
INTRODUCTION

Judicial reform in Bulgaria started in the beginning of the nineties as part of the process of political, economic and social transformation in the context of transition to democracy. As it has very specific functions and a peculiar place within the system of State power, the Judiciary is believed to have a paramount role for the successful completion of that transition in general, for the promotion of the rule of law by ensuring institutional stability and protecting fundamental rights, and for the efficient suppression of corruption as a major problem of the transitional period that is still to be resolved. The progress in reforming judicial branch of power will largely predetermine the successful accession of Bulgaria to the European Union and the country's future membership. Therefore, the level attained in reforming the legal system and the system of the Judiciary are perpetually monitored and regularly assessed by numerous international organizations and institutions, as well as by domestic civic organizations and initiatives whose basic instruments and programmatic documents also contain proposals as to how judicial reforms should proceed further. From among those, the following could be singled out:

- the European Commission, via its annual Regular Reports;
- *Coalition 2000* (www.anticorruption.bg), the most influential anti-corruption initiative in Bulgaria, via its *Clean Future Anti-Corruption Action Plan* and its *Corruption Assessment Reports* (provided on an annual basis since 1999, in particular their sections on the legal, institutional and judicial reforms analyzed against the background of the status and dynamics of corruption), and via the corruption indexes which form the major product of the *Corruption Monitoring System* (the levels of those indicators are updated every quarter based on empirical data);
- *Judicial Reform Initiative* (www.csd.bg/jri) which brings together the efforts of eminent Bulgarian professional associations and non-governmental organizations involved with the problems of judicial reform, and representatives of government agencies, via its *Program for Judicial Reform in Bulgaria* drafted in 1999-2000 and its follow-up initiatives;
- The *EU Accession Monitoring Program* of the Open Society Institute, via its reports on the capacity of the Judiciary in accession countries (www.eumap.org);
- Central and Eurasian Law Initiative of the American Bar Association (www.abanet.org/ceeli) via the *Judicial Reform Index* which is based on the assessment of a set of factors and criteria;
- United Nations Development Program (UNDP), Bulgaria, via the

projects *Comprehensive Review of the Administrative and Commercial Justice Systems in Bulgaria* (1 June 2002 to 31 March 2003) and *Improving Juvenile Justice* (October 2002 - March 2004), implemented in partnership with the Ministry of Justice of Bulgaria (www.undp.bg/bg/projects/projects.php);

- Research by and the Country Assistance Strategy of the World Bank, especially with respect to legal and judicial reforms and the suppression of corruption (www.worldbank.bg).

Irrespective of some shadings, all those assessments and reports mirror the shared understanding that a number of important issues are still on the agenda of judicial reforms in Bulgaria, such as the need to achieve legal stability and confidence in the Judiciary, to provide conditions for a more efficient and transparent administration of justice, to put internal monitoring mechanisms in place to resist corruption and the misuse of powers within the Judiciary, to provide for guarantees against any possible politicization of the Judiciary.

The problems of corruption affect most painfully the perceptions of the Judiciary in the country and the assessment of its work. The key units of the Judiciary are called upon to investigate, and impose penalties for, corrupt crimes. Any failure to fulfil, or to fulfil on time, those functions therefore perturbs public confidence in the Judiciary. Even worse, the existence of corruption with the Judiciary brings harm to the society and to the State, and perverts the very nature of the Judiciary, while preventing it from carrying out the functions vested in it by the Constitution and by the laws, namely to protect the rights and the lawful interests of citizens, legal entities and the State.

In addition to the prevailing impunity of corruption that is widespread in all spheres of society, the instances of corruption inside the Judiciary are so much more demoralizing as they undermine the very ideas of justice, democracy and the rule of law. Simultaneously with the pressure of civil society in Bulgaria for serious measures for judicial reform to be undertaken, including *inter alia* an effective fight against corruption in the Judiciary, and given the numerous critical evaluations of the Bulgarian judicial system (e.g. the regular reports released by the European Commission and other forms and instruments of international monitoring), a growing number of magistrates come up with specific ideas and suggestions as to how the Judiciary should be reformed and how corruption should be resisted.

The *Judicial Anti-Corruption Program* has been developed by lead members of the legal professions in Bulgaria, including magistrates, and has emerged from the joint efforts of influential non-governmental organizations, representatives of Government agencies and experts to ensure the successful implementation of judicial reform in Bulgaria. The Program builds on the suggestions made in the *Program for Judicial Reform*, on a number of measures from the *Government Strategy for Reform of the Judiciary in Bulgaria* and on the steps proposed within the framework of various civic anti-corruption initiatives and international instruments for monitoring and evaluation of judicial reform in Bulgaria, while focusing on the prevention and suppression of corruption inside the Judiciary. In the drafting process, the results have been taken into consideration of the public opinion polls on judicial reforms, on the amendments to the

Constitution and on corruption in the Judiciary, in particular the survey by the National Public Opinion Center with the National Assembly (July-August 2002), *Proposed Amendments to the Constitution of Bulgaria*¹, and the survey *Corruption and Anti-corruption: The stand of magistrates* (April - May 2003), conducted by the Vitosha Research Agency within the framework of the Corruption Monitoring System of *Coalition 2000*².

The *Judicial Anti-Corruption Program* **delineates the parameters for a comprehensive crackdown on the problems faced by the Judiciary and for a radical change inspired by a long-term objective**. The specific short-term measures and suggestions also form part of that broad context and are consistent with its fundamental goal, *i.e.* building up a working, stable, corruption-free Judiciary which is the most efficient tool to promote the rule of law and to rein in corruption in society.

It becomes increasingly important to address the problems in the Judiciary, including those that require the implementation of anti-corruption measures, on the basis of consensus among the political forces in Bulgaria, on the one hand, and between those political forces and the civil society, on the other hand, moreover with the active involvement of all bodies of the Judiciary. The *Declaration on the Guidelines to Reform the Bulgarian Judicial System* signed on 2 April 2003 by the political forces represented in Parliament could well serve as a point of departure in search of a genuine, broad consensus to achieve the stated objectives of judicial reform.

The present Program aims to support that process and to contribute to arriving at social and political consensus on the overarching guidelines and principles, as well as on the urgent measures and the long-term goals of judicial reforms.

¹ The survey was conducted within the framework of the fifth round of the research project *The Expert Opinion of Bulgarian Lawyers* and covers expert opinions from 120 Bulgarian professionals with a legal background (MPs, legal experts, judges, attorneys, in-house lawyers, prosecutors, investigators and university professors).

² The survey involved 454 magistrates from all over the country. The individual respondents were selected accidentally within three main groups, namely 179 judges, 126 prosecutors and 149 investigators.