

Global Integrity Scorecard:

Bulgaria

Bulgaria: Reporter's Notebook

By Stanimir Vaglenov

"Will I have heat in my home, or will my family freeze this winter?"

It seems funny to think about such an issue during the summer months, especially because I have dutifully paid my bills to Toplofikazia-Sofia, the company that delivers heat to the Bulgarian capital. During the past year, however, corruption scandals have rocked the energy company, which is owned by the Ministry of Economy and Energy and the Municipality of Sofia. The scandals began unraveling on July 5, 2006, when Toplofikazia-Sofia Executive Director Valentin Dimitrov was arrested on corruption charges.

The previous day, a tax inspector, Alexander Angelov, was arrested in a cafe while carrying 135,000 leva (US\$88,345) in bribe money. He faced charges that he requested a bribe of 1.5 million leva (US\$1 million) from Sofia businessman Valentin Zaharev, former CEO of the Kremikovtzi steel factory, in exchange for a delay in the tax payments owed by the company. The inquiry into his case lasted only 14 days, after which, in January, the Sofia Municipality Court sentenced Angelov to two and a half years in prison.

Dimitrov's trial, however, is still ongoing. The energy company executive was arrested and charged with tax evasion and embezzlement after prosecutors found several bank accounts and deposit boxes containing 12 million leva (US\$8.5 million) in Bulgaria and Austria. Meanwhile, the company he led teetered on the brink of bankruptcy. After serving 10 months and 17 days in custody, Dimitrov was set free by the Sofia City Court for a 20,000-lev (US\$14,180) bail. Subsequently, 16 bank accounts in his and his mother's names have been frozen in five Bulgarian banks.

On December 13, 2006 several other Toplofikazia-Sofia executives were arrested in connection with the scandal. The company's Executive Director Georgi Rogachev and his deputy, Emil Antonov, were taken into custody on charges of embezzlement. The same day, Maya Stoylova, owner of Shiber Ltd., one of the heating company's equipment suppliers, was also arrested on charges of embezzling funds. Prosecutors discovered the connections after searching Dimitrov's deposit boxes in the Post Bank. They found 700,000 euros (US\$971,000) in one such box that Stoylova shared with Dimitrov.

On May 11, 2007, businessman Krasimir Georgiev, the owner of the company Frontier and a known close friend of the then Economy Minister Rumen Ovcharov, was charged with two counts of money laundering, one for 500,000 leva (US\$355,000) and the other for 450,000 Euros (US\$624,100). Although the authorities have not acknowledged it, the Toplofikazia scandal seems to be related to the June resignations of both Ovcharov and the director of the National Investigation Service, Angel Alexandrov. Both men are now charged with obstructing justice in the heating company case.

The risk that Toplofikazia-Sofia will go bankrupt is now greater than ever. Customers owe the energy company 190 million leva (US\$134.7 million) and the new director of the company, Petko Milevsky, said only 38 percent of customers will eventually pay. That means more 60 percent of the customers refuse to pay for service because they think their money will sink into the pockets of crooked state officials and corrupt political parties. At the same time, Toplofikazia-Sofia owes 150 million leva (US\$106.3 million) to Bulgargas, the state gas supplier.

Prime Minister Sergey Stanishev validated my worries about corruption. "The issue continues to be critical with corruption and organized crime, and the attempts [to curb it] are taken from the government not only by legislative leads, but by other concrete measures as well," Stanishev said on July 13, 2007. On the same day that Stanishev made those remarks, a prominent businessman, Manol Velev, was shot in the head in front of his office in the city center of Sofia. Velev was among the big donors to the campaigns of the governing Socialistic Party and is among the official advisers of President George Parvanov.

I must mention also that there have been some results in the struggle against corruption - significant results too, if compared to the inactivity of the previous governments. The Prosecution's Office, especially Prosecutor General Boris Velchev, is active and persistent.

In March 2007, Minister of Internal Affairs Rumen Petkov revealed that between October 2006 and March 2007: 1,706 pre-trial actions for wrongdoings associated with corruption were resolved; 705 people were indicted on 599 charges; and 297 people were sentenced. Petkov announced that in 2006 the Ministry received 8,500 complaints from citizens about corruption, 240 of which involved Interior Ministry officials. Petkov said 100 of the 240 complaints were investigated completely and 40 were validated, with measures taken.

The inspectorate of the Minister's Council said at the end of March 2007 that 39 employees of the administration had been fired during the previous six months due to allegations of corruption, another 57 people received disciplinary warnings, and 11 remain under investigation by the Prosecutor's Office.

The judgments, however, were mostly for probation or discharge, and there were only a few effective punishments for small fiscal crimes. This is demonstrated in the 12 sentences passed from October 2006 to June 2007. Punishments range from 11 months to four years in jail, and from 3,000 to 20,000 leva (US\$2,126 to \$14,180) in fines. The harshest sentence was four years in prison and a fine of 10,000 leva (US\$7,100) for a car stolen 10 years ago.

There are other cases in which no punishments were given. One example is that of the former head of the

Metropolitan Traffic Police, Iliia Iliev, who was fired in August 2006 when police arrested a group led by her son, Nestor Nestorov. With Iliev's help, the group helped clients register luxury cars and avoid customs fees. Nestorov's group used the computer system in the Traffic Police to erase any records of wrongdoings. The Sofia Military Prosecution brought charges but, claiming that the case lacked conclusive evidence, the judge found Nestorov not guilty.

The prosecution also probed 22 cases of misappropriation of money from the European Union funding programs Special Accession Program for Agriculture and Rural Development (SAPARD), Phare and The Pre-Accession Structural Instrument (ISPA), said Prosecutor General Boris Velchev in February 2007. Some of the cases have been brought to court, while others are under investigation.

The most high-profile of these cases involved a prominent businessman named Ludmil Stojkov, a big donor to the election campaign of President George Parvanov. Stojkov's name appeared in all six deals under investigation, which involved the extortion of more than 7 million euros (US\$9.7 million) from EU funds. The scandal involved exporting of old food-manufacturing machines from Bulgaria to the Swiss-German border and importing them back to Bulgaria with fake documents and passing them off as new as new. Stojkov was released after being arrested, and no sentence against him has been given.

"Losses from corruption in the sphere of public orders are more than 500 million leva (US\$354.5 million) annually," said the chief of a parliamentary commission of to fight corruption, Bojko Velikov. Corruption in this sector has never been so rampant and unpunished, Velikov said.

"There is an umbrella over the gray economy," said Vanyo Tanov, the former director of the Main Directorate for the Fight Against Organized Crime. Tanov said it is difficult to investigate economic corruption, especially concerning stock and excise contraband, because interests are so great in these sectors.

"Organized crime is a function of the high-level political corruption in the country," Tanov said. He resigned from his position as an organized crime investigator because he said the body is unable to work against high-level corruption. Tanov also resigned in protest of a "political smokescreen" that had been created to hide the country's shadow economy. The authority had reached its limits in its fight against corruption in the "higher echelons of power," Tanov said. The smuggling of goods covered by tax laws was protected by politics, he added.

Bulgaria: Corruption Timeline

November 1989 — The end of the Communist regime is marked by the resignation of Todor Zhivkov, leader of Bulgaria for 35 years.

June 1990 — The first democratic parliamentary elections are held.

July 1991 — A new constitution is adopted.

February 1992 — Foreign Minister Stoyan Ganev fires approximately 200 diplomats who served in the old Communist regime in an attempt to eliminate cronyism and corruption in the foreign service.

September 1992 — Bulgaria ratifies the European Convention for the Protection of Human Rights and Fundamental Freedoms.

September 1992 — Todor Zhivkov is convicted and sentenced to seven years in prison for corruption during his 35-year rule. In February 1996, the Supreme Court overturns Zhivkov's conviction.

November 1992 — Former Communist Prime Minister Georgi Atanasov is convicted of misappropriating state funds and is sentenced to 10 years in prison. He is pardoned and released for health reasons in August 1994.

December 1995 — Bulgaria submits its application for membership in the European Union.

October 1996 — Former Prime Minister Andrei Lukanov is assassinated outside his Sofia home.

May 1998 — Noted anti-corruption journalist Anna Zarkova is attacked at a bus stop and splashed with sulfuric acid by a man about whom she had written.

December 1998 — Bulgaria ratifies the Organization for Economic Cooperation and Development's (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

June 2001 — Former King Simeon II's party, the National Movement Simeon II (NMS), wins parliamentary elections. He becomes prime minister in July.

October 2001 — The government adopts a national strategy against corruption. Action plans for implementing the national strategy follow in February 2002 and December 2003.

November 2001 — Bulgaria ratifies the Council of Europe Criminal Law Convention on Corruption.

October 2002 — Parliament sets up a 24-member permanent commission to fight corruption.

July 2003 — The law on the judicial system is amended to require income and property declarations from magistrates and their spouses and children.

September 2003 — The Finance Ministry launches an anti-corruption hotline. Through the 24-hour hotline, people can report corruption by officials in the Finance Ministry, such as tax and customs officers.

December 2003 — Bulgaria signs the United Nations Convention against Corruption. The ratification of the convention comes in 2006.

March 2004 — Bulgaria becomes member of NATO.

August 2004 — A British television program broadcasts hidden camera footage in which Ivan Slavkov, head of the Bulgarian Olympic Committee, appears to be discussing a bribe to help London's bid to win the 2012 Olympic games. A year later, Slavkov is dismissed from the International Olympic Committee.

October 2004 — A new public procurement law in compliance with EU standards for accountability and transparency takes effect.

January 2005 — A new ethical code for Bulgarian journalists is signed at a ceremony in Sofia at which the president, prime minister and speaker of the Parliament are present. The code, which covers both print and electronic media, was negotiated under an EU-sponsored program that helps develop professional standards in the media.

April 2005 — Bulgaria and Romania sign the Treaty of Accession, paving the way for their formal admission into the EU in January 2007. The European Commission continues to closely monitor Bulgaria's progress in completing the final preparations for accession, periodically releasing monitoring reports on the status of anti-corruption systems and political and economic reform. Corruption in Bulgaria continues to be a serious concern of the commission.

August 2005 — Bulgaria's main parties—the Bulgarian Socialist Party (BSP), the NMS and the Turkish Movement for Rights and Freedoms (MRF)—form a coalition government.

August 2005 — Sergei Stanishev, leader of the Socialist Party which got the top at the elections held on May, becomes the new prime minister of the coalition government.

October 2005 — Emil Kyulev, one of Bulgaria's richest men and owner of the country's largest insurance and banking alliance, is shot dead in his car in Sofia. It is the eighth high-profile assassination in the country

since the coalition government came to power. Kyulev's murder is believed to be the work of organized criminals who fear Bulgaria's entry into the EU will hamper their lucrative drug trafficking, prostitution and cigarette and alcohol smuggling operations.

May 2006 — Krassimir Nedelchev, deputy head of the State Agriculture Fund, is arrested on bribery charges.

June 2006 — The Italian press implicates former Prime Minister Simeon Saxe-Coburg-Gotha in a corruption scandal involving Italian businessmen, campaign contributions to the NMS party and the construction of a children's hospital in Sofia. The Interior Ministry begins investigating the allegations.

July 2006 — A Tax Administration official is arrested on charges of money laundering, tax-evasion and accepting a 138,500 leva (US\$90,000) bribe from a businessman.

October 2006 — Georgi Parvanov is reelected for a second five year term as the president, mainly ceremonial post.

December 2006 — Five Bulgarian nurses and a Palestinian doctor accused of deliberately infecting Libyan children with HIV virus are sentenced to death. Bulgarian officials condemn these sentences. The death sentences are commuted to life in prison by the Libyan Court. The involvement of European Union secures the repatriation of the Nurses to Bulgaria on July 2007.

January 2007 — Bulgaria joins the European Union.

May 2007 — Deputy Economy and Energy Minister Kormelia Ninova is fired from her post due to the pending investigation on allegations that Ninova along with Sofia Investigator Tatyana Sharlandzhieva obstructed the justice. Reports in media accuse Ninova of using her close relations with the inspector to talk her into helping businessman Krasmir Georgiev, who is accused of money laundering, to avoid trial. Economy and Energy Minister Rumen Ovcharov is also implicated in the scandal, being accused of trying to pressure officials to act in favor of Georgiev. Ovcharov is eventually fired by the prime minister. Another top official implicated in the scandal, the chief of National Investigation Service Angel Alexandrov, announces his resignation in June. The resignations continue as the corruption scandal widens. The Justice minister and the deputy Justice minister join the chain of resigned or fired officials.

June 2007 — The European Commission criticizes Bulgaria for not doing enough to curb corruption.

Bulgaria: Facts

The Global Integrity Report provides a mix of qualitative and quantitative data. The Integrity Indicators, which provide a framework for qualitative reporting, also include detailed quantitative scores on 304 discrete measures of governance. To encourage comparisons between our data and existing international datasets, we have collected some of the latest and most relevant work and made it available for download here in an Excel spreadsheet. We encourage our readers to use this data to make comparisons to the Integrity Indicators, and to use our source data in their original research. If you have done work based on the Integrity Indicators, or are considering it, we want to hear from you.

Press Freedom Index	34.00
Economic Freedom Index	62.17
Human Development Index	0.82
Bribe Payers Index	
Corruption Perception Index	4.10
Failed States Index	60.30
WBI: Control of Corruption	-0.05
WBI: Political Stability	0.29
WBI: Government Effectiveness	0.14
WBI: Voice and Accountability	0.56
Combined Gross Enrollment Ratio for Primary, Secondary and Tertiary schools (%)	80.90
GDP per Capita(Constant 2000 US dollars)	2,255.64
Foreign Aid Per capita (US dollars)	
Total Government Expenditure %GDP	34.00
Unemployment, total (% of total labour force)	12.00
Gross External Debt (US\$ millions)	27,267.00
Poverty Rate	12.80
GINI	29.20
Net Foreign Direct Investment inflows (as% of GDP)	8.30
Female Economic activity rate %	41.90
Life Expectancy	72.40
Legatum Prosperity Index (Material Wealth)	65.00
Legatum Prosperity Index (Life Satisfaction)	62.00
Religious Freedom	No

Bulgaria: Integrity Indicators Scorecard**Overall Score: 87 - Strong**

Category I	Civil Society, Public Information and Media	90	Strong
I-1	Civil Society Organizations	86	Strong
I-2	Media	93	Very Strong
I-3	Public Access to Information	90	Very Strong
Category II	Elections	91	Very Strong
II-1	Voting & Citizen Participation	100	Very Strong
II-2	Election Integrity	97	Very Strong
II-3	Political Financing	76	Moderate
Category III	Government Accountability	83	Strong
III-1	Executive Accountability	85	Strong
III-2	Legislative Accountability	79	Moderate
III-3	Judicial Accountability	85	Strong
III-4	Budget Processes	83	Strong
Category IV	Administration and Civil Service	83	Strong
IV-1	Civil Service Regulations	81	Strong
IV-2	Whistle-blowing Measures	58	Very Weak
IV-3	Procurement	92	Very Strong
IV-4	Privatization	100	Very Strong
Category V	Oversight and Regulation	90	Very Strong
V-1	National Ombudsman	98	Very Strong
V-2	Supreme Audit Institution	97	Very Strong
V-3	Taxes and Customs	88	Strong
V-4	State-Owned Enterprises	85	Strong
V-5	Business Licensing and Regulation	84	Strong
Category VI	Anti-Corruption and Rule of Law	86	Strong
VI-1	Anti-Corruption Law	100	Very Strong
VI-2	Anti-Corruption Agency	75	Moderate
VI-3	Rule of Law	92	Very Strong
VI-4	Law Enforcement	79	Moderate

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

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

Score: YES

References: Constitution of RP, Article 44/1 and 3

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

Score: YES

References: Law on Not-for-Profit Organizations, Official Gazette No. 81, Oct. 6, 2000. In force from Jan. 1, 2001 (with amendments)

Peer Reviewer's Comments: Big nongovernmental organizations and political parties can't accept funding from "any foreign [or] domestic sources." They can't get funding, for example, to form terrorist, nationalistic, religious and some other kinds of organizations.

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

Score: NO

References: Law on Not-for-Profit Organizations. No specific requirement for disclosure.

Social Scientist's Comments: Certain non-governmental organizations are obliged to provide a report of their balance sheet, but these reports do not include details regarding funding sources.

Peer Reviewer's Comments: The law regarding juridical bodies with a nonprofit purpose requires every nonprofit organization registered in the Central Register in Ministry of Justice to file an annual report and a financial audit (balance sheet). In these documents, the nongovernmental organization (NGO) may or may not include details of funding source. In recent years, some NGOs pretended to do this to promote a good image and transparency.

Peer Reviewer's Comments: Nongovernmental organizations required to disclose financial information are only those established for the public benefit. Those established for private benefit have no such obligations.

Peer Reviewer's Comments: All NGOs registered to work for public benefit are listed in the Central Register of Non-Profit Legal Entities.

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

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

Score: 100

References: Nations in Transit 2006, p. 187
Nations in Transit 2007
Overview of media reports

Social Scientist's Comments: There have been no cases of government-initiated impediments to the registration of non-governmental organizations who deal with anti-corruption activities.

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

Score: 75

References: Web site of Coalition 2000, www.anticorruption.bg
Web site of Transparency International, Bulgaria, [\[LINK\]](#)

Social Scientist's Comments: These are the two most prominent anti-corruption non-governmental organizations. Their activities are rather diverse and very visible. Apart from them, there are a number of smaller organizations involved in anti-corruption activities. A consistent weakness of these efforts is the inability to involve business organizations and political organizations (including the parties and their foundations and institutes) in the anti-corruption efforts.

Peer Reviewer's Comments: In practice, the cited nongovernmental organizations (NGOs) are among the few that have to some extent "real" access to the policy-making process. There is no clear mechanism by which the government interacts with the NGO sector and how it chooses the organizations by which to be advised or with which to cooperate.

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.*

Score: YES

References: Media overview

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

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

Score: YES

References: Nations in Transit 2007

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

Score: YES

References: Nations in Transit 2007

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

Score: YES

References: Nations in Transit 2007

4: Can citizens organize into trade unions?

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

Score: YES

References: Constitution of Republic of Bulgaria of 1991, Art. 49

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

Score: 75

References: Web sites of the biggest Bulgarian trade unions: [\[LINK\]](#)

Social Scientist's Comments: There are no impediments to the formation of trade unions, but they are not very important players in the political process in Bulgaria. The unions have not played any significant role in the anti-corruption efforts.

Peer Reviewer's Comments: Citizens simply have no initiative to organize themselves into trade unions because they accept the existing ones as enough, although in many cases, the existing trade unions cannot play an active role in the political or economic agenda.

Peer Reviewer's Comments: Yes, citizens are completely free to organize in labor unions, but only three of the existing unions are allowed in the three-part committee of the government.

5: Are media and free speech protected?

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

Score: YES

References: Constitution of the Republic of Bulgaria, Art. 40, [\[LINK\]](#)

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

Score: YES

References: Constitution of the Republic of Bulgaria, Art. 39, [\[LINK\]](#)

6: Are citizens able to form print media entities?

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

Score: 100

References: Capital Weekly, overview of the media market and ownership in Bulgaria, August 2007, www.capital.bg

Social Scientist's Comments: There are no impediments imposed by the government on the establishment of print media. The only problem is the concentration of the advertising market in two of the major dailies, which are owned by the same owner. This is an anti-trust issue that has not been addressed by the government, but it in no way affects the freedom to establish print media entities.

Peer Reviewer's Comments: Concentration of the advertising market concerns not only the print media but also the electronic media. It is considered by the media experts in the country as one of the most serious problems affecting the variety of opinions covered by the mainstream media.

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

Score: YES

References: Appeal mechanism is not necessary, since there is no licensing procedure.

Social Scientist's Comments: Appeal mechanism is not necessary, since there is no licensing procedure.

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

Score: 100

References: No licensing required

Social Scientist's Comments: No licensing required.

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

Score: 100

References: No such fees

Social Scientist's Comments: No such fees.

7: Are citizens able to form broadcast (radio and TV) media entities?

7a In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

Score: 75

References: [\[LINK \]](#)

[\[LINK \]](#)

Interview with Georgi Lozanov, published in Denvnik, July 19, [\[LINK \]](#)

Social Scientist's Comments: 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, which is issued by the Communications Regulation Commission (CRC). Licenses are issued after a competition for available vacant frequencies is held. There have been regular accusations of the lack of impartiality on the part of the regulatory body. Certain political biases have also been alleged. During the reviewed period there have been no major scandals involving CEM.

Peer Reviewer's Comments: Over the last seven years there have been problems with the licensing of some electronic media by CEM. In practice, during the whole period the process of licensing has been blocked. In 2007 CEM attempted to start a competition for conventional broadcast television licenses. Soon after the announcement, the competition was canceled since digital broadcasting is to be introduced next year in the country and then a new competition will have to be announced. This move was interpreted by some media experts as an attempt to protect the interests of certain media and advertising conglomerates.

7b In law, where a broadcast (radio and TV) media license is necessary, there is an appeal mechanism if a license is denied or revoked.

Score: YES

References: Radio and Television Act, 127(3, www.bnt.bg/content/download/908/5869/file/ZRT.pdf)

Social Scientist's Comments: The imposition of sanctions and the decision to revoke a license is to be appealed according to the provisions of the Administrative Penal Code (ZANN). Standard procedures exist for appealing to the courts in these cases.

Peer Reviewer's Comments: There is a general procedure for appeals granted by procedure laws.

7c In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

Score: 50

References: Licensing for the public electronic media is required and it might take more than two months.

Social Scientist's Comments: Licensing of public electronic media is required and might take more than two months.

Peer Reviewer's Comments: See comment at the previous sub-indicator.

7d In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

Score: 100

References: Fees are not excessive by any standard

Social Scientist's Comments: Fees are not excessive by any standard.

Peer Reviewer's Comments: The fees are regulated by the Law on Radio and Television and by the tariff regulating the fees on radio and TV (<http://www.abbro-bg.org/docs/afe3f168166d60ecd09771ddd9ad2a9d.pdf>).

Peer Reviewer's Comments: Media licenses can be obtained at a reasonable cost. The major problem is that no air broadcast licenses have been issued in the last seven years.

8: Can citizens freely use the Internet?

8a *In practice, the government does not prevent citizens from accessing content published online.*

Score: 100

References: There is no controlling of Internet publications, apart from cases of child pornography. In certain cases the content of Islamic groups' Internet sites has been sited as evidence of their dangerous character.

Social Scientist's Comments: There is no controlling of Internet publications, apart from cases of child pornography. In certain cases the content of Islamic groups' Internet sites has been sited as evidence of their dangerous character.

8b *In practice, the government does not censor citizens creating content online.*

Score: 100

References: There are no reports of any type of government censure of Internet content. Sometimes the content of the Internet sites of marginal Islamic organizations may be cited as a reason for closer monitoring by authorities.

Social Scientist's Comments: There are no reports of any type of government censure of Internet content. Sometimes the content of the Internet sites of marginal Islamic organizations may be cited as a reason for closer monitoring by authorities.

9: Are the media able to report on corruption?

9a *In law, it is legal to report accurate news even if it damages the reputation of a public figure.*

Score: YES

References: Constitutional Court Decision 7/1996; Art. 10, ECHR

9b *In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.*

Score: 75

References: Studies and projects of Center for Liberal Strategies, Sofia

Social Scientist's Comments: Journalists actively report on corruption cases. The problem is that they are more interested in the outbreak of scandals, rather than in their resolution.

Peer Reviewer's Comments: There is still a problem in Bulgaria with the unclear media ownership which leads to certain practices of journalist self-censorship. Some business groups or media owners have certain political or business affiliations that might have negative influences over the freedom of the media that they own. For example, in October 2006, a well-known journalist, Ivo Indjev, was fired by the private bTV (one of the two Bulgarian private TV channels with national coverage) under alleged pressure from the Presidency after he asked a question about information sent to him anonymously by e-mail accusing the President of acquiring an expensive flat with assistance from a businessman politically affiliated with his party.

9c *In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.*

Score: 100

References: Studies of Transparency International and the Center for Study of Democracy

10: Are the media credible sources of information?

10a *In law, print media companies are required to disclose their ownership.*

Score: NO

References: No such regulation, although most publications reveal their owners.

10b *In law, broadcast (radio and TV) media companies are required to disclose their ownership.*

Score: YES

References: Radio and Television Act, [\[LINK\]](#)
Interview with Ognian Zlatev, Director, Media Development Center

Peer Reviewer's Comments: There are some legal requirements for disclosing the ownership of broadcast media, but the actual ownership of some media in Bulgaria is still not clear. In practice the disclosure process for broadcast media is easy to manipulate and it is difficult for citizens to obtain reliable information.

10c *In practice, journalists and editors adhere to strict, professional practices in their reporting.*

Score: 75

References: Annual reports of the Bulgarian Media Coalition
Interview with Irina Nedeva, December 2007

Peer Reviewer's Comments: Some breaches of professional ethics occur, but most are related to the lack of professionalism of the journalists and their desire to "produce" news.

10d *In practice, during the most recent election, political parties or independent candidates received fair media coverage.*

Score: 100

References: Nations in Transit 2007

Social Scientist's Comments: Media coverage of elections in Bulgaria is fair and comprehensive. The only matter of contention was the order of the press conferences of the political parties immediately after the local elections in October 2007. The government parties tried to delay the press conference of the new party GERB until late in the night. It was to be televised on national television.

Peer Reviewer's Comments: Small parties and most independent candidates normally are not given media attention. The media normally cover only three to four major parties. One of the big scandals during the local elections in October 2007 was the order of the political parties' press conferences immediately after the end of the vote. The government parties delayed until late in the night, after the press conference the new party GERB, which won the elections in Sofia and some major cities. This press conference was to be broadcast on National Television.

10e *In practice, political parties and candidates have equitable access to state-owned media outlets.*

Score: 100

References: Apart from the mentioned exception, in the previous answer (regarding the ability of the GERB party to schedule their post-election press conference) there have been no serious problems regarding access to the media by politicians.

**Social Scientist's
Comments:**

Apart from the mentioned exception, in the previous answer (regarding the ability of the GERB party to schedule their post-election press conference) there have been no serious problems regarding access to the media by politicians.

Peer Reviewer's Comments:

Normally, most of the smaller parties and independent candidates are not covered by state-owned media.

11: Are journalists safe when investigating corruption?

11a *In practice, in the past year, no journalists investigating corruption have been imprisoned.*

Score: YES

References: No such reports.

11b *In practice, in the past year, no journalists investigating corruption have been physically harmed.*

Score: YES

References: There are no reports.

Peer Reviewer's Comments: There were some rare cases of attacks on journalists, and the police did not discover and did not report the reasons for the attacks.

11c *In practice, in the past year, no journalists investigating corruption have been killed.*

Score: YES

References: No reports of journalist killings.

12: Do citizens have a legal right of access to information?

12a *In law, citizens have a right of access to government information and basic government records.*

Score: YES

References: Law on the Access of Information

12b *In law, citizens have a right of appeal if access to a basic government record is denied.*

Score: YES

References: Freedom of Information/Access of Information Act, Arts. 40-4 [\[LINK\]](#)

Social Scientist's Comments: Refusals are to be appealed before administrative courts or the Supreme Administrative Court, depending on which body has refused access to the document.

12c *In law, there is an established institutional mechanism through which citizens can request government records.*

Score: YES

References: Law on the Access of Information [\[LINK\]](#)
Sections IV and V.

Social Scientist's Comments: The law describes in three sections and more than a dozen articles a detailed procedure for gaining access to different types of government information. Some of it must be published, while other requires a request from a citizen. There are specific deadlines for when the institutions must provide an answer, among other things.

13: Is the right of access to information effective?

13a *In practice, citizens receive responses to access to information requests within a reasonable time period.*

Score: 75

References: The study of the Action to Information Program (Bulgaria), [\[LINK\]](#)

Social Scientist's Comments: By law, responses should be given within two weeks. Sometimes there are delays.

Peer Reviewer's Comments: Normally, the institutions reply on time, even with a negative response.

13b *In practice, citizens can use the access to information mechanism at a reasonable cost.*

Score: 100

References: The Law on the Access to Public Information, Chapter III

Social Scientist's Comments: Costs are not high, and they relate mainly to paper, printing, copying, etc. This is regulated by law.

13c *In practice, citizens can resolve appeals to access to information requests within a reasonable time period.*

Score: 50

References: Studies of CLS Sofia
The study of the Access to Information Program in Bulgaria, [\[LINK\]](#)

Social Scientist's Comments: Judicial proceedings in Bulgaria are generally not very fast.

13d *In practice, citizens can resolve appeals to information requests at a reasonable cost.*

Score: 100

References: Judicial proceedings in Bulgaria, especially in the administrative law area concerning the access to information are inexpensive.

Social Scientist's Comments: Judicial proceedings in Bulgaria, especially in the administrative law area concerning the access to information are inexpensive.

13e *In practice, the government gives reasons for denying an information request.*

Score: 75

References: [\[LINK\]](#)

Social Scientist's Comments: Giving reasons is required by law, although sometimes the cited reasons might be uninformative.

Peer Reviewer's Comments: In some cases, citizens do not receive any answer to their request for information. In other cases, the denials are reasoned with nonexistent clauses of the Law on Classified Information.

14: Is there a legal framework guaranteeing the right to vote?

14a *In law, universal and equal adult suffrage is guaranteed to all citizens.*

Score: YES

References: The Constitution, Art. 42

14b *In law, there is a legal framework requiring that elections be held at regular intervals.*

Score: YES

References: Constitution, Chapters 3, 4, and 5

15: Can all citizens exercise their right to vote?

15a *In practice, all adult citizens can vote.*

Score: 100

References: There are no reports of denial or dilution of the right to vote.

15b *In practice, ballots are secret or equivalently protected.*

Score: 100

References: Recent Electoral Laws required the use of transparent ballot boxes and integrated ballots that could be folded or put in envelopes. Only during the latest local elections were there allegations that, due to thin and transparent ballots, it was possible to determine the vote of individual citizens in certain areas. Courts have thus far rejected such complaints.

Social Scientist's Comments: Recent Electoral Laws required the use of transparent ballot boxes and integrated ballots that could be folded or put in envelopes. Only during the latest local elections were there allegations that, due to thin and transparent ballots, it was possible to determine the vote of individual citizens in certain areas. Courts have thus far rejected such complaints.

15c *In practice, elections are held according to a regular schedule.*

Score: 100

References: There have been no problems regarding the rescheduling of elections or the manipulation of electoral dates.

Social Scientist's Comments: There have been no problems regarding the rescheduling of elections or the manipulation of electoral dates.

16: Are citizens able to participate equally in the political process?

16a *In law, all citizens have a right to form political parties.*

Score: YES
References: Constitution, Articles 11/44

16b *In law, all citizens have a right to run for political office.*

Score: YES
References: Constitution, various electoral laws
Social Scientist's Comments: Restrictions regarding age, professional qualifications and some other conditions may be applicable for certain public positions.

16c *In practice, all citizens are able to form political parties.*

Score: 100
References: Constitutional Court Decision, 2000/1
Social Scientist's Comments: The party of the Macedonians in Bulgaria (OMO) was banned by the Constitutional Court. Hurdles against the party's registration continue to be erected by different authorities.
Peer Reviewer's Comments: All citizens are able to form political parties if the parties' rules and practices are not against the law.
Peer Reviewer's Comments: All citizens are able to form political parties. The mentioned case falls under one of the provisions of the Bulgarian Constitution that bans the establishment of ethnic-based parties.

16d *In practice, all citizens can run for political office.*

Score: 100
References: Nations in Transit 2007, Freedom House Report
Social Scientist's Comments: The costs of running for office are not excessive in comparative terms. It is still possible for non-millionaires to run for office.

16e *In practice, an opposition party is represented in the legislature.*

Score: 100
References: There has been opposition in Bulgarian parliaments since 1990.
Social Scientist's Comments: There has been opposition in Bulgarian parliaments since 1990.
Peer Reviewer's Comments: Although currently there are several opposition parties in the legislature, GERB (currently the biggest opposition party) doesn't have any representatives in the national Parliament. The party was formed after the general elections in 2005, and although it won the European Parliament and local elections, it has no influence in the legislature.

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

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

Score: YES

References: The Central Electoral Commission
The Commission for Local Elections (Electoral Laws)

18: Is the election monitoring agency effective?

18a *In law, the agency or set of agencies/entities is protected from political interference.*

Score: YES

References: All electoral laws

Social Scientist's Comments: The composition of the Electoral Commissions reflects the composition of the parliament.

Peer Reviewer's Comments: Although representation on the Electoral Commission reflects the composition of Parliament, the fact that the Electoral Commission includes representatives of the opposition is the only guarantee of transparency and public control.

Peer Reviewer's Comments: The Electoral Commission, however, has organizational independence from the political parties represented in the Parliament. There have not been any serious problems in the last 10 or 15 years that might suggest that the Electoral Commissions have acted in favor of one or another political party or candidate.

18b *In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.*

Score: 75

References: Nations in Transit 2007
Media electoral reports

Social Scientist's Comments: Usually lawyers and experts are appointed to the Commissions. In general, there is no open partisan behavior as far as the administration of the elections is concerned.

Peer Reviewer's Comments: Usually, lawyers and experts are appointed to the commissions. Although they belong to different political parties, the transparent work of the commission puts them under civil control.

18c *In practice, the agency or set of agencies/entities has a professional, full-time staff.*

Score: 100

References: The agency has enough resources to fulfill its duties. It is important to point out, however, that it is not a permanent body and operates only during election time.

Social Scientist's Comments: The agency has enough resources to fulfill its duties. It is important to point out, however, that it is not a permanent body and operates only during election time.

18d *In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.*

Score: 100

References: [\[LINK\]](#)

Social Scientist's Comments: The commission has been quite efficient in announcing the results of the elections. Dealing with complaints and other matters has also been rather smooth.

18e *In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.*

Score: 75

References: Reports of Transparency International, Bulgaria, on the monitoring of campaign expenditure

Social Scientist's Comments: The agency has imposed penalties on offenders. The weakest area of enforcement has proven to be party financing.

Peer Reviewer's Comments: The agency has imposed penalties on offenders. The weakest area of enforcement has proven to be party financing, but it is a priority of National Audit Office.

19: Are elections systems transparent and effective?

19a *In practice, there is a clear and transparent system of voter registration.*

Score: 100

References: Voters need not be registered in Bulgaria in order to vote. The process is done in a centralized way, which seems to be efficient. Residency requirements were introduced in 2007 for the European Parliament and the local elections, but, especially in the second case, there was no system of enforcement of these requirements.

Social Scientist's Comments: Voters need not be registered in Bulgaria in order to vote. The process is done in a centralized way, which seems to be efficient. Residency requirements were introduced in 2007 for the European Parliament and the local elections, but, especially regarding the second case, there was no system of enforcement of these requirements.

Peer Reviewer's Comments: The system of voter registration, though defined by law, is not enforced properly. During elections, there are usually signs of double voting (for example, some voters vote one time in Turkey and second time on the same day in Bulgaria). There are many allegations and journalists' reports stating that the the Turkish party in Bulgaria organizes and pays for so-called "election tourism."

19b *In law, election results can be contested through the judicial system.*

Score: YES

References: For all electoral laws (parliamentary, presidential, local, European Parliament), the appeal process involves access to courts. In these specific cases, judicial proceedings are speedy and generally efficient.

Social Scientist's Comments: For all electoral laws (parliamentary, presidential, local, European Parliament), the appeal process involves access to courts. In these specific cases, judicial proceedings are speedy and generally efficient.

19c *In practice, election results can be effectively appealed through the judicial system.*

Score: 100

References: There has been no noticeable politicizing or inefficiency of the justice system in the election law area.

Social Scientist's Comments: There has been no noticeable politicizing or inefficiency of the justice system in the election law area.

19d *In practice, the military and security forces remain neutral during elections.*

Score: 100

References: This has been the case in all elections since 1989.

Social Scientist's Comments: This has been the case in all elections since 1989.

19e *In law, domestic and international election observers are allowed to monitor elections.*

Score: YES

References: All election legislation. For EU Parliament elections see Art. 25, 0; 1, and Art. 57 of the Law on the Election of Deputies to the EU Parliament.

19f *In practice, election observers are able to effectively monitor elections.*

Score: 100

References: Nations in Transit 2008 (in print)

**Social Scientist's
Comments:**

There are no reports of impediments to monitoring of elections.

20: Are there regulations governing political financing?

20a *In law, there are regulations governing private contributions to political parties.*

Score: YES

References: Law on Political Parties, 2005, Chapter 3, [\[LINK\]](#)

Social Scientist's Comments: It limits anonymous donations, for instance.

20b *In law, there are limits on individual donations to candidates and political parties.*

Score: YES

References: Electoral laws
Law on Political Parties

20c *In law, there are limits on corporate donations to candidates and political parties.*

Score: YES

References: The Law on Political Parties, [\[LINK\]](#);
Law for Parliamentary Elections Art. 71, 2, [\[LINK\]](#)

Social Scientist's Comments: There is a 30,000 leva (US\$22,500) limit for corporate donations and a 10,000 leva (US\$7500) for individuals (1 euro equals 1.95 leva).

20d *In law, there are limits on total political party expenditures.*

Score: YES

References: Electoral Law for Parliamentary Elections [\[LINK\]](#)
Art. 72: 1 million leva (US\$750,000) for a party; 2 million leva (US\$1.5 million) for a coalition.

20e *In law, there are requirements for disclosure of donations to political candidates and parties.*

Score: YES

References: Law on Political Parties

Social Scientist's Comments: This law was amended, so that it is now possible to inquire about the names of the donors and the amount of their donations.

20f *In law, there are requirements for the independent auditing of the finances of political parties and candidates.*

Score: YES

References: The Law on Political Parties (Art. 34)
Electoral Laws

Social Scientist's Comments: The State Audit Office is monitoring the financing of the political parties and electoral candidates.

20g *In law, there is an agency or entity that monitors the political financing process.*

Score: YES

References: The State Audit Office
Law on Political Parties

21: Are the regulations governing political financing effective?

21a *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.*

Score: 50

References: Smilov and Toplak (eds.), Political Finance and Corruption in Eastern Europe: The Transition Period, Ashgate, 2007

Social Scientist's Comments: The limits are not effective because of several problems:
 1) the administration of such limits requires significant resources and prerogatives, which the Bulgarian electoral commissions and other bodies lack;
 2) There is mutual understanding by candidates and parties not to begin proceedings against each other;
 3) Full disclosure mechanisms have been introduced relatively recently in 2006;
 4) There are no universally accepted foreign models of enforcement of such rules - these are problematic everywhere.

21b *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.*

Score: 50

References: Smilov and Toplak (eds.), Political Finance and Corruption in Eastern Europe: The Transition Period, Ashgate, 2007

Social Scientist's Comments: There are various ways of avoiding limits:
 1) intermediaries such as party foundations;
 2) direct purchase of goods and services for the parties;
 3) breaking up of big donations into a number of small ones.
 Furthermore, there are problems in the enforcement mechanism. See my comments to the previous question regarding limits on individual contributions.

21c *In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.*

Score: 50

References: Smilov and Toplak (eds.), Political Finance and Corruption in Eastern Europe: The Transition Period, Ashgate, 2007

Social Scientist's Comments: See my previous comments on the last two questions regarding individual and company contributions. They are fully applicable here as well.

21d *In practice, when necessary, an agency or entity monitoring political financing independently initiates investigations.*

Score: 25

References: Smilov and Toplak (eds.), Political Finance and Corruption in Eastern Europe: The Transition Period, Ashgate, 2007

Social Scientist's Comments: The Bulgarian enforcement mechanism of party funding regulations is very weak. In general, the State Audit Office has no independent powers to initiate investigations into party finances. It is only checking the consistency and authenticity of documentation. It could ask the prosecutor's office to start investigations. The same is true of the electoral commissions.

21e *In practice, when necessary, an agency or entity monitoring political financing imposes penalties on offenders.*

Score: 25

References: Smilov and Toplak (eds.), Political Finance and Corruption in Eastern Europe: The Transition Period, Ashgate, 2007

Social Scientist's Comments: The Bulgarian enforcement mechanism of party funding regulations is very weak. In general, the State Audit Office has no independent powers to initiate investigations into party finances. It is only checking the consistency and authenticity of documentation. It could ask the prosecutor's office to start investigations. The same is true of the electoral commissions.

21f *In practice, contributions to political parties and candidates are audited.*

Score: 75

References: Smilov and Toplak (eds.), Political Finance and Corruption in Eastern Europe: The Transition Period, Ashgate, 2007

Social Scientist's Comments: These are audited by the State Audit Office. Yet, as mentioned above, the audit office works only on documents which are provided to it by the candidates. It cannot open independent investigations and generally has no investigative powers.

22: Can citizens access records related to political financing?

22a *In practice, political parties and candidates disclose data relating to financial support and expenditures within a reasonable time period.*

Score: 75

References: Smilov and Toplak (eds.), Political Finance and Corruption in Eastern Europe: The Transition Period, Ashgate, 2007

Social Scientist's Comments: There are serious doubts about the quality of this data, however. Small parties often fail to report, but they are not involved in the political process anyway.

Peer Reviewer's Comments: Small parties often fail to report.

22b *In practice, citizens can access the financial records of political parties and candidates within a reasonable time period.*

Score: 75

References: Interviews with Dimo Grozdev, Transparency International
Smilov and Toplak (eds.), Political Finance and Corruption in Eastern Europe: The Transition Period, Ashgate, 2007

Social Scientist's Comments: The State Audit Office publishes synthetic accounts of the party reports, and they are accessible via the Internet. Anyone who requires more detailed accounts needs to ask the State Audit Office via procedures defined by the Law on the Access to Public Information.

22c *In practice, citizens can access the financial records of political parties and candidates at a reasonable cost.*

Score: 100

References: They are published on the Web site of the State Audit Office in a summary form.

23: In law, can citizens sue the government for infringement of their civil rights?

23 *In law, can citizens sue the government for infringement of their civil rights?*

Score: YES

References: General clause of administrative liability in the Constitution.

24: Can the chief executive be held accountable for his/her actions?

24a *In practice, the chief executive gives reasons for his/her policy decisions.*

Score:	75
References:	The most important decisions of the government are explained to the public via the media and other outlets. It is a different question whether the reasons given are always convincing, but this is a matter of political judgment.
Social Scientist's Comments:	The most important decisions of the government are explained to the public via the media and other outlets. It is a different question whether the reasons given are always convincing, but this is a matter of political judgment.
Peer Reviewer's Comments:	He announces the decisions through the media or his Press Office but doesn't always explain in depth the reason for a decision. He controls the way decisions are explained and answers only questions he wants to, ignoring those that are not convenient for him. Example: the dismissal of the Minister of Economy Roumen Ovcharov; political discussions between the leaders of the triple coalition.
Peer Reviewer's Comments:	Not all important decisions are explained and justified to the public. There are many suspicions that some decisions are made in a non-transparent manner in favor of certain business interests and at the expense of the public's interest. For instance, there was a series of scandals related to the unclear criteria of the Government regarding the inclusion of territories of environmental significance into the European network of protected territories Natura 2000.

24b *In law, the judiciary can review the actions of the executive.*

Score:	YES
References:	The Constitution, Chapter 6, The Judiciary, [LINK]

24c *In practice, when necessary, the judiciary reviews the actions of the executive.*

Score:	100
References:	Report of the Supreme Administrative Court for 2006 at [LINK]]>:;04%202006~bg?OpenDocument
Social Scientist's Comments:	Judicial review of executive action is well entrenched.
Peer Reviewer's Comments:	I cannot remember such cases and do not think this it is common practice. Also, I could not open the provided link to convince myself of the credibility of the evaluation.

24d *In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.*

Score:	75
References:	The Bulgarian government has limited independent legislative functions. It needs primary legislation by parliament on the basis of which it adopts secondary legislation.
Social Scientist's Comments:	The Bulgarian government has limited independent legislative functions. It needs primary legislation by parliament on the basis of which it adopts secondary legislation.

Peer Reviewer's Comments: In some cases, executive orders may contain clauses that contradict the primary legislation. In other cases, the executive is too slow in adopting the subsequent ,secondary legislation, which impedes implementation of legislation acts (for example, the law on electronic governance).

Peer Reviewer's Comments: The government is the main source of bills introduced in Parliament, but the National Assembly approves these bills turning them into legislative acts.

Peer Reviewer's Comments: It is true that the Government has limited legislative functions but it is also true that it has a great influence over the enforcement of the legislation, as it is responsible for sub-statutory regulations.

25: Is the executive leadership subject to criminal proceedings?

25a *In law, the heads of state and government can be prosecuted for crimes they commit.*

Score: YES

References: Bulgarian Constitution, Chapter 5, Art. 103, [\[LINK\]](#)

25b *In law, ministerial-level officials can be prosecuted for crimes they commit.*

Score: YES

References: Bulgarian Constitution, Chapter 5, Art. 103, [\[LINK\]](#)

26: Are there regulations governing conflicts of interest by the executive branch?

26a *In law, the heads of state and government are required to file a regular asset disclosure form.*

Score: YES

References: Law on Public Disclosure of Assets of High-ranking State Officials, Art. 2

26b *In law, ministerial-level officials are required to file a regular asset disclosure form.*

Score: YES

References: Law on Public Disclosure of Assets of High-ranking State Officials

26c *In law, there are regulations governing gifts and hospitality offered to members of the executive branch.*

Score: NO

References: A Code of Conduct of High-ranking Government Officials does exist, specifying certain rules.

Social Scientist's Comments: These rules are not enforceable in court though, and are not strengthened by sanctions.

Peer Reviewer's Comments: Code of Conduct of High-Ranking Government Officials specifies certain rules for this, although these rules are not enforceable in court and are not strengthened by sanctions.

Peer Reviewer's Comments: Some rules governing gifts and hospitality offered to members of the executive branch are part of the Code of Conduct of High-Ranking Government Officials but they have no legal force.

26d *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).*

Score: YES

References: The State Audit Office reviews the asset declarations of politicians.

Social Scientist's Comments: The State Audit Office reviews the asset declarations of politicians.

Peer Reviewer's Comments: Several laws were amended in 2006 to allow for auditing asset disclosures and political party financing.

26e *In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.*

Score: NO

References: There are no conflict of interest rules.

26f *In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.*

Score: 0

References: There are no such restrictions.

26g *In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.*

Score: 25

- References:** The Code of Conduct of High-ranking Government Officials is non-enforceable in the courts. It is difficult to monitor the gifts given to government officials.
- Social Scientist's Comments:** The Code of Conduct of High-ranking Government Officials is non-enforceable in the courts. It is difficult to monitor the gifts given to government officials.
- Peer Reviewer's Comments:** Keeping in mind that there is no objective information about this, I think it is more fair to evaluate this situation as 50/50: There is no information pro, and there is no information con.

26h *In practice, executive branch asset disclosures (defined here as ministers and above) are audited.*

Score: 50

References: Reports of the State Audit Office
Public interviews with the head of the State Audit Office

Peer Reviewer's Comments: Actually, they cannot quite be audited, but since 2007, all high-level asset disclosures have been compared with the registers. Also, they are online, and this makes them easily accessible for public control.

Peer Reviewer's Comments: Only a small percentage of all declarations are audited. The State Audit Office doesn't have sufficient administrative capacity to do it.

Peer Reviewer's Comments: It is still early to judge with precision what the effect of these measures will be.

27: Can citizens access the asset disclosure records of the heads of state and government?

27a *In law, citizens can access the asset disclosure records of the heads of state and government.*

Score: YES

References: Law on Public Disclosure of Assets of High-ranking State Officials, Art. 6

Peer Reviewer's Comments: Citizens can access government officials disclosure records on-line or by submitting a request to the National Audit Office.

27b *In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.*

Score: 100

References: Published on the Internet at [\[LINK\]](#), but only for those magistrates who give their permission for publication. At the time of the writing of the report, there were no declarations published there. However, there was a list of names of magistrates who have not submitted declarations - the Web site features the names of just a few high magistrates.

Social Scientist's Comments: The whole reporting procedure is optional, although if magistrates submit wrong and incorrect information, they are liable for sanctions. Direct access to the files is granted only to members of the Supreme Judicial Councils. Some magistrates may give permission for publication of their declarations online. I could not find such declarations.

Peer Reviewer's Comments: The information is online not only for magistrates but also for the head of the state, the prime minister, ministers etc. See it at <http://register.bulnao.government.bg/>.

Peer Reviewer's Comments: In most of the cases where officials at ministerial level are concerned, declarations are made public by journalists who have requested information from the Audit Office.

Peer Reviewer's Comments: Yes, it's possible, especially because the records of high-ranking officials are available immediately to journalists, and after that are published on the Web sites of the institutions.

Peer Reviewer's Comments: The comment provided by the researcher above concerns the magistrates only. As far as the head of the state and the government are concerned, there is a written order of the chairman of the National Audit Office, regulating the access to government officials disclosure records (<http://www.bulnao.government.bg/index.php?p=2173>). Access is provided within one week. Although there are no specific legal regulations, in the past years some governmental institutions started publishing the disclosure records of their highest ranking officials online.

27c *In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.*

Score: 100

References: Published on the Internet only if permission is granted by the magistrate in question. [\[LINK\]](#)

Peer Reviewer's Comments: I do not know why the evaluator stressed only the magistrates. The information about asset-disclosure records of about 5,000 high-level Bulgarian officials, with small exceptions, is online at <http://register.bulnao.government.bg/>.

Peer Reviewer's Comments: Accessing government officials disclosure records is not expensive. Some government officials disclosure records can be found online for free.

28: In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

28 *In practice, official government functions are kept separate and distinct from the functions of the ruling political party.*

Score: 75

References: This happens to the extent possible in a parliamentary government

Social Scientist's Comments: This happens to the extent possible in a parliamentary government. According to a constitutional court decision in 2004, members of the cabinet should not leave their office during an electoral campaign. This is probably a good decision, since the country needs a government even during elections, but it gives an opportunity for governing parties to use administrative resources and extra access to public media.

Also, the president of the republic always could lend some support for his party by making public appearances in his official capacity during campaigns. These issues are very difficult to regulate. In my judgment, there is no excessive abuse of administrative resources in Bulgaria, as compared to other countries in the region and in Europe in general.

29: Can members of the legislature be held accountable for their actions?

29a *In law, the judiciary can review laws passed by the legislature.*

Score: YES

References: Constitution, Chapter 8, is devoted to the Constitutional Court. See also Law on the Constitutional Court, [\[LINK\]](#)

Social Scientist's Comments: Not the ordinary judiciary: European model of constitutional review.

Peer Reviewer's Comments: The Constitutional Court has the power to review laws passed by the Parliament.

29b *In practice, when necessary, the judiciary reviews laws passed by the legislature.*

Score: 100

References: The Web site of the constitutional court: [\[LINK\]](#)

Social Scientist's Comments: The Bulgarian Constitutional Court has rendered a number of important decisions. All its decisions are published at the Web site of the court. One problem found for the period 2001-2007 is the relatively small number of cases per year - around ten on average.

29c *In law, are members of the national legislature subject to criminal proceedings?*

Score: NO

References: Constitution, Art. 70.

Social Scientist's Comments: Yes, but parliament needs to give a permission first. Parliament regularly gives permission for investigation of MPs though immunity must first be lifted. Furthermore MPs might wave their immunity themselves. Article 70 reads: "A Member of the National Assembly shall be immune from detention or criminal prosecution except for the perpetration of an criminal offense, and in such case the permission of the National Assembly or, in between its session, of the Chairperson of the National Assembly, shall be required. No permission shall be required when a Member is detained in flagrante delicto; the National Assembly or, in between its session, the Chairperson of the National Assembly, shall be notified forthwith. (2) (new, SG 27/06) No permission for initiating criminal prosecution shall be required, where the Member of the National Assembly has given his consent thereto in writing. "

Peer Reviewer's Comments: Yes, although Parliament needs to give permission to wave their immunity.

Peer Reviewer's Comments: In law, all Bulgarian citizens can be investigated and prosecuted. There are clear procedures for lifting the immunities of members of Parliament.

30: Are there regulations governing conflicts of interest by members of the national legislature?

30a *In law, members of the national legislature are required to file an asset disclosure form.*

Score: YES

References: Law on Public Disclosure of Assets of High-ranking State Officials, Art. 2

30b *In law, there are restrictions for national legislators entering the private sector after leaving the government.*

Score: NO

References: There is no such law.

30c *In law, there are regulations governing gifts and hospitality offered to members of the national legislature.*

Score: YES

References: Rules of Organization and Procedure of the National Assembly

30d *In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.*

Score: YES

References: Law on the Public Disclosure of Assets of High-ranking State Officials, Art. 7

30e *In practice, the regulations restricting post-government private sector employment for national legislators are effective.*

Score: 0

References: Not applicable. There are no such regulations.

30f *In practice, the regulations governing gifts and hospitality offered to national legislators are effective.*

Score: 50

References: Gifts and hospitality offered to MPs are generally not given public attention. There are few media reports on such issues. Monitoring of gifts in the assembly is rather lax. In fact no MPs have been reprimanded for taking gifts. Using company cars and other facilities by MPs often happens: In fact one MP - Volen Siderov - was involved in a road rage scandal while driving a car that belonged to a TV station. The part of the story involving the car's ownership attracted almost no public attention or criticism.

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Peer Reviewer's Comments: No, there is no control over the gifts and vehicles that members of Parliament get or use.

30g *In practice, national legislative branch asset disclosures are audited.*

Score: 50

- References:** The practice is very new - generally, the State Audit Office, which is supposed to monitor the asset declarations, has no sufficient prerogatives to do it. In particular, this office has no independent investigative powers. Yet, it could examine documentation and spot obvious discrepancies between declarations and publicly available registers.
- Social Scientist's Comments:** The practice is very new - generally, the State Audit Office, which is supposed to monitor the asset declarations, has no sufficient prerogatives to do it. In particular, this office has no independent investigative powers. Yet, it could examine documentation and spot obvious discrepancies between declarations and publicly available registers.
- Peer Reviewer's Comments:** Yes, they are. The National Audit Office can investigate the facts and and if there are any violations, give the cases to the special services

31: Can citizens access the asset disclosure records of members of the national legislature?

31a *In law, citizens can access the asset disclosure records of members of the national legislature.*

Score: YES

References: Law on the Public Disclosure of Assets of High-ranking State Officials, Art. 6

31b *In practice, citizens can access legislative asset disclosure records within a reasonable time period.*

Score: 100

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

Peer Reviewer's Comments: They are online.

31c *In practice, citizens can access legislative asset disclosure records at a reasonable cost.*

Score: 100

References: The cost is reasonable and may involve only the cost of the paper, printing, etc.

Social Scientist's Comments: The cost is reasonable and may involve only the cost of the paper, printing, etc.

Peer Reviewer's Comments: They are online

32: Can citizens access legislative processes and documents?

32a *In law, citizens can access records of legislative processes and documents.*

Score: YES

References: 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, [\[LINK\]](#);
Rules of Organization and Procedure of the National Assembly, [\[LINK\]](#)
A project to make the Official Gazette an online edition is in its final stages of realization.

32b *In practice, citizens can access records of legislative processes and documents within a reasonable time period.*

Score: 75

References: Records are available online.

Peer Reviewer's Comments: Records are available online.

Peer Reviewer's Comments: Draft laws are not always openly published, and this encumbers wider public participation and debate. One of the biggest scandals was the discussion of the draft text of the law on judiciary at the national magistrates conference. After the discussion, the magistrates found out that they have not been given the latest version of the draft law.

32c *In practice, citizens can access records of legislative processes and documents at a reasonable cost.*

Score: 100

References: Records are available online.

33: Are judges appointed fairly?

33a *In law, there is a transparent procedure for selecting national-level judges.*

Score: YES

References: Constitutional Regulation of the Supreme Judicial Council - an independent body appointing judges and prosecutors.

Social Scientist's Comments: The Constitution Art. 129. (1) Judges, prosecutors and investigating magistrates shall be appointed, promoted, demoted, transferred and removed from office by the Supreme Judicial Council.
 (2) The Chairman of the Supreme Court of Cassation, the Chairman of the Supreme Administrative Court and the Prosecutor General shall be appointed and removed by the President of the Republic upon a proposal from the Supreme Judicial Council for a period of seven years, and shall not be eligible for a second term in office. The President shall not deny an appointment or removal upon a repeated proposal.
 (3) (amend., SG 85/03) Having completed a five year term of office as a judge, prosecutor or investigating magistrate, and upon attestation, followed by a decision of the Supreme Judicial Council, the judges, prosecutors and investigating magistrates shall become irremovable. They, including the persons referred to in para 2, shall be removed from office only upon:
 1. completion of 65 years of age; 2. resignation; 3. entry into force of a final sentence imposing imprisonment for an intentional criminal offence; 4. permanent de facto inability to perform their duties for more than a year; 5. serious infringement or systematic neglect of their official duties, as well as actions undermining the prestige of the Judiciary. (4) (new, SG 85/03, declared unconstitutional by Constitutional Court Judgment No. 7/2006 - SG 78/ 2006)
 ----- In the cases under para 3, item 5, the Chairman of the Supreme Court of Cassation, the Chairman of the Supreme Administrative Court and the Prosecutor General shall be removed from office by the President of the Republic, also upon proposal of one-fourth of the Members of the National Assembly, adopted by a two-thirds majority of the Members of the National Assembly. The President shall not deny the removal upon a repeated proposal.
 ----- (5) (new, SG 85/03, prev. para 4 SG 27/06) In cases of removal from office under para 3, items 2 and 4, the acquired irremovably shall be restored upon subsequent appointment to the office of a judge, prosecutor or investigating magistrate.
 (6) (new, SG 85/03, in force from January 1, 2004, prev. para 5 SG 27/06)) The heads of the judicial bodies, except for those referred to in para 2, shall be appointed for a period of 5 years and are eligible for a second mandate.

33b *In practice, there are certain professional criteria required for the selection of national-level judges.*

Score: 100

References: [\[LINK\]](#)

Social Scientist's Comments: Formal requirements are always met - it is virtually impossible to become a judge without certain professional qualifications. Chapter 10 of the Law on the Judiciary describes the necessary professional qualifications of the magistrates in detail. These include law degree and work experiences and vary depending on the specific position.

33c *In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).*

Score: YES

References: Constitution, by the Supreme Judicial Council

Peer Reviewer's 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. The president can only veto these nominees once.

34: Can members of the judiciary be held accountable for their actions?

34a *In law, members of the national-level judiciary are obliged to give reasons for their decisions.*

Score: YES

References: Civil, Penal and Administrative Procedure Codes specify obligations for giving reasons.

34b *In practice, members of the national-level judiciary give reasons for their decisions.*

Score: 100

References: The reasons sometimes may be rather formalistic, referring to a specific article of the law. Often the reasons for judicial decisions are delayed months after the judgment has been issued.

Social Scientist's Comments: The reasons sometimes may be rather formalistic, referring to a specific article of the law. Often the reasons for judicial decisions are delayed months after the judgment has been issued.

Peer Reviewer's Comments: Reasons sometimes may be rather formalistic, referring to a specific article of the law. Often, the reasons for judicial decisions are delayed months after the judgment has been issued.

34c *In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.*

Score: YES

References: Constitution: Supreme Judicial Council

Social Scientist's Comments: Art. 130. (1) The Supreme Judicial Council shall consist of 25 members. Sitting on it ex officio shall be the Chairman of the Supreme Court of Cassation, the Chairman of the Supreme Administrative Court and the Prosecutor General. (2) Eligible for election to the Supreme Judicial Council besides its ex officio members shall be practising lawyers of high professional and moral integrity with at least 15 years of professional experience. (3) Eleven of the members of the Supreme Judicial Council shall be elected by the National Assembly, and eleven shall be elected by the bodies of the judiciary. (4) The elected members of the Supreme Judicial Council shall serve terms of five years. They shall not be eligible for immediate re-election. (5) The meetings of the Supreme Judicial Council shall be chaired by the Minister of Justice, who shall not be entitled to a vote. (6) (new-SG 12/07)The Supreme Judicial Council shall: 1. appoint, promote, transfer and remove from office judges, prosecutors and investigating magistrates; 2. impose the disciplinary sanctions "demotion" and "removal from office" to judges, prosecutors and investigating magistrates; 3. organise the qualification of judges, prosecutors and investigating magistrates; 4. adopt the draft budget of the judiciary; 5. determine the scope and the structure of the annual reports referred to in Article 84, point 16. (7) (New-SG 12/07)The Supreme Judicial Council shall hold a hearing and pass the annual reports of the Supreme Court of Cassation, the Supreme Administrative Court and the Prosecutor General on the application of the law and on the activity of the courts, the prosecution office and the investigating bodies and shall submit them to the National Assembly. (8) (New-SG 12/07)The mandate of an elected member of the Supreme Judicial Council shall expire upon any of the following occurrences: 1. resignation; 2. final judicial act for a committed crime; 3. permanent de facto inability to perform his/her duties for more than one year; 4. disciplinary removal from office or deprivation from the right to pursue legal profession or activity. (9) (New-SG 12/07)In case of termination of the mandate of an elected member of the Supreme Judicial Council, a new member from the same quota shall be elected, who shall

hold the office until the expiry of the mandate.

Peer Reviewer's Comments: According to the new judiciary act, a specialized disciplinary body is created: the Supreme Judicial Council Inspectorate.

34d *In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.*

Score: YES

References: The Supreme Judicial Council members are given a fixed mandate and operational independence from both the judiciary and the political branches of power. In 2007, the Supreme Judicial Council was transformed into a permanently acting body, which presumably is strengthening its independence.

Social Scientist's Comments: The Supreme Judicial Council members are given a fixed mandate and operational independence from both the judiciary and the political branches of power. In 2007, the Supreme Judicial Council was transformed into a permanently acting body, which presumably is strengthening its independence.

34e *In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.*

Score: 75

References: Interviews with senior prosecutors and judges, and Ionko Grozev (CLS)

Social Scientist's Comments: The SJC has carried out a number of disciplinary proceedings this year. Even the head of the Investigators was dismissed because of allegations of corruption.

Peer Reviewer's Comments: There is a positive practice, but still a lot should be done.

34f *In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.*

Score: 75

References: There have been certain allegations that sometimes the SJC is too lenient in its scrutiny and disciplinary measures. A case in point was the re-employment of Deyan Peevski as a magistrate - a former deputy minister dismissed for allegations (unproven in court) of corruption.

Social Scientist's Comments: There have been certain allegations that sometimes the SJC is too lenient in its scrutiny and disciplinary measures. A case in point was the re-employment of Deyan Peevski as a magistrate - a former deputy minister dismissed for allegations (unproven in court) of corruption.

35: Are there regulations governing conflicts of interest for the national-level judiciary?

35a In law, members of the national-level judiciary are required to file an asset disclosure form.

Score: YES

References: Web site of the Supreme Judicial Council, description of the rules of declaration, [\[LINK\]](#)

Social Scientist's Comments: There is a law which provides for a voluntary asset declaration of senior magistrates.

Peer Reviewer's Comments: See the Register of Senior Public Officials and Public Registry at <http://www.bulnao.government.bg/?lang=en>.

Peer Reviewer's Comments: The High-Ranking State Officials Personal Assets Disclosure Act prescribes that politicians, magistrates, mayors and another 26 categories of persons occupying high offices should submit a declaration to the National Audit Office.

Peer Reviewer's Comments: In law, all members of the Constitutional Court, the Supreme Administrative Court and the Supreme Court of Cassation are required to file an asset disclosure form. See: Law on Public Disclosure of Assets of High-Ranking State Officials, Article 2.4-5 (http://www.bulnao.government.bg/files/_bg/Zpublmust050906_010107new.doc)

35b In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

Score: YES

References: Anti-bribery laws, Law on Judicial Power Code of ethics elaborated by the Supreme Judicial Council. [\[LINK\]](#)

Peer Reviewer's Comments: The main regulations are included in different codes of ethics. Their violation is subject to disciplinary procedures under the Law on Judiciary.

35c In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

Score: YES

References: There is a law on the disclosure of the assets of all public officials, which law requires magistrates to disclose their assets. Available online at the site of the State Audit Office, [\[LINK\]](#)

Social Scientist's Comments: If a magistrate fails to submit a declaration, he or she is liable to pay a fine up to 2500 leva (US\$1875). If the State Audit Office finds a discrepancy between the asset declaration and other public registers, it informs the Tax Authorities, which carry out an official revision of the assets of the person in question. Not all magistrates are covered by this law, however - only the most senior ones.

35d In law, there are restrictions for national-level judges entering the private sector after leaving the government.

Score: NO

References: There are no such restrictions.

35e In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

Score: 0

References: There are no such restrictions.

35f In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

Score: 50

References: There are no reports of excessive abuses in this area. However, the system of control appears to be lenient. www.csd.bg

Social Scientist's Comments: The second source indicates that studies of the CSD show that perception of corruption among the judiciary is quite high.

35g In practice, national-level judiciary asset disclosures are audited.

Score: 50

References: There is no independent audit.

Social Scientist's Comments: The Supreme Judicial Council checks these assets and could initiate investigations in cases of irregularities. It is difficult to assess to what extent this system is working. On the one hand, it is very new. On the other hand, there have been dismissals of magistrates by the SJC, but it is not clear to what extent the asset declarations have played a role in that.

Peer Reviewer's Comments: In practice, there is no information on whether high-level-magistrates' assets declarations have been regularly audited. The National Audit Office has stated in numerous interviews that it does not have the administrative capacity to audit all declarations.

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Peer Reviewer's Comments:

See: Law on Public Disclosure of Assets of High-Ranking State Officials, Article 7
(http://www.bulnao.government.bg/files/_bg/Zpublmust050906_010107new.doc)

36: Can citizens access the asset disclosure records of members of the national-level judiciary?

36a *In law, citizens can access the asset disclosure records of members of the national-level judiciary.*

Score: YES

References: [\[LINK \]](#)

Peer Reviewer's Comments: They can be seen on the Web site of the National Audit Office: <http://register.bulnao.government.bg/>.

Peer Reviewer's Comments: Under the High-Ranking State Officials Personal Assets Disclosure Act, the declarations of high-level officials, including high-ranking magistrates, are public. Not all can assess the information, but it can be made public through the media. Representatives of different institutions (including the media) can assess the declarations.

Peer Reviewer's Comments: Citizens can access the asset disclosure records of members of national-level judiciary as provided in the Law on Public Disclosure of Assets of High-Ranking State Officials. See: Law on Public Disclosure of Assets of High-Ranking State Officials, Article 6 (http://www.bulnao.government.bg/files/_bg/Zpublmust050906_010107new.doc)

36b *In practice, citizens can access judicial asset disclosure records within a reasonable time period.*

Score: 75

References: See: Law on Public Disclosure of Assets of High-Ranking State Officials, Article 6 ([\[LINK \]](#)); Web site of the National Audit Office: <http://www.bulnao.government.bg>

Peer Reviewer's Comments: They can be seen on the Web site of the National Audit Office: <http://register.bulnao.government.bg/>.

Peer Reviewer's Comments: Under the High-Ranking State Officials' Personal Assets Disclosure Act, a specialized public register is created.

Peer Reviewer's Comments: In law, records should be available on-line but they are not available yet. However, they can be obtained within a week. See: Law on Public Disclosure of Assets of High-Ranking State Officials, Article 6 (http://www.bulnao.government.bg/files/_bg/Zpublmust050906_010107new.doc); Web site of the National Audit Office: <http://www.bulnao.government.bg>

36c *In practice, citizens can access judicial asset disclosure records at a reasonable cost.*

Score: 100

References: See: Law on Public Disclosure of Assets of High-Ranking State Officials, Article 6 ([\[LINK \]](#)); Web site of the National Audit Office: <http://www.bulnao.government.bg>

Peer Reviewer's Comments: They can be seen on the site of the National Audit Office: <http://register.bulnao.government.bg/>.

Peer Reviewer's Comments: In practice, this is only the cost for paper, printing etc.

Peer Reviewer's Comments: In law, records should be available on-line but they are still not. However, they can be obtained at a reasonable cost. See: Law on Public Disclosure of Assets of High-Ranking State Officials, Article 6 (http://www.bulnao.government.bg/files/_bg/Zpublmust050906_010107new.doc); Web site of the National Audit Office: <http://www.bulnao.government.bg>

37: Can the legislature provide input to the national budget?

37a *In law, the legislature can amend the budget.*

Score: YES

References: The Constitution, Powers of National Assembly

37b *In practice, significant public expenditures require legislative approval.*

Score: 100

References: All major public expenditures are approved by the parliament when passing the Law on the State Budget.

Social Scientist's Comments: All major public expenditures are approved by the parliament when passing the Law on the State Budget.

Peer Reviewer's Comments: All but not all public expenditures are approved by Parliament. There have been media reports and critics that say certain projects and expenditures were made without public procurments or transparency.

37c *In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.*

Score: 100

References: [\[LINK\]](#)

Social Scientist's Comments: There is a permanent budgetary committee. The Web site contain a description of the committee, which consists of 26 MPs and 3 experts. The Bulgarian parliament is dominated by the government very much in the style of the British parliament. The function of the committees is more to spot problems, rather than to elaborate legislation - the government is mainly responsible for drafting the legislation.

Peer Reviewer's Comments: There is a new special subcommittee in the Committee on Budget and Finance that was established just to monitor the spending of the public funds (see <http://www.parliament.bg>).

38: Can citizens access the national budgetary process?

38a *In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).*

Score: 75

References: Comment regarding the 2007 budget, [\[LINK\]](#)

Social Scientist's Comments: The adoption of this year's budget law has initiated a significant public debate concerning the salaries of teachers, the structure and character of taxes and other issues.

One problem is that the budget is, as a rule, the last law to be adopted before the Christmas break, which creates a certain time pressure in relation to the public discussion of the bill.

Peer Reviewer's Comments: Despite the time pressure during the adoption of the last budget law, there was significant public debate.

Peer Reviewer's Comments: The budget process in Bulgaria starts in February and finishes at the end of November. During this process, there are limited debates in the media on the basic budget parameters. In fact, the budget becomes public when it is introduced in Parliament. Then it's almost impossible to influence the numbers--only small changes are acceptable.

38b *In practice, citizens provide input at budget hearings.*

Score: 50

References: [\[LINK\]](#)

Social Scientist's Comments: Increasingly, pressure groups, interest groups, trade unions, and others play a role in the adoption of the budget law. This year, for instance, there was significant public pressure in the media to remove planned tax relief for gambling businesses.

Peer Reviewer's Comments: Increasingly, pressure groups, special interest groups, trade unions, etc., play a role in the adoption of the budget law. This year, for instance, there was significant public pressure in the media to remove planned tax relief for gambling. See <http://news.expert.bg/?id=138794>, for instance.

Peer Reviewer's Comments: Though there are some success stories, they are exceptions rather than the rule.

Peer Reviewer's Comments: By the time Parliament debates the budget, it is too late for citizens to influence the dimensions of the budget, although they can testify at a committee hearing.

38c *In practice, citizens can access itemized budget allocations.*

Score: 100

References: Draft budget law, [\[LINK\]](#)
Web site of the National Assembly

Peer Reviewer's Comments: Yes they can. The problem is how clear and understandable for citizens the data are.

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

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

Score: YES

References: Standing Orders of Parliament. In may 2007 a subcommittee on the audit of public expenditure was set up in the Bulgarian parliament. See an interview with its chairman at [\[LINK\]](#)

Peer Reviewer's Comments: Yes, there is a special subcommittee in the Committee on Budget and Finance; it was established in 2007. <http://www.parliament.bg>
The Committee of European Integration established a new subcommittee that is to supervise the spending of the European funds.

40: Is the legislative committee overseeing the expenditure of public funds effective?

40a *In practice, department heads regularly submit reports to this committee.*

Score: 75

References: [\[LINK\]](#)

Peer Reviewer's Comments: The committee is newly established.

40b *In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.*

Score: 50

References: [\[LINK\]](#) The committees in the Bulgarian parliament reflect the composition of the chamber - there is no parity between government and opposition.

Peer Reviewer's Comments: Yes, there is such committee. Its efforts for the present are to act in an independent, nonpartisan way.

40c *In practice, this committee is protected from political interference.*

Score: 50

References: The committee composition reflects the clout of different parties.

Peer Reviewer's Comments: Yes, the committee includes members of Parliament and representatives of almost all parliamentary groups. See <http://www.parliament.bg/?page=ns&lng=en&nsid=5&action=show&gid=196>.

40d *In practice, when necessary, this committee initiates independent investigations into financial irregularities.*

Score: 50

References: It is a very new structure - it is difficult to draw conclusions about its overall activity.

Social Scientist's Comments: Other committees may carry out such functions, but they do very rarely.

Peer Reviewer's Comments: There is no such committee: Other institutions may carry out such functions, but rarely do.

Peer Reviewer's Comments: Yes, the committee currently discusses the reduction of parliamentary spending and closing some ineffective committees.

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

41a *In law, there are regulations requiring an impartial, independent and fairly managed civil service.*

Score: YES

References: Civil Servants Law, Art. 2

41b *In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.*

Score: YES

References: Civil Servants Law, Art.18, 29

41c *In law, there is an independent redress mechanism for the civil service.*

Score: YES

References: Civil Service Law [\[LINK\]](#)

Social Scientist's Comments: Chapter 7 of the law explains in detail how one can appeal decisions before an administrative body and then before the courts.

41d *In law, civil servants convicted of corruption are prohibited from future government employment.*

Score: YES

References: Civil Service Law, Arts.7, 103

Peer Reviewer's Comments: The prohibition exists only for those who have been convicted by the court and sentenced to prison. This means that if the person is convicted of corruption but is not sentenced to prison, he can enter the service.

42: Is the law governing the administration and civil service effective?

42a *In practice, civil servants are protected from political interference.*

Score: 75

References: Studies of the Center for Liberal Strategies (Populism in Central and Eastern Europe)

Peer Reviewer's Comments: Political appointments (especially at high levels) are still widely recognized, despite the procedure prescribed in the Civil Servants Act and its ordinance, which grant impartiality to the service.

42b *In practice, civil servants are appointed and evaluated according to professional criteria.*

Score: 75

References: CLS projects (Populism in Central and Eastern Europe)
CSD reports

Social Scientist's Comments: The influence of political patronage is gradually being reduced in Bulgaria due to regulations of the administration and privatization. Yet, it has by no means disappeared, and there are regular reports of certain malpractices in the media.

Peer Reviewer's Comments: This principle does not apply to the majority of high-ranking civil service appointments.

42c *In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.*

Score: 50

References: Smilov and Toplak (eds.) Political Finance and Corruption in Eastern Europe, Ashgate, 2007

Peer Reviewer's Comments: The process exists mainly at the top level, while at the lower level of the service, it is not that widely seen.

42d *In practice, civil servants have clear job descriptions.*

Score: 100

References: The Rules of Organization of Customs, [\[LINK\]](#)

Social Scientist's Comments: Most of the public authorities follow minutely regulated procedures, described in the Rules of Organization.

Peer Reviewer's Comments: Recently, one of the Bulgarian TV stations aired a report about civil servants who do something other than their job descriptions. There are other occasional cases--mainly in small regional institutions where the appointment of some civil servants is formal act--where workers do not work the job for which they were appointed.

Peer Reviewer's Comments: All civil servants have a clearly defined job description, which is given to each civil servant before he enters office.

42e *In practice, civil servant bonuses constitute only a small fraction of total pay.*

Score: 100

References: Law on the Public Service, Arts. 32-48, [\[LINK\]](#)

Peer Reviewer's Comments: Bonuses are bound to the work-assessment procedure that takes place every year. Higher-graded officials may get up to a 10% increase of the salary. Although this is the basic principle, in some administrations exist additional bonus schemes that may bring substantial increase of the salary (even double it). Such examples exist in the Ministry of Finance, the Registry Agency, etc. It should be noted that these cases are exceptions rather than a widespread practice.

42f *In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.*

Score: 100

References: Civil Service Law, Art. 60
The Ministry of Public Administration has a very well maintained website, where information about competitions is regularly published. See [\[LINK\]](#)

Peer Reviewer's Comments: There is no information about how many of these positions were assigned after transparent and honest competition. Also, there is no information about the amount of actual announced positions.

Peer Reviewer's Comments: All the information is published in the Civil Service Register, available online.

42g *In practice, the independent redress mechanism for the civil service is effective.*

Score: 75

References: There have been no independent studies on the issue.
Interview with Antoinette Primatarova, former chief negotiator on behalf of Bulgaria with the EU

Social Scientist's Comments: According to the second source the general impression of public administration experts is that, as a whole, the mechanism is efficient. In practice, though, sometimes court proceedings take a long time.

Peer Reviewer's Comments: The court proceedings take a long time, which means that the mechanism is not effective enough.

42h *In practice, in the past year, the government has paid civil servants on time.*

Score: 100

References: There are no reports of delayed payments.

Social Scientist's Comments: This has not been a problem in Bulgaria for more than ten years.

42i *In practice, civil servants convicted of corruption are prohibited from future government employment.*

Score: 75

References: There are no cases in which persons convicted of corruption have been reappointed to the public administration. There have been cases of reappointment of persons accused of corruption who have not been convicted.

**Social Scientist's
Comments:**

There are no cases in which persons convicted of corruption have been reappointed to the public administration. There have been cases of reappointment of persons accused of corruption who have not been convicted.

Peer Reviewer's Comments:

There is no information available on this. There have been cases of reappointment of persons accused of corruption but never convicted. This means that the level of the public intolerance for eventual precedents still tends not to be very high.

Peer Reviewer's Comments:

There are no statistics on whether civil servants convicted of corruption have entered office again. Usually, there is not enough evidence for conviction. Most of the accused enter the civil service again, thus damaging its integrity.

43: Are there regulations addressing conflicts of interest for civil servants?

43a *In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.*

Score: YES

References: Civil Service Law, Art. 29

43b *In law, there are restrictions for civil servants entering the private sector after leaving the government.*

Score: NO

References: There are no such restrictions.

43c *In law, there are regulations governing gifts and hospitality offered to civil servants.*

Score: YES

References: Civil Service Law
Codes of Conduct of different services

43d *In practice, the regulations restricting post-government private sector employment for civil servants are effective.*

Score: 0

References: There are no such restrictions.

43e *In practice, the regulations governing gifts and hospitality offered to civil servants are effective.*

Score: 50

References: Interviews with Romyana Kolarova , Ph.D, August 2007

Peer Reviewer's Comments: There is no way to confirm the opposite.

Peer Reviewer's Comments: No, there are no efficient regulations or control over this process.

43f *In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.*

Score: 50

References: There are no independent studies on this question.
Interviews with Romyana Kolarova and Milena Stefanova , experts on public administration, October 2007

Social Scientist's Comments: Interviews suggest that problems in this area still exist.

Peer Reviewer's Comments: Though there are some bad examples, the tendency is positive.

44: Can citizens access the asset disclosure records of senior civil servants?

44a In law, citizens can access the asset disclosure records of senior civil servants.

Score: YES

References: Law on Public Disclosure of Assets of High-Ranking State Officials, Article 2 ([\[LINK\]](#))

Peer Reviewer's Comments: No obstacles exist to trying to get this information under a Freedom of Information Act request. However the outcome is not guaranteed.
The declaration of assets of about 5,000 civil servants in higher-level positions are available online on the Web site of the National Audit Office after searching by name at <http://register.bulnao.government.bg/>.

Peer Reviewer's Comments: The declarations are usually kept in the internal Inspectorates and are reviewed in cases when a suspicion or signal of conflict of interest occurs. The declaration of some categories of high-ranking officials are public, according to the High-Ranking State Officials Personal Assets Disclosure Act. Most categories dont fall under the definition of public servants under the Public Service Act, however, and are considered political appointees.

Peer Reviewer's Comments: According to the law, all heads and deputy heads of government agencies and services are required to file asset disclosure forms. Records are available to the citizens. See: Law on Public Disclosure of Assets of High-Ranking State Officials, Article 2 (http://www.bulnao.government.bg/files/_bg/Zpublmust050906_010107new.doc)

44b In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

Score: 75

References: Law on Public Disclosure of Assets of High-Ranking State Officials, Article 6 ([\[LINK\]](#))

Peer Reviewer's Comments: These asset-disclosure records are available immediately online at <http://register.bulnao.government.bg/>.

Peer Reviewer's Comments: In law, records should be available on-line but they are not available yet. However, they can be obtained within a week. See: Law on Public Disclosure of Assets of High-Ranking State Officials, Article 6 (http://www.bulnao.government.bg/files/_bg/Zpublmust050906_010107new.doc); Web site of the National Audit Office: <http://www.bulnao.government.bg>

44c In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

Score: 100

References: Law on Public Disclosure of Assets of High-Ranking State Officials, Article 6 ([\[LINK\]](#) [/files/_bg/Zpublmust050906_010107new.doc" target="_blank">](#)[LINK]); Web site of the National Audit Office: <http://www.bulnao.government.bg>

Peer Reviewer's Comments: No fee exists for these records, which are online. For records that are not online and would need to be requested under the Freedom of Information Act (FOIA), the fees applicable under the FOIA apply.

Peer Reviewer's Comments: In law, records should be available on-line but they are not available yet. However, they can be obtained at a reasonable cost. See: Law on Public Disclosure of Assets of High-Ranking State Officials, Article 6 (http://www.bulnao.government.bg/files/_bg/Zpublmust050906_010107new.doc); Web site of the National Audit Office: <http://www.bulnao.government.bg>

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

45a *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.*

Score: NO

References: There is no such law.

Peer Reviewer's Comments: There are standard regulations for the protection of whistle-blowers in the Penal Code.

45b *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.*

Score: 25

References: No objective information on the topic.

Social Scientist's Comments: This year there was one case of a whistle-blower in one of the special agencies who was later dismissed from office. It is difficult to draw conclusions on the basis of such anecdotal evidence. Still, it is the case that there are no publicly reported stories of whistle-blowing.

Peer Reviewer's Comments: There is objective information on this topic.

45c *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.*

Score: NO

References: There is no such law.

Peer Reviewer's Comments: There are standard regulations for the protection of whistle-blowers in the Penal Code.

45d *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.*

Score: 0

References: Interviews with Georgi Ganev, CLS, October 2007

Peer Reviewer's Comments: No objective information is available on the topic.

46: In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

46 *In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?*

Score: YES

References: Although there are no special laws, many public bodies do publish telephone numbers for reporting cases of corruption.

Peer Reviewer's Comments: No such law exists, but it is practiced by many institutions.

Peer Reviewer's Comments: As corruption is considered a crime under the Penal Code, all Bulgarian citizens are obliged to report to the police or prosecutors' office if they witness or have information about any crime committed.

Peer Reviewer's Comments: There are no special phone lines, but all overning institutions publish on their Web sites telephone numbers for anyone to use to report corruption.

47: In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

47a *In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.*

Score: 75

References: An Inspectorate at the Council of Ministers examines and reviews allegations of corruption.

Peer Reviewer's Comments: No objective information exists about whether the internal reporting mechanism for public sector corruption has a professional, full-time staff.

Peer Reviewer's Comments: The Chief Inspectorate within the Council of Ministers and the internal inspectorates within the ministries, agencies and municipalities are entitled to receive and investigate corruption allegations. Though many of them are understaffed, some of the inspectorates have proved to have very professional full-time staff, which has successfully investigated and passed to the prosecutors' office major corruption cases (for example, the inspectorate of the Sofia Municipality and the case of Toplofikacia, Tramcar etc.)

47b *In practice, the internal reporting mechanism for public sector corruption receives regular funding.*

Score: 100

References: Yes, the Inspectorate is funded by the budget.

Peer Reviewer's Comments: They probably receive funding from the budget of the institution or its reserves.

47c *In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.*

Score: 50

References: there are no spectacular cases of corruption exposed by such mechanisms in Bulgaria.

Peer Reviewer's Comments: Some institutions report such complaints, but not all.

Peer Reviewer's Comments: Complaints are reviewed depending on the case and the availability of personnel.

47d *In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.*

Score: 50

References: There are no spectacular cases of corruption exposed upon the initiative of administrative supervisors. It is difficult to assess objectively how the system operates in practice.

Peer Reviewer's Comments: Yes, some institutions, such as the Ministry of Interior and General Prosecutor's office, report this.

Peer Reviewer's Comments: Due to the inspectorates' lack of administrative capacity or/and political influence, some cases may not be investigated.

48: Is the public procurement process effective?

48a *In law, there are regulations addressing conflicts of interest for public procurement officials.*

Score: YES
References: Civil Service Law, Art. 29
 Public Procurement Law, Art. 35

48b *In law, there is mandatory professional training for public procurement officials.*

Score: YES
References: There are requirements for professional qualification, but no specific requirements for training. All civil servants undergo periodic training courses, though.
Social Scientist's Comments: There are requirements for professional qualification, but no specific requirements for training. All civil servants undergo periodic training courses, though.
Peer Reviewer's Comments: Yes, the Institute of Public Administration and European Integration offers special professional and anticorruption programs for that staff.

48c *In practice, the conflicts of interest regulations for public procurement officials are enforced.*

Score: 75
References: Interviews with Georgi Ganev, CLS, October 2007
Peer Reviewer's Comments: Many experts in the field believe that public procurements is the main corruption instrument that is used by the governing parties to compensate their donors for the financial assistance received for the elections. See annual reports on corruption of the Center for Study of Democracy.

48d *In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.*

Score: YES
References: The Law on Public Disclosure of Assets of High-ranking State Officials
Social Scientist's Comments: According to this law the heads of the Public Procurement Agency have to disclose their assets before the National Audit Office and their declarations are made public. The asset declarations of lower level officials are not public, however.
Peer Reviewer's Comments: The majority of public-procurement officers do not fall under the regulations of the Law on Public Disclosure of Assets of High-Ranking State Officials.

48e *In law, major procurements require competitive bidding.*

Score: YES
References: Public Procurement Law, Art. 14

48f *In law, strict formal requirements limit the extent of sole sourcing.*

Score: YES
References: Public Procurement Law, [\[LINK\]](#)
 Chapter I, General Principles

48g *In law, unsuccessful bidders can instigate an official review of procurement decisions.*

Score: YES

References: Public Procurement Law, Chapter 11

Social Scientist's Comments: Interested parties could also appeal to courts.

48h *In law, unsuccessful bidders can challenge procurement decisions in a court of law.*

Score: YES

References: Public Procurement Law, Art. 122e

48i *In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.*

Score: YES

References: Public Procurement Act, Art. 47

48j *In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.*

Score: 50

References: Interviews with Ivan Krastev, CLS, November 2007

Social Scientist's Comments: Observers systematically doubt the fairness of procurement procedures. Objective studies on these practices do not exist, but interviews with experts suggest that malpractice is extensive.

49: Can citizens access the public procurement process?

49a *In law, citizens can access public procurement regulations.*

Score: YES

References: A Public Procurement Register has been set up in compliance with the Public Procurement Law, Arts. 21-22.

49b *In law, the government is required to publicly announce the results of procurement decisions.*

Score: YES

References: Public Procurement Law, Art. 22

49c *In practice, citizens can access public procurement regulations within a reasonable time period.*

Score: 100

References: Interviews with Jana Papasova, CLS, October 2007
The Law on Public Procurement, [\[LINK\]](#)

Social Scientist's Comments: Second source specifies the creation of an agency and the setting up of a Public Register of public procurement. This register is open to the public.

49d *In practice, citizens can access public procurement regulations at a reasonable cost.*

Score: 100

References: No reports in the media of excessive costs.
Law on Public Procurement, Arts. 21, 22, [\[LINK\]](#). There are no reports suggesting important violations of these legal provisions.

49e *In practice, major public procurements are effectively advertised.*

Score: 75

References: Announcements for major deals are published at the site of the agency [\[LINK\]](#) where the rest can be found as well.
see [\[LINK\]](#)

Social Scientist's Comments: Regarding the first source, most of the procurement deals are advertised effectively although sometimes deadlines might be a little tight.
The second source discusses the recent controversy surrounding the competition to provide software for the administration.

Peer Reviewer's Comments: There is no information about which major, public procurements are advertised or whether all of them are advertised publicly or not. No effective, public accountability exists for this.

Peer Reviewer's Comments: Under the Law on Public Procurement, all procurement notices should be published in the electronic register of the Public Procurement Office and available online.

49f *In practice, citizens can access the results of major public procurement bids.*

Score: 75

References: [\[LINK\]](#).
[\[LINK\]](#)

**Social Scientist's
Comments:**

The winner of the procurement competition is publicly announced, although not the exact content of the awarded contract, which impedes public assessment of efficiency. The announcements are made at the website of the agency for the first source.
The second source contains analysis of the recent practices.

50: Is the privatization process effective?

50a *In law, all businesses are eligible to compete for privatized state assets.*

Score: YES

References: Law on Privatization and Post-privatization Control

Social Scientist's Comments: Specific requirements could be in place for certain privatization deals.

50b *In law, there are regulations addressing conflicts of interest for government officials involved in privatization.*

Score: YES

References: Law on Privatization and Post-privatization Control, Chapter 4

Peer Reviewer's Comments: There are basic conflict-of-interest regulations applicable to all civil servants (under the Labor Code and the Law of Civil Servants).

50c *In practice, conflicts of interest regulations for government officials involved in privatization are enforced.*

Score: 100

References: No media reports to the contrary.
Interviews with Georgi Ganev, CLS and Sofia University

Peer Reviewer's Comments: There are no reports to the contrary, but some doubts and rumors circulate. I think is better and fair to say 50/50.

Peer Reviewer's Comments: As the process of privatization is almost finished in Bulgaria, there have been no major corruption scandals recently. Privatization scandals were typical for the past 5 to 10 years.

51: Can citizens access the terms and conditions of privatization bids?

51a *In law, citizens can access privatization regulations.*

Score: YES

References: Law on Privatization and Post-privatization Control.

Social Scientist's Comments: The law envisages the creation of public registers of concluded privatization deals.

51b *In practice, privatizations are effectively advertised.*

Score: 100

References: Web site of the Privatization Agency: [\[LINK\]](#)

Peer Reviewer's Comments: Some privatizations are better advertised than others.

51c *In law, the government is required to publicly announce the results of privatization decisions.*

Score: YES

References: Law on Privatization and Post-privatization, Art. 30

51d *In practice, citizens can access privatization regulations within a reasonable time period.*

Score: 100

References: Registers are available online and are updated on a regular basis.
Web site of the Privatization Agency: [\[LINK\]](#)

51e *In practice, citizens can access privatization regulations at a reasonable cost.*

Score: 100

References: Internet-based information - cheap access

52: In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

52 *In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?*

Score: YES

References: Ombudsman Law

Social Scientist's Comments: The Ombudsman became fully operative only in 2006. It is probably too early to assess its performance.

53: Is the national ombudsman effective?

53a *In law, the ombudsman is protected from political interference.*

Score: YES

References: Ombudsman Law, Arts. 4, 8

53b *In practice, the ombudsman is protected from political interference.*

Score: 100

References: Daniel Smilov, The Impact of EU on the Quality of Democracy in Bulgaria, paper presented in EUI Florence, December 2007.

Social Scientist's Comments: The first ombudsman in Bulgarian history - Ginyo Ganev - is a former MP, and is generally a consensual figure in Bulgarian politics. His strategy thus far is non-confrontational vis-a-vis the government. Probably the idea is to establish and institutionalize the office, since it anyhow needs rely on cooperation with other authorities. There are no visible signs of political pressure on the ombudsman. The institution was set up as a fully operational only in 2006. It is not regarded as a political player (for better or worse).

Peer Reviewer's Comments: However, the chairman was elected from among the circle of the ruling socialist party, which near potential opportunities for interference.

53c *In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.*

Score: 100

References: Daniel Smilov, The Impact of EU on the Quality of Democracy in Bulgaria, paper delivered in EUI, Florence, December 3, 2007

Peer Reviewer's Comments: The institution of the Ombudsman is new. So far there have been no attempts to remove the Ombudsman.

53d *In practice, the ombudsman agency (or agencies) has a professional, full-time staff.*

Score: 100

References: [\[LINK\]](#)
[\[LINK\]](#)

53e *In practice, agency appointments support the independence of the ombudsman agency (or agencies).*

Score: 100

References: www.ombudsman.bg/index.php?action=list&item=articles

Peer Reviewer's Comments: The staff was elected from among the circle of the ruling coalition, and some of them are members of the ruling parties, so they cannot be expected to be fully independent.

53f *In practice, the ombudsman agency (or agencies) receives regular funding.*

Score: 100

References: No reports in the media regarding the underfunding of the institution.

Social Scientist's Comments: There were initially difficulties in finding an appropriate building, but these were largely resolved in 2007. Most of the regional offices are also operative.

Peer Reviewer's Comments: It receives funding from the state budget.

53g *In practice, the ombudsman agency (or agencies) makes publicly available reports.*

Score: 100

References: www.ombudsman.bg/index.php?action=list&item=articles
All reports are published at the website of the institution. The report for 2005 is available in English as well.

53h *In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.*

Score: 75

References: Reports of the institution, www.ombudsman.bg/index.php?action=list&item=articles

Social Scientist's Comments: The Office of the Ombudsman is quite active. One may question some of his policies, but generally the Ombudsman has initiated a lot of investigations. The number of complaints is around 3000 per year as of 2006 and rising. Thus far there have been no independent studies of its efficiency.

Peer Reviewer's Comments: Actually, it does not initiate investigations. But public opinion on hot topics and the making of public statements, together with similar pressure from other organizations or media, eventually could lead to public intolerance of certain problems. The public pressure could then lead to investigations initiated by other institutions.

Peer Reviewer's Comments: Because of the relative short period of time the ombudsman office has been active, it is very difficult to assess its effectiveness.

53i *In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.*

Score: 75

References: This question should be clarified. In law, the Bulgarian Ombudsman has no powers to impose penalties. He could only address other institutions and ask them to impose penalties. Generally, the Ombudsman has been involved in such proceedings. Again, one could doubt some of the policies of this institution, but the fact is that it is operational and it uses its capacities, no matter how formally weak they are.

Social Scientist's Comments: This question should be clarified. In law, the Bulgarian Ombudsman has no powers to impose penalties. He could only address other institutions and ask them to impose penalties. Generally, the Ombudsman has been involved in such proceedings. Again, one could doubt some of the policies of this institution, but the fact is that it is operational and it uses its capacities, no matter how formally weak they are.

Peer Reviewer's Comments: In law, the Bulgarian Ombudsman has no power to impose penalties.

Peer Reviewer's Comments: The Bulgarian ombudsman has no power to impose penalties. See http://www.anticorruption.bg/ombudsman/bg/legframe_bg.htm.

53j *In practice, the government acts on the findings of the ombudsman agency (or agencies).*

Score: 100

References: Reports of the Center for the Study of Democracy on the Ombudsman institution [\[LINK\]](#)

Social Scientist's Comments: There have been no serious conflicts between the Ombudsman and other institutions. Generally, it has a working relationship with the government.

Peer Reviewer's Comments: Actually, the public making statements on some hot issues, together with similar from other organizations or the media, can lead the ombudsman to recognize public intolerance to certain problems. That public pressure could lead the government to act on certain problems.

53k *In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.*

Score: 100

References: Reports of the Ombudsman institution, www.ombudsman.bg

Peer Reviewer's Comments: There are no statistics about how many citizen complaints are left without a real outcome.

54: Can citizens access the reports of the ombudsman?

54a *In law, citizens can access reports of the ombudsman(s).*

Score: YES

References: Ombudsman Law, Art. 22

54b *In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.*

Score: 100

References: They are found online: [\[LINK\]](#)

54c *In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.*

Score: 100

References: They are online: [\[LINK\]](#)

55: In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

55 *In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?*

Score: YES

References: Law on the Audit Office, [\[LINK\]](#)

56: Is the supreme audit institution effective?

56a *In law, the supreme audit institution is protected from political interference.*

Score: YES

References: Law on the Audit Office, Art. 2 (among other independence-protecting provisions), [\[LINK\]](#)

56b *In practice, the head of the audit agency is protected from removal without relevant justification.*

Score: 100

References: Interview with Dimo Grozdev (TI, Bulgaria) October 2007.

Social Scientist's Comments: There is a seven-year-period mandate. Discretionary dismissals are not allowed. There are no reports in the media of attempts of governing majorities to remove the head of the office. Generally, this is an established and respected institution, as is its current chairman.

Peer Reviewer's Comments: The chairman is a professional, but he is always related to the ruling party or coalition, and they choose him from among their circle.

56c *In practice, the audit agency has a professional, full-time staff.*

Score: 100

References: Interviews with Georgi Ganev, CLS, October 2007

Social Scientist's 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, located in the 28 regional centers of the country.

Peer Reviewer's Comments: The Audit Office has well-trained staff, but the number of employees is not adequate for all the asset declarations to be reviewed.

56d *In practice, audit agency appointments support the independence of the agency.*

Score: 100

References: Interviews with Yonko Grozev, CLS, lawyer, November 2007

Social Scientist's Comments: The current chairman of the office is a respectable person who has managed to strengthen the autonomy of the institution.

Peer Reviewer's Comments: The current chairman is a respectable professional but, when elected, was related to the then ruling party. The other members of the office are elected on a quota principle from the parties represented in Parliament.

56e *In practice, the audit agency receives regular funding.*

Score: 100

References: There are no media reports or any other sources indicating funding problems.

Peer Reviewer's Comments: It is funded by the state budget.

56f *In practice, the audit agency makes regular public reports.*

Score: 100

References: [\[LINK\]](#)

Social Scientist's Comments: All reports of the Audit Office can be found on its Web site, which is very well maintained.

56g *In practice, the government acts on the findings of the audit agency.*

Score: 100

References: Interviews with Katia Hristova, TI, Bulgaria, December 2007

Social Scientist's Comments: The government acts on the finding of the Audit Office. There are no important examples of the office's decisions being disregarded. If the Audit Office finds irregularities, other bodies start investigations (prosecutors, etc.). It is another question altogether whether these investigations are always successful.

56h *In practice, the audit agency is able to initiate its own investigations.*

Score: 25

References: Interviews with Katia Hristova, TI, Bulgaria, November 2007

Social Scientist's Comments: The AO has no investigative powers, only as an instrument of financial control. This limits its efficiency because it has to rely on the input from other executive agencies. Usually its review is limited to thorough checks of available documentation. The Audit Office has very limited prerogatives especially in the area of the control of the funding of political parties. Its chairman has regularly publicly complained of limited institutional powers in this regard.

Peer Reviewer's Comments: No initiative for investigations exists at all.

57: Can citizens access reports of the supreme audit institution?

57a *In law, citizens can access reports of the audit agency.*

Score: YES

References: Law on Audit Office, Art. 2, 10

57b *In practice, citizens can access audit reports within a reasonable time period.*

Score: 100

References: [\[LINK\]](#)

Social Scientist's Comments: Reports are available online. There are no significant delays in the uploading of the information.

Peer Reviewer's Comments: Some reports are not available on-line yet. However, they can be obtained within a week after submitting a written request.

57c *In practice, citizens can access the audit reports at a reasonable cost.*

Score: 100

References: [\[LINK\]](#)

Social Scientist's Comments: Reports are available online.

Peer Reviewer's Comments: Documents that are not available on-line can be obtained at a reasonable price that covers printing, paper etc.

58: In law, is there a national tax collection agency?

58 *In law, is there a national tax collection agency?*

Score: YES

References: National Revenue Agency regulation, [\[LINK\]](#)
Law on NRA, 2002

59: Is the tax collection agency effective?

59a *In practice, the tax collection agency has a professional, full-time staff.*

Score: 100

References: Interviews with Georgi Ganey and Rumen Avramov, CLS, November 2007

Peer Reviewer's Comments: There wasn't any score.

59b *In practice, the tax agency receives regular funding.*

Score: 100

References: No reports in the media of funding problems. No studies indicating such problems.

Peer Reviewer's Comments: It is financed by the state budget.

60: In practice, are tax laws enforced uniformly and without discrimination?

60 *In practice, are tax laws enforced uniformly and without discrimination?*

Score: 75

References: Interviews with Katia Hristova and Dimo Grozdev, TI experts, Autumn 2007

Social Scientist's Comments: There are allegations of widespread corruption among tax officers, which leads to differential treatment of companies. However, there is no group of companies that are systematically targeted by the officials - it seems that the corrupt practices, in this sense, are not discriminatory.

Peer Reviewer's Comments: In the last few years, allegations of widespread corruption by tax officers diminished. However, there were some cases of arrested tax officers being blamed for taking bribes and/or enforcing the tax laws in a biased manner.

Peer Reviewer's Comments: Special groups that are most likely to evade taxes do not exist. Corruption is widespread, but the cases are individual and can't be generalized in certain groups.

61: In law, is there a national customs and excise agency?

61 *In law, is there a national customs and excise agency?*

Score: YES

References: National Customs Agency regulations, [\[LINK\]](#)

62: Is the customs and excise agency effective?

62a *In practice, the customs and excise agency has a professional, full-time staff.*

Score: 100

References: Interviews with Georgi Ganev, CLS, Sofia, November 2007

62b *In practice, the customs and excise agency receives regular funding.*

Score: 100

References: No reports of underfunding found in the media or other studies.

Social Scientist's Comments: This is a budget-funded agency and can receive additional funding on the basis of performance.

63: In practice, are customs and excise laws enforced uniformly and without discrimination?

63 *In practice, are customs and excise laws enforced uniformly and without discrimination?*

Score: 50

References: Studies of corruption perception, The Center for the Study of Democracy, [LINK](#)

Social Scientist's Comments: The customs area is considered one of the most corrupt. There are systematic allegations that political protection is important for evading custom duties. There is very little hard evidence on this, however.

Peer Reviewer's Comments: There is no discrimination in the strict sense of the word, but due to corruption, some may evade paying taxes.

64: In law, is there an agency or equivalent mechanism overseeing state-owned companies?

64 *In law, is there an agency or equivalent mechanism overseeing state-owned companies?*

Score: YES

References: There are different mechanisms for overseeing the state owned companies. Some of them are supervised by the Ministries directly. Publicly listed companies are supervised also by the Financial Supervision Commission: see www.fsc.bg

Social Scientist's Comments: In late 2006 there was ideas of establishing a single agency managing state-owned companies. The Minister suggesting this idea (Ovcharov) was sacked from the government and could not carry it through. See [\[LINK\]](#)

65: Is the agency or equivalent mechanism overseeing state-owned companies effective?

65a *In law, the agency or equivalent mechanism overseeing state-owned companies is protected from political interference.*

Score: NO

References: The enterprises, which are directly supervised by the ministries, are in fact controlled ultimately by political appointees (ministers), who appoint also board members. However, for the publicly listed companies, and the companies providing financial services, there is an independent agency, which exercises controlling functions. See the Law on the Financial Supervision Commission, Art. 5 (www.fsc.bg)

Peer Reviewer's Comments: There is no such law.

65b *In practice, the agency or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.*

Score: 100

References: Both the ministries and the FSC have professional staff: Interview with Georgi Ganev (CLS) October 2007

65c *In practice, the agency or equivalent mechanism overseeing state-owned companies receives regular funding.*

Score: 100

References: No reports of funding problems in this regard.

Peer Reviewer's Comments: It receives funding from the state budget.

65d *In practice, when necessary, the agency or equivalent mechanism overseeing state-owned companies independently initiates investigations.*

Score: 50

References: Interviews with economists at the Centre for Liberal Strategies (October 2007)

Peer Reviewer's Comments: No cases have been brought. Instead, small, administrative sanctions are levied.

Peer Reviewer's Comments: Such investigations are rarely initiated.

Peer Reviewer's Comments: It is difficult to assess whether the agencies initiated investigations when needed. There are not many media reports or independent studies on this issue.

65e *In practice, when necessary, the agency or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.*

Score: 50

- References:** Interviews with the economists of the Centre for Liberal Strategies, Sofia, October 2007.
State owned enterprises are generally politically supervised in Bulgaria - either by the government or the municipalities in case of municipal property. The biggest scandal in 2007 concerned the Sofia Central Heating Company, which is jointly supervised by a ministry and the Sofia municipality. The former director of this company was accused of stealing serious amounts of public funds. The scandal led to changes in the supervisory board of the company, and indirectly, to the resignation of a cabinet minister.
- Peer Reviewer's Comments:** Because of rarely initiated investigations and politically influenced management boards, sanctions are seldom imposed. The case of the Sofia Municipality is a very good example but is rather the exception from the main principle.

66: Can citizens access the financial records of state-owned companies?

66a *In law, citizens can access the financial records of state-owned companies.*

Score: YES

References: Especially in case they are publicly listed. Law on the Public Offering of Shares, Chapter 8, Section IV

66b *In practice, the financial records of state-owned companies are regularly updated.*

Score: 100

References: Different models for different types of companies: the publicly listed are regularly updated and published. Audit results are generally accessible for the public. Interviews with Alexander Menkadjiev (broker), Sofia, December 2007.

Social Scientist's Comments: The questions should probably differentiate between publicly listed state-owned companies and others.

66c *In practice, the financial records of state-owned companies are audited according to international accounting standards.*

Score: 100

References: Interviews with Georgi Ganev (CLS) October 2007.

Social Scientist's Comments: This is especially true of publicly listed companies.

66d *In practice, citizens can access the financial records of state-owned companies within a reasonable time period.*

Score: 75

References: Public Register of the Financial Supervision Commission: [\[LINK\]](#) online available for publicly listed companies - accessible for the others through different procedures, including the Law on Access to Public Information

66e *In practice, citizens can access the financial records of state-owned companies at a reasonable cost.*

Score: 100

References: Public Register of the Financial Supervision Commission: [\[LINK\]](#) for publicly listed companies.

Social Scientist's Comments: Generally, the information is either free (when online) or inexpensive.

67: Are business licenses available to all citizens?

67a *In law, anyone may apply for a business license.*

Score: YES

References: Law on the Limitation of Administrative Regulation and Administrative Control over Economic Activity, rules on the implementation of this law, [\[LINK\]](#)

67b *In law, a complaint mechanism exists if a business license request is denied.*

Score: YES

References: Law on the Limitation of Administrative Regulation and Administrative Control over Economic Activity, [\[LINK\]](#))

67c *In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.*

Score: 75

References: Interviews with Georgi Ganev, CLS, October 2007

67d *In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.*

Score: 100

References: Interviews with Ventsislav Karadzov, freelance consultant, October 2007

68: Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

68a *In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.*

Score: YES

References: Law on the Limitation of Administrative Regulation and Administrative Control over Economic Activity

68b *In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.*

Score: YES

References: Law on the Limitation of Administrative Regulation and Administrative Control over Economic Activity

68c *In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.*

Score: YES

References: Law on the Limitation of Administrative Regulation and Administrative Control over Economic Activity

69: Does government effectively enforce basic health, environmental, and safety standards on businesses?

69a *In practice, business inspections by government officials to ensure public health standards are being met are carried out in a uniform and even-handed manner.*

Score: 50

References: No media reports or academic studies of gross abuses and violations, or targeted inspections of specific businesses.

Peer Reviewer's Comments: The authorities, in some cases, ignore this when regulating businesses and other matters. Examples: the Suhodol area around Sofia where, for years, the trash from the Bulgarian capital has gone; Kremikovtzi Factory, etc.

Peer Reviewer's Comments: Some public opinion polls suggest that business inspections are still perceived by the general public as involving corrupt practices.

69b *In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.*

Score: 50

References: There are no reports of gross abuses.

Social Scientist's Comments: In my judgment, the authorities are still too lenient in the enforcement of standards. Some examples involve the big enterprises that present environmental risks, such as Kremikovtzi and Lukoil Neftohim, in addition to the tourism business around the sea coast and the mountains.

Peer Reviewer's Comments: In many cases, the authorities simply ignore the environmental risks when regulating business and other matters.

69c *In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.*

Score: 75

References: There are no reports of systematic or serious abuses of power.

70: Is there legislation criminalizing corruption?

70a *In law, attempted corruption is illegal.*

Score: YES

References: Penal Code, Art. 301(1)

70b *In law, extortion is illegal.*

Score: YES

References: Penal Code, Chapter 5, Section V. Arts. 213-214

70c *In law, offering a bribe (i.e. active corruption) is illegal.*

Score: YES

References: Penal Code, Chapter 8, Section IV

70d *In law, receiving a bribe (i.e. passive corruption) is illegal.*

Score: YES

References: Penal Code, Chapter 8, Section IV

70e *In law, bribing a foreign official is illegal.*

Score: YES

References: Penal Code, Chapter 8, Section IV

70f *In law, using public resources for private gain is illegal.*

Score: YES

References: Penal Code, Chapter 8, Section II

70g *In law, using confidential state information for private gain is illegal.*

Score: YES

References: Penal Code, Chapter 8, Section II

70h *In law, money laundering is illegal.*

Score: YES

References: Law on Measures Against Money Laundering, [\[LINK\]](#)
Penal Code, Chapter 7

70i *In law, conspiracy to commit a crime (i.e. organized crime) is illegal.*

Score: YES

References: Penal Code, Art. 321

71: In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

71 In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

Score: YES

References: There is a variety of agencies and commissions that are specifically designed to target corruption. Some of them have no investigative powers, such as the Commission on Prevention and Countering of Corruption (which is a coordinative body at the level of the government, headed by the Minister of Interior: See the website of the council of ministers: Penal Code, Art. 321. Several other executive agencies have prerogatives in the fight against corruption, including investigative powers.

Social Scientist's Comments: In December 2007 the Parliament was discussing a draft law on a State Agency of National Security, whose prerogatives include the fight against serious cases of corruption. The draft law was passed at the very end of the year and the agency is going to become operative from 2008.

Peer Reviewer's Comments: There is no specific agency specifically designed to target corruption. There are only commissions and other smaller bodies within some government institutions or the Parliament. Beginning in 2008, the State Agency of National Security will operate. Its prerogatives, among many others, must include the fight against serious cases of corruption.

Peer Reviewer's Comments: There is also a parliamentary Combating Corruption Committee. See <http://www.parliament.bg/?page=ns&lng=en&nsid=5&action=show&gid=176>.

72: Is the anti-corruption agency effective?

72a *In law, the anti-corruption agency (or agencies) is protected from political interference.*

Score:	NO
References:	Parliamentary Anti-corruption Commission, www.parliament.bg
Social Scientist's Comments:	<p>The commission in the first source is independent of the government. The executive Commission on the Prevention and Countering of Corruption is a governmental body, which has no institutional guarantees for independence. The same is true of government agencies, such as the Unit for the Fight against Organized Crime.</p> <p>The new State Agency on National Security will have institutional guarantees of independence, such as a fixed term in office for its chairman, direct accountability to parliament, etc.</p>
Peer Reviewer's Comments:	There is no such agency, and the existing bodies are related to the ruling coalition.

72b *In practice, the anti-corruption agency (or agencies) is protected from political interference.*

Score:	25
References:	Interviews with Yonko Grozev, CLS, and Stefan Popov , risk monitor, November 2007
Social Scientist's Comments:	The current model of control and monitoring is to a large extent government-dominated through a political majority in parliament.
Peer Reviewer's Comments:	The new State Agency on National Security will have some institutional guarantees of independence, such as a fixed term in office for its chairman, direct accountability to Parliament, etc. But still, the chairman was elected from among the circle of the ruling Bulgarian Socialist Part. Indeed, the current chairman was an officer in the communist State Security before 1989.

72c *In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.*

Score:	50
References:	Interviews with Yonko Grozev, CLS, and Stefan Popov , risk monitor, November 2007
Peer Reviewer's Comments:	We will see when the agency starts its work.
Peer Reviewer's Comments:	As the heads of the anticorruption bodies are political appointees (for example, ministers etc), there is no guarantee against unjustified dismissal.

72d *In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.*

Score:	75
References:	There are no reports suggesting that appointments to these bodies are heavily politicized. See Report of the Centre for the Study of Democracy, LINK
Social Scientist's Comments:	The existing problems are not so much with the professional qualities of the appointees. Rather, the problems are more structural.

Peer Reviewer's Comments: The chairman who was just elected is from among the circles of the ruling Bulgarian Socialist Party and was an officer in the communist State Security Services before 1989. It is hard to believe that only his professional qualities were decisive in his election, because there are many other professionals worthy election.

72e *In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.*

Score: 75

References: Study of the Centre for the Study of Democracy, [\[LINK\]](#)
Daniel Smilov, Anti-corruption Bodies as Discourse-Controlling Instruments (forthcoming in an edited volume (Peter Larmour and Luis de Sousa) from Routledge.

Peer Reviewer's Comments: When such an agency begin its work in 2008, it will have a full-time staff.

72f *In practice, the anti-corruption agency (or agencies) receives regular funding.*

Score: 75

References: There are no reported problems of underfunding of existing structures. For a general overview, see [\[LINK\]](#)

Peer Reviewer's Comments: When formed, it will use state budget funding.

Peer Reviewer's Comments: The present anticorruption commissions established within the executive, judiciary and legislative branches, as well as the Chief Inspectorate, have no separate budget and are heavily underfunded. In order to initiate certain activities, they have to rely on different PHARE-funded projects or on the budget of their members (for example, ministries). The National Anticorruption Strategy and its action plan do not envision a special budget for its implementations.

72g *In practice, the anti-corruption agency (or agencies) makes regular public reports.*

Score: 100

References: [\[LINK\]](#)

Social Scientist's Comments: Reporting is quite regular: most of the agencies provide data, at least annually. Some of the data are included in the regular reports of the Public Prosecutor before parliament, which are Constitutionally required. Others are published electronically on the governmental Web sites. The source provides a recent example.

Peer Reviewer's Comments: The existing bodies--not agencies--provide such data, at least once annually. Some of the data are included in the regular reports of the Public Prosecutor to Parliament, which are constitutionally required. Others are published electronically. We will see what the practice of the new agency will be, because it is not orientated only to corruption; corruption is only one of its priorities.

72h *In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.*

Score: 100

- References:** The combination between different anti-corruption commissions and executive agencies such as the structures of the Ministry of Interior and the anti-corruption units at the Prosecutor's Office have all necessary powers.
- Social Scientist's Comments:** The combination between different anti-corruption commissions and executive agencies such as the structures of the Ministry of Interior and the anti-corruption units at the Prosecutor's Office have all necessary powers.
- Peer Reviewer's Comments:** No single agency has such powers, but if all anticorruption structures work in a coordinated manner, they have all the needed powers to investigate corruption offenses.

72i *In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.*

Score: 50

- References:** I am skeptical of the possibility to assess the efficiency of such agencies in such general terms. Since there are no criteria for performance measurement, all such ratings will be questionable. The general opinion of Bulgarian experts is that the performance of these bodies deserves criticism. They do initiate investigations, but these rarely lead to convictions.
- Social Scientist's Comments:** I am skeptical of the possibility to assess the efficiency of such agencies in such general terms. Since there are no criteria for performance measurement, all such ratings will be questionable. The general opinion of Bulgarian experts is that the performance of these bodies deserves criticism. They do initiate investigations, but these rarely lead to convictions.
- Peer Reviewer's Comments:** There is no case of initiating investigations but rather of creating a public opinion.
- Peer Reviewer's Comments:** The new National Security Agency will have more efficient institutional power and means to combat corruption.

73: Can citizens access the anti-corruption agency?

73a *In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.*

Score: 75

References: There have been no reports of systematic disregard of complaints.

Social Scientist's Comments: The Parliamentary Commission can be appealed to by citizens, as well as bodies within the Ministry of Interior.

Peer Reviewer's Comments: There have been no reports of what percentage of complaints have been handled and how quickly.

73b *In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.*

Score: 50

References: Interviews with Yonko Grozev, Centre for Liberal Strategies, Sofia, November 2007.

Social Scientist's Comments: No legislative whistle-blowing protections exist.

Peer Reviewer's Comments: No, and for this reason many of the complaints are anonymous.

74: Is there an appeals mechanism for challenging criminal judgments?

74a *In law, there is a general right of appeal.*

Score: YES

References: The Law on Judicial Power
The Constitution, Arts. 120, 121

74b *In practice, appeals are resolved within a reasonable time period.*

Score: 75

References: Report of CLS on the length of judicial proceedings, www.cls-sofia.org
Studies of CEPEJ (a Commission of the Council of Europe)

Social Scientist's Comments: In general, the length of judicial proceedings in Bulgaria is comparable to those in other European countries. In certain areas there are more substantial delays, but aggregate figures do not indicate any gross deviation from average European standards.

Peer Reviewer's Comments: In many cases, the length of judicial proceedings in Bulgaria is quite prolonged, for which Bulgaria has been criticized by many European and U.S. institutions.

74c *In practice, citizens can use the appeals mechanism at a reasonable cost.*

Score: 100

References: Interviews with Jonko Grozev, Centre for Liberal Strategies, Sofia, October-November 2007

75: In practice, do judgments in the criminal system follow written law?

75 *In practice, do judgments in the criminal system follow written law?*

Score: 100

References: Studies of the CLS (Sofia) at www.cls-sofia.org.
Interviews with Mila Georgieva, Supreme Prosecutorial Office, October 2007

**Social Scientist's
Comments:** The Bulgarian judiciary is quite formalistic in its approach.

76: In practice, are judicial decisions enforced by the state?

76 *In practice, are judicial decisions enforced by the state?*

Score:	75
References:	Interviews with Yonko Grozev Media reports.
Social Scientist's Comments:	The private bailiffs and the mixed system of enforcement, which was recently introduced, have improved the enforcement situation to a degree. It is difficult to assess the current situation: there are reports in the media of problems, but it is difficult to say to what extent this is a systemic issue. Since the problems of enforcement concern mostly civil law matters, the system of private bailiffs should speed up the process and address the enforcement issue.
Peer Reviewer's Comments:	Because of media allegations to the contrary, I think it is fair to score this 50/50.

77: Is the judiciary able to act independently?

77a *In law, the independence of the judiciary is guaranteed.*

Score: YES
References: Chapter 6 of the Constitution

77b *In practice, national-level judges are protected from political interference.*

Score: 75
References: Judges have sufficient mechanisms to be protected from political interference. The Bulgarian Constitution and the Law on Judicial Power provide more than sufficient guarantees: fixed terms in office, impossibility of being removed, functional independence, etc.

Social Scientist's Comments: Judges have sufficient mechanisms to be protected from political interference. The Bulgarian Constitution and the Law on Judicial Power provide more than sufficient guarantees regarding fixed terms in office, the impossibility of being removed, functional independence, etc.

Peer Reviewer's Comments: However, national-level judges are elected from among the juridical lobbies of the ruling parties or coalition and inevitably are related to them and their interests.

Peer Reviewer's Comments: In law, judges are protected from political interference, but in practice, most of the high-level judges are politically appointed.

77c *In law, there is a transparent and objective system for distributing cases to national-level judges.*

Score: YES
References: Law on the Judicial Power

Social Scientist's Comments: In most courts there are systems of random allocation of cases to judges.

77d *In law, national-level judges are protected from removal without relevant justification.*

Score: YES
References: Law on Judicial System, various provisions (i.e., Arts. 28-29)

Social Scientist's Comments: The Constitution also guarantees the mandates of the Chairman of the Supreme Administrative Court, and the Supreme Court of Cassation and the Prosecutor General.

78: Are judges safe when adjudicating corruption cases?

78a *In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.*

Score: YES

References: There are no such reports

78b *In practice, in the last year, no judges have been killed because of adjudicating corruption cases.*

Score: YES

References: There are no such cases.

79: Do citizens have equal access to the justice system?

79a *In practice, judicial decisions are not affected by racial or ethnic bias.*

Score: 75

References: Interviews with Mila Georgieva, Supreme Prosecutorial Office.

Social Scientist's Comments: There is no reliable research on this. The problem is that the population of the Roma, for instance, overlaps with that of the poor, who cannot afford a very good defense in court. In this sense, Bulgaria is hardly an aberration from the common trends for all countries.

Peer Reviewer's Comments: No reliable research on this exists, but still there are some prejudices against Romas. In addition, they cannot afford a very good defense in court because of their poverty.

Peer Reviewer's Comments: Judicial decisions are not affected by any racial or other ethnic bias. As stated by the reviewer, some of the ethnic minority may not have enough resources to afford a good defense, but this does not mean that the judiciary is biased against them.

79b *In practice, women have full access to the judicial system.*

Score: 100

References: Interviews with Mila Georgieva, Supreme Prosecutorial Office

79c *In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.*

Score: YES

References: Legal Aid Law, effective since 2006

79d *In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.*

Score: 50

References: Interviews with Yonko Grozev, CLS, October, 2007

Social Scientist's Comments: Many experts criticize the existing system for underfunding.

79e *In practice, citizens earning the median yearly income can afford to bring a legal suit.*

Score: 100

References: Bureau for state legal aid, [\[LINK\]](#)
NGO monitoring of judicial reform in Bulgaria, [\[LINK\]](#)

Social Scientist's Comments: All experts agree on this issue. Citizens who cannot afford to pay for services can resort to state legal aid.

79f *In practice, a typical small retail business can afford to bring a legal suit.*

Score: 100

References: Interviews with Veselin Paskalev, lawyer, October 2007

Social Scientist's Comments: In my opinion the costs of legal proceedings in Bulgaria, including the lawyer's fees, is not prohibitive. It is rather the quality and the length of the proceedings that have a more serious deterring effect.

79g *In practice, all citizens have access to a court of law, regardless of geographic location.*

Score: 100

References:

Interviews with Yonko Grozev, CLS, October 2007

80: Is the law enforcement agency (i.e. the police) effective?

80a *In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.*

Score: 50

References: Interviews with Yonko Grozev, CLS, and Mila Georgieva, Supreme Prosecutorial Office, October-November 2007

Peer Reviewer's Comments: No objective index exists for this, so it is fair to give 50/50.

80b *In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.*

Score: 100

References: In proportional terms, the budget of the law enforcement agencies is substantial. There are no serious reports of underfunding, apart from some complaints about car parks and facilities.

Social Scientist's Comments: In proportional terms, the budget of the law enforcement agencies is substantial. There are no serious reports of underfunding, apart from some complaints about car parks and facilities.

80c *In practice, the law enforcement agency is protected from political interference.*

Score: 50

References: Interviews with Yonko Grozev, CLS, October 2007.

Social Scientist's Comments: There is a formal separation of the political and the management sides of the Ministry. However, the law enforcement agencies are not fully protected from political interference.

Peer Reviewer's Comments: In the last couple of years, political interference has not been that noticeable and mainly affects the upper levels.

81: Can law enforcement officials be held accountable for their actions?

81a *In law, there is an independent mechanism for citizens to complain about police action.*

Score: YES

References: According to the Constitution citizen complaints can be submitted to the Ombudsman, the Minister of Interior and the courts. The first and the last of these three are independent from the government. The Prosecutors could also consider citizens' complaints.

Social Scientist's Comments: According to the Constitution citizen complaints can be submitted to the Ombudsman, the Minister of Interior and the courts. The first and the last of these three are independent from the government. The Prosecutors could also consider citizens' complaints.

Peer Reviewer's Comments: Citizens also can complain by addressing Parliaments Combating Corruption Committee and Citizens Complaints and Petitions Committee. See <http://www.parliament.bg/?page=ns&lng=en&nsid=5&action=show&gid=170>.

81b *In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.*

Score: 75

References: There are no reports of substantial delays in this regard.

81c *In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.*

Score: YES

References: Law on the Ministry of Interior, 46(1)9 Art. 90 (1)

Social Scientist's Comments: First Source: There are actually a number of agencies that target corruption within the Ministry of Interior. The National Security Service targets corruption which involves foreign participants. Second source: The National Service for Countering Organized Crime targets corruption when it is linked with organized crime:

Peer Reviewer's Comments: The main body to investigate corruption within the Ministry of Interior is the internal Inspectorate.

Peer Reviewer's Comments: 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.

81d *In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.*

Score: 75

References: There are no independent assessments of the efficiency of these bodies. All rankings in this regard are a bit speculative and rely on my interviews with most of the people mentioned thus far, as well as others.

81e *In law, law enforcement officials are not immune from criminal proceedings.*

Score: YES

References: The Bulgarian Constitution does not grant such immunities.

81f *In practice, law enforcement officials are not immune from criminal proceedings.*

Score: 100

References: [\[LINK \]](#)

Social Scientist's Comments: This year six police officers received heavy sentences for killing a suspect upon arrest. There was a significant outcry against these sentences, which suggests that apart from police solidarity, there are also public sentiments against penalizing law enforcement officers for misconduct in the fight against crime. The source shows an example.

Peer Reviewer's Comments: In 2007, six police officers received heavy sentences for killing a suspect upon arrest. Although there was significant outcry against these sentences, the sole fact that there was sentencing proves that law enforcement officials are not immune from criminal proceedings.

Peer Reviewer's Comments: The above-mentioned case clearly shows that law enforcement officers are not immune from criminal proceedings.