Questionnaire

for the national reports

Forms and Limits of Judicial Deference: The Case of Constitutional Courts

No.	Question
1.	**In your jurisdictions, what is meant by "judicial deference"?**
	No notion identical or close to the one of *judicial deference* has been known in the case-law of the Constitutional Court of the Republic of Bulgaria (the CC). The Bulgarian Constitutional Court acts upon the initiative of at least one-fifth of all MPs (240), or the President, Council of Ministers, Supreme Court of Cassation, Supreme Administrative Court, or the Prosecutor General. Individual chambers of the supreme courts enjoy limited powers of referral – they may refer to the Constitutional Court applicable laws that are allegedly incompatible with the Constitution. The Ombudsman and Supreme Bar Council may in turn make referrals to the Constitutional Court in case they establish that a law in force violates citizens' rights or freedoms. In a limited number of cases pertaining to conflicts of jurisdiction municipal councils (local governments) may also make referrals to the Constitutional Court. Referrals may be made to the Constitutional Court as regards interpretation of the Constitution, constitutional challenges of National Assembly or presidential acts, conflicts of jurisdiction between executive authorities on national and local level, compatibility of international treaties concluded by the Republic of Bulgaria, and compatibility of laws with generally recognized norms of internal law or with international treaties to which Bulgaria is a party. The Constitutional Court may further rule on disputes pertaining to the constitutionality of political parties and associations, the election of President and Vice President, or Member of Parliament. In addition, the Constitutional Court is competent to rule on alleged infringements by the President or Vice President. The powers of the Bulgarian Constitutional Court are therefore exhaustively and expressly set forth in the Constitution, hence the constitutional procedure leaves no special room for *judicial deference*. The Constitutional Court of the Republic of Bulgaria reserves the right to rule on the admissibility and the merits of the referrals made to it. It further acknowledges the opinions of the so-called interested parties, which, in case the referrals are made by the executive or the legislature, would be the respective institutions; however, their opinions do not enjoy a privileged procedural or probative status. The Court also works with the notion of political expediency, refraining to rule on the added value or adequacy of decisions of the executive, thus limiting itself to assessment of constitutionality. This self-restraint of the Constitutional Court is demonstrated in its practice: the Court would terminate the case if the applicant declares that they do not maintain the

	application (cf. Ruling No. 7 of 15 September 2016 in constitutional case no. 14/2016 etc.).
2.	**Is there a spectrum of deference for your Court? Are there "no-go" areas or established zones of legal unaccountability or non-justiciable questions for your Court (e.g. questions of moral controversy, political sensitivity, societal controversy, the allocation of scarce resources, substantial financial implications for the government etc.)?**
	The Bulgarian Constitutional Court does not rely in its case-law on *judicial deference*. It reviews every individual case on a case-by-case basis and *ad hoc*. The Constitutional Court is bound by its case-law and recourse to *evolutive* interpretation is made in exceptional cases only: 'when interpreting constitutional provisions, the Constitutional Court inevitably tries to establish the genuine will of its originators. This ensures the legal stability and supremacy of the Basic Law as well as protection of the fundamental ideas and values. *At the same time this approach does not rule out an evolutive and teleological interpretation if the same ideas and values must be protected in essentially different social conditions. To yearn the best possible effect, the Constitution must not be perceived as carved in stone but rather as a living organism. Thus, it is admissible that the Constitutional Court leaves out old interpretations and adopts instead new views on the meaning of individual constitutional norms (see for example the findings in the reasons of Decision no. 3/2015 of the Constitutional Court in constitutional case 13/2014 as regards the interrelation of Decision no. 10/2011 in constitutional case no. 6/2011 and the subsequent Interpretative Decision no. 9/2014 in constitutional case no. 3/2014)'* (in Ruling no. 3 of 17 September 2015 in constitutional case no. 7/2015. However, gaps in the Basic Law remains outside the scope of the evolutive interpretation and is thus deemed inadmissible in the case-law of the Bulgarian Constitutional Court since to admit it would be tantamount to rendering the Constitutional Court into a positive legislature. Constitutional review is '*contrived and carried out as a mechanism for settlement of constitutional disputes following legal rules and criteria*' (Decision no. 9/2022 in constitutional case no. 5/2022) and unless violation or restriction of rights is at hand, it stops short of any judgment as to the appropriateness of the legislation. In its case-law the Constitutional Court has outlined the admissible borderlines of legislative expediency: '… *suffice it to recall in this regard that legislative expediency may and should be exercised only within the limits established in the Constitution as the Constitutional Court held in Decision no. 18/1997 in constitutional case no. 12/1997 (cf. Decision no. 7/1995 in constitutional case no. 9/95 as well*). *To hold otherwise would be tantamount to arbitrary legislative activity where the National Assembly would not be deemed bound by constitutional principles and values in its rulemaking activity'*. (in Decision no. 3/2014 in constitutional case no. 10/2013). Furthermore, '… *the Court has reiterated in its case-law that 'it is inadmissible through interpretation to seek to circumvent, substitute or infringe powers established in the Constitution. The*

Constitutional Court may not give specific instructions to public authorities designated by the Constitution how to act (or refrain from acting) …' (Decision no. 8/2005 in constitutional case no. 7/2005). In similar vein, '*This concept translates into certain legislative expediency which alone is not subject to review of constitutionality*.' (in Decision no. 5/2011 in constitutional case no. 1/2011). Likewise, '*... in conclusion, the Constitutional Court points out that it is not competent to consider issues pertaining to legislative expediency. To do so would mean to encroach inadmissibly on its powers established by the Constitution'* (in Decision no. 7/2004 in constitutional case no. 6/2004). Furthermore, '*… as to the allegation made in the request that the treaties concluded and their ratification are not in the interest of the Bulgarian State, this is a matter of political and economic expediency, and thus the Constitutional Court is not competent to rule on*' *(*in Decision no. 9/1999 in constitutional case no. 8/1999*).*

The Constitutional Court further specified when economic expediency should be taken into account: '*… In principle differences in the legal regulation in different periods of time are due to a series of economic, political and international factors. Therefore Article 84, item 1 of the Constitution confers to the National Assembly the right not only to adopt laws but to amend, supplement and repeal them as well. Every change in the rules on privatization to some extent or other mitigates or exacerbates the situation for the participants. To endorse the proposition of the applicants would mean to declare every amendment unconstitutional. The conditions for privatization reflect the economic concept endorsed by the privatizing entity and as such it is not subject to review for constitutionality.'* (in Decision no. 2/2003 in constitutional case no. 20/2002)

The Constitutional Court must further on ensure legitimate interest of the referral on which its admissibility would be conditional, that is whether it will move on to review the issues raised on the merits: '*Thus, the lack of a public interest to be satisfied by a ruling of the Constitutional Court on a decision adopted by a dissolved National Assembly or a repealed one makes the request of a group of MPs inadmissible*' (in Ruling no. 3 of 28 March 2013 in constitutional case no. 7/2012).

The Constitutional Court delivered in the last year a series of four rulings that come closest to the notion of *judicial deference*. The Court relies in these constitutional acts on 'political expediency', and thus refuses to judge the decisions of the legislature that concern foreign policy of the Republic of Bulgaria (Ruling no. 2/2023 in constitutional case no. 1/2023), defence and security policy (Ruling no. 4/2023 in constitutional case no. 2/2023), national energy policy (Ruling no. 6/2023 г. in constitutional case no. 3/2023) and 'the various proposals for reform of the judicial system as pronouncing on their relevance or irrelevance from a pragmatic or legal point of view does not fall within the powers conferred on the Constitutional Court' (Ruling no. 5/2023 in constitutional case no. 6/2023). What these acts have in common is that they outline a new trend in the case-law of the Constitutional Court, namely setting boundaries for compliance with the political dimensions of the separation of powers and political responsibility, which in fact is an expression of judicial deference.

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3.	**Are there factors to determine when and how your Court should defer (*e.g.* the culture and the conditions of your state; the historical experiences in your state; the absolute or qualified character of fundamental rights in issue; the subject matter of the issue before the Court; whether the subject-matter of the case involves changing social conditions and attitudes)?**
	The Bulgarian Constitutional Court reviews every case individually, in line with its powers set forth in the Constitution (as outlined in the answer to Question no. 1 above).
4.	**Are there situations when your Court deferred because it had no institutional competence or expertise?**
	The Bulgarian Constitutional Court adheres to an understanding of the separation of powers that accords certain issues to be dealt by the legislature, thus determining a scope of legislative expediency upon which the Constitutional Court does not encroach. This is described in more detail in the answer to Question no. 2 The Constitutional Court is an interpreter, and a supreme one, but solely of the Constitution and not of any other acts, even such of an international nature. The Constitutional Court may give its own appraisal of such acts (Ruling of 16 September 2022 in constitutional case no. 13/2022) but it may not interpret them: '*… it is clear from the request that it does not concern unclarities of the constitutional norm. Thus, it does not pertain to additional interpretation of Article 99, para 5 of the Constitution but to the consequences of the interpretation made in Decision no. 20/1999 of the Court. These consequences as regards international parliamentarian commitments are most likely regulated by acts (such as statutes, rules of procedure, resolutions etc.) of the international organisations concerned. Involvement in the latter is in accordance to their respective regulations. Such acts of the Council of Europe for example are the Statute of the Council of Europe (SG no. 49/1992), Rules of Procedure of the Assembly, General Agreement on Privileges and Immunities of the Council of Europe (SG no. 57/1992) etc. The applicants themselves point out in their letter of 28 January that other European structures have similar regulations. The issues raised in the request concern the acts of the respective international organisations and their interpretation …. The Constitutional Court is an interpreter, and a supreme one, but solely of the Constitution and not of any other acts, even such of an international nature. The purpose of the request falls outside the competence of the Court.* *The request is inadmissible, and the case must be terminated.'* (in Ruling no. 5/1993 in constitutional case no. 35/1992)
5.	**Are there cases where your Court deferred because there was a risk of judicial error?**

	The Constitutional Court of the Republic of Bulgaria has not relied on *error juris* or ignorance of the law to dismiss a case for review, or to justify a decision or a ruling in its case-law. The Bulgarian Constitutional Court has reserved its discretionary powers for individual assessment of the applicable law even in the context of EU law: *'... however, the Constitutional Court is not bound by the appraisal of the referring court as to the law applicable as such an appraisal would infringe on the Constitutional Court's competence to rule on the request made (its jurisdiction), while every court, including the Constitutional Court, renders its own judgment as to its competence to hear a case – Article 13 of the Constitutional Court Act (Ruling no. 2 of 23 March 2010 in constitutional case no. 17/2009, Ruling no. 2 of 24 February 2022 in constitutional case no. 15/2021)*' (as in Ruling of 16 September 2022 in constitutional case no. 13/2022).
6.	**Are there cases when your Court deferred, invoking the institutional or democratic legitimacy of the decision-maker?**
	The case-law of the Constitutional Court in this matter has been specified in the answer to question no. 2 as regards political expediency in decision-making by the legislature. The Constitutional Court is of the opinion that everything that is not defined or regulated on constitutional level is a question of legislative expediency: '… *is not regulated on constitutional level, hence it is a question of legislative expediency*' (in Decision no. 6/2018 in constitutional case no. 10/2017). The Constitutional Court respects the democratic legitimacy of the decision-making body regarding personnel issues: '… *The assessment as to selection or appointment, including the appraisal of appropriate character references, belongs exclusively to the competent authority. It is not subject to constitutional review since it is personal and sovereign. The assessment of the professional qualities and character references is the right and duty of the selecting and respectively appointing body. The constitutional legislature has envisaged such regulation by apparently presuming that the superior position of the selecting/appointing body in the respective hierarchy of the three powers (legislature, executive and judiciary) guarantees excellence of the character references*' (in Decision no. 11/1994 in constitutional case no. 16/1994). Furthermore, '… *the Constitutional Court may not review this appraisal as this would be tantamount to interference by the Court in the powers of the Council of Ministers and the President. What the Constitutional Court is competent to review is whether the appointment or dismissal of the ambassador has been done in compliance with the requirements for issuing presidential decree as laid down in the Constitution – the provisions of Article 98, item 6 and Article 102, para 2 of the Constitution'* (in Decision no. 13/1999 in constitutional case no. 9/1999). The case-law of the Bulgarian Constitutional Court is consistent that: '*The dispute in the case at hand concerns the scope and subject of constitutional review when challenging decisions of the National Assembly. Clearly,*

	the Constitutional Court cannot judge on the facts of the case. We believe that the assessment of the Constitutional Court goes beyond the formal assessment of establishing that a decision of the National Assembly is contrary to a specific norm of the Constitution or that the procedure for adopting that decision has not been complied with. The assessment must be fully premised on the understanding that the decisions of the National Assembly should furthermore not run contrary to the principles and values enshrined in the Constitution' (in Decision no. 15/2013 in constitutional case no. 19/2013).
7.	**"The more the legislation concerns matter of broad social policy, the less ready will be a court to intervene". Is this a valid standard for your Court? Does your Court share the conception that questions of policy should be decided by democratic processes, because courts are unelected and they lack the democratic mandate to decide questions of policy?**
	As mentioned in the answers to questions nos. 2, 4 and 6, the Bulgarian Constitutional Court respects the competence of each of the other powers. It has repeatedly outlined in its case-law a room reserved for political and economic expediency that is not subject to subsequent assessment or judicial revision. The case-law of the Court is consistent in this regard: '*It should be born in mind that Article 76, para 3 of the Constitution empowers the National Assembly to select its President and Vice-Presidents. This is a sovereign right of the Parliament and a question of political will and expediency which is not subject to review by the Constitutional Court. This provision further implies the possibility for the National Assembly to dismiss the President and Vice-Presidents it has elected. Clearly, in the absence of other constitutional provisions, the body that is competent to give mandate on the basis of political expediency is competent to take that mandate on the same grounds'* (in Decision no. 11/2000 in constitutional case no. 13/2000); '*The Constitutional Court cannot afford to judge concepts of governance on which the parliamentarian act is premised when the decision-making body has acted within its competence as set forth by the Constitution as in the present case. This would be tantamount to going beyond the strict boundaries of constitutional review and would constitute an impermissible interference in the sovereignty of the legislature'* (in Decision no. 3/2010 in constitutional case no. 18/2009); '*The Constitutional Court cannot review or rule on such an expediency. It may only assess whether revoking tax exemption for legal representation infringes upon the fundamental legal principles on which the rule of law is based*' (in Decision no. 6/2010 in constitutional case no. 16/2009); '*It is the right of Parliament when acting within its competence as laid down in the Constitution to express through legislative amendments certain political and economic expediency motivated by changes of the public social and economic conditions in the period of transition, which themselves are not subject to constitutional review*' (in Decision no. 8/2017 in constitutional case no. 1/2017); '*To effect the right to social security and assistance which is a projection of the principle of welfare state, the legislature should take individual measures to accomplish the organization of such a social system in the country that guarantees best social justice and security.*

	However, the Constitution does not specify the terms and conditions, or principles, or system to exercise and implement in practice this right. These fall within the discretion of the legislature' (Decision no. 21/1998; Decision no. 5/2000; Decision no. 13/2003; Decision no. 3/2019). It is free to judge the demands of those in need and the public resources to arrange as appropriate the social model in the country in compliance with the norms and principles set forth in the Basic Law (Decision no. 10/2012; Decision no. 5/2000; Decision no. 3/2019). ... The Constitutional Court is not competent to judge whether the preferred approach in formulating and structuring the challenged law is appropriate since this would turn it into a positive legislature, which is not the role it has been entrusted by the Constitution. The Constitutional Court is authorized only to check whether the legislature has complied with the principles and norms of the Basic Law in adopting the challenged legal regulation. As demonstrated above, the definition of the social services in Articles 3, 15 and 17 of the Social Services Act does not run contrary to the principle of the rule of law' (in Decision no. 9/2020 in constitutional case no. 3/2020). The Bulgarian Constitutional Court does not rely on absence of democratic legitimacy but rather acts in accordance with its position in the framework of the constitutional architecture. The specific legitimacy of the Bulgarian Constitutional Court is determined by 'the rule of law'. This means three things: first, establishing the structure and composition of the court should be in accordance with the Constitution and the law. Second, the constitutional proceedings – approach and procedures whereby the Court reaches a decision – should also be in line with the Constitution and the law. And third and most important, the content and spirit of the constitutional decisions should also be in accordance with the Constitution.
8.	**Does your Court accept a general principle of deference in judging penal philosophy and policies?**
	The Constitutional Court of the Republic of Bulgaria in principle does not stop short of issues pertaining to criminal policy. There is no case in the Court's case-law where the Court dismissed a constitutional challenge of a criminal law provision due to the nature of the provision. The Court acts on a case-by-case basis. The Court reiterates that '*the National Assembly is a body which, as provided for in the Constitution, determines the criminal policy of the State through the Criminal Code and Criminal Procedure Code*'. The Court further defines criminal policy as '*first, laying down a set of legal (criminal) provisions that determine the types of criminal offences and delimits criminal from non-criminal behaviour, and second, in the framework of what is qualified as criminal behaviour, differentiate among individual offences, and prescribe specific punishment for them'* (Decision no. 13/2022 in constitutional case no. 8/2022). According to this decision, '*both issues are for the legislature to resolve*'. The Court holds in the same decision that '*the decision to criminalise or decriminalize certain acts is in essence political as it is a choice between*

	conflicting interests, values, and views. Being a nation-wide representative body, the democratically elected Parliament is the appropriate forum where, through broad public dialogue, to strike the right balance between conflicting interests and values in criminal law regulation. At the same time in the context of constitutional democracy the legislature's autonomy is curtailed by a series of restrictions set forth in the Constitution and aimed at protecting fundamental values that cannot be relinquished arbitrarily by the political majorities in Parliament'. The Court considers the specific manifestations of the principle of the rule of law in criminal law and procedure such as Nullum crimen sine lege, Nulla poena sine lege, Nulla poena sine culpa, Non bis in idem as well as fundamental rights and freedoms to be such restrictions. *'[T]he legislature's discretion to determine the criminal policy of the State stops short of the area of values and principles protected by the Basic Law*'. In another decision the Court holds that *'[o]ne of the essential manifestations of the rule of law is delineating law from politics, which allows to minimize as much as possible that judgments are based on judges' personal values, preferences, and views. The contrary is not only harmful to the administration of justice but what is more, it is a failure for constitutional values and principles as a manifestation of democracy that judges are called to endorse. Constitutional justice is destined to subject legislative acts to scrutiny as to their compliance with these values that the general public at large is bound by and to which the latter has attributed the ranking of supreme law'* (Decision no. 12/2016 in constitutional case no. 13/2015 whereby provisions concerning periods of limitation in criminal prosecution have been declared unconstitutional).
9.	**There may be narrow circumstances where the government cannot reveal information to the Court, especially in contexts of national security involving secret intelligence. Has your Court deferred on national security grounds?**
	There are no circumstances that preclude the Government to disclose information to the Constitutional Court of the Republic of Bulgaria. The Court may request access to any kind of information, including classified, that it deems necessary to pronounce a decision. This applies to the Council of Ministers and any other institution in the Republic of Bulgaria. Pursuant to Article 20, para 2 of the Constitutional Court Act, no one shall have the right to refuse to transmit the requested information or written evidence, regardless of whether it qualified as classified information representing state or professional secrecy or not. In case the information is not accessible, the Constitutional Court of the Republic of Bulgaria is authorized request additional written evidence and commission drawing up of expert opinions.

	As regards classified information, the terms and procedure set forth in the Protection of Classified Information Act are followed. There are cases in the case-law of the Constitutional Court where it has refrained from ruling on national security grounds.
10.	**Given the courts' role as guardians of the Constitution, should they interfere with policies stronger (apply stricter scrutiny) when the governments are passive in introducing rights-compliant reforms?**
	The Constitutional Court of the Republic of Bulgaria is the guarantor of the supremacy of the Constitution. It does not interfere in politics, even to protect citizens' rights and freedoms. The Constitutional Court of the Republic of Bulgaria may not through interpretation or interpreting the Constitution to pronounce on issues that fall within the exclusive competence of the National Assembly. The boundaries of protection of citizens' rights and freedoms have been extended by the provisions of Article 150, para 3 of the Constitution of the Republic of Bulgaria (SG no. 27/2006) and Article 150, para 4 of the Constitution (SG no. 100/2015). These norms allow the Ombudsman and the Supreme Bar Council to seize the Constitutional Court of the Republic of Bulgaria with requests seeking to establish the unconstitutionality of laws that violate citizens' rights and freedoms. This possibility for these two entities to seize the Court is present since they express the will of the people being intermediaries of the public authority and they may turn to the body that guarantees the primacy of the Constitution.
11.	**Does your Court pay greater deference to an act of Parliament than to a decision of the executive? Does your Court defer depending on the degree of democratic accountability of the original decision maker?**
	To the first question: Pursuant to Article 149, para 1, item 2 of the Constitution of the Republic of Bulgaria which establishes the powers of the Constitutional Court, the latter rules on requests seeking to establish the unconstitutionality of laws and other acts passed by the National Assembly and the acts of the President. Therefore, the Court may review only acts of the Parliament and President, and not acts of the executive. Pursuant to Article 125, para 2 of the Constitution, '*[T]he Supreme Administrative Court shall rule on all challenges to the legality of acts of the Council of Ministers and the ministers, and any other acts envisaged by the law*'. There is an identical provision in the Administrative Procedure Code, namely Article 132, para 2, item 2, which stipulates that the *Supreme Administrative Court is competent to rule on challenges to acts of the Council of Ministers, the Prime Minister, Deputy Prime Ministers and ministers issued in the*

course of exercising their constitutional powers of governmental management and authority.

As stated in Decision no. 6/2019 in constitutional case no. 6/2019, '*The power of the court' (the Constitutional Court and the Supreme Administrative Court) is part of the control over the legislature and the executive. It is part of the check-and-balances mechanism between the three branches of government*'.

To the second question: cf. the answer to question no. 6

When the Court reviews acts of the legislature, it takes into account its democratic legitimacy. 'Democratic legitimacy' refers to public authority being exercised by representatives elected by the sovereign who, sanctioned by elections, is granted democratic legitimacy to exercise the power belonging to the sovereign when it is not exercised directly by the people.

*'The system of democratic governance there is an established constitutional principle that has been transposed to the Bulgarian Constitution as well, namely that this power (*the power to impose taxes*) shall be exercised by the legislature as the immediate voice of the will of the public authority holder. Parliament enjoys the highest level of democratic legitimacy.* Each citizen has the right 'to ascertain, by himself or through his representatives, the need for a public tax, to consent to it freely, to know the uses to which it is put, and of determining the proportion, basis, collection, and duration' *(Article XIV of the Declaration of the Rights of man and of the Citizen of 1789)… . The requirement that the powers of the executive in the area of taxation and taxpayers' obligations should be set forth in a law is in fact based on that principle – i.e. based on an act adopted by the body with the highest democratic legitimacy where citizens are represented in the most immediate way…. The Constitutional Court has been consistent in its case-law that public receivables by the State or the municipality is established unilaterally by the State or municipality, in a law so as to guarantee taxpayers' rights (Decision no. 3/1996 in constitutional case no. 2/1996). The National Assembly may not delegate this exclusive power to the executive'* (in Decision no. 4/2019 in constitutional case no. 15/2018 which finds certain provisions of the Local Tax and Revenue Act and the Customs Act to be unconstitutional).

,Following the logic of combining direct and representative exercise of sovereignity, the Constitution and the Citizens' Direct Involvement in Public Authority through Local Governance Act designate the National Assembly as an intermediary in this process precisely due to the high degree of democratic legitimacy it enjoys but also because it expresses and represents the interests of the entire people. It is on these grounds that it is required to guarantee that the holder of the initiative for a national referendum has complied with the requirements set forth in the Constitution' (Decision no. 9/2016 in constitutional case no. 8/2016 whereby the Constitutional Court declares the Decision to hold a national referendum adopted by the 43rd National Assembly unconstitutional).

	'In line with the principle of national sovereignty (Article 1, paras 2 and 3), the National Assembly in its capacity of a public authority enjoying the highest democratic legitimacy, both in its rule-making activity and its supervisory one, has bearing to all spheres of public life and in this sense – to 'every aspect of government' (Decision no. 15/2022 in constitutional case no. 10/2022 whereby the Constitutional Court declares unconstitutional a decision of the National Assembly authorising the Road Infrastructure Agency to take action for the maintenance of the national road network). *'Due to its nature of a nation-wide representative establishment, the democratically elected Parliament is the appropriate forum where, through broad public dialogue, to strike the right balance between conflicting interests and values in criminal law regulation'* (Decision no. 13/2022 in constitutional case no. 8/2022).
12.	**What weight does your Court give to legislative history? What legal relevance, if any, should parliamentary consideration have for the judicial assessment of human rights compatibility?**
	To identify the genuine and unambiguous will of the legislature when assessing the constitutionality of the acts challenged before it, the Constitutional Court, without trespassing the boundaries of the legislature's political expediency, takes into account as evidence in many of its decisions the verbatim reports of MPs' deliberations (sessions in plenum or in committees), reports of parliamentary standing committees, or reasons to draft laws, and makes an analysis of the genesis of legislation. As far as appraisal of the constitutionality of the voting procedure for the adoption of acts of the National Assembly is concerned, the Constitutional Court has repeatedly held that '*it may be based solely on the verbatim records of parliamentary session. The Constitutional Court may not open proceedings challenging these records. Verbatim reports are official documents of the National Assembly, and they have probative value as to the statements reflected therein, including the number of MPs present in the plenary hall (quorum)*'. (Decision no. 1/1999 in constitutional case no. 34/1998; Decision no. 8/2011 in constitutional case no. 5/2011; Decision no. 3/1993 in constitutional case no. 2/1993; Decision no. 6/2007 in constitutional case no. 3/2007). '*As has been clarified so far, verbatim reports are legally relevant for establishing what has been voted in Parliament. Nevertheless, when describing the facts of the case, we pointed out the words of the President of the National Assembly as recorded in the video recording of the parliamentary session*' (Decision no. 8/2011 in constitutional case no. 5/2011). The following decisions of the Constitutional Court serve as a case in point as regards the significance and role that verbatim reports, reasons to draft laws and the genesis of a piece of legislation play in assessing the constitutionality of challenged provisions: *'It is well known that one judges about the will of the legislature as enshrined in a specific legislative act (in the present case – a law) by the* ***reasons of the draft law****, the*

deliberations *of the Standing Parliamentary Committees and the ones conducted in plenary sessions. In the case at hand* ***the genesis of the legislative process*** *that preceded the adoption of Article 245 of the Labour Code, including the part of it that has been challenged, shows that the understanding of the legislature is precisely in support of the view that this is a norm that protects the worker and guarantees his right to remuneration rather than a norm setting forth right to the employer's benefit and the employed persons' disadvantage as the Ombudsman claims in his request.*

The reasons of the draft law amending and supplementing the Labour Code that the Council of Ministers submitted ('the draft law') (registered under No. 302-01-43 of 6 August 2003) and the verbatim reports of the deliberations held cannot justify a conclusion that the purpose of the legislature has been to provide for a new subjective right of the employer unilaterally and acting upon his sole discretion to reduce the workers' remuneration to 60 pct of the size of the workers' gross remuneration but not less than the minimum wage, nor to introduce different periods for payment of that remuneration. On the contrary, the purpose of Article 245, para 1 of the Labour Code is to provide additional guarantees for the payment of the wages, including in cases when the employer experiences certain force majeure circumstances – most frequently termed as financial difficulties that do not yet amount to the employer going bankrupt ... Viewed in historic perspective, the 36th National Assembly deliberates on and adopts a Law Amending and Supplementing the Labour Code. The reform of the 1992 employment relationships thus effected was necessitated by the overall changes in the social and economic conditions that required enhancing the contractual employment, establishing a genuine job market and abandoning in general the principles of the so-called 'Socialist organization of employment', as stated in the reasons of the leading draft law and in the course of plenary deliberations. Presenting the proposed legislative amendments in plenary (verbatim reports of 78th plenary session of 13 May 1992), MPs described in general the need to render the legal regulation in compliance with the changes in social relations during the transition from centralized to market economy. Account was taken of the fact that these conditions require the respective adequate guarantees for workers' rights, including setting forth binding minimum standards for working conditions and employees' remuneration…… An essential part of the reasons for adopting Article 245, para 1 of the Labour Code as amended in 1992 concerned suspension of the then existing malpractice of advance payments whereby employees received in practice remuneration of a completely arbitrary, often purely symbolic amount below the minimum wage level, and at random intervals of time. Therefore, the purpose of the initiated then legislative amendment was crystal clear – to ensure the necessary legal means to eliminate systemic abuse of the rights of economically vulnerable employees. Thus, on 8 October 1992 the revision was adopted at second reading almost unanimously, with only one vote against (cf. the verbatim report of the 133rd plenary session held on 8 October 1992). Unlike other sections of the draft bill, this provision did not garnish any objections' (in Decision no. 1/2018 in constitutional case no. 3/2017).

	*'These **dynamics of the legislation**, in addition to the constitutional principle that the basic legal order applies to all legal entities, put forward the question of the prior legality of state requirements (Decision no. 1/2005 in constitutional case no. 8/2004; Decision no. 22/1996 in constitutional case no. 24/1996). As regards the constitutionality and the rights of duly authorised economic operators under the Waste Management Act, account must be taken of the contents and raîson d'être of the **legal regulation in force prior to** the entry into force of the amendments and supplements to the Waste Management Act of 12 April 2011 …… Considering the former regulation of authorization of waste activities under Article 13a, para 3 and Article 54, para 2 (new) of the Waste Management Act, certain unclarities and inconsistencies are established, which gives rise to doubts and insecurity' (in Decision no. 3/2012 in constitutional case no. 12/2011*). In its Decision no. 15/2010 in constitutional case no. 9/2010 the Constitutional Court holds that the challenged legal regulation (Article 519 Enforcement against Government Institutions and Municipalities and Article 520 Enforcement against Budget-Subsidized Establishments of the Civil Procedure Code) is not a completely new construct in the Bulgarian law. It goes on to review in detail the legislation in this area, from the Constitution of Tarnovo, to the Law on Civil Procedure, a series of special laws in the budgetary field, to different versions of the old and new Civil Procedure Code. '*The Court asks itself why the legislature has provided for this special procedure in the Civil Procedure Code. As stated above, the National Assembly – the holder of legislative power and a party to these proceedings – submits no opinion. Judging from the reasons of the draft laws and the verbatim reports, it is clear that the purpose of the legislature to establish the comprehensive regulation of Articles 519 and 520 of the Civil Procedure Code currently in force is to guarantee effective exercise of the public duties of Government institutions, municipalities and budget-subsidized establishments'.* *'To assess in essence the compliance of the challenged provision with the Constitution, one must consider in-depth the order for payment proceeding, its genesis and variations, its scope of application, and the parties' procedural rights, including the right to defence.* *The order for payment proceeding that is functionally related to the enforcement proceedings is regulated in Chapter Thirty-Seven of the Civil Procedure Code currently in force (promulgated SG no. 59/2007, in force as of 1 March 2008, last amended SG no. 49/2012). Although it was absent from the repealed civil procedure law adopted in 1952, it is not a novelty for the Bulgarian civil procedure law tradition. It was introduced by the Law on Order for Payment Proceeding of 1897, and subsequently the enforcement order, albeit with a very limited scope of application, was regulated in the Law on Civil Proceeding of 1934'* (Decision no. 12/2012 in constitutional case no. 4/2012 whereby the constitutional challenge of a provision from the chapter on Order of Payment Proceeding of the Civil Procedure Code has been

rejected). The Constitutional Court considers the reasons of the draft law as well in order to assess whether the arguments of the applicant were valid.

Assessing the constitutionality of provisions of the Administrative Procedure Code, the Constitutional Court analyses the historic aspect of the norms and holds that '*This chronological review, together with the stated reasons for the amendments under review, demonstrate that the legislature aimed at enhancing citizens' access to justice and achieving a fairer distribution of workload among the administrative courts, and ultimately at guaranteeing a fair administrative trial (verbatim reports of the 154th session of 22 June 2018 of the 44th National Assembly)*. As regards the aims pursued by the legislature and the financial justification, the Constitutional Court considered the reasons of the draft law.

In its Decision no. 17/2018 in constitutional case no. 9/2018 whereby the Constitutional Court dismissed a constitutional challenge submitted by the Supreme Court of Cassation concerning a provision of the Judicial System Act about magistrates' entitlement to financial compensation in case they are relieved from duties, the Court made a historical review of the compensations to which officers in judicial bodies were entitled, from the Constitution of Tarnovo, to the different laws on the organization of courts and the different versions of the Judicial System Act. The Constitutional Court reached a conclusion that *'[T]he legislature is authorized for reasons of expediency, both social and financial, to determine the conditions for payment of financial compensations to judges, prosecutors and investigators in case they are relieved from duties. This legislative expediency may and should be applied only within the boundaries established by the Constitution (Decision no. 18/97 in constitutional case no/ 12/197 and Decision no. 7/95 in constitutional case no. 9/1995).*

The discretion that the National Assembly enjoys in this area has its boundaries outlined by the fundamental principles enshrined in the constitutional regulation of the judiciary and constituting the basis of the rule of law state'.

In its Decision no. 10/2003 in constitutional case no. 12/2003, when assessing the constitutionality of Article 1, para 1 of the Stamp Duties Act, the Constitutional Court held that: '*The provision in question stipulates that stamp duties shall be collected by bodies and budget-subsidized establishments in 'amounts fixed in tariffs as approved by the Council of Ministers'. Such a delegation can be found as early as the initial version of Article 1, para 1 of the 1951 Stamp Duties Act. It has been preserved through two amendments – the one promulgated in SG no. 55 of 12 July 1991 that entered into force after the Constitution currently in force, and the one of 1996. Thus, since the powers delegated to the Council of Ministers to approve the tariffs for stamp duties has been reproduced in the amendment to Article 1, para 1 of the law, in the context of the current Constitution the question of the application of its § 3 cannot be put forward. The constitutional challenge does not concern a law pre-existing before the 1991 Constitution but rather a law adopted after the Constitution came into force'.*

	'Here is the place to consider the argument that the Council of Ministers organizes the management of state assets, while the judiciary is in charge of the administration of justice in the country, i.e. this is a manifestation of the principle of separation of powers: the Court Premises Fund was established in 1925 and so far has always been managed by the Minister of Justice. Thus, historically it has been established that capital expenditure and real estate belonging to the judiciary should be managed by the executive. At present this understanding is based on the provision of Article 106 of the Constitution, more so bearing in mind that substantive laws traditionally define court buildings as public state ownership. Hence the expectation that the principle enshrined in Article 106 of the Constitution should have primacy over the principles set forth in Article 117, paras 2 and 3 for independent judiciary with an independent budget. In response to this argument, it should be reiterated that this understanding has been reached while a different legal regulation existed in place – thus, in none of the three constitutions after the Liberation were there any provisions stipulating that the judiciary is independent and has an independent budget' (in Decision no. 4/2004 in constitutional case no. 4/2004). In Decision no. 1/2023 in constitutional case no. 17/2022, analysing the reasons of the draft law and the verbatim reports of the deliberations in Parliament on the Draft Law Amending and Supplementing the Criminal Code, the Constitutional Court considers the goals that the participants in the criminal proceedings try to attain and reaches the conclusion that no balance has been struck between the public and the personal interests. The conclusion the Court reaches in Decision no. 7/2019 in constitutional case no. 7/2019 is a case in point about the significance of reasoning in the context of the legislative process: '*Such an approach (absence of reasons and legislative justification) is but a retreat from the constitutional raîson d'être of due legislative process in the area of fundamental rights*'. The verbatim reports of the Grand National Assembly from deliberation when adopting the Constitution are essential for deciding on interpretative cases. The Constitutional Court makes a comprehensive analysis of the deliberations of the Grand National Assembly in its Decision no. 13/1996 in constitutional case no. 11/1996. In Decision no. 7/2020 in constitutional case no. 11/2019 (concerning interpretation of a constitutional provision on the reasoning of judicial acts) the Constitutional Court, citing Ruling no. 3 of 17 September 2015 in constitutional case no. 7/2015 held that: '*Interpreting constitutional provisions inevitably implies establishing the true will of the legislature since this is the way to guarantee legal stability and supremacy of the Basic Law as well as of the ideas and values enshrined therein*'. The analysis of the reasons of the draft law and the verbatim reports of the deliberations and voting in plenary hall allowed the Constitutional Court to reach the conclusions that '*In view of the foregoing, it may be summed up that the challenged provisions of the Bank Insolvency Act when reviewed together are aimed to ensure a number of legal measures and instruments for securing the insolvency estate of a specific bank declared*

bankrupt' (Decision no. 8/2021 in constitutional case no. 9/2020 whereby provisions related to bank insolvency have been declared unconstitutional).

Analysing the reasons of the draft law amending and supplementing the Compulsory Social Security Code concerning the second social security pillar (compulsory supplementary pension insurance), the Constitutional Court established that *'[C]learly from the reasons of the draft law and translated for the purpose of the case ... the will of the legislature has sought to enhance the public regulation in the area under consideration with a view to protecting the interests of the insured persons. The question follows – how far does this amendment infringe on the basic constitutional principles related to the freedom to pursue an economic or business activity of the Pension Fund (according to the applicants) and the pension insurances in their capacity of commercial entities? Furthermore, are the legitimate interests of the insured persons violated?'* (Decision no. 2/204 in constitutional case no. 2/2004).

The Constitutional Court considers the reasons of draft laws and the deliberations in Parliament when reviewing cases in the area of road traffic rules (Decision no. 1/2012 in constitutional case no. 10/2011, Decision no. 11/2021 in constitutional case no. 7/2021), personal income tax *('It is apparent from the verbatim reports of the 10th plenary session of the 41st National Assembly that the MPs challenged, in the hypothesis of unconstitutionality, the need to introduce this tax and set forth a statutory minimum of taxable income'* – Decision no. 10/2013 in constitutional case no. 8/2013), hunting and protection of game (Decision no. 4/2013 in constitutional case no. 11/2013), elections (Decision no. 3/2017 in constitutional case no. 11/2016), amendments to the Civil Servant Act made by the 2019 National Budget Act *('The Constitutional Court, having considered the arguments and observations made in the requests, the opinions of the institutions constituted as interested parties and the organisations invited to extend their opinion as well as the submitted legal opinions, and* ***relying*** *on the relevant legal regulation and* ***the reasons of the legislature for adopting the challenged provisions, has considered the following with a view to delivering its decision…****'* – Decision no. 3/2019 г. in constitutional case no. 16/2018 г.*)*, spatial planning (Decision no. 17/2021 in constitutional case no. 11/2021), rules for conducting court hearings via video conference for imposing pre-trial detention orders (Decision no. 13/2021 in constitutional case no. 12/2021), social security (Decision no. 4/2022 in constitutional case no. 14/2021), determination of parentage under the Family Code (Decision no. 11/2022 in constitutional case no. 3/2022), taking part in judicial proceedings through video conference for persons with mental disorders in relation to whom a court order has been issued for compulsory hospital treatment (Decision no. 14/2022 in constitutional case no. 14/2022), the moratorium on acquisition of property rights over state and municipal property by prescription (Decision no. 3/2022 in constitutional case no. 16/2021), maritime and inland ports (Decision no. 5/2005 in constitutional case no. 10/2004), 2018 National Budget Act (Decision no. 4/2018 in constitutional case no. 14/2017, where the legislative process and the mechanism for effecting it are analysed in detail etc.

Questionnaire

for the national reports

13.	**Does your Court verify whether the decision maker has justified the decision or whether the decision is one that the Court would have reached, had it itself been the decision maker?**
	The Bulgarian Constitutional Court is authorized to monitor compliance with the Constitution of the acts challenged before it rather than their correctness or expediency. When reviewing the reasons for adopting one or another legislative decision, it aims at establishing the genuine will of the legislature, and not at assessing the specific legislative decisions. However, if it establishes that a certain legislative decision is not reasoned, it draws a clear dividing line between formally complying with the requirements set forth in the Constitution and doing genuinely so: '*Payable fees must be justified demonstrating an objective and apparent need. Setting the fees requires a transparent procedure since the insecurity in introducing additional unreasoned raises of the extra costs constitute a financial burden for the business in the regulated sectors of the national economy, to the detriment of the public interest. 'Complying formally with the constitutional requirements does not suffice when additional financial obligations are being introduced by law for the citizens, thus violating the nature of these obligations' (Decision no. 4/2013 in constitutional case no. 11/2013). The Constitutional Court finds no reasons to revise its case-law and depart from its understanding since the requirements for legal order and stability obligates the Court to have due regard to its former decisions'* (in Decision no. 13/2014 in constitutional case no. 1/2014). The Constitutional Court makes in its most recent case-law an analysis and assessment of the facts and reasons on the basis of which the National Assembly adopts a certain decision, and reaches the conclusion that *'... none of the arguments put forward can stand as a valid legal ground for relieving from duties the chairperson of the Audit Office, which constitutes a violation of the principle of the rule of law*' (in Decision no. 5 of 22 June 2023 in constitutional case no. 5/2023).
14.	**Does your Court defer depending on the extent to which the decision or measure was preceded by a thorough inquiry regarding compatibility with fundamental rights? How deep must the legislative inquiry be, for example, before your Court will, eventually, give weight to it?**
	The Bulgarian Constitutional Court considers the reasoning of draft laws a mandatory part of the legislative process since the Constitution guarantees that the legislative process shall take place in compliance with the law and all rules and requirements for democratic legitimacy, where the pieces of legislation shall be duly reasoned. Thus, the Constitutional Court examines the quality of reasons and the interventions made during plenary sessions not only to establish the genuine will of the legislature as indicated in the answer to question no. 13, but also to ensure that the rules of the legislative process have been fulfilled.

	Thus: '*At the same time the Court finds it necessary to point out the following: The historic experience has shown that politically motivated discrimination may, even in the well-established democracies, substantially affect judicial proceedings, thus undermining courts' impartiality and even responsibility. Moreover, politically motivated discrimination has long-term negative consequences, leading to disintegration and opposition in the nation and may undermine the Government legitimacy.* *One of the essential dimension of the rule of law is the separation of law and politics, which allows to minimize chances that the court delivers its judgment based on judges' personal values, preferences and beliefs. The contrary is not only harmful to the administration of justice but what is more, it is a failure for constitutional values and principles as a manifestation of democracy that judges are called to endorse.* *Constitutional justice is destined to subject legislative acts to scrutiny as to their compliance with those values that the general public at large is bound by and to which the latter has attributed the ranking of supreme law. The rule of law, by default and by effect, confines state power. It requires an assessment of its acts in the light of the standards related to the key ideas of constitutionalism.* *The rule of law principle will not be complied with if the law could be re-written in accordance with the circumstances, and without regard to principles and values enshrined in the Constitution that bind the general public at large out of its free will.* *The Court reiterates that it holds firm the position that the search of just solutions in a rule of law state can take us only to the supremacy of the law* (in Decision no. 12/2016 in constitutional case no. 13/2015). *'The absence of reasons and legislative justification in support of the proposed text of Article 10, para 1, second sentence of the Customs Act is unconvincing that alternative means have been sought and considered that are more friendly to the labour rights for the purpose of attaining the pursued objective. Such an approach departs from the constitutional* raîson d'être *of due democratic legislative process in the area of fundamental rights –through comprehensive debate within the legislative process, with no haste or improvisation, to protect in a balanced manner the rights and freedoms of every member of society'* (in Decision no. 7/2019 in constitutional case no. 7/2019). *'The review of the regulation of compensations as benefits in the Bulgarian legislation shows that the legislature takes a differentiated approach to establishing the criteria that need to be satisfied for the right to financial compensation to occur, on the one hand, and the criteria that determine the size of that financial compensation, on the other. It takes regard of the nature of service and its significance for the proper functioning of the state apparatus, for guaranteeing the State security and sovereignty and for the protection of the rights and freedoms and legitimate interests of its citizens. This differentiated approach responds perfectly to the discretion that the legislature enjoys in regulating rights not of a constitutional ranking, nor derived from rights*

	guaranteed by the Constitution' (in Decision no. 17/2018 in constitutional case no. 9/2018). *'The reasons of the draft law amending and supplementing the Criminal Code (no. 702-01-01 of 1 August 2017, 44th National Assembly) specify that the primary objective of incriminating illegal production of underground natural resources is to guarantee 'to a substantially greater extent the protection of 'exclusive State ownership, preserving the earth inside, soils, forests and natural resources'. The reasons and the verbatim reports of the deliberations in Parliament show that the participants in the legislative process strive to reduce financial damage amounting to millions of Bulgarian levs as a result of this illegal activity. However, there is no indication in either the reasons of the draft law or the verbatim reports that a balance has been struck between the public and the personal interest in depriving the vehicle or carrier used for the perpetration of the illegal act… No regard has been made to a fair balance in violating the positive right of ensuring access to justice for the protection of the property right and protection against undue exercise of the power to deprive vehicles or carriers. There are no indications throughout the course of the legislative process of the reasons why the court has been deprived of the power to carry out an assessment on a case-by-case basis as to compliance with the principle of proportionality in restricting the right to property'* (in Decision no. 1/2023 in constitutional case no. 17/2022).
15.	**Does your Court analyze whether the opposing views were fully represented in the parliamentary debate when adopting a measure? Is it sufficient for there to be an extensive debate on the general merits of the legislation or must there be a more targeted focus on the implications for rights?**
	The case-law of the Constitutional Court does not seem to follow a trend where the Court consistently monitors and takes into account whether in the framework of the parliamentary debates prior to adopting a legislative act opposing views have been exhaustively presented and special regard has been paid to the impact on citizens' rights. In Decision no. 9/2002 in constitutional case no. 15/2002 the Constitutional Court pays attention to the fact that '*The parliamentary documents – a report of the Legal Affairs Standing Committee, proposals made by the Committee members, and verbatim reports of the plenary sessions, (National Assembly, no. 253-03-23 of 23 April 2002, 39th National Assembly, Verbatim Reports, volume 32, p. 114 et seq., volume 35, p. 44 et seq.) demonstrate a unanimity in endorsing the amendment of Article 47 of the International Commercial Arbitration Act and the related reasons for rationalization, expediency and stabilization of the arbitration proceedings. The amendment concerns only the competent court (Supreme Court of Cassation) to rule on requests seeking repealing of arbitration awards and secondary issues pertaining to the shift in*

	competence. The formal constitutional requirements as regards deliberation and adoption of the amendments have been satisfied'.
16.	**Is the fact that the decision is one of the legislature's or has come about after public consultation or public deliberation conclusive evidence of a decision's democratic legitimacy?**
	Cf. the answer to question no. 11, second part. The circumstance that the act challenged before the Constitutional Court is one taken by the legislature, respectively adopted following public consultations, does not ascertain outright the democratic legitimacy of the said act. The Constitutional Court is free to judge its constitutionality on a general level, taking into account nevertheless that the act has been adopted by the National Assembly being the highest-ranking public authority as regards democratic legitimacy. The Constitutional Court observes the following line of thinking in its case-law: '*The fact that the issues proposed to be dealt by a referendum may be formulated by a Steering Board and supported by a petition of citizens who reasonably consider themselves to be 'a part of the people', requires in itself an assessment of the National Assembly. The decision under Article 84, item 5 of the Constitution as an act of ex-ante control should guarantee that citizens will take such a decision that the National Assembly will be able to implement. The need for this decision to be in compliance with the constitutional and statutory requirements is among others vested in the principle of the rule of law as set forth in Article 4, para 1 of the Constitution. Compliance with the rule of law principle requires the legislature to abide by the laws it adopts. Thus, by violating the law, namely Article 9, para 1 and para 2, item 1 of the Direct Involvement of Citizens in the State Authority and Local Government Act, alongside the above-mentioned constitutional provisions, and endorsing section 2 of the challenged decision, the National Assembly has violated Article 4, para 1 of the Constitution'* (in Decision no. 9/2016 in constitutional case no. 8/2016 whereby the Constitutional Court declares unconstitutional the decision for holding a national referendum adopted by the National Assembly). *'Within the meaning of the Constitution, the decisions of the National Assembly must comply with the laws the latter has adopted. These laws may be adopted, amended, supplemented, or repealed only following the terms and procedure established by the Constitution but not through a decision of the National Assembly that runs contrary to a law it has adopted. Basic constitutional premises have been disregarded here that are intrinsic to the rule of law state and have been enshrined in Article 4, para 1 of the Constitution'* (in Decision no. 17/1997 in constitutional case no. 10/1997 whereby the Constitutional Court declares unconstitutional a Decision of the National Assembly of 10 July 1997 concerning changes in the management of the Bulgarian National Radio and the Bulgarian National Television).

	'In the context of the modern rationalized parliamentarism, it is the political representation that determines by law the general regulation in any sphere – its principles, content and guidelines, while the executive should have the opportunity to render it in specific terms by clarifying and supplementing it. This distinction between the powers of the legislature and the executive is premised on the need on the one hand to ensure stability and democratic legitimacy of the regulation of enduring social relations that should always take the shape of a law. On the other hand, the dynamics of social needs require that more flexible and simplified procedures are in place for reforming certain sectors of state policy' (in Decision no. 9/2020 in constitutional case no. 3/2020).
17.	**Has your Court ever deferred at the rights-definition stage, by giving weight to the government's definition of the right or its application of that definition to the facts?**
	The Bulgarian Constitutional Court is not competent to monitor the constitutionality of acts of the executive. According to the Constitution, it is the Supreme Administrative Court that is competent to rule on challenges regarding the legality of Council of Ministers acts.
18.	**Does the nature of applicable fundamental rights affect the degree of deference? Does your Court see some rights or aspects of rights more important, and hence more deserving of rigorous scrutiny, than others?**
	The Constitutional Courts are exclusively authorized to assess the weight of competing personal and public interests. In some cases, the Constitutional Courts assess the measures taken by the legislature that must observe a balance when adopting normative acts whereby certain rights are being curtailed. It is precisely in this area that the Constitutional Courts play an extremely important part, namely to establish boundaries in exercising fundamental rights. The Constitution provides for in a number of its provisions restrictions in exercising some fundamental rights and freedoms. The common constitutional guarantee for exercising fundamental rights is their irrevocability (Article 57, para 1), as well as the prohibition of abuse of rights and exercising rights only insofar as this is not to the detriment of the rights or legitimate interests of others (Article 57, para 2). The principle of irrevocability is premised in the understanding that the fundamental rights are initially inherent and applicable to all human beings. Thus, the Basic Law expressly specifies the admissible restrictions in exercising the rights guaranteed by the Constitution. *'Fundamental rights delimit a certain protected area of freedom or equality; this is the scope of every fundamental right. However, this area is neither timelessly nor limitlessly protected; it borders other fundamental rights, hence rights 'live' side*

	by side with their possible limitations. The source of these limitations may be the fundamental rights themselves, the fundamental rights of others, or the welfare protected by the Constitution' (in Decision no. 15/2010 in constitutional case no. 9/2010). In its interpretative ruling no. 14/1992 in constitutional case no. 14/1992 whereby the Constitutional Court gives an interpretation of Article 6, para 2 of the Constitution (regarding citizens' equality before the law and the prohibition of discrimination based on certain grounds), the Court has held in its reasons that '*limitations on the rights and granting privileges to certain social groups is inadmissible according to the Constitution. It should be reiterated nevertheless that all these hypotheses concern publicly justified restrictions of rights or granting privileges to certain groups of individuals while at the same time preserving the supremacy of the principle of equality of all citizens before the law. Specifying in a precise and exhaustive manner the social grounds that rule out restrictions of the rights or granting of privileges is a guarantee against unfounded expansion of the grounds for admitting restrictions of individual rights or granting of privileges'.* In its Decision no. 10/2018 in constitutional case no. 4/2017 the Constitutional Court distinguishes among three groups of fundamental rights according to their possible restriction pursuant to the Constitution. *The first group comprises those rights the exercise of which may not be restricted in any way (the so-called absolute rights) – namely those, referred to in Article 57, para 3 of the Constitution.* The provision refers exhaustively to specific rights that may not be curtailed, and these are the right to life and the prohibition of torture, the guarantees for the right to personal security, i.e., the right of everyone to be surrendered to the judiciary within the statutory limits, the prohibition for individuals to be convicted solely on the basis of their confessions, the presumption of innocence, personal integrity and freedom of thought, conscience, and religion. *The second group comprises those rights that may be restricted solely on the grounds specified in Article 57, para 3 of the Constitution, namely proclamation of war, martial law, or a state of emergency. Those are the rights enshrined in Article 30, paras 4 and 5* (right to a legal counsel and the individuals' right to a meeting in private with their counsel as well as the right to confidential communication with their counsel), *Article 35, para 2* (the right of every Bulgarian citizen to return to the country), *Article 36, para 2* (citizens whose mother tongue is not Bulgarian shall have the right to study and use their own language alongside the compulsory study of the Bulgarian language), *Article 39, para 1* (the right to express an opinion or to publicise it through words), *Article 40, para 1* (freedom of press and mass media), *Article 41* (the right to seek, obtain and disseminate information), *Article 43, para 3* (no authorization required for meetings held indoors) *and others enshrined in the Constitution.*

	The third group comprises those rights that are subject to restriction on other grounds as well – rights that may be restricted on grounds expressly specified in the Constitution (for example Article 34, para 2 – exceptions to the rule of inviolability of correspondence and other communications shall be allowed only with the permission of the judicial authorities for the purpose of discovering or preventing a grave crime), *Article 35, para 1, second sentence the right* – freedom to choose a place of residence and the right to freedom of movement in the territory of the country and freedom to leave the country may be restricted only by virtue of the law for the protection of national security, public health or the rights and freedoms of others, *Article 37, para 2* – freedom of conscience and religion may not be practiced to the detriment of national security, public order, public health and morals, or the rights and freedoms of others, *Article 40, para 2* – suspending and confiscating a print media or any other data media are admissible only on the basis of an act of the judiciary in case of violation of decency laws or incitement of a forcible change of the constitutionally established order, the perpetration of a crime, or the incitement of violence against a person; an injunction suspension shall lose force if not followed by a confiscation within 24 hours, *Article 41, para 1, second sentence* – the right to seek, obtain and disseminate information shall not be exercised to the detriment of the rights and reputation of others, or to the detriment of national security, public order, public health and morality, *Article 42, para 1* - every citizen above the age of 18, with the exception of those placed under judicial interdiction or serving a prison sentence, shall be free to elect state and local authorities and vote in referendums). Other rights falling in this group are those that may be *restricted or exercised on conditions set forth in a law*, for example Article 25, para 6 – the conditions and procedure for the acquiring, preservation or loss of Bulgarian citizenship shall be established by law, *Article 27, paras 1 and 3* – foreigners residing legally in the country shall not be expelled or extradited to another State against their will, except in accordance with the provisions and the procedures established by law; the conditions and procedure for granting asylum shall be established by law, *Article 30, para 2* – no one shall be detained or subjected to inspection, search or any other infringement of his personal inviolability except on the conditions and in a manner established by law, *Article 31, para 5* – prisoners shall be kept in conditions conducive to the exercise of those of their fundamental rights which are not restricted by virtue of their sentence, *etc.* What applies for all of these rights is that the admissible limitation may be effected only by a law, and this has to be considered for every individual case. *'The principle set forth in Article 57, para 1 stipulating that the fundamental civil rights shall be irrevocable is central, thus Article 57, para 3 prescribing possible temporary restrictions should be applied restrictively' (limitations to the feasible restrictions)* – Decision no. 7/1996 in constitutional case no. 1/1996. Limitations are admissible most often for the protection of public interests. National security, public health, and morality are values whose protection allows restrictions in the exercise of many rights and freedoms.

	'The right to life understood as the right to the preservation of life and health is a constitutional right of a higher ranking and a prerequisite for the full exercise of a whole set of fundamental rights. The Constitutional Court prioritises it in its case-law, holding that it is admissible that other rights might be infringed in order to protect it' (Decision no. 10/1995 in constitutional case no. 8/1995). In its Decision no. 2/2004 in constitutional case no. 2/2204 the Constitutional Court held that *'[T]he right to social security as one of the fundamental individual rights is a higher-ranking right that calls for a priority protection and hence for state regulation and control over the work of the public pension funds in order to safeguard the interests of the insured persons. The right to freely exercise an economic activity is not an absolute one. (The case-law of the Constitutional Court is consistent – Decision no. 6/97 in constitutional case no. 32/96, Decision no. 12/97 in constitutional case no. 6/97, Decision no. 5/2000 in constitutional case no. 4/2000).* The case-law of the ECtHR and CJEU, like the one of the Constitutional Court establishes '*an equal respect for fundamental rights as a guiding principle in securing a fair balance between different rights*'. Any hierarchy of fundamental rights would run contrary '*to international treaties and the national constitutions of modern democratic rule-of-law states that abide by the equality of rights and rule out any permanency of limitations on rights which would be tantamount to their rejection*' (Decision no. 8/2019 in constitutional case no. 4/2019). In conclusion, in the same constitutional case the Constitutional Court held that '*values of the highest ranking are embodied in the Constitution. They cannot be rejected or amended by the legislature since they are the basis of the established legal order. These values are an integral part of the constitutional imperative and all laws should be subject to an assessment as to their compliance with these values. It is the task of the Constitutional Court to protect the stability of the legal system premised on the constitutional imperatives, and to protect it, including against legislative threats'.*
19.	**Do you have a scale of clarity when you review the constitutionality of a law? How do you decide how clear is a law? When do you apply the *In claris non fit interpretatio* canon?**
	The Bulgarian Constitutional Court makes an assessment in every individual case where a law has been challenged and has not established in its case-law clear criteria to apply universally but rather acts *ad hoc*. What the Court looks into is whether the laws are clear and unambiguous, which is a formal rule-of-law criterion (cf. in this regard Decision no. 1/2005 in constitutional case no. 8/2004; Decision no. 7/2005 in constitutional case no. 1/2005; Decision no. 4/2014 in constitutional case no. 12/2013 etc.). The Constitutional Court applies a uniform standard as regards unclearly formulated legal provisions which affect rights or are of a criminal law nature: '*The principle of the rule of law precludes any unclear, ambiguous legal provisions and this is applied*

	strictly when the legislature encroaches on individual rights and freedoms, in particular in the area of criminal repression due to the universally recognized principle of personal criminal liability' (Decision no. 12/2016 in constitutional case no. 13/2015). The Constitutional Court has consistently held that where the unclarities or ambiguities of a legal provision are such as to call into question its capability to regulate social relations, it is unconstitutional on grounds of violation of the principle of the rule of law. However, this is presumed automatically: '*Certainly an unclear provision will be interpreted, including through correctional interpretation, and in the absence of a regulation the gaps will be filled in by analogy of legislation or law. As has been demonstrated already, not every contradiction or poor wording of a legal provision automatically means that the principle of the rule of law has been violated. It is only in case of violation of the elements of the principle of the rule of law which due to their significance are enshrined in the Constitution that the issue of the unconstitutionality of the said provision will be raised pursuant to Article 4, para 1 of the Constitution'* (Decision no. 11/2010 in constitutional case no. 13/2010). According to the case-law of the Constitutional Court: '*Clarity of legal provisions means that they are accessible to their addressees and leave no doubt as to the content of the rights and freedoms they grant or the duties they impose. If by rule of law we mean that all legal entities are equally subject to the law, then the law must be able to steer everyone's conduct. Therefore, the law must be formulated in such a way as to allow people to decipher the prescribed model of behaviour'* (in Decision no. 12/2016 in constitutional case no. 13/2015). It points our further on that when formulating laws the legislature should avoid legal provisions that initially bring insecurity and whose application require interpretation: '*In a state based on the principle of the rule of law it is inadmissible for the legislature to adopt norms that are initially set to lead to contradictory or incorrect application. This is in stark contrast to Article 4, para 1 of the Constitution since 'the requirement for accessibility and clarity, precision, unambiguity and clarity of laws and thus predictability as to their compliance with the Basic Law are among the most essential of its dimensions'* (in Decision no. 12/2016 in constitutional case no. 13/2015).
20.	**What is the intensity review of your Court in case of the legitimate aim test?**
	The Constitutional Court restrains from making an assessment whether an aim is legitimate as it respects the competence of those bodies which by virtue of the Constitution are entrusted to make this assessment. Hence, the control that the Court exercises when assessing the legitimacy of the aim is to confirm or rule out that an aim may be deemed legitimate: '*The case-law of the Constitutional Court is consistent as regards possible restrictions of individual fundamental rights in case of a legitimate aim where this is provided for in a law, within the limits set forth in the Constitution, and is proportional to the aim pursued (Decision no. 20/1998 in constitutional case*

	no. 16/1998 Decision no. 15/2010 in no constitutional case no. 9/2010; Decision no. 2/2011 in constitutional case no. 2/2011; Decision no. 7/2016 in constitutional case no. 8/2015; Decision no. 8/2016 in constitutional case no. 9/2015; Decision no. 3/2019 in constitutional case no. 16/2018). Limitations of the right to free movement in the territory of the country and the right to leave the country would have a legitimate aim within the meaning of Article 35, para 1, second sentence of the Constitution if they are necessary to afford constitutional protection of another interest of constitutional significance, provided that the aim specified in the law is indeed the one pursued by the legislature and the limitations of individual rights are proportionate to the protected interest that is subject to constitutional protection. This interest should pertain to national security, public health or the rights and freedoms of others. No such interest can be established in the present case. By virtue of the challenged provisions, the limitation of fundamental rights is effected in relation to persons whose conduct does not encroach upon the constitutionally recognized values enshrined in Article 35, para 1, second sentence of the Constitution. therefore, the measure cannot be considered an appropriate and proportionate means to attain the constitutionally legitimate aim' (in Decision no. 3/2021 in constitutional case no. 11/2020).
21.	**What proportionality test does your Court employ? Does your Court apply all the stages of the "classic" proportionality test (*i.e.* suitability, necessity, and proportionality in the narrower sense)?**
	The Bulgarian Constitutional Court applies the proportionality test in the context of the rule of law principle: '*The proportionality rule is consistently applied in the case-law of the Bulgarian Constitutional Court as a measure of the boundaries of feasible interference by the State in fundamental rights (Decision no. 20/1998 in constitutional case no. 16/1998, Decision no. 1/2002 in constitutional case no. 17/2001, Decision no. 15/2010 in constitutional case no. 9/2010, Decision no. 2/2011 in constitutional case no. 2/2011, Decision no. 14/2014 in constitutional case no. 12/2014, Decision no/ 2/2015 in constitutional case no. 8/2014 etc.) Решение № 2 от 2015 г. по к. д. № 8/2014 г. и др.). It is further held to be an element of the principle of the rule of'* (in Decision no. 7/2019 in constitutional case no. 7/2019). Thus, the Constitutional Court sticks to the classical proportionality test: *'... i.e. the classical elements of the requirement for proportionality are taken into account in determining the boundaries of fundamental rights*' (in Decision no. 9/2010 in constitutional case no. 9/2010). The Bulgarian Constitutional Court applies a three-step examination of compliance with the principle of proportionality. The first step requires that the measures adopted by the legislature do not go beyond what is appropriate and necessary to achieve the legitimate aims pursued by the respective piece of legislation. At this stage the Constitutional Court makes an assessment of the specific legitimate aim as well.

Secondly, the Constitutional Court establishes whether there are alternative measures that can be taken, and which is the least burdening. At this stage, to establish which measure is the least burdening one, the Court clearly and accurately outlines the content and scope of the rights that are or could be affected. An example of the assessment that the Court makes at this stage is the following: '*This unclarity makes it difficult to identify the interests at the core of the rights, and this is important for assessing the compliance of a restrictive measure with the principle of proportionality*' (in Decision no. 8/2019 in constitutional case no. 4/2019).

Thirdly, the Court makes an assessment whether the inconvenience caused is proportionate to the aims pursued, i.e. whether at the end of the day there is a sound balance between measures and results. The Constitutional Court refers to this stage as an act of balancing: '*Balancing is an important part of the assessment of compliance of a restrictive measure regarding a fundamental right, in the present case – the right to freedom of expression – with the principle of proportionality underlying all modern constitutional democracies. It allows to consider the specific circumstances of every individual case'* (in Decision no. 8/2019 in constitutional case no. 4/2019). The Court reaches a similar conclusion in another case as well: '*The aim pursued by the law is legitimate – combating the specified criminal offences in the cases provided for in the Criminal Code. However, the means employed by the legislature does not correspond to the aim pursued insofar as a person whose conduct is not criminal is being sanctioned, thus it is disproportionate*' (in Decision no. 12/2021 in constitutional case no. 10/2021).

'*The assessment whether a legislative solution is proportionate or not is not made in the abstract. The proportionality of the protected aim and the means employed is rather established by juxtaposing the two. Therefore, the constitutionality of the challenged provision of Article 10, para 1, second sentence of the Customs Act will be conditional on the question whether the restriction of the right to work introduced by this provision is necessary, appropriate and proportionate to achieve the result pursued in a state governed by the rule of law that is called to protect the rights and freedoms of all its members in a balanced way (Decision no. 2/2011 in constitutional case no. 2/2011)'* (in Decision no. 7/2019 in constitutional case no. 7/2019).

Furthermore: '*It is essential in the present case to assess whether initially the legislative aim that justified the adoption of the challenged provision is legitimate in the light of the Basic Law, and whether the restriction that has been introduced is a necessary, appropriate and proportionate legal means to achieve the result provided for in the Constitution in the context of a democratic society where individual rights and freedoms must be protected in a balanced way vis-à-vis the public interest. What the Constitutional Court pointed out in its Decision no. 3/2021 in constitutional case no. 11/2020 applies fully to the present case, namely that 'limitations of the freedom of movement would pursue a legitimate aim within the meaning of the constitutional provision in question if they are necessary to afford priority protection of another constitutionally significant interest that is subject to constitutional protection, and if*

	the limitation of the individual right is proportionate to the protected interest that is subject to constitutional protection'. In view of the foregoing, no such interest may be identified in the present case since the provision aims solely to ensure better recovery of fines, without effectively ensuring road safety. However, recovery of fines is the subject of an individual regulation which, should be considered ineffective, must be improved by amendments to the respective legislative act. In sum, it must be pointed out that by virtue of the challenged provision the limitation of the specific fundamental right is applied in relation to persons whose conduct does not affect the values that are constitutionally enshrined in Article 35, para 1, second sentence of the Basic Law, namely protection of national security, public health and the rights and freedoms of others. The limitation in Article 159, para 2 of the Road Traffic Act is not an appropriate and proportionate means to achieve a constitutionally legitimate aim in the context of a democratic society which is called to protect the rights and freedoms of all its members in a balanced way' (in Decision no. 6/2023 in constitutional case no. 7/2023).
22.	**Does your Court go through every applicable limb of the proportionality test?**
	Yes, as has been explained in detail in the answer to questions nos. 20 and 21.
23.	**Are there cases where your Court accepts that the impugned measure satisfies one or more stages of the proportionality test even if there is, on the face of it, insufficient evidence to show this?**
	The proportionality test involves an assessment as to whether the aim pursued is constitutional, whether the measures employed for achieving this aim are not excessive, and whether there are alternative measures to achieve the same aim. Such an assessment requires often to enter in specific details of the envisaged measures and their alternatives. In its case-law the Constitutional Court examines the possible existing legislative solutions and their feasible alternatives. Cf. the case-law cited in the answers to questions nos. 20 and 21.
24.	**Has the inception of proportionality review in your Court's case-law been concomitant with the rise of the judicial deference doctrine?**
	No such trend is being observed.
25.	**Has the jurisprudence of the ECtHR shaped your Court's approach to deference? Is the ECtHR's doctrine of the margin of appreciation the domestic equivalent of the margin of discretion your Court affords? If not, how often do considerations regarding the margin of appreciation of the ECtHR overlap with the considerations regarding deference of your Court in similar cases?**

	This doctrine is premised on the understanding that the legislature, executive and judiciary of the States parties to the Convention in general act in accordance with the rule of law and human rights, and thus their discretion and description of the national context in cases referred to Strasbourg may be trusted. Since the Constitutional Court is not part of the judiciary and deals with human rights in an abstract manner, compliance with the ECtHR case-law is pursued insofar as the latter is deemed a pan European basic standard that needs to be abided: *'The Constitutional Court has endorsed the following understanding as regards applicability of the case-law of the ECtHR, namely that 'ECHR norms in the area of human rights* have *pan-European and universal significance for the legal order of the States parties to the ECHR, and thus constitute norms of the European social. Therefore, the interpretation of the respective constitutional provisions pertaining to human rights must take the highest possible regard to the interpretation of the ECHR norms. This principle of interpretation in conformity with the ECHR further complies with the compulsory jurisdiction of the European Court of Human Rights as regards interpretation and application of the ECHR that Bulgaria has recognized internationally' (Decision no. 2/1998 in constitutional case no. 15/1997, likewise Decision no. 3/2011 in constitutional case no. 19/2010, Decision no. 1/2012 in constitutional case no. 10/2011, Decision no. 11/2022 in constitutional case no. 3/2022)'* (in Decision no. 14/2022 in constitutional case no. 14/2022). The Constitutional Court perceives the margin of appreciation doctrine as an opportunity for the Constitutional Court to interpret rights within the framework of what the Constitution prescribes: '*The foregoing renders the conclusion that the Constitutional Court, in accordance with the competence extended to it by the Constitution, is authorized in the present interpretative proceedings and has the duty to give a binding interpretation of the Basic Law in relation to the notion of gender in line with the understanding of the constitutional legislature whose will it determines whenever it exercises its interpretative powers*' (in Decision no. 15/2021 in constitutional case no. 6/2021).
26.	**Had the ECtHR condemned your State because of the deference given by your Court in a specific case, a deference that has made it an ineffective remedy?**
	The ECtHR has found no violations in relation to Bulgaria following a decision of the Constitutional Court. Below are given some examples of judgments of the ECtHR where decisions of the Constitutional Court have been considered. European Court of Human Rights (Applications nos. 38948/10 and 8954/17) - Court (Fourth Section) - Judgment (Merits and Just Satisfaction) - CASE OF SAKSKOBURGGOTSKI AND CHROBOK v. BULGARIA. The case concerns the attempts of the applicants – the former King and Prime Minister of Bulgaria and his sister – to obtain the restitution of former properties of the Crown that were confiscated

	by the State after 1946. In its decision of 1998, the Constitutional Court declared unconstitutional the 1947 law whereby the properties of the Crown were declared State property. Subsequently the State sought to restore its ownership of the challenged properties; some of the proceedings ended with judgments in favour of the State. The national courts concluded that the properties were not private property of the kings and in any case, there was no ground for restitution. The applicants relied mostly on Article 1 of Protocol No. 1 (protection of property) to the Convention. CASE OF A.E. v. BULGARIA (Application no. 53891/20) and CASE OF Y AND OTHERS v. BULGARIA (Application no. 9077/18) In this case in particular the ECtHR does not establish a direct relation between the decision of the Constitutional Court and the direct violation of rights: '*As for the non-ratification of the Istanbul Convention, the Court is mindful of that Convention's importance for raising the standard in the field of protection of women from domestic violence and thus also for the realisation of de iure and de facto equality between women and men. The refusal to ratify the Istanbul Convention could thus be seen as lack of sufficient regard for the need to provide women with effective protection against domestic violence. The Court is however not prepared in this case to draw conclusions from Bulgaria's refusal to ratify that Convention in 2018. Firstly, that refusal took place about seven months after Mrs V.'s killing (see paragraph 71 above). Secondly, the refusal – as can be seen from the reasons for the July 2018 judgment of the Bulgarian Constitutional Court which dealt with the question whether that Convention was compatible with the Bulgarian Constitution (see paragraph 73 above) – was based on considerations which the Court finds unrelated to a reluctance to provide women with proper legal protection against domestic violence. It is in any event not for the Court, whose sole task under Article 19 of the Convention is to "ensure the observance of the engagements undertaken by the High Contracting Parties in the Convention and the Protocols thereto", and whose jurisdiction only extends, by Article 32 § 1, to "matters concerning the interpretation and application of the Convention and the Protocols thereto", to pronounce, directly or indirectly, on whether a Contracting State should ratify an international treaty, which is an eminently political decision (see paragraph 74 above, and compare, mutatis mutandis, Perinçek, cited above, §§ 101-02).* *131. In the light of the foregoing, the Court is not persuaded that the applicants have succeeded in making a prima facie case of a general and discriminatory passivity on the part of the Bulgarian authorities with respect to domestic violence directed against women'.*
27.	**How often does the issue of deference arise in human rights cases adjudicated by your Court?**
	Individual fundamental rights enjoy the highest level of protection. Thus, the Court exercises no self-restraint but instead determines in every individual case whether the Constitution allows for limitations of a fundamental right. According to the

	Constitutional Court, it is solely considerations of a constitutional ranking that may justify limitations of citizens' rights enshrined in the Constitution. The Constitutional Court sets the following standard for fundamental rights protection: '*The case-law of the Constitutional Court is consistent that limitations of fundamental rights are admissible and feasible only when this is necessary for the preservation of superior constitutional values such as protection of the basic constitutional order, including national sovereignty, separation of powers, the form of state organization and state government etc., or to prevent that other essential public interests be affected such as national defence and security or effecting the principles and aims of national foreign policy. It is mandatory however that, in line with the principle of proportionality, these limitations are proportionate to the aim pursued and do not go beyond what is necessary to achieve this aim (Decision no. 12/1997, Decision no. 14/2014 of the Constitutional Court). In the present case the challenged law pursues the afore-mentioned aim of making available jobs for young and highly qualified employees through the so-called 'incompatibility' that it introduces. Thus, it is a disproportionate measure that cannot justify interference with fundamental constitutional rights such as the right to work and the right to social security'* (in Decision no. 3/2019 in constitutional case no. 16/2018). The Constitutional Court is consistent in its case-law that 'in general limitations of any right are admissible only when this is necessary for the protection of superior constitutional values' (in Decision no. 10/2017 in constitutional case no. 10/2016).
28.	**Has your Court have grown more deferential over time?**
	The situation of political instability in the last year in Bulgaria that led to difficulties in forming and preserving parliamentary majority, and subsequently to a number of care-taker governments affected the nature of the requests with which the Constitutional Court was seized. Namely they were of such a nature that the Constitutional Court had to reaffirm clearly its practice to refrain from trespassing the competence of political authorities and to respect the role afforded to them by the Constitution of determining the political agenda of the country.
29.	**Does the deferential attitude depend on the case load of your Court?**
	The Constitutional Court policy of deference is not related to its workload. The Constitutional Court guarantees the supremacy of the Constitution and thus reviews a limited number of cases. Cf. the answer to question no. 1 for more details regarding the competence of the Constitutional Court. Article 30a of the Rules of Procedure of the Constitutional Court stipulates that '*the Court shall deliver a decision within two months unless provided otherwise in a law*'.

	The Constitutional Court may pronounce its decision after the two-month period in case of substantial legal complexity of the specific legal issues. Thus, the workload is irrelevant to the Court's policy of deference.
30.	**Can your Court base its decisions on reasons that are not advanced by the parties? Can the Court reclassify the reasons advanced under a different constitutional provision than the one invoked by the applicant?**
	Pursuant to Article 22, para 1 of the Constitutional Court Act, '*when delivering a decision, the Court shall pronounce only on the request made; it shall not be bound by the alleged incompliance with the Constitution*'. It may review and respectively establish unconstitutionality on grounds on which the applicants do not rely and justify its decisions with arguments which the parties have not raised. In many of its decisions the Constitutional Court has expressly held that differences between the alleged content of the challenged provision which justifies the applicants' claim of unconstitutionality, and the actual content of the said provision cannot result in discarding the request for a constitutional court ruling as inadmissible. This would be tantamount to the Constitutional Court refusing to exercise its powers under Article 149, para 1, item 2 of the Constitution. Since the Court may review the request on grounds that are different from the ones stated in the request, per argumentum a fortiori, the Court, even when it establishes incorrect interpretation of the challenged provisions, shall admit the request in order to exercise a review of constitutionality (Decision no. 2/2004 in constitutional case no. 2/2004). Relevant case-law of the Constitutional Court: Decision no. 3/2012 in constitutional case no. 12/2011; Decision no. 30/1998 in constitutional case no. 23/1998; Decision no. 5/2005 in constitutional case no. 10/2004. *'However, when the Constitution itself restricts the procedural legitimacy to address to the Court, the latter ex officio review may not go beyond these. The opposite would result in extending the powers of the applicant that the Basic Law expressly restricts, and would place the applicant on an equal footing with those entities which are authorized to seize the Constitutional Court without any restrictions as to the admissible* (Decision no. 11/2018 in constitutional case no. 8/2018).
31.	**Can your Court extend its constitutionality review to other legal provision that has not been contested before it, but has a connection with the applicant's situation?**
	The Constitutional Court of the Republic of Bulgaria pronounces only on the requests made, in accordance with the express provision of Article 22 of the Constitutional Court Act and the decisions delivered pursuant to it: Decision no. 13/2012 in constitutional case no. 6/2012; Decision no. 3/2014 in constitutional case no. 10/2013; Decision no. 9/2002 in constitutional case no. 15/2002; Ruling of 15 January 2002 in

	constitutional case no. 17/2001 г. (Section B); Decision no. 13/2002 in constitutional case no. 17/2002.