



**BULGARIAN JUDGES ASSOCIATION**  
A member of the International Association of Judges  
[www.judgesbg.org](http://www.judgesbg.org)  
[office@judgesbg.org](mailto:office@judgesbg.org)

**INSPECTOR-GENERAL AND  
HEAD OF THE INSPECTION SERVICE  
OF THE SUPREME JUDICIAL COUNCIL**

Dear Mrs. Tochkova,

We write on account of the importance of the case at hand and the refusal of the Supreme Judicial Council to review it in substance and adopt a position, as a matter of principle, on an issue of great consequence for all magistrates in Bulgaria.

With the latest amendments to the Judiciary Act (JA) a set of rules were introduced for conducting checks to ascertain a magistrate's integrity and the absence of conflict of interest and any actions that may harm the reputation of the judiciary, along with checks relating to violation of the independence of judges, prosecutors and investigators<sup>1</sup>.

The scope of the check conducted to verify the independence of each magistrate aims to ascertain whether, in carrying out the duties of their office, a magistrate exercises or may become susceptible to pressure, incentives and other influences (direct or indirect, originating from public figures or private individuals, and within and outside of the judiciary)<sup>2</sup>.

The check to be conducted on actions that may harm the reputation of the judiciary should endeavour to ascertain whether the conduct of a magistrate is in breach of public perceptions of decency and compromise his/her honour in office, the professional community and in society at large<sup>3</sup>.

On 19 April 2017, several media carried reports of the story told by the Bulgarian businessman and publisher, Sasho Donchev, in which he alleges that several days before the last general election he was 'called to a meeting' and 'intimidated' by the Prosecutor-General during a meeting held at the office of a 'third party', and that more specifically the meeting

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<sup>1</sup> Article 175i – Article 175t JA

<sup>2</sup> Article 175j, paragraph 3 JA

<sup>3</sup> Article 175j, paragraph 4 JA

had been prompted by Mr. Donchev's attitude and editorial stance towards a certain political party and by the content of materials published in the printed media he owns.

The official position of the Bulgarian Prosecution Service, which was published on the following day, contains a confirmation that such a meeting had indeed taken place. However, the allegations of intimidation were rejected in the strongest terms and, in fact, the opposite was alleged, i.e. that Mr. Donchev had put pressure on Mr. Tsatsarov in connection with a specific investigation. Later that day (20 April 2017), Mr. Donchev (in a television interview) stated that the meeting had been organised with another businessman and politician, Georgi Gergov, acting as mediator, in the latter's office. He continues to maintain that the meeting did not take place on his initiative and repeated the initial allegations, providing new details.

After the details of his participation in the meeting had become public knowledge, Mr. Gergov also confirmed that the meeting had taken place but denied the allegations that the Prosecutor-General had threatened Mr. Donchev on whose initiative the meeting had purportedly taken place.

Several days later, new reports appeared in the media according to which the Prosecution Service had received a tip against Mr. Sasho Donchev on 16 January 2017, i.e. before the meeting took place.

We note that we are not commenting on whether the statements made by the participants in the meeting are true or false because no competent government institution has so far seen it fit to conduct a check in this regard.

This said, the media stories naturally produced a strong public reaction, focusing attention yet again on the judiciary, and more specifically one of its most senior representative who was a participant in the events. The Bulgarian Judges Association has always been of the view that the presence of doubts, which by default undermine the reputation of the judiciary, require thorough investigation and making the results of such investigations publicly known. This case is not an exception. The BJA refrained from responding in the immediate wake of the events as it was announced that the matter will be placed on the agenda of the Supreme Judicial Council (SJC) at the insistence of six its members.

However, on 27 April 2017, at a meeting of the SJC Plenary, that body refused to initiate an investigation. It thus follows that the SJC either accepts that the allegations set out above do not give rise to a formal investigation of the facts or that the SJC does not consider it necessary, in view of the circumstances, to conduct an investigation in the case at hand.

Whichever of the two is to be believed, the outcome is plainly unacceptable. Even more so because as Bulgarian judges we must have clear understanding of the standard applied by the competent institution to launch an investigation (in which cases and in the presence of what allegations, in terms of content, an integrity check should be launched). It is also necessary to

ensure that the standard is applied consistently to all magistrates, regardless of their position or the office held.

In accordance with Article 175k(2) of the JA the investigation to be conducted in the case should be initiated by the Inspection Service to the SJC on an *ex officio* basis. As we are not aware of any intentions to conduct an investigation, we request that the Inspector-General informs us whether this is indeed the case and whether the decision not to conduct an integrity check is based on an appraisal that the facts of the case do not warrant it in principle or on other considerations.

We further request the ISSJC to draw up and publish the standard, which it intends to apply in cases that call for conducting integrity checks to ascertain actions that harm the reputation of the judiciary or checks that compromise the independence of judges, prosecutors and investigators. A failure to do so would mean that the approach followed may not be based on principles and considerations deriving from those principles, but on the personality of a magistrate, which opens the doors to inadmissible arbitrariness.

**Bulgarian Judges Association**

*Chairperson of the Managing Board*

Atanas Atanasov