**Questionnaire of the Special Rapporteur on the Independence of Judges and Lawyers /**replies from the Supreme Judicial Council of the Republic of Bulgaria**/**

1. Please indicate whether there is a national body or mechanism in charge of selecting, appointing, promoting, transferring, suspending or removing judges in your country. What is the exact denomination of this body or mechanism? What is the legal basis for its establishment (e.g. constitutional provisions; ordinary law or other)?

*In Bulgaria, such a body is the Supreme Judicial Council (SJC). It is the supreme administrative body of the judiciary established by virtue of Article 130 - Article 133 of the Constitution of the Republic of Bulgaria. The Supreme Judicial Council is a permanently acting body which represents the judiciary, ensures and asserts its independence, determines the composition and organization of the work of the courts, prosecutors’ offices and the bodies of investigation, and provides financial and technical support for their activity without interfering with its implementation. The Council is governed by the functions assigned by the Constitution of the Republic of Bulgaria and the Law on the Judiciary. The powers of the Council are exercised through a Plenum, Judges’ and Prosecutors' College.*

*The Plenum consists of all the members of the Supreme Judicial Council and has the following powers:*

 *1. adopts the draft budget of the judiciary;*

*2. adopts a decision on termination of the mandate of an elected member of the Supreme Judicial Council under the terms established by Article 130, paragraph 8 of the Constitution;*

*3. organises the qualification of judges, prosecutors and investigating magistrates;*

*4. hears and adopts the annual reports of the bodies of the judiciary under Article 84, p. 16 of the Constitution;*

*5. manages the real estates of the Judiciary;*

*6. makes a proposal to the President of the Republic of Bulgaria for the appointment and relief from office of the President of the Supreme Court of Cassation, the President of the Supreme Administrative Court and the Prosecutor General;*

*7. acting on a motion by one of the colleges, after consultation with the Minister of Justice or acting on a motion by the Minister of Justice and, with regard to the military courts, after consultation with the Minister of Defence, determines the number, judicial districts and seats of the district, regional, military, administrative and appellate courts and prosecution offices, establishes and closes courts and prosecution offices, changes the seat thereof and determines the locations where territorial divisions with the respective district court and with the respective district prosecution office are to be opened;*

*8. acting on a motion by one of the colleges, after consultation with the administrative heads of the judicial authorities, determines the number of judges, prosecutors and investigating magistrates at all courts, prosecution offices and investigation departments, taking into account the caseload level;*

*9. determines the number of the personnel and the structure of the administration of the Supreme Judicial Council and of the National Institute of Justice;*

*10. determines the remuneration of judges, prosecutors and investigating magistrates;*

*11. not later than 31 May, prepares and submits to the National Assembly an annual report on its activity together with the annual report on the activity of the Inspectorate with the Supreme Judicial Council and with the annual reports of the Supreme Court of Cassation, the Supreme Administrative Court and of the Prosecutor General;*

*12. prepares and makes public an annual report on the independence and transparency of the operation of the judicial authorities and of its own activity, which shall be submitted to public consultation;*

*13. gives opinions to the Council of Ministers and to the National Assembly on bills concerning the Judiciary;*

*14. establishes standing and ad hoc commissions to assist its activity;*

*15. adopts its rules of procedure and of the functioning of the administration of the Supreme Judicial Council, which shall be promulgated in the State Gazette;*

*16. establishes and maintains an electronic public register of all its decisions and the reasoning thereto;*

*17. in the cases provided for by the law, issues statutory instruments of secondary legislation;*

*18. approves the automated information systems for the judicial authorities after consultation with the Minister of Justice and ensures the system integration of those systems and their interoperability;*

*19. establishes and maintains an electronic public register of all projects having as a subject the functioning of the judicial authorities, which are implemented by the organisations under Article 217;*

*20. decides on other organisational issues common to the Judiciary.*

***Powers of Colleges***

*The Judges College and the Prosecutors College shall implement the following powers, separately and in line with the professional specialisation thereof, with regard to judges, prosecutors and investigating magistrates:*

*1. appoint, promote, transfer and release from office the judges, prosecutors and investigating magistrates;*

*2. carry out periodic and other appraisals of judges, prosecutors, investigating magistrates, administrative heads and deputy administrative heads in the judicial authorities and address matters concerning the acquisition and restoration of tenure;*

*3. impose the disciplinary sanctions of demotion and release from office on judges, prosecutors, investigating magistrates, administrative heads and deputy administrative heads in the judicial authorities;*

*4. determine the number, appoint and release the administrative heads and the deputy administrative heads in the judicial authorities with the exception of the President of the Supreme Court of Cassation, the President of the Supreme Administrative Court and the Prosecutor General;*

*5. address matters concerning the organisation of the operation of the respective system of judicial authorities;*

*6. submit proposals to the Plenum of the Supreme Judicial Council for determining the number of judicial districts and the seats of the district, regional, administrative and appellate courts and the respective prosecution offices;*

*7. submit proposals to the Plenum of the Supreme Judicial Council for determining the number of judges, prosecutors and investigating magistrates at all courts, prosecution offices and investigation departments;*

*8. determine the number of judicial officers depending on the caseload level on a proposal by, or after consulting, the administrative heads of the judicial authorities, and for the authorities included in the structure of the prosecuting magistracy of the Republic of Bulgaria, also after consulting the Prosecutor General, having the option to open new positions and to eliminate positions;*

*9. organise and carry out competitions for the positions of judges, prosecutors and investigating magistrates in the cases provided for in the Law;*

*10. assign to the Inspectorate with the Supreme Judicial Council to carry out inspections not included in the annual action programme thereof;*

*11. propose to the Plenum of the Supreme Judicial Council opinions on bills within the scope of their competence;*

*12. analyse and report annually the caseload level of the judicial authorities;*

*13. once every six months, require and summarise information from the courts, the prosecuting magistracy and the National Investigation Service on the operation thereof;*

*14. establish standing and ad hoc commissions to assist the activity thereof;*

*15. organise and coordinate the participation of judges, prosecutors and investigating magistrates in international legal cooperation;*

*16. adopt rules of procedure thereof, which shall be published on the website of the Supreme Judicial Council;*

*17. the Prosecutors College shall elect and release the Director of the National Investigation Service.*

2. Please provide information on the composition of the body or mechanism (number and qualifications of members), the procedure for the appointment of its members and the duration of their term of office. Please also provide information on the human and financial resources of this body or mechanism (e.g. number of employees and their qualifications; annual budget).

*The Supreme Judicial Council consists of 25 members. The President of the Supreme Court of Cassation, the President of the Supreme Administrative Court and the Prosecutor General are its members by right.*

*Members of the Supreme Judicial Council, which are not its members by right, are highly qualified legal professionals with at least 15 years of practice.*

*Eleven of the members of the Supreme Judicial Council are elected by the National Assembly by a two-thirds majority of the members of the National Assembly and eleven - by the bodies of the judiciary.*

*The mandate of the elected members of the Supreme Judicial Council is five years. They cannot be re-elected immediately after the expiration of this period.*

*The mandate of an elected member of the Supreme Judicial Council shall be terminated upon:
1. resignation;*

*2. a judicial act for a committed crime entered into force;*

*3. a lasting factual inability to fulfil his/hers obligations for more than one year;*

*4. disciplinary dismissal or disqualification from exercising a legal profession or activity.
Upon termination of the mandate of an elected member of the Supreme Judicial Council, another member of the respective quota, who shall complete the mandate, shall be elected in his/hers place.*

*The Judges College of the Supreme Judicial Council consists of 14 members and includes the Presidents of the Supreme Court of Cassation and the Supreme Administrative Court, six members directly elected by their peers, and six members elected by the National Assembly.*

3. Please provide detailed information on the legislation and practice existing in your country in relation to:

(a) The selection and appointment of candidates for judicial offices and the criteria used for their selection and appointment (e.g. qualifications, integrity, ability and efficiency);

(b) Condition of service and security of tenure of judges;

(c) Promotion of judges;

(d) Transfer of judges;

(e) Disciplinary proceedings against judges.

What is the role played by the national organ or mechanism with regard to the issues referred to above?

*Pursuant to Chapter IX of the Judicial System Act, the magistrates in the Republic of Bulgaria, with the exception of the President of the Supreme Court of Cassation, the President of the Supreme Administrative Court and the Prosecutor General, are appointed, promoted, demoted, transferred and dismissed by a decision of the relevant college of Supreme Judicial Council. The positions in the bodies of the judiciary shall be occupied after a centralized competition.*

*In order to be appointed to the different level courts and prosecution offices, the applicants must meet several requirements: length of service – at least two years and nine months of service for junior magistrates; for magistrates at the district court level – at least 8 years of service; for a magistrate in the specialized criminal court and a prosecutor – at least 10 years of service of which at least 5 as a judge in criminal matters, prosecutor or investigative magistrate; for a judge in an administrative court – at least 8 years of service is appointed; for a magistrate in a court of appeal and a prosecution office – at least 10 years of service; for a magistrate at the Specialized Criminal Court of Appeals and at the Specialized Prosecutor's Office of Appeals – at least 12 years of service, of which at least 8 as a criminal judge prosecutor or investigator*.

*In order to be appointed as a judge at the Supreme Court of Cassation and the Supreme Administrative Court, a person shall have at least 12 years of service. In order to be appointed as a prosecutor at the Supreme Prosecutor's Office of Cassation and at the Supreme Administrative Prosecutor's Office and as an investigator at the National Investigation Service – at least 12 years. In addition, according to the requirements of the Law, a person who has only Bulgarian citizenship and who meets the following requirements may be appointed as judge, prosecutor and investigator: - completed higher education – Masters’ degree in Law, completed internship and acquired legal capacity. The person should possess the necessary moral and professional qualities corresponding to the Code of Ethics for Bulgarian Magistrates, shall not be sentenced to imprisonment for a deliberate crime regardless of rehabilitation, shall not be a disciplinary dismissed elected member of the Supreme Judicial Council for prejudice of the prestige of the judiciary and shall not suffer a mental illness.*

*Among the powers of the two colleges of the SJC is the taking of decisions on:*

 *- the number of judges, prosecutors, investigators, as well as of the administrative heads and their deputies;*

* *appointment, promotion in rank or office and dismissal of judges, prosecutors and investigators;*

*- the appointment and dismissal of the administrative heads and deputies of the administrative heads, with the exception of the President of the Supreme Court of Cassation, the President of the Supreme Administrative Court, the Prosecutor General and the Director of the National Investigation Service, who is also the Deputy Prosecutor General;*

*- performing periodic and other attestations of judges, prosecutors, investigators, administrative heads and their deputies in the bodies of the judiciary and resolving issues for the acquisition and restoration of tenure of judges, prosecutors and investigators.*

*Regarding the working conditions, within the powers of the Supreme Judicial Council is the management of the real estates of the judiciary as well as the provision of the necessary technical equipment for the fulfilment of the magistrates' official duties. Moreover, the respect for the principle of random allocation of cases is an indisputable factor in the normal course of work and in impartial decision-making. By decision of the Supreme Judicial Council of October 1, 2015, a Centralized System of Allocation of Cases in all courts in the Republic of Bulgaria was put into operation, which is also related to the system for measuring the workload in the bodies of the judiciary. According to Art. 9 of the JSA, the distribution of cases and files in the bodies of the judiciary is done on the principle of random selection by electronic distribution according to the order of their receipt. The principle of random selection in the allocation of cases in courts is applied within colleges or departments, and in the Prosecutor's office and the National Investigation Service - within their departments.*

*In each body of the judiciary, the magistrates' work is assisted by judicial officials whose number is determined according to the level of workload - on a proposal from or after coordination with the administrative heads of the bodies of the judiciary by the relevant College of the SJC. The general organizational and administrative management of the court is carried out by each court president.*

*According to Art. 207 of the JSA a judge, a prosecutor or an investigating magistrate shall acquire tenure after completing five years of service in the respective position and after receiving a positive aggregate score from the appraisal. The time served as junior judge, junior prosecutor or junior investigating magistrate shall be assimilated to the length of service for the purpose of acquiring tenure.*

*The Judiciary System Act in force (promulgated, SG No. 64 of 7 August 2007, amended and supplemented, SG No. 65 of 11.08.2017, especially with the amendments and supplements adopted in 2016), adopts the concept of a balance between the independence and accountability of the judiciary as a principle by creating a number of guarantees to ensure the independence of the Bulgarian magistrates while introducing a detailed procedure for the conduct of disciplinary proceedings.*

*By the Act on Amendment and Supplement to the Judiciary System Act, (promulgated, State Gazette, no. 28 of 08.04.2016), the structure of the Supreme Judicial Council was also changed as a body representing the judiciary, which ensures and asserts its independence.*

*Chapter Sixteen of the Judiciary System Act regulates the disciplinary liability of judges, prosecutors and investigators. A procedure with explicitly regulated bodies, powers, deadlines and procedural rules is legally established. Disciplinary Punishing Authority after the legislative amendments adopted by the Act on Amendments to the JSA, (prom. 28 of 08.04.2016), is the relevant College of the Supreme Judicial Council - the Judge’ College for proceedings against judges and the Prosecutors' Colleges - for proceedings against prosecutors and investigators. Upon receipt of a proposal for disciplinary proceedings against a magistrate, the relevant College of the Supreme Judicial Council, on the principle of random selection for the distribution of cases, shall appoint among its members a three-member disciplinary panel and a chairperson of the panel, who is also a rapporteur. The Disciplinary Panel shall clarify the facts and circumstances of the offense and may collect written and material evidence, including through a delegated member, as well as to hear experts and adopt a decision establishing the facts to be proved, expressing an opinion on the circumstances and the legal basis for the imposition of a disciplinary penalty, and suggests the type and amount of the punishment.*

*Proposals for initiation of disciplinary proceedings may be submitted by an explicitly specified group of subjects limited to the respective administrative head, the higher administrative head, the Inspectorate to the Supreme Judicial Council and the Minister of Justice. The amendment to the JSA, (promulgated, SG, no. 62 of 09.08.2016) excluded the possibility for a group of members of the Supreme Judicial Council to submit proposals for the initiation of disciplinary proceedings, a change to overcome the violation established by the jurisprudence of the principle of impartiality of the administrative body, which constitutes a significant violation of the rules of the administrative procedure and accordingly a ground for revocation of the act in the cases where a member of the Supreme Judicial Council is a mover of the proposal for disciplinary proceedings and a member of the disciplinary panel who should define the circle of the relevant evidence, in accordance with the alleged disciplinary offense, to enable each of the parties to express and develop their views on the subject of disciplinary proceedings and to apply, accordingly request the collection of evidence relevant to the dispute or ex officio gather the same in order to clarify the true facts of the case.*

*Besides the relevant College of the Supreme Judicial Council, a disciplinary punishment may be imposed by the relevant administrative head of the judicial authority. His competence is limited to the lowest degree of punishment and his act is subject to the approval of the respective College of the Supreme Judicial Council.*

*Closely related to disciplinary issues is the competence of the Inspectorate to the Supreme Judicial Council, which consists of a Chief Inspector and ten inspectors. The Chief Inspector and the inspectors in the exercise of their functions are independent and are subjected only to the law. The activity of the Inspectorate is based on the principles of legality, objectivity and publicity.*

*The Inspectorate carries out complex, thematic and control plan inspection of the bodies of the judiciary in accordance with an annual program. Besides the planned inspections, the Inspectorate also conducts inspections following signals related to the administrative activity of the courts, prosecution offices and investigating authorities.*

*When the signal falls within the competence of the Inspectorate and there are data about the violations committed, an inspection is carried out in accordance with the procedure for carrying out the planned inspections. The inspection following a signal shall be carried out within a reasonable time. For the results of the inspection, an act shall be drawn up stating the order for assignment of the inspection, the body of the judiciary, the judge, the prosecutor or the investigating magistrate to be inspected, the type, the tasks, the period and the scope of the inspection, the name of the examining inspector and the experts, the findings of the verification, conclusions and, if necessary, recommendations and deadlines for their implementation. The sender of the signal is notified of the preparation of the act. The act of the results of the inspection shall be presented to the judge, the prosecutor, the investigator or the deputy of the administrative head by the inspected body of the judiciary when it contains findings of his or her work and they may make an objection to the act before the Chief Inspector within seven days. The Chief Inspector shall issue a reasoned decision on the objections raised. On the basis of the results of the checks carried out, if there is evidence of a disciplinary violation, the Inspectorate of the SJC makes a proposal for the initiation of disciplinary proceedings*.

4. If the national organ or mechanism does not have a role to play in relation to any of these issues, please provide detailed information on legislation and procedure for:

(a) Judicial selection and appointment;

(b) Transfer and promotion of judges;

(c) Disciplinary proceedings against judges

N/A