

# RESILIO

## Country Report

### Bulgaria



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### 1. Introduction

Upholding the rule of law has been both a challenge and a promise from the very beginning of Bulgaria's transition from communism and planned economy to liberal democracy and market economy. Due to the European Union's concerns over Bulgarian rule of law prior to the country's accession in 2007, a specific instrument was designed to monitor and coordinate reform efforts. This is the Mechanism for Coordination and Verification (CVM), introduced for Bulgaria and Romania in 2006, allowing for monitoring and intervention in specific areas also in the post-accession period.<sup>1</sup> For Bulgaria, those areas were: the independence, professionalism, and efficiency of the judicial system; the fight against corruption; and countering organised crime. Despite all the measures taken, the country is still struggling to maintain the rule of law, bestowed as one of the founding values of the EU.<sup>2</sup> Whilst the European Commission (EC) has informed the Council and Parliament of its decision to formally close the CVM tool and replace it with the common rule of law mechanism, Bulgarian society still does not perceive the rule of law as an integral part of the country's political and institutional environment.<sup>3</sup>

There have been multiple normative attempts to solve rule of law problems in Bulgaria. Since its adoption in 1991, the Bulgarian Constitution has been amended five times, including four revisions addressing the judiciary.<sup>4</sup> During the

period 2008–2019, the Judiciary System Act was amended 59 times. In addition, a number of approaches and legal changes have been introduced to fight corruption, from sharing responsibility among several institutions, to concentrating excessive power in one. In July 2023, a fragile majority in the parliament proposed a sixth project to amend the Constitution, again focusing mainly on the judiciary and the figure of the Prosecutor General. Unfortunately, none of these efforts have delivered any significant results in the two major fields: independence of the judiciary and the fight against (high-level) corruption.

Regarding combating corruption, in 2010, Bulgaria created specialised courts and prosecution offices with jurisdiction over corruption cases against high-profile public officials, including members of parliament and government.<sup>5</sup> However, in 2022, and after more than a decade without any significant results, these courts and offices were dissolved. In 2018, five institutional units had been merged into one gigantic institution to fight corruption, conflicts of interest, and asset forfeiture,<sup>6</sup> but this was dissolved in 2023 into various smaller institutions. Such legal and institutional instability hinders the irrevocability of reforms and institutional continuity. It should be noted that these institutional changes have always been politically motivated, especially in terms of the selection and election of their leadership. Usually, these appointees are expected to conform to the political status quo.

The challenges to rule of law resilience in Bulgaria are many and complex. As many studies underline the direct link between rule of law and economic performance,<sup>7</sup> we should bear in mind the fact that deficits in the separation of powers, checks and balances, judicial independence, the fight against corruption, and trust in institutions hinder economic growth in the country. This in turn contributes to other negative phenomena, such as persistent inequalities and low civic participation. Nevertheless, there are still some beacons of resilience that should be supported.

## **2. Analysis of the country case along RESILIO model**

### **2.1 Most important systemic factor: judicial resilience (Constitutional Court)**

Starting in 2021, Bulgaria experienced major political turbulence. In under two years, Bulgarians voted in five parliamentary elections for fragmented parliaments, lending their support to different players before revoking it just a few months later. Following mass protests against Boyko Borisov's government in 2020, the elections in April 2021 produced a deadlocked parliament. It took five snap elections until a fragile majority was formed between the centre-right Citizens for European Development of Bulgaria (GERB) and the liberal We Continue the Change-Democratic Bulgaria alliance in April 2023. Bulgarian political instability has jeopardised the entire political system and institutional structure, with key institutions in a state of stupor.<sup>8</sup> In this environment, the Constitutional Court (CC) has played a significant role in providing resilience against a total malfunction of the system.

The work of the Constitutional Court of the Republic of Bulgaria is described in detail and regulated by several sources, including the Constitution of the Republic of Bulgaria, the Constitutional Court Act, the Regulation on the Organisation and Activity of the Constitutional Court, as well as other normative acts.

The CC is comprised of twelve judges. One third are elected by the National Assembly, one third by the President, and one third by the General Assembly of the judges from the Supreme Court of Cassation and the Supreme Admin-

istrative Court. The CC's chair is appointed by elected CC judges for a term of three years, and s/he can be re-elected. Only Bulgarian citizens with no other citizenship who fulfil the requirements of Art. 147 Para. 3 of the Constitution – possessing a legal education and high professional and personal qualities, and with at least 15 years' legal experience – can be nominated and appointed to the CC.

The composition of the Constitutional Court of Bulgaria is unique. It is the only body whose members are elected or appointed by different institutions: the parliament, the president, and the judiciary. None of these institutions can dominate the Court. It is fair to say that the balance between long mandates (nine years, the longest in comparison to other independent bodies) and the representation of different institutions secure the Court's independence. In addition, the CC has consistently managed to maintain a relatively high level of trust not only among other institutions, but also citizens.<sup>9</sup> It seems that the CC's tripartite composition also creates a kind of positive competition between institutions, forcing them to nominate only very prominent candidates.

The Bulgarian Constitutional Court has very important powers and functions. The Constitution forbids any competences to be vested or removed by law from the scope of the CC, a preventive mechanism that supports the Court's independence. One of the Court's most important powers is the vested competence to interpret the Constitution<sup>10</sup> to resolve constitutional disputes. Second, the Court monitors the constitutionality of laws and other acts of the National Assembly and the Parliament. In practice, this is the Court's main competence, entailing the largest number of cases initiated and decided.

In addition, the Court rules on the compliance of laws with the generally accepted norms of international law and international treaties to which Bulgaria is a party. Its powers include the resolution of competence disputes between the National Assembly, the President, and the Council of Ministers, as well as between local self-government bodies and central executive bodies.

The Constitutional Court is empowered to rule on disputes over the constitutionality of political parties, the legality of elections for president and vice president, and the legal-

ity of elections for people's representatives. It also rules on charges brought by the National Assembly against the President and the Vice President for treason and violation of the Constitution. In case of a resignation, submitted by the president and the vice-president, as well as by a constitutional judge, the CC must also issue a decision.

A small number of studies have concluded that the Bulgarian Constitutional Court has managed to maintain its authority and effectively serve as a defender of human rights and democratic values throughout the years.<sup>11</sup> Yet certain Court decisions have generated negative public reactions. Emblematic in this regard is its ruling – with eight votes in support and four dissenting opinions – that the Istanbul Convention on domestic violence against women and girls<sup>12</sup> contravenes the Bulgarian Constitution.<sup>13</sup> This decision provoked strong reactions from NGOs and human rights defenders.<sup>14</sup> Conservative politicians made a series of statements stigmatising the Convention. Being a pure political issue, the parliament decided not to take a decision on it but dropped the hot potato to the CC for a preliminary decision on the constitutionality of the international agreement. In the meanwhile, political attacks against the Istanbul Convention continued. This case showed that the Constitutional Court can be misled by political pressure and react in a manner favourable for those in power.<sup>15</sup>

Other decisions of the Court can also be viewed as favourable to ruling power. In 2003, the former Prosecutor General, Nikola Philchev, initiated a case with the Constitutional Court, asking for interpretation of the provisions of Art. 158, item 3 of the Constitution in its part “changes in the form of state organs”.<sup>16</sup> The Court's decision meant that virtually all major changes and reforms to the judiciary would require the convening of a Grand National Assembly. This decision is seen as a barrier to constitutional reforms and dominates the current debate for changes and amendments to the Constitution. The decision was heavily influenced by the political dynamics as the Prosecutor General and the Prime Minister were in severe conflict. Philchev used his powerful position of Prosecutor General to influence the CC and prevent the parliamentary majority from making in-depth reforms of the prosecution at that time.

## 2.2 Most important systemic factor: civic resilience

Bulgaria has the lowest civic engagement levels in the EU.<sup>17</sup> Civil society organisations (CSOs) are generally not well recognised in society. A representative nation-wide opinion poll conducted in October 2021 showed that one in six respondents trusted NGOs, whereas almost half (46 percent) expressed distrust. The share of respondents who did not express any opinion was also high (38 percent).<sup>18</sup> The Bulgarian civic sector lacks sustainability,<sup>19</sup> while the low levels of civic engagement may be explained with reference to the political culture or lack of state support.<sup>20</sup>

Yet Bulgarian civil society has also registered some major achievements. A number of organisations and activists have persisted and served as a corrective to the government and/or radical groups in society both before and after EU accession on the issues of rule of law, human rights, access to information, and government accountability.<sup>21</sup> Among them, the role of professional magistrates' organisations must be underlined as consistent defenders contributing to rule of law resilience. Under Bulgarian law, magistrates (judges, prosecutors, investigators) may not occupy a position in state or municipal bodies, or in institutions of the European Union, with the exception of a European delegated prosecutor; carry on business in any form; be members of political parties or coalitions, of organisations pursuing political purposes, carry out political activity, as well as be members of any organisation or carry out any activities interfering with their independence; or be members of a trade union organisation outside the judicial system.<sup>22</sup> Magistrates, however, are free to form and join organisations which protect their professional interests.

Professional magistrates' organisations, most notably the Bulgarian Judges Association, appear to be a thorn in the decision-makers' side. In 2016, amendments to the Judiciary System Act (JSA) required all judges, prosecutors, and investigators to disclose their memberships of professional organisations; these reforms were revoked one year later. However, the 2020 European Commission Rule of Law Report for Bulgaria indicated that: “Nonetheless, the register of magistrates participating in professional associations is still available on the website of the Supreme Judicial Council and has allegedly been used by public

figures to pressure judges”.<sup>23</sup> The original amendments of 2016 were introduced precisely to exert pressure on magistrates and limit their freedom of association, targeting in particular the Bulgarian Judges’ Association (BJA), the largest and most vocal organisation of judges in Bulgaria.

The BJA was founded in 1997 with the initial goal of delivering additional training to magistrates, prior to the establishment of the National Institute of Justice in Bulgaria. The BJA quickly developed as one of the main critics within the judiciary of the status quo, becoming a target of public attacks not only from political circles, but also from within the judiciary itself. Currently, the BJA issues statements on ongoing legislative reforms, organises conferences, and conducts surveys. However, its major role in supporting the rule of law is reacting when the independence of the judiciary is questioned.<sup>24</sup> For example, in 2012, the Ministry of Interior under Tzvetan Tzvetanov (former minister of interior in Boyko Borisov’s government), began naming special law enforcement operations after the judges who presided over government-critical cases. In response, the BJA and its then chairperson, Judge Miroslava Todorova, issued a series of individual and institutional statements that deemed interference in the work of the judiciary and on concrete cases as unacceptable.

What followed was a capture of the judiciary by the executive through formally independent institutions, such as the Supreme Judicial Council (SJC) and its Inspectorate. The Supreme Judicial Council initiated disciplinary procedures against Judge Miroslava Todorova in 2011, 2012 and again in 2016. She was dismissed from the judiciary by the SJC, but a Supreme Administrative Court decision later reinstated her. Her alleged violations referred to three cases delayed beyond the deadlines stipulated by law. Intimidating attacks continued, culminating in 2019 when the Inspectorate of the Supreme Judicial Council published her annual asset declaration with all her personal data, including personal information on her partner and child. In a breakthrough decision on Judge Todorova’s case, the European Court of Human Rights in Strasbourg noted in 2021 that: “The disciplinary proceedings brought against Judge Miroslava Todorova in 2011 and 2012, and the sanctions imposed on her within the framework of those proceedings, had the main purpose of punishing and intimidating her because of her critical positions against the Supreme Judicial Council and the executive branch. The

willingness to use the disciplinary process as retaliation for public positions seems particularly worrying”.<sup>25</sup>

In this saga of governmental pressure on the BJA, the resilience of the magistrates’ community against attempts to undermine their independence – even through their disciplinary body, the Supreme Judicial Council – remains a positive sign. In 2012, judges, prosecutors, lawyers, and citizens gathered in front of the Supreme Judicial Council in an unprecedented protest in defence of Judge Todorova. This was a rare example of the magistrates’ community uniting in their claims and sending a strong signal to society on the intolerable threats to judicial independence. The fragile balance of interests between different legal professional representatives and civil society is crucial for upholding the rule of law in times of attacks.

## **2.2 Most important systemic factor: economic resilience**

Bulgaria has been labelled the poorest and most corrupted member of the EU. This stigma is glaring and contributes to an unwelcoming investment climate. Indeed, the country’s GDP is the lowest in the EU, 41 percent below the EU average in 2022.<sup>26</sup> In 2022, while Bulgaria reached its highest purchasing power parity (59 percent of the EU average), it still remained at the bottom position among EU member states.<sup>27</sup> The country also struggles with economic inequalities that feed into political, cultural, and social disparities. According to Eurostat figures for 2022, Bulgaria leads in the Gini coefficient for equivalised disposable income per inhabitant (38.4 percent), and the highest income disparity in the EU. Beyond any doubt, Bulgarian EU membership and its net beneficiary status have positively influenced the country’s economy, yet more is needed to achieve cohesion within the EU.<sup>28</sup>

While economic development in Bulgaria has been robust for the last two decades, there are many caveats, many of which result from the failures to act against high-level corruption, the distortion of public resources, and political turmoil. However, there are two major pillars that bolster the potential for economic growth: the first is Bulgaria’s ambition to join the Eurozone, and the second are the reforms, measures, and projects that need investments within the National Recovery and Resilience Plan.

Bulgaria announced its decision to join the Eurozone on 9 July 2020<sup>29</sup> by requesting initiation of the ERM II Proce-

dures, thus entering the ‘euro waiting room’. The decision was announced by Borisov’s third government on the same day that mass anti-corruption protests demanded the resignation of the former Prosecutor General, Ivan Gechev. While the government’s decision was broadly welcomed by experts, it nevertheless became the focal point of a political dispute, with the far-right, national-populist, and pro-Russian Revival party initiating a referendum procedure on joining the Euro, which was later revoked by parliament on the grounds that it contradicted the international treaties to which Bulgaria is a party. The Constitutional Court opened a case following a request by Revival’s parliamentary group in July 2023; a decision is pending.

Economically, Bulgaria is not yet ready to introduce the euro as the country faces difficulties meeting budget deficit criteria under 3% as well as a high inflation rate, as stated by the Central Bank Convergence report of June 2022.<sup>30</sup> Joining the Eurozone would positively impact the Bulgarian economy and enable a more favourable investment climate. Yet, overcoming economic and legislative difficulties will require political wisdom and will. Finally, a broad information campaign is necessary to convince the public of completing Bulgaria’s EU integration. A political campaign addressing citizens’ fears is also desirable.

Another potential driver for the Bulgarian economy is the National Recovery and Resilience Plan. In the aftermath of the COVID-19 crisis, the EU decided to face the health, social, and economic consequences with an ambitious investment plan. Through restructuring EU finances and borrowing money from capital markets on behalf of the EU, the European Commission was able to offer financial injections to member states to boost reforms.<sup>31</sup> The overall financial reservoir of the initiative is estimated at €723 billion.

Bulgaria’s National Recovery and Resilience Plan (RRP) is very comprehensive. The total amount dedicated to Bulgaria is €6.267 billion, of which 58.9 percent is targeted to achieve climate objectives and 25.8 percent to foster digital transition. Bulgaria’s RRP went through six editions and the final version was adopted in April 2022. This was a result of political instability in the country coupled with rapid government changes, a combination of short-term governments and the caretaker governments of President Roumen Radev. On the one hand, this enabled multiple

political views and aspirations to be reflected in the RRP. On the other hand, the RRP continues to be a source of political conflict and allegations around who is responsible for unpopular measures.

A key feature of the RRP is the inclusion of ‘Fair Bulgaria’ stream, along with ‘Innovative Bulgaria’ and ‘Green Bulgaria.’ The Fair Bulgaria stream calls for broad and in-depth reforms in the business environment, social inclusion, and healthcare. In a rather neoliberal economic approach, Bulgaria put economic development at the centre of reforms to the rule of law, judiciary, the fight against corruption, conflicts of interest, lobbying, public procurement, institutional transparency and accountability, and these reforms are all part of the RRP’s Business Environment chapter. The RRP consists of numerous measures, both legislative and institutional, that aim at improving institutional standards, the functioning of the judiciary, and bodies dedicated to fight corruption. The RRP’s financial mechanism requires an assessment by the European Commission on the execution of these measures. Therefore, the EC will strictly monitor not only the adoption but also the implementation of the promised measures in order to disburse resources. This would greatly increase the resilience potential of these reforms as they are bound to cash flows and include non-reversal criteria for already implemented measures. The EC’s time frame is very tight and the deadline for completion of all measures is 2026. While this timeline can speed up the reforms, it also entails the risk that the legislative process may be too formal, excluding stakeholders and civil society from participation and deliberation.

In addition to the RRP, a further stimulus for Bulgaria’s rule of law resilience is the expressed desire to join the Organisation for Economic Co-operation and Development (OECD).<sup>32</sup> In January 2022, the OECD Council approved the opening discussions for Bulgaria’s accession. The process includes an in-depth review of more than 20 thematic areas to guarantee that the country adheres to OECD standards, many relating to issues such as integrity, anti-corruption, green and climate action policies, public governance and accountability, social cohesion, and investments. Therefore, an alignment in the country’s broader goals is evident and we might expect synergies in the external support for rule of law resilience, particularly in the economic dimension.

### **3. Impact of crises on the rule of law: polarisation and disinformation in Bulgarian society**

In its broadest sense, the rule of law in Bulgaria has been very volatile in relation to internal and external factors, contributing to the overall lack of strong resilience. Corruption pervades the everyday life of citizens and the poor results of the fight against high-level corruption create an environment of impunity, which widens the power gap between decision-makers and citizens. This is one of the reasons for the extremely low levels of confidence in institutions.<sup>33</sup>

These accumulating negative phenomena have shaped Bulgarian society in a way that it makes it hyper-susceptible to malign influences and disinformation. In a study delivered by the Open Society Institute Sofia, Bulgaria ranked 35 out of 41 in terms of vulnerability to disinformation.<sup>34</sup> The Russian full-scale invasion of Ukraine in 2022 only worsened public discourse. Massive hybrid attacks polarised public opinion into ‘pro’ and ‘con,’ with a spill-over effect on virtually all public issues.

In the light of the Russo-Ukraine war and the upcoming European elections in 2024, EU institutions reflected on these threats, albeit with very limited results, judging by the case of Bulgaria. The Defence of Democracy package is underway and is planned for adoption by the European Commission in 2023, and EU disinformation hubs will be extended to all member states.<sup>35</sup> More needs to be done in order to secure the rule of law in Bulgaria. This requires the adoption of legislative guarantees and empowering institutions to be prepared to detect early signs of hybrid attacks on democracy, and react accordingly.

### **4. Conclusion**

Bulgaria’s path towards strengthening the rule of law has been difficult and uneven. More concrete progress is needed. Reforms must be rooted deep in the institutional infrastructure to ensure they are stable and irreversible. The country’s economic development has been stable, with the unquestionable contribution of the EU. Yet, social and economic inequalities are very high, contributing to the overall low confidence in public institutions. Bulgarian democracy is relatively young and efforts to nourish it should continue.

The Constitutional Court in Bulgaria plays a fundamental role in rule of law resilience. Compared to other institutions, it has managed to maintain relatively high levels of trust in its work. Consisting of representatives of the parliament, the president, and the two supreme courts, the make-up of the Court secures a balance of power. In general, the Constitutional Court’s jurisprudence practice has maintained the fundamental rights and freedoms of citizens, and served as a barrier to violations of the Constitution.

Bulgarian democratic history provides many examples of attacks on the independence of the judiciary and more vocal magistrates. However, the professional organisations of magistrates (judges, prosecutors, and investigators) have the potential to react to such attacks not only by expressing their expert opinion on ongoing reforms, but also by seeking public support in cases of improper interference in the judiciary.

Bulgaria’s participation in the EU’s NextGenerationEU initiative is a chance for the country not only to reshape its economy by making it greener and more digital, but also to contribute to social cohesion. Bulgaria’s Recovery and Resilience Plan consists of multiple measures aimed at restructuring judicial and anti-corruption institutions to make them more stable and efficient, and therefore foster rule of law resilience.

## Sources

- 1 Decision 2006/929/EC establishing a mechanism for cooperation and verification of progress in Bulgaria to address specific benchmarks in the areas of judicial reform and the fight against corruption and organised crime.
- 2 Art. 2 of the Treaty on the European Union.
- 3 See, for example, 2023 Justice Scoreboard. Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions COM (2023) 309. Perceived judicial independence and effectiveness of investment protection, p.41.
- 4 Constitution of the Republic of Bulgaria. Promulgated, State Gazette No. 56/13.07.1991, effective 13.07.1991, amended and supplemented, SG No. 85/26.09.2003, SG No. 18/25.02.2005, SG No. 27/31.03.2006; Decision No. 7 of the Constitutional Court of the Republic of Bulgaria of 13.09.2006 - SG No. 78/26.09.2006; amended and supplemented, SG No. 12/6.02.2007, SG No. 100/18.12.2015.
- 5 The Bulgarian Penal Code lacks an understanding and definition of corruption, which has been noted by the European Commission. In 2017, the Supreme Court of Cassation and the Prosecutor General adopted unified classifications of articles in the Penal Code that they categorised as corruption crimes, and they monitor those cases accordingly.
- 6 Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act Promulgated, SG No. 7/19.01.2018, amended and supplemented, SG No. 20/6.03.2018, effective 6.03.2018, supplemented, SG No. 21/9.03.2018, effective 23.01.2018, SG No. 41/18.05.2018, effective 14.05.2018, amended, SG No. 98/27.11.2018, effective 7.01.2019, amended and supplemented, SG No. 1/3.01.2019, amended, SG No. 17/26.02.2019, SG No. 79/8.10.2019, SG No. 83/22.10.2019, effective 22.10.2019, SG No. 69/4.08.2020, supplemented, SG No. 70/7.08.2020, effective 7.08.2020, SG No. 12/12.02.2021, effective 12.02.2021, amended, SG No. 102/23.12.2022, effective 1.01.2023, amended and supplemented, SG No. 104/30.12.2022.
- 7 See, for example, J. Ahtela. 2020. Opinion on the rule of law and its impact on economic growth. EESC.
- 8 For more detail on the constitutional crisis risks for the period, see: BILI. (2021) Current Political Situation in Bulgaria and the Risk of Constitutional Crisis - facts and prognoses, [http://www.bili-bg.org/cdir/bili-bg.org/files/Current\\_Political\\_Situation\\_in\\_Bulgaria\\_and\\_the\\_Risk\\_of\\_Constitutional\\_Crisis\\_-\\_facts\\_and\\_prognoses.pdf](http://www.bili-bg.org/cdir/bili-bg.org/files/Current_Political_Situation_in_Bulgaria_and_the_Risk_of_Constitutional_Crisis_-_facts_and_prognoses.pdf) (last checked: 30.11.2023).
- 9 However, this may be due to other factors. For example, individual citizens cannot submit applications to the Constitutional Court, which makes its workload very low and thus the outcome of the Court's work may be very unfamiliar to the broader public. Under the 2015 amendments to the Constitution, the Supreme Bar Council may approach the Constitutional Court with a petition to establish the unconstitutionality of any law whereby any rights and freedoms of citizens are violated (Art. 150 (4)). As of July 2023, there is a motion from the ruling parliamentary majority for amendments to the Constitution that would allow every court, natural person, and legal entity to appeal the Constitutional Court in cases of laws that are allegedly in conflict the Constitution. Without a doubt, this is a major step towards the democratisation of constitutional jurisprudence, but also runs the risk of overwhelming the Court with too many cases.
- 10 Art. 149, para. 1 of Constitution of the Republic of Bulgaria.
- 11 See, for instance, Open Society Institute Sofia. 2010. Constitutional Court. Jurisprudence, [https://osis.bg/wp-content/uploads/2018/04/OSI\\_Publication\\_Law\\_27.pdf](https://osis.bg/wp-content/uploads/2018/04/OSI_Publication_Law_27.pdf) (last checked: 30.11.2023).
- 12 Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210).
- 13 Decision No. 13/27.07.2018 of the Constitutional Court on Case No. 3/2018, reporter Judge Anastas Anastasov
- 14 See, for instance, the Declaration of non-governmental organisations on the occasion of the decision of the Constitutional Court of the Republic of Bulgaria regarding the constitutionality of the Council of Europe Convention on Combating Violence against Women and Domestic Violence, supported by 40 organisations and activists, 27 July 2018, [https://www.bghelsinki.org/en/news/deklaracija-na-nepravitelstveni-organizacii-po-povod-reshenieto-na-konstitucionni-ja-syd-na-republika-bylgarija-otnosno-konstitucionosyobraznostta-na-konvencijata-na-syveta-na-evropa-za-borba-s-nasiliето-nad-jeni-i-domashnoto-nasilie?fbclid=IwAR22N1MIZpGd14MtUKq2j\\_IVrm5p7dBbhJKgWoH0VA3fK-MTqDvsaDs9Qg4Q](https://www.bghelsinki.org/en/news/deklaracija-na-nepravitelstveni-organizacii-po-povod-reshenieto-na-konstitucionni-ja-syd-na-republika-bylgarija-otnosno-konstitucionosyobraznostta-na-konvencijata-na-syveta-na-evropa-za-borba-s-nasiliето-nad-jeni-i-domashnoto-nasilie?fbclid=IwAR22N1MIZpGd14MtUKq2j_IVrm5p7dBbhJKgWoH0VA3fK-MTqDvsaDs9Qg4Q) (last checked: 30.11.2023).
- 15 The decision to appeal to the Constitutional Court was motivated by 75 MPs amid a smear campaign led by far-right groups against the Convention. The main arguments were based on dubious interpretation of the notion of gender. Eventually, the Constitutional Court swung exactly to those political arguments in their decision. Other EU member states have witnessed similar 'anti-gender' campaigns.



- 16 Decision of the Constitutional Court No. 3 of April 10, 2003 on Constitutional Case No. 22/2002, judge-reporter Vadil Gotsev (Official Gazette, No. 36 of 18 April 2003).
- 17 70% of Bulgarians haven't been engaged in any form with civil society organisations. The average for the EU is 51% of engagement. See Eurobarometer. Civic engagement. Eurobarometer survey commissioned by the European Parliament. 2020.
- 18 Open Society Institute – Sofia. Trust in NGOs 2018-2020. 2021.
- 19 ICNL/BCNL. 2021 Civil Society Organisation Sustainability Index for Bulgaria 2022.
- 20 Due to the turbulent political landscape with five snap parliamentary elections in 2021-2023, the Civil Society Development Council (established in 2018) has not been working effectively. It is supposed to distribute BGN 1 million (EUR 500,000) to CSOs annually. The Council is intended to function as a common space between the government and CSOs to support to the work of civic sector.
- 21 Prior to Bulgaria's EU accession, there existed a 'democratic enthusiasm' that set a common goal for public institutions, the private sector, and civil society. This was an enormous stimulus for reforms and aligning Bulgarian legislative framework with that of the Union. After Bulgaria joined the EU there has been an evident decline and backsliding in many of the reforms – a complex process to which the limitation of EU instruments to support democracy and sanction deviations after 2007 has also contributed.
- 22 Art. 195, para. 1 of Bulgarian Judicial System Act.
- 23 European Commission. 2020 Rule of Law Report Country Chapter on the rule of law situation in Bulgaria. SWD(2020) 301 final. p. 7.
- 24 Article 16 (Amended, SG No. 28/2016), para. 1 of JSA.
- 25 ECHR Judgment on the case of Miroslava Todorova vs. BULGARIA (application40072/13), 19 October 2021, <https://hudoc.echr.coe.int/eng?i=001-212376> (last checked: 1.12.2023).
- 26 Eurostat. GDP per capita, consumption per capita and price level indices. 20 June 2023, [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=GDP\\_per\\_capita\\_consumption\\_per\\_capita\\_and\\_price\\_level\\_indices#Relative\\_volumes\\_of\\_GDP\\_per\\_capita](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=GDP_per_capita_consumption_per_capita_and_price_level_indices#Relative_volumes_of_GDP_per_capita) (last checked: 1.12.2023).
- 27 Bulgarian National Statistical Institute. Purchasing Power Parity, <https://www.nsi.bg/bg/content/2284/%D0%B%D0%B5%D1%82%D0%B0%D0%B4%D0%B0%D0%BD%D0%BD%D0%B8/%D0%BF%D0%B0%D1%80%D0%B8%D1%82%D0%B5%D1%82%D0%B8-%D0%BD%D0%B0-%D0%BF%D0%BE%D0%BA%D1%83%D0%BF%D0%B0%D1%82%D0%B5%D0%BB%D0%BD%D0%B0%D1%82%D0%B0-%D1%81%D0%BF%D0%BE%D1%81%D0%BE%D0%B1%D0%BD%D0%BE%D1%81%D1%82> (last checked: 1.12.2023).
- 28 Eurostat. Key figures on European living conditions. 2023 Edition, p. 12, <https://ec.europa.eu/eurostat/documents/15216629/17704280/KS-HC-23-001-EN-N.pdf/bb6d79fb-7664-d4da-3b49-8c50ee57b7bb?version=4.0&t=1700573366444> ) (last checked: 1.12.2023).
- 29 Letter from Bulgarian authorities to the Eurogroup, dated 9 July 2020, [https://www.ecb.europa.eu/pub/pdf/annex/ecb.pr200710\\_annex~29156bba37.en.pdf](https://www.ecb.europa.eu/pub/pdf/annex/ecb.pr200710_annex~29156bba37.en.pdf) (last checked: 1.12.2023).
- 30 ECB. Convergence Report. June 2022, p.77-85, <https://www.ecb.europa.eu/pub/pdf/conrep/ecb.cr202206~e0fe4e1874.en.pdf> (last checked: 1.12.2023).
- 31 More information about the NextGenerationEU is available on the official website of the European Commission, [https://commission.europa.eu/business-economy-euro/economic-recovery/recovery-and-resilience-facility\\_en](https://commission.europa.eu/business-economy-euro/economic-recovery/recovery-and-resilience-facility_en) (last checked: 1.12.2023).
- 32 OECD.C (2017)92/FINAL. RESOLUTION OF THE COUNCIL ON THE OPENING OF ACCESSION DISCUSSIONS (Adopted by the Council at its 1438th session on 25 January 2022).
- 33 Alfa Research data on trust, <https://alpharesearch.bg/monitoring/31/> (last checked: 1.12.2023).
- 34 Open Society Institute Sofia. European Policies Initiative. Bye, bye, birdie: Meeting the Challenges of Disinformation. Media Literacy Index. 2023, <https://osis.bg/wp-content/uploads/2023/06/MLI-report-in-English-22.06.pdf> (last checked: 1.12.2023).
- 35 European Commission (2023). Defending European democracy – Communication, [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13730-Defending-European-democracy-Communication\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13730-Defending-European-democracy-Communication_en) (last checked: 1.12.2023).

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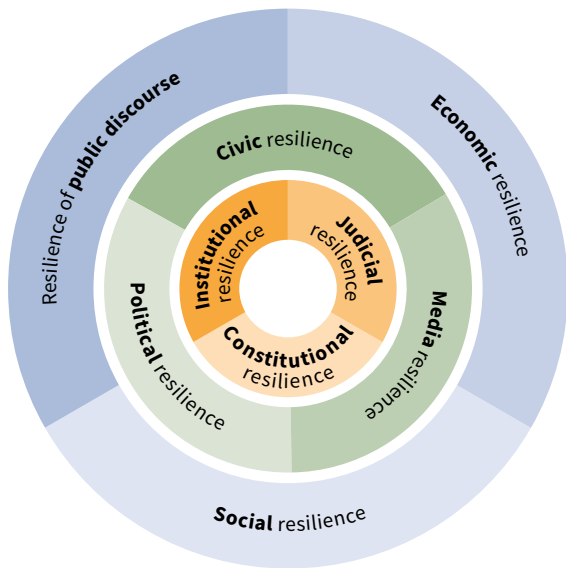
**About the project**

**RESILIO** aims to identify institutional and societal factors that make the rule of law more resilient, thus adding a constructive contribution to academic and policy debates. It draws on a ‘thick’ definition of the rule of law, understood as closely connected to democracy and fundamental rights. The resilience of the rule of law means that the rule of law can experience hazardous events or incremental threats without losing its core function, structure and purpose.

**About the analysis**

This paper is part of **RESILIO Country Reports series**. It is a collection of compact analyses that assess the source of rule of law resilience in each EU member state by examining the most prominent resilience factors, using the analytical framework of the RESILIO model.

**RESILIENCE FACTORS**



**RESILIO** offers a multi-layered model of rule of law resilience. Systemic dimension (orange) reflects upon the resilience of the legal setup; subsidiary dimension (green) looks at the phenomena and tendencies present in societies as possible facilitators; and contextual dimension (blue) analyses the broader habitat, determined by structural and systemic variables like economic growth, social cohesion, and general political climate. RESILIO also takes into account the horizontal effects of unpredicted and unprecedented crises that can affect all dimensions of rule of law resilience with different intensity. While each factor is necessary for a resilient rule of law, they are only sufficient in combination.

The considerations in this paper are compatible with the developed conceptual model of the resilience of the rule of law. They focus on **social resilience** as a contextual factor strengthening the rule of law.

**resilio**

Resilience observatory on the rule of law in Europe

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For more information, visit the project website: <https://iep-berlin.de/en/projects/future-of-european-integration/resilio/>

