



## MEDEL STATEMENT ON THE ATTACKS AGAINST BULGARIAN JUDGES

MEDEL wishes to express its serious concern over the recent developments within the Bulgarian judicial system, in face of the sharp increase in inroads into the independence of the judiciary, through attacks against individual judges and through reform proposals aimed at limiting their freedom of association.

Freedom of speech, that must be ensured everywhere even with regard to criticism directed at judicial decisions, does not give cover to the public allegations addressed by political and institutional actors against the judges of the Sofia Court of Appeal, stating that they would have acted with goals not related to justice when releasing on parole an Australian citizen, and their repeated exposure in the media and in political rallies. These actions risk instead to cause serious harm to the legitimacy of judicial institutions, by an unacceptable exploitation of the highly emotionalised public reaction to a criminal case.

In this regard, MEDEL recalls that art. 10, par. 2, of the European Convention on Human Rights expressly states that the exercise of freedom of expression, *“since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties (...) for maintaining the authority and impartiality of the judiciary”*.

MEDEL also observes with equal concern that, in such a context, the Supreme Judicial Council, through a statement of its Judges’ College, publicly argued that the judges would have overstepped the boundary between law and justice, hereby calling the Inspectorate of the Supreme Judicial Council to initiate a disciplinary investigation against the members of the concerned Court, while new proposals aimed at limiting the freedom of association of judges are submitted to Parliament.

Against the backdrop of such troubling developments, also in light of the principles contained in the Sofia Declaration of November 17, 2018, MEDEL recalls:

- as stressed by the CCJE, opinion no. 18 (2015) on *The position of the judiciary and its relation with the other powers of state in a modern democracy*, *“there is a clear line between freedom of expression and legitimate criticism on the one hand, and disrespect and undue pressure against the judiciary on the other. Politicians should not use simplistic or demagogic arguments to make criticisms of the judiciary during political campaigns and they must never encourage disobedience to judicial decisions*

*let alone violence against judges. The executive and legislative powers are under a duty to provide all necessary and adequate protection where the functions of the courts are endangered by attacks or intimidations directed at members of the judiciary. Unbalanced critical commentary by politicians is irresponsible and causes a serious problem because public trust and confidence in the judiciary can thereby be unwittingly or deliberately undermined. In such cases, the judiciary must point out that such behaviour is an attack on the constitution of a democratic state as well as an attack on the legitimacy of another state power. Such behaviour also violates international standards” (par. 52);*

- Judicial Councils have a fundamental role in safeguarding the independence of the judiciary and in defending individual judges, in a manner consistent with their role as guarantors; such a role is crucial for the protection of the independence of the judiciary when the separation of powers is endangered by political attempts to exploit specific judicial decisions and to pressure individual judges calling for sanctions and disciplinary proceedings for the content of their decisions;

- according to the principles contained in Recommendation CM/Rec(2010)12 adopted by the Committee of Ministers of the Council of Europe on the freedom of association of judges (p. 25) *“judges should be free to form and join professional organisations whose objectives are to safeguard their independence, protect their interests and promote the rule of law”.*

MEDEL invites to consider the impact that developments as those just mentioned have on the overall strength of the rule of law, in line with the content of the Communication of the European Commission - COM (2019)163, of April 3, 2019, where it is underlined that *“the judiciary is at the heart of the rule of law”* and that *“attempts by political actors to undermine its independence and the binding force of its decisions by instigating political or other pressure on individual judges, by interfering in specific cases, by a failure to respect judicial decisions, or by a reopening of final judicial decisions”* are *“familiar themes”* among rule of law warning signs;

MEDEL reiterates its full support and solidarity to all the intimidated judges and to the Bulgarian Judges Association.

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