

**Democracy, Rule of Law and Fundamental Rights  
Monitoring Group  
(DRFMG)**

**Follow-up questions  
to the  
Exchange of views  
on latest developments in Bulgaria  
in relation to Democracy, Rule of Law and Fundamental Rights  
held on Friday, 28 August 2020, 09.00-13.30**

**To the Deputy Prime Minister:**

- 1) How are you going to assess the anticorruption reforms in Bulgaria after October 2019? What concrete actions have been taken from the government in this regard? In addition - as regards the reform of the judiciary - how the government will address the Venice Commission recommendations, specifically on the functions of the Prosecutor General?
- 2) Rule of law concerns not only questions about the anticorruption and judiciary but also about media freedom. But the situation concerning media freedom in Bulgaria is very worrying. In April this year the Council of Europe published its annual report on the media freedom which reads the following on Bulgaria: "Bulgaria has seen a worsening working environment for journalists, due to the polarising character of public debate, open hostility of elected politicians and sustained attacks on independent media through administrative and judicial harassment, as well as physical threats. Media ownership is opaque and characterised by the capture of the media market by oligarchs who use their media power to exert political influence and attack and denigrate rivals and critics. A major share of the country's newspaper distribution business is under the control of a single conglomerate, owned by a politician. Independent journalists and media outlets are regularly subject to intimidation in person and online." Could you please comment on this with special regard to the findings about the single conglomerate, owned by a politician. How does this impact the media freedom and what actions does the government plan to address this situation?
- 3) PM Borissov announced Constitutional amendments several weeks ago. During the four days between the PM announcement that there will be a new Constitution and the submission of the draft itself, what kind of public consultations have you performed, if any? Is there an impact assessment of the proposed changes?
- 4) In the new draft Constitution you propose legislative initiative to be given to the judiciary. In most of the Member States the judiciary enforces the law and does not create it. This is part of the separation of powers. So what necessitates this reform, what problems are you trying to address with this?

- 5) In the new draft Constitution you propose significant limitations of the powers of the President of the Republic, especially when it comes to appointments in the judiciary. The President's role in this process has never been subject of any recommendations or analysis under the Commission evaluations of the judiciary within the CVM or Venice Commission recommendations. What was the aim of proposing changes to his role?

**To the Deputy Prime Minister and the Deputy Minister of Justice:**

- 6) While the Bulgarian government has consulted the Venice Commission on previous occasions, this is not the case for the latest reforms, in particular the recently announced constitutional reform. Will the Bulgarian government request the Venice Commission to issue an Opinion on this matter?
- 7) The Kolevi vs Bulgaria ruling dates back to 2009. As indicated by the Venice Commission and by GRECO, some reforms have been taken to implement this ruling, but considerable gaps remain in the accountability of the Prosecutor General. When will the government fully and unreservedly implement the Kolevi ruling and the recommendations and opinions of the Venice Commission and GRECO? Will the Bulgarian government commit to request another Opinion of the Venice Commission on reform proposals regarding the Prosecutor General?
- 8) Does the Bulgarian government consider that introducing a major constitutional reform and grand national assembly just months before an election allows for a careful, transparent, inclusive, democratic process?
- 9) There are serious worries about media ownership concentration, as indicated in the Media Pluralism Monitor 2020. Bulgaria comes at the 111th place in the media freedom index. In addition, individual journalists are reporting threats and intimidation. What will the government do to increase transparency of ownership, promote the plurality of media ownership and ensure the safety of journalists?
- 10) What is the current legal and practical set up and situation of Bulgaria's citizenship by investment scheme? What have been recent changes and how have announced changes actually been implemented? Is Bulgaria willing to follow up on the EP position that all Member States should phase out such schemes or is it at least willing to support EU action to regulate this?

**To the Deputy Minister of Justice:**

- 11) According to the report of the EU Fundamental Rights Agency (FRA), reports emerged in several countries of politicians using racist and xenophobic language. Amnesty International noted in April that the introduction of quarantine measures in Roma neighbourhoods in Bulgaria and Slovakia was accompanied by "an increasingly hostile anti-Roma rhetoric, frequently stoked by politicians". What is the Bulgarian government's position regarding these findings? How is the situation of Roma neighbourhoods at the moment?

- 12) The Constitutional Court of Bulgaria admitted the complaint against a law allowing the police to access location data of identified individuals for tracking people in quarantine. What is the latest state of play here?
- 13) The Supreme Court of Cassation of Bulgaria dismissed the government's appeal against Jock Palfreeman's parole saying that "the request for reopening the case is procedurally inadmissible and all proceedings should be terminated". Yet, this Australian citizen continues to be unable to leave the country, under an order from the Ministry of Interior. Could you explain why the Court is being ignored and, if there are no proceedings against this individual, what is the basis for his ongoing detention in the country?
- 14) A large number of foreign property owners in Bulgaria have sought the protection of the Condominium Act, which excludes them from having to pay management fees if they reside less than 30 days per annum in their property. However, many have failed to have this law upheld in local courts. There is a perception of close links between the judiciary and property developers, resulting in cases being lost in the lower courts and having to be appealed, at substantial time and financial costs, to higher courts. Are you aware of this and do you have plans to address it?
- 15) Are there any plans to regulate the operation of management companies with particular reference to extortionate fees being increased at a whim, no requirements for proper audited accounts, or to ensure financial demands are linked to the provision of services?
- 16) Regarding the recruitment of seasonal workers from Bulgaria through recruitment agencies in Bulgaria for mainly agricultural workers across Europe: Are you aware of the number of such agencies? Are there any concerns that the rights of these workers are being violated by the imposition of costs and fees associated with them getting the job? Are any of these agencies currently under investigation?

**To the Prosecutor General and the Deputy Chief Prosecutor:**

- 17) Linked to suggestions during the hearing about shortcomings in the fight against corruption, more information from the Prosecutor General and his Deputy Ms Filipova, would be appropriate. What specific measures has the Prosecution taken in the fight against corruption? Have politicians been investigated and charge and which political parties do they originate from predominantly? Are they from political parties both in Government and in Opposition?
- 18) Recently the Spanish Media published information on an on-going investigation connecting allegedly the PM Borissov with a money-laundering scheme in Barcelona. Is the Bulgarian Prosecution working on this case, having in mind that it received signal on this case already in 2019? If yes, at what stage is the investigation?
- 19) Several months ago, several audio recordings have been released in the press. Among many other things that are presented in these recordings, at a certain moment the voice that seems to be the voice of PM Borissov threatens to burn down a leading politician from the opposition, currently a fellow MEP. Is there any investigation or preliminary check in this regard? If yes, at what stage?

- 20) Bulgarian citizens witnessed different audio recordings and pictures published in the media. But not all of these recordings and pictures were anonymous. Some transcripts and recordings were sent officially by the Prosecution - some of them during on-going cases, some of them even before initiating a case. How do you assess this practice?
- 21) Following the in camera meeting of the DRFMG, the Prosecutor General of Bulgaria published on the official homepage information that the meeting was organised at the suggestion of the Prosecutor General of Bulgaria. In fact, it was the DRFMG that took the decision to hold this meeting and invited the Prosecutor General who sent his deputy. Are you willing to correct this false information?

**To the Deputy Minister of Justice and the Deputy Chief Prosecutor:**

- 22) As indicated in the latest CVM report and the GRECO reports, the structures to fight corruption have been strengthened, but a solid track record of investigations leading to results, including sentences for perpetrators, is still lacking. How will the Bulgarian government and the prosecution make sure that the reforms formally undertaken actually translate into real results regarding the fight against corruption?

**To the Deputy Minister of Justice and the Commission for the Protection Against Discrimination:**

- 23) How will the Bulgarian government and the Commission for the Protection Against Discrimination ensure the full protection of all minorities? This includes Roma people, LGBTI people as well as ethnic and language minorities in Bulgaria? We have reports of arbitrary quarantine and lock down measures targeting specifically Roma, rampant hate speech against Roma, LGBTI phobic hate speech, as well as attempts to hinder the work of e.g. NGOs working with the Macedonian-Bulgarian minority (deregistering and NGO). Specifically to the Commission for the Protection Against Discrimination: which investigations has it carried out in the past year into these cases and what decisions has it reached in these cases?
- 24) Regarding women's rights, how does the Bulgarian government and the Commission for the Protection Against Discrimination ensure their full protection? How does it respond to criticism that the current legal and policy framework does not ensure effective protection against violence for women? According to EIGE, Bulgaria has one of the lowest reporting rates on domestic violence. How will this be addressed? Why would the Bulgarian government not counter misrepresentations of the Istanbul Convention, and rather work towards the protection of women by ratifying the Convention?

## **To the Bulgarian Government in general:**

### ***On the constitutional reform***

- 25) Among the main demands of the recent wave of protests, one of them is a call for new and fair elections to be organized by a care-taker government to be followed by substantial rule of law reforms. Yet, critics say that the government is attempting to short-circuit these demands by proposing the election of a grand national assembly to discuss an already prepared new draft constitution - drafted on its terms - that has already been widely criticized not only for failing to address the majority of issues that have been undermining the rule of law in Bulgaria but also creating new threats, including further strengthening the powers of the Prosecutor General.

What guarantees can the Bulgarian government give that the highest standards of transparency will be respected and that the largest possible societal consultation will be carried out?

### ***Reform of the Prosecution services***

- 26) More than a decade has passed since the Kolevi case, in which the European Court of Human Rights clearly required Bulgaria to change the legislation on the prosecution and on the prosecutor general. Since then the Venice Commission has also called Bulgaria several times to do so.

Without a truly independent prosecution, the fight against corruption cannot be efficient. In a system in which the Rule of Law is undermined cannot respond to high ranking politicians abusing their power. Could the Bulgarian government provide information on how and when it intends to abide by the ruling of the ECHR as a prerequisite to ensure the proper functioning of the rule of law?

### ***On GRECO recommendations***

- 27) During our video conference last week, it was mentioned that Bulgaria has implemented a large part of GRECO recommendations over the past years. Can then the government explain why Bulgaria has been stagnating in the Corruption Perceptions Index, consistently being ranked last amongst EU Member States?

### ***On the NGO Law***

- 28) One of the junior coalition partners of the Bulgarian Government has recently handed in a draft bill that would introduce an obligation on NGOs to report within 7 days any donation superior to approximately 500 euros that they would receive from abroad. The personal responsibility of members of the management bodies of NGOs also seems to be engaged. A very similar law enacted in Hungary was recently struck down by the European Court of Justice for being discriminatory, infringing free movement of capital and limiting freedom of association.

Can the government confirm that this bill, which has an intimidating impact on NGOs and chilling effect on critical voices will not receive backing from all coalition parties?

### *On the Roma situation*

29) Under extraordinary measures to contain COVID-19, Bulgarian authorities have been reported to have placed Roma settlements under mandatory quarantines enforced by the police and the military, arguing that such measures were necessary for the protection of public health and safety. The introduction of these measures has been accompanied by an increasingly hostile anti-Roma rhetoric, which has been frequently stoked by politicians and used to stigmatise and impose more repressive measures on Roma communities.

Reports indicate that these measures, as well as forced evictions and demolition of house were selectively targeting Roma settlements and they were not applied to other groups or the general population. Such selective application, in the absence of evidence that less restrictive alternatives were considered, raises questions over compliance of these measures with the obligation to prohibit discrimination.

Can the Government explain how such measures could be authorized and what it intends to do in order to put an end to discriminatory measures against part of the population? Can it highlight its main achievements reached and main shortcomings in the context of the current EU Framework for National Roma Integration Strategies?