**Bulgarian Responses**

**Democracy, Rule of Law and Fundamental Rights Monitoring Group (DRFMG) to the European Parliament**

**Meeting concerning the Situation in Bulgaria**

**27 January 2022**

**Written questions - submitted before the meeting**

**Questions to the Prime Minister**

**Question 1**

**We followed with great concern your public statements suggesting that "... our role is to place people in the Prosecutor's office, in the Commission for Anti-Corruption and Illegal Assets Forfeiture (CACIAF)…”? We would like to ask for further clarification of the statement.**

**We would like to ask for a written assurance that the judicial reform in Bulgaria continues and will not be reduced only to personal replacements. In this regard, we would like to ask about your position towards the ongoing calls for the resignation of the Prosecutor General and your understanding whether such calls do not constitute a direct violation of the principle of separation of powers and an attempt to exert political influence on the independence of the judiciary.**

*I would like to make it clear that the words quoted have been taken out of context in a way that distorts their meaning. I assure you that the policy of the government I lead is aimed at deep judicial reform and effective counteraction to corruption by all legal means and by no means targeted at the replacement of individual members of the judiciary. The meaning of the above-mentioned sentence is to end the wrongful practice of political staffing and "placing" of persons who do not have the necessary professional skills and moral qualities on the top of the judiciary and executive branch. This is the right context of the quote. For your information, please keep in mind my entire statement, namely: "My dream is to have justice that will show that in Bulgaria there is no unpunished violation of the law. It is not my role to clean out anyone, our role is to put people in the prosecutor's office and Commission for Combating Corruption and Confiscation of Illegally Acquired Property who do not have any brakes to check every thief in Bulgaria. For me, lustration of thieves is important and this must be done institutionally. It cannot happen through institutions where this is not their job. I have given Boyko Rashkov [e.g. Minister of the Interior] full freedom at the moment for every investigation he has the right to do. The umbrellas are over. In no way can anyone feel protected, whether they are in the ruling coalition or a minister. "By "our role" I mean the role of the state, but the emphasis is on this - when there is evidence of a crime, there should be complete independence of the investigating authorities and the court in their judgment, regardless of who the investigation is directed against.*

*I stand behind the freedom of every prosecutor, and every judge to be guided in their judgement only by the law and their inner conviction.*

*Unfortunately, in recent years we have seen that the institutions in Bulgaria do not combat effectively corruption and crime at the highest levels of government. Our European and international partners criticize us for the low results in the fight against corruption and the lack of effective convictions. Many of the criticisms is related particularly to the figure of the Prosecutor General under Bulgarian law and constitution and his unlimited powers. One example is the ruling of the European Court of Human Rights in the case “Kolevi vs Bulgaria”, where the Court states that under the legal and constitutional framework of Bulgaria it is not possible to have effective investigation against the Prosecutor General.*

*Aside from the institutional problems, I have been informed by the Minister of Justice about a number of signals, concerning Mr. Geshev and the illegality of his actions as prosecutor and Prosecutor General and providing grounds for initiating a procedure for his removal from office.*

*I do not consider that the calls for Mr. Geshev's resignation violate his independence, on the contrary. He is part of the political dialogue, he himself participates in it on a regular basis with many of his statements. Further, there is strong civil pressure on Mr. Geshev because of the lack of investigations against publicly known cases of abuse of power and corruption.*

*In connection with a declaration proclaimed by the National Assembly on 14 January 2022, requesting the resignation of the Prosecutor General, it should be borne in mind that the Rules of Procedure of the National Assembly provide for a procedure for accountability of the Prosecutor General to MPs, and such a declaration does not go beyond the constitutional powers of the National Assembly. At the beginning of February, an explicit ruling of the Constitutional Court on case № 19 of 23 August 2021 is expected. The case concerns the right of the National Assembly, in compliance with the principle of separation of powers, to hear the Prosecutor General and make recommendations in connection with the information received (which shall not reflect on specific cases). All the opinions presented to the case are in favor of the right of the Members of Parliament to participate in this way in the separation of powers and of the expression of the principle of checks and balances.*

**Question 2**

**Would you please elaborate on the expected effects of the amendments to the Criminal Procedural Code and the Judicial System Act initiated by the 45th National Assembly, aimed at closing the Specialized Criminal Court, the Appellate Specialized Criminal Court, the Specialized Prosecutor's Office and the Specialized Prosecutors' Offices of Appeals as soon as possible?**

*I believe that the specialized court and the specialized prosecutor's office in their current form are not an effective tool for combating organized crime. So far, these structures have only been used as a political weapon. Through noisy public arrests, we are witnessing individual actions by the special prosecutors, which ultimately do not lead to effective sentences and justice. Many of these investigations have been returned by the courts to the prosecutor's office due to numerous violations of the rights of the accused.*

*During the ten years of the operation of the specialized criminal courts and prosecution, the specialized criminal courts and their respective prosecutor's offices did not live up to the expectations set by their establishment in 2011, while gradually expanding their jurisdiction without adequate impact assessment for the past period. Throughout the years, their competences were expanded drastically to include corruption cases against high-ranking public officials and crimes against the republic. This approach sought to compensate for the lack of sufficiently convincing and consistent results of the specialized criminal justice bodies and to justify their existence. Throughout their operation, public perceptions have been overwhelmingly negative, perceived not as independent bodies but as an instrument of "extraordinary justice" that executes politically motivated orders. And this public perception is not the result of suggestions or political manipulations, as the prosecution claims, but is a consequence of the complete lack of effective results from the work of specialized courts and prosecutors' offices.*

*Furthermore, mixing the criteria for specialization with regard to the subject matter of the case and specialization with regard to the person violates the principle of independence of the judiciary, and hence the principle of the rule of law. The introduced specialization is in conflict with the standards formulated in Opinion № 15/2012 of the Advisory Council of European Judges (CCJE). The CCJE Standards on Specialized Justice clearly state that any unjustified interference in the existing institutional structure of the courts by separating specialized courts from general ones, as far as different from the general measure of justice allows, poses a threat to the rule of law.*

*Therefore, the abolishment of the specialized court and the specialized prosecutor's office will remove an unnecessary and non-functioning addition to the judiciary, and the restoration of regular justice.*

*Thus, this step should be the first in a series of actions aimed at increasing the accountability of the prosecution office in Bulgaria, ensuring more effective independence of magistrates and implementing a comprehensive reform. Such reform should include not only the relationship between the court and the prosecutor's office, but also should ensure that the justice is closer to the people, the magistrates benefit from effective and independent career development and that the state is implementing more efficient and quality juvenile justice. All of those steps aim to restore of the rule of law in Bulgaria, with zero tolerance towards corruption.*

**Would you please comment on the attempts to influence the existing structures of the judiciary? What would be the intended results of the trials against a number of oligarchs, brought before these specialized courts? How would you ensure that no attempts are made to acquit defendants, e.g. representing powerful economic interests, who are interested in terminating the probes?**

*The Report by the Commission on the Rule of Law for 2020 (SWD (2020) 301 final) critically assessed the effectiveness of the specialized criminal courts and their respective prosecutors' offices, making a clear statement: "A solid track-record of final convictions in highlevel corruption cases remains to be established." The Report on the Cooperation and Verification Mechanism of 2018 (SWD (2018) 550 final, p. 10) explicitly points out the following: “...a key issue highlighted in successive CVM reports has been the lack of a coherent track record in Bulgaria of convictions in high-level corruption cases”.*

*The amendments we are planning aim to ensure the effective conduct of the pre-trial proceedings that have already begun, as well as the effective consideration of the cases in which progress has been made. The draft envisages both ensuring a fair trial and effective administration of justice by the general courts. We will ensure enough safeguards to a fair trial.*

*The draft legislation we are preparing on the closure of specialised courts and prosecutor's offices provide mechanism to guarantees that pre-trial proceedings will not be terminated, as they will be transferred to the respective prosecutor's office. In addition, all pending court cases at the time of the entry into force of the legislation will be transferred to the respective court. This will ensure that the pending cases are completed without the need to restart the respective proceedings. Consequently, in light of these proposals it can be concluded that there will be no unjustified termination of criminal proceedings, as a result from the closure of the specialised courts and prosecutor's offices.*

**Question 3**

**Would you please comment on Decision №16 of the Constitutional Court of the Republic of Bulgaria, of 27 October 2021, which states that your appointment as Minister of Economy is unconstitutional because you deliberately signed a declaration with false content regarding the existence of your Canadian citizenship? According to the Constitutional Court "the candidate for caretaker Minister Kiril Petkov was aware on that date that his application for renunciation of his Canadian citizenship had not automatically taken effect."**

*By the moment of signing the declaration of renunciation of my Canadian citizenship, which precedes me taking office as a minister of economy, neither the Bulgarian law, nor the Constitutional Court, or other jurisprudence regulated the legal effects of renouncing a foreign citizenship. Before the above-mentioned Decision № 16/2021 of the Constitutional Court, the Constitutional Court has explicitly ruled only that “In principle, the existence of a foreign, other than Bulgarian, citizenship of a person is a matter of choice. Foreign citizenship is not an external, imposed quality of the Bulgarian citizen. When this citizen wishes to participate in the exercise of power in the Republic of Bulgaria, it is sufficient to release himself from his foreign citizenship and to retain only the Bulgarian one.” (Decision № 15 of 13 September 1995 on case № 21/95 of the Constitutional Court).*

*At the date of signing my declaration of renunciation of Canadian citizenship and the return of my Canadian passport, I had done everything possible and everything in my power to relinquish that citizenship. Further, I have been advised that under public international law following my voluntary renunciation application, Bulgaria will no longer be expected to recognize this foreign citizenship because of the lack of a “genuine link” between me and Canada.*

*In addition, my actions as a Minister of Economy remain legally stable and there have been no complaints or legal proceedings against my acts.*

*The prosecutor's office also stated unequivocally that there were no grounds to raise charges against me under Bulgarian law.*

**Questions to the Minister of Justice**

**Question 4**

**We would like to ask for a further clarification of the statements you have made with regard to the Prosecutor General, Mr Geshev - stating that "the entire possible arsenal, available to the executive branch and the National Assembly, has been activated to react". Furthermore, when you assumed the Office of the Minister of Justice, you made statements that the Prosecutor's Office would be pressured through its budget and the independence of the judiciary? What steps does the Ministry intend to take so as not to exert political pressure on the independent judiciary?**

*The government acts within its constitutional powers, part of which is to propose to Parliament legislative amendments. Efforts to reform the judiciary continue in the following directions:*

*- strengthening the independence of the judiciary by reforming the functioning of the Supreme Judicial Council (SJC) in lineof European standards;*

*- structural and organizational changes with regard to the units of specialized criminal justice in order to guarantee the constitutional principle of independence of the judiciary and the protection of the constitutional rights of citizens;*

*- limiting the functions of the Prosecutor's Office outside the criminal proceedings and expanding the possibilities for judicial review over the issued acts;*

*- limiting the powers of the Prosecutor General for the supervision on legality only to the constitutionally provided competence;*

*- increased accountability of the Prosecutor General and his/her deputies;*

*- introduction of an effective accountability mechanism on the Prosecutor General and his deputies;*

*- providing the necessary regulations to achieve smooth functioningof the judiciary in the process of introducing real and full e-justice, as well as optimizing, connecting and fully integrating the Unified Court Information System with the Unified e-Justice Portal;*

*- improving the procedure for conducting competitions in the judiciary and speeding up the process;*

*- making changes to the institute of secondment;*

*- introduction of program budgeting of the judiciary.*

*The budget of the judiciary is independent within the state budget. Pursuant to the provision of Article 7, paragraph 2 of the Public Finance Act, the Supreme Judicial Council organizes and directs the drafting and implementation of the budget of the judiciary. The only authority of the Minister of Justice regarding the budget of the judiciary is to make a proposal for a draft budget of the judiciary and submit it for debate to the Plenum of the Supreme Judicial Council (Article 362 of the JSA).*

*In the process of the forthcoming update of the budget of the judiciary in the current year, the Minister of Justice shall firmly insist on introducing a programme budgetbuget of the Prosecutor’s Office, hence to be reduced in line with the public perceptions for the outcome and the efficiency of its work.*

*For 2018, the budget of the Public Posecution Office is equal to 16.6 € per capita, while for the countries of the Council of Europe the average value is 11.78 €, i.e. according to CEPEJ, the budget of the Bulgarian Prosecution Office is above the average level for the member states of the Council of Europe. At the same time, last year we had 48% effective crime detection, which raises the question of whether these funds are being spent effectively.*

*It should be noted that according to the latest edition of the EU 2021 Justice Scoreboard, Bulgaria remains in first place in terms of total government spending on the judiciary as a percentage of GDP, although in terms of net expenditure it ranks 22nd among EU Member States. However, around 90 % of these funds is reportedly spent on wages and salaries. As a result Bulgaria follows only Greece and Romania under this cathegory.*

*The measures taken in this direction are fully in line with the commitments set out in the Updated Strategy for Continuing the Reform of the Judiciary and the updated roadmap to it (the Strategy).*

*The budget of the Prosecutor's Office of the Republic of Bulgaria, as well as the budget of each institution in the Republic of Bulgaria, should be managed effectively and there should be clear accountability. In this regard, as well as in implementation of Specific Objective 3 of the Strategy, it is envisaged to introduce program budgeting for each structure of the judiciary and guide the budget towards achieving results, as well as linking funding to objectives, activities, workload and objective cost estimation. Following the implementation of this measure, it is expected that a completely new budgeting system will be introduced, linked to results, increased transparency of the judiciary budget and the efficiency of budget management, increased transparency of the judiciary budget and efficiency of its structures, as well as an introduced model of periodic reporting and monitoring of program and linked to objectives and indicators budgets.*

*In terms of the number of judges per 100,000 citizens, Bulgaria is in fourth place among the EU Member States with a relatively high ratio of judges, taking into account that in 2017 there was a slight increase in values. At the same time, in terms of the number of lawyers per 100,000 citizens, Bulgaria is in ninth place with a level around the EU average, despite a slight increase in 2018 and 2019.*

*For the implementation of this measure, the Supreme Judicial Council is implementing a project funded by the Operational Program Good Governance. The project involves drafting an analysis of the European practices that shall include a review of the results oriendted programme budgeting of the judiciary implemented in the Member States. According to the 2019 EU Justice Scoreboard 8 EUMS use results oriented proggramme based budgeting of the judiciary. These countries use different models with a different level of conditionality of the buget and the results indicators and different consequences in case the indicators fail to be met. The analysis shall include a general overview and a comparative study of the models implemented by these Member States, including their goals, scope, performance indicators and the way the collected data is used in the decision making and budgeting processes. On the basis of the analysis, models and methodolies for programmed budgeting applicable in the Bulgaria’s circumstances shall be identified, including infomatin on the apllied methodologies for calculation of the expenses on types of cases, including on experts’ reports and fees. A methodology for programme budtetting shall be drated in implementation of the projest to define all the necessary elements for the effective impelentation of the programme budgeting system. A review of the existing court fees system shall be made for the purpose to identify the key issues in the current system. This review shall be used by the Supreme Judicial Council and the Ministry of Justice to identfy clear functions of the court fees and shall be used in the preparation of changes to the fees system. As part of this review and analysis of the structure and the trends of the income from court fees shall be made. The effective implementation of the programme budgeting also requires the development of a specific software for the reporting of the budget programmes.*

*Several activities have already been implemented under the project - an assessment of the implementation of program budgeting by the judiciary and an analysis of European practices for results-oriented budgeting of the judiciary, and an assessment of the system of court fees. A methodology for program budgeting in the judiciary is currently to be developed.*

**Questions to the Prime Minister and to the Minister of Justice jointly**

**Question 5**

**You intend to take forward a number of reforms, as you have stated prior and after your election. In particular, what judicial reforms do you intend to undertake? As regards the functions of the Prosecutor General, what will you propose to bring that office’s functioning fully in line with the relevant case law of the ECtHR, as well as with recommendations of the Venice Commission and the European Commission?**

*In response to the reports of the European Commission and the recommendations of the European semester, the Government made a political commitment to introduce the relevant reforms in the National Recovery and Resilience Plan (NRRP) and in the National Development Programme 2030. The said approach demonstrates the Government’s determination to implement their international commitments to strengthen the rule of law.*

*Those measures address as well the long-standing recommendations of the Council of Europe in terms of the execution of the ECtHR's judgments. In 2021 the Government adopted a roadmap with detailed actions and deadlines in this respect.*

*At the same time, the NRRP proposes measures for introducing an effective mechanism for the investigation against the Prosecutor General, in line with the Kolevi judgment and the set international standards and practices of the Council of Europe for improving the quality and efficiency of the Bulgarian judicial system.*

*Both the general issue of criminal procedure reform and the specific issue of accountability of the Prosecutor General are inextricably linked. The Kolevi judgment explicitly binds the general issue of refusal to initiate criminal proceedings with the specific issue of the influence of the Prosecutor General over other prosecutors and thus the practical impossibility for independent investigation and suspension. Therefore, the reform of the criminal procedure and the effective mechanism for the Prosecutor General accountability are related measures to overcome the systematic problem of ineffectiveness of criminal proceedings in Bulgaria. The measures are in line with the current constitutional framework and do not affect any possible constitutional reform in this direction. In order to achieve a deeper judicial reform, the Government need and will search a broader political consensus.*

**Question 6**

**Will your government commit to always consult and follow up on the recommendations of the Venice Commission regarding all judicial and constitutional reforms proposed in Bulgaria?**

*The Committee of Ministers (CM) of the Council of Europe monitors the execution of ECtHR judgments and annually examines the issues related to the deficiencies of the criminal procedure identified in those judgments. The CM requires general measures by the Bulgarian authorities and has so far delivered a number of relevant recommendations. The NRRP therefore provides that in the process of drafting the law provisions, they shall be consult with the Council of Europe's Execution Department. The draft law will be sent for opinion to the Venice Commission, which experience and recommendations have always been sought and highly valued.*

**Question 7**

**In our previous questions to the previous Bulgarian government, we have raised the issue of the rights of Roma populations being breached, in particular in the context of corona measures. What will the government do to improve the situation of Roma people in Bulgaria? In particular, what actions will your government take to ensure that Roma people will have more trust in law enforcement bodies and in bodies where they can lodge complaints, such as the Committee against Discrimination? Will you commit to refrain from any language that would stigmatise Roma in Bulgaria?**

***Question:***

***In our previous questions to the previous Bulgarian government, we have raised the issue of the rights of Roma populations being breached, in particular in the context of corona measures. What will the government do to improve the situation of Roma people in Bulgaria?***

***Answer:***

*The Government of the Republic of Bulgaria works to ensure the future of the Republic of Bulgaria as a democratic, law-abiding and welfare state. The coalition partners are unanimous in their commitment to serve all Bulgarian citizens. We have a clear vision that democratic processes require that confidence in all state institutions be strengthened.*

*Two of our goals are:*

*1. To carry out judicial reform that leads to independence, transparency and the restoration of confidence in the Judiciary, with a focus on protecting the rights and legitimate interests of citizens.*

*2. To create institutions that work in the interest of citizens, guarantee efficiency and transparency, create conditions for life in dignity and personal development.*

*During the last 46 days we tried to analyze and systematize the information and what has been done regarding the policies for integration of the population of Bulgarian citizens of Roma ethnic origin. Each of the democratic governments has included the Roma integration in its priorities. What has been done to guarantee their human rights is indisputable. However, it is not enough. Strategic documents with the respective priorities have been drafted, in implementation of EU policies and recommendations. There was a declared readiness and efforts were made by the Bulgarian government to improve the situation of the Roma. The National Strategy of the Republic of Bulgaria for Equality, Inclusion and Participation of the Roma (2021-2030) has been prepared to that effect (adoption by the Council of Ministers is forthcoming).*

*The strategy fits into the context of the development of European integration and inclusive policies, taking into account the guidelines set out in the Communication from the European Commission of 7 October 2020 "A Union for Equality: A European Union (EU) Strategic Framework for Roma Equality, Inclusion and Participation", as well as the annexes to it. The strategy will contribute to the implementation of the EU Action Plan against Racism (2021-2025) and the European Pillar of Social Rights (EPSR).*

*The elaboration of the document was preceded by an analysis prepared by the Institute of Philosophy and Sociology at the Bulgarian Academy of Sciences on the progress of the Republic of Bulgaria on the main priorities for social inclusion of Roma according to data and strategic documents from the monitoring, evaluation and control system that oversaw the implementation of the previous strategy for the period 2012-2020. The finished analysis was sent to all concerned ministries to be taken into account when they prepare the relevant policies and measures in the analysis. The framework for it has been developed by the Secretariat of the National Council for Cooperation on Ethnic and Integration Issues at the Council of Ministers. For the elaboration of the first draft of the Strategy 13 meetings were held with members of ministries, regional administrations, local authorities, mediators, regional experts on ethnic and integration issues, teachers, members of the academia, Roma activists, representatives of civil society organizations countrywide.*

*After the first public consultation held on the website strategy.bg, 16 opinions were received, which were largely critical on a wide range of topics in the draft strategy. As a result, it has been revised and most of the recommendations have been integrated into the document.*

*However, the Strategy is currently being revised again due to the dynamic health and economic situation and given the government's desire to implement more ambitious policies and reforms to ensure the rights of every Bulgarian citizen, including the Roma community, to create mechanisms to protect against discrimination, to overcome hate speech both by politicians and in public debate and to build an effective support system for vulnerable groups, including groups from the Roma community.*

*An extension of the term has been requested from the European Commission for submission of the strategy adopted by the Republic of Bulgaria until March 1, 2022.*

*On the recommendation of the Secretariat of the National Council for Cooperation on Ethnic and Integration Issues at the Council of Ministers, the action plan to the Strategy is a two-year plan, which will allow flexibility in creating adequate and medium-term ambitious, concrete and measurable actions in the next 6-12 months. The process of consulting all stakeholders will be reorganized in order to make both the process and its outcome more efficient. A specific budget will be allotted to each of the actions in this plan.*

***In connection with the health, economic and social effects caused by the COVID-19 pandemic with particular impact on vulnerable groups, incl. the Roma community:***

*In 2020, the Secretariat of the National Council for Cooperation on Ethnic and Integration Issues at the Council of Ministers established an online coordination mechanism for timely communication between central government institutions and local Roma communities. More than 15 Roma civil society organizations are involved in the established mechanism and actively participate in it.*

*The Secretariat of the National Council for Cooperation on Ethnic and Integration Issues which is the National Contact Point for the Implementation of the National Roma Strategy/National Contact Point for Roma Integration (The National Roma Contact Point) has been in constant contact with ethnic experts from regional and municipal administrations, directors of Regional Health Inspectorates, directors of Regional Departments of Education, experts from the Ministry of Health and the Ministry of Labor and Social Policy, as well as NGOs, Roma activists, health and educational mediators.*

*Health mediators, part of the Roma community, have provided and continue to provide key assistance in promoting the importance of quarantine (confinement) and hygiene measures to citizens of Roma communities. With the support of the National Contact Point at the national level, measures have been taken to include health mediators in the regional/local operational headquarters for combating the virus. Health mediators during the declared state of emergency due to the risk of coronavirus infection have supported not only the most vulnerable families in the ghettoized Roma neighborhoods, but also the institutions. Health mediators have patronized quarantined people (people on confinement), organized numerous campaigns to supply the most vulnerable families with personal hygiene items – soaps, disinfectants, masks, food provision under the program "Hot Lunch" and others.*

*The educational mediators provide everyday assistance to students who do not have access to Internet and/or devices to use it for educational purposes (these students are mainly from Roma families). The mediators bring them paperwork to study. When Internet access is guaranteed the educational mediators support students to use the specific electronic system (the online learning platform). In addition, some mediators use chats and video-calls to track the distance learning of students. In general, the educational mediators mobilize students to continue their educational process. Visiting homes, the educational mediators perform other functions as well: they distribute masks and other protective gear to the families, enlighten them on the danger of the new coronavirus and on the measures to protect themselves and the other people etc. Some schools started a campaign for donation of used devices for students to be able to be included in the remote learning.*

*In the end of 2020 at its meeting, on December 9, the Council of Ministers allocated nearly BGN 17 million in additional funds for general support of schools and CSESs. They will support the budget of educational institutions to deal with the consequences of the pandemic and to provide distance learning in an electronic environment for all children.*

*Additional funds for extraordinary expenses were provided to 2257 municipal and public schools and 42 centers for special educational support (CSES). The funds were transferred to the budgets of the municipalities – for the municipal schools, and to the budgets of the Ministry of Education and Science, the Ministry of Youth and Sports, the Ministry of Culture and the Ministry of Justice – for the respective public schools.*

*NGOs have also taken initiatives to address emerging pandemic difficulties. To support these most vulnerable students and schools, in the spring of 2020 they launched the “Old Devices for a New Beginning” campaign, organized by Center Amalipe. Thanks to companies, organizations and many citizens by the end of the 2019/2020 school year nearly 800 devices were provided to schools in need. Hundreds of student mentors are involved in the activities aiming to provide support for excluded families to acquire the necessary skills and habits to use e-learning devices.*

*In the spring of 2021 over 8,000 laptops for the needs of students were delivered to schools with higher concentrations of children and students from vulnerable groups in Sliven, Yambol, Plovdiv, Pazardzhik, Samokov, Asenovgrad, Petrich, Yakoruda, Sotirya, Strazhitsa and elsewhere. One of the measures to support overcoming and recovering from the crisis caused by the COVID-19 pandemic is the delivery of portable devices to state-run and municipal schools in the country, are part of the measures.*

*The supplies are part of the project "Equal access to school education in crisis conditions", which is aimed at ensuring the continuity of the educational process and counteracting the risk of dropping out in the situation of distance learning. For this purpose, more than 63,500 laptops and tablets for students and 20,000 laptops for teachers will be purchased.*

*The project is funded by the Operational Program "Science and Education for Smart Growth" /2014-2020/, co-financed by the European Union through the European Structural and Investment Funds, under the Instrument for Support of Overcoming the Consequences of the Crisis Caused by the COVID-19 Pandemic and the preparations for a green, digital and resilient recovery of the economy /REACT-EU/.*

*A targeted communication campaign and improved access to vaccination in Roma communities are planned in the coming weeks, as no targeted efforts have been made so far.*

***Some of the specific measures already included in the 2021-2023 plan for social, educational and health support and set out in the coalition agreement are:***

*1. One-off assistance in the amount of one minimum wage for parents who have to stay at home to look after their children as the COVID measures closed schools and kindergartens.*

*2. Expanding the scope and increasing the amount of energy aid to 200 KWh per month per household.*

*3. Establishment of mobile vaccination groups - together with the Bulgarian Red Cross, the Bulgarian Medical Union and the universities.*

*4. 95% reimbursement by the National Health Insurance Fund for children under 14 years of age.*

*5. Effective vaccination public awareness campaign to ensure safe on-site training. Identifying and addressing the side effects of the pandemic on each child, through additional educational and psychological support.*

*6. Organization of summer training for students to make up for gaps in education*

*7. Inclusion of information about Roma and other communities in history textbooks.*

*8. Free state-run and municipal nurseries and kindergartens with the budget of 2022, after discussion with other commissions and a voucher scheme for non-admitted children who otherwise are eligible to admission.*

*9. Comprehensive analysis of the system of places with high segregation and implementation of programs for inclusive education.*

*10. Review of health care for the uninsured.*

*11. Implementation of integrated activities for educational integration of children and students from ethnic communities in a vulnerable position by ensuring an effective process of coverage, inclusion and reintegration into the educational system.*

*12. Providing an inclusive environment for children who do not speak Bulgarian well in preschool age through the implementation of additional modules in Bulgarian, incl. and development and application of methodologies for mastering the Bulgarian language.*

*13. Development of specialized methodologies for teaching Bulgarian language for children with mother tongue other than Bulgarian who do not speak Bulgarian well for all age groups (3-6 years) and for different age groups.*

*14. Supporting the municipalities for the implementation of activities for educational desegregation and prevention of secondary segregation by providing free teaching aids and resources, as well as free transport for children in compulsory preschool education.*

***Question:***

***In particular, what actions will your government take to ensure that Roma people will have more trust in law enforcement bodies and in bodies where they can lodge complaints, such as the Committee against Discrimination?***

***Answer:***

***Some of the specific measures that are already included in the plan 2021-2023 to the National Strategy of the Republic of Bulgaria for Equality, Inclusion and Participation of the Roma (2021-2030) and are set out in the coalition agreement are:***

*1. Enforcement of internal sanctions in the event of human rights violations by central and local government institutions;*

*2. Extended primary legal aid services for vulnerable groups. In 2020, the National Legal Aid Bureau launched the project "Improving access to justice for people living below the poverty line with a special focus on women, children and the Roma community", funded by the Justice Program of the Norwegian Financial Mechanism 2014-2021. The project partner is the Norwegian Judicial Administration. The main activity of the project envisages the provision of legal advice in isolated and remote places to members of vulnerable social groups, including victims of domestic violence, women, children and members of the Roma community. To this end, mobile teams of lawyers and Roma mediators will be set up to provide primary legal aid and raise public awareness of the protection of their rights.*

*3. The Project "Improving the access of vulnerable groups to legal aid through the introduction of a pilot project for ‘a hotline for primary legal aid‘ and regional counseling centers" is being implemented. It is funded by the BG 14 program of the Norwegian Financial Mechanism 2009-2014. The National Legal Aid Telephone is a hotline where every citizen can get free legal advice. The national telephone is administered by the National Legal Aid Bureau. Legal advice is provided free of charge by experienced lawyers.*

*4. Trainings for increasing the capacity of the police officers working in a multiethnic environment, incl. in Roma communities and preventing the abuse of power by police officers. The Ministry of the Interior has an established and functioning procedure for receiving information on the excess of power by police officers: a commission is appointed and an inspection is made, and if there is a disciplinary breach - a disciplinary commission is appointed; the Ministry of the Interior has a Standing Committee on Human Rights and Police Ethics.*

***Under Priority 5 of the Strategy – Rule of Law and Non-Discrimination, the Commission for Protection against Discrimination (CPD) is committed to the implementation of:***

* *Training of police officers on human rights and the problems of ethnic groups within the official school year at work;*
* *Annual trainings at national and local level on the topic: "Police work with ethnic groups", in order to prevent discrimination;*
* *Conducting research on the state of discrimination against the Roma population in the areas of employment, health care, housing policy, poverty levels, social security and isolation;*
* *Conducting seminars/round tables on the issues of equality and non-discrimination of Roma women in Bulgarian society;*
* *Development of a program for prevention, tolerance of differences and integration of the Roma, which will contribute to overcoming interethnic tensions and compliance with the principle of non-discrimination against a group of persons, in particular vulnerable social groups;*
* *Involvement of the Roma community in prevention and non-discrimination in the process of collecting and analyzing data related to human trafficking and victim care;*
* *Raising awareness of children and their families about the rights of the child, regulated in the UN Convention on the Rights of the Child and the Child Protection Act, and about existing social support services in the community.*

***Measures:***

* *Ensuring effective prevention, investigation and imposition of administrative penalties in interethnic incidents, especially those bearing the hallmarks of crime and incitement to national, racial and religious hatred and intolerance.*
* *Combating discriminatory practices against ethnic groups in all areas, in particular by analyzing specific cases of discrimination against members of these groups, of which the Comission for Protection against Discrimination (CPD), the Ombudsman and others have been informed.*
* *Inclusion in the existing programs of the educational system at all levels of education and acquisition of knowledge about the rights and basic characteristics of ethnic, religious, linguistic or other groups living in the Republic of Bulgaria.*
* *Awareness and information campaigns to increase sensitivity and intolerance of discrimination.*

***Question:***

***Will you commit to refrain from any language that would stigmatise Roma in Bulgaria?***

***Answer:***

*Preaching or inciting discrimination, violence or hatred based on race, nationality or ethnicity is criminalized in Bulgarian law - Penal Code.*

*For us as a government, it is a priority to create working, modern and effective mechanisms to guarantee democracy, the rule of law and human rights in Bulgaria.*

*The Commission for Protection against Discrimination (CPD) pursues a consistent and focused policy for protection of vulnerable groups, including Roma, guided by the principles of non-discrimination, respect for human dignity and ensuring equal opportunities and equal treatment of all citizens, regardless of their ethnic origin.*

*As a result of the good cooperation with Roma non-governmental organizations and in order to conduct joint initiatives and campaigns, the CPD periodically meets with them.*

*Regarding the pandemic measures CPD drew the attention of the Minister of Health and recommended compliance with anti-discrimination legislation and equality principle by focusing that the issuance of certificates should not lead to discrimination within the meaning of Regulation (EU) 2021/953 of 14 June 2021.The Commission also draws the attention of employers from areas other than those specified in the Minister of Health orders not to restrict the right to work by introducing measures that are not objectively justified and exceed what is necessary to achieve the goal.*

*Explanatory campaigns are also planned by the CPD together with non-governmental organizations working on Roma issues in order to ensure maximum information for protection of their rights.*

*The Commission for Protection against Discrimination pays special attention to the submitted inquiries and complaints in connection with the conditions of the emergency epidemiological situation. Independent legal aid is provided to citizens in order to maximize the protection of their rights. In this regard, in 2022 it is planned in the activities of the commission to hold regular meetings among the Roma population by representatives of the CPD together with municipal coordinators working on the topic of discrimination. The goal is to maximize the help to vulnerable groups. There are not only complaints related to ethnicity, but also to disability, property status, education, access to quality provision of goods and services and others.*

*Annaully the CPD submits a report to the National Council for Cooperation on Ethnic and Integration Issues in connection with its activities for Roma integration. Many of the regional representatives of the Commission are permanent members of the Regional Councils for Cooperation on Ethnic and Integration Issues. They actively participate in the development and implementation of the Regional Strategies for Roma Integration. Open receptions are held in Roma neighborhoods.*

*In the CPD, by explicit order of the chair, the characteristics "race" and "ethnicity" are considered by the First Specialized Permanent Panel.*

*For the sake of clarity, we provide statistics on initiated proceedings for protection against discrimination in the past years on the two above-mentioned grounds:*

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| *Grounds* | *2005* | *2006* | *2007* | *2008* | *2009* | *2010* | *2011* | *2012* | *2013* |
| *Ethnicity* | *0* | *45* | *62* | *47* | *29* | *35* | *49* | *50* | *57* |
| *Race* | *2* | *0* | *3* | *2* | *3* | *1* | *4* | *1* | *3* |

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| *Grounds* | *2014* | *2015* | *2016* | *2017* | *2018* | *2019* | *2020* | *2021* | *Total* |
| *Ethnicity* | *54* | *89* | *42* | *25* | *28* | *42* | *22* | *16* | *692* |
| *Race* | *1* | *3* | *2* | *3* | *1* | *5* | *4* | *3* | *41* |

*In anti-discrimination proceedings, the Commission considered both individual complaints and signals from Roma NGOs for unequal treatment of Roma children in the exercise of the right to education, including complaints about the segregation of schools in cities and towns. In deciding on these complaints, the various Commission panels have taken into account the disadvantaged situation of Roma children and the need to take special measures to equalize the situation of children at risk.According to the practice arising in the CPD, there are manifestations of discrimination against Bulgarian citizens of Roma origin in various spheres and areas of socio-economic and social life. For this purpose, the CPD Development Strategy envisages initiatives in the field of prevention for active cooperation in accordance with the powers of the CPD with nongovernmental organizations with the participation of representatives of the Roma ethnic group working in the field of human rights.*

*The analysis of the results gives grounds to substantiate the conclusion that the CPD has established itself as a guarantee for overcoming differences, ensuring equality and nondiscrimination. The Commission has a real impact on deterring and reducing discrimination, both through the power to rule on specific cases and to impose sanctions, and through ongoing preventive action.*

*On EU level negotiations are ongoing for adding hate speech and hate crime to the areas of crime in Article 83 (1) of the TFEU. Bulgaria supports the proposal and we are looking forward to the future initiative of the Commission for a new act that will contribute to the improvement of the criminal law framework on hate crime and hate speech, including with regard to Roma people.*

**Question 8**

**As mentioned in various reports of the European Commission and GRECO, the fight against corruption needs to become more successful, especially regarding high profile officials and politicians. What plans does your government intend to put forward to increase the fight against corruption? Will you commit to implement all the recommendations of GRECO? And will you take good practices from other EU Member States in fighting corruption? If so, which ones?**

*As set out in the Agreement for Joint Governance of the Republic of Bulgaria in the period 2021 - 2025, the government is determined to strengthen the activities of anti-corruption bodies one of the planned measures being to reform the functioning and structure of the Commission for Combating Corruption and Confiscation of Illegally Acquired Property (CCCCIAP). The same measure has been idetified as a reform in the draft National Recovery and Resilience Plan. The measure will be achieved through the following steps:*

*1. Preparation of a bill in which to regulate the powers of an independent anti-corruption commission, to assign inspections to other competent bodies and directorates - NRA, SANS, etc. This commission will have investigative powers so that the evidence gathered can be used in criminal proceedings in providing appropriate legal guarantees for the rights and freedoms of citizens and businesses. An independent Commission for confiscation of illegally acquired property (for recovery of assets) shall be established i.e.:*

*- to review of the functions and activities of the inspectorates at the ministries;*

*- the Anti-Corruption Commission to appeal the refusals of the Prosecutor's Office to initiate pre-trial proceedings on files submitted by it with data on committed corruption crimes;*

*- in case of establishing data for significant discrepancy in the property or in case of established conflict of interests the Anti-Corruption Commission/Unit shall have the powers to refer the case to the Asset Recovery Commission for inspection within its competence;*

*2. With regard to the activities of the Anti-Corruption Commission, respectively the Asset Recovery Commission will proceed to:*

*- Adopt a clear, operational and publicly available methodology for financial valuation of assets, which allows adequate assessment of the value of assets to be seized, and audit of the cases filed so far for confiscation of illegally acquired property in order to reduce the risk of engaging the state's responsibility in future cases;*

*- Adopt a policy for focusing on persons with a higher risk of corruption;*

*- Introduce a requirement for initial and periodic checks on the integrity of key employees in the structure of anti-corruption bodies.*

*The Anti-Corruption Body will be subject to parliamentary control by the Anti-Corruption Parliamentary Committee, established by the National Assembly and consisting of sitting members of the National Assembly, as follows:*

* *Quarterly reports to the Parliamentary Committee;*
* *Credible allegations of corruption to be referred by the Parliamentary Committee to the Anti-Corruption Body;*
* *The Parliamentary Committee will also be able to hear the leadership of the Anti-Corruption Body upon request.*

*As regards GRECO recommendations:*

*The comparative analysis of the GRECO reports does show that Bulgaria is one of the countries taking the most timely and adequate measures to implement the recommendations made in all four rounds of evaluation so far.*

*At the moment there is no open round of evaluation for Bulgaria. In December 2019, GRECO adopted the Second Report on Bulgaria on the Implementation of the Recommendations of the Fourth Round of Evaluation on “Prevention of corruption in the respect of members of parliament, judges and prosecutors”, thus closing the Group's monitoring of our country within this round. The report concludes that the Bulgarian authorities have satisfactorily implemented 16 recommendations and partially implemented 3 recommendations[[1]](#footnote-1). Although the review of the implementation of GRECO's recommendations in the Fourth and previous rounds of evaluation has been completed, in the context of anti-corruption and judicial reform, the Bulgarian authorities continue to take action within the scope of some of these recommendations. In July 2021, in response to the recommendation for clear, objective and transparent criteria for determining the amount of additional remuneration within the judiciary, the Judges’ College of the Supreme Judicial Council adopted new Rules for Determining and Paying Additional Remuneration to Judges in accordance with Art. 233, para. 6, sentence one of the Judiciary Act. According to the new rules, the decision to pay additional remuneration is taken by the Judges’ College of the SJC according to the degree of workload of the respective court for the previous year. It should be noted that the amount of the additional remuneration is determined in general for the respective court, and is distributed equally among the judges, proportionate to the time worked. In pursuance of international anti-corruption standards and in order to transpose into Bulgarian law the provisions of Directive 2019/1937 on the protection of persons who report breaches of Union law, the Ministry of Justice has prepared a draft special law due to be sent for approval to the Council of Ministers and then to be submitted in Parliament.*

*The experience and good practices of other countries in the fight against corruption have always been taken into account by the Bulgarian institutions in the process of formulating anti-corruption policies and their implementation while considering the peculiarities and traditions of the Bulgarian legal and institutional system.*

*This year, GRECO experts will visit our country as part of the Bulgaria’s fifth round of evaluation, which is dedicated to the topic "Prevention of corruption in central governments (senior officials in the executive branch) and law enforcement agencies." Due to the complicated epidemic situation in Europe, the visit has been postponed several times, but we hope that this year it will take place.*

**Question 9**

**Regarding the sanctions taken by the US against Bulgarian officials under the Magnitsky Act, how does your government intend to follow up on these? Will these sanctions lead to further investigations? Have contacts with the US authorities been established regarding these sanctions?**

*The Ministry of Justice, in its capacity of central authority for international legal cooperation, provided assistance to the Bulgarian Public Prosecutor's Office in connection with its interaction with other countries for the purposes of its activities. Such cooperation has also been carried out with the United States.*

*The Prosecutor's Office is the competent body to decide how to use the information obtained through the mutual legal assistance channels for the purposed of the investigation.*

**Question 10**

**Regarding women's rights, will your government address the low reporting rate on domestic violence, as reported by EIGE? Will your government commit to ratify the Istanbul Convention?**

*The Government identifies combating all forms of violence against women and girls and domestic violence as one of its main priorities.*

*In the last few years a number of legislative amendments were adopted. The amendments address all deficiencies in the legal framework to bring them in compliance with the international and European standards.*

*In view of the recent escalation of domestic violence in Bulgaria during the pandemic, the Ministry of Justice took urgent measures to finalise the draft amendments to the Law on protection against domestic violence to provide adequate measures for effective prevention and social support for victims, including creating a database and systematically collecting statistics on domestic violence. The bill was published for public consultations with deadline by January 27th, 2022.*

*The main provisions of the proposed bill are the following:*

* *Expanding the circle of persons victims of domestic violence who may seek protection under the Protection Against Domestic Violence Act (PADVA);*
* *Increasing the measures for protection against domestic violence that may be imposed by the competent authorities;*
* *Expanding the circle of persons who can initiate proceedings before the court for issuing a protection order;*
* *Establishing a national body for coordination, monitoring and evaluation of policies and measures for prevention of domestic violence and improvement of the interaction between the various state bodies and organizations related to the problem;*
* *Establishing a coordination mechanism to provide clear rules for action and coordination between competent authorities and organizations, thus ensuring reliable, timely and adequate protection of victims of violence;*
* *Creating a database and systematic collection of statistical information on domestic violence. It is envisaged to establish a National Register of cases of domestic violence committed on the territory of the country or in respect of Bulgarian citizens who have sought help and support, which will collect systematic information on certain indicators. The National Register will contain a database of: acts of domestic violence; data on the victims and the perpetrators and the relationship between them; type of violence - physical, mental, sexual, emotional, economic, restriction of rights, etc .; duration of violence; damages caused to the injured person; history of relationship violence; submitted applications for issuance of a protection order or requests of the prosecutor for initiating proceedings under the PADVA; imposed measures under the the Protection Against Domestic Violence Act, the Ministry of Interior Act, the Child Protection Act and the Social Services Act; natural persons and legal entities, providers of social services, which carry out activities for prevention and protection from domestic violence. The information subject to entry in the National Register, the procedure for collecting and presenting the information, the organization and functioning of the register, as well as the part of the information that is public, shall be determined by an ordinance adopted by the Council of Ministers.*
* *Regulating the prevention and protection programs and specialized services providing protection from the period of domestic violence to the full recovery of victims and their social inclusion in society. It is envisaged that the following specialized protection services will be provided to a victim of domestic violence:*

*- consultation on a 24-hour toll-free telephone line;*

*- counseling in a counseling center for victims of domestic violence;*

*- accommodation in a crisis center for victims of domestic violence;*

*- accommodation in a shelter (sheltered housing) for victims of domestic violence for accommodation after the sixth month of the accident.*

*According to the bill, the specialized services are provided to be provided free of charge to the victims of domestic violence at their request. A person who has committed domestic violence will be referred to a specialized program for overcoming aggression and dealing with anger, which is paid for by him. The program can be part of a specialized service or provided independently.*

* *Optimization and improvement of the court proceedings for imposition of measures for protection from domestic violence in the direction of speed, effective law enforcement and creation of guarantees for protection of the interests of the victims;*
* *It also envisages amendments to the provisions of the Penal Code criminalizing domestic violence in the spirit of the recommendations of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) to remove the requirement for systemicity in the definition of crimes committed in of domestic violence; explicit criminalization of marital rape and criminalization of all forms of economic and psychological domestic violence.*

*The Government prioritises training activities and raising awareness among law-enforcement, social services and judicial authorities to effectively prosecute the offenders and to provide support and assistance for victims of violent crimes.*

*With regard to the possibility for the government to ratify the Istanbul Convention, it should be borne in mind that, taking into account the Constitutional Court Decision of 27 July 2018, the Court ruled that the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, opened for signing on 11.05.2011 in the city of Istanbul, signed by the Republic of Bulgaria on 21.04.2016, does not comply with the Constitution of the Republic of Bulgaria, our country is not able to ratify this international act, as well as to join any part of it. By virtue of Art. 14, para. 6 of the Constitutional Court Act, the Constitutional Court Decision № 13 of 27 July 2018 is binding on all state bodies, legal entities and citizens.*

*The Ministry has carefully analysed the recently issued opinion of the EU Court of Justice on the EU accession to the Istanbul Convention. This process should be in line with the principles of conferral and sincere and loyal cooperation. Therefore, the Member States should reach a “common accord” giving their consent to being bound by the convention.*

**Question to the Minister of Culture**

**Question 11**

**Regarding media freedom and pluralism, and the transparency of media ultimate beneficial ownership, will you put forward proposals that will address the long-standing problems in this field, as raised multiples times by European institutions such as the Council of Europe and in the EU Media Pluralism Monitor?**

* *Freedom and pluralism of the media*

*In the short and medium term, coordinated actions are envisaged to conduct a detailed and in-depth review of the situation in order to identify, plan and develop legislative changes, initiatives and effective measures to improve and strengthen the overall media environment and reinforce media freedom and pluralism. The approach to these activities will be strategic, coherent and coordinated on the basis of an ongoing dialogue and cooperation with stakeholders, in particular the media, as well as with competent institutions and bodies at national and European level. The work will be in accordance with the recommendations to Bulgaria set out in the relevant documents of the European institutions, as well as the Action Plan for European Democracy, taking into account its legislative and non-legislative actions, including the Recommendation on the protection, safety and empowerment of journalists and other media professionals in the EU published by the European Commission on 16.09.2021.*

*Work is also planned on legislative provisions aimed at improving the transparency, accountability and independence of the media, strengthening the governance of public media, incl. possible measures to prevent political interference on the media and measures to finance the media in support of pluralism and diversity. The work will start in the second half of 2022 in view of the expected publication by the European Commission of European Media Freedom Act.*

* *Transparency of media ultimate beneficial ownership*

*Since 2018, the legislative provisions related to the transparency of media ownership have been laid down in the Law on the Mandatory Deposit of Printed and Other Works and the Announcement of Distributors and Providers of Media Services. Media service providers have an obligation to disclose information on their ownership and funding annually. In their declarations, the media also indicates all contracts concluded with state and local authorities, as well as with other contracting authorities, listed in detail in the relevant provisions.*

*The Revised Law on Radio and Television, in force since 22.12.2020, provides tools and powers to the national regulatory authority (CEM) to exercise more effective market control, which will reflect on the mechanisms for protecting the rights and interests of users of these services. The amendments to the Law introduced additional requirements to the CEM Public Register, namely: to fill in data on legal entities and individuals exercising control over the management of providers of on-demand media service, as well as data on their governing bodies, including their personnel. The same data should be entered in the register of persons providing services on video-sharing platforms. The registers also include a link to the information on the ownership structure and the actual owners of the respective service providers, supplied to the commercial register and the register of non-profit legal entities under the Anti-Money Laundering Measures Act. (Article 7, paragraph 2). The Council has brought the Public Register in line with the requirements of the law.*

*By Decision № 806 of 6 November 2020, the Council of Ministers adopted a Plan for Implementation of measures in response to the recommendations and identified challenges contained in the European Commission's Report of 30 September 2020 on the Rule of Law for 2020, the situation in the area of ​​the rule of law in Bulgaria.*

*In particular, the measures envisaged to address the challenges of ensuring "media pluralism" concern the established lack of transparency in media ownership and funding. In this regard, we are working on the implementation of two specific objectives: Increasing the transparency of media ownership; strengthening controls on the declaration of ownership of media service providers.*

*As a result, in October 2021 the working group established by an order of the Minister of Culture of 15.10.2021 began, whose task is to prepare amendments to the Law on Mandatory Deposit of Printed and Other Works and the announcement of the distributors and providers of media services. The focus of the discussions aimed to improve the Law is to illuminate the ownership of online publications, which will improve the effectiveness of law enforcement, and to further refine the scope of distributors and providers of media services; effective control over the hidden ownership of anonymous online sources of information that influence public opinion in a non-transparent way, incl. by using fake news.*

*We will also rely on the new Media Ownership Monitor. It will be a valuable tool for all MS, enabling better-informed policy interventions and regulatory interventions in support of media freedom and pluralism.*

**Questions to the Prosecutor General, Mr Ivan Geshev**

**Question 12**

**During the DRFMG mission in Bulgaria in September 2021 the Prosecution was not in a position to provide updated information on several high-profile cases. Could you inform us about the current state of play of the so-called Barcelona gate investigation, as well as the so called Golden Bars investigation both of which allegedly involving the former Prime Minister Borisov? Having in mind that the first media publications revealing possible involvement of the former Prime Minister in corruption schemes appeared almost 2 years ago what are the main reasons preventing the Prosecution from finalizing the work on these two cases?**

**Question 13**

**Since years, high-level corruption in Bulgaria is reportedly linked with EU funding on big infrastructure projects, in particular building and reconstruction of high ways. Recently, the Ministry of the Interior announced discovering a major corruption scheme applied on one of the main Bulgarian high way - Hemus, in which allegedly billions of euros have disappeared. While the investigation is still on-going, there have been media publications presenting the reluctance of the Prosecution to advance the investigation, as it refused to grant witness protection to one of the key witnesses in the scheme. The status of witness protection has been used in the past and it is widely accepted instrument of the penal proceedings in many Member States. What is the current state of play of the investigation and what motives led the authorities to conclude that there is no need for granting witness protection?**

**Question 14**

**What concrete actions will the Prosecutor General take, to ensure proper investigation of violence against journalists?**

**Question 15**

**The nomination of the Bulgarian delegated prosecutors to the EPPO turned out to be quite challenging. In March 2021 EPPO announced that 7 of Bulgaria`s initial 10 candidates do not meet the necessary requirements and in April 2021 the EPPO chief prosecutor requested officially new nomination. In the following months, the EPPO continued not to accept some of the candidates proposed by Bulgaria, most recently in January 2022 EPPO announced that Mrs. Anita Djamalova does not meet the necessary requirements set in the EPPO Regulation. How the nomination procedure was organized? Having in mind the importance of the work of the EPPO, what led to so many inaccuracies and gaps in the nomination procedure?**

**Further questions to the Bulgarian Government**

**Question 16**

**During the election campaign, the reform of the judiciary and in particular, the reform of the functions of the Prosecutor General plaid central role in the platforms of almost all political groups. Could you please provide information on exactly how the new government intends to reform the judiciary, including the issues identified by the Commissions 2021 Rule of Law Report - what measures will be implemented and under what deadlines?**

*In response to the findings of the European Commission's Rule of Law annual reports and the recommendations of the European Semester, we have adopted an approach to include in the National Recovery and Resilience Plan (NRRP) and in the National Development Programme Bulgaria 2030reforms with political commitment to guarantee the Rule of Law.*

*The commitments made are based on additional consultations with the European Commission. As a result of the dialogue with the Commission, the draft NRRP includes both activities set out in the Roadmap for the Implementation of the Recommendations on the Insolvency and Stabilization Framework and in the Plan for the Implementation of the Measures in Response to the Recommendations and the Identified Challenges set out in the European Commission's Rule of Law Report of 30 September 2020.*

*In this context, by Decision № 586 of 6 August 2021, the Council of Ministers adopted a Roadmap for the implementation of the custodial sentences of the European Court of Human Rights. The document is based on an analysis of the main problems arising from the identified violations of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe. It contains a detailed list of violations of the Convention on the various convictions found by the ECtHR, notes the measures needed to overcome them, identifies the institutions within the executive branch responsible for their implementation and provides specific deadlines for the drafting of the relevant legislative or other proposals .*

*At the same time, measures to increase the accountability of the Prosecutor General have been proposed in the draft NRRP in order to ensure that Bulgaria applies the established international practices of the Council of Europe for impartial and efficient justice. These measures testify for the determination to implement the Kolevi judgment and the excellent cooperation between the Bulgarian authorities and the Council of Europe, which has always been beneficial in our efforts to reform the institutions in compliance with international democratic standards and the Rule of Law.*

*Legislation to reform the insolvency framework, to regulate lobbying and whistleblowers’ protectin is planned to be adopted in the short term. Structural reform will be implemented to increase the efficiency of anti-corruption institutions, and a new anti-corruption structure with investigative functions will be established of the current CCCCIAP. At the same time, the projects included in the context of the Recovery and Resilience Mechanism will contribute to the provision of modern technical equipment for secure and accessible e-justice, as well as to the broadening the use of alternative dispute resolution methods.*

**Question 17**

**Does the new government intend to reform the Ministry of the Interior? Could you specify what organizational and functional reforms will be implemented and in what timelines?**

*A working group was set up by Order № 8121z-1714/23.12.2021of the Minister of Interior, to review the legislative framework and optimize the MoI structure, until 31st January 2022.*

*The tasks of the working group include drafting of an analysis of the MoI structure and the available human resources, as well as offering a proposal for optimization of the MoI structure, including methodology of restructuring, optimization of the staff and financial evaluation.*

*Furthermore, a working subgroup was set up by order № 8121z-15/06.01.2022 of the Minister of Interior, to optimize the structure with a view to re-establishing the Migration Directorate as an independent agency. The opinion of the working group is required because of the raising importance of migratory processes in a national and international perspective. Currently, no decisions are taken, only analytical data is collected to evaluate the need for enhancing the capacity of the Migration Directorate. Based on the analyses drawn up so far, we can sum up that it would be reasonable to keep the Migration Directorate within the Ministry of Interior, preserve its current status and search for different ways to optimize its performance.*

*A working subgroup was set up by Order № 8121z-16/06.01.2022 of the Minister of Interior to optimize the structure in terms of reestablishing the Chief Fire Safety and Civil Protection Directorate and the National 112 System Directorate as an individual agency. The task of the working group is to offer options followed by a comprehensive analysis of the proposals, in order to make a well-grounded decision. Its performance is still underway, before a final decision is made.*

*Furthermore, in compliance with item 1.7 of Ruling № 892 of the Council of Ministers of 2021, amendments should be proposed according to which the Medical Institute of the Ministry of Interior shall be transferred to the Ministry of Health. No deadline has been set for the proposal.*

*Beyond the abovementioned, the Agreement for joint governance of the Republic of Bulgaria in the period 2021– 2025, which is binding and will be enforced for the term of office of the 47th National Assembly, to the parties and coalitions registered for the elections for MPs on 14th November 2021, which explicitly joined it, and Appendix 10 thereto, concerning homeland security, stipulate the following activities:*

*1. Emergency measures:*

*a. Assign, through the parliamentary control procedure, to the Minister of Interior to perform a quick review of the secondary legislation, to allow releasing the staff from performing untypical activities;*

*b. Assign elaboration of samples of new police uniforms and protective garment for the fire safety staff;*

*c. Eliminate paper duplication of electronic documents and digital processes;*

*2. Survey of the Ministry of Interior – functional analysis of the Ministry for the first six months of governance:*

*a. Strategies for operation of the Ministry;*

*b. Proposals for a new structure, units and staff;*

*c. Releasing police bodies from untypical activities;*

*d. Introducing an impartial and independent methodology for registration of signals and crimes and reporting based on impartial criteria;*

*e. Setting targets, criteria for assessment of the performance and mechanisms for external control;*

*f. Control of the information and the access to information, in compliance with the requirements of partner services;*

*g. Using available analyses in the process;*

*h. Functional analysis is made with the participation of the political and the professional MoI leadership, the unions, a representative of the Ministry of Finance and one parliamentary representative of each party of the coalition;*

*i. Enhance the capacity of the Internal Security Directorate of the Ministry;*

*j. Evaluation of the role and the admissibility of retired persons working in the MoI;*

*k. Synchronizing the Law on the Ministry of Interior with the Law on the Civil Servants and the Law on the Administration;*

*i. Exploring the option for setting up centers for administrative services and taking them out of the Ministry of Interior;*

*3. Setting up a new legal framework on the structure and the functions of MoI, based on the recommendations of the functional analysis.*

*4. Expanding the area of performance and searching for a most expert and financial insurance of work under programs for victims of crimes, domestic violence, drugs and reoccurring crime. Focusing on the cooperation with the Ministry of Justice, Ministry of Labor and Social Policy and the local governance authorities.*

*5. Drawing up a new police map focused on small cities and villages:*

*a. Permanent presence of police officers;*

*b. Regular patrols;*

*c. Equipment for real time surveillance (video surveillance, panic buttons, unmanned aerial vehicles, sound sensors, etc.);*

*d. Increasing the presence of MoI officers in the community. Establishing contact between the local police inspector and the people living in the area;*

*e. Involvement of representatives of the local communities;*

*f. Payment for additional work and adequate workload;*

*6. Improvement of the capacity for Criminalistics and Criminology through:*

*a. Subsequent qualification and re-training of criminalistics experts;*

*b. Technological update of MoI in the area of criminalistics;*

*c. A single criminalistics database;*

*d. Building a working system for storge of evidence;*

*e. A single institute of criminalistics and criminology which will restore the science and research activities, methodology and training;*

*f. Development of a programme for training and specializations abroad.*

*7. Establishment of a system and criteria for fair salaries and improve technical capacities of the MoI employees.*

*8. Improvement of the cooperation with European partner services with a focus on the migration crisis.*

*9. Continuing the efforts for strengthening the control along our Southern state border. Including through the effective use of video surveillance, unmanned arial vehicles and other technical means.*

*10. Setting up a unified service for cyber security and cybercrimes.*

*11. Trainings for the MoI employees:*

*a. for combatting domestic violence;*

*b. language training;*

*c. improvement of legal expertise;*

*d. building an understanding of human rights;*

*e. continuous specialized training in the field of criminalistics such as conduct of interviews and interrogations.*

*12. Zero tolerance and immediate reaction to law infringements and crimes.*

*13. Optimization of the operational and search activities:*

*a. provision of technical equipment;*

*b. giving structure to the work and training of undercover officers, including legislative amendments;*

*c. development and use of a network of agents and voluntary assistants.*

*14. Review of all the laws in the area of security.*

*15. Establishment of a system for professional training and education for people working in the area of security.*

*16. Review of the wealth and possible connections with organized crime of officers at risk (integrity tests).*

*17. Strengthening the counteraction to money laundering in economic sectors through better coordination with the authorities working on combatting money laundering (National Revenue Agency, Financial Supervision Commission, Bulgarian National Bank, State Agency for National Security, Chief Directorate for Combatting Organised Crime and partner services):*

*a. Review of the checks done so far and assessment of their effectiveness;*

*b. Review and optimization of the secondary legislation and instructions for cooperation;*

*c. Analysis of the cases of foreign capital infiltrating in the country;*

*d. Analysis of the capabilities of new technologies, including crypto currencies for money laundering;*

*e. Increased control over off-shore companies;*

*f. Training for the business on the mechanism for counteraction to money laundering;*

*g. Increased control over the sectors with concentration of investments, including foreign investments.*

*18. Functional analysis of SANS along criteria for completeness, objectivity, effectiveness, counteraction to the threats, adequate number of staff, political neutrality, integrity, technical means, workload, etc.*

*19. High level of parliamentary control of the security services:*

*a. Periodic participation of the directors of the services in the parliamentary committees and limiting the use of classified information as a prerequisite for not sharing the requested information (when applicable);*

*20. Focus on combatting the groups for buying votes.*

*21. Legislative measures for interception of corruption practices. Full transparency of pubic procurement:*

*a. digitalization of the process of public procurement;*

*22. Introduction of a system of real accountability of the magistrates under the Law on the Judiciary.*

*23. Strengthening the role of the Inspectorate of the Supreme Judicial Council.*

*24. Judicial control over the refusals of the prosecutor’s office to start cases for pre-trial proceedings. Introduction and implementation of systems for evaluation and filtering of the cases based on different criteria and principles.*

*25. Amendments to the Law on Special Intelligence Devices:*

*a. Limiting the number of authorities that request the use of SID;*

*b. Removing the dependency of the Bureau for control of SID from SANS;*

*c. Clarification of the grounds for receipt of permission to use SID.*

*26. Creation of conditions for leading role of the investigating police officers;*

*27. Legal amendments to setting the police work as central and establishing the structural and functional independence of the services with police competences from the political management of MoI.*

*28. Establishment of conditions for autonomy and independence of the investigating teams.*

*29. Improvement of the material conditions in the facilities for conduct of main procedural activities, including through increase of the numbers of rooms for interrogation and identification.*

*30. Setting up units for planning of police operations through coordination of the investigating police officers and the experts.*

*31. Optimisation of the target activities of MoI, including through focus on prevention. Introduction of modern and adequate system for risk assessment, in processes and activities performed by MoI.*

**Question 18**

**The fight against high-level corruption in Bulgaria represented a constant challenge in the last 10 years. Many reforms have been implemented and still, Bulgaria did not manage to acquire irreversible results and a solid track record. How will the new government address this challenge? What kind of reforms will it introduce?**

*The government is determined to strengthen the activities of the anti-corruption bodies, one of the planned measures being to reform the functioning and the structure of Commission for Combating Corruption and Confiscation of Illegally Acquired Property. The same measure has been included as a reform in the draft National Recovery and Resilience Plan. The measure will be achieved through the following steps:*

*1. Preparation of a bill to regulate the powers of an independent anti-corruption commission, which shall assign inspections to other competent bodies and directorates - NRA, SANS, etc. This commission will have the investigative powers so that the evidence gathered can be used in criminal proceedings in laying down appropriate legal guarantees for the rights and freedoms of citizens and businesses. An independent Commission for confiscation of illegally acquired property (for recovery of assets) will be established i.e;*

*- to review of the functions and activities of the inspectorates at the ministries;*

*- the Anti-Corruption Commissionshall have the power to appeal the refusals of the Prosecutor's Office to initiate pre-trial proceedings on files submitted by it with data on committed corruption crimes;*

*- the Anti-Corruption Commission/Unit in case of establishing data for significant discrepancy in the property or in case of established conflict of interests shall have the powers to refer to the Asset Recovery Commission for inspection in the field of its competence;*

*2. Regarding the activity of the Anti-Corruption Commission, respectively the Asset Recovery Commission:*

*- Adopt a clear, operational and publicly available methodology for financial valuation of assets, which allows adequate assessment of the value of assets to be seized, and audit of the cases filed so far for confiscation of illegally acquired property in order to reduce the risk of engaging the state's responsibility in future cases;*

*- Adopt a policy for fucusing on persons with a higher risk of corruption;*

*- Introduce a requirement for conducting initial and periodic checks for the integrity of key employees in the structure of the anti-corruption bodies.*

*The Anti-Corruption Body will be subject to parliamentary control by the Anti-Corruption Parliamentary Committee, established by the National Assembly and consisting of sitting members of the National Assembly, as follows:*

* *Quarterly reports to the Parliamentary Committee;*
* *Credible allegations of corruption to be referred by the Parliamentary Committee to the Anti-Corruption Body;*
* *The Parliamentary Committee will also be able to hear the leadership of the Anti-Corruption Body upon request.*

**Question 19**

**The media freedom in Bulgaria has deteriorated significantly since the accession to the EU. Bulgaria went down from 34th place in the World Media Freedom Index to 112th place for less than 15 years. Many European and international organizations report high degree of media concentration and lack of transparency in the allocation of EU and public funding to the media. What concrete actions will the new government take, to address this situation, particularly to end smear campaigns and harassment by the state and intimidation and violence as identified by Reporters without Boarders? How will the new government ensure proper investigation of violence against journalists? How do you assess the role of the National Council on Electronic Media and especially its role in monitoring the change in media ownership and the transparency of media financing?**

*In the context of Pillar III of the Mechanism for the Rule of Law "Media Pluralism and Media Freedom", we are actively cooperating with the European Commission to improve the situation with regard to the media freedom.*

*On 13.12.2021 another meeting was held between representatives of the EC and the Bulgarian institutions involved in Pillar III. It was at the technical level to exchange information on recommendations made in the Rule of Law Report.*

*As a result of the cooperation with the European Commission in the context of the Rule of Law Mechanism, specific activities have been implemented:*

*Decision № 806 of the Council of Ministers of 6 November 2020 approved a Plan for the implementation of measures in response to the recommendations and the identified challenges contained in the Report of the European Commission of 30 September 2020 on the rule of law.*

*The part of media pluralism of the Plan envisages measures related to:*

* *protection of journalists from offences, harassment and interference. Increased transparency and accountability of investigations in such cases;*
* *organisation and financing of public electronic media;*
* *increasing the capacity of the institution responsible for the media environment; determining the composition of the institution by applying the highest standards, ensuring impartiality, impartiality and professionalism.*
* *transparency of media ownership; strengthening control over the declaration of ownership.*

*The implementation of the measures involves the Ministry of Culture, the Council for Electronic Media, the Ministry of Finance, the Ministry of Justice, the Ministry of Interior, the Prosecutor's Office of the Republic of Bulgaria and other institutions engaged on the issue.*

*• Transparency of media ownership*

*The Revised Law on Radio and Television, in force since 22.12.2020, provides tools and powers to the national regulatory authority (CEM) to exercise more effective market control, which will reflect on the mechanisms for protecting the rights and interests of users of these services. The amendments to the Law introduced additional requirements to the CEM Public Register, namely: to fill in data on legal entities and individuals exercising control over the management of providers of on-demand media service, as well as data on their governing bodies, including their personnel. The same data should be entered in the register of persons providing services on video-sharing platforms. The registers also include a link to the information on the ownership structure and the actual owners of the respective service providers, supplied to the commercial register and the register of non-profit legal entities under the Anti-Money Laundering Measures Act. (Article 7, paragraph 2). The Council has brought the Public Register in line with the requirements of the law.*

*Priority and coordinated work will be carried out in the area related to political interference in the media and media ownership by parties and politicians. As a next stage, political advertising in the media will be further regulated and harmonised in order to introduce transparency obligations.*

*• Increased CEM funding for 2021*

*With the Law on the State Budget of the Republic of Bulgaria for 2021, the budget of the CEM included additional one-off targeted funds.*

*A substantial part of those funds is designated for the acquisition of a new monitoring system, and this measure is currently being implemented in accordance with the rules of the Public Procurement Act. Based on the forecast for additional costs for 6 new full-time positions, the Council's staffing plan has already been changed, competitions have been held in accordance with the Civil Servants Act and employees have been appointed.*

*• Freedom of speech and protection of journalists:*

*In order to ensure the safety of journalists, both physically and online, the activities as set out in the Implementation Plan in response to the recommendations and identified challenges contained in the European Commission's Report on Rule of Law of 30 September 2020 will be continue, incl. measures related to protection of journalists from offences, harassment and interference as well as increased transparency and accountability of investigations in such cases.*

*Coordinated activities are also envisaged, which will be aimed at implementing appropriate elements of the general and specific recommendations provided in the Recommendation on the protection, safety and empowerment of journalists and other media professionals in the EU, as well as the Council of Europe Recommendations on the Safety of Journalists.*

*On June 15, 2021, an open discussion "The State and the Media" was organised with the broad participation of the competent authorities and stakeholders.*

*The aim of the open discussion was to launch public debate on important topics such as: media ownership and concentration, transparent public funding, freedom of expression and protection of journalists at a time of a growing trend towards bringing the role of media and its tools for impact on society and industry.*

*The discussion took place in three panels:*

*- Ownership and concentration of the media;*

*- Transparent public funding of the media;*

*- Freedom of speech and protection of journalists;*

*It was attended and debated by more than 70 representatives of various institutions, organisations, public and commercial media. The event was also broadcast online, which allowed it to be followed by many other stakeholders.*

*• In July 2021, an Expert Council on media literacy was formed in accordance with the commitments for MS on media literacy set out in the Audiovisual Media Services Directive. The Council includes experts and stakeholder representatives with the main goal of discussing media literacy policies in a broader context.*

**Question 20**

**During recent years, the number of SLAPP-cases against journalists has increased significantly. Is there a national body or organization analyzing and following the individual cases? Does the new government plan some legislative amendments to limit the possibilities of such cases against journalists?**

*Ensuring the independence of the media and the security of journalists is one of the priority areas in Bulgaria's human rights policy. It is based on the understanding that freedom of expression, the existence of independent media and quality journalism are directly related to democracy, human rights and fundamental freedoms.*

*Bulgaria has been participating in the EU debate on strategic lawsuit against journalists (so-called SLAPP-cases). We believe that it is extremely important to find a delicate and reasonable balance between protecting people who are affected by false news, insults and slander in the media and countering the abuse of rights in such cases. These phenomena are just as significant as the SLAPP-cases. We are considering the possibility of taking appropriate measures to limit SLAPP-cases against a journalist, including through a national monitoring mechanism.*

*The overview of the publicly known SLAPP cases allows to establish some general conclusions about the development of this issue in Bulgaria. The main part of SLAPP cases so far has been focused primarily on two groups of publicly active persons – 1) civic activists, representatives of civil society or politically engaged people who have an active position on various important issues of public interest such as corruption in infrastructure projects and European funding, construction of real estate or management of private pension funds, ineffectiveness of anti-corruption activity, implemented by the competent law enforcement agencies; 2) journalists and media who have a critical publications or positions towards the current government and different “parapolitical” or “parabuisiness” subjects, related to the government, revealing problems of corruption and arbitrary exercise of public power.*

*Two groups of actors emerge as the main drivers of pressure through SLAPP cases – 1) large private companies that are affected by revelations about violations and irregularities in public procurement, management of infrastructure projects, regulation of construction; 2) law enforcement authorities which, on their own initiative or on the basis of information from an appropriate private person, undertake visibly unfounded actions or actions out of their general practice targeting the persons affected by the SLAPP approach.*

*The main reasons for taking various forms of pressure through SLAPP cases are actions, publications or statements made by the subjects against whom such cases are directed. In their actions the SLAPP-ed persons normally reveal cases of corruption or bad government, or criticize the inaction of the competent institutions to counteract such phenomena. Moreover, all major public cases of SLAPP are directed against individuals or organizations that have consistent and proactive behavior in detecting cases of corruption, criticize the inaction of competent state authorities on these issues.*

*At national level, the issue is regualteed in the Constitution and the procedural laws, similarly ti other Member States. Our fundamental law does not allow the abuse of rights, as well as their exercise, if the rights or legitimate interests of others are violated. According to the Code of Civil Procedure, persons participating in court proceedings are obliged to exercise the procedural rights granted to them in good faith and in accordance with good morals.*

*According to caselaw, if a court finds an abuse of rights, it should refuse protection. In addition, the defendant may ask the court to declare the claim inadmissible – due to lack of legal interest or alternatively - unfounded. In addition, if the abuse of rights also constitutes tort/delict, compensation for damages may also be sought.*

*In order to improve the regulation, a draft law amending the Penal Code has been drafted, which provides for changes in the institutions of insult and defamation, which will allow compliance with the principle of proportionality by national courts when assessing the balance between public interest and the interest of the offended/slandered persons. In addition, it is envisaged that the qualifying composition of insulting/slandering of an official, whose composition has been criticized in several ECHR judgments, will be dropped, including in cases where journalists are not affected. This Act to Amend and Supplement the Penal Code is also included in the NRRP.*

*It should be noted that in recent years national courts have directly applied Art. 10 of the ECHR and the case law of the ECHR on it. It is important to note that so far there has been no case against Bulgaria before the Strasbourg Court in which the complaints are related to "attacks and excessive use of force" against journalists.*

*Judgements against Bulgaria are in connection with convicting journalists for slander/tort, where the violation found in most cases is not the unfoundedness of the sentence/decision, but the disproportionate nature of the sanction imposed (see Yordanova and Toshev, Bozhkov, Kasabova, Ifandiev).*

**Question 21**

**On 11 January 2022, the European Court of Human Rights published a Chamber judgement[[2]](#footnote-2) according to which there are systematic flaws in legal safeguards and oversight procedures around secret surveillance in Bulgaria. In this judgment, the Court found that there is a lack of proper judicial oversight and lack of clear regulation where secret surveillance regulation could be used. Moreover, the oversight by the authorities on the use of special investigation means seem not to be independent. The retention and storage of communication data is also problematic. This judgment put into serious question the practice of using special surveillance over the last 10 years. How will the Bulgarian authorities answer the flaws identified by the ECHR? Are you going to perform a national check on the use of such investigative means in order to identify whether the identified legislative gaps have led to misuse of such information in practice? What kind of legislative amendments will be proposed in order to answer the concerns raised by the ECHR?**

*The Bulgarian Government take into serious consideration the judgment of the European Court of Human Rights in the case of Ekimdjiev and Others v. Bulgaria. In this judgment the Court found serious deficiencies in the national legal framework on the use of secret surveillance and its application in practice. The Court also found serious flows in the legal framework and practice with regard to the retention and access to electronic communications. Following the translation of the judgment in Bulgarian, the minister of justice will propose to the minister of interior the setting up of an inter-institutional working group. The working group shall analyse the legal and regulative framework with respect to the application of secret surveillance and access to electronic communications in the light of the conclusions of the European Court and make proposals for amendments in the Secret Surveillance Act, the Electronic Communications Act, the Code of Criminal Procedure as well as the respective by-laws. The national experts in the field are well aware of a major part of the problems identified in the judgment since these problems were also identified in the process of the execution of the judgments in the group of cases Association for European Integration and Human Rights and Ekimdhiev v. Bulgaria (the first one being of 2007). This group of cases has been under the enhanced monitoring of the Committee of Ministers of the Council of Europe and in the course of the years these issues have been discussed at an expert level, both internally and with the Strasbourg counterparts. In the light of that, the Bulgarian Government is prepared to launch concrete work on legislative amendments.*

**Question 22**

**On 11 November 2021, the European Court of Justice issued its judgement in case C‑852/19[[3]](#footnote-3) rending the European Investigation Order (EIO) almost inapplicable in Bulgaria. Other MS may not execute an EIO issued by Bulgarian authorities because the Bulgarian EIO violates main principles of EU law and Directive 2014/41, in particular because of the lack of judicial remedy. How does this judgment affect current investigations? What kind of amendments does the new Government plan to introduce at national level in order to ensure the effective and flawless transposition of Directive 2014/41?**

*We are well aware of the judgment on Case C-852/19 and its impact on the daily work of the investigating authorities. The judgment was subject to discussion at the National Judicial Network in Criminal Matters in December 2021 where concerns were expressed by practitioners that it will block the ongoing investigations on cross-border cases.*

*The issue was also raised last December on EU level at COPEN working group of the Council of the EU. During the discussion other Member States also shared concerns that they would face similar problems with the judgment due to gaps in their national laws.*

*These findings call for a horizontal EU level approach. A proposal for a possible practical solution, for instance guidelines of the Commission, Eurojust, European Judicial Network and the Legal Services of the institutions how the judgment should be interpreted and applied was expected after a Eurojust questionnaire was distributed among MS.*

*At a national level, an interdepartmental working group will be established at the Ministry of Justice, which will be composed of representatives of the Supreme Court of Cassation, the Prosecutor's Office, Supreme Judicial Council, the Ministry of Interior, and the academia. The working group will be tasked with a thorough analysis of the CJEU case-law and its impact on the national legislation and practices. Based on the analysis, the working group should propose appropriate legislative amendments in the national legislation with the aim to establish appropriate safeguards for effective legal remedy.*

**Question 23**

**What kind of measures will the new Government introduce to address the systematic and ever growing cases of gender-based violence in the light of the 2018 Constitutional Court Decision for noncompliance of the Istanbul Convention with the Bulgarian Constitution?**

*According to Art. 149, para. 1, item 4 of the Constitution of the Republic of Bulgaria, the body that rules on the compatibility between the Constitution and the international treaties concluded by the Republic of Bulgaria prior to their ratification is the Constitutional Court. Having regard to the Constitutional Court Decision of 27 July 2018, by which the Court ruled that the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, opened for signature on 11 May 2011 in Istanbul, signed from the Republic of Bulgaria on 21.04.2016, does not comply with the Constitution of the Republic of Bulgaria, our country is not able to ratify this international act, as well as to accede to any part of it.*

*Regardless of the ruled Constitutional Court Decision, the Republic of Bulgaria has largely brought its legislation in line with the requirements of international legal instruments in the field of combating violence against women and domestic violence. Legal mechanisms for protection, compensation of victims, protection services, including in actions with an international element. All forms of domestic violence are criminalized, thus ensuring adequate and comprehensive criminal protection from all acts of violence against women, including domestic violence. Measures have been taken to prosecute and punish the perpetrators, protect and compensate the victims. Our country continues to be actively committed to the effective prevention and counteraction to domestic violence and violence against women and to the protection of victims.*

*(See also information to question № 10)*

**Question 24**

**At late October 2021 right activists attacked the Rainbow Hub LGBTI Community Center in Sofia, Bulgaria. This come a few days after a petition with over 8,000 signatures was entered in support of the addition of anti-LGBTI hate crimes into Bulgarian legislation. Apart from investigating and prosecuting the perpetrators of the attack, what kind of measures have been implemented in order to limit the hate-based crimes and to prevent anti-LGBTI rhetoric?**

*The Bulgarian government has taken a consistent and strong position to publicly condemn any manifestation of intolerance, hatred and hate speech. It continues to create the necessary conditions and policies for an environment free of all forms of discrimination, including through working with international and regional organizations to take common action against these challenges.*

*In the Republic of Bulgaria the principle of equality and non-discrimination is guaranteed at the highest legislative level. The Constitution of the Republic of Bulgaria prohibits discrimination in the most categorical way. According to our basic law, all citizens are equal before the law. No restrictions on rights or privileges based on any ground such as race, nationality, ethnicity, sex, origin, religion, education, beliefs, political affiliation, personal and social status or property status are permitted. This constitutional principle is enshrined in all aspects of our domestic law.*

*An independent specialized state body has been established in the Republic of Bulgaria, with significant powers for prevention, protection against discrimination and promotion of equal treatment - the Commission for Protection against Discrimination (CPD). It operates under the Special Protection Against Discrimination Act (PADA), which aims to ensure everyone the right to equality before the law, equality in treatment and opportunities to participate in public life and effective protection against discrimination. The law protects against discrimination all natural persons on the territory of the Republic of Bulgaria, without distinction, based on 19 protected features, including race, ethnicity, gender, disability, nationality, personal and social status, sexual orientation and any other features established by law. or in an international agreement to which the Republic of Bulgaria is a party.*

*With regard to civil proceedings, although the Code of Civil Procedure does not contain an explicit anti-discrimination provision, the exercise of the rights conferred on the plaintiff in civil proceedings, the trial of the case and the admissibility or rejection of the claim in any way are not determined by the specific sex of the person or their sexual orientation.*

*The principle of equality is also enshrined in the administrative process, as all persons who are interested in the outcome of the proceedings under the Code of Administrative Procedure Code have equal procedural opportunities to participate in them to protect their rights and legitimate interests. Within the limits of operational independence, under the same conditions, similar cases are treated equally (Article 8 of the CAP).*

*Article 11 of the Code of Criminal Procedure (CPC) explicitly states that all citizens participating in criminal proceedings are equal before the law. No restrictions on rights or privileges based on race, nationality, ethnicity, sex, origin, religion, education, beliefs, political affiliation, personal and social status or property status is permitted. The court, the prosecutor and the investigating authorities apply the laws accurately and equally to all.*

*Regarding the criminal measures specifically, taking action to strengthen the fight against homophobic and transphobic crimes through the criminal law is linked both to the further development and to the use of full capacity of existing legislative instruments. Although the Criminal Code does not explicitly provide qualified forms in cases where crimes are committed on homophobic or transphobic motives, there is no hindrance to take the relevant motives into account as aggravating circumstances to determine the punishment.*

*In EU negotiations are ongoing for adding hate speech and hate crime to the areas of crime in Article 83 (1) of the Treaty on the Functioning of the European Union. Bulgaria supports in principle the proposal and we are looking forward to the future initiative of the Commission for a new act that will contribute to the improvement of the criminal law framework on hate crime, including with regard to LGBTI people.*

**Question 25**

**On 14 December 2021 the Court of Justice of the EU announced its judgment in case C-490/20[[4]](#footnote-4) obliging the Bulgarian authorities to give a nationality of a same-sex couple`s baby. How will the Bulgarian authorities address the Court`s decision? Are there any general reforms planned in order to improve the rights of the same sex couples?**

*The statement that the Court of Justice of the EU in its judgement in case C-490/201 obliges the Bulgarian authorities to give a nationality* *of a same-sex couple`s baby is incorrect. The European Court of Justice has ruled that a minor child, an EU citizen whose birth certificate drawn up by the host Member State identifies two same-sex parents as his/her parents, the Member State of which that child is a national, is obliged to issue him/her an identity card or passport without requiring prior drawing up of a birth certificate by their national authorities.*

*It is important to keep in mind that the case before the Bulgarian Administrative Court - Sofia City (referring court) is not currently closed and it is pending, taking into account the Judgment of the Court of Justice of the EU. Following the court ruling, Bulgaria will analyze the need for legislative changes.*

*These issues are also being discussed in the context of an upcoming EU legislative initiative aimed at tackling identified problems with non-recognition of parenthood between EU Member States. The European Commission is considering a legislative instrument to facilitate the recognition of parenthood in other Member States once it is established in a Member State. It is stated that the aim of the new regulation will be for children to retain their rights in cross-border situations, especially when traveling or moving with their families within the EU. However, in accordance with the EU Treaties, the legislative initiative on the recognition of parenthood must not affect the competence of the Member States to establish parenthood in accordance with their national law. In this regard, the EC is conducting an ongoing inquiry in the Member States on national practices for establishing and recognizing parenthood, in which Bulgaria participates.*

**Question 26**

**Will the new Government take action on Golden Passports and Visas issues to this date?**

*A report from the European Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 23 January 2019 on the arrangements for granting nationality and the right of residence in the European Union (EU) states that three Member States (Bulgaria, Cyprus and Malta) apply nationality schemes against investments, in which nationality is granted uner more relaxed terms than the usual naturalization regime, and above all without requiring prior effective residence in the country concerned.*

*The new team of the Ministry of Justice has taken swift action to abolish this possibility of obtaining nationality in an EU Member State. On January 12, 2022, the Council of Ministers approved the proposed by the Ministry of Justice repeal of Art. 12a and Art. 14a of the Bulgarian Nationality Act. These two texts now regulate the possibility of acquiring Bulgarian nationality on relaxed terms against investments. We expect that the National Assembly will give priority to the legislative proposals, which will lead to the final termination of the acquisition of Bulgarian nationality under relaxed terms through investments.*

**Question 27**

**Will the new Government change the current regime on mass data retention as introduced during the Covid-19 pandemic?**

*The Electronic Communications Act was amended by the Law on Measures and Actions during the State of Emergency, declared by a decision of the National Assembly of 13 March 2020 and to overcome the consequences.*

*In essence, this change envisaged the data stored by undertakings providing public electronic communications networks and/or services necessary to identify the cells to be retained also for the needs of the compulsory execution of the obligatory isolation and hospital treatment under the Health Act of persons who have refused or do not perform mandatory isolation or treatment.*

*The Constitutional Court of the Republic of Bulgaria with its Decision № 15 of 17.11.2020 on case 4/2020 declared the above texts of the Electronic Communications Act unconstitutional as inconsistent with Art. 32 of the Constitution (right to privacy), also considered in the context of the relevant law of the European Union.*

**Question 28**

**Does the new Government have any plans in relation to civil society and civil society space?**

*The effective participation of the civil society is crucial for the effective and successful reforms in the areas which the Bulgarian Government have identified as a priority. In this sense, the Government intend to seek a broad participation of the non-governmental organisations by means of consultations, inclusion in working groups on legislative amendments and more generally in the process for reaching executive decisions. There are certain fields, such as the oversight of the penitentiary facilities and police detention facilities where the cooperation with the civil society could be a valuable safeguard for respect of the detainees’ fundamental rights.*

*26.01.2022*

1. *Recommendation V - GRECO recommended that, in order to help the Supreme Judicial Council to fully assert its legitimacy and credibility and to strengthen its role as guarantor of the independence of judges, decisions on judges’ appointment, career, attestation and discipline should be taken by a composition of the Council that is made up of a majority of judges elected by their peers.*

   *Recommendation VI - GRECO recommended that the judicial independence be further strengthened by i) substantially reducing the five-year term established for judges acquiring life tenure;*

   *Recommendation IX - GRECO recommended that the application of supplementary remuneration within the judiciary be subject to clear, objective and transparent criteria.* [↑](#footnote-ref-1)
2. <https://hudoc.echr.coe.int/eng-press#{%22itemid%22:[%22003-7224338-9824769%22]}> [↑](#footnote-ref-2)
3. <https://curia.europa.eu/juris/document/document.jsf?text=&docid=249062&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=40052314> [↑](#footnote-ref-3)
4. https://curia.europa.eu/juris/document/document.jsf;jsessionid=B2F0C43A58ADFD89392A89A7DD309045?text=&docid=251201&pageIndex=0&doclang=en&mode=lst&dir=&occ1first&part [↑](#footnote-ref-4)