

# **Media Monitoring and Analysis of Attacks on Court**

**during the period 1.8.2017 - 30.11.2019**

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## AIM AND SCOPE OF THE STUDY

The aim of this paper is to identify, track and investigate attacks against Bulgarian courts, judges and their professional organisations. It is a continuation of the first study on media attacks against the court and individual judges published in early 2019, which covered the period January 2015—July 2017.

The media monitoring and analysis has two major components:

- an examination of attacks on courts as reported in the media and those launched by public figures and opinion makers. The latter include representatives of the three branches of government - judicial, executive and legislative, representatives of non-government organisations, sociologists and political scientists. The monitoring aims to summarize the causes, intensity and nature of the attacks on courts on the part of opinion makers.
- tracking media publications containing attacks on court, judges and their professional organisations. The monitoring reviews journalistic materials reporting on events in the judiciary (materials relating to information occasions); interviews with opinion leaders; analyses, commentary on texts and investigations relating to the judiciary.

In the context of the study 'attacks on courts' means:

- opinions and statements containing untruthful, unverified and slanderous allegations
- offensive qualifications that undermine the reputation of courts
- insinuations, rumours, calls for vigilante action, and
- institutional actions in a context, which justifies the action being considered an attack on courts.

For the purpose of the study, media and news outlets from 3 segments of the media market were selected—a national daily newspapers (and their online platforms), online media platforms and news agencies. The monitored editions are:

- **newspapers (and their online platforms)**

- "Trud", "24 Chasa", "Standard", "Sega", "Telegraph", "Monitor"

- **online platforms**

- "Mediapool", "ClubZ", "Dnevnik", "Defacto", "Legal World"

- **news agencies**

- PIK, BLITZ

## RESEARCH PERIOD

Media monitoring covers the period from 1 August 2017 until 30 November 2019, which is characterized by intense events and changes relating to the functioning of the judiciary:

- on 26 July 2017, Parliament adopted amendments to the Criminal Procedure Code (CPC) transferring the jurisdiction of high-level corruption cases from the Sofia City Court (SCC) to the specialised courts established several years earlier against strong criticism from the legal community that extraordinary courts were being created. Analysts with a professional focus on processes in the judiciary indicate that the government aspires to secure a court that conveniently rules in its favour.

- **on 11 September 2017** the Supreme Judicial Council (SJC) elected a new President of the Supreme Administrative Court (SAC) - Georgi Cholakov;

- **on 4 October 2017**, the President of the Republic of Bulgaria returned the decision of the SJC to elect a President of the SAC on the grounds that the term of office of the SJC was about to expire and that it was appropriate for the appointment to be confirmed by the next elected Council;

- **On 20 September 2017**, the National Assembly elected 11 members of the new SJC. In May and June of the same year, the SJC members of the professional quota were elected in the first majoritarian elections;

- **on 3 October 2017**, the newly elected SJC took office and commenced work;

- on 19 October 2017, the new members of the SJC re-elected Cholakov President of the SAC.

- **at the end of 2017**, some members of the United Patriots political party, which is part of the governing coalition, introduced amendments to the Judiciary Act (JA), which require a ban on foreign funding for the professional organisations of magistrates. Analysts point out that the amendments seek to silence the voice of the Bulgarian Judges Association (BJA) — an organisation that is often critical of flailing attempts at reform whilst upholding and defending the independence of the judiciary. Following a strong public outcry, the proposed amendments were withdrawn;

- **in December 2017**, the Parliament finally adopted amendments to the Anti-Corruption and Confiscation of Illegally Acquired Property Act, establishing the Anti-Corruption Commission KPKONPI.

- **during the period under** review, the SJC conducted several elections for the appointment of administrative managers of key judicial bodies, including a President of the Sofia City Court;

- **At the end of March 2019**, a scandal that became known as ApartmentGate in the media broke out. It followed on the heels of an article published by Free Europe according to which the Chair of the parliamentary group of the ruling party GERB, Tsvetan Tsvetanov, lived in a luxury apartment built by the company Artex, which he acquired at a price significantly below current market levels. The apartment was acquired in 2018, and a year earlier — in January 2017 — Parliament had passed amendments to the Spatial Development Act that allowed Artex to proceed with a development project for a skyscraper to be built in Lozenets, one of Sofia's residential districts. The publication revealed that the amendments were tabled between the first and second readings of the bill originally proposed by GERB and were subsequently adopted. A series of publications in various news media revealed that other politicians had also acquired apartments from the same company at below-market prices — the Justice Minister Tsetska Tsacheva, the Deputy Minister of Sport and family friend of Tsvetanov, Vanya Koleva, a company owned by the former Minister of Culture in the GERB government and MP, Vezhdi Rashidov, and the Deputy Minister of Energy Krasimir Parvanov. The former Chair of the Communications Regulation Commission Veselin Bozhkov and the SJC member from the prosecutors; quota Gergana Mutafova (elected to the Council on a proposal from Tsvetanov) were also on the list. The media also revealed that the Chair of the KPKONPI (which by law carries out inspections of conflicts of interest) Plamen Georgiev owned a terrace on which buildings were constructed without proper permit that were therefore illegal. As a result of the scandal, Tsvetanov, Tsacheva, Koleva and Parvanov tendered their resignations. Plamen Georgiev too extended leave and subsequently also resigned. Shortly after, he was appointed consul to Valencia. On 19 June 2019, the KPKONPI issued 19 decisions in the case, including seven in which the Commission did not find a conflict of interest (in the cases of Tsvetanov, Tsacheva and others). The latter group also included Lozan Panov, President of the Supreme Court of Cassation (SCC) who pro-government media reports accused of a conflict of interest on account of his wife having acquired an apartment from the same company before their marriage. The remaining decisions adopted by the KPKONPI were to terminate proceedings in the case-files as the persons inspected were not civil servants at the time when the properties were acquired.

- **on 19 September 2019**, a panel of judges from the Sofia Court of Appeal (SCA) issued a ruling for the early release from prison of the Australian national Jock Palfreeman convicted for the murder of the student Andrei Monov. The judgment unleashed a tsunami of criticism and became and triggered yet another wave of legislative changes and protests inspired by political parties against the court. Support for the judiciary was declared by the Bulgarian Judges Association, with nearly 300 judges from all parts of Bulgaria, signing an appeal to citizens, which firmly emphasized that court vilification was inadmissible in a State based on the rule of law. Protesting judges were joined by university professors, representatives of the non-governmental sector and lawyers.

- **on 24 October 2019**, the SJC elected a new Attorney General. The Deputy Prosecutor General Ivan Geshev was the only candidate for the job. While the procedure was ongoing dozens of opinions were published on the SJC website in support of Geshev's nomination

from prosecution offices across Bulgaria, professional organisations of prosecutors and investigators, court officials, including cleaners and drivers, Interior Ministry and departments of the National Security Agency. According to media reports the text of the opinions was completely identical and observers of the procedure likened them to the signatures expressing support by labour collectives under the communist regime. Well respected non-governmental organisations also submitted opinions on Geshev's application, commenting on his unsuitability for the post. Similar opinions were received from the Supreme Bar Council and local Bar Associations from all parts of Bulgaria. Observers believed that the election outcome was a foregone conclusion and that a political deal had been struck in advance. After the election, some non-governmental organisations and the Bulgarian Judges Association urged the President not to sign the decree on Geshev's appointment.

- **on 7 November 2019**, the President of the Republic Rumen Radev returned the decision on Geshev's election to the SJC on the grounds that the procedure had failed to dispel doubts about the nominee and lack of competition.

- **on 14 November 2019**, the SJC cast a second vote in favour of Ivan Geshev's nomination and he was finally elected Attorney General.

- **on 15 November 2019**, judges initiated a petition demanding that the Prosecutor General, Ivan Geshev, apologize publicly to two of the members of the Judicial College for aggressive remarks to them during his selection hearings. In the petition, the judges urged the SJC to institute disciplinary proceedings against Geshev on account of his inadmissible behaviour towards SJC members (and judges) Atanaska Disheva and Olga Kerelska. The initiative involved over 150 judges from courts across Bulgaria.

- on 26 November 2019, President Rumen Radev signed the decree appointing Ivan Geshev as Prosecutor General;

- **on 19 November 2019**, GERB and the United Patriots nominated Prosecutor General Sotir Tsatsarov for the position Chair of the KOKONPI and on 11 December 2019 the former Prosecutor-General was elected by Parliament.

## **ATTACKS AGAINST JUDGES BY PUBLIC FIGURES AND INSTITUTIONS**

This section identifies examples of statements made by public figures, representatives of public institutions, political parties and non-governmental organisations, which may be qualified as attacks on courts, specific judges and their professional organisations.

The review of the media coverage of specific events relating to the judiciary clearly shows that the institutions and their representatives do not respect the democratic principle of safeguarding the authority and reputation of the judiciary, and in particular that of courts.

During the period under review there were **attacks against at least 16 judges** — the President of the Supreme Court of Cassation Lozan Panov, the judges from the Supreme Court of Cassation Hristina Mihova, Nevena Grozeva, Bonka Yankova, the SCA justices Sonia Yankulova, Kalin Kalpakchiev, Vesislava Ivanova, Violeta Magdalincheva, Atanas Atanasov, former BJA Chair, Kaloyan Topalov, the SCC judges Miroslava Todorova, Katerina Encheva, the President of the Burgas Court of Appeal Panayot Genkov, the Sofia Regional Court judge Silvia Hazarbasanova, the judge from the Nesebar Regional Court Yordanka Mayska, and the judge from the Burgas Regional Court Kalin Kunchev. Numerous statements containing offensive qualifications that harm the good name and reputation of the respective judges and the court and containing insinuations and unfounded allegations are on record. The latter can be defined as attacks on courts by representatives of public authorities and senior government officials as follows:

- the Prime Minister Boyko Borisov;
- the Deputy Prime Ministers Valery Simeonov and Krasimir Karakachanov;
- the Minister of Home Affairs Mladen Marinov;
- the Justice Minister Danail Kirilov;
- 8 MPs from GERB — Tsvetan Tsvetanov, Danail Kirilov, Georgi Markov, Spas Garnevski, Toma Bykov, Krasimir Tsipov, Vezhdi Rashidov, Desislava Atanasova;
- 3 MPs from the Bulgarian Social Party (BSP) — Cornelia Ninova, Alexander Simov and Emil Hristov;
- 3 MPs from the Movement for Rights and Freedoms (MRF) — Ceyhan Ibryamov, Hamid Hamid, Yordan Tsonev;
- 13 MPs from the United Patriots (Attack, VMRO, NFSB) — Yavor Notev, Pavel Shopov, Emil Dimitrov - Audizoro, Slavcho Atanasov, Volen Siderov, Christian Mitev, Milen Mihov, Julian Angelov, Boris Vangelinov, Iskelenov, Aleksein, Iskelov, Alexandre , Boris Yachev;
- 2 Members of the European Parliament - Nikolai Barekov (Reload Bulgaria) and Angel Dzhambazki (VMRO);
- the Head of the Anti-corruption Commission (KPKONPI) Plamen Georgiev;
- the Attorney General Sotir Tsatsarov;
- the Deputy Prosecutor General Ivan Geshev;
- the administrative head of the Sofia City Prosecutor's Office Emilia Rusinova;



- current SJC members and the former SJC members - Yasen Todorov, Galya Georgieva, Dimitar Uzunov, Boyan Magdalinchev (representing the SJC), Veronica Imova, Boyan Novanski;
- the Sofia Provincial Governor Ilian Todorov;
- the Sofia Municipal Councillor Carlos Contrera;
- a representative of a non-parliamentary political parties Rumen Petkov (ABV);
- an advisor to the President of the Republic — Borislav Tsekov;
- the constitutional and former judges Prof. Atanas Semov, Georgi Markov, Plamen Kirov, and Rumen Nenkov;
- the former Prime Minister Prof. Georgi Bliznashki;
- the former Vice President Margarita Popova;
- the former Attorney General Prof. Nikola Filchev;
- political scientists, lawyers, sociologists, representatives of non-governmental organisations.

**The analysis of the results shows that the attacks against courts originated from representatives of all three branches of government** — judicial, legislative and executive, including senior government officials. There has been a double increase in the number of judges subject to attacks by public figures (See ‘Media Monitoring and Analysis on Attacks on Court’ for the period 1.1.2015-1.7.2017) as well as a significantly higher number of representatives of the three authorities, which they have publicly criticized the court. Statements containing false allegations or offensive qualifications are significant in volume throughout the study period, some being repeated at short intervals.

The range of accusations and insinuations levied at courts by public figures is extremely broad, one of the most common allegations being the politicization of the judiciary and courts in particular. Judges have been repeatedly accused of making political statements, behaving as politicians, interfering in politics and, respectively, violating the independence of the judiciary. A common accusation is that judges sympathize with, support or work for certain political groups and entities and belong to political circles, promoting their interests in the judiciary.

#### **EXAMPLES:**

- **on 21 November 2018, an interview** with the Prosecutor-General Sotir Tsatsarov, entitled *The EC report demolishes often repeated allegations that the Prosecutor's Office is a backward institution*, was published in the 24 Chasa Daily. The authors of record are the journalists Borislav Zyumbyulev and Stoyan Neshev. In the interview, the Prosecutor-General made the following comments: *"I am*

*fully aware of the pain that this report is causing to Mr. Panov and to his mentors. Every word in the text of the report literally shatters their anchor points, built carefully over the years, about how inadequate the reform in Bulgaria is and how much farther Romania is, how backward the Bulgarian prosecutor's office and personally the Prosecutor-General is and that magistrates operate under a great deal of political pressure. These people praised Brussels when previous reports criticised us — and deservedly so, if I may be permitted to add. However, when progress and achievements were objectively appraised, the European Commission suddenly became a thorn in their backside. Unfortunately, the situation is highly politicized... ”. Asked to comment on Panov's statement in which he claimed that ‘the Prosecutor-General prosecutes his critics and puts an umbrella over his friends,’ Tsatsarov replied: ‘So far, the only thing Mr. Panov has not accused me of is personally loosening the nuts and bolts on the tyres his office Mercedes. I have told Mr. Lozan Panov what I think of him to his face ... Personal fears, inferiority complexes, acting as a make-belief politician and constant whining do not befit the President of the Supreme Court ... Apparently the ‘persecuted critics’ that Lozan Panov keeps talking about are persons against which criminal charges have already been brought. It strongly hope that he does not have any political friends among them because this would make his reaction as President of the Supreme Court of Cassation highly disconcerting with the potential of the criminal trials reaching the highest instance court’.*

**- on 8 May 2019, the media** covered a statement of Prime Minister Boyko Borisov made before the cameras of bTV: *The KONPI achieved a lot. Over BGN 2 billion were confiscated and placed under attachment. The inspection in the records of Sofia Municipality in respect of the legality of Plamen Georgiev's apartment has ended and the illegally constructed elements are to be demolished. But why are you asking me questions only about him and not about Lozan Panov?’* He then added: *‘Why do you shy away from asking questions about the President of the Supreme Court? I do not trust him because he is acting as a political figure. He is not tending to court business but meddles in politics. Have all court problems been solved? Panov makes many political statements and I do not trust him.’*

These insinuations are inspired by the actions of certain judges in matters of importance to the judiciary but have also been triggered by judgments they have delivered, which have been interpreted as serving political or other interests.

#### **EXAMPLES:**

**- on 25 September 2019, a comment** made by MEP Angel Dzhambazki (VMRO) were published by PIK regarding the judgment delivered by the justices Kalin Kalpakchiev, Vesislava Ivanova and Violeta Magdalinsheva in the case of the Australian citizen Jock Palfreeman. The MEP said: *This judge and the people around him are politically biased. They have no place in court.’*

The biographies of judges who have held positions in the executive branch of government in the past are used as an argument allegedly demonstrating a lack of impartiality and objectivity in adjudicating disputes.

#### **EXAMPLES:**

- **on 19 November 2019 a comment** by Vladimir Karolev was published in the 24 Chasa Daily under the heading: 'Karolev: Justice Disheva will have a hard time convincing me that she is independent after the shameful episode in 2017.' According to the statement made for the newspaper: *'And it was entirely 'by accident' that the Bansko case is assigned to Judge Disheva, and that she entirely 'accidentally' she refuses to recuse herself (apparently this had nothing to do with her husband protesting outside her window) and that she then again 'accidentally' decides to step down from the bench after her political affiliation becomes known and that she is 'accidentally' replaced by judge Sonya Yankulova — naturally 'accidentally' — had been nominated by parties close to Da Bulgaria for the position of President of the Supreme Administrative Court 3 months earlier and once again 'accidentally' said judge reproduced verbatim the arguments of the DB / Greens in her judgment and thus 'accidentally; overturned 15-years of case-law comprising the judgments of nearly 70 benches (more than 200 judges) according who held that building sports facilities in parks is not illegal.'*

Statements of public figures accusing specific judges of being corrupt, serving political, economic, oligarchic or foreign interests and acting on orders during the course of their work are also common.

#### **EXAMPLES:**

- **On 24 September 2019, information was published in the media** that a protest organised by the political party Ataka was to take place in front of the building of the Court of Justice in the wake of the judgment delivered in the case of Jock Palfreeman. PIK News Agency reported *that 'Volen Siderov's people wanted an investigation of the conduct of the magistrates who delivered the shameful judgment that caused major public upset and uproar'.* According to the report the 'leader Volen Siderov urged everyone to post Kalpakchiev's photograph across Bulgaria so everyone could see the man who releases killers from prison.' "Ataka insists that he resigns, is permanently disbarred and be charged under Article 105 for having placed himself in the service of another country', Siderov said.

- **on 10 August 2017, a comment of Deputy Prime Minister Valery Simeonov was published in the 24 Chasa Daily under the heading 'Valery Simeonov: A blatant demonstration of corruption at the Burgas Administrative Court.'** The comments were prompted by judgments delivered by the Burgas Administrative Court that repealed orders issued by the National Revenue Agency on the closure of bars and restaurants.' ... *I said that the Burgas Administrative Court, led by Panayot Genkov, had cancelled all 79 orders issued by the NRA a week ago on the closure of bars and restaurants on the grounds of being unlawful. It has been 36 hours after I gave the interview, and no media outlet in Bulgaria has reported on the scandalous judgments — could this be accidental? In the law-and-order war we are waging at the [Bulgarian] seaside, we are up against bag upon bag of money of the owners but also against people from the executive, legislative and judiciary branches of the government, and the media — all complicit in the crimes. These people are arrogant, deeply corrupt and unscrupulous ... As for Judge Genkov ... Now he is to become famous for being the President of a court, which annulled an NRA order before the order itself was contested before the court. The complaint has apparently travelled at warp speed to Burgas while the actual order is trailing behind? ... I will file a complaint with the SJC and the Supreme Administrative Court*

*regarding this arrogant and blatant demonstration of corruption. What else needs to happen in Bulgaria for the court to start doing its job without boycotting attempts to restore law and order in tourism and the country at large?*

Judges and entire courts have been singled out as a factor that hinders the fight against corruption, mining attempts to seize illegally acquired property in favour of the government. Interpretative decisions of the Supreme Court of Cassation or references for a preliminary ruling to the ECJ are cited as misinterpretation/misapplication of the law, an attempt to circumvent the provisions laid down by law that hinders the work of government institutions, delaying specific court cases considered a priority by senior government officials, effectively pardoning and rescuing businessmen in trouble with the law, and an act of violating justice.

#### **EXAMPLES:**

- **on 11 December 2018, the BLITZ** published the comments of the GERB MP Danail Kirilov on an interpretative ruling of the Supreme Court of Cassation according to which the claim for seizure of property became null and void, if the underlying criminal proceedings were terminated: *‘Lozan Panov’s interpretative ruling brazenly tried to overwrite the law and alter its meaning. That is why we will rapidly and, urgently counter this act of gross aggression against the legislature. He continued: ‘The Supreme Court is attempting to sabotage all anti-corruption measures that we have tried to put in place in recent years.’*

- **on 11 December 2018, an interview was published** by the PIK News Agency with the Chairman of the KPKONPI Plamen Georgiev under the heading *‘EXCLUSIVELY at the PIK: Anti-mafia chief Plamen Georgiev with shocking revelations after the scandalous judgment delivered by the Supreme Court of Cassation and Lozan Panov: Amnesty for billions of unlawful money to be otherwise repaid into the budget! Hristo Biserov to also benefit to the tune of BGN 2 million’*. The author of the article is Gergana Ingilizova. The smear campaign was prompted by the interpretative ruling delivered by the Supreme Court. Georgiev says the decision *‘is at odds with the stated purpose of the law.’ ‘This is so because we fought corruption on two fronts. The person is convicted for a crime but then he/she is deprived of the unlawful proceeds from the crime. However, the interpretative judgment puts a rod into the wheels. And from now on, when the guilt in the criminal case fails to prove itself, the money is amnestied’*, Georgiev alleged. Legal World published an article entitled *‘On the initiative of the Chair of the National Assembly Legal Committee’* with the sub-headings *‘A change in the law to invalidate the Supreme Court interpretative ruling to stop civil confiscation’* and *‘Suspended criminal proceedings do not interfere with claims for confiscation of illegal property, according to Danail Kirilov’s request.*

During the period under review, numerous statements were made in which judges were reproached for working against the interests of the State and in attempting to attack the prosecutor's office, in particular the Prosecutor General or the SJC. There are also cases of judges being accused of wanting to name any new Prosecutor-General.

#### **EXAMPLES:**

- **on 16 July 2017, a comment made by Sofia City Prosecutor Emilia Rusinova was published in the BLITZ:** *'The judiciary is independent by law, there is considerable controversy as to whether the prosecutor's office should be with the executive. And last but not least, 'occupational protesters' have waged an apparent war for almost two years on Attorney-General Sotir Tsatsarov. The flagship of this campaign is the Supreme Court President Lozan Panov.'*

- **on 19 April 2019 a comment** was made by the former judge in the Constitutional Court justice Plamen Kirov before Channel 3: *"Mr Panov will only be satisfied if he gets to appoint the new Attorney General. I do not see how one magistrate in another country will make a public appearance and give a political speech. He can safely quit and run for office with Hristo Ivanov's political party and go to the polls, enter parliament and start making laws.'*

- **on 21 April 2019, an interview** was published in the media with the SJC representative Boyan Magdalinchev for the BNR: *'The actions and rhetoric of the President of the Supreme Court of Cassation, Lozan Panov, are specifically directed against Attorney General Sotir Tsatsarov... So, the question is whether Mr. Panov wants to see someone else take up these positions and who specifically this person may be. If Mr. Panov has his a favourite, let him say this because his behaviour is strange, it is directed against the Prosecutor General, definitely'*. He then added: *'The president of the Supreme Court is dependent on other circles.'*

- **on 3 October 2019, an article was** published in the Monitor Daily entitled 'Panov with a new attack, wants a law test for Geshev'. *'The scandalous chief of the Supreme Court of Cassation Lozan Panov could not resist becoming involved in the compromising campaign against the nomination of Ivan Geshev for the position of Prosecutor General'*. This allegation was prompted by a letter from the President of the Supreme Court to the Prosecutor-General requesting to be provided with specific information the work of top prosecutor Ivan Geshev. The publication quotes Geshev as saying: *'Over the years, I thought that Mr. Panov had a fixation on Mr. Tsatsarov and now I'm beginning to think he has a fixation on the position of Prosecutor-General'*, Geshev said.

There has been a dramatic increase in the number of cases where representatives of the three branches of government have made disparaging public comments about specific judicial acts, describing them as unfair, inspired by corruption, resolved in a conflict of interest or attempts to censor the media. Judges have been singled out and described as dependent, biased, traitors and apostates, as transgressors of morality and the law. There have been numerous calls from representatives of the three branches of government for resignations, disciplinary punishments, investigations and dismissals of judges for specific judicial acts they have delivered.

#### **EXAMPLES:**

- **on 20 September 2019, PIK and BLITZ** published comments on the case of Jock Palfreeman:

VMRO MP Milen Mihov: *'We were taken aback by the court judgment ... Unfortunately, in a State based on the rule of law, court rulings must be respected. But the entire community is firmly against the decision.'* The newspaper commented that *'... the judgment had incensed public opinion and that not a single argument had been presented in court that supported the early release of the convicted killer.'*

**BSP MP Cornelia Ninova:** *"A joke! Shame! Shameful ruling of the Bulgarian court!"*

**Borislav Tsekov, Presidential Advisor:** *'The scandalous Judge Kalpakchiev who released the murderer Palfreeman — the frontman of lobbying attacks against future Prosecutor-General Geshev. Mafia!'*

**Deputy Prime Minister Valeri Simeonov:** *'Any sane person would express the same position — that the court ruling borders on some kind of travesty. It is a form of masochism.'* He went on to say: *'I would have no problem believing that the judgment was given after money had changed hands. The behaviour of Palfreeman, who himself claims that the Bulgarian court is corrupt, can only be a smokescreen that conceals corrupt practices.'*

- **on 23 September 2019 the PIK News Agency** published an article entitled BULL'S EYE! Carlos Contrera demolishes America for Bulgaria: Kalpakchiev spat into our faces, what are Ivanov and Atanasov doing.' VMRO Municipal Councillor Carlos Contrera said 'the judgment is anything but just'. 'No justice has been done. The release is an assassination attempt against the law', he said before the cameras of Nova TV. He went on to describe the entire bench as 'cynical'. 'Kalpakchiev spat into our faces,' Contrera repeated.

- **in May 2018**, a series of materials and comments were published by the PIK regarding a judgment delivered by Judge Hazarbasanova, which sentenced the media for slanderous publications.

**Deputy Prime Minister and Minister of Defence Krasimir Karakachanov:** "As people say, unfortunately the Bulgarian court is like a woman - you don't know how to go, where it will go and there are unique and paradoxical decisions of the Bulgarian court ... So, the Bulgarian court often makes decisions that do not rest on sound logic or it they do with some preconceptions and emotions. "

**Deputy Prime Minister Valeri Simeonov:** *'I am very surprised to learn that there is a court in Bulgaria and I cannot find any justification for the judgment. This is the ugly face of the corrupt and money scrounging judiciary because there are representatives out there who have taken a lot of money from America for Bulgaria and Open Society.'*

**United Patriots MP Valentin Kasabov:** *we 'have' another judge who places the interests of a foreign State above those of Bulgaria, who clearly hates Bulgaria and the Bulgarians and has pardoned a scoundrel. 'I think the political parties and the public, MPs and parliamentarians need to react as quickly as possible because this is a textbook example of the opposite of justice. For example, such a thing can never happen in Greece! The judge would be lynched. Unfortunately, anything can happen in Bulgaria because our version of freedom and democracy is grossly twisted and misunderstood.'*

- **on May 16, 2018, comments** made by BSP MP Alexander Simov were published by the PIK: *'And most importantly - because Hazarbasanova's ruling is a blow to freedom of expression',* the MP said, describing the judge as an 'executioner.' *'I have no idea if she realizes that her decision is not unlike a stone thrown against the right of journalists to describe the irregularities in society ...,'* he said.



During the period covered by the analysis at least two political protests were organised. These were triggered by specific court rulings and demanded disciplinary action, investigations and dismissal of the judges who delivered them. Political declarations against judges have also been made. Protests against judges' rulings were also used as material in the October 2019 local election.

#### EXAMPLES:

- **On 24 September 2019, the media** reported that the Ataka Party was organising a protest against the judgment delivered by the Sofia Court of Appeal, which would demand Justice Kalpakchiev's resignation and insist on amendments to the law. The PIK News Agency reported that *'... shortly after 8:00 am, VMRO will submit to the Supreme Judicial Council a request for disciplinary proceedings against Judge Kalpakchiev.'*

- **on the same day an article entitled 'BROUGHT TO YOU EXCLUSIVELY BY PIK: VMRO** submitted a letter of protest to the SJC against Kalpakchiev and the other justices who released Andrei Monov's killer, 'PIK' quoted Mihail Petrov, a lawyer at the VMRO Youth Organization, who added: *'Our letter does not question the impartiality of the judge. We believe the judgment runs counter to morality and justice, and we want it reviewed.'* *'According to the VMRO there is political and international pressure, with judges having accepted that Jock Palfreeman had not violated prison discipline in the past. The party is demanding disciplinary action and inspections of the judges, and the appointment of other panels when procedural irregularities are detected'*, the newspaper reported.

The administrative managers of judicial bodies have also been singled out for alleged violations of the rules and dictating judgments in pending lawsuits.

- **on 21 November 2018 the BLITZ** published an article entitled *'Ilian Todorov asks: Does Lozan Panov influence judges from the Sofia District Court?'*. The Provincial Governor of Sofia, Ilian Todorov, had lost a slander lawsuit brought before the Sofia Regional Court by the journalist Ivo Indzhev. *'Was the fact that Mr. Panov and Mr. Indzhev were present at the same event a coincidence? .... Are these the people because of whom the judiciary is believed to be corrupt and rotten? I am merely asking rhetorical questions. I am not throwing accusations at anyone!'*. The comment was published by the PIK.

Membership of professional organisations and the activity of judges related to issues affecting the judiciary have been demonized and cited as an argument for dependence and lack of impartiality.

- **on 17 October 2019, Mediapool** published an article entitled *'Karakachanov shows his middle finger on television'*. The publication commented: *'Deputy Prime Minister and Minister of Defence Krasimir Karakachanov writes a new glorious page in his political career. He showed his middle finger while he was being interviewed by Channel 3, Delyan Peevski TV station, to express his outrage at Jock Palfreeman's early release'*. Karakachanov comments that he continues to *'be puzzled by the behaviour of some judges, including Chief Judge Lozan Panov'*. *'You cannot talk to me about rules and morals while at the same time calling for the court to resolve the case more expediently and release him. Is this normal? What justice are we talking about? The Helsinki*

*Committee and the Bulgarian Judges Association are orchestrating this in tandem'*, Karakachanov alleged.

The most numerous attacks are directed at the President of the Supreme Court of Cassation who has been subjected to an intense unrelenting campaign aimed at positioning him as an overbearing politician who works against the interests of the State, creating conflicts with other authorities and is, in this sense, a proponent of certain much maligned views.

The profile of public figures who undermine the independence and authority of courts — senior members of government, including the prime minister, ministers, members of parliamentary parties, SJC members, the Prosecutor-General and administrative managers at the prosecutor's office, shows that the court is an easy target for malicious attacks.

The alarming tendency of SJC members openly and repeatedly attacking certain judges has persisted. The Council sends conflicting messages, repeatedly refusing to react and defend the independence of individual judges and courts as a whole. There is a handful of cases in which it has expressed positions in support of magistrates under attack but these have largely failed to lower the number of attacks against judges to a minimum.

The emergence and intensification of attacks on judges basically follows 2 established patterns. The first is in response to specific public activity and/or reasoned positions defending the judiciary, although in some cases attacks may be triggered by demands and statements made by judges or court officials that the powers that be interpret as criticism. The obvious aim is to silence and render the positions expressed by court representatives void of substance and meaning. They are described as unrealistic, devoid of legal logic, and pursuing illegitimate goals — often as an attempt to politicize the judiciary and mount attacks against institutions such as the Parliament and the prosecution service. The second pattern, which is becoming more commonplace, involves attacks inspired by specific lawsuits in sensitive cases, which receive a lot of media coverage. The latter approach is particularly harmful as it erodes public confidence in courts and creates a perception of injustice. There has also been an increase in the cases where specific judgments are used as an *ad hoc* argument for the need to amend legislation and enhance criminal repression by introducing regulations that effectively penalise membership of the professional organisations of magistrates.

During the period covered by the study there was a tendency for representatives of institutions and party-political organisations to file complaints against judges and make their actions public in the media. Some of these contain allegations of crimes and ethical wrongdoing while in other cases the resignation or dismissal of judges is sought. Although some of the complaints lacked the requisite attributes or were poorly argued, the SJC referred them to the Inspection Service under its jurisdiction for further investigation. This warrants the conclusion that the Council fails in its duty to defend the independence of magistrates and the judiciary, acting arbitrarily and deepening existing divisions in the judiciary.



## **EVENTS COVERAGE AND EDITORIAL POLICY OF THE MEDIA COVERED BY THE ANALYSIS**

The analysis of the coverage by the media of the attacks against courts warrants several conclusions. The tendency of some media being completely uncritical about attacks against courts, judges and their professional organisations on the part of public figures and representatives of the three branches of government has persisted and intensified. In terms of coverage, the 24 Chasa Daily and the Standard Daily have given a clear priority to the views of opinion leaders, the positions of public institutions and their representatives, despite these containing false allegations and qualifications that clearly constitute an attack on courts. The two newspapers publish the views of the affected parties as well. However, the focus is invariably on juicy details and events are often presented with an element of scandal or alleging some form of 'friction' and conflict between institutions. Mostly informative content prevails.

The results of the monitoring exercise show that the Sega Daily and the online news websites Defacto, Mediapool, ClubZ and Dnevnik report the attacks on courts objectively and in a professional manner. There are countless articles in which the allegations made by public figures have been critically examined, refuted or clearly identified as an attack on court independence. During the period under review these publications maintained a balance of views and reported on false or offensive allegations against judges, actively seeking and also reporting the views of those affected. Articles have been published, which contain additional information that clarifies the genesis of events, seek expert opinion, publish analyses of representatives of the professional and legal community as well as of the NGO sector. The media in question have had no difficulty in identifying statements that clearly violate court independence and have offered a balanced analysis of the reactions of responsible institutions, often expressing critical views against the government officials seeking to gain an advantage by mounting attacks against the judiciary. The events are reported in their entirety without an element of arbitrariness.

The survey further shows that the dailies Trud, Telegraph and Monitor and the media Legal World, PIK and BLITZ have, on the other hand, consistently reported solely positions and views that constitute attacks on courts, judges and their professional organisations. The failure to present other points of view reveals them as being hostile to the work of court and judges. Materials that report on statements made by public figures or actions of institutions that can be described as an attack on courts are often accompanied by a running commentary that fully overlap, support, admire and reinforce the unjust criticism levied at courts. Not only do these publications publish and reprint statements from opinion leaders who attack judges, they also actively and purposefully provoke interviews to make inflammatory statements. Public figures whose views inevitably coincide with those of the powers that be are routinely invited to comment. Their statements reported without any measure of critical appraisal and presented as the only legitimate point of view. The analysis shows that the greatest number of material covering attacks against courts have been published in the above mentioned editions, without any attempt at a balanced coverage as the positions of court critics exceed the number of those expressed by the affected parties multiple times. Thus an impression is created that the authorities are unanimous and attack courts for a good reason, with the statements made by their representatives being presented as a completely fair response and receiving unconditional support and encouragement. In numerous

attacks against judges, the court has been described as an institution that undermines order, alleging that it has been conquered by politically ambitious leaders. Judges are often humiliated, presented as incompetent, corrupt, dependent, and out of control. They use offensive language and insinuations and describe events relating to the judiciary as scandalous, unlawful, unauthorized, attempts at provocation, etc. Some of the events are given an arbitrary interpretation and used as evidence or arguments that purportedly corroborate allegations made by public figures about the dishonesty of a court or judge.

Events in the judiciary are blown out of proportion and used to conceal other scandalous events that occurred during the period covered by the analysis in which figures favoured by the media in question were involved or implicated. An emphasis is placed on those of government officials who describe the court or specific judges as 'attacking' individuals and institutions. The media in question have become a transmission line and the main "aide" in the attacks against specific judges and courts as a whole.

The main finding made during the study is that there has been a significant increase in the number of public figures who undermined the authority and reputation of courts by making unsubstantiated allegations, false statements or giving frivolous interpretations of facts. The intensity and perseverance in the attempts to defame courts has increased, with insinuations that specific court judgments are wrong, unfair, adopted in contravention of both law and morality or are harmful to society and favour criminals. Public opinion is manipulated by strongly-worded suggestions that judges are not allowed to participate in the public debate, even on issues relating to the administration of the judiciary, the process of law-making and regulatory changes, and that their opinion is irrelevant, biased and inadmissible.

## **MEDIA ATTACKS AGAINST COURTS**

In this section, examples are examined of media publications from the study period that contain offensive language and insults that undermine the authority and reputation of courts or false, biased, and slanderous statements, insinuations, and rumors about specific judges and their organisations.

The monitoring of the media selected during the study period reveals a highly polluted media environment in which the court as an institution, specific judges and their professional organisations have come under unrelenting attack from the media.. Media attacks against the following judges have been reported:

**- 43 justices from the Supreme Court of Cassation and the Supreme Administrative Court** (Lozan Panov, Svetla Dimitrova, Dariya Prodanova, Galina Zakharova, Krasimir Sekerdzhiev, Vladimir Yordanov, Evgeny Staykov, Vanya Alexieva, Rositsa Bozhilova, Petya Khorozova, Anna Baeva, Veronica Nikolova, Ludmilova Tsilova, Ludmila Nikolova, Ludmila) , Margarita Georgieva, Erik Vassilev, Emil Markov, Kamelia Efremova, Bonka Yonkova, Kristianka Genkovska, Boyan Balevski, Madeleina Zheleva, Genika Mihailova, Borislav Belazelkov, Boris Iliev, Galina Toneva, Kapka

Kostova, Valya Rushanova, Stoil Sotirov, Simeon Chanachev, Alexander Tsonev, Emil Tomov, Dragomir Dragnev Genoveva Nikolaeva, Vasilka Ilieva, Zoe Atanassova Veska Raicheva, Svetla Boyadjieva Nikolai Gunchev, Svetoslav Slavov, Julia Kovatcheva, Galina Karagyozyova, Sonia Yankulova);

- **16 Judges of the Courts of Appeal** (Daniela Doncheva, Kalin Kalpakchiev, Vesislava Ivanova, Violeta Magdalincheva, Kamen Ivanov, Alexey Trifonov, Krasimir Mashev, Atanas Atanasov, Nelly Kutskova, Desislava Dobрева, Dalizena Petleva, Dalesia Petleva, Dalie, Petleva, Elisabeth Petleva, Dali Vracheva, Dimcho Georgiev);

- **30 judges from district courts** (Kaloyan Topalov, Desislava Popkoleva, Mina Mumdzhieva, Albena Boteva, Bilyana Balinova, Radostina Danailova, Daniela Borisova, Evgeni Georgiev, Verginia Micheva-Ruseva, Velichka Marinova, Velichka Marinkova, Stela Katsarova, Nevena Cheuz, Daniela Taleva, Velichka Tsanova,, Nikolay Mladenov, Jacqueline Komitova, Emil Dechev, Miroslava Todorova, Krasimir Mazgalov, Katerina Encheva, Nikolay Enchev, Sonia Naydenova, Vera Chockova, Silvana Galubova, Boryana Vodenicharova, Gergana Hristova-Koyumdjieva, Polina Yakomova, Ivo Hinov, Stoyan Tonev, Kristina Punteva);

- **10 judges from regional courts** (Metodi Lalov, Vasil Petrov, Diana Topalova, Silvia Hazerbasanova, Lilia Terzieva - Vladimirova, Raina Martinova, Milena Kamenova, Petko Petkov, Kalin Kunchev, Vladislava Tsarigradska).

The analysis shows that the reasons for the attacks against judges at all levels in the system came in response to

- **publicly stated views by the judges concerned.**

The public expression of views and opinions in defence of the independence and authority of the judiciary is reported as carrying a strongly negative connotation. Calls for continuation of the judicial reform, particularly at the level of the SJC and the prosecution service, and critical views on amendments to legislation are presented in the same light. There has been a tendency to interpret the opinions of professional organisations, and in particular those of the BJA, as protection of private interests, attempts to interfere with freedom of expression, and censorship. Positions that defend the rule of law, express opinions on the need to continue monitoring Bulgaria's progress in the area of justice are distorted as defamation of the government before foreign partners, attempts to sabotage the efforts of institutions and treasonous activity. The public positions of judges and professional organisations have been maligned as gross violations of the Code of Ethics of Magistrates, demanding disciplinary proceedings, penalties and even the dismissal of judges.

Initiatives of the SJC to discuss and adopt positions on the protection of specific judges from media and public attacks have been presented in the same light, with the drafts proposed described as interfering with freedom of expression, attempts to stigmatize media, ensure that courts are 'untouchable' and 'rescue' individual judges. A number of open letters and petitions initiated by judges in defence of fellow judges attacked by the media and public figures, insisting on public apology on the part of representatives of the executive, legislative and judiciary branches of government, support for candidates for administrative heads are presented as interference in the

work of the Council, unacceptable attempts at wielding influence, sabotage of procedures (including in the procedure for selection of a Prosecutor General), attacks against individuals prosecutors and the prosecution service as a whole as well as attempts to control the prosecution service. The public positions expressed by judges are vilified as behind-the-scenes, political, economic and corruption interests, strategies to undermine the authority and tarnish the reputation of the prosecution office, etc.

#### **EXAMPLES:**

- **On July 24, 2017, an article was published in the Trud Daily entitled ‘How Lozan Panov Violates the Judiciary Act Yet Again’ with the caption ‘The President of the Supreme Court of Cassation has issued an ‘opinion’ — a lampoon on behalf of the Supreme Court.’** The article was triggered by the opinion of the Supreme Court of Cassation on the proposed amendments to the Judiciary Act. According to the newspaper Panov had exceeded his powers and used his position to fabricate an ‘opinion’ on the proposed changes. *‘Yet another act of the brazenly arrogant President of the Supreme Court of Cassation adds yet another argument for the SJC to launch an impeachment against Lozan Panov’. ‘Bulgaria needs a Supreme Court, not a mailbox for political declarations’,* the newspaper offered by way of comment.

- **on 11 October 2017, the Telegraph Daily** published an article entitled ‘Panov seeking to put a leash around the neck of and Themis’. The article was prompted by a statement made by the Supreme Court President that ‘independent and professional judicial journalism’ was needed. According to the newspaper President Panov had confirmed that *‘... he and his mentors in oligarch circles not only wished to put a muzzle on the judiciary but to also replace the Prosecutor General.’ ‘In his wet dreams, Panov, who was photographed sneaking into luxury law firms although he is a judge, clearly sees himself as Top Prosecutor and truly independent media and journalists as future detainees’,* the paper asserted.

- **On 22 November 2019,** an article was published in Legal World entitled ‘The Association of Prosecutors makes an appeal in an attempt to halt attacks from judges on Ivan Geshev’, with the caption ‘The petition against the Deputy Prosecutor-General and the Minister of Justice has been signed by former and current members of the Governing Board of the Bulgarian Judges Association.’ The petition was triggered by a letter from the professional association of prosecutors occasioned by an open letter from judges urging the newly elected Prosecutor-General to apologize for his remarks to SJC members elected by the judges. According to the publication the petition was started by judge Evgeni Georgiev. The newspaper alleged that it had received ‘a list containing the names of approximately 150 judges who had supported the attack on the Prosecutor-General and the Minister of Justice’ purportedly organised by a ‘politicized professional organization’ (Bulgarian Judges Association). Some of the judges were named, among them justices Belazelkov and Kapka Kostova (Supreme Court of Cassation), Miroslava Todorova and, Atanas Atanasov (Sofia City Court), Kalin Kalpakchiev (Sofia Court of Appeal), Emil Dechev (Sofia City Court), Vladislav Tsarigradska (Lukovit Regional Court), Desislava Popkoleva (Sofia City Court), Petko Petkov (Sofia Regional Court), Yulia Kovacheva and Galina Karagyozeva (Supreme Administrative Court).

- **taking action within the remit of competence of the position held**

The media systematically twist and thwart the reasons for certain actions relating to the statutory powers vested in senior officials in the judiciary. Administrative managers or SJC members are often accused of interfering with the duty of judges to adjudicate cases according to their consciousness and the law, putting pressure on judicial panels in sensitive cases, attempting to wield undue influence in order to ensure the acquittal or defendants. Inspections of specific court cases and the random allocation of cases are considered a gross violation of court independence, influencing or predetermining the outcome of trials and lawsuits, siding with the defendant, attempting to obstruct prosecution or sabotaging justice. The same twisted interpretation of facts is evident from the attitude towards various judicial bodies (specialised courts) and the alleged attempts to discredit them.

The media have reported on General Meetings of the courts being convened (a statutory option available to each court) as underhand and subterfuge events, attempting to preserve the *status quo*, and destabilize and hinder work before a new president takes office.

Proposals for disciplinary action have been presented as attacks against inconvenient judges, attempts to gain full control of courts, remove senior magistrates from office in order to install dependent judges or judges belonging to informal circles.

#### **EXAMPLES:**

- **on 18.07.2018 in Legal World** published an article with the title 'Lozan Panov acting as a lawyer of Desislava Ivancheva by putting pressure on the bench, and the sub-heading 'The President of the Supreme Court of Cassation wants explanations for why the specialized magistrates have allowed the mayor removed from office and her deputy to be handcuffed'. The newspaper claimed that Panov has '*... was resolved to act as a lawyer of the removed mayor and her deputy charged with corruption*'. According to the newspaper '*... the actions of the President of the Supreme Court of Cassation reveal bias and fixation on judges he considers inconvenient*'. Panov has been accused of '*... gross interference with the independence of magistrates*' and is '*... able to subvert any attempt to effectively fight corruption*'.

- **On 6 May 2018**, an article was published in Legal World entitled 'How the acting President of the Court asked for the appointment of an acting Deputy' and the subheading 'The failure to appoint a permanent President of the Sofia City Court at the heart of controversial appointment nominations.' The article was triggered by Judge Popkoleva's proposal to appoint a temporary judge (Judge Boteva) as acting deputy. The lack of a properly elected President '*... turns out to be a convenient opportunity to push contradictory staff proposals ...*', the publication pointed out, adding that the nomination made by Popkoleva. '*.. is a continuation of the controversial practice established at the Sofia City Court at the beginning of 2015 of judges who are close to and loyal to the President to be appointed.*' The nomination is said to have been on the quiet because it was only discussed in the Civic Department whose members endorsed it. '*There was hardly any other*

option, considering that in recent years judge Popkoleva was Desislava Popkoleva was the Head of the Chamber,' the publication said.

- **On 5 February 2019, an article was** published in the Legal World magazine with the title 'An attempt at sabotage', and the subheading 'Another provocation against the new President of the Sofia City Court' and , on a separate line, 'Judge Evgeni Georgiev who failed to be elected in two procedures as court president, the acting management and BJA activists trying to push new rules for the work of the court, which will put to an end to the term of the current the incumbent Alexei Trifonov. It was alleged that judge Popkoleva, together with the judges Georgiev and Boteva, and other judges (BJA members of record) had attempted a provocation and a sabotage by pushing for a change in the rules of the court. Their aim is to ensure that the incoming President Alexey Trifonov has to operate under a set of new rules. *'The new rules of procedure of the Sofia City Court proposed warrant the conclusion that their aim is to restrict and effectively deprive the President elect of the statutory powers vested in a court president' the media commended, adding that '...the largest provincial court in Bulgaria has an interim management whose sole aim was to preserve the status quo dating back to the time of President Kaloyan Topalov.*

- **infringements in the organisation and management of courts**

During the period covered by the study the trend of describing the powers of court presidents and the management decisions adopted by them as unlawful and seeking to achieve illegitimate aims has continued. The allegations span a broad range of issues, including downsizing staff (routinely described as 'getting rid of less favoured clerks', secondment of judges for the purpose of hearing specific cases at other courts, infringements of the principle of random case allocation, seizure of statutory powers, conducting public procurement tends with the preferred contractor known in advance that are detrimental to the judicial body, proposals to initiate disciplinary action to 'settle scores', attempts to appoint compliant judges at top positions and gain control of entire bodies in the judiciary.

The SJC proposals on the dismissal or appointment of deputies to the court presidents are also routinely interpreted as attempts to 'cleanse' courts, appoint favoured judges and many other examples of nepotism and flawed human resources policy.

#### **EXAMPLES:**

- **on 19 February 2018, Legal World** published an article under the title 'Deeply Flawed' and the subheading 'How a judge seconded by Lozan Panov from Peshtera to Sofia adjudicated a case in his favour' and a second sub-heading 'The Supreme Court President ignores SJC rules on the secondment of magistrates, Zlatograd District Court about to be closed'. According to the article Judge Terzieva had been seconded from the Peshtera District Court to the Sofia Regional Court on an order issued by the President of the Supreme Court. Judge Terzieva subsequently heard a case brought by an employee dismissed by the Supreme Administrative Court and did not find in favour of the employee. *'What should the consequences be, if the secondment was ordered directly by the Supreme Court President and then the judge, seconded from a small provincial court to the Sofia Regional Court, is asked to adjudicate a dispute in which the respondent is Lozan Panov?'*, the



media asked, adding that the judge should have recused herself from the bench instead of ruling in favour of her 'benefactor'.

- **on 7 August 2019, PIK** published an article under the title 'The mayoral nominee of Democratic Bulgaria under investigation by the Prosecution Service and the Anti-mafia Commission'. The article alleged that the former judge Metodi Lalov had rigged a tender in the amount of BGN 400 000. According to the news agency judge Lalov was 'in serious trouble with the law'. *'The scandalous judge ..... who brazenly gravitated towards a political party for two years is under investigation over a grand scam'*, the article alleged, adding that *'...the Anti-mafia investigators have gathered sufficient evidence and witness statements, which clearly prove that Metodi Lalov personally rigged the tender so that a BGN 400 000 contract could be awarded to a specific company.'*

- **on 18 October 2017, the Telegraph** published an article entitled 'Lozan Panov attempts a mutiny at the Supreme Court of Cassation'. The article was triggered by Mr. Panov's proposal to make changes to his team of deputies in the court. Sources are cited according to which *'...the judge of the oligarchy wants to remove the inconvenient Vlahov so that he can install his lacquey Kalin Kalpakchiev in the job'* who, after leaving the SJC *kept complaining about having to go back to the Sofia Court of Appeal, spent a great deal of time in Panov's office and moaned that he should have been promoted — a promise that had already been made to him'*.

- **on 16 September 2017, the Trud Daily** published an article under the title 'What were the secret reasons for the 'resignation' of the President of the Sofia City Court?'. According to the article the resignation *should be viewed as yet another provocation and attempt on the part of oligarchic circles to gain control of largest still territories of the judiciary'*. *Topalov's resignation is not an act of contrition. It is part of a large-scale plan to destabilise institutions and the government on the eve of Bulgaria's highest priority in the last ten years — the Presidency of the Council of the European Union'*, the article alleged, adding that 'his appointment as President was one of the biggest mistakes made by SJC members'. *'While President of the Sofia City Court, Topalov started a blazing row with paralegals and court clerks, but first and foremost with inconvenient magistrates. The situation escalated and several months after Topalov was elected court president judge Tsvetan Tsenov, seconded to the Commercial Division of the Sofia City Court, committed suicide and his parents explained it by pressure from the court president. The more tension and irregularities at the Sofia City Court escalated, the more arrogant Kaloyan Topalov became,* the article alleged. It was further alleged that judge Topalov had enabled the takeover of the Petrol chain, turned a blind eye to 'outrageous' judgments serving a fraudster, and repaid favours with services such as *'...taking immediate action to ensure the registration of hybrid NGOs and the registration of the GMO political part of the oligarchy Da, Bulgaria'*. *'These gestures are nothing compared to Topalov's attempt to place an instrument in the hands of the oligarchy in the war it wages against the prosecution service. Surprisingly, at the beginning of the year the President of the Sofia City Court spread the 'fake news' that wire tapping had been used against foreign diplomatic missions in Bulgaria'*, the article alleged. It went on to claim that before Topalov leaves *'... he would have to explain how, in his capacity as President of the Sofia City Court, his family's fortunes and living standards rose exponentially, which was ostensibly evident from the judge having obtained a mortgage loan of nearly half a million Leva for the purchase of a family*

home. The article concludes by pointing out that 'no matter what reasons Topalov chooses to give for his sudden desire to escape from the Temple of Themis after turning it into a brothel of the oligarchy, the ex-President of the Sofia City Court is probably the most poignant illustration of why Bulgarians do not believe in the "rule of law" cliché.

- **participation in competitions or elections for appointment as court president**

Some of the judges who have agreed to participate in competitions for appointment as court presidents have been accused of being nominated by political, economic or oligarchic circles. They are described as working to facilitate said parties gaining influence over and control of courts and specific cases on their dockets. Alternatively, they are presented as concealed nominations of professional organisations and informal circles pursuing a consistent policy to gain control of the judiciary. Judges expressing support for the nomination of a fellow judge is presented as pressure on the Council and the principles of judicial self-governance, which are stipulated by law, are described as a destructive factor. Very often anonymous articles are published alleging that individual judges are part of lobby groups or as being in the 'good books' of oligarchs on trial, businessmen and 'failed' politicians. Proposing nominations is considered an attempt to sabotage procedures for the appointment of court presidents or ensure that their outcome is a foregone conclusion. Judges who have participated in competitions have been accused on being the recipient of grant assistance.

#### **EXAMPLES:**

- **on 19 February 2018, an article was published in the Trud Daily** under the title 'Half a million BGN for two lawyers to be provided with assistance from a judge' and the sub-heading 'A judge nominated for election as Chair of the Sofia City Court negotiated with America for Bulgaria'. It was further alleged that judge Georgiev was the 'hidden BJA nomination' for election as President of the Sofia City Court. The article allegedly cited minutes of the Sofia Regional Court from a meeting of the Committee responsible for the Settlements Programme of the Centre for out-of-court settlement of disputes and mediation, which was attended by judge Georgiev. His presence at the meeting was evidently sufficient to conclude that he lobbied that grant assistance be provided to two female lawyers by the America for Bulgaria Foundation. The judge was apparently one of the magistrates *in whom '... foreign funds in a significant amount had been invested*, the article continued, adding that the SCJ will not have any difficulty in choosing a President of the Sofia City Court. *The Council should be able to choose between experience and independence, on the one hand, and the protection of lobbyist and foreign interests, on the other*, the article concluded.

**On 17 May 2018, the Legal World website** published an article entitled 'Three contenders for the position of President of the Sofia City Court' and the sub-heading 'A judge and member of the Bulgarian Judges Association, a failed candidate and a magistrate administering justice outside of the Sofia City Court are expected to be nominated'. It was alleged that 'judge Georgiev enjoyed the informal support of certain circles with vested interests in the judiciary'. *'The selection will determine whether the status quo at the top of the largest provincial court in Bulgaria...will continue to solidify its position and pursue a course of confrontation with other judicial and other bodies or a path will finally be opened for reform of the court ....'*, the article stated.



- **specific judgments**

There has been a growing trend of media attacking the judgments delivered in cases, alleging that they are incorrect, incompatible with the idea of justice, immoral or outrageous. The judges who delivered the judgments are vilified, defamed, insulted and pronounced incompetent, prone to taking bribes or having conflicts of interest. Materials that strongly insist that judges should have recused themselves in particular cases have become more common. These calls are based on random and arbitrarily interpreted facts from the judges lives, their public activity, membership of professional organisations, participation in projects, critical positions expressed concerning the work of the prosecution service or the need to reform the institution.

The court is often blamed for the lack of convictions in cases against government officials, members of organised criminal groups or in serious crimes against the person. It is also held to account for the lack of tangible results in fighting corruption and for the lack of adequate retribution in cases involving personal tragedies. Specific court judgments are used to draw sweeping conclusions about the lack of convictions in cases of major public interest. Entire courts are stigmatised as being faithful servants of the mafia and individuals currently on trial. There is a great deal of speculation that benches adjudicate disputes under pressure from court presidents, in favour of the accused, on account of corruption or other undisclosed considerations.

Information about specific judgments is often used to recall other cases tried by the same judge in the past, leading to sweeping generalisations about the professional merit and integrity of the judge.

Some media publish materials that insinuate that trial outcome is a foregone conclusion, 'expecting' the defendants to be acquitted on account of a specific judge sitting on the bench.

Some judgments are described as 'sending a message', a blow to freedom of speech, censorship, and even apostasy. It is often alleged that the court is out of control, administers justice in the dark, meaning that society cannot expect objectivity, impartiality and fairness. The actions of the prosecution service and courts are often pitted against each other, making bold statements that the prosecution has iron-clad evidence to secure a conviction, although the case subsequently collapses in the courtroom. Acquittals are not explained by the failure of the prosecution service to provide solid evidence of guilt in court but attributed to corruption practices in the courts. This skews public perceptions and distorts the very meaning of adversarial proceedings, creating the impression that a judge's first duty is to sentence the accused simply because the prosecution service believes the person to be guilty. It also displaces the focus by repeatedly claiming that justice is meted out by the prosecution service and the role and function of the court is to rubber stamp that assessment.

#### **EXAMPLES:**

**On 11 July 2017, the Trud Daily** published an article entitled 'The specialised court — the tiny stone in the big shoes of corruption'. According to the article the businessmen Ivo Prokopiev and Ognyan Donev wanted their trials for corruption to be heard by the Sofia City Court and the Supreme Court of Cassation, and in particular by *panels under the direct supervision of the 'skilful'*

*guidance of the two court presidents — Kaloyan Topalov and Lozan Panov. It was asserted that society ‘was no longer blind and could see how the same judges were acquitting current and former government functionaries and officials’.* It went on to allege that Lozan Panov had *‘...fabricated a report drawn up by Supreme Court justices that attacks the work of the judges at the Specialised Criminal Court’.*

**- on 5 July 2017, an article was published by BLITZ** under the caption ‘SCANDAL IN BLITZ ONLY!’ Today, the court is expected to acquit the oligarchy puppet Ognyan Donev’ and the subheading ‘Today, the scandalous businessman Ognyan Donev will hear ‘Innocent’ from judge Daniela Borisova from the Sofia City Court, with Kaloyan Topalov and Lozan Panov peeking from behind her shoulder’. According to the article an acquittal was to be expected. It was alleged that the defendant’s lawyer was on friendly terms with Judge Borisova *and that ‘...the fact that in 2016 had turned down the possibility for a full-length trial and chosen summary proceedings meant that he was certain that all charges against him would be summarily dismissed by the court’.* The article went on to allege that the judge-come-politician Panov and the President of the Sofia City Court Topalov who reported to him *‘...had long since demonstrated their political affiliations but even more importantly refused to lift a finger to ensure that the courts they were responsible for worked in the best interest of citizens’.* *‘Furthermore, acquittals were a daily routine and murderers, rapists and plunderers were either walking away scot-free or with minimum suspended sentences’.* Thus, *instead of ruling in the name of the people, some judges had effectively placed themselves at the beck and call of criminals...’*, the article concluded.

**- on 20 September 2019, an article was published in the 24 Chasa Daily**, together with an editorial entitled ‘Why do Bulgarian judges love killers’. *‘Bulgarian courts definitely have a soft spot for killers. In addition to being famously lenient to this category of criminals, particularly first-time offenders, judges are now going out of their way to ensure that even convicted killers are released on parole early. The early release of Jock Palfreeman yesterday yet again illustrates this dysfunctional affection’*, the article went on to say, concluding that *‘We are not saying that the judges are necessarily ruling against their conscience, but such cases are now commonplace and we cannot help but wonder why’.*

**- On 1 October 2019, the Monitor Daily** published an article entitled ‘Kalpakchiev thrashes tramples on the law and the Constitution with a ruling’ and the sub-heading ‘In order to ‘fix’ a candidate MP from Hristo Ivanov’s Da, Bulgaria the judge refuses to apply the law because MPs had wrongly incriminated the offence’. The article concerned a case in which *‘a candidate MP from Da, Bulgaria who had caused an accident while driving a motorbike without registration plates was acquitted.’* The defendant was instead fined to the tune of BGN 1 000. It was alleged that *‘Kalpakchiev had conveniently broken the law in order to save Hristo Ivanov’s private from punishment’.* *‘The court judgment is outrageous for two reasons — first of all the legal troubles of a person closely connected to the ‘grant assistance’ class in Bulgaria was helped out of the situation, and secondly Kalpakchiev literally wrote in the judgment that he would not apply the law because MPs had made a mistake by criminalising the act in the first place’*, the article alleged.

**- On 28 November 2017, the Trud Daily** published an article entitled ‘Why are there no effective sentences for corruption?’ and the subheading ‘That judge Ivanova should hear a case against the

accused oligarch Ivo Prokopiev is nothing short of a provocation against justice'. The article was triggered by the decision of the bench, which included Justice Ivanova, to remand to the prosecution service a case against the businessman Ivo Prokopiev and the former ministers Simeon Dyankov and Traycho Traykov for further investigation. *'The winners in this situation are naturally the accused .... and if so far everything looks understandable to a degree — every accused looking for any way out — it is nothing short of cynical that a member of the appellate bench is not any regular judge but the high-profile member of the poisonous Bulgarian Judges Association'*, the article stated, adding that Justice Ivanova *'..... in recent years has been an active participant in all manner of provocations and initiatives aiming to discredit magistrates and bodies of the judiciary'*. According to the article *'the only possible course of action in this situation was for the judge to recuse herself because ' .... Ivo Prokopiev's editions routinely describe Justice Ivanova as an exemplary magistrate actively engaged in deciding appointments at the top of the judiciary and at the same time acting as one of the sharpest instruments in the toolbox of tricks used to mount attacks against the prosecution service'*.

Even participation in competitions for appointments at higher courts is interpreted as instance of underhand dealing. Allegations are routinely made that appointments are the result of nepotism, familial relations, 'correctly' adjudicated cases and an expression of 'gratitude' for the outcome in specific cases. Insinuations are made that certain judges enjoy the favour and protection of court presidents or other senior officials in the judiciary. Career development and promotion is explained as the result of exchanging services, affiliation with informal circles and professional organisations, and not necessarily as a recognition of professional merit.

Consistent efforts are being made to create the impression that judges who do not have sufficient legal knowledge, professionalism and integrity are being promoted.

BLITZ is owned by the company Intermedia. At the end of 2017, the shareholders in the company gave several interviews in which they literally alleged that the media had been 'stolen' by close associates of Delyan Peevsky. The owner of record is Slavka Bozukova, the long-time editor-in-chief of the daily.

- On **3 May 2018**, the PIK published an article captioned 'SCANDAL. EXCLUSIVELY AT PIK! The article alleged that a Sofia judge was 'in cahoots' with the low-life and slanderer Emil Jasim and asked judge Hazarbasanova, whether she believed Levsky to be a piece of shit? The author was the media's owner Nedyalko Nedyalkov. The article was triggered by a case adjudicated by the judge on a motion filed by Emil Jasim, which the PIK news agency had lost. It was accompanied by a picture of the judges encircled in red. According to Nedyalkov's commentary, the judge was an epitome of 'Bulgarian nihilism and apostasy'. *'There is a great deal to be gained from badmouthing your native country, given what we have in terms of courts'*, the article concluded. It went on to say that this should teach us two things: *'It is time to know who the faces behind the names on the bench are because there are many scoundrels among them'* and, secondly that *'Some judges in*

*Bulgaria work hand in hand with the occupational protesters subsiding on grant assistance from the likes of Open Society and America for Bulgaria'. 'The problem is that the court is giving a clean slate to apostates who insult national memory .... This is why it is our duty to shine a light on their faces, so that everyone—students, parents, grandmothers and grandfathers—can all see them', the author wrote.*

- **on 8 May 2018**, the PIK published a commentary from the media's owner Nedyalko Nedyalkov under the title 'From the editor: the PIK will not be intimidated!' Judge Hazarbasanova was described as an 'apostate'. '*[We] will not forget you. Just bear it in mind, Judge! At least not until she answers our question of whether she believes the national hero Levsky to be a piece of shit .... We will not let her be!*', the media owner wrote, adding that judges should be held to account, meaning that the next step would be to hold a rally in front of the Court's building.

- **Delaying the written opinions in adjudicated cases**

During the period incorrectly interpreted information continued to be published about delays in proceedings — an attempt to create the impression that judges did not act in good faith when it comes to performing their duties. Such information is usually published about judges who openly express views that are resented by top officials or are members of the Bulgarian Judges Association in which case it is argued that they do not have the right to speak up in public. Judges that belong to this category are routinely singled out and accused of delaying proceedings, ostensibly due to being actively involved in the work of their professional organisations. There are examples of speculation that delays in proceedings are attributable to judges holding senior positions in professional organisations and devoting part of their time to drawing up positions on matters of importance to judicial independence. The information is used as an argument that allegedly demonstrates that judges should focus solely on the lawsuits pending before them without any involvement in social dialogue.

- **on 9 November 2018**, the **Legal World website** published an article entitled 'Judges hold annual meeting at the Metropolitan Hotel' and the subheadings 'Active involvement in BJA's Google group — a sure guarantee to be elected to the Managing Board of the judges association' and 'The next Chair elect of the professional organisation of judges, financed by foreign foundations, will probably be Kalin Kalpakchiev'. The article went on to say that '*...it is not unreasonable to assume that due to being endlessly involved in drawing up declarations, opinions and letters, the current BJA Chair Atanas Atanasov delayed the opinion in the acquittal of the BSP MP Svetla Bachvarova by more than four months*'.

- **on 3 August 2017**, the **Trud Daily** published an article entitled 'Kalpakchiev's Swan Song'. The article alleged that '*... Kalin Kalpakchiev's sole occupation in the last five years was to sabotage the work of the SJC*'. The article was triggered by the discussion within the Council of the annual report of the Inspection Service under its jurisdiction. It was alleged that Kalpakchiev '*... does not wish to recuse himself from the disciplinary board, regardless of clearly being in a position of conflict of interest on account of being publicly affiliated with judge Todorova, having acted together to undermine justice and Bulgaria's international image for a long time*'. Judges Todorova was described as the patron saint of the oligarchy in the judiciary — an éminence grise of the highly

politicised Bulgarian Judges Association. *‘Miroslava Todorova —the ‘patron saint’ of oligarchy puppeteers in the judiciary, the judge who will not dispose of cases within the prescribed statutory periods, continuing to politicise the judiciary and making as yet unsuccessful attempts to ensure that the judiciary is taken over by dependent magistrates — may finally be dismissed’*, the article alleged.

- **Career development**

The published information about the career development of judges is presented as circumvention of the rules in place and ‘jumping two rings in the ladder at a time’. Even participation in competitions for appointment to higher-ranking courts is interpreted as behind-the-stage dealings. Appointments are often described as the result of friendship and kinship or of deciding cases ‘to achieve the desired result’ and returning favours in the case of such judgments. There are widespread insinuations that some judges enjoy protection from high place, that they are ‘in the good books’ of court presidents and other top officials in the judiciary. Rising through the ranks is presented as returning favours, explained by belonging to informal groups and professional organisations as opposed to recognition for professional merit and personal integrity.

An impression is being created that judges who are not sufficiently qualified and lack the requisite professional skills and integrity are being promoted.

- **on 25 September 2019, the PIK news agency** published the article ‘A viper’s nest. Kalpakchiev—Lozan Panov—Hristo Ivanov. A court for sale to the highest bidder’ written by Iva Nikolova. According to the author the BJA, led by Kalpakchiev, will fully dedicate itself to ‘an ugly feud with the prosecution service and double its efforts to gain control of the judiciary’. *‘Tracing the professional development of Kalin Kalpakchiev from the Shumen Regional Court to the Sofia Court of Appeal reveals an umbilical cord leading to the mutineers feeding on an endless supply of grant assistance in the Bulgarian judiciary without those direct and illicit support he would still be sitting on the bench in the small town in Northeast Bulgaria at the foothills of the monument celebrating the 1300<sup>th</sup> anniversary of Bulgaria’*, the author wrote, adding that the Supreme Court Justice Evgeny Staykov ‘... decided to give yet another boost to the career of his protégé from Shumen by pushing him up to the position of President of the Sofia City Court’.

- **on 9 April 2019, the BLITZ website** published a piece entitled ‘A family of judges ‘blows up’ the corruption case against Desislava Ivancheva, Bilyana Petrova and Petko Dyulgerov’ and the subheading ‘Unprecedented scandal about to blow up the judiciary’. The material gives an interpretative account of the events surrounding the Ivancheva trial and the declaration of the Bulgarian Judges Association in support of the trial judge, Ivo Hinov, who publicly disavowed any association with the support expressed. According to the interpretation this means that ‘... *this move had been planned in advance in order to give the judge an alibi for acquitting the defendants, as one of the conspiracy theories in circulation claimed, and thus undermining the work of the Specialized Prosecution Service and the Anti-Mafia Commission’*. The plan had allegedly been concocted by Kalin Kalpakchiev, a justice of the Sofia Court of Appeal, and judge Hinov’s wife—Desislava Dobрева. The two were said to have spoken on the telephone on numerous occasions. *‘Thus judge Hinov and his wife who, although not officially a member of the BJA, is actively*



*involved in the initiatives of the organisation, would clear the judge of any suspicion of bias in the trial in which Ivancheva, Petrova and Dyulgerov were charged with soliciting and accepting a bribe', the article stated, adding that judge Hinov had been '...recruited to release, as a first step, Ivancheva and Petrova, from pretrial detention and to later ensure that they are acquitted at the first instance. In exchange, Hinov and Dobрева were promised rapid promotion and secondment of Dobрева from the Sofia Court of Appeal to the Supreme Court of Cassation within a short period of time'.*

- **Interpretative rulings**

The interpretative rulings of the Supreme Court of Cassation have also been given a twisted interpretation. The institution of proceedings and the issuance of opinions has been described as lobbyism, subterfuge and servitude to corporate and personal vested interest. The collective nature of the endeavour is neglected and the opinions are presented as the outcome of the personal wishes and preferences of the Supreme Court President. The most widespread insinuations are that the rulings are given under the President's direct orders and the outcome is always known in advance. Interpretative rulings are regarded as 'emptying adopted laws from meaning', raising barriers to fighting corruption, granting amnesty to persons accused of crime, interference in the legislative process, thwarted interpretation of the intention of the lawmaker, etc. The same interpretation is given to the references for a preliminary ruling sent to the CJEU., insinuating that the court has collectively placed itself at the beck and call of certain businessmen or economic interests or is actively working to sabotage the efforts of the government to confiscate the proceeds of crime.

#### **EXAMPLES:**

- **on 29 May 2018, the Legal World magazine** published the article 'The Supreme Court of Cassation announced with a one-day delay that 14 judges from the Commercial Division of the Court are in favour of finding the secondary looting of the failed KTB legal'. The subheading read 'The Constitutional Court to decide whether the amendments to the Bank Insolvency Act contravene the Constitution'. Information published in the 24 Chasa Daily is quoted, according to which 14 judges from the Commercial Division of the Supreme Court have petitioned the Constitutional Court, requesting a provision in the supplementary and final provisions of the Bank Insolvency Act to be declared unconstitutional. The provision in question aims to prevent the secondary looting of the remaining assets of the failed Corporate Commercial Bank (KTB). The article cites the names of the judges (Daria Prodanova, Vanya Alexieva, Emil Markov, Camelia Efremova, Bonka Yonkova, Rositsa Bojilova, Petya Horozova, Anna Baeva, Veronica Nikolova, Kristiana Genkovska, Nikolay Markov, Evgenyi Staykov, Lyudmila Tsoleva and Madlena Jeleva) who supported the petition, noting that *'these are the judges who are in favour of giving legitimacy to the secondary looting of the KTB'*.

- **on 3 April 2018, the Trud Daily** published the article 'Behind-the-scenes circles launch an engineering project for the election of the next Prosecutor-General' with the subheading 'Why the reference for a preliminary ruling sent by the Sofia City Court that clearly benefits the accused Tsvetan Vasilev and Ivo Prokopiev'. The article sternly warns the *'...if the ties between lawyers and*

*judges fail to be exposed, Bulgaria will have to adopt the radical 'Polish model' to purge insurgents and dependent magistrates from the judiciary'. The article then described the judgment delivered by judge Encheva as '... being wholly against public interest but nevertheless a desired outcome for influential circles and figures with solid financial backing and a wealth acquired in a manner, which the authorities believe to be unlawful'. It then continues '... The see-through stratagems of those who orchestrated and delivered the plan to send six questions to the Court in Luxembourg show that we are witnessing yet another series of multi-layered schemed through which the oligarchy is attempting to engineer the right outcome in the election of the next Prosecutor-General', the article concludes.*

- **Holding senior positions in the executive branch of government**

Some media interpret the fact that in the past judges have held high offices in the executive branch of government as a fact that compromises their integrity and impartiality. The career of such judges is used as 'evidence' of political affiliation and interpreted in a strongly negative light. Their judgments are described as serving specific party, political and economic interests of non-government players.

**EXAMPLES:**

- **on 29 September 2017, the Trud Daily** published the article 'Sonya Yankulova—at attempt at sabotaging the President of the Supreme Administrative Court' with the subheading 'No other Bulgarian magistrate has spent such a long time (eight years) in political circles. Yankulova practically belongs to the executive branch of government'. The article continues with the following: *'It seems that Yankulova's work at the Ministry of Defence was hardly a top priority because while holding office as Deputy Minister, she completed a 12-month specialisation in the UK'. Part of the biography of the judge has been cited. 'And if an explanation is to be given to these elements in the judge's biography, this is hardly the case (even if it is legal) in terms of the absence from her declaration of conflict of interest of persons linked to her husband, Igor Yankulov, who is an expert witness at the court and a business associate in 4 companies, as well as those related to her son who also holds shares in three companies. The latter is obviously important because of episodes in Yankulova's career as a judge that call into question her impartiality'. The article goes on to allege that 'there are at least two lawsuits in which the judge failed to recuse herself, despite the fact that the lawyer for the defence in the first was Nikolay Svinarov, her former boss at the Ministry, and the lawyer in the other case was Ilko Dimitrov, her counterpart and Deputy Minister at the MoD at the time when she held the same position'.*

- **Participation in public consultations on draft legislation**

During the period covered by the review, materials were published presenting the involvement of judges and representatives of professional associations in discussions on proposed amendments to legislation has been described as an activity that is untypical for judges and their opinions were interpreted as positions aiming to protect illegitimate or strictly professional interests. A concerted attempt was made to create the impression that the discussion of proposed changes to legislation is something only politicians should be involved in.

## EXAMPLES:

- on 30 August 2017, the **Trud Daily** published the article 'Combatting Corruption? Start with the Black Swans'. The article is purportedly about proposed amendments to legislation aiming to strengthen the efforts to crack down on corruption. It is noted that no matter what amendments the Parliament enacts, *'...fighting corruption will always remain work in progress while the lobbyists of the oligarchy continue to pull the strings at the top of the judiciary, such as the Sofia City Court and the Supreme Court'*. The article concerned a meeting between the main opposition party in Parliament BSP with representatives of the Bulgarian Judges Association, among whom Judge Dechev. This was described as irregular and problematic between the opposition *'...gave legitimacy to those judges who were mainly responsible for the inefficient fight against corruption in Bulgaria'*. The following was added by way of conclusion: *'Support for more restrictive legislation will never come from judges who made the wrong career choice and became judges instead of lawyers'*.

- **Membership of professional organisations**

Some of the media under review have consistently and purposefully demonised membership of professional organisations, and in particular the Bulgarian Judges Association. Regardless of the context — career development, judgments delivered by courts, publicly expressed positions, initiating petitions in support of judicial independence, some media have invariably singled out the membership of the judge of the Bulgarian Judges Association. Such reports typically insinuate that membership of a professional organisation is always motivated by the desire to seize control and destabilise the judiciary.

There has also been a great deal of speculation regarding the fact that the BJA implements projects with grants from international organisations in violation of the principle of independence and impartiality of judges. It is insinuated that the donors of the professional organisation dictate the verdicts and judgments to be delivered in court and influence the decisions taken by magistrates. BJA members are depicted as politicized, dependent, serving foreign, anti-Bulgarian interests. The organisation has been described as breeding ground for destructive and dangerous ideas, a hotbed of lobbying interests, a circle pursuing illegitimate goals, an informal parallel power, which dictates decisions in the judiciary, is vying to gain control of the Prosecution Service and undermine the government's efforts to fight corruption and organised crime.

It is stressed that a judge's membership of a professional organisation is a guarantee for career development. Very often 'flawed' judgments are explained through the judge's membership of the BJA. Any action, declaration of support or position of the organisation that upholds judicial independence, concerns problems experienced by judges or current scandals in the judiciary are described as political, outrageous and inspired by undisclosed interests. The BJA is accused of acting as a political group or even a political party.

The role and influence of the organisation on processes under way and the governance of the judiciary is presented in hyperbole and grossly exaggerated. Candidates participating in competitions for court presidents or judges whose decisions defy expectations are often 'attached'



to the organisation, even when they have never been members. This is used as an absolute argument, which allegedly demonstrates that they are not acting in good faith or that they are unfit to be judges, dependent and politicised. The positions of the professional organisation have frequently been described as a form of exerting pressure on the Supreme Judicial Council, mounting attacks against other bodies and institutions and a form of undue influence and interference in government affairs.

#### **EXAMPLES:**

- **on 7 July 2017, the Trud Daily** published the article 'The Bulgarian Judges Association in the grip of panic over money' with the subheading 'The proposed restrictions on the financing of professional organisations of magistrates by foreign entities reveals the true 'values' some appear to hold dear'. The article concerned proposed changes to the Judiciary Act, which aimed to restrict the foreign financing of professional organisations. The fact that the BJA et al. immediately identified as a 'target' and 'victim of the proposed Bill' is to be dismissed as grotesque wailing. According to the article judges Kalpakchiev and Todorova received grant assistance on a regular basis. It was pointed out that while Todorova was Chair of the organisation, the BJA received a collection of materials compiled on the initiative of the Dutch Foundation Judges for Judges. It is further noted that later the judge heard the detention measure of a Dutch citizen who had been accused of offering a bribe of 42 BGN to a policeman. She released the young man on bail, but the decision was subsequently overturned on appeal. The article interpreted the situation as follows '*It has been incontrovertibly established that the BJA receives funding from the Netherlands, Todorova is a well-known former Chair of the BJA who refused to rule on the detention of a Dutch citizen — a ruling that three other judges overturned on appeal*'.

- **On 21 November 2018, the Monitor Daily** published a piece entitled 'BJA finally admits that they receive grant aid'. The article was dedicated to the participation of judge Mazgalov in a TV interview. The article stated the following: '*... The notorious BJA, well known for having ties to behind-the-scenes centres of power, makes a public admission that it is indeed the recipient of foreign financing*'. The article asks how the organisation, which is loud in its media attacks against other bodies of the judiciary and other branches of government, funds its expensive workshops. It then continued by reporting the words of judge Mazgalov who argued that '*...the European Commission's report contained certain inaccuracies, thereby indirectly accusing the Commission officials of incompetence, although until two years ago the BJA waved the VCM Report as a useful propaganda tool*'.

- **on 6 May 2019, the Telegraph Daily** published the article 'Who Makes Career Decisions in the Courts?'. The article was triggered by a declaration of the BJA to the Supreme Judicial Council, which insisted that an inspection be conducted to verify the statement made by the judges Metody Lalov and Veselin Pengezov in respect of Delyan Peevsky's role in filling top appointments in the judiciary. The two judges were singled out as implementors of yet another 'conspiracy' against Peevsky at the behest of the media owned by the oligarchs Ivo Prokopiev, Ognyan Donev and Tsvetan Vasilev who were currently on trial. The author then concludes that the 'entire managing board of the BJA' was under the direct influence of the oligarchs Prokopiev and Vasilev. The article cites lawsuits filed against the dailies Telegraph and Monitor in respect of defamation of

character and slander, which the media had lost in court. The article went on to say that *'many other such lawsuits are yet to come. How do you think judge Mazgalov will rule, given that he is a Deputy Chair of the Judges Association and the judge on whose docket the lawsuit filed by the 'Black Swan' (Lozan Panov's wife) against the Telegraph and the Monitor is pending'*, the article rhetorically asked in conclusion.

- **on 6 October 2017, the Monitor Daily** published the article 'Panov with yet another desperate attempt to gain control of Themis'. The article was triggered by a proposal for Justice Mashev from the Supreme Court to be appointed acting head of the Sofia City Court. *'The puppet of the oligarchy in Themis Lozan Panov attempts once again to clear the road for the tentacles of his shadow masters in the judiciary'*, the article stated, adding that *'rumours started circulating immediately in the Palace of Justice that Mashev will be the instrument of the oligarchy tasked with covering up the irregularities of the reign of Topalov who recently stepped down as court president. By nominating him Panov is apparently trying to push 'one of his own' forward as the judge is known to be close to the Bulgarian Judges Association. It is an interesting fact that the career of the former Sofia trial court judge and current justice of the Sofia Court of Appeal took off after a visit to the US fully paid by grant assistance'*, the article concludes.

- **Asset declarations**

The information available from public registers, including the asset declarations filed with the National Audit Office each year, are used to insinuate that specific judges have become rich in suspicious circumstances. It is alleged that some go on expensive holidays, live in inexplicably expensive properties, and have money the origin of which is unclear. Typically, such information is published about judges who do not 'tow the official line', court presidents whose names become publicly known in connection with specific lawsuits and trials, judges who publicly defend the independence of the judiciary and those who are members of professional associations. Information from their asset declarations is given a twisted or arbitrary interpretation. There have been multiple unfounded allegations that properties have been bought at prices below market values, along with insinuations that some judges have become suddenly rich — circumstances, which are then attributed to undeserved promotions, bank loans that a judge's salary is not sufficient to repay, etc. The allegations are used to foment suspicion and question the impartiality of judges, either on the bench or as participants in competitions for promotion through the ranks of the judiciary. The publications are also linked to calls to investigate such judges, remove them from the bench temporarily or summarily dismiss them.

Judges have been directly accused of hiding their real income, not paying taxes, buying properties at below-market values—all in connection with their professional duties. An impression is being created that some demonstrate a very high standard of living, which give rise to suspicion of corruption practices.

**EXAMPLES:**

- **on 10 August 2017, the BLITZ** published the article 'Lozan Panov spends thousands on holiday on the most expensive island in Greece!' with the sub-heading 'The outrageous judge spotted having

the time of his life on Mykonos'. According to the article Panov was 'dressed like a Russian oligarch'. The article then added that the *'hugely expensive holiday was apparently not a problem for Lozanov who has the reputation of being one of the richest judges in Bulgaria. How long Lozanov spent on Mykonos is unknown but his holiday must have cost at least EUR 10 000'* those in the know have roughly estimated.

- **on 15 October 2017, the Trud** Daily published an article, which was subsequently reprinted By BLITZ under the title 'The scandalous judge Kaloyan Topalov rolling in it, has a string of properties and matches his expensive watches to his clothes on the day'. According to the article Topalov 'is doing his best to flaunt his new found wealth' and *'... in his case, the higher standard of living is directly related to his career development and the position of President of the Sofia City Court he has held in the Sofia City Court'. 'Ten years — this is how long it takes an ordinary trial judge who has just purchased his first car for 300 BGN to get to a point when he can buy an entire floor in a house in one of Sofia's most expensive and exclusive residential areas for almost half a million Leva. This is the story of the former President of the Sofia City Court Kaloyan Topalov who has given us plenty of reasons to doubt his integrity as court president in the last two years'*, the article stated, adding that *'the judge has a collection of luxury watches, which he wears, depending on his mood and his clothes on the day. He also has a soft spot for expensive brands, buying shirts that cost almost as much as the minimum wage a piece'*.

- **Privacy**

The allegations, rumours and speculation regarding the privacy of judges have an enormous scope. Some articles publish details of the private lives of judges without citing any sources or, where a source has been cited, the citation is anonymous. Most often the allegations concern nepotism. The marital status of judges and their spouses or partners has given rise to many a conspiracy theory, allegations, rumours of rising through the ranks for reasons other than professional merit, influencing the outcome of lawsuits and trials and irregularities in court management. It is often argued that personal relations, circles of friends, acquaintances and even the hobbies of judges compromise their impartiality in hearing cases and their public activity. Allegations have been made that publicly expressed positions or changes in the behaviour of specific judges are the result of decisions taken by their spouses. Opinions have been voiced that judges should have recused themselves on account of personal, professional and familial ties, etc. There have been insinuations that particular judges are actively undermining the prosecution service due to members of their families being under investigation.

#### **EXAMPLES:**

- **on 7 October 2019, the PIK** published an article under the headline 'EXCLUSIVE AT THE PIK: Judge Vladka, married to a member of the macabre Boxers gang, at the front of the putsch against Geshev. The shadow of Mityo aka Ochite and Kamen aka Kukata [members of the underground criminal world—Translator's note] hangs over her...'. The article alleges to have uncovered a close tie between the Bulgarian Judges Association and the 'Boxers gang' and Kamen Balbuzanov aka Kukata, who is an associate of the gangster Mityo aka Ochite. The tie, according to the article, became apparent from the petition started by judges voicing support for the court in the

Palfreeman case and the apology sought from Geshev. *'The judges' petition bemoans the threat to the independence of courts and the compromised balance between courts and the prosecution service, among other grievances. However, this is a poorly disguised attempt to influence the prosecution service'*, the article asserts, further alleging that the judge is *'a household name in underground circles, where she is known as Vladka, being the wife of Mario Milchev Birovsky aka the Boxer — a well-known figure in the criminal world whose history goes back all the way to the 1990s'*. It is then added that *'through her marriage the judge became linked to the criminal world along the Black Sea coast and in Pleven'*. It is alleged that the young woman was inexplicably appointed junior judge and was later promoted to the Lukovit Regional Court. After this, she quickly rose through the ranks at the BJA. *'Obviously a long hidden hand is guiding her career'*, the article concludes, adding that the judge has a personal grudge against the Specialist Prosecution Service, which is well on its way to blow up the criminal deals of her husband—Mario Milchev Birovsky, also known as the Boxer.

- **On 16 October 2017, the Legal World website** published the article *'Sofia City Court in the bull's eye'* and the subheadings *'Who is trying to wield influence in Themis?'* and *'The story of a notice that raises suspicions'*. Sofia Appellate Court judges and employees noticed that the accusations coincided with the return of Kalpakchiev to the Court. It has been alleged that while a member of the SJC *'no attention was given to the fact that his wife Elizabeth Petrova, who is also a judge, was promoted by the Council.'* According to the article Kalpakchiev was hankering after an appointment as Court President—something which was not possible while justice Daniela Doncheva held the position.

During the period covered by the report articles were published, which revealed that judges had been harassed by journalists working for media that had lost or were otherwise unhappy with judgments delivered by the judges. Some media published pictures of judges, omitting to indicate the origin (and the date on which the pictures were taken), which were used as arguments that the judiciary was politicised and *'evidence'* of conspiracy theories, suspicious contracts, pursuing illegitimate goals and seeking to achieve specific outcomes in certain lawsuits. The origin of the photographs was never clarified, which raises questions as to whether certain inconvenient judges may not have been unlawfully watched, their movements monitored and their communications intercepted — something that can be ordered by a handful of government institutions.

This warrants the conclusion that the most numerous and aggressive media attacks are directed at the Presidents of the Supreme Court, the Sofia City Court and the Sofia Regional Court as well as judges who are members of the Bulgarian Judges Association.

#### **EDITORIAL POLICY OF THE MEDIA UNDER REVIEW**

The monitoring and analysis show that the media that initiate attacks against the courts publish mostly speculative information, hearsay, insulting qualifications and untruthful allegations. These include the dailies Trud, Monitor and Telegraph and the websites PIK, BLITZ and Legal World. Attacks on courts have also been published by the dailies 24 Chasa and Standard, albeit less frequently. However, the latter frequently reprint materials published in six media in the first group.

A distinctive feature of the abovementioned media is their blatant disregard for journalistic standards and their concerted campaign to malign courts and judges by publishing unfounded allegations, insinuations, unverified information, insulting qualifications, and falsehoods about a significant number of judges. By way of comparison, in a previous report we identified 44 judges who had been subjected to attacks from the media against 99 judges identified in the present study.

On many occasions, the media in question have called for the institution of disciplinary proceedings, investigations and the dismissal of judges, including taking vigilante action against them, with the judges names and photographs accompanying the published materials.

The results of the study indicate that most journalist pieces, including analyses and comments, are published without their author being indicated. There is a significant share of editorial comments and analyses from the publishers, editors-in-chief and their deputies, which contain numerous insults and slanderous allegations, insinuating that the judges are corrupt, dependent and lack integrity. During the period covered by the report, the language and words used have become stronger, sharper, more aggressive as compared to the previous period. It is commonplace for the media in question to base their publications on hearsay and anonymous sources. Sometimes, no sources are being quoted at all. Very often, by way of explanation, the article is explained by information received from unnamed employees or judges or rumours and hearsay circulating 'in the corridors of the Palace of Justice' or in legal circles.

Practically half of the media, i.e. the dailies Trud, Monitor and Telegraph and the websites PIK, BLITZ and Legal world publish identical articles that tarnish the reputation of courts. It is a well-rehearsed mechanism to ensure that each piece containing an attack against a judge to be republished by the other media. The materials thus appear in each of the media in question, enhancing the resonance of the attack. The media in question use identical wording when talking about specific judges, relying on a wide range of insulting qualifications used consistently in each material containing an attack against a particular judge. The positions, opinions and arguments set out in the articles in question are identical, relying on the same commentators or talking points. These have remained the same throughout the study period. The articles have not been triggered by any specific event or where such an event existed, it was twisted and used as an 'argument' that allegedly confirms the positions expressed.

Individual events in the judiciary have been interpreted and woven into an overall concept seeing court defamation. Such events range from making proposals for issued to be discussed at the level of the SJC, actions and positions of individual representatives of courts, specific judgments, administrative matters, etc. which the media blow out of proportion, exaggerate, interpret as scandalous, outrageous or sensationalist, immoral, unlawful and prompted by interests that are external to the judiciary.

The attacks against individual judges vary greatly — from those targeted at their professional duties, career development and public activity to their personal life. A judge may sometimes be subjected to the entire range of humiliating and slanderous allegations. It would therefore not be an exaggeration to say that judges have become the target of media attacks.

There is a strong trend of 'rehashing' materials that in the guise of asking questions of a particular judge in actual fact contain false allegations, offer a twisted interpretation of facts or contain pure speculation. They aim to engage both individual judges and entire courts in a position of having to dispel blatant untruths and, when they choose to remain silent, accusing them of hiding from society, evading legitimate journalistic enquiries or acting as if they were untouchable and unaccountable for their actions. Where during the previous period this stratagem was mainly used in the attacks against the President of the Supreme Court of Cassation, it is now used against an array of judges in the wake of judgments delivered or in the context of judicial activism.

During the period covered by the study, advance announcements of forthcoming sensationalist or additional information about specific cases revelations became commonplace. These typically target a specific judge, containing hints of that discrediting revelations about their career, life, personal contact or judgments are going to be made. Thus, an impression is created that the judge lacks integrity and does not possess the necessary professional or moral qualities. There have been an increasing number of cases in which no actual publications follow such 'announcements', which nevertheless causes the reader to doubt whether the judge is fit for office.

It is particularly disconcerting that some judges have been physically followed by teams from the abovementioned media. A trend has been observed where media, which have lost lawsuits in court, or are otherwise unhappy about a particular court judgment, would subsequently launch a slanderous attack against the judges who delivered the judgments. In this context there has been an increase in the number of publications, which call into question the random allocation of cases, creating the impression that the respondents are selecting judges who are more likely to favour them in a lawsuit. The court has been attacked on multiple occasions with the allegation that it muzzles certain media but not others, thereby violating freedom of speech and having revenge against the editorial policy of the media in question. At least three protests were organised by media owners against particular judgments alleged to have been unfair and unlawful, insisting that disciplinary action against the judges concerned be taken or that they be dismissed or demanding explanations from courts. One of these protests took place during the local election campaign. Part of the protest was filmed and was subsequently included in the election video of one of the political parties and broadcast on all leading TV channels.

The positions supporting judges on the part of professional organisations, the petitions aiming to defend fellow judges from media vilification and the response of the judicial chamber of the SJC have been interpreted as immoral. There have been several cases in which various media submitted complaints to the prosecution service, the SJC and the Inspection Service under its jurisdiction, having first broadly publicised their intentions but never the outcome of the inspections and investigations conducted. These are indications of growing pressure being mounted on courts.

It should be added that the media and websites concerned never seek the opinion of the affected party. To the extent that the articles published contain such positions, they are diminished and reported without respect for human and professional dignity, and often presented as feeble attempts at an excuse. Some of the media publish defamatory and slanderous information about particular judges, clarifying that the individual concerned would be given the possibility to respond



or make their views known, or that other points of view will be given coverage. In most cases, this never happens.

Thus, the media concerned have proclaimed themselves the last instance as regards public opinion, depriving citizens of a possibility to form an informed opinion based on an objective appraisal of facts and develop critical thinking skills vis-à-vis the information provided to them.

In conclusion, the results of the monitoring indicate that the dailies Trud, Monitor and Telegraph and the websites Legal World, PIK and BLITZ keep up an continually escalating and targeted smear campaigns against judges, relying on methods that clearly contravene the principles set out in the Media Code of Ethics while mounting pressure and tarnishing the reputation of judges.

## **GENESIS AND REASONS FOR ATTACKS ON COURTS**

The results of the monitoring further outline several trends, which may be characterised as a growing threat against judicial independence.

Firstly, there is a visible overlap between the media attacks against courts, judges and their professional organisations and those on the part of senior government officials, including the Prime Minister, ministers, the Prosecutor-General, Members of Parliament, SJC members).

There is full temporal synchronicity and concurrence between the arguments and positions promoted by the media and the statements made by the representatives of government institutions. In many cases the attacks against courts from representatives of the executive, legislative and even judicial branch and the subsequent publication of journalistic pieces, most often in the form of commentary, that express positions that are fully identical. The opposite trend has also been observed — materials that contain untruthful and unsubstantiated allegations are then repeated and cited as ‘argument’ in the public statements of public figures and opinion leaders.

In keeping with the previous analysis, the monitoring has established a clear causal link between specific events and the genesis of attacks against courts, judges and their professional organisations. There are several factors the unfailingly trigger attacks against judges:

- Publicly expressed positions defending judicial independence on the occasion of issues of relevance to the judiciary (including proposed amendments to legislation) or expressions of concern over scandals that undermine the authority of the judiciary and the very principles of democratic rule
- Judicial activism
- Expressing opinions in support of particular judges following media attacks
- Proposals of SJC members on cases to be addressed in the judiciary
- Particular judgments or rulings

- Election of court presidents and other top judicial appointments.

The attacks from media and other public figures against the Supreme Court President for example continue to follow a temporal pattern of publications appearing after he makes public statements or speeches at public forums, his work as court president and the exercise of his powers under the Judiciary Act. All his public actions and statements are invariably followed by slanderous and defaming publications and interpretations that he is breaching the Constitution, the Judiciary Act and the code of ethics of magistrates.

The media and public attacks against particular judges, the court president of the Sofia City Court, judges who are members of the BJA intensified exponentially during the period while the procedure for the election of a new president of the Sofia City Court was ongoing.

The appeal of the BJA to the President of the Republic not to sign the decree on the appointment of the new elected Prosecutor-General and the petition started by judges demanding a public apology from Ivan Geshev were followed by a spate of publications against the judges involved in the initiatives in question.

Judgments and rulings in cases of public interest (i.e. the Palfreeman case) or lawsuits against media, which the defendants lost, were also followed by hundreds of comments that undermine both the independence and damage the reputation of courts, clearly go beyond the domain of democratic discourse and debate and are inconsistent with merely criticising the work of judicial bodies. By way of example, a day after the court gave its ruling on the Palfreeman case, PIK published eight articles and BLITZ published six. By the end of the period covered by the report, the website Legal World and the dailies Trud, Monitor and Telegraph had published more than 50 articles dedicated to the topic. Judgments are routinely used as arguments and 'evidence' that legislative amendments are needed and as an illustration of the lack of justice in society, as a blow to the anti-corruption efforts of the government and freedom of speech.

The analysis shows that in contrast to hundreds of published materials that contain unfounded allegations and unjust criticism against courts, the media appear to favour the prosecution service and government officials who became embroiled in scandals that took place during the period covered by the review. No hard questions are asked of the prosecution service and its representatives and its actions are reported without any critical analysis, and often accompanied by accolades. The abovementioned media are working hard to create the impression that it is not the investigating bodies but the court that is to blame for the lack of sentences, arguing that some of the judges have been 'installed' in their jobs in order to sabotage the prosecution of senior government officials and members of organised criminal groups.

There have been a number of cases in which institutions have swiftly responded after a spate of publications containing false or defaming statements and allegations. For example, this was the case with the interviews given by the former Head of the KPKONPI to several media in which he openly alleged that the court was sabotaging the government's efforts to seize the proceeds of crime. Statements in the same vein were also made by MPs during the same period. There is a



clear causal link between such statements and the subsequent publication of a great number of materials containing attacks against courts in general and individual judges. These have also been triggered by complaints to and the launch of investigations by the Inspection Service under the jurisdiction of the SJC.

Last but not least, the above warrants the conclusion that the ‘scandals’ inspired or alleged by the abovementioned media in which the names of judges or courts in general were involved are used to silence disconcerting developments and events, which required in-depth investigation and analysis. The study of the abovementioned media further reveals that creating such artificial and exaggerated ‘sensations’ and the targeted attacks against courts coincide with the time period when highly disconcerting facts or suspicions of irregular, criminal actions and instances of abuse of power on the part of senior public officials became public knowledge. Thus, the fabricated publications ‘pollute’ the media environment, creating a great deal of unnecessary agitation used to conceal or allow scandals in the public domain time to subside. Furthermore, they serve to shift public discourse away from objectively important topics and serious threats to the independence of the judiciary, which get lost in the never-ending media clamour created by fabricated sensationalist items.

## CONCLUSION

During the period under review the courts remained the target of co-ordinated, vicious daily attacks, which threaten their independence and harm their reputation. Likewise, representatives of the three branches of government—executive, legislative and judiciary, along with a host of non-governmental players and some of the media covered by the study—continued to foment hatred and instil negative attitudes to courts, judges and the professional organisations. The court was subjected to vicious slander campaigns and public disparaging and the body, which by Constitution is called on to protect and uphold the independence of magistrates (Supreme Judicial Council) failed (or was reluctant) to perform its duties under the Constitution and the Judiciary Act. The attempts of the Council to protect the authority and reputation of courts were sporadic, ineffectual and in some cases entirely absent. Its conduct can be likened to cherry-picking because in 2015 it adopted a Communication Strategy for the Judiciary in 2015, which contains a dedicated section on countering negative attacks against the judiciary according to which ‘... *the long-standing inability to effectively counter negative campaigns carries a risk of further eroding public trust in the judiciary and increasing political pressure on it*’. Some of the specific countermeasures envisaged in the Strategy are to develop a short-term plan to communicate the efforts of the judiciary to further its continued reform and improvement with a view to upholding its independence; developing a single crisis plan for communication that integrates communication activities to be implemented by all affected parties; improving the skills of representative of the judiciary to effectively use specific communication solutions enabling and facilitating communication at times of crisis, etc.

It remains a fact that the SJC fails in the implementation of the measures approved and does not follow a single standard to responding to cases involving attacks against individual judges or courts. This additionally enhances the harmful effect and even encourages representatives of the three

branches of government to subject courts to unjustified and aggressive attacks and unjust criticism. Furthermore, attacks against courts often originate from the Council, which has consistently been singling out specific judges in its public statements, discussing their professional merit, integrity and judgments, thereby further eroding the reputation of justice administration. The attacks initiated by SJC members reproduce literally and strictly the arguments and criticism levelled at and eroding court independence, which have been used for years to date by political functionaries, Cabinet ministers, MPs and opinion leaders to achieve short- and long-term political goals. This creates an absurd situation in which the Council, which is called upon to protect judges, fails to counter, in an adequate and proportionate manner, the intensifying smear campaign aiming to shift the blame for lack of justice in society on courts alone.

The double increase of the number of judges continually subjected to public and media attacks is a disconcerting trend of court independence being considered an unnecessary democratic standard that it being emptied of meaning. The increase in the number of attacks against courts, their authors and the highly coordinated nature of the effort, pose a threat to the principles of democracy in Bulgaria, aiming to find a convenient scapegoat for the failures of government as courts are an easy target to which a limited array of tools for protection is available. Instilling hatred for courts is a dangerous but at the same time an easy instrument for public figures and the media to use. It is particularly disconcerting that media attacks are eagerly joined by top government officials—the Prime Minister, ministers, MPs, the Prosecutor-General, SCJ members and popular commentators. This is clear evidence of the scale of the offensive against court independence, complete with purportedly genuine ‘answers’ to less liked court judgments, which typically involve swift legislative amendments presented as panacea against injustice, the lack of convictions in corruption trials and serious crimes against the person.

The intensity of the efforts to gain control of courts has continued to increase by intimidating and smearing the reputation of non-compliant judges so as to put them ‘in their place’, i.e. outside legitimate public debate, and reducing courts to an institution that merely rubber stamps penal repression and puts people away in prison. The victims of the concerted campaign to silence the position of courts and tarnish its reputation as an arbiter in litigation are carefully chosen. Among them are judges with staunch and unwavering positions on court independence whose unblemished professional reputation and judicial activism get in the way of the powers that be through repeated insistence on genuine and meaningful judicial reform, addressing flaws in the governance of the judiciary and lowering political pressure within the system. The judges who become victims of attack are often members of professional associations, opinion leaders who do not shy away from contributing to public debate. The attempts to silence their views and positions involve arguments that courts should speak solely through their judgments. The expression of opinion is interpreted as interference in the affairs of the other branches of government and political statements. The attacks aim to crush resistance against this obsolete understanding, excluding courts from the debate on matters of relevance and importance to court governance and justice administration and marginalising it in order to deprive the public of an array of professional views outside of the narrow remit of those expressed by political players.

The public attacks against courts are just one tool in the toolbox used to intimidate 'inconvenient' judges. Intimidation is also pursued via institutional means, the number of institutions willing to contribute being continually on the rise. The judges participating in public debate or delivering unpopular judgments or ones that are embarrassing for the powers that be are continually subjected to multiple, often concurrent inspections, disciplinary proceedings, audits and investigations and even protests are organised and political declarations are adopted against them.

Some of the media are actively complicit in the offensive to bring the court down to its knees. They are a conduit for hatred, attacks, unfair criticism and—by contract—a mouthpiece and fervent supporter of public figures and organisations that launch attacks against judges and courts. Thus, the echo of attacks against courts, judges and their professional organisations reverberates and becomes more audible, further eroding public trust in courts and their judgments. The media have authored the most vicious and blatantly slanderous attacks and insults against courts and judges, they are a conduit for preapproved 'talking points' that are wholly deprived of any grounding in fact, disseminating outright lies to an ever expanding audience that is denied the opportunity to learn the truth. Some media are conducting a dedicated negative propaganda campaign against particular judges and courts, undermining trust in courts and promoting dangerous ideas that may easily escalate into vigilante action against judges. On the other hand, the lack of critical mass, non-existent civic education and knowledge of the workings of the judiciary are fertile soil for spreading fake news, twisted or arbitrary interpretation of processes and events in the public domain and instigating long-lasting hatred towards courts and judges. Thus, instead of educating the public and explaining the true origin and reasons for events and processes under way, instead of fostering a discerning audience capable of critical thinking, the media are sapping society of vital powers to resist manipulation, eroding the principle of democratic governance and accelerating the breakdown of democratic values.

The attacks against courts originating from public figures and the media create a distorted image of justice administration. Public opinion and attention are manipulated to believe that courts are intransigent, untouchable, elitist institutions deeply eroded by corruption and nepotism, which have no concern for either law or justice in society. On the contrary, courts are painted as a hindrance, an obstacle to meting out just punishment and restoring law and order and balance in society. The public is led to believe that the guilty parties are determined by the investigative bodies and the prosecution service, with courts playing a mere rubber-stamping function. This attitude further distorts and even negates democratic principles such as the presumption of innocence, calling instead for vigilantism and 'street justice'. The media publications in question also insist on citizens electing judges directly to ensure that the latter are responsive to and willing to along with a layman's idea and understanding of justice.

The synchronicity between public and media attacks against being visible to the naked eye, it would not be an exaggeration to say that courts operate in a situation of circular defence. The identical nature and synchronicity of and between the statements of public institutions and critical publications based on unfounded allegations against judges warrant the conclusion that these come from the same source or centre pursuing goals that can be described as neither legitimate nor democratic. The effects of this concerted fire on courts can never be positive as they drive ever

deepening division lines in society, mistrust apathy, deplete civic and social energy for progress and positive change. Furthermore, they show that the principle of separation of powers is no longer respected in Bulgaria and the independence of the third branch of government—the judiciary—is currently an empty phrase written down in the Constitution and the Judiciary Act.

It would therefore not be exaggerated to conclude that judges and courts in general are subjected to an attack by a well-oiled machine that enjoys institutional support and that countering its moves presents the greatest challenge. Judges and courts have been placed in a situation where they have to perform their duties in an environment of fear, uncertainty, intimidation and threat to their individual and collective independence, including in some instances repression, while standing up for and attempting to safeguard basic democratic principles. At the same time, this deprives courts from a legitimate possibility to have their voice heard in the processes relating to the continued reform of the judiciary, being a driver for positive change and building a robust democratic society.

## **THE MEDIA COVERED BY THE STUDY**

The dailies Trud, 24 Chasa, Standard and Sega were the flagship broadsheets during the transition period.

In 2015, Petyo Blaskov (long-standing editor-in-chief of the Trud Daily) acquired ownership of the newspaper. In the early 1990s Blaskov established the 168 Chasa press group, including the 24 Chasa Daily and 168 Chasa Weekly — novel format newspapers that were radically different to pre-1989 press, which quickly gained popularity and market share. These were subsequently acquired by the German media group WAZ and Blaskov founded other newspapers—the dailies Monitor, Politika and Telegraph, which in 2007 he sold to Irena Krasteva (mother of the MRF MP Delyan Peevsky).

In 2014, the 24 Chasa Daily was acquired by the long-standing editor-in-chief Venelina Gocheva.

The Standard Daily was originally owned by the businessman Todor Batkov. Over the years, the minority shareholder GM Press acquired full ownership of two of the most influential regional newspapers — the dailies Struma and Maritsa, and in 2011 it acquired a 50 % share in Intermedia, the company behind the website BLITZ and published of the tabloid Show Business, 55+ and Doctor. At the beginning of 2018, Batkov announced that he would transfer ownership of the newspaper to the team of journalists working for it and at the beginning of November 2018, after 26 years on the market, the Standard Daily discontinued its newsprint edition and currently operates as an online media. Slavka Bozukova, the long-standing editor and Executive Director of Standard News, is still in charge.

The daily Sega is owned by Overgas, a company of the businessman Sasho Donchev. The newspaper is well known for its critical stance towards the government. The owner has been

repeatedly targeted by the prosecution service and subjected to numerous inspections and audits that coincided with the onset of the TSUMGate scandal.

The dailies Telegraph and Monitor are owned by the Movement for Rights and Freedoms MP and businessman Delyan Peevsky. In October 2018, Peevsky announced that he was divesting his media business and transferred ownership of the newspapers to a Foundation, which he continues to fund. Although nominally an opposition party in Parliament, in recent years the MRF has invariably supported all key government decisions, protecting the economic and political interests of the ruling coalition, and lending the votes of its MPs to the government at critical times (such as votes of no-confidence).

Mediapool is an independent web platform owned by the experienced and professional journalist Stoyana Georgieva. The platform relies primarily on project financing and grant assistance.

ClubZ is a web platform owned by the businessman and owner of the pharmaceutical company Sopharma Ognyan Donev. After launching the platform, Donev became the target of a criminal investigation and subsequently lawsuit, which is currently pending before the Sofia City Court. The news media often prints articles that are critical of the government.

The Dnevnik Daily is published by the Capital press group, jointly owned by Ivo Prokopiev who also became the target of a criminal investigation. The lawsuit is currently pending before the Specialised Criminal Court.

DeFacto is a relatively recent online news outlet that reports primarily on developments in the area of legislation and the judiciary. According to the information published on the website, the platform is owned by the DeFacto Foundation. The majority of the journalists working for it have a wealth of experience as court reporters.

Legal World is a specialist legal news outlet. In August 2017, the ownership of the magazine changed hands and its editorial policy also changed overnight. It currently published news items and reprints materials published in the newspapers and news outlets owned by the business mogul Delyan Peevsky. The owners of record are Ginka Todorova and Slavy Tankein.

PIK is a news agency owned by Nedyalko Nedyalkov, former shareholder in the tabloid Weekend. Nedyalkov has repeatedly and publicly denied any association to the MO Delyan Peevsky but the news agency is one of the most outspoken supporters of Delyan Peevsky and the political lobbies and interests associated with the MP.

The website BLITZ is owned by Intermedia. At the end of 2017, the company shareholders gave several interviews, alleging that the ownership of the website had literally been 'stolen' by parties in Delyan Peevsky's closest circle of associates. The owner of record is the long-standing editor-in-chief of the Standard—Slavka Bozukova.