



REPORT
ON THE ACTIVITIES OF THE BULGARIAN JUDGES ASSOCIATION
for the period November 2013 – October 2014

I. INTERNAL ORGANISATIONAL DEVELOPMENT

1.1 Membership

Currently, the BJA has 948 members. Twelve (12) new members joined the organisation during the reporting period.

1.2. Project funding

During the reporting period the BJA implemented the following projects:

- Project 'Strengthening of the capacity and solidarity of the community of judges', financed by the America for Bulgaria Foundation, to be implemented in the period 2012-2014 with a budget of BGN 420 000. The project implementation period has been extended until 5 July 2015;
- Project 'Building a favourable environment for an independent judiciary in Bulgaria', financed by the government of the Kingdom of the Netherlands, to be implemented in the period 2013-2016 with a total budget of EUR 150 390;
- The BJA is an associated partner under the international project EPOGENDER, financed by the European Commission under the DAPHNE Programme and implemented by the Barcelona Autonomous University, the University of Tarragon and the University of Szczecin, Poland.

We have **submitted an application** under project 'Child protection rights — European conference for family law experts for improvement of co-operation in cases of child abduction by parents'.

The organisations *Bundesverband Mediation e.V.* (Association for Mediation in Germany) and *MIKK e.V.* (Association for Mediation in International parental Conflicts) have invited the Bulgarian Judges Association as an associated partner under the abovementioned project. The main focus of the project is on the organisation of a conference dedicated to the best interests and wellbeing of children in cases of international abduction by parents. The conference will take place in December 2015 or January 2016 in Berlin, Germany.

Target group — the conference will be organised for judges from the EU working on cases involving international abductions of children. The goal of the conference is to protect the best interest of children and their wellbeing.

In particular, the aim is to facilitate co-operation in child abduction cases between judges from the Continental and common law legal systems and promote mediation as an instrument to be used in such cases.

Expected outcome

With an aim of facilitating cooperation between judges, the participants will gain:

- an understanding of cultural differences (for example the concept of child best interest and wellbeing);
- valuable professional contacts between judges in different EU member States.

With regard to the promotion of mediation as an instrument, the participants will focus on:

- the goals and potential of mediation;
- mediation methods, including the intercultural aspects of mediation;
- the procedures used in other countries to encourage prosecutors and defendants to use out-of-court settlement methods and ensure that legally binding and enforceable decisions are reached.

The main focus of work under the project will be on practical issues relating to the protection of child rights in the case of international abductions. For this reason, there will be a limited number of general presentations, the main focus to be placed on discussing different topics in small working groups.

1.3 Membership fee

On the basis of a decision adopted by the Managing Board (MB) an additional module of the BJA website was developed, which enables the online payment of annual membership fees in instalments to be chosen by the payee. According to the decision the option enables payment of the membership fee for the current and previous year, in case members are unable to afford outstanding fees due for earlier periods.

During the current reporting period the trend toward partial and payment of the membership fee at irregular intervals — with payment made to the various sections of the organisations being used as the principal method — has persisted. Greater initiative was registered during the workshops organised in Nesebar. The membership collection rate during the period is 20.45 percent.

1.4 Administration: During the reporting period the staff consisted of a technical project coordinator, a technical assistant and an accountant working on a full-time basis whose salaries are paid from project funds.

- a record of all decisions adopted by the MB of the BJA is kept on a regular basis;
- an itemised membership fee payment spreadsheet is kept;
- An accounting company has been hired, which handles the financial reporting requirements in accordance with project specifications and draws up the consolidated balance sheets and financial reports of the BJA;

1.5. Website

During the reporting period the website has been updated in Bulgarian and English on a regular basis. A new module enabling the online payment of membership fees through the BJA website has been added.

The following new sections have been incorporated into the structure of the website:

- 'Good practices', including national and international case-law and experience;
- Inspector-General of the Judiciary — a section dedicated to the consultations conducted within the professional community in connection with the nominations for the position Head of the Inspectorate-General of the Supreme Judicial Council (SJC) put forth by judges. The public hearing was broadcast live on the BJA website and has been watched by more than 800 viewers.

We attempt to keep you informed about different possibilities for professional development (training events abroad, case-law of the international courts, blog publications) and the practice of other countries on issues that are relevant to the Bulgarian judiciary.

Webpage maintenance and new publications are handled by the administrative staff of the BJA.

1.6. BJA Profile on Facebook — during the reporting period the profile continued to be maintained by Judge Miroslava Todorova. It is updated on a regular basis with publications dedicated to the work of the BJA and news updates about developments in the judiciary.

1.7. We have continued to publish the *Sadiyski vestnik* (Judicial Newspaper), edited by Judge Ivan Georgiev, Judge Emanuela Balevska and Justice Elena Avdeva, with technical support from Judge Vasil Petrov, Dimitar Mihaylov, attorney-at-law, and Boryana Kovachka. During the reporting period issues 2, 3 and 4 for 2013 were published, featuring publications by 15 authors. The newspaper is published on the BJA webpage and is sent to all members of the organisation.

II. ACTIVITIES PROMOTING THE INDEPENDENCE OF THE JUDICIARY —improving the quality of justice administration and management of the judiciary, raising professional skills and qualifications, developing a caseload standard and performance evaluation:

Managing Board policy aiming to safeguard institutional independence

2.1. SJC model and administration of the affairs of the judiciary

1. In November 2013 we sent a letter to the representatives of the legislative, executive and judiciary branches of government in respect of budget 2014;

2. On 19 November 2013, along with 5 other organisations from the Civil Council to the SJC, we sent a joint letter on the rules governing random case assignment;

3. With regard to the three-day time period envisaged in the rules of procedure for the nomination of candidates for the position of Inspector-General of the Judiciary during the Christmas holidays, on 26 December 2013 we sent a letter to the 42nd National Assembly, calling for transparency in top appointments in the judiciary;

4. With regard to the hearing of Veselina Teneva — one of the nominated candidates for the position of Inspector-General of the Judiciary — and the media publications, which raise concerns about her property, on 10 January 2014 we asked the Ethics Committee under the jurisdiction of the SJC to conduct a detailed check of the allegations made and publish its findings and conclusions;

5. On 7 February 2014 we organised a conference dedicated to the ***necessary amendments to the Judiciary Act (JA) in order to reform the model of administration of the judiciary*** at which we yet again presented our proposals for amending the JA;

6. On 10 February 2014 we published the rules for conducting the internal consultations with the judiciary for the nomination of candidates for the position of Inspector-General and the candidate profile. The consultations ended with a public hearing of the candidates conducted on 21 March 2014.

7. On the occasion of the media reports concerning the requested recusals of two panel presidents in the criminal trial against Tsvetan Tsvetanov, former Minister of Home Affairs, on 12 February 2014 we expressed an opinion in principle without discussing any particulars of the ongoing trial. We have drawn up an opinion on recusal, which we published in order to initiate a discussion within the professional community. Recognising the importance of the discussion of the topic for the professional community, we have also opened a discussion thread on our website forum.

8. On 17 February 2014 we considered it necessary to inform the public of the legislation governing the property of the Islamic faith in Bulgaria, including the intergovernmental treaties to which Bulgaria is a party, in response to the events in Plovdiv on 14 February 2014 — the date on which the Plovdiv Appellate Court heard the dispute in respect of the ownership of *Kurshum djamia* (the Bullet Mosque) in Karlovo;

9. In connection with the statements made by Rumen Petkov at a press conference on 26 February 2014 in respect of the judgments delivered by a judge and the inappropriate discussion, by Lyutfi Mestan, MP, of the rulings in a pending case, we issued a strong-worded statement, reminding that in a democratic State active politicians should refrain from undermining the authority and respect of the judiciary in society;

10. On 28 March 2014 we addressed SJC members and the Minister of Justice, insisting that public consultations be launched on the drafted amendments to the Judiciary Act, and more specifically the proposal to split the SJC into two chambers and the direct election of the judges, prosecutors and investigating magistrates sitting on them.

Until the amendments in question enter into force, we insisted that the Supreme Judicial Council develops rules that preclude career developments matters and disciplinary cases against judges being decided by prosecutors — a thoroughly inadmissible approach from the point of view of international standards.

11. On 18 July 2014, we wrote to the SJC in connection with the decision adopted on 10 July 2014 by which it refused to accept the proposed changes of the rules for the selection and appointment of presidents of the Supreme Court of Cassation and the Supreme Administrative Court and Prosecutor-General. In our opinion, in the case in question—and in a number of other cases—the involvement of civil society and professional organisations in formulating questions that are highly relevant to the reform of the judiciary, is regarded as purely formalistic. This is the reason for our decision to withdraw from further participation in the work of the Civil Council to the JSC;

12. On 14 August 2014, the BJA, acting jointly with 7 other non-governmental organisations, sent a letter to the SJC in which we state our position on the use of voting machines when selecting administrative managers of courts and requested that an expert appraisal of the system's security and reliability be conducted;

13. On 8 September 2014, along with 9 other non-governmental organisations, we published a concept paper on the updated strategy for continued reform of the judiciary. The paper was submitted to the Ministry of Justice on 9 September 2014;

14. We have conducted a study of the systems for the selection of jury members and lay judges in eight countries.

In its work, the BJA has mainly relied on public opinions, statements for the press and open letters, which are accessible on the website of the organisation and have received extensive media coverage.

2.2 Along with our activities dedicated to upholding and safeguarding judiciary independence, we have worked to ensure the **protection of specific professional rights and interests of the community**, attempting to respond to all problems that occurred with implications for the administration, staffing and functioning of the judiciary.

1. Judge Ekaterina Nikolova was actively involved in the work of the group tasked with developing a draft law amending and supplementing the JA in connection with the implementation of e-justice;

2. The main contribution in the work of the organisation was at expert level — drawing up opinions on draft laws and organising different training events.

By the end of March 2014 Judge Tanya Marinova, Judge Vesislava Ivanova, Judge Atanas Atanasov and Justice Borislav Belazelkov participated in the meetings of the Civil Council to the SJC and presented the BJA proposals on the proposed strategies to reform the judiciary, ensuring their objective monitoring:

Our impression is that the body failed to commence work efficiently and as intended because of agendas being imposed by the SJC and its decisions and recommendations failing to be discussed by the responsible working groups of the Council.

At the meeting on 22 October 2013 Judge Tanya Marinova noted that the work of the Civil Council was becoming increasingly bureaucratic. 'I believe that neither the co-chairs nor the coordination council should seek to determine which of the proposed items on the agenda has greater or lesser significance. The Civil Council was set up as an advisory body in order to be able to calmly discuss the problems that the judiciary encounters. Hence each proposal should make its way to the agenda. There have been several cases where we have discussed the ideas of the respective organisations and then had an opportunity to include the item in the agenda a long two, and even four, months later, when the SJC has

already agreed a position on the issue at hand is ready to adopt a decision without a possibility to review it. In my opinion, we should stay away from further bureaucratization of the procedure thereby allowing others to speak on behalf of the Civil Council’.

At the meetings held on 29 November 2013 and in December 2014 we participated actively in the discussion of the changes proposed by the SCJ to the Performance Evaluation Methodology, laying an emphasis on the measures that could be taken to ensure that individual performance evaluation committees applied a single set of uniform criteria and that the quality, and not only the number, of judgments be taken into account when assessing the performance of judges. Further problems relating to the performance evaluation of seconded judges were discussed and we resolutely opposed the discriminatory approach of lowering the evaluation of judges due to a lower caseload in the judicial district in principle.

At the same meeting IT experts, proposed by the Civil Council, were selected for the purpose of conducting an expert appraisal of the system for random case assignment currently in place. Regrettably, the experts were not allowed to conduct an in-depth study of the systems in question due to the lack of cooperation on the part of the SJC.

At the meeting on 7 March 2013 Justice Borislav Belazelkov participated in the discussion of the annual report on activity of the SJC and the proposals for the performance evaluation of justices of the Supreme Court of Cassation and the Supreme Administrative Court.

The BJA working group developed a proposal for the SJC in the form of draft rules on conducting competitions for junior judges and prosecutors and for the initial appointment, promotion and secondment of judges, prosecutors and investigating magistrates.

3. We have consistently endeavoured to notify the SJC of any practical problem that occurred so as to enable it to take the necessary action and ensure a consistent application of the adopted rules.

- In April 2014 we wrote to the SJC due to its failure to respond in a timely manner to publicly disseminated information about attempts to exercise undue influence on judiciary bodies in the course of performing their duties (the information was disclosed by the President of the Sofia Appellate Court at a press conference).

- In June 2014 we voiced our concern before the Members of Parliament over information that the Parliament did not intend to conduct a procedure for the selection of an Inspector-General;

- With regard to a letter received from Judge Maria Zlatareva, raising issues relating to the procedure for the secondment of judges, the significance of social criteria and the possibilities to make arrangements with judges with disabilities, a working group has been set up in order to discuss the problems and draw up a proposal to be submitted to the SJC.

4 The group tasked with developing a standard for the workload of judges has actively continued its work

- On 27 April and 26 July 2014 in Sofia two working meetings took place at which an analysis was conducted and the possibility discussed to draw up a proposal on the amendment of certain laws governing the jurisdiction of courts with a view to ensuring a more balanced workload of magistrates. Three working groups were set up for criminal, civil and administrative lawsuits, respectively. The working meetings were attended by judges from the Supreme Court of Cassation, the Supreme Administrative Court, courts in Sofia, Burgas, Plevna, Burgas, Lovech, Lukov, Dryanovo, Stara Zagora and Montana;

- The representatives of the SJC — the justices Albena Boneva, Lada Paunova, Vesislava Ivanova, Ekaterina Nikolova and Vladimir Penzov — also attend the working meetings of the commission responsible for the analysis and reporting of the caseload of the bodies of the judiciary under the jurisdiction of the SJC.

We would like to acknowledge the valuable contribution to the preparation of the workload study conducted by the SJC amongst all judged of the following colleagues: Anna Baeva—Sofia Appellate Court; Veronica Nikolova—Sofia Appellate Court; Galina Ivanova—Sofia City Court; Hripsime Magardichyan—Sofia City Court, Desislava Popkoleva—Sofia City Court; Tatyana Kostadinova—Sofia Regional Court; Vladimir Valkov—Sofia Regional Court; and Denitsa Savova—Varna Regional Court.

5. The BJA has commenced a study of the problems relating to performance evaluation and competitions

On 17 and 18 May the first meeting of the working group took place in Arbanasi. It was attended by judges from courts in Burgas, Novi Pazar, Pirdop, Plevan, Pomorie, Razlog, Ruse, Smolyan, Sofia, Stara Zagora, Shumen and Yambol. A structure has been set up and organisational arrangements for the work of performance evaluation commissions have been set up; the goals of performance evaluation have been defined and the mechanism for efficiency and objective appraisal of performance evaluation, including the underlying criteria, developed.

- Two types of questionnaires were developed to be used for performance evaluation and competitions, respectively. They have been sent to all members of the BJA and the results received have been processed and summarised;
- a second meeting took place in Stara Zagora on 4 to 6 July 2014. At the meeting the proposals on performance evaluations and competitions received up to that date were discussed; the results of the two surveys were reviewed and specific proposals to be submitted to the SJC for the purpose of drawing up the necessary amendments to the JA were deliberated;
- The Justices Kapka Kostova and Lada Paunova continued to participate in the working groups of the SJC tasked with reforming the model of performance evaluation and competitions.

6. The implementation of the project ‘Creating a favourable environment for an independent judiciary in Bulgaria’ has commenced.

- On 11 and 12 February 2014 the Bulgarian Judges Association organised the first working meeting under the project to discuss the main project issues and topics. The meeting was attended by 15 judges from the BJA and the following representatives of the Dutch Association the Judiciary (NVvR): Maria van de Schepop, chairperson; Maud Zenden and Esther Davidson. As special guests we welcomed His Excellency Tom van den Oorschot, Ambassador of The Netherlands to Bulgaria, and Professor Lazar Gruev, chairperson of the Supreme Court of Cassation. In their address to participants they expressed their satisfaction with the cooperation between the Dutch and the Bulgarian associations of judges;
- Between 10 and 14 June a working group from the Bulgarian Judges Association visited the Netherlands on a study visit to exchange experience and good practices on key issues for the judiciary. The delegation was broadly representative — it included 7 judges from 4 towns and different levels of the judiciary and each of the working groups under the project;
- Active work has commenced to compile statutory acts governing the judiciary from the Liberation period to date, as well as significant judgments and international legal and research papers on the status of judges and the independence of the judiciary (creating an online portal and e-library).

7. Training and professional qualification

- . On 17 January 2014 a workshop dedicated to the **New concept of legal capacity according to the UN Convention on persons with disabilities**. The event was organised by the Bulgarian Judges Association in partnership with the Bulgarian Non-Business Law Centre with the support of the Open Society Foundation;
- In April the BJA, jointly with the Academy of the Ministry of the Interior, organised role-playing exercises under the motto ‘A to Z of a criminal trial’ with the active involvement of the Justices Tanya Marinova, Nelly Kutzkova and Vladimir Valkov;

- We have continued to organise mock trials for children in an effort to raise awareness of the work of courts and strengthen the legal culture and awareness of children;
- We have actively participated in the organisation of a talk by the Norwegian Professor Nils Christie on 28 April 2014 in Sofia. On 29 April 2014 we held a round table with the participation of Professor Christie dedicated to restorative justice;
- In the period November 2013 until October 2014 the BJA organised the following training workshops and discussions:
 - **Blagoevgrad:** Techniques for handling stress and stress resistance of magistrates with the participation of Rumen Petrov, lecturer at the NBU. The event was followed by a discussion with Kalin Kalpakchiev, member of the SJC;
 - **Shumen:** Regarding the rectifiable material breaches of procedure within the meaning of the Criminal Procedure Code during the pre-trial and trial phases as grounds for remanding cases to the prosecution service, respectively the lower court. The specific provisions of interest were Articles 248(1)(3), 288(1), 335(2) in conjunction with 348(3)(1), (2) and (3) of the Criminal Procedure Code. They were discussed by Justices Miroslava Todorova and Atanas Atanasov;
 - **Sofia:** Special features of civil lawsuit proceedings in cases involving an international element. Determining international jurisdiction — Boryana Museva, PhD;
 - **Nesebar:** Evidentiary burden — Justice Albena Boneva; E-document and e-signature Justice Borislav Belazelkov and Georgi Dimitrov, attorney-at-law; Protection of human rights in Community law — Hristo Hristev, PhD;
 - **Nesebar:** workshop dedicated to the Liability of the Central and Local Governments for Damages Act — Judges Iskra Aleksandrova, Janeta Petrova and Mario Parvanov;
- In October 2014 a meeting of the 2013 alumni of the National Institute of Law was organised. It was attended by judges from all parts of Bulgaria. The speakers during the event were the justices Svetlana Kalinova and Tanya Marinova and Rumen Petrov, a lecturer at the NBU.

III. INTERNATIONAL ACTIVITY OF THE BJA

1. On 11 February 2014 a meeting took place between the Justices Tanya Marinova and Borislav Belazelkov and Mr. Decker, World Bank Representative in Bulgaria;
2. On 12 February 2014 a meeting took place between the Justices Svetla Tsacheva, Nelly Kutzkova and Borislav Belazelkov and Mr. Frank Matusek and Ms Agnieszka Nacila (PACE);
3. 13-16 February — Judge Atanas Atanasov participated in the MEDEL Conference in Porto, Portugal;
4. 16-17 June 2014 — Judge Vesislava Ivanova participated in a round table organised by the CEELIN Institute in Prague. The meeting was dedicated to court independence in Central and Eastern Europe;
5. 28-28 June 2014 — Justice Nelly Kutzkova and Judge Vladislava Tsarigradska participated in an international conference dedicated to the Role of the organisations of judges in upholding court independence, organised by the Moldovan Judges Association and the Konrad Adenauer Foundation in Kishinev, Moldova;
6. **Forthcoming event** — 9-14 November 2014 — participation of Justice Nelly Kutzkova (self-financed trip) and Judge Ivan Georgiev in a meeting of MAS in Iguazu, Brazil.

In connection with the decision adopted by the 2013 General Assembly we have submitted an application for membership of the MEDEL, which will be reviewed by the international organisation at its meeting on 21-22 November 2014 in Barcelona.

IV. PARTNERSHIP WITH SIMILAR PROFESSIONAL ORGANISATIONS AND THE NON-GOVERNMENTAL SECTOR

During the reporting period the Bulgarian Judges Association maintained professional contacts with the following national human rights protection non-governmental organisations: the Association of Prosecutors in Bulgaria; the National Association of Court Clerks; the Union of Jurists in Bulgaria; the Bulgarian Institute for Legal Initiatives; the Bulgarian Helsinki Committee; the Open Society Foundation; the European Integration and Human Rights Association; Bulgarian Lawyers for Human Rights; the Institute for Development of the Public Environment; Risk Monitor; the Centre for Liberal Strategies, the NGO Centre in Razgrad, etc.

Our international partners included the International Association of Judges, the European Association of Judges, MEDEL, the Dutch Association for Justice, the Dutch organisation Judges for Judges, the Polish Association of Judges, the National Association of Judges in Romania, and the Moldovan Association of Judges.

V. MEDIA PARTNERSHIP

The BJA has established long-standing relations with different printed and online media and TV programmes and has continued to work with them in close cooperation. During the reporting period different representatives of the BJA have expressed principled positions on topical issues for the judiciary.

VI. FINANCIAL REPORT

Opening balance as at 30 September 2013, including	213,927.54
Cash in hand: 2,417.00 BGN; Bank deposits: 211,510.54 BGN	

Sources of financing during the reporting period:

1. Membership fees	11,962.00
2. Funds available under Project Strengthening of the Solidarity and Capacity of the Community of Judges financed by the America for Bulgaria Foundation	120,000.00
3. Refunds under the Daphne Project	-36,895.24
4. Funds available under Project "Establishing an Enabling Environment for Independent Judiciary in Bulgaria", financed by the Government of the Kingdom of the Netherlands.	143,203.92
Total income:	238,270.68

Expenditure during the reporting period:

1. Organisation of events (discussions, meetings, workshops, round tables, publication of the Judges newspaper etc.	109,962.88
2. Salaries and social, health and pension insurance	80,946.00
3. Accounting fees	2,350.00
4. Redesign of the BJA website	1,280.00
5. Telephone, Internet and postage	2,438.19
6. Translation of legal papers	6,532.40
7. Office supplies	2,040.98
8. Business trips and travel expenses	18,192.12

9. Membership fees (Association of Bulgarian Jurists, IAJ)	869,39
10. Stamp duty and fees (NRA, SCC, BULSTAT)	14.00
11. Banking fees	1,855.06
12. Other expenditure	827.66

Total expenditure: **227,308.68**

Of which:

Project funding: 216,700.72 BGN

Membership fees: 10,607.96 BGN

Balance as at 30 September 2014, including:	224,889.54
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Cash in hand: 1,039.00 BGN, Bank deposits: 223,889.54 BGN

20 October 2014

Sofia

Diagonali Plus Accounting Firm

25 October 2013