



BULGARIAN JUDGES ASSOCIATION

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OPEN LETTER

In relation to the vote by the National assembly on 09.12.2015 for the Law for amendment and annexation of the Constitution of the Republic of Bulgaria.

Dear Bulgarian citizens,

The Bulgarian Judges Association is addressing you directly for the first time. The ongoing series of statements which we have been sending to various competent institutions have not led to significant results. We have been making such statements in regard to scandalous judicial appointments, we have been calling for vital oversight because of the suspicion of management and corruption, and we have been highlighting the behavior of certain magistrates that raises ethical questions.

We have been constantly pointing out repeated scandals that undermine the credibility of the judicial authorities, and which underline the necessity of a deep and determining reform. This year, for the first time in years, specific proposals for a positive and lasting change were placed into a Parliamentary constitutional reform process which was transparent for all of society to see. The claims that these proposals would not lead to an improvement of the judicial system, and thus to an increase in the feeling for justice of the citizens, are not true. The quality of judging depends on the qualities of the people working in the system. Therefore and quite logically, the most significant thing is the oversight of the judicial authority itself – because it is this authority that determines what kind of people, and with which professional qualities, will be selected to go into the judicial system, and which of them will then be promoted and appointed to senior management positions.

One of the most important of these proposals – which guaranteed true responsibility and accountability to society, rather than the chronic absence of such oversight, and which provided a real chance for an honest and truly independent judiciary – was rejected with the Decision of the National Assembly in its final reform vote yesterday on 09.12.2015.

It is important to make clear exactly what happened on that day and how it affects every single citizen of Bulgaria. The long-awaited changes that were in the draft for constitutional amendment, and which were supported by the large majority, were instead replaced with 'accepted corrections' which will not result in a real change; will not give any guarantees for the rule of the law and the independence of judges; and will not eliminate the widely suspected dependencies within the judicial system. The ratio of the quotas of the colleges of judges and prosecutors may mean little to those not familiar with the issue, but it is important, because it gets down to the most fundamental problem – which is whether we can have judicial courts that are independent of politicians and whether we can rely on a prosecutor's office which is independent of political interference. Currently, the answer is that it depends entirely on chance, when it clearly should not because judging must be honest and equitable, and in accordance only with the law and the evidence of the case. It cannot and should not depend on the interests of any outside party and no citizen should be treated differently to any other, and no one should be excused and concealed if he has broken the law, because all are equal before that law. We all want to have effective investigations into corruption, and fair punishment for those who commit crimes and harm the interests of society. Only motivated, principled and independent judges and prosecutors can guarantee a better, higher quality, objective and fair justice system – which should also clearly be the expected and visible aim of judicial reform in our country.

For the first time in the modern Bulgarian history, we had a Minister of Justice who, together with an ambitious team, was ready and able to tackle the aforementioned issues. He took on the difficult task of implementing these at constitutional level, and after that on a legislative level – mechanisms which guarantee the true independence of the judicial authorities and which would scrutinise the currently suspected dependencies, double standards and vulnerability to political and lobbying interests. However, instead of support, the majority in the Parliament and the ruling parties showed very clearly in their decision yesterday, to both the magistrates and to society, that not only do they not need an independent judicial system, but it is also actively unwanted by the majority of politicians in Bulgaria.

Dear citizen, due to these stated reasons we will all have to continue to bear an expensive and manipulative justice system, financed by state corruption, and a judicial system in which the honest judges, prosecutors and investigators will continue to be unable to work diligently for your best interests.

As judges, we desperately want to see these positive changes, but their realisation depends on brave action from the politicians. This is so because judicial authorities do not create the laws, but only apply them. Some time ago there were accusations that the profession of judges is not sufficiently proactive. The saying was that ‘when you move a cemetery, do not expect help from the *inside*’. However, yesterday’s vote in the National Assembly revealed that it is other people, and not the judges, who are the real ones who are afraid of deep change.

Finally, we want to ensure you that we will continue to work for the achievement of a better, independent and fair justice system. The prosperity of developed societies is based on the equality of all before the law, but this is not achievable without having the assurance that the courts are also truly independent.

Bulgarian Judges Association
10.12.2015