg/българските-патриоти-с-готов-закон-за/>.

21 See <https://www.cik.bg/bg/decisions/379/2021-07-03>.

22 See Judgment No. 8293 of 08.07.2021 in Case No. 7030/2021 of the Supreme Administrative Court, retrieved from <http://www.sac.government.bg/court22.nsf/d038edcf49190344c2256b7600367606/bf49e242f2b8b68fc-225870c00216f75?OpenDocument>

23 See a video of the aftermath at <https://www.facebook.com/lilly.dragoeva/posts/10158711090749200>.

24 See <https://nova.bg/news/view/2021/11/02/345034>.

Georgieva, continued at a second court instance. The case was initiated in 2019 and concerns an article published by Georgieva in which she expressed a critical stance against conservative civil society organisations that opposed Bulgaria’s ratification of the Istanbul Convention, as well as reforms in social legislation strengthening children’s rights and protection from maltreatment in the family. In particular, a coalition of conservative organisations accuse Georgieva of discrediting them by pointing to statements in her article that say these organisations fight “against the rights of families and children,” describe their funding as “non-transparent” and claim they carry out “anti-European and sectarian propaganda.” In August 2020, the Sofia District Court ordered Georgieva to pay the plaintiffs around €1,000 for non-pecuniary damage to the reputation of the organisations for such remarks.²⁵ Georgieva appealed that decision in September 2020, but the case was not heard throughout 2021. It is scheduled for hearing in late March 2022.

Control and surveillance

In January 2022, the ECtHR delivered its judgment in the case *Ekimdzhiev and Others v. Bulgaria* (application no. 70078/12), finding violation of Article 8 of the ECHR.²⁶ The applicants in the case are lawyers working in civil society organisations. In its lengthy judgment, the court makes a very thorough analysis of the Bulgarian legislation on surveillance and subsequent accessing of communications

data. The Court found in particular that the relevant legislation governing secret surveillance did not meet the quality-of-law requirement of the Convention and was unable to keep surveillance to only that which was necessary. Similarly, the Court found that the laws governing retention and accessing of communications data did not meet the quality-of-law requirement of the Convention, and they were incapable of limiting such retention and accessing to what was strictly necessary. This important ruling by the ECtHR marks an important step forward in setting the legal standards in the area of surveillance for Council of Europe member states.

Disregard of human rights obligations and other systemic issues affecting the rule of law framework 🟡

Key recommendations

- The Ministry of Justice should urgently review some of the longest-standing and most systemic cases of non-compliance with ECtHR rulings and decisively engage NGOs in drafting the necessary bold changes in

25 See Judgment No. 167574 of 04.08.2020 in Case No. 53760/2019 of Sofia District Court.

26 See <https://hudoc.echr.coe.int/fre?i=001-214673>.

legislation and administrative practice.

- Parliament should prioritise addressing the systemic human rights problems in Bulgaria.
- The academic community should also be involved in the processes of finding quick and meaningful solutions to long-standing problems.

Systemic human rights violations

Widespread human rights violations and/or persistent protection failures

In October, the Constitutional Court of Bulgaria delivered its ruling²⁷ on the meaning and the scope of the term “sex” used in the equality clause and other norms in the Bulgarian Constitution. The case was brought at the request of the SCC on the occasion of an interpretative case in this court to overcome conflicting case laws on the admissibility of changing data on sex in the civil registers of transgender people. The Constitutional Court ruled that, under the Bulgarian Constitution, sex is to be understood as a biological binary category and that the institutes of marriage, family and motherhood reflect “the Bulgarian national, spiritual and cultural tradition” and “have a direct bearing on reproduction as a

natural (biological) aspiration for the continuation of the species.” Furthermore, it stated that Eastern Orthodox Christianity has a special significance “for the construction of Bulgarian cultural, spiritual and value identity” and this should be taken into account when interpreting the Constitution. However, the Court held that gender identity can be the basis for changing the sex entered in civil status records only in the borderline instance where, due to deviations from the typical combinations of sex chromosomes (XX for women and XY for men), the person possesses the distinctive sex characteristics of both sexes and therefore sex is hard to be biologically determined (a state which is defined as “intersex”). During the reporting period, the SCC did not render a decision on the unification of jurisprudence.

In December, the CJEU delivered its judgment in Case C-490/20 *Stolichna Obshtina, Rayon ‘Pancharevo’*, finding that if a child, being a minor and a Union citizen, whose birth certificate was drawn up by the host Member State and designates as parents two persons of the same sex, the Member State of which the child is a national is obliged to issue an identity card or a passport to that child without requiring a birth certificate to be drawn up beforehand by its national authorities. The dispute concerns a married couple consisting of two women, one of whom is a Bulgarian national, while the other is a national of the United Kingdom; they had a child in Spain, their Member State of residence. In the birth certificate issued by the Spanish authorities,

27 See <https://constcourt.bg/bg/Acts/GetHtmlContent/5aca41e4-659e-42dc-80a5-c3f31746898b>.

the two women are designated as ‘mothers’ of the child. Since a birth certificate issued by the Bulgarian authorities is necessary to obtain a Bulgarian identity document, the Bulgarian mother applied to the Sofia municipality (Bulgaria) for a birth certificate for the child to be issued to her. In support of her application, the mother submitted a translation of the extract from the Spanish civil register relating to the child’s birth certificate. The Sofia municipality, however, instructed the Bulgarian mother to provide evidence of the parentage of the child, with respect to the identity of her biological mother. The model birth certificate applicable in Bulgaria has only one box for the ‘mother’ and another for the ‘father’, and only one name may appear in each box. The mother took the view that she was not required to provide the information requested, whereupon the Sofia municipality refused to issue the requested birth certificate. Reaching the administrative court, the case was referred for preliminary ruling to CJEU. Despite the judgment, same-sex families of Bulgarian nationals remain completely unrecognized under Bulgarian law.

At the beginning of November, the CoE’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or

Punishment (CPT) issued a public statement on Bulgaria revealing findings of grave human rights violations documented in “visit after visit” in social care homes and psychiatric hospitals including persons having been slapped, punched, kicked, and/or hit with sticks by the staff as well as neglected in degrading conditions.²⁸

Implementation of decisions by supranational courts, such as the Court of Justice of the EU and the European Court of Human Rights

Several systemic human rights issues in Bulgaria have gone unaddressed by the Bulgarian authorities for yet another year: police violence (*Velikova group v. Bulgaria*²⁹), the indiscriminate destruction of homes due to illegal construction without the provision of permanent alternative shelter (*Yordanova and Others v. Bulgaria*³⁰), the right of prisoners to vote in parliamentary elections (*Kulinski and Sabev v. Bulgaria*³¹), the right of association of Bulgarian citizens with Macedonian ethnic identity (*United Macedonian Organisation Ilinden and Others group v. Bulgaria*³²), the possibility for the Chief Prosecutor to be investigated by an independent body in cases of possible criminality and to be suspended

28 See <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-issues-public-statement-on-bulgaria>.

29 See <https://hudoc.exec.coe.int/eng?i=004-3593>.

30 See <https://hudoc.exec.coe.int/eng?i=004-1924>.

31 See <https://hudoc.exec.coe.int/eng?i=004-39505>.

32 See <https://hudoc.exec.coe.int/eng?i=004-3657>.

for the duration of the investigation (*Kolevi v. Bulgaria*³³) and the control of surveillance (*Association for European Integration and Human Rights and Ekimdzhiev, Hadzhiev and Natsev*³⁴). In none of these areas did Bulgaria make progress during the year and there were no major legislative changes or changes in administrative practice.

33 See <https://hudoc.exec.coe.int/eng?i=004-3557>.

34 See <https://hudoc.exec.coe.int/eng?i=004-3669>.

Contacts

Bulgarian Helsinki Committee

The Bulgarian Helsinki Committee (BHC) is an independent non-governmental organisation for the protection of human rights, established in Sofia, Bulgaria in 1992.

The objectives of the BHC are to promote respect for the human rights of every individual; to stimulate legislative reform to bring Bulgarian legislation in line with international human rights standards; to trigger public debate on human rights issues; to carry out advocacy for the protection of human rights; and to popularise and make widely available human rights instruments.

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The Civil Liberties Union for Europe

The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of 19 national civil liberties NGOs from across the EU.

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