**Third Cycle of Universal Periodic Review of the Republic of Bulgaria**

**Geneva, 6 November 2020**

**Statement of prof. Nikolay PRODANOV, Deputy Minister of Justice**

**Madam President,**

**Honorable Delegates,**

**Ladies and Gentleman,**

I would like to present Bulgaria’s progress in the implementation of those recommendations, received as part of the Second Cycle of the Universal Periodic Review, which are within the competence of the Ministry of Justice. In light of the time constraints, I will focus on the aspects that were touched upon briefly in the statement of my colleague, Deputy Minister Georgiev.

To start with, I would like to bring up the important topic of the rule of law.

Bulgaria is confident that the **independence of the judiciary** is a precondition for the rule of law and a guarantee for a fair trial. The changes in the legislation in recent years have led to more transparency and accountability in the process of appointing magistrates and ensuring their independence.

A change has been introduced in the structure and organization of the Supreme Judicial Council with a view to strengthening the independence of the judiciary. The new rules do not allow members who represent prosecutors and investigators to participate in resolving personnel and disciplinary issues of the judges and vice versa.

The right to an impartial and fair procedure is guaranteed through random selection for distribution of cases when convening the disciplinary panel.

The latest amendments to the Judiciary System Act as of February 2020 specify the procedures for dismissing judges, prosecutors and investigators.

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**The fight against corruption** is among the main priorities of the Bulgarian government and an important precondition for ensuring the basic principles of the rule of law and good governance policy.

Bulgaria implements the main international anti-corruption instruments of the Council of Europe, UN, OECD, and the relevant EU conventions and acts, which confirms the desire to pursue an effective policy to fight corruption in all its forms. Bulgaria also participates in the mechanisms, established with the above-mentioned international organizations to monitor the implementation of anti-corruption standards.

The comprehensive reforms of the common institutional framework to fight corruption, which have taken place in recent years, are already yielding results. In 2018, an uniform anti-corruption body was established, named a Commission for Combating Corruption and Confiscation of Illegally Acquired Property, and the legal framework regulating the work of the internal inspectorates at the ministries was improved. The mandate of the Specialized Prosecutor’s Office and Specialized Criminal Court expanded with regard to high-level corruption.

At the end of 2019, a National Council for Anti-Corruption Policies was established at the Council of Ministers, the highest governmental level. The Council coordinates the development and implementation of national policies and reports on the implementation of the National Anti-Corruption Strategy of the Republic of Bulgaria.

The Bulgarian government is also working on a new anti-corruption strategy, which will be a continuation of the current one.

Building trust and maintaining an active dialogue with the civil society is of key importance for improving the anti-corruption framework. To this end, Bulgaria established a Civil Society Development Council.

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As of 2017, the government has put in place a regular monitoring and reporting cycle on the progress in the implementation of the strategy for **judicial reform**. The Advisory Council plays an important role in this process towards continuing the judicial reform.

In recent years, substantial improvement has been made in the random distribution of cases in courts, e-justice and the analysis of workload of the judiciary and magistrates, training of magistrates, the new concept of a criminal policy, etc.

New possibilities have been developed for accountability and transparency in the work of the Prosecutor General and the Prosecutor’s Office, and effective law enforcement has been ensured.

The Prosecutor General reports to the Supreme Judicial Council and the National Assembly on an annual and quarterly basis. By invitation of the Legal Affairs Committee in Parliament, the Prosecutor General attends special hearings. Information about the work of the Prosecutor’s Office and the investigative authorities is also provided as per the Public Information Access Act.

At the end of 2019, the Council of Ministers proposed amendments to the Criminal Procedure Code, introducing a mechanism for investigating the Prosecutor General. Currently, the proposed amendments are discussed by the Legal Affairs Committee in Parliament.

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Preventing and fighting **violence against women and domestic violence** in all its forms is an important and long-term priority for Bulgaria.

Bulgaria already has a robust legislative framework to counter domestic violence. There are legal mechanisms in place for victim defense and compensation, and protection services, including in international cases. All forms of domestic violence have been criminalized; measures have been adopted to prosecute and penalize perpetrators, as well as to defend and compensate victims. In line with the recommendations of the Committee on the Elimination of Discrimination against Women, problematic criminal provisions have been revoked. Such provisions envisage that in certain cases of sexual assault against women, the perpetrator shall not be penalized, or the penalty shall not be executed, provided that the man and the woman enter into a marriage before the execution of the penalty.

In 2019, two UN special rapporteurs (one of whom on violence against women) and the Council of Europe Commissioner for Human Rights officially visited Bulgaria. In line with the recommendations in their reports, we adopted targeted and effective measures to further strengthen the existing legislative framework.

New legislative amendments will be adopted, aimed at minimizing the risk for all victims of violence, including domestic violence, the risk of secondary and repeat victimization, intimidation and retaliation by the perpetrator, and providing adequate support depending on the needs of the victims and their relatives. It is planned to further improve the legislation, particularly in the area of protection against domestic violence and social support for the victims, and harmonize it with EU legislative practice. In the spirit of the recommendations of the Committee on the Elimination of Discrimination against Women, rape in marriage and all forms of economic and psychological domestic violence will be explicitly criminalized.

To conclude this topic, I would like to point out that every year Bulgaria allocates financial resources to develop and implement programs for prevention and protection against domestic violence. In 2019, the total amount of project funding was around 220 000 EUR.

In order to deal with the challenges in prevention and victim protection, extra measures are planned to improve the support centers for victims of domestic violence, the social services and training of competent bodies in consultation with NGOs and international partners.

Methodological guidance of the Prosecutor General has been developed for the work of the police authorities in cases of domestic violence.

Due to constitutional restraints, Bulgaria is not in a position to ratify the **Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence**. This, however, does not reverse the commitment of the Bulgarian government to uncompromisingly fight domestic violence in all its forms.

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Bulgaria pursues a consistent policy aimed at preventing and eliminating all forms of **discrimination and hate speech**.

From a legislative perspective, Bulgaria has joined the key international legal instruments in that field. The constitution categorically prohibits discrimination, and this is the underlying constitutional principle in all aspects of the domestic legislation. Crimes related to hatred, inequality, racism and xenophobia are dealt with in a special section of the Bulgarian Criminal Code, and qualified as posing a high level of public danger. Additionally, the Protection against Discrimination Act provides a solid legal framework to protect every citizen from direct or indirect discrimination on all grounds recognized in the international legal instruments, among which gender and sexual orientation. From this perspective, Bulgaria has adopted an adequate and solid legal framework to fight all forms of discrimination and hate crime, which is effectively implemented.

In recent years, a series of public events have been organized, which have clearly demonstrated intolerance to all acts of hatred and discriminatory attitude, and asserted Bulgaria’s image as a country of tolerance, ensuring equal participation of all communities regardless of ethnic, religious or other identity.

Furthermore, a number of measures have been adopted to increase the capacity and effectiveness of law enforcement to prevent and counter hate crimes. Many trainings and seminars for police officers and prosecutors have been organized jointly with the European Commission, European Union Fundamental Rights Agency (FRA) and OSCE Office for Democratic Institutions and Human Rights (ODIHR).

With regard to the explicit **criminalization of violence on the grounds of sexual orientation**, it should be taken into account that any action to strengthen the fight against homophobia- and transphobia-motivated crime through criminal law depends on the further development as well as the use of the full capacity of the existing legislative instruments. The Bulgarian legislation does not allow any form of discrimination, including on the grounds of sexual orientation. In line with the principle of universality of human rights, Bulgaria maintains that LGBTI persons have the same rights as any other persons.

Although the Criminal Code does not contain any qualified corpora delicti in case of a crime motivated by homophobia or transphobia, these can be taken as aggravating circumstances in determining the penalty.

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The government is constantly improving the Bulgarian legislation to guarantee the rights of underage persons, participating in court proceedings as witnesses, victims, defendants, or sentenced persons, in full compliance with international standards.

Currently, a working group at the Ministry of Justice has drafted a package of legislative amendments, which includes a **special draft law on Correctional Measures for Juveniles who have committed a crime or administrative offence**. The law envisages the establishment of a National Service for Correctional Support to replace the existing Central Commission for Fighting Juvenile Anti-Social Behavior; increased possibilities for implementing correctional measures instead of imposing a harsher penalty; tailor-made measures for correctional impact; requirement for correctional officers to have special knowledge of children’s rights; access to judicial control over the restrictions of juvenile rights; speediness of the proceedings.

There are ongoing debates on the scope of the draft law, which at the moment does not include minors, and in that respect, on the possible need to further develop appropriate counseling and support services with regard to these persons, as well as the proposed “special supervision by a foster family” as a correctional measure.

**Thank you!**