

Overall Score:

80 - Moderate

Legal Framework Score:

89 - Strong

Actual Implementation Score:

73 - Moderate

Category I. Civil Society, Public Information and Media

I-1. ⁸⁴Civil Society Organizations

1. Are anti-corruption/good governance CSOs legally protected?

67

1a. In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.

YES | NO

Comments:

The same legal provisions apply to all types of CSOs, including anti-corruption or good governance CSOs.

References:

Bulgarian Constitution, Art. 44: <http://www.online.bg/law/const/const2.htm>; Non-Profit Legal Entities Act: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/57363.html>.

YES: A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

1b. In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.

YES | NO

Comments:

No specific legal text on CSOs' funding exists, which means that all CSOs/NGOs are free to accept funding from any foreign or

domestic sources.

References:

Non-profit Legal Entities Act: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/57363.html>

YES: A YES score is earned if anti-corruption/good governance CSOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

NO: A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for CSOs focused on anti-corruption or good governance.

1c. In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.

YES | **NO**

Comments:

No explicit requirement for disclosure of CSOs sources of funding exists in the legislation. The Non-Profit Legal Entities Act distinguishes between NGOs acting for public benefit and those that act for private benefit. All CSOs that work for public benefit are listed in a transparent public document known as the Central Register of Non-profit Legal Entities and have the obligation to report their activities annually. They are obliged to provide a balance sheet, but they are not required to provide detailed information about their sources of funding.

References:

Non-profit Legal Entities Act, Art.40: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/57363.html>.

YES: A YES score is earned if anti-corruption/good governance CSOs are required to publicly disclose their sources of funding.

NO: A NO score is earned if no such public disclosure requirement exists.

2. Are good governance/anti-corruption CSOs able to operate freely?

50

2a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.

100 | **75** | 50 | 25 | 0

Comments:

All CSOs, including those focused on promoting good governance or anti-corruption, can organize themselves freely with little interaction with the government. However, all CSOs are obliged to register in court. CSOs acting for public benefit are listed in the Central Register for Non-profit Legal Entities and have the obligation to report their activities annually. Generally, CSO registration is inexpensive and takes approximately one month to complete.

References:

Non-profit Legal Entities Act: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/57363.html>.

100: CSOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

75:

50: CSOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the CSO. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Other than pro-government groups, CSOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

2b. In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.

100 | 75 | 50 | 25 | 0

Comments:

There are many anti-corruption or good governance CSOs in Bulgaria. Some of them, such as The Center for the Study of Democracy (Coalition 2000), have access to decision makers and the media and are very influential in shaping public opinion on the topic of corruption. Yet, there is more to be done in terms of increasing the government's receptivity to CSOs' ideas and initiatives. However, in most cases, CSOs focusing on anti-corruption and good governance prefer to avoid direct involvement in the political process. It is believed that fighting corruption is an expert issue, and not a political one, and therefore CSOs have adopted a non-confrontational approach to the government.

References:

Web site of Coalition 2000, www.anticorruption.bg ; Report of Coalition 2000/Center for the Study of Democracy: On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria, Chapter 5: http://www.csd.bg/files/en_FULL.pdf

100: Civil society organizations focused on anti-corruption or good governance are an essential component of the political process. CSOs provide widely valued insights and have political power. Those CSOs play a leading role in shaping public opinion on political matters.

75:

50: Anti-corruption/good governance CSOs are active, but may not be relevant to political decisions or the policymaking process. Those CSOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

25:

0: Anti-corruption/good governance CSOs are effectively prohibited from engaging in the political process. Those CSOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

2c. In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.

YES | NO

Comments:

No such cases exist either in the last 12 months or in the whole period after the collapse of communism in Bulgaria in 1989.

References:

Report of Coalition 2000/Center for the Study of Democracy: On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria, Chapter 5 – http://www.csd.bg/files/en_FULL.pdf

YES: A YES score is earned if there were no CSOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period.

NO: A NO score is earned if any CSO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the CSO's work may not be explicit, however the burden of proof here is low. If it seems likely that the CSO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3. Are civil society activists safe when working on corruption issues?

100

3a. In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.

YES | NO

References:

Report of Coalition 2000/Center for the Study of Democracy: On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria, Chapter 5 – http://www.csd.bg/files/en_FULLL.pdf

YES: A YES score is earned if there were no CSO activists imprisoned related to work covering corruption.

NO: A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the p

3b. In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.

YES | NO

References:

Report of Coalition 2000/Center for the Study of Democracy: On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria, Chapter 5 – http://www.csd.bg/files/en_FULLL.pdf

YES: A YES score is earned if there were no documented cases of CSO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work.

NO: A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3c. In practice, in the past year, no civil society activists working on corruption issues have been killed.

YES | NO

References:

Report of Coalition 2000/Center for the Study of Democracy: On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria, Chapter 5 – http://www.csd.bg/files/en_FULLL.pdf

YES: A YES score is earned if there were no documented cases of CSO activists being killed related to a corruption case in the specific study period.

NO: A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

4. Can citizens organize into trade unions?

88

4a. In law, citizens have a right to organize into trade unions.

YES | NO

References:

Bulgarian Constitution, Art. 49: <http://www.online.bg/law/const/const2.htm> Labor Code Art. 4: <http://www.paragraf22.com/pravo/kodeksi/kt.html>

YES: A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

4b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

Comments:

Trade unions take part, along with the government and employers, in the Tripartite Commission for negotiations on various issues. While there are no significant legal or executive barriers to trade union formation and operation, they need to prove that they represent the workers rights in the best possible manner. The "Balkan Assists Civil Society Without the Citizens" report, published in 2005, concluded that people are often afraid to bring charges against companies for violations of rights or failures to meet obligations. The activity of trade unions is focused mostly on bargaining with the government for general social policy issues, rather than protecting the labor rights of employees in private companies.

References:

"Balkan Assists Civil Society Without the Citizens" report (2005): <http://www.balkanassist.bg/en/ProjectDetails.jsp?prjID=18>

100: Trade unions are common and are an important part to the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

75:

50: Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

25:

0: Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

I-2. Media

5. Are media and free speech protected?

100

5a. In law, freedom of the media is guaranteed.

YES | NO

References:

Bulgarian Constitution, Art. 40: <http://www.online.bg/law/const/const2.htm>

YES: A YES score is earned if freedom of the press is guaranteed in law, including all political parties, religions, and ideologies.

NO: A NO score is earned if any specific publication relating to government is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

5b. In law, freedom of speech is guaranteed.

YES | NO

References:

Bulgarian Constitution, Art. 39: <http://www.online.bg/law/const/const2.htm>

YES: A YES score is earned if freedom of individual speech is guaranteed in law, including all political parties, religions, and ideologies.

NO: A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

6. Are citizens able to form media entities?

81

6a. In practice, the government does not create barriers to form a media entity.

100 | 75 | 50 | 25 | 0

Comments:

Print media in Bulgaria are subject to almost no regulation. However, this is not the case with electronic media. Radio and TV stations are regulated by an independent body: The Council for Electronic Media (CEM). CEM has the power to register, license, and monitor activities of electronic media in the country. In addition to that, when applying to start a new air-based radio or TV channel, entities need an air frequency license, issued by the Communications Regulation Commission (CRC). Licenses are issued after a competition for available vacant frequencies is held. The competitions are held in accordance with the National Strategy for the Development of Electronic Media, prepared by CEM and CRC, and approved by the Parliament. However, during the last six years, the process of licensing has been blocked. One of the reasons for this is that the national strategy was adopted only last year. In April 2006 CRC rejected the applications for air broadcast licenses submitted by three cable channels, due to lack of vacant frequencies.

References:

Interview with Ognian Zlatev, Director, Media Development Center

100: Media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system.

75:

50: Formation of media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

25:

0: Media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. Division of broadcast bandwidth is widely viewed to be used as a political tool.

6b. In law, where a media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | NO

Comments:

All CEM decisions, including those related to the licensing of radio and television operators, are subject to appeal before the Supreme Administrative Court.

References:

Radio and Television Act, Art. 34: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/z46843.html>

YES: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied media license. A YES score is also earned if no license is necessary.

NO: A NO score is earned if there is no appeal process for media licenses.

6c. In practice, where necessary, citizens can obtain a media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Only electronic media outlets are subject to registration and licensing by CEM. In cases, when air frequency is not needed, the

process of registration and licensing of media normally takes up to two months. However, this is not the case for air broadcasting media: as mentioned above, during the last six years, the process of licensing has been blocked.

References:

Interview with Ognian Zlatev, director, Media Development Center

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

6d. In practice, where necessary, citizens can obtain a media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Media companies can obtain licenses at a reasonable cost, considering the prospective income from advertising. The problem is that air frequency licenses have not been issued during the last six years.

References:

Interview with Ognian Zlatev, director, Media Development Center

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

7. Are the media able to report on corruption?

83

7a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

YES | NO

Comments:

There are no legal barriers for media to report any accurate news on public figures. However, libel is a criminal offense, defined in the Penal Code.

References:

Radio and Television Act, Art. 34: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/z46843.html>

YES: A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

NO: A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

7b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | 50 | 25 | 0

Comments:

There are no explicit cases of government encouraging self-censorships in the media. The problem comes largely from the model of media ownership in Bulgaria. According to the "Media Sustainability Index," a report prepared by International Research & Exchanges Board (IREX), the practice of self-censorship in Bulgaria is omnipresent, because some outlets are either owned by certain business groups or media owners have certain political or business affiliations. As a result, often critical coverage or investigations into business partners are restrained, while the improprieties of the competition are widely published. Self-censorship is more visible at smaller outlets, especially in cities with more developed business sector. According to the report of the Media Development Center, 42 percent of interviewed journalists stated that there have been cases where the owner of their media has been asked to promote someone's private economic, political or other interests, or to support some of the participants in the election process or in public life.

References:

"Media Sustainability Index," a report prepared by the International Research & Exchanges Board (IREX): http://fun.bgwebworld.com/bg/real_estate_spain.html?fun=1&bulgaria=1 Media Development Center Report: <http://www.mediacenterbg.org/library/Journalism%20and%20Ethics%20in%20SEE.pdf>

100: The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

75:

50: The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

25:

0: The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

7c. In practice, there is no prior government restraint on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

Comments:

There is no evidence that the government has attempted to directly prevent corruption-related publications. However, there are suspicions that some government officials or representatives of political parties are exercising certain influence on the way in which the media report on corruption, particularly in the case of state-owned radio and television channels. In the period studied, there were also isolated cases in which government officials attempted to use their access to classified information to discredit certain journalists. In May 2006, Minister of Interior Roumen Petkov released documents from the archive of the former communist secret services, which disclosed that Georgi Koritarov, a journalist with Nova Television, was a former counterintelligence agent working for the communist state security services. These files were released in retaliation to Koritarov's criticism of the performance of police forces and the Home Ministry in general.

References:

Interview with Ognian Zlatev, director, Media Development Center

100: The government never prevents publication of controversial corruption-related materials.

75:

50: The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. In countries where illiteracy is higher, the government may allow a free print press but censor broadcast media.

25:

0: The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material.

8. Are the media credible sources of information?

88

8a. In law, media companies are required to disclose their ownership.

YES | NO

Comments:

While electronic media (radio and television) must disclose their ownership in order to obtain license or registration from CEM, print or Internet media are free from disclosure. However, this process is formal and in practice the actual ownership of some media in Bulgaria is not clear.

In practice the disclosure process for broadcast media is easy to manipulate and it is difficult for citizens to obtain reliable information. Many media experts believe this a serious problem. Many observers are also suspicious that powerful actors working in the advertising sector have their own electronic TV and radio channels. This is believed to be one of the reasons why the practice of self-censorship is still widespread amongst journalists.

References:

Radio and Television Act: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/z46843.html>; Interview with Ognian Zlatev, Director, Media Development Center

YES: A YES score is earned if media companies are required by law to disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain type of entities or agents from being disclosed.

8b. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

Comments:

In November 2004, journalists from 160 national and regional press and electronic/online media outlets signed the Bulgarian Media Code of Ethics. The code includes standards regarding the use of information from unidentified sources, the preliminary nondisclosure of a source's identity, personal data protection, etc. A commission observing the adherence to the code was established in June 2006. The adoption of the code of ethics demonstrated that the Bulgarian media is mature enough to assume self-regulation of its activities. Nonetheless, many suspicions of commissioned publications or media coverage still exist among the general public and the expert community. Such suspicions become more widely spread right before elections, when the role of the media as a tool to influence voters increases.

References:

Interview with Ognian Zlatev, director, Media Development Center

100: Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

75:

50: Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

25:

0: Editors and journalists are widely known to sell" favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

8c. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | 25 | 0

Comments:

During the last 10 years, the media has developed professional capacities to provide fair access to media outlets and programs and coverage to all important participants in elections. Yet, at the local level there are some cases of biased reporting.

References:

Interview with Ognian Zlatev, director, Media Development Center

100: All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

75:

50: Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

25:

0: The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

8d. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | 50 | 25 | 0

References:

Interview with Ognian Zlatev, director, Media Development Center

100: The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all

other content.

75:

50: The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

25:

0: The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

9. Are journalists safe when investigating corruption?

67

9a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

YES | NO

References:

Interview with Ognian Zlatev, director, Media Development Center

YES: A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period.

NO: A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

9b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

YES | NO

Comments:

In April 2006 a bomb exploded in the home of journalist Vasil Ivanov. He works for Nova Television (one of the three largest channels of national coverage in Bulgaria) and has become well-known for several corruption investigations. Fortunately, no one was injured or killed, because at the time of the explosion there were no people in the apartment.

References:

Interview with Ognian Zlatev, director, Media Development Center

YES: A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues.

NO: A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

9c. In practice, in the past year, no journalists investigating corruption have been killed.

YES | NO

References:

Interview with Ognian Zlatev, director, Media Development Center

YES: A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period.

NO: A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

84
I-3. Public Access to Information

10. Do citizens have a legal right of access to information?

100

10a. In law, citizens have a right of access to government information and basic government records.

YES | NO

References:

Bulgarian Constitution, Art. 41: <http://www.online.bg/law/const/const2.htm> Law on Access to Public Information: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/36100.html>

YES: A YES score is earned if there is a formal right to access any government documents. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request. There should be a formal process for requesting this information.

NO: A NO score is earned if there is no such right.

10b. In law, citizens have a right of appeal if access to a basic government record is denied.

YES | NO

References:

Law on Access to Public Information, Art. 40: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/36100.html>

YES: A YES score is earned if there is a formal process of appeal for rejected information requests.

NO: A NO score is earned if there is no such formal process.

10c. In law, there is an established institutional mechanism through which citizens can request government records.

YES | NO

Comments:

There is no single government institution that deals specifically with the access to public information. However, as a result of the Law on Access to Public Information, government agencies and offices have issued internal rules and instructions to create institutional mechanisms for citizens' access to government records.

References:

Interview with Alexander Kashumov, head of Legal Team at Access to Information Programme.

YES: A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

NO: A NO score is earned if there is no such formal mechanism or institution.

11. Is the right of access to information effective?

85

11a. In practice, citizens receive responses to access to information requests within a reasonable time period.

100 | **75** | 50 | 25 | 0

Comments:

In law, all government structures are obligated to respond to the citizens request for access to public information within a two-week notice. Government agencies could use the right of silent refusal which is considered as a negative response two weeks after the application is submitted. Citizens can initiate an appeal case under the Administrative Procedure Code.

References:

Interview with Alexander Kashumov, head of Legal Team at Access to Information Programme.

100: Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

75:

50: Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

25:

0: Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

11b. In practice, citizens can use the access to information mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

In law, access to public information is free of charge. Citizens may only be requested to pay reasonable fees for photocopying, CDs etc., which are determined by the Minister of Finance.

References:

Law on Access to Public Information, Art. 40: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/36100.html>. Finance Ministers Regulation 10/2001: <http://www.aip-bg.org/library/laws/order10.htm>

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

11c. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Interview with Alexander Kashumov, head of Legal Team at Access to Information Programme.

100: The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

11d. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

According to the Law on Access to Public Information, in cases of refused access to public information citizens may appeal only before the court. All proceedings under the Administrative Procedure Code (including appeals against governmental agencies refusals for access to information) are free of charge for all citizens.

References:

Administrative Procedure Code: Art. 12 <http://www.paragraf22.com/pravo/kodeksi/apk.html>. Interview with Alexander Kashumov, head of Legal Team at Access to Information Programme.

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

25:

0: The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

11e. In practice, the government gives reasons for denying an information request.

100 | 75 | 50 | 25 | 0

Comments:

Formally, all cases of refused access to public information require the disclosure of the reasons for the refusal, except in cases where the right of silent refusal is used. Although there has been a visible decrease in silent refusal during the last year, there are still such examples.

References:

Interview with Alexander Kashumov, Head of Legal Team at Access to Information Programme.

100: The government always discloses to the requestor the specific, formal reasons for denying information requests.

75:

50: The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

25:

0: The government does not regularly give reasons for denying an information request to the requestor.

Category II. Elections

II-1. ⁸⁸Voting & Citizen Participation

12. Is there a legal framework guaranteeing the right to vote?

100

12a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | NO

References:

Bulgarian Constitution, Art. 42: <http://www.online.bg/law/const/const2.htm>

YES: A YES score is earned if the right to vote is guaranteed to all citizens of that country. A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

NO: A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

12b. In law, there is a legal framework requiring that elections be held at regular intervals.

YES | NO

Comments:

Elections to the National Assembly are held every four years. Presidential elections are held every five years. Municipal councils and mayors are elected for four-year terms.

References:

Bulgarian Constitution: Art. 64 <http://www.online.bg/law/const/const3.htm>; Art. 93: <http://www.online.bg/law/const/const4.htm>; Art. 138, 139: <http://www.parliament.bg/?page=const&lng=en>

YES: A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

NO: A NO score is earned if no such framework exists.

13. Can all citizens exercise their right to vote?

100

13a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

Comments:

No violations of the right to vote have been observed during the studied period.

References:

Freedom House: Nations in Transit 2006 (in print)

100: Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

75:

50: Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

25:

0: Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

13b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

Comments:

Citizens voted by secret ballots in the last general elections held in June 2006, as well as isolated local by-elections held in the first half of 2006. No significant violations of this right were observed or reported.

References:

Freedom House: Nations in Transit 2006 (in print)

100: Ballots are secret, or there is a functional equivalent protection, in all cases.

75:

50: Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

25:

0: Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

13c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

Comments:

Not only during the study period, but also in the whole post-communist period, elections have been held according to the regular schedule, except when early elections were held following the legally established democratic practice.

References:

Freedom House: Nations in Transit 2006 (in print)

100: Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

75:

50: Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

25:

0: Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

14. Are citizens able to participate equally in the political process?

90

14a. In law, all citizens have a right to form political parties.

YES | NO

References:

Bulgarian Constitution, Art. 44: <http://www.online.bg/law/const/const2.htm>; Law on Political Parties: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/3919.html>

YES: A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

NO: A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

14b. In law, all citizens have a right to run for political office.

YES | NO

Comments:

Generally, all citizens can run for elected positions. There are certain age restrictions, which do not harm the overall democratic character of Bulgarian elections. According to the Bulgarian Constitution, all citizens age 21 and older, who are not under a judicial interdiction, or serving a prison sentence, are eligible to run for Parliament. The candidates for president must be natural-born Bulgarian citizens over 40 years of age and qualified to be elected to the National Assembly, who have resided in the country for the five years preceding the elections.

References:

Bulgarian Constitution: <http://www.online.bg/law/const/const0.htm>; Law on Local Elections: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/99.htm>; Law on the Election of Members of Parliament: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/19564.html>; Law on the Election of President and Vice-president: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/75.htm>.

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if Individuals with a history of violence, terrorism, or criminality are banned from running for office.

NO: A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

14c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

Comments:

The political party registration process in Bulgaria is liberal and uncomplicated, and parties can appeal rejected applications. Practically, all Bulgarian citizens can organize political parties. Some groups, such as the military, prosecutors, judges or other civil servants whose work requires political impartiality are not allowed party membership.

References:

Freedom House: Nations in Transit 2006 (in print)

100: While there is no guarantee of electoral success, political parties can form freely without opposition.

75:

50: Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

25:

0: Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

14d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

Comments:

Generally, there are no direct barriers for any Bulgarian citizens that want to run for political office. Until to 2005, legislation for parliamentary elections provided all political parties, coalitions, and candidates with equal campaigning opportunities. However, amendments made to the electoral law in 2005 now require deposits to register MP candidates: 40,000 leva (approximately US\$25,500) for coalition candidates, 20,000 leva (approximately US\$12,750) for individual party candidates, and 5,000 leva (approximately US\$3,200) for individual candidates nominated by citizen committees. The rationale behind these amendments was to reduce the number of parties participating in the elections, because many do not represent actual social interests and only contribute to voter confusion. As a result, the number of parties and coalitions registered in the elections decreased from 65 in 2001 to 22 in 2005.

References:

Freedom House: Nations in Transit 2006 (in print)

100: While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

75:

50: Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office.

25:

0: Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

14e. In practice, an opposition party is represented in the legislature.

Comments:

The opposition is well-represented in Parliament and has sufficient instruments to influence the decision-making process and control the majority. For example, consider the role of the opposition in the voting of the current government by the Parliament in July 2005. The opposition parties united and forced the Bulgarian Socialist Party and the Movement for Rights and to form a government in an open and transparent manner.

References:

Freedom House: Nations in Transit 2006 (in print)

100: The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

75:

50: The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

25:

0: The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

II-2. Election Integrity

15. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

100

15. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

YES | NO

Comments:

In order to organize and monitor elections, for every election a Central Elections Commission (CEC) is set up. CECs for local and general elections function until the next local/general elections. Members of the Commissions for local and general elections are appointed by the president following consultations with the parties represented in Parliament. The CEC organizes and appoints the members of local election commissions. Members of CEC for presidential elections are appointed by the Parliament.

References:

Law on Local Elections, Chapter V: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/99.htm>; Law on the Election of Members of the Parliament, Chapter II: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/19564.html>; Law on the Election of President and Vice-president: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/75.htm>; Web site of the Central Elections Commission for the 2005 legislative elections: <http://www.is-bg.net/cik2005/>.

YES: A YES score is earned if there is an agency or set of agencies/entities formally assigned to ensure the integrity of the election process.

NO: A NO score is earned if no agency or set of agencies/entities that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police.

16. Is the election monitoring agency effective?

90

16a. In law, the agency or set of agencies/entities is protected from political interference.

YES | NO

Comments:

The members of the Central Election Commission (CEC) are appointed by the president after consultations with political parties represented in Parliament. Generally, the configuration of the members in the commission reflects the configuration of seats in Parliament. Each party nominates its candidates. In law, most of them should be lawyers by education. Similar principles are applied to the formation of Local Elections Commissions by CEC.

References:

Law on Local Elections, Chapter V: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/99.htm>; Law on the Election of Members of the Parliament, Chapter II: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/19564.html>; Law on the Election of President and Vice-president: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/75.htm>.

YES: A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies being contested in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no election monitoring agency.

16b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

Comments:

All members of the 2005 CEC were professionals (law professionals and mathematicians), experienced in the organization and monitoring of elections. They were nominated by the parties, yet none of them had clear party affiliations. However, at the local level, some of the members of the commissions may have clear party affiliation. In order to balance this, the law provides that no political party would have majority in an election commission. The chairmen and the secretaries of the commissions must be with different party affiliations.

References:

Web site of the Central Election Committee for the 2005 legislative elections: <http://www.is-bg.net/cik2005/>.

100: Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

16c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The Central Elections Commission (CEC) has enough staff and resources to organize and monitor the holding of elections. Local Elections Commissions are formed by CEC in each municipality to organize and monitor elections at the local level.

References:

Web site of the Central Election Committee for the 2005 legislative elections: <http://www.is-bg.net/cik2005/>.

100: The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

75:

50: The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

16d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

Comments:

Reports on election results are published in a timely manner and in accordance with the law. Reports are easy to access on Internet.

References:

Web site of the Central Election Committee for the 2005 legislative elections: <http://www.is-bg.net/cik2005/>.

100: Reports are released to the public on a predictable schedule, without exceptions.

75:

50: Reports are released, but may be delayed, difficult to access, or otherwise limited.

25:

0: The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

16e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

Comments:

There were some allegations of purchasing votes in some of the recent local elections and also of violations of the election legislation by organizing voters to travel to election sections during the last general elections in June 2005. CECs have failed to investigate these allegations properly. The reason for this is partly because the commissions do not have legal power to investigate and impose fines. Commissions are meant mainly to decide on the election results. If they find violations of the election legislation they are to notify the police and the prosecutor's office.

References:

See newspaper publications. For example: <http://www.capital.bg/show.php?storyid=269905>; <http://www.capital.bg/show.php?storyid=231973>.

100: When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

75:

50: The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

17. Are elections systems transparent and effective?

100

17a. In practice, there is a clear and transparent system of voter registration.

Comments:

Voter lists are made public in a timely manner. Voters have the opportunity to check their voter registration for the general elections over the Internet.

References:

Web site of the Central Election Committee for the 2005 legislative elections: <http://www.is-bg.net/cik2005/>.

100: There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

75:

50: There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

25:

0: The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and ghost" voting by non-existent voters is common.

17b. In law, election results can be contested through the judicial system.

YES | NO

Comments:

Election results, as announced by the election commissions, can be contested and appealed before the court.

References:

See for example the Law on the Election of Members of Parliament, Art. 112: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/19564.html>.

YES: A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

NO: A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

17c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

The appeal mechanism works efficiently and in a timely manner within the terms provided by the law. There have not been cases of abuse of the appeal mechanism by the government or by the parties participating in the elections for the last 10 years.

References:

Freedom House: Nations in Transit 2006 (in print)

100: The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

75:

50: The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

25:

0: The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

17d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

Comments:

The military and security forces have not be involved in the election process since the collapse of communism in 1989.

References:

Freedom House: Nations in Transit 2006 (in print)

100: The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

75:

50: The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

25:

0: The military or other security forces are an active and explicit player in politics and overtly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

17e. In law, domestic and international election observers are allowed to monitor elections.

YES | NO

References:

See for example the Law on the Election of Members of Parliament, <http://www.paragraf22.com/pravo/zakoni/zakoni-d/19564.html> (definition provided in Additional Provisions, 1/5)

YES: A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

NO: A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

17f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

Comments:

There have not been any serious attempts to prevent observers from monitoring the elections for the last 10 years.

References:

Freedom House Nations in Transit 2006 report (in print)

100: Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

75:

50: Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

25:

0: Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

97
II-3. Political Financing

18. Are there regulations governing political financing?

100

18a. In law, there are regulations governing private contributions to political parties.

YES | NO

References:

Law on Political Parties, Art. 24: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/3919.html>

YES: A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to political parties.

NO: A NO score is earned if there is no regulation of private contributions to political parties.

18b. In law, there are limits on individual donations to candidates and political parties.

YES | NO

References:

Law on Political Parties, Art. 24: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/3919.html>

YES: A YES score is earned if there are any limits, regardless of size, on individual contributions to political candidates and political parties. A YES score is earned if individual contributions are prohibited.

NO: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

18c. In law, there are limits on corporate donations to candidates and political parties.

YES | NO

References:

Law on Political Parties, Art. 24: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/3919.html>

YES: A YES score is earned if there are any limits, regardless of size, on corporate contributions to political candidates and political parties. A YES score is earned if contributions are prohibited.

NO: A NO score is earned if there are no limits on corporate contributions to candidates or political parties. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

18d. In law, there are limits on total political party expenditures.

YES | NO

Comments:

There are no explicit limits on political party expenditures in the Political Party Act. Such limitations are included in the Law on the Election of Members of Parliament and the Law on Local Elections.

References:

Law on Political Parties, Chapter 3: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/3919.html>; Law on the Election of Members of Parliament, Art. 72: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/19564.html>; Law on Local Elections, Art. 69: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/99.htm>

YES: A YES score is earned if there are any limits, regardless of size, on political party expenditures. A YES score is earned if all party expenditures are prohibited.

NO: A NO score is earned if there are no limits on political party expenditures. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

18e. In law, there are requirements for disclosure of donations to political candidates and parties.

YES | NO

References:

Law on Political Parties, Art. 24: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/3919.html>

YES: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties or candidates.

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties or candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations.

18f. In law, there are requirements for the independent auditing of the finances of political parties and candidates.

YES | NO

References:

Law on Political Parties, Art. 34: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/3919.html>

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of candidate and party finances. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties and candidates or if such requirements exist but allow for candidates or parties to self-audit.

19. Are the regulations governing political financing effective?

58

19a. In practice, the limits on individual donations to candidates and political parties are effective in regulating an individual's ability to financially support a candidate or political party.

100 | 75 | **50** | 25 | 0

Comments:

It is difficult to objectively assess to what extent limits of individual donations are effective. First, there are many suspicions in the media and in society that political parties are able to receive unofficial financing from individuals in various ways unregulated by the law. According to the 2005 report by Transparency International, in Bulgaria 66 percent of respondents agreed (26 percent definitely agreed; 40 percent – rather agreed) that there is no effective control system of political party financing in Bulgaria. Second, the National Audit Office has no powers to investigate and has only limited powers to impose fines when violations of the law in respect to party financing are identified. In law, the lists of individual donations for parties are submitted to the National Audit Office, but they are not made available to the public.

References:

Reports by Transparency International Bulgaria on the transparency of party funding: http://www.transparency-bg.org/researchprojects_files/project_41_1.pdf; http://www.transparency-bg.org/researchprojects_files/project_40_1.ppt; Reports of the National Audit Office on party funding: <http://www.bulnao.government.bg/pages.html?catID=81>

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which individuals can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

19b. In practice, the limits on corporate donations to candidates and political parties are effective in regulating a company's ability to financially support a candidate or political party.

100 | 75 | **50** | 25 | 0

Comments:

It is difficult to assess the effectiveness of limitations to corporate donations to parties and candidates. Again, many suspicions about illegal party financing are voiced in the media and in society. In the past few years there were several big scandals about the involvement of some of the major political parties in the country with illegal financing. National Audit Offices powers to

investigate or impose fines on the violators are very limited. The lists of corporative party donors are submitted to the National Audit Office but are not made public.

References:

Reports of Transparency International Bulgaria on the transparency of party funding: http://www.transparency-bg.org/researchprojects_files/project_41_1.pdf; http://www.transparency-bg.org/researchprojects_files/project_40_1.ppt; National Audit Offices reports on party funding: <http://www.bulnao.government.bg/pages.html?catID=81> Interview of National Audit Office chairman for the Bulgarian National Radio: http://www.bnr.bg/RadioBulgaria/Emission_Bulgarian/Theme_Obstestvo/Material/120706_finansirane_korupcia.htm

100: Existing limits represent the full extent to which a company can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which companies can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making to donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

19c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

Comments:

Many experts believe that in the recent years the interest in politics and political parties activities has decreased dramatically. That is why the parties need to spend more money on campaigning in order to engage voters in the political process. This commercialization of the political process could explain the increased demand for illegal party financing. According to the report of Transparency International on Bulgarian party-financing transparency, 50 percent of the representatives of political parties who took part in the survey said they believe that the current limitations on the funding of political parties are insufficient.

References:

Interview of Ivan Krastev, Chairman of the Board, Centre for Liberal Strategies, for Capital Weekly: <http://capital.bg/show.php?storyid=222189>; Reports of Transparency International Bulgaria on the transparency of party funding: http://www.transparency-bg.org/researchprojects_files/project_41_1.pdf; http://www.transparency-bg.org/researchprojects_files/project_40_1.ppt.

100: Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

75:

50: Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

19d. In practice, when necessary, an agency or entity monitoring political financing independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

In law, the National Audit Office (NAO) has no power to investigate into allegations of violations related to party financing. NAO only collects the financial reports and checks their accounting accuracy.

References:

See for example the interview of the Chairman of the National Audit Office for the Bulgarian National

Radio: http://www.bnr.bg/RadioBulgaria/Emission_Bulgarian/Theme_Obstestvo/Material/120706_finansirane_korupcia.htm

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to political financing. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power.

19e. In practice, when necessary, an agency or entity monitoring political financing imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

References:

See for example the interview of the Chairman of the National Audit Office for the Bulgarian National

Radio: http://www.bnr.bg/RadioBulgaria/Emission_Bulgarian/Theme_Obstestvo/Material/120706_finansirane_korupcia.htm

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power.

19f. In practice, contributions to political parties and candidates are audited.

100 | 75 | 50 | 25 | 0

Comments:

According to the report of the National Audit Office (NAO), only 63 out of 357 parties or coalitions have met the deadline for submission of their annual accounting and audit reports. I should note that most of the major political parties have submitted their

reports on time and that generally they are regularly audited. However, the NAO only collects financial reports and checks their accounting accuracy.

References:

Reports on Party Financing of National Audit Office: <http://www.bulnao.government.bg/pages.html?catID=81>; Interview of the Chairman of the National Audit Office for the Bulgarian National

Radio: http://www.bnr.bg/RadioBulgaria/Emission_Bulgarian/Theme_Obstestvo/Material/120706_finansirane_korupcia.htm

100: Political party and candidate finances are regularly audited using generally accepted auditing practices. This includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

75:

50: Political party and candidate finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party or candidate may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party and candidate finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

20. Can citizens access records related to political financing?

50

20a. In practice, political parties and candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | **50** | 25 | 0

Comments:

Financial records are submitted to the National Audit Office (NAO) at least once a year. However, the information included concerns only the consistency of the accounting methods used in the reports.

References:

Interview with Alexander Kashumov, head of Legal Team at Access to Information Program.

100: Political parties and candidates disclose their sources of funding and expenditures at least every quarter.

75:

50: Political parties and candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Political parties and candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

20b. In practice, citizens can access the financial records of political parties and candidates within a reasonable time period.

Comments:

Citizens can access some aggregate figures from the political party's financial records in a reasonable time period. They are usually published on the National Audit Office website every year.

References:

Interview with Alexander Kashumov, head of Legal Team at Access to Information Program.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

20c. In practice, citizens can access the financial records of political parties and candidates at a reasonable cost.

Comments:

Access to aggregate figures of the political party's financial records is free of charge. They are available online on the National Audit Office web site.

References:

Interview with Alexander Kashumov, head of Legal Team at Access to Information Program.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

21. In law, can citizens sue the government for infringement of their civil rights?

100

21. In law, can citizens sue the government for infringement of their civil rights?

YES | NO

Comments:

According to the Constitution, citizens can bring charges against the government for infringement of their civil rights. Bulgaria has ratified a number of international documents protecting human rights and citizens can bring charges against the government or the state as whole in the European Court of Human Rights.

References:

Bulgarian Constitution: <http://www.parliament.bg/?page=const&lng=en>; Law on the Liability of the State and the Municipalities for Damages: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/127.htm>; International Human Rights Treaties ratified by Bulgaria: <http://www.bghelsinki.org/index.php?module=pages&lg=en&page=legislation>

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

NO: A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

22. Can the chief executive be held accountable for his/her actions?

88

22a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

Comments:

The prime minister and the cabinet members give regular press conferences. When requested by Mps, they are also required to answer to their questions at the Friday Parliamentary Control Sessions.

References:

Freedom House: Nations in Transit 2006 (in print)

100: The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

75:

50: The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

25:

0: The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

22b. In law, the judiciary can review the actions of the executive.

YES | NO

Comments:

According to the Constitution, the Supreme Administrative Court rules on all challenges to the legality of acts of the Council of Ministers, the individual ministers, and on other acts established by law.

References:

Bulgarian Constitution, Art. 125: <http://www.parliament.bg/?page=const&lng=en> ; Law on the Supreme Administrative Court, Chapter 2: <http://www.sac.government.bg/home.nsf/0/F9D61D526517389DC2256FC5002C8506?OpenDocument>

YES: A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

22c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

Comments:

The Supreme Administrative Court (SAC) has accumulated considerable jurisprudence by reviewing government actions during the last several years. Some experts go even further, saying that due to its excessive adjudication of the political process, SAC has taken away some functions (in particular in the field of privatization) inherent to the government.

References:

Interview with Yonko Grozev, Lawyer, Bulgarian Helsinki Committee

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

50: The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

22d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

Comments:

This is very difficult to measure precisely. Most experts say that government does not misuse its powers and does not try to create new regulations or orders in order to avoid legal or constitutional requirements. However, there are some claims that there are too many government regulations, which confuse and trouble citizens and businesses.

References:

Freedom House: Nations in Transit 2006 (in print)

100: The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

75:

50: The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

25:

0: The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

23. Is the executive leadership subject to criminal proceedings?

100

23a. In law, the heads of state and government can be prosecuted for crimes they commit.

YES | NO

Comments:

The Bulgarian Constitution provides immunity from criminal proceedings to the president and vice president, whose powers are mostly ceremonial. No such immunity is given to the prime minister or members of the Cabinet. Although elected directly, the president is a largely ceremonial post. Apart from his ceremonial functions, he has the power to approve Bulgarian ambassadors, the Chief of General Staff of the Bulgarian Armed Forces and the Chief of National Investigative Services. However, all these are nominated by the government. He also has the authority to veto (only once) laws passed by the government.

References:

Bulgarian Constitution, Chapter 5, Art. 103: <http://www.parliament.bg/?page=const&lng=en>

YES: A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations.

NO: A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

23b. In law, ministerial-level officials can be prosecuted for crimes they commit.

YES | NO

Comments:

The Bulgarian Constitution provides immunity from criminal proceedings to the president and vice president, whose powers are mostly ceremonial. No such immunity is given to the prime minister or members of the Cabinet.

References:

Bulgarian Constitution, Chapter 5, Art. 103: <http://www.parliament.bg/?page=const&lng=en>

YES: A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

NO: A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

24. Are there regulations governing conflicts of interest by the executive branch?

31

24a. In law, the heads of state and government are required to file a regular asset disclosure form.

YES | NO

References:

Law on Public Disclosure of Assets of High-ranking State Officials, Art. 2: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/23743.html>

YES: A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES.

NO: A NO score is earned if either the head of state or government is not required to disclose assets.

24b. In law, ministerial-level officials are required to file a regular asset disclosure form.

YES | NO

References:

Law on Public Disclosure of Assets of High-ranking State Officials, Art. 2: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/23743.html>

YES: A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

NO: A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

24c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

YES | NO

Comments:

In law, there are no such regulations. Rules governing gifts and hospitality offered to members of the executive branch are part of the Code of Conduct of High-ranking Government Officials. However, they have no legal force.

References:

Code of Conduct of High-ranking Government Officials: [http://www.mdaar.government.bg/docs/\(Microsoft%20Word%20-%20Code_Vishi_Dluznosti.pdf](http://www.mdaar.government.bg/docs/(Microsoft%20Word%20-%20Code_Vishi_Dluznosti.pdf); Coalition 2000/Center for the Study of Democracy report On the Eve of EU Accession: Anti-corruption reforms in Bulgaria, chapter 3: http://www.csd.bg/files/CAR-III_Eng.pdf

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

24d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

YES | NO

Comments:

In law, the National Audit Office only collects asset declarations from high-ranking state officials and imposes fines to those who have not submitted their declarations. The declarations are not subject to audit by the National Audit Office or another independent party.

Note: In August 2006 the parliament amended several laws (the changes will come into force on January 1, 2007) concerning the auditing of assets disclosures and political party financing. These changes are not covered by the 2006 Global Integrity Report since they were out of the period covered by the study (June 2005 – June 2006).

References:

Law on Public Disclosure of Assets of High-ranking State Officials: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/23743.html>

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

24e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

YES | NO

Comments:

In law, there are no such regulations. There are some regulations in the Code of Conduct of High-ranking Government Officials about entering the private sector. However, only working in the private sector and in government simultaneously is illegal.

References:

Code of Conduct of High-ranking Government Officials: [http://www.mdaar.government.bg/docs/\(Microsoft%20Word%20-%20Code_Vishi_Dluznosti.pdf](http://www.mdaar.government.bg/docs/(Microsoft%20Word%20-%20Code_Vishi_Dluznosti.pdf)

YES: A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

24f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | 0

Comments:

Not applicable – no such regulations exist.

100: The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

24g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

Comments:

This is difficult to measure precisely. There are many suspicions about gifts and hospitality offered to members of the executive branch. In May 2006 it became clear that a former Bulgarian prime minister had accepted a flight to Rome in a private airplane from an Italian businessman.

References:

Media publications: For example: Capital Weekly: <http://www.capital.bg/show.php?storyid=268612>

100: The regulations governing gifts and hospitality to members of the executive branch are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

24h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

Comments:

Such auditing is not required by law.

Note: In August 2006 the parliament amended several laws (the changes will come into force on January 1, 2007) concerning the auditing of assets disclosures and political party financing. These changes are not covered by the 2006 Global Integrity Report since they were out of the period covered by the study (June 2005 – June 2006).

References:

Law on Public Disclosure of Assets of High-ranking State Officials, Art. 6, <http://www.paragraf22.com/pravo/zakoni/zakoni-d/23743.html>

100: Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Executive branch asset disclosures are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

25. Can citizens access the asset disclosure records of the heads of state and government?

100

25a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES | NO

Comments:

Citizens can get access to government officials disclosure records by submitting a request to the National Audit Office.

References:

Law on Public Disclosure of Assets of High-ranking State Officials, Art. 6: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/23743.html>

YES: A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

25b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

According to the written order of the chairman of the National Audit Office, access to government officials disclosure records is provided within one week. Although there are no specific legal regulations, during the last years some government institutions started publishing disclosure records of their highest ranking officials online.

References:

Written order of the Chairman of the National Audit Office on the access to government officials disclosure records: <http://www.bulnao.government.bg/documents/zapovedPR.doc>; On-line disclosure records of cabinet members: <http://www.government.bg/cgi-bin/e-cms/vis/vis.pl?s=001&p=0027&n=&g=>

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some additional delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Accessing government officials disclosure records is not expensive. Some government officials disclosure records can be found online for free.

References:

Written order of the Chairman of the National Audit Office on the access to government officials disclosure records: <http://www.bulnao.government.bg/documents/zapovedPR.doc>; On-line disclosure records of cabinet members: <http://www.government.bg/cgi-bin/e-cms/vis/vis.pl?s=001&p=0027&n=&g=>

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

26. In practice, is the ruling party distinct from the state?

26. In practice, is the ruling party distinct from the state?

100 | 75 | 50 | 25 | 0

Comments:

Formally, the ruling party is distinct from the state. There are many regulations banning state servants from getting involved in political activities. However, there are many suspicions of politically motivated appointments in the state administration. There are also some examples of the use of state funds to support the ruling party indirectly. For example, the previous government decided to introduce a controversial elections lottery to increase voter turnout during the last legislative elections. According to some experts, the ruling party had direct political interest in higher voter turnout, and international observers defined this practice as unusual, emphasizing that it was unacceptable to finance the lottery from public funds.

References:

Freedom House: Nation in Transit 2006 (in print)

100: Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

75:

50: The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

25:

0: The government is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

III-2. Legislative Accountability

27. Can members of the legislature be held accountable for their actions?

67

27a. In law, the judiciary can review laws passed by the legislature.

YES | NO

Comments:

The Constitutional Court has the power to review laws passed by the Parliament.

References:

Bulgarian Constitution, Art. 149: <http://www.parliament.bg/?page=const&lng=en>

YES: A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

27b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

50: The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

27c. In law, are members of the national legislature subject to criminal proceedings?

YES | **NO**

Comments:

According to the Constitution, MPs are protected from criminal proceedings. However, the Prosecutor General might submit to Parliament a request to lift the immunity of particular MPs so they can be investigated in connection to particular crimes. The Parliament might decide to lift the immunity of the MP. According to the recent amendments of the Constitution, an MP may refuse to use the right to immunity from criminal proceedings by submitting a declaration to this effect.

References:

Bulgarian Constitution, Art. 70: <http://www.parliament.bg/?page=const&lng=en>

YES: A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

NO: A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings.

28. Are there regulations governing conflicts of interest by members of the national legislature?

36

28a. In law, members of the national legislature are required to file an asset disclosure form.

YES | NO

References:

Law on Public Disclosure of Assets of High-ranking State Officials, Art. 2, <http://www.paragraf22.com/pravo/zakoni/zakoni-d/23743.html>

YES: A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the legislature is not required to disclose assets.

28b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

YES | NO

Comments:

In law, there are no such restrictions. There are some restrictions in the Rules of Organization and Procedure of the National Assembly that restrict MPs from entering the private sector. However, only being in the private sector while serving as an MP is prohibited.

References:

Rules of Organization and Procedure of the National Assembly: <http://www.parliament.bg/?page=app&lng=en&aid=6>

YES: A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

28c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

YES | NO

Comments:

In law, there are no specific restrictions. However, rules governing the gifts and hospitality offered to MPs are included in the Rules of Organization and Procedure of the National Assembly.

References:

Rules of Organization and Procedure of the National Assembly, <http://www.parliament.bg/?page=app&lng=en&aid=6>

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

28d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

YES | **NO**

Comments:

In law, the National Audit Office only collects asset declarations from MPs and imposes fines to those who have not submitted their declarations. The declarations are not subject to audit by the National Audit Office or by an independent third party.

Note: In August 2006 the parliament amended several laws (the changes will come into force on January 1, 2007) concerning the auditing of assets disclosures and political party financing. These changes are not covered by the 2006 Global Integrity Report since they were out of the period covered by the study (June 2005 – June 2006).

References:

Law on the Public Disclosure of Assets of High-ranking State Officials: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/23743.html>

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

28e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | **0**

Comments:

Not applicable – no such regulations exist.

100: The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

28f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | **50** | 25 | 0

References:

Report of Coalition 2000/Center for the Study of Democracy On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria: http://www.csd.bg/files/en_FULLL.pdf

100: The regulations governing gifts and hospitality to national legislators are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to legislators. Legislators never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to national legislators are routinely ignored and unenforced. Legislators routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

28g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

Note: In August 2006 the parliament amended several laws (the changes will come into force on January 1, 2007) concerning the auditing of assets disclosures and political party financing. These changes are not covered by the 2006 Global Integrity Report since they were out of the period covered by the study (June 2005 – June 2006).

References:

No such regulations or requirements exist.

100: Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Legislative branch asset disclosures are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

29. Can citizens access the asset disclosure records of members of the national legislature?

100

29a. In law, citizens can access the asset disclosure records of members of the national legislature.

YES | NO

Comments:

Citizens can access MPs disclosure records by submitting a request to the National Audit Office.

References:

Law on the Public Disclosure of Assets of High-ranking State Officials, Art. 6: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/23743.html>

YES: A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

29b. In practice, citizens can access these records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

According to the written order of the chairman of the National Audit Office, access to MPs disclosure records is provided within one week.

References:

Written order of the chairman of the National Audit Office on the access to government officials disclosure records: <http://www.bulnao.government.bg/documents/zapovedPR.doc>; Interview with Alexander Kashumov, head of Legal Team at Access to Information Program.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

29c. In practice, citizens can access these records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Accessing MPs disclosure records is not expensive.

References:

Written order of the chairman of the National Audit Office on the access to government officials disclosure records: <http://www.bulnao.government.bg/documents/zapovedPR.doc>; Interview with Alexander Kashumov, head of Legal Team at Access to Information Program.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

30. Can citizens access legislative processes and documents?

100

30a. In law, citizens can access records of legislative processes and documents.

YES | NO

Comments:

There is no specific legal text providing for access to records of the legislative processes and documents. However, according to the Access to Public Information Act such information is considered public. According to the Rules of Organization and Procedure of the National Assembly, protocols from parliamentary sittings and drafts of laws and decisions are published on the Web site of the National Assembly.

References:

Access to Public Information Act, Art. 40: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/36100.html>; Rules of Organization and Procedure of the National Assembly: <http://www.parliament.bg/?page=app&lng=en&aid=6>

YES: A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

NO: A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there exemptions to the general right that are not clearly defined by formal rules.

30b. In practice, citizens can access these records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Records are available online.

References:

See records at: <http://www.parliament.bg/?page=plSt&SType=browse&lng=bg&SYear=2006&SMonth=7>

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access these records at a reasonable cost.

Comments:

Records are available online for free.

References:

See records at: <http://www.parliament.bg/?page=plSt&SType=browse&Ing=bg&SYear=2006&SMonth=7>

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

76 III-3. Judicial Accountability

31. Are judges appointed fairly?

92

31a. In practice, there is a transparent procedure for selecting national-level judges.

YES | NO

Comments:

According to the Constitution, the chairs of Supreme Courts and the Prosecutor General (in Bulgaria the Public Prosecutor Office is part of the judicial branch) are elected by an independent body called the Supreme Judicial Council (SJC). There is no strict election procedure described in the constitution or in the Judiciary Act. Such a procedure is provided in the Rules of Operation of the SJC and its administration. Although there are no strict rules in respect of the transparency of the procedure, there is enough legal ground for SJC to guarantee the holding of transparent elections of the nation-level judges. There is, in law, a formal transparent procedure for the election of judges, including members of supreme courts.

References:

Bulgarian Constitution, Art. 129, <http://www.parliament.bg/?page=const&Ing=en>; Judiciary Act, Art. 27, <http://www.paragraf22.com/pravo/zakoni/zakoni-d/211.htm> ; the Rules of Operation of the Supreme Judicial Council and its Administration, <http://212.122.184.99/bg/start.htm>

YES: A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages.

NO: A NO score is given if there is no formal process of selection or the process is conducted without public oversight.

31b. In practice, there are certain professional criteria required for the selection of national-level judges.

100 | 75 | 50 | 25 | 0

Comments:

There are certain criteria for the appointment of national-level judges, but in some cases they are ignored by the SJC. For example, in May 2006 the SJC appointed 85 magistrates, violating some regulations provided by the new Judiciary Act.

References:

Interview with Yonko Grozev, Lawyer, Bulgarian Helsinki Committee

100: National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

75:

50: Most national-level judges selected meet these qualifications, with some exceptions.

25:

0: National-level judges are often unqualified due to lack of training or experience.

31c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

YES | NO

Comments:

The Supreme Judicial Council elects all judges (including those in the Supreme Courts) and prosecutors in the country. These appointments are not contingent upon the approval of any other institution, except in the case of the chairmen of the Supreme Administrative Court, the Supreme Court of Cassation and the Prosecutor General. The nominees for these positions are reviewed and finally approved by the president. However, the president can only veto these nominees once. The chairman of the Constitutional Court is elected by the members of the court. One third of them are elected by the National Assembly, one third are appointed by the president, and one third by the general assembly of the judges in the Supreme Administrative Court and the Supreme Court of Cassation.

References:

Bulgarian Constitution: <http://www.parliament.bg/?page=const&lng=en>; Judiciary Act, Art. 27: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/211.htm>

YES: A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency independent from the body appointing the judges.

NO: A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by a body directed by the body appointing the judges (such as review by the head of police if judges are appointed by the executive).

32. Can members of the judiciary be held accountable for their actions?

92

32a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

YES | NO

Comments:

According to the Constitution, not only members of the national-level judiciary, but also all judges are obliged to give reasons for their decisions. The judges from the Constitutional Court are also obliged to motivate their decisions.

References:

Bulgarian Constitution, Chapter 8, Art. 149: <http://www.parliament.bg/?page=const&lng=en>

YES: A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

NO: A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

32b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

Comments:

All national-level judges give reasons for their decisions in practice. Decisions and reasons can be easily found at court Web sites.

References:

Web site of the Supreme Administrative Court: <http://www.sac.government.bg/home.nsf/vPagesLookup/home~bg> ; Web site of the Supreme Court of Cassation: <http://www.vks.bg> ; Web site of the Constitutional Court: <http://www.constcourt.bg> ; Bulgarian Constitution, <http://www.parliament.bg/?page=const&lng=en>

100: Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

75:

50: Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

25:

0: Judges commonly issue decisions without formal explanations.

32c. In law, there is an ombudsman (or equivalent agency or mechanism) for the national-level judicial system.

YES | NO

Comments:

This role is played by the Supreme Judicial Council (SJC).

References:

Bulgarian Constitution, Chapter 6: <http://www.parliament.bg/?page=const&lng=en>

YES: A YES score is earned if there is a ombudsman or equivalent mechanism for the judicial system. A judicial ombudsman is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary.

NO: A NO score is earned if no agency or mechanism is specifically mandated to act as a judicial ombudsman.

32d. In law, the judicial ombudsman (or equivalent agency or mechanism) is protected from political interference.

YES | NO

Comments:

Eleven members of the Supreme Judicial Council (SJC) are elected by the National Assembly; another 11 by the judiciary. Chairmen of the Supreme Court of Cassation and the Supreme Administrative Court, as well as the Prosecutor General are members of SJC by right.

References:

Bulgarian Constitution, Chapter 6: <http://www.parliament.bg/?page=const&lng=en>

YES: A YES score is earned if there are formal rules establishing that the judicial ombudsman is operationally independent from political interference by the executive, legislative or judicial branches.

NO: A NO score is earned if there are no formal rules establishing the independence of the judicial ombudsman. A NO score is given if the judicial ombudsman function is carried out by an inherently subordinate organization, such as an executive ministry or legislative committee.

32e. In practice, when necessary, the judicial ombudsman (or equivalent agency or mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The reform of the judiciary has been in the center of the public attention during the last several years, because its success is considered to be crucial for Bulgarians accession to EU. Due to this public and external (EU) pressure, the SJC increased transparency and effectiveness in its work. However, during the last year the SJC often used bureaucratic excuses not to start investigations into judicial misconduct or to start them with significant delays.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: The ombudsman aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The ombudsman is fair in its application of this power.

75:

50: The ombudsman will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The ombudsman, though limited in effectiveness, is still fair in its application of power.

25:

0: The ombudsman rarely investigates on its own or cooperates in other agencies' investigations, or the ombudsman is partisan in its application of this power.

32f. In practice, when necessary, the judicial ombudsman (or equivalent agency or mechanism) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The reform of the judiciary has been in the center of the public attention during the last several years, because its success is considered to be crucial for Bulgarians accession to EU. Due to this public and external (EU) pressure, the SJC increased transparency and effectiveness in its work. However, during the last year the SJC often used bureaucratic excuses not to start investigations into judicial misconduct or to start them with significant delays.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: When rules violations are discovered, the ombudsman is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The ombudsman enforces rules, but is limited in its effectiveness. The ombudsman may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The ombudsman does not effectively penalize offenders. The ombudsman may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The ombudsman may be partisan in its application of power.

III-4. Budget Processes

33. Can the legislature provide input to the national budget?

100

33a. In law, the legislature can amend the budget.

YES | NO

Comments:

The Law on the State Budget is passed by the National Assembly every year. The legislature might amend budget parameters when needed.

References:

Bulgarian Constitution, Chapter 3: <http://www.parliament.bg/?page=const&lng=en>

YES: A YES score is earned if the legislature has the power to add or remove items to the national government budget.

NO: A NO score is earned if the legislature can approve, but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

33b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

Comments:

All major public expenditures are approved by the Parliament when passing the Law on the State Budget.

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies

100: All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

75:

50: Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

25:

0: The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

33c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

Comments:

There is a permanent budgetary committee that has enough capacity and resources. The committee has its own experts and can also rely on additional expertise when needed.

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies

100: Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

75:

50: Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

25:

0: Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

34. Can citizens access the national budgetary process?

67

34a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | 50 | 25 | 0

Comments:

Legislative discussions on budget issues are open to the public. However, there is not enough transparency in the process of formulating separate expenditure items. State structures are not funded on project basis and it is difficult for the citizens to obtain information that might justify the amount of money spent by various state agencies and structures.

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies

100: Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

75:

50: There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

25:

0: Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

34b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

Comments:

In some cases, citizens or CSOs (mostly business associations) might provide valuable input and even influence some the budget items. However, this process is very limited in scope and still needs to be further developed.

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies

100: Citizens, usually acting through CSOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

75:

50: Citizens or CSOs can provide input, but this information is often not relevant to budget decisions.

25:

0: Citizens or CSOs have no formal access to provide input to the budget debate.

34c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

Comments:

Plenty of information is available online and regularly updated on the Web site of the Ministry of Finance.

References:

Web site of the Ministry of Finance, section on budget information: <http://www.minfin.bg/inpage.php?id=4>

100: Citizens, journalists and CSOs can access itemized lists of budget allocations. This information is easily available and up to date.

75:

50: Citizens, journalists and CSOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

25:

0: Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

35. In law, is there a separate legislative committee which provides oversight of public funds?

0

35. In law, is there a separate legislative committee which provides oversight of public funds?

YES

NO

Comments:

There is no special legislative committee to monitor the spending of public funds. The Budget Committee can only provide input on and control the process of budget formulation. The opposition can ask cabinet members questions on the spending at the regular Friday parliamentary control sessions. When needed, a temporary committee might be established to investigate a particular case.

In the Bulgarian system, the National Audit Office is the institution designed to exercise oversight over the expenditure of budgetary funds. Of course in general, the Budget Committee as well as separate MPs or other committees might ask cabinet members questions related to the expenditure of the funds. However, there is a perception that the Parliament should solve societal problems through legislative instruments rather than tough oversight and control of government activities. This partly explains why structures especially design to monitor government in different governance fields are missing or weakly developed.

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies

YES: A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

NO: A NO score is earned if no such body exists. A NO score is earned if there is a body executing this function but it is not under the direction of the legislature.

36. Is the legislative committee overseeing the expenditure of public funds effective?

0

36a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

Comments:

Not applicable – no such committee exists.

100: Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

75:

50: Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

25:

0: There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

36b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

Comments:

Not applicable – no such committee exists.

100: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee’s work to roughly the same extent as any other member of the committee.

75:

50: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members’ ability to shape the committee’s activities.

25:

0: The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

36c. In practice, this committee is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

Not applicable – no such committee exists.

100: This committee operates independently of the political process, without incentive or pressure to render favorable judgments on politically sensitive issues. Investigations are rarely praised or criticized by political figures.

75:

50: This committee is usually independent but is sometimes influenced by negative or positive political incentives. This may include public praise or criticism by the government.

25:

0: This committee is commonly influenced by personal or political forces or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties that ultimately influence the committee's behavior and decision-making. Negative incentives may include threats, harassment or other abuses of power by the government.

36d. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | 0

Comments:

Not applicable – no such committee exists.

100: When irregularities are discovered, the committee is aggressive in investigating the government.

75:

50: The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

Category IV. Administration and Civil Service

IV-1. Civil Service Regulations

37. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

100

37a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

YES | NO

Comments:

The Civil Servants Act regulates the creation of an impartial, professional and accountable civil administration. Technical staff is not regulated by this law, but through other rules established in codes of conduct and second legislation.

References:

Civil Servants Act: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/40648.html> ; Web site of the Ministry of State Administration and Administrative Reform: <http://www.mdaar.government.bg/press.php>; Code of Conduct of Civil Servants: <http://lex.bg/laws/ldoc.php?IDNA=2135486505>

YES: A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

NO: A NO score is earned if there are no formal rules establishing an independent civil service.

37b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

References:

Civil Servants Act, Art. 29a and others: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/40648.html>; Code of Conduct of Civil Servants: <http://lex.bg/laws/ldoc.php?IDNA=2135486505>

YES: A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

NO: A NO score is earned if no such regulations exist.

37c. In law, there is an independent redress mechanism for the civil service.

YES | NO

References:

Civil Servants Act: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/40648.html>

YES: A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. Civil servants are able to appeal the mechanism's decisions to the judiciary.

NO: A NO score is earned if no such mechanism exists.

37d. In law, civil servants convicted of corruption are prohibited from future government employment.

YES | NO

Comments:

In law, when a civil servant is convicted of any premeditated crime, his or her contract is terminated and the person may not be appointed to another position within the civil administration. This includes corruption and its derivatives, as defined in the Penal Code.

References:

Civil Servants Act, Art. 7, 103: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/40648.html>

YES: A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

NO: A NO score is earned if no such rules exist.

38. Is the law governing the administration and civil service effective?

83

38a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

It is difficult to state precisely to what extent civil servants are protected from political interference. No direct information is available, so the public can only judge by existing overall assessments of corruption in Bulgaria. Many new legislative provisions were adopted during the past few years to create barriers for political interference. However, some channels for such influence still exist. Civil servants themselves are vulnerable to influence because they believe they are dependent on the politically appointed management of the administration.

References:

Report of the Centre for the Study of Democracy/Coalition 2000: On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria: http://www.csd.bg/files/CAR-III_Eng.pdf

100: Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

75:

50: Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

25:

0: Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

38b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

There are many legal barriers, preventing politically appointed managers of the administration from firing civil servants and appointing new ones for political motivation. Also, the legislative provisions for merit-based appointment are generally followed. However, there have been many suspicions voiced in the media and in society about appointments based on political or other loyalties.

References:

Report of the Centre for the Study of Democracy/Coalition 2000: On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria: http://www.csd.bg/files/CAR-III_Eng.pdf

100: Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

38c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | 50 | 25 | 0

Comments:

There are many legal barriers, preventing politically appointed managers of the administration from firing civil servants and appointing new ones for political motivation. Also, the legislative provisions for merit-based appointment are generally followed. However, there have been many suspicions voiced in the media and in society about appointments based on political or other loyalties.

References:

Report of the Centre for the Study of Democracy/Coalition 2000: On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria: http://www.csd.bg/files/CAR-III_Eng.pdf

100: Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

75:

50: Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

25:

0: Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

38d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

Comments:

All civil servants have clear job descriptions included in the Rules of Organization of the administrative structures.

References:

See for example the Rules of Organization of Customs at http://www.customs.bg/uploaded_pics/docs.12.structure_bg.bg.html

100: Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable means to map positions to both human capital requirements (including the position's authority and responsibilities) and base pay.

75:

50: Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

25:

0: Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

38e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

Comments:

Generally, civil servants bonuses constitute only a small part of their total salary, although in some particular cases bonuses might exceed 10 percent of the basic salary.

References:

Council of Ministers Decree on salaries in the public sector: <http://www.mdaar.government.bg/docs/postanovlenieZaplati.doc>

100: Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

75:

50: Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

25:

0: Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

38f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | 50 | 25 | 0

Comments:

There is a Register of Administrative Structures, as required by the Law on Public Administration. The Register is an online database of all administrative structures and positions in the civil administrations (occupied and vacant). The register is regularly updated in accordance with the strict rules of organizations.

References:

Web site of the Register of Administrative Structures: <http://www1.government.bg/ras/konkursi/index.html> Public Administration Act, Art. 60: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/40647.html>

100: The government publishes such a list on a regular basis.

75:

50: The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

25:

0: The government rarely or never publishes such a list, or when it does it is wholly incomplete.

38g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

Comments:

It is difficult to assess with precision to what extent the redress mechanism for the civil service is effective in practice. During the last years no reliable data has been collected, and no research has been done on this topic. On the whole, experts state that civil administration is still very much affected by political influence in its everyday operations.

References:

Interview with Svetoslav Georgiev, director, Institute for Public Environment Development

100: The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

75:

50: The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

25:

0: The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

38h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

References:

Interview with Svetoslav Georgiev, director, Institute for Public Environment Development

100: In the past year, no civil servants have been paid late.

75:

50: In the past year, some civil servants have been paid late.

25:

0: In the past year, civil servants have frequently been denied due pay.

38i. In practice, civil servants convicted of corruption are prohibited from future government employment.

References:

Interview with Svetoslav Georgiev, director, Institute for Public Environment Development

100: A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

39. Are there regulations addressing conflicts of interest for civil servants?

58

39a. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

YES | NO

References:

Civil Servants Act, Art. 29a: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/40648.html>

YES: A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

NO: A NO score exists if no such requirements exist in regulation or law.

39b. In law, there are restrictions for civil servants entering the private sector after leaving the government.

YES | NO

References:

Civil Servants Act: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/40648.html>

YES: A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

39c. In law, there are regulations governing gifts and hospitality offered to civil servants.

YES | NO

Comments:

No such legal restrictions exist. However, they are included in the Code of Conduct of the Civil Servants.

References:

Civil Servants Act, <http://www.paragraf22.com/pravo/zakoni/zakoni-d/40648.html> Code of Conduct of Civil Servants, Art. 8, <http://lex.bg/laws/ldoc.php?IDNA=2135486505>

YES: A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

NO: A NO score is earned if there are no such guidelines or regulations.

39d. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

Comments:

Not applicable. No such regulations exist.

100: The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

39e. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

References:

Interview with Svetoslav Georgiev, director, Institute for Public Environment Development

100: The regulations governing gifts and hospitality to civil servants are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to civil servants. Civil servants never or rarely accept gifts or hospitality

above what is allowed.

75:

50: The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

39f. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | **75** | 50 | 25 | 0

References:

Interview with Svetoslav Georgiev, director, Institute for Public Environment Development

100: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

75:

50: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

25:

0: Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

40. Can citizens access the asset disclosure records of senior civil servants?

0

40a. In law, citizens can access the asset disclosure records of senior civil servants.

YES | **NO**

Comments:

In law, civil servants must submit their disclosure records to their superiors, but the records are not available to the public

References:

Civil Servants Act: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/40648.html>

YES: A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

NO: A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

40b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
Not applicable.

References:
Interview with Alexander Kashumov, head of Legal Team at Access to Information Program.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

40c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:
Not applicable.

References:
Interview with Alexander Kashumov, head of Legal Team at Access to Information Program.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

41. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

0

41a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | **NO**

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

YES: A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for public-sector whistleblowers.

41b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | **0**

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

41c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | **NO**

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

YES: A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for private-sector whistleblowers.

41d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

References:

Interview with Yonko Grozev, Lawyer, Bulgarian Helsinki Committee

100: Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

42. Is there an effective internal mechanism (i.e. phone hotline, e-mail address, local office) where civil servants can report corruption?

0

42a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: The agency/entity has staff sufficient to fulfill its basic mandate.

75:

50: The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

25:

0: The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

42b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

42c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

42d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | 50 | 25 | 0

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

0
IV-3. Procurement

43. Is the public procurement process effective?

83

43a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

Comments:

Such regulations are included in the Civil Servants Act and in the Code of Conduct of the Employees of the Public Procurement Agency.

References:

Civil Servants Act, Art. 29a: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/40648.html> Code of Conduct of Public Procurement Agency Employees: http://www.aop.bg/fckeditor2/user/File/bg/agency/eticen_%20kodeks.pdf

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private gain for public procurement officials.

NO: A NO score is earned if no such rules exist.

43b. In law, there is mandatory professional training for public procurement officials.

YES | NO

Comments:

No such requirements exist in the Public Procurement Act. The Civil Servants Act provides for mandatory training for all newly appointed civil servants.

References:

Civil Servants Act, <http://www.paragraf22.com/pravo/zakoni/zakoni-d/40648.htm>; Public Procurement Act, <http://www.paragraf22.com/pravo/zakoni/zakoni-d/16585.html>

YES: A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process.

NO: A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, or voluntary.

43c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | **75** | 50 | 25 | 0

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies

100: Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

75:

50: Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

43d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

YES | **NO**

Comments:

In law, officials from the Public Procurement Agency must declare their assets annually, but not to some independent agency, only to the body that appointed them.

References:

Civil Servants Act, Art. 29: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/40648.html>

YES: A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

NO: A NO score is earned if no such mandate exists.

43e. In law, major procurements require competitive bidding.

YES | NO

Comments:

The Public Procurement Act requires competitive bidding for most major procurements.

References:

Public Procurement Act, Art. 14: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/16585.html>

YES: A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

NO: A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

43f. In law, strict formal requirements limit the extent of sole sourcing.

YES | NO

References:

Public Procurement Act: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/16585.html>

YES: A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

NO: A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

43g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

YES | NO

Comments:

Procurement decisions can be appealed before the Competition Protection Commission.

References:

Public Procurement Act, Chapter 11 <http://www.paragraf22.com/pravo/zakoni/zakoni-d/16585.html>

YES: A YES score is earned if there is a formal appeal process for unsuccessful bidders.

NO: A NO score is earned if no such process exists.

43h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

YES | NO

Comments:

In Law, procurement decisions are considered to be administrative acts and, as such, are subject appeal before the Supreme

Administrative Court. Procurement decisions of the Competition Protection Commission are also subject to appeal before the Supreme Administrative Court.

References:

Public Procurement Act, Art. 122e: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/16585.html>

YES: A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

NO: A NO score is earned if no such process exists.

43i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | NO

Comments:

Candidates that have been convicted of bribery, economic crimes, etc., cannot participate in procurement biddings.

References:

Public Procurement Act, Art. 47: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/16585.html>

YES: A YES score is earned if there are formal procurement blacklists, preventing convicted companies from doing business with the government.

NO: A NO score is earned if no such process exists.

43j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

Comments:

Formally, it is very difficult, if not impossible, for companies or individuals that have been convicted for corruption to participate in the procurement process. However, in practice there are very few companies or individuals convicted for violations of procurement regulations. Also, it is not difficult for the companies to change registration or use other companies to participate in procurement bidding. According to the report of the Centre for the Study of Democracy/Coalition 2000, the number of companies paying bribes to win a public procurement contract decreased from 54 percent in 2003 to 35 percent in 2005. However, their level remained alarmingly high and even increased slightly in 2005. The World Bank report "Anti-corruption in Transition 3. Who Is Succeeding . . . And Why?," published in July 2006, also indicates an increase of companies paying to win procurement contracts.

References:

Report of the Centre for the Study of Democracy/Coalition 2000 "On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria." http://www.csd.bg/files/CAR-III_Eng.pdf "The World Bank: Anticorruption in Transition 3. Who Is Succeeding . . . And Why?." <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/0,,contentMDK:20989777~pagePK:146736~piPK:146830~theSiteP>

100: A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

44. Can citizens access the public procurement process?

88

44a. In law, citizens can access public procurement regulations.

YES | NO

Comments:

There is a Public Procurement Register, where all regulations and procurements are published

References:

Public Procurement Act, Art. 21, 22: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/16585.html>

YES: A YES score is earned if procurement rules are, by law, open to the public.

NO: A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

44b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

Comments:

This information is included in the Public Procurement Register.

References:

Public Procurement Act, Art. 22: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/16585.html>

YES: A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

44c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Interview with Alexander Kashumov, head of Legal Team at Access to Information Program.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

44d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

Interview with Alexander Kashumov, head of Legal Team at Access to Information Program.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

44e. In practice, major public procurements are widely advertised.

100 | 75 | 50 | 25 | 0

References:

Interview with Alexander Kashumov, head of Legal Team at Access to Information Program.

100: There is a formal process of advertising public procurements. This may include a government Web site, newspaper advertising, or other official announcements. All major procurements are advertised in this way.

75:

50: There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective.

25:

0: There is no formal process of advertising major public procurements or the process is superficial and ineffective.

44f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | 50 | 25 | 0

Comments:

Information about the contracts made with the contracting companies is not publicly available, because it is treated as a commercial secret. However, this information is crucial for assessing the integrity of the procurement process.

References:

Interview with Alexander Kashumov, head of Legal Team at Access to Information Program.

100: Records of public procurement results are publicly available through a formal process.

75:

50: Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

25:

0: This information is not available to the public through an official process.

IV-4. Privatization

45. Is the privatization process effective?

100

45a. In law, all businesses are eligible to compete for privatized state assets.

YES | NO

References:

Law on Privatization and Post-privatization Control: <http://212.122.167.183/apnew/Root/Files/laws/laws747.rtf>

YES: A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

NO: A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

45b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

YES | NO

References:

Law for Privatization and Post-privatization Control, Chapter 4: <http://212.122.167.183/apnew/Root/Files/laws/laws747.rtf>

YES: A YES score is earned if there are formal regulations defining and regulating conflicts of interest for government officials involved in privatization.

NO: A NO score is earned if there are no such formal regulations.

45c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

Comments:

There have been no cases of proven violations of the conflict of interest regulations by officials from the Privatization Agency in the last years. Information considered to be a trade secret is given to the candidate-buyers only under strict rules.

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies.

100: Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

75:

50: Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

46. Can citizens access the terms and conditions of privatization bids?

100

46a. In law, citizens can access the terms and conditions of privatization bids.

YES | NO

Comments:

In law, there are public registers that contain information on the privatization process and the deals concluded.

References:

Law for Privatization and Post-privatization Control: <http://212.122.167.183/apnew/Root/Files/laws/laws747.rtf>

YES: A YES score is earned if there is a formal process of publishing the details of privatization bids that makes information available to all citizens.

NO: A NO score is earned if there is no formal publication process, or if any citizens are excluded by law from accessing this information.

46b. In law, the government is required to publicly announce the results of privatization decisions.

YES | NO

References:

Law for Privatization and Post-privatization Control: <http://212.122.167.183/apnew/Root/Files/laws/laws747.rtf>

YES: A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

46c. In practice, citizens can access the terms and conditions of privatization bids within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Registers are available online and are updated on a regular basis.

References:

Web site of the Privatization Agency: <http://ppc.government.bg>

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

46d. In practice, citizens can access the terms and conditions of privatization bids at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Information is available online for free and could also be obtained under the Access to Information Act at a reasonable price.

References:

Web site of the Privatization Agency: <http://ppc.government.bg>

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

Category V. Oversight and Regulation

V-1. ⁹⁰ National Ombudsman

47. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

47. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

YES | NO

References:

Ombudsman Act: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/28283.html>

YES: A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

NO: A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

48. Is the national ombudsman effective?

89

48a. In law, the ombudsman is protected from political interference.

YES | NO

Comments:

Parliament elects the ombudsman; the Office of the Ombudsman is a fully independent structure of the executive branch.

References:

Ombudsman Act, Art. 4, 8: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/28283.html>

YES: A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

48b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

The Office of the Ombudsman is very new, and it is still in the process of institutionalization. However, during the last year, there were no attempts of political interference into the ombudsman's activities.

References:

Interview with Svetoslav Georgiev, director, Institute for Public Environment Development

100: This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

48c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

The ombudsman is elected for a five-year term and cannot be removed by the Parliament without serious motivation. In practice, this procedure guarantees a high-level of protection from ungrounded dismissal of the ombudsman.

References:

Interview with Svetoslav Georgiev, director, Institute for Public Environment Development

100: The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

48d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

It is still difficult to assess whether the ombudsman has enough staff to fulfill its basic mandate. The office just opened one year ago and enjoys considerable public interest. Most likely, the number of the citizen complaints will decrease in the future and the current ombudsman staff will be sufficient to fulfill its basic mandate.

References:

Interview with Svetoslav Georgiev, director, Institute for Public Environment Development

100: The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

48e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

In law, the ombudsman independently appoints the staff members working for the Ombudsman's Office. Generally, appointments made so far support the independence of its institutions. Some of the staff members have had clear political affiliation in the past, but they represent different political parties. It is still early to assess the professional merit of the staff members.

References:

Interview with Svetoslav Georgiev, director, Institute for Public Environment Development

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

48f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

So far, funding has been received regularly.

References:

Interview with Svetoslav Georgiev, director, Institute for Public Environment Development

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

48g. In practice, the agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

Comments:

In law, reports produced by the Office of the Ombudsman are public. However, so far the reports are difficult to find. The Ombudsman's Office still has no Web site.

References:

Interview with Svetoslav Georgiev, director, Institute for Public Environment Development

100: The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

48h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

So far, the Office of the Ombudsman has interfered several times in the public life of the country, starting investigations into significant public issues.

References:

Interview with Svetoslav Georgiev, director, Institute for Public Environment Development

100: The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

75:

50: The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

48i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

References:

Interview with Svetoslav Georgiev, director, Institute for Public Environment Development

100: When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

48j. In practice, the government acts on the findings of the agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

The Ombudsman's Office is new for Bulgaria, and state and government institutions are still in the process of learning how to act on its findings and recommendations. They are still trying to develop an institutional culture and administrative capacity with respect to the work of the Ombudsman.

References:

Interview with Svetoslav Georgiev, director, Institute for Public Environment Development

100: Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Ombudsman reports are often ignored, or given superficial attention. Ombudsman reports do not lead to policy changes.

48k. In practice, the agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | **75** | 50 | 25 | 0

Comments:

Generally, the Ombudsman's Office acts upon citizens' complaints within the time limits defined by the law. However, some delays are possible due to ongoing institutionalization.

References:

Interview with Svetoslav Georgiev, director, Institute for Public Environment Development

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

49. Can citizens access the reports of the ombudsman?

83

49a. In law, citizens can access reports of the ombudsman(s).

YES | NO

References:

Ombudsman Act, Art. 22: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/28283.html>

YES: A YES score is earned if all ombudsman reports are publicly available.

NO: A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

49b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The Ombudsman's Office is still in the process of organization and institutionalization. Reports, as far as they exist, are difficult to obtain due to weak organization. The Office of the Ombudsman has no Web site yet. Only one summary of Ombudsman's report is available online, published at the Web site of the Centre for the Study of Democracy/Coalition 2000.

References:

Interview with Svetoslav Georgiev, director, Institute for Public Environment Development; Summary of the report of the Ombudsman: http://www.anticorruption.bg/ombudsman/bg/readnews.php?id=6317&lang=bg&t_style=tex&l_style=default

100: Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

49c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Reports are free or can be obtain at reasonable cost. The problem is that they are difficult to find.

References:

Summary of the report of the Ombudsman: http://www.anticorruption.bg/ombudsman/bg/readnews.php?id=6317&lang=bg&t_style=tex&l_style=default

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

V-2. Supreme Audit Institution

50. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

50. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

YES | NO

Comments:

National Audit Office

References:

Law on the National Audit Office: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/200.html> ; See Web site: <http://www.bulnao.government.bg/en/>

YES: A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

NO: A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

51. Is the supreme audit institution effective?

88

51a. In law, the supreme audit institution is protected from political interference.

YES | NO

Comments:

Members and the chairman of the National Audit Office (NAO) are elected by the Parliament. NAO is fully independent from the government.

References:

Law on the National Audit Office, Art. 2, 10: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/200.html>

YES: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

51b. In practice, the head of the agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

The head of the National Audit Office is elected for a seven-year term and can not be removed without serious reasons or unless involved in crime. There have not been examples of unregulated removal of the chairman of the National Audit Office after communism collapsed in 1989.

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies.

100: The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the agency can be removed at the will of political leadership.

51c. In practice, the agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The National Audit Office has enough staff members, who are well trained to fulfill its basic functions as described in the law. The agency covers all the territory of the country with its 28 regional offices (in the 28 regional centers of the country).

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies.

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

51d. In practice, agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies.

100: Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

51e. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies.

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

51f. In practice, the agency makes regular public reports.

100 | 75 | 50 | 25 | 0

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies.

100: The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

25:

0: The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

51g. In practice, the government acts on the findings of the agency.

100 | 75 | 50 | 25 | 0

Comments:

The government usually acts on the findings of the National Audit Office, but it is not clear to what extent irregularities are corrected. The National Audit Office has limited instruments to force government agencies to act on its findings.

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies.

100: Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

51h. In practice, the supreme audit institution is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

Comments:

In law, the National Audit Office may audit all institutions funded with public funds, but it is not able to initiate its own investigations.

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies.

100: The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

75:

50: The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

25:

0: The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

52. Can citizens access reports of the supreme audit institution?

100

52a. In law, citizens can access reports of the agency.

YES | NO

References:

Law on the National Audit Office, Art. 2, 10: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/200.html>

YES: A YES score is earned if all supreme auditor reports are available to the general public.

NO: A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

52b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Reports are available online.

References:

Reports of National Audit Office: <http://www.bulnao.government.bg/pages.html?catID=18>

100: Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Reports are available online for free.

References:

Reports of National Audit Office: <http://www.bulnao.government.bg/pages.html?catID=18>

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

96
V-3. Taxes and Customs

53. In law, is there a national tax collection agency?

100

53. In law, is there a national tax collection agency?

YES | NO

Comments:

National Revenue Agency.

References:

See Web site: www.nap.bg

YES: A YES score is earned if there is a national agency formally mandated to collect taxes.

NO: A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

54. Is the tax collection agency effective?

100

54a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies.

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

54b. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies.

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

55. In practice, are tax laws enforced uniformly and without discrimination?

50

55. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

Formally, tax laws are enforced uniformly with regard to all companies and individuals. However, in practice there are cases of tax evasion, which are made possible by paying bribes to tax officials. During the period studied, several investigations against tax officials accused of corruption were launched. The public still believes that tax officials are generally corrupt.

References:

Report of the Centre for the Study of Democracy/Coalition 2000 "On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria," http://www.csd.bg/files/CAR-III_Eng.pdf

100: Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

75:

50: Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

25:

0: Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

56. In law, is there a national customs and excise agency?

100

56. In law, is there a national customs and excise agency?

YES | NO

Comments:

National Customs Agency.

References:

See Web site: http://www.en.customs.bg/index_en.html

YES: A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

NO: A NO score is earned if that function is spread over several agencies, or does not exist.

57. Is the customs and excise agency effective?

100

57a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies.

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

57b. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies.

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

58. In practice, are customs and excise laws enforced uniformly and without discrimination?

50

58. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

Although many recent reports state a decrease of corruption amongst customs officers, they are still on the top of the list of most corrupt civil servants according to the general public.

References:

Report of the Centre for the Study of Democracy/Coalition 2000: "On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria," http://www.csd.bg/files/CAR-III_Eng.pdf; The World Bank: Anticorruption in Transition 3. Who Is Succeeding . . . And Why?: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/0,,contentMDK:20989777~pagePK:146736~piPK:146830~theSitePK>

100: Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

75:

50: Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

25:

0: Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

V-4. Financial Sector Regulation

59. In law, is there a financial regulatory agency overseeing publicly listed companies?

100

59. In law, is there a financial regulatory agency overseeing publicly listed companies?

YES | NO

Comments:

Financial Supervision Commission (FSC)

References:

See Web site at http://www.fsc.bg/E_fsc_page.asp?v=8; Law on the Financial Supervision Commission <http://www.fsc.bg/down.asp?f=d&n=2280>

YES: A YES score is earned if there is an agency tasked with overseeing publicly listed companies in the public interest and ensuring that disclosure rules are met.

NO: A NO score is earned if this function is spread over several agencies or does not exist.

60. Is the financial regulatory agency effective?

90

60a. In law, the financial regulatory agency is protected from political interference.

YES | NO

References:

Law on the Financial Supervision Commission, Art. 5, <http://www.fsc.bg/down.asp?f=d&n=2280>

YES: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

60b. In practice, the agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies.

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

60c. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies.

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

60d. In practice, when necessary, the financial regulatory agency independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

Generally, FSC investigates irregularities, but according to experts, it needs to be more assertive in doing this.

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies.

100: When irregularities are discovered, the agency is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

60e. In practice, when necessary, the financial regulatory agency imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

Generally, FSC investigates irregularities, but according to experts, it needs to be more assertive in doing this.

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies.

100: When rules violations are discovered, the agency is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75:

50: The agency enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partis

61. Can citizens access the financial records of publicly listed companies?

100

61a. In law, citizens can access the financial records of publicly listed companies.

YES | NO

References:

Law on the Public Offering of Shares, Chapter 8, Section IV http://www.fsc.bg/fsc_page.asp?v=5

YES: A YES score is earned if the financial information of all publicly traded companies is required by law to be public.

NO: A NO score is earned if any category of publicly- owned or publicly-traded company is exempt from this rule, or no such rules exist.

61b. In practice, the financial records of publicly listed companies are regularly updated.

100 | 75 | 50 | 25 | 0

Comments:

Quarterly financial reports are published regularly in the Register of Financial Supervision Commission.

References:

Public Register of the Financial Supervision Commission: <http://www3.fsc.bg/ERiK/runner?lang=BG>

100: Publicly traded companies always disclose financial data, which is generally accurate and up to date.

75:

50: Publicly traded companies disclose financial data, but it is flawed. Some companies may misstate financial data, or file the information behind schedule.

25:

0: Financial data is not available, or is consistently superficial or otherwise of no value to investors.

61c. In practice, the financial records of publicly listed companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

Comments:

Some minor exceptions aside, all publicly listed companies are audited using the international standards of audit. Audit reports can be found on the Web site of the Bulgarian Stock Exchange.

References:

Interview with Kliment Rudinski, Broker, Bulbrokers; Web site of the Bulgarian Stock Exchange at <http://www.bse-sofia.bg/index.php>

100: Financial records of all public companies are regularly audited by a trained third party auditor using accepted international standards.

75:

50: Financial records of public companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

25:

0: Publicly traded companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

61d. In practice, citizens can access the records of disciplinary decisions imposed by the government on publicly-listed companies.

100 | 75 | 50 | 25 | 0

Comments:

Records of disciplinary sanctions imposed by the government on publicly listed companies are available online.

References:

Public Register of the Financial Supervision Commission: <http://www3.fsc.bg/ERiK/runner?lang=BG>

100: These records are freely available to all citizens through a formal official process.

75:

50: These records are available to all citizens, with some exceptions.

25:

0: These records are generally not available through official processes.

61e. In practice, citizens can access the financial records of publicly listed companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Company financial records are available online.

References:

Public Register of the Financial Supervision Commission: <http://www3.fsc.bg/ERiK/runner?lang=BG>

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

61f. In practice, citizens can access the financial records of publicly listed companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Company financial records are available online for free.

References:

Public Register of the Financial Supervision Commission: <http://www3.fsc.bg/ERiK/runner?lang=BG>

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

97

V-5. Business Licensing and Regulation

62. Are business licenses available to all citizens?

94

62a. In law, anyone may apply for a business license.

YES | NO

References:

Law on the Limitation of Administrative Regulation and Administrative Control over Economic

Activity: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/36326.html>

YES: A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

NO: A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required.

62b. In law, a complaint mechanism exists if a business license request is denied.

YES | NO

References:

Law on the Limitation of Administrative Regulation and Administrative Control over Economic

Activity: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/36326.html>

YES: A YES score is earned if there is a formal process for appealing a rejected license.

NO: A NO score is earned if no such mechanism exists.

62c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies

100: Licenses are not required, or licenses can be obtained within roughly one week.

75:

50: Licensing is required and takes around one month. Some groups may be delayed up to a three months.

25:

0: Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

62d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Small business can obtain licenses at reasonable cost, considering to the prospective income from economic activity.

References:

Interview with Georgy Ganev, economist, Sofia University/Centre for Liberal Strategies

100: Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

63. Do businesses receive equitable regulatory treatment from the government?

75

63a. In law, basic business regulatory requirements for meeting health, safety, and environmental standards are transparent and publicly available.

YES | NO

References:

Law on the Limitation of Administrative Regulation and Administrative Control over Economic Activity: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/36326.html>

YES: A YES score is earned if basic regulatory requirements for meeting health, safety, and environmental standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

63b. In practice, business inspections by the government are carried out in a uniform and even-handed manner.

100 | 75 | **50** | 25 | 0

Comments:

The World Bank report on anti-corruption indicates an increase in business inspections carried out by the government in Bulgaria. Many businessmen state that bribes are associated with health and safety inspections.

References:

The World Bank: "Anti-corruption in Transition 3. Who Is Succeeding . . . And Why?": <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/0,,contentMDK:20989777~pagePK:146736~piPK:146830~theSiteP>

100: Business inspections by the government (i.e. health, safety, or environmental inspections) are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government (i.e. health, safety, or environmental inspections) are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections (i.e. health, safety, or environmental inspections) are routinely carried out by the government in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

Category VI. Anti-Corruption and Rule of Law

VI-1. ⁸³Anti-Corruption Law

64. Is there legislation criminalizing corruption?

100

64a. In law, attempted corruption is illegal.

YES | NO

Comments:

The term corruption is not used in Bulgarian legislation. However, some derivatives of corruption are clearly described and criminalized in the Penal Code. The reference provided is an example of this: the way the Penal Code criminalizes an attempted bribe.

References:

Penal Code, Art. 301 (1): <http://www.paragraf22.com/pravo/kodeksi/parts/nk4.html#:020%20>>A<0

YES: A YES score is earned if corruption laws include attempted acts.

NO: A NO score is earned if this is not illegal.

64b. In law, extortion is illegal.

YES | NO

References:

Penal Code, Chapter 5, Section V: <http://www.paragraf22.com/pravo/kodeksi/parts/nk3.html#0745;%20V-5>

YES: A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

NO: A NO score is earned if this is not illegal.

64c. In law, offering a bribe (i.e. active corruption) is illegal.

YES | NO

References:

Penal Code, Chapter 8, Section IV: <http://www.paragraf22.com/pravo/kodeksi/parts/nk4.html#:020%20>>A<0

YES: A YES score is earned if offering a bribe is illegal.

NO: A NO score is earned if this is not illegal.

64d. In law, receiving a bribe (i.e. passive corruption) is illegal.

YES | NO

References:

Penal Code, Chapter 8, Section IV: <http://www.paragraf22.com/pravo/kodeksi/parts/nk4.html#:020%20>>A<0

YES: A YES score is earned if receiving a bribe is illegal.

NO: A NO score is earned if this is not illegal.

64e. In law, bribing a foreign official is illegal.

YES | NO

References:

Penal Code, Chapter 8, Section IV: <http://www.paragraf22.com/pravo/kodeksi/parts/nk4.html#:020%20>A<0>

YES: A YES score is earned if bribing a foreign official is illegal.

NO: A NO score is earned if this is not illegal.

64f. In law, using public resources for private gain is illegal.

YES | NO

References:

Penal Code, Chapter 8, Section II: <http://www.paragraf22.com/pravo/kodeksi/parts/nk4.html# 0745;%20IV-8>

YES: A YES score is earned if using public resources for private gain is illegal.

NO: A NO score is earned if this is not illegal.

64g. In law, using confidential state information for private gain is illegal.

YES | NO

References:

Penal Code, Chapter 8, Section II: <http://www.paragraf22.com/pravo/kodeksi/parts/nk4.html# 0745;%20IV-8>

YES: A YES score is earned if using confidential state information for private gain is illegal.

NO: A NO score is earned if this is not illegal.

64h. In law, money laundering is illegal.

YES | NO

References:

Law on Measures Against Money Laundering: http://www.fia.minfin.bg/docs_en/maml.pdf ; Penal Code, Chapter 7: <http://www.paragraf22.com/pravo/kodeksi/parts/nk4.html#:020%20A54<0>

YES: A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

NO: A NO score is earned if this is not illegal.

64i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

YES | NO

Comments:

In the Bulgarian Penal Code there is no definition of organized crime. Instead, organization and participation in an organized crime group is criminalized.

References:

Penal Code, Art. 321: <http://www.paragraf22.com/pravo/kodeksi/parts/nk5.html#0745;%20IV-11>

YES: A YES score is earned if organized crime is illegal.

NO: A NO score is earned if this is not illegal.

VI-2. Anti-Corruption Agency

65. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

65. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

YES | NO

Comments:

Until the end of 2005, there was a Commission for Coordinating the Activity for Combating Corruption in Bulgaria: a consultative body, chaired by the Minister of Justice, whose major goal was to analyze general issues or concrete cases of corruption, and to coordinate efforts of different state actors in combating corruption. However, this was not an agency especially designed by law to fight corruption. Some departments of the police and the prosecutor's office have certain functions and specialization to deal with corruption-related cases. Such mandates, however, are not specifically laid out in the governing legislation, but are rather part of the internal organization of these institutions. In February 2006, the Government created another coordinating body called the Commission for Corruption Prevention and Counteraction headed by the Interior Minister. This body came to replace the previous

Commission for Coordinating the Activity for Combating Corruption. There is also a permanent Combating Corruption Committee of the National Assembly. The Committee's prerogatives and functions include making proposals for amendments to legislation related to corruption prevention, exercising parliamentary oversight over corruption-related issues pertaining to the executive branch, and investigating corruption cases of public significance.

References:

Web site of the Commission for Coordinating of the Activity for Combating Corruption: <http://www.acc.government.bg/en/>

YES: A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

NO: A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

66. Is the anti-corruption agency effective?

56

66a. In law, the agency (or agencies) is protected from political interference.

YES | NO

Comments:

Both the Commission for Coordinating the Activity for Combating Corruption and its successor, the Commission for Corruption Prevention and Counteraction, have no organizational and operational independence from the Government. The parliamentary Combating Corruption Committee is independent from the Government and to some extent protected from direct Government interference.

References:

Website of the Commission for Coordinating the Activity for Combating Corruption: <http://www.acc.government.bg/en/>; website of the Bulgarian Parliament: www.parliament.bg

YES: A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

66b. In practice, the agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

The Commission for Coordinating the Activity of Combating Corruption and the Commission for Corruption Prevention and Counteraction are governmental bodies which are fully controlled by the government and the ruling political parties. They do not investigate concrete cases of corruption. The parliamentary Combating Corruption Committee has organizational and operational independence from the government but in practice it is controlled by the ruling political parties in the Parliament. So far, no corruption cases of public significance have been investigated by the Committee or brought to court.

References:

Website of the Commission for Coordinating the Activity for Combating Corruption: <http://www.acc.government.bg/en/>; website of the Bulgarian Parliament: www.parliament.bg; Report of Coalition 2000/Center for the Study of Democracy: On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria, Chapter 3: http://www.csd.bg/files/en_FULLL.pdf

100: This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

66c. In practice, the head of the agency (or agencies) is protected from removal without relevant justification.

100 | 75 | **50** | 25 | 0

Comments:

The Commission for Coordinating the Activity for Combating Corruption and the Commission for Corruption Prevention and Counteraction are headed by political figures – the Minister of Justice and the Minister of the Interior. Therefore, they head these institutions while they are in office unless the Government decides that the commissions have fulfilled their goals and are no longer necessary. Similarly, the head of the parliamentary Combating Corruption Committee is elected by the Parliament for a whole four-year term. The chairman of the committee is usually a representative of one of the ruling parties and cannot be removed without relevant justification.

References:

Website of the Commission for Coordinating the Activity for Combating Corruption: <http://www.acc.government.bg/en/>; website of the Bulgarian Parliament: www.parliament.bg

100: The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director(s) can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director(s) can be removed at the will of political leadership.

66d. In practice, appointments to the agency (or agencies) are based on professional criteria.

100 | 75 | **50** | 25 | 0

Comments:

The governmental coordinating commissions include heads and representatives of various governmental structures related to corruption prevention. The members of the Combating Corruption Committee in Parliament are usually MPs that have relevant experience in the field. Both the governmental and parliamentary structures use the expertise of external consultants and NGOs working in the field of anticorruption.

References:

Website of the Commission for Coordinating the Activity for Combating Corruption: <http://www.acc.government.bg/en/>; website of the Parliament: www.parliament.bg; Report of Coalition 2000/Center for the Study of Democracy; On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria, Chapter 3: http://www.csd.bg/files/en_FULLL.pdf

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

66e. In practice, the agency (or agencies) has a professional, full-time staff.

100 | 75 | **50** | 25 | 0

Comments:

Members of the governmental coordination commissions are elected and appointed officials in other governmental agencies. Commissions have a small number of full-time administrative staff. The parliamentary Combating Corruption Committee consists of MPs that are also members of other committees. They are supported by full-time administrative staff and several legal and economic advisors.

References:

Website of the Commission for Coordinating the Activity for Combating Corruption: <http://www.acc.government.bg/en/>; website of the Bulgarian Parliament: www.parliament.bg

100: The agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

66f. In practice, the agency (or agencies) receives regular funding.

100 | 75 | **50** | 25 | 0

Comments:

Since the goals of the two governmental coordination commissions are broadly defined it is difficult to assess to what extent the funding they receive is enough to fulfill their basic functions. The parliamentary Combating Corruption Committee receives regular funding from the parliamentary budget.

References:

Website of the Commission for Coordinating of the Activity for Combating Corruption: <http://www.acc.government.bg/en/>; website of the Bulgarian Parliament: www.parliament.bg; Report of Coalition 2000/Center for the Study of Democracy: On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria, Chapter 3: http://www.csd.bg/files/en_FULLL.pdf

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

66g. In practice, the agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

The previous Commission for Coordinating the Activity for Combating Corruption made regular annual reports. Its successor, the Commission for Corruption Prevention and Counteraction has not published a report yet. The parliamentary Combating Corruption Committee makes regular monthly activity reports that are available online.

References:

Website of the Commission for Coordinating the Activity for Combating Corruption: <http://www.acc.government.bg/en/>; website of the parliamentary Combating Corruption Committee: <http://parliament.bg/?page=ns&lng=bg&nsid=5&action=show&Type=cmStan&gid=176>

100: The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

66h. In practice, the agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

The governmental coordination commissions have sufficient powers to carry out their mandates. However, their functions include mostly coordination activities and they cannot initiate independent investigations. The parliamentary Combating Corruption Committee has sufficient powers to initiate investigations.

References:

Website of the Commission for Coordinating the Activity for Combating Corruption: <http://www.acc.government.bg/en/>; website of the Bulgarian Parliament: www.parliament.bg; Report of Coalition 2000/Center for the Study of Democracy: On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria, Chapter 3: http://www.csd.bg/files/en_FULLL.pdf

100: The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

75:

50: The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

25:

0: The agency (or agencies) lacks significant powers which limit its effectiveness.

66i. In practice, when necessary, the agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The governmental coordination commissions do not have the power to initiate independent investigations. The parliamentary Combating Corruption Committee has the power to initiate investigations as long as it does not interfere with the work of the judicial branch and law enforcement agencies. According to the report on the activity of the Combating Corruption Committee, more than 300 complaints were submitted to the Committee from June 2005 to April 2006. The Committee considered some of them but there was no significant follow-up.

References:

Website of the Commission for Coordinating the Activity for Combating Corruption: <http://www.acc.government.bg/en/>; website of the Bulgarian Parliament: www.parliament.bg; Report of Coalition 2000/Center for the Study of Democracy: On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria, Chapter 3: http://www.csd.bg/files/en_FULLL.pdf; Report on the activity of the Combating Corruption Committee at the 40th National Assembly: http://old.undp.bg/user_files/bg/documents/news/2006/gc_plus_three/statement_velikov_gc_plus_three_18apr2006.pdf

100: When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

75:

50: The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

67. Can citizens access the anti-corruption agency?

50

67a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Since the governmental coordination commissions have other functions, citizens cannot approach them directly with complaints about cases of corruption. However, citizens can directly approach the Combating Corruption Committee of the National Assembly. Usually, the Committee acts upon the most significant complaints within a reasonable time.

References:

Website of the Commission for Coordinating the Activity for Combating Corruption: <http://www.acc.government.bg/en/>; Web site of the Parliament: www.parliament.bg; Report of Coalition 2000/Center for the Study of Democracy: On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria, Chapter 3: http://www.csd.bg/files/en_FULLL.pdf; Report on the activity of the Combating Corruption Committee at the 40th National Assembly: http://old.undp.bg/user_files/bg/documents/news/2006/gc_plus_three/statement_velikov_gc_plus_three_18apr2006.pdf

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

67b. In practice, citizens can complain to the agency (or agencies) without fear of recrimination.

100 | 75 | **50** | 25 | 0

Comments:
No legislative whistleblowing protections exist.

References:
Interview with Yonko Grozev, Lawyer, Bulgarian Helsinki Committee

100: Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

75:

50: Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

69
VI-3. Rule of Law

68. Is there an appeals mechanism for challenging criminal judgments?

92

68a. In law, there is a general right of appeal.

YES | NO

References:

Judiciary Act: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/211.htm>

YES: A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

NO: A NO score is earned if there is no such process.

68b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In comparison with European countries, appeals are resolved within a reasonable period of time. According to the report of the Centre for Liberal Strategies, the length of criminal judicial procedures in Bulgaria is comparable with that of the EU member states.

References:

"The Judiciary: Independent and Accountable. Indicators on the Efficiency of the Bulgarian Judicial System," report of the Centre for Liberal Strategies: http://www.cls-sofia.org/uploaded/1146578882_final_report_english.pdf

100: Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

25:

0: Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

68c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Appealing criminal proceedings is not expensive and is affordable to middle class citizens.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments.

25:

0: The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments.

69. In practice, do judgments in the criminal system follow written law?

100

69. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

Comments:

Generally, criminal proceedings follow written regulations and an established procedure. Some problems exist in following procedures strictly in the pre-trial phase. However, these are compensated for in court, where legal rules and procedures are followed with only minor exceptions.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

75:

50: Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

25:

0: Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

70. In practice, are judicial decisions enforced by the state?

50

70. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

Comments:

There are some serious problems in the enforcement of judicial decisions by the state, especially in the cases where financial compensation must be paid to the citizens. State institutions have no separate budget funds for compensations and the money have to be earmarked in the next year budget, which results in serious delays in paying compensations. This is one of reasons why citizens and business associations insisted that private bailiffs be introduced in the judicial system (in force since September 2005). It is still early to assess what the actual effect of this reform is. Similarly, state institutions often apply new procedures or bureaucratic rules in order to avoid the enforcement of court decisions that force them to provide access to public information.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

75:

50: Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

25:

0: Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

71. Is the judiciary able to act independently?

94

71a. In law, the independence of the judiciary is guaranteed.

YES | NO

References:

Bulgarian Constitution, Chapter 6: <http://www.parliament.bg/?page=const&lng=en>: Judiciary

Act: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/211.htm>

YES: A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence include financial issues (drafting, allocation and managing the budget of the courts).

NO: A NO score is earned if there are no formal rules establishing an independent judiciary.

71b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: National level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

75:

50: National level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

25:

0: National level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

71c. In law, there is a transparent and objective system for distributing cases to national-level judges.

YES | NO

References:

Judiciary Act: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/211.htm>

YES: A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

NO: A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

71d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

References:

Judiciary Act: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/211.htm>

YES: A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

NO: A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

72. Are judges safe when adjudicating corruption cases?

100

72a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES | NO

Comments:

There were no such cases last year.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

YES: A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period.

NO: A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

72b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES | NO

Comments:

There were no such cases last year.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

YES: A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period.

NO: A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

73. Do citizens have equal access to the justice system?

92

73a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

Comments:

There have not been any court decisions in the last several years that might be considered racially or ethnically motivated. The problem is not in the courts, but the in pre-trial phase, when, in some cases, the police concentrate their efforts on investigating the representatives of the Roma minority more aggressively than the representatives of the majority.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: Judicial decisions are not affected by racial or ethnic bias.

75:

50: Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

25:

0: Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

73b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

Women have full access to the judicial system and are treated on an equal basis with men.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system.

75:

50: Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes.

25:

0: Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence.

73c. In practice, the state provides legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

Comments:

Two-year old surveys showed that in 20 to 30 percent of cases the state was not able to provide legal counsel to defendants who could not afford it. Many efforts to reform the system have been made since then, but there is still a perception among the experts that more needs to be done in terms of the quality of state legal aid.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: State-provided legal aid is basic, but well trained and effective in representing the rights of indigent defendants.

75:

50: State-provided legal aid is available, but flawed. Legal aid may be unavailable to some indigent defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

25:

0: State-provided legal aid is unavailable to most indigent defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

73d. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

Comments:

Bringing a legal suit in Bulgaria is not expensive and is affordable to middle class citizens.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance.

75:

50: In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive.

25:

0: The cost of engaging the legal system prevents middle class citizens from filing suits.

73e. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

Comments:

Bringing a legal suit in Bulgaria is not expensive and is affordable to middle class citizens.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance.

75:

50: In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive.

25:

0: The cost of engaging the legal system prevents small businesses from filing suits.

73f. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | 50 | 25 | 0

Comments:

Courts are well-allocated geographically, covering all the territory of the country.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

75:

50: Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

25:

0: Courts are unavailable to some regions without significant travel on the part of citizens.

VI-4. Law Enforcement

74. Is the law enforcement agency (i.e. the police) effective?

67

74a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

There are formal professional criteria for appointments in law enforcement agencies. However, many believe that the system is not effective enough, allowing appointments based on nepotism and creating a system of favor exchange.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

74b. In practice, the agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

Law enforcement agencies have huge budgets, measured as a percentage of the state budget. However, it is not the size but the effective use of the financial means that is problematic.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

25:

0: The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

74c. In practice, the agency is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

There is a formal separation of the political and the management sides of the Ministry of Interior. However, in practice the law enforcement agencies are not fully protected from political interference. Many suspicions have been raised in the media and in society that in some cases law enforcement agencies are used or directed by political influence, exercised by the political leadership of Ministry of Interior.

References:

-ABA9D17680D8/0/Zak

100: The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

75:

50: The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

75. Can law enforcement officials be held accountable for their actions?

88

75a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

Comments:

Complaints about police actions can be submitted to the Minister of Interior, the Prosecutor's Office, and the Ombudsman.

References:

Law on the Ministry of Interior: http://www.mvr.bg/NR/rdonlyres/379531D2-0059-4223-86F8-ABA9D17680D8/0/Zakon_za_MVR.pdf; Ombudsman Act: <http://www.paragraf22.com/pravo/zakoni/zakoni-d/28283.html>

YES: A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions.

NO: A NO score is earned if there is no such mechanism.

75b. In practice, the independent reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Complaints are considered and answered within a reasonable period of time.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

75c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

YES | NO

Comments:

In law, there is an Inspectorate Department within the Ministry of Interior, which is separate from police and has a legal mandate to counteract corruption in the law enforcement agencies.

References:

Law on the Ministry of Interior, Art. 115: http://www.mvr.bg/NR/rdonlyres/379531D2-0059-4223-86F8-ABA9D17680D8/0/Zakon_za_MVR.pdf

YES: A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity is separate from the regular police department.

NO: A NO score is earned if no such agency/entity exists.

75d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | 0

Comments:

There were many disciplinary actions against police officers accused of corruption, motivated to a great extent by the European Commission's criticism within in the framework of Bulgaria's accession to the European Union. However, there is still a perception in the media and among the general public that corruption is deeply rooted in the police.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

75e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

Comments:

Law enforcement officers are part of the executive branch. According to the Constitution, only the president (and vice president), members of the judiciary and members of Parliament have immunity for criminal proceeding.

References:

Bulgarian Constitution: <http://www.parliament.bg/?page=const&lng=en>

YES: A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

NO: A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

75f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | **50** | 25 | 0

Comments:

There is still strong professional solidarity amongst police officers and the prosecutors or investigators that investigate them in criminal proceedings. In September 2005, a man was killed in police action under suspicious circumstances in the city of Blagoevgrad. The first conclusion of the prosecutor's investigation was that no crime was committed, because all actions were taken in the line of duty. After pressure from civic organizations and media, the investigation was opened again.

References:

Interview with Yonko Grozev, lawyer, Bulgarian Helsinki Committee

100: Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

75:

50: Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

25:

0: Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.
