

## DECLARATION

The Bulgarian Judges Association (BJA) takes the view that the Bill amending and supplementing the Judiciary Act, submitted to the 44<sup>th</sup> National Assembly for deliberation at the end of the working day on 4 July 2017, openly aims to hinder the right of magistrates to free association by means of forming and being members of professional organisations.

Despite eliciting<sup>1</sup> dismay and provoking a strong reaction from nearly all professional associations of magistrates in Bulgaria, and the fact that it blatantly disregards the opinions and positions of the European Association of Judges (IAJ)<sup>2</sup> and MEDEL (*Association of European Magistrates for Democracy and Freedom*)<sup>3</sup>, the Bill that has been tabled introduces a blanket obligation for all magistrates to declare their membership of professional organisations. As noted in an earlier opinion of the European Judges Association, the introduction of such an obligation ‘*serves no legitimate aim, undermines the right of association and is inconsistent with the policy so very recently agreed in Sofia of strengthening such associations rather than undermining them*’. Among other things, following that policy is a matter of principle, not least on account of the declaration to the effect, adopted by the Ministers of Justice of all Member States of the Council of Europe, along with the Action Plan for Independence of the Judiciary, endorsed at the meeting held on 21 April 2016 in Sofia.

The Bill submitted to the Bulgarian Parliament hinders the free association of magistrates in professional organisations while at the same time prohibiting them from sitting on the governing boards of organisations jointly established with representatives of other legal professions, such as the Bulgarian Union of Jurists. There is hardly any need to put forth arguments demonstrating the self-evident absurdity of such a statutory prohibition.

The Bill further introduces a ban on the work of professional organisations of magistrates being financially supported on a project basis. We should note that the involvement of

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<sup>1</sup> [http://www.judgesbg.org/images/Decl\\_Saslovni.pdf](http://www.judgesbg.org/images/Decl_Saslovni.pdf)

<sup>2</sup> [http://www.judgesbg.org/images/Bulgaria\\_Letter\\_IAJ\\_2016.pdf](http://www.judgesbg.org/images/Bulgaria_Letter_IAJ_2016.pdf)

<sup>3</sup> [http://www.medelnet.eu/index.php?option=com\\_content&view=article&id=307:letter-to-the-president-of-the-bulgarian-national-assembly-regarding-the-proposal-of-amendments-of-the-judicial-system&catid=45&Itemid=61](http://www.medelnet.eu/index.php?option=com_content&view=article&id=307:letter-to-the-president-of-the-bulgarian-national-assembly-regarding-the-proposal-of-amendments-of-the-judicial-system&catid=45&Itemid=61)

professional organisations in donor-financed projects in a necessity in that it they allow us to organise relevant and timely professional discussions, training events, meetings of fellow magistrates, presentations by international guest speakers, exchange of experience with fellow magistrates from other countries, publishing manuals, compendiums and other legal literature. It is not only the Bulgarian Judges Association, but indeed all other professional associations of judges and prosecutors, that have relied on project financing for the organisation of such activities. The arguments put forth in the justification accompanying the Bill, notably that the restrictions and prohibitions are being put in place to preclude 'foreign' influences and dependencies in the judiciary, are plainly absurd and a trademark patently associated with undemocratic societies. Bulgarian non-governmental organisations receive financial support within the framework of established partnerships to which the Bulgarian government is often also a partner. Many of the projects are financed under programmes administered by European Union institutions, with funding being allocated on a competitive basis to non-government and government organisations and institutions alike.

We are also firmly opposed to the section of the Bill making yet another overt attempt to legislate in favour of Supreme Judicial Council members receiving a career incentive and recall that the latest such attempt was resolutely rejected by the political party with the greatest number of seats in Parliament at the time of enacting the latest amendments to the Judiciary Act. The attempt to ensure that the Bill is passed at first reading by the Legal Affairs Committee of Parliament less than 24 hours after the draft was submitted for deliberation further demonstrates complete disregard for the democratic rules and practices of a parliamentary democracy and is a strong indication that the Bill yet again seeks to achieve goals that cannot be described as legitimate. These goals were spelled out at the meeting of the abovementioned Committee on 5 July 2017 and warrant the incontrovertible conclusion that the lawmaker is seeking to ensure incentives for SCJ members, i.e. top magistrates, while raising barriers and making rank and file magistrates subject to unreasonable and non-proportionate prohibitions and obligations.

We call on the parties responsible for submitting the Bill to Parliament and to all political parties represented in it to show responsibility and statesmanship by withdrawing the Bill and the proposals outlined above. Its enactment will once again undermine Bulgaria's efforts to build a State, which as a Member State of the European Union, offers a stable and predictable legal order that promotes public discussion, as opposed to raising obstacles and prohibitions to silence critical voices.

Sofia  
6 July 2017

BJA Managing Board: