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**INTERACTION OF THE PROSECUTOR'S OFFICE WITH THE
COMPETENT STATE AUTHORITIES FOR COUNTERACTION OF
CORRUPTION**

Summary. The Bulgarian Prosecutor's Office is called upon to monitor compliance with the law by bringing to justice those who have committed crimes and supporting the charges in criminal cases of general nature, supervising the implementation of criminal and other coercive measures, taking action to repeal illegal acts and restoration in quick and urgent cases of self-violated rights and taking part in civil and administrative cases whenever required to do so by law.

In the last few years, significant progress has been made by the Republic of Bulgaria in relation to combating crime and enforcing the rule of law. As a result of the excellent interaction between the judiciary, presented by the Prosecutor's Office of the Republic of Bulgaria on the one hand, and the executive, presented by the Ministry of Interior Bodies, State Agency for National Security, Commission for Anti-corruption and illegal assets forfeiture (CACIAF), and other institutions, a number of actions have been taken to prosecute a number of persons occupying high state positions for corruption crimes committed by them.

Key words: *Bulgarian Prosecutor's office, progress, Bulgaria, positive results, good practices.*

The latest stage in the development of the judicial system in Bulgaria began on 12 July 1991 with the adoption of the new Constitution of the Republic of Bulgaria by the Grand National Assembly. It was the first one to proclaim that "Bulgaria is a Republic with a parliamentary government." Chapter IV of the Constitution regulates matters which affect the judiciary [1].

According to the Constitution, the judiciary in the Republic of Bulgaria is a system of bodies: court, prosecutor's office, investigation service (Article 117, para 2 of the Constitution, Article 129, Article 132, para 1, art. 133) [1].

The Constitution explicitly regulates the independence of the judiciary.

Constitutional guarantees have been introduced for independence of magistrates, for freely creating of internal conviction and abiding only the law.

The Chairman of the Supreme Court of Cassation, the Chairman of the Supreme Administrative Court and the Prosecutor General shall be appointed and released by the President of the Republic at the proposal of the Supreme Judicial Council.

The principles of publicity, objectivity, equality of arms and adversarial proceedings are introduced.

Chapter VI of the Constitution on the Judiciary (Article 126 and Article 127) regulates matters which affect the structure and functions of the Prosecutor's Office [1].

It is explicitly stated that the structure of the prosecution office shall correspond to that of the courts. In the performance of their functions, prosecutors are independent of the court.

The Prosecutor General shall oversee the legality and provide methodological guidance to all other prosecutors.

The Bulgarian Prosecutor's Office is called upon to monitor compliance with the law by bringing to justice those who have committed crimes and supporting the charges in criminal cases of general nature, supervising the implementation of criminal and other coercive measures, taking action to repeal illegal acts and restoration in quick and urgent cases of self-violated rights and taking part in civil and administrative cases whenever required to do so by law.

The Judicial Systems Act of 1994 (JSA) shall regulate the structure and functions of the separate units, status of magistrates, their rights and obligations, matters of irremovability and incompatibility, disciplinary responsibility and promotion, organization and function of the SJC.

We should accept the fact that the Constitution, adopted more than a decade ago, cannot remain unchanged. It must express the dynamics of public relations (national and international), with their inherent needs for new constitutional arrangements. And that means making reasonable, well-balanced changes to the Constitution itself.

On 24 September 2003, the National Assembly unanimously adopted the first amendments to the Constitution, made since its adoption 12 years ago. They

are related to the reform of the judiciary and concern matters of immunity, irremovability and mandate of magistrates, with emphasis on:

Having completed a five year term of office in the respective position the judges, prosecutors and investigating magistrates shall become irremovable.

Magistrates shall be liable under their civil or criminal law for their official actions and issued acts when they are crimes.

Charges will be brought only with the permission of the Supreme Judicial Council. This will also be needed to detain magistrates. A substantiated request will be made to the Prosecutor General for permission to prosecute and detain.

Magistrates shall be appointed, promoted, demoted, transferred and released from office by the decision of the Supreme Judicial Council respectively by secret ballot. The same procedure will be applied in cases of seeking criminal and civil liability (the liability of magistrates under the State Liability for Damages Caused to Citizens Act -SLDCCA), as well as when appointing administrative heads.

At this stage of social development, as a priority, the recommendations of the European Commission and the international acts do not contain requirements for changing the structure of the judicial system - court, prosecutor's office, investigation service.

On this basis, the Constitution of the Republic of Bulgaria of 1991 is fully consistent with the recommendations of Europe.

As for the need to increase the efficiency of the judiciary, this is a matter of adequate change of national procedural law.

Apart from the above, currently the investigation and bringing before the court and convicting of persons accused of crimes regardless of their political affiliation and status in society are possible precisely because of the constitutional guarantees for the independence of the judiciary and its current structure. This has a

key role to play in implementation of the constitutional principle of equality of all citizens before the law.

In the future, when this principle is unconditionally observed by all authorities and becomes a moral position of every citizen, when intolerance of any violation of the law at all levels is so strong and everyone assists the state institutions in the fight against crime, the issue of the place of separate units of the judiciary in the state-building of the country would not be relevant.

Currently, all attempts for artificial subdivision between separate units within the judiciary under plausible pretexts for compliance with European standards, which do not exist (in particular for the place of the prosecution and investigation service in the state power), at this initial stage of democracy in Bulgaria, on a practical level would serve separate political and financial interests, even if the ideas in this regard were not initiated by them, ultimately they would only stimulate crime.

Europa's requirements are not focused on specific institutions, but on the general principle of democracy, effective fight against crime at all levels and in all its manifestations, as are the priorities of the judiciary. Therefore, the main and decisive factor is to continue to strengthen the role of the judiciary as an independent state power, which in any democratic society is the guarantor of the rule of law, called to protect the rights and legitimate interests of citizens so that through professional work and liability before the state and society to uphold the Rule of Law and Statehood [2-3].

Interaction of the Prosecutor's office with competent state authorities for counteraction of corruption

The interaction of the Prosecutor's Office with the competent state authorities for counteracting corruption is regulated in the respective special laws, on the basis of which the acts for interaction have been concluded, which according to the

changes in the legislation are updated in due time. Pursuant to the Anti-Corruption and Illegal Assets Forfeiture Act (ACIAFA), in force of 23 January 2019, which regulates the measures for counteracting corruption, the conditions and procedure for forfeiture of illegally acquired assets in favor of the state, the status and functions of the Commission for Anti-corruption and illegal assets forfeiture (CACIAF), the interaction of the Commission with the Prosecutor's Office and with other state authorities is explicitly regulated (Art. 1, item 4 and Chapter Three of (ACIAFA) [1].

The law also determines the range of the crimes (stated in Art. 108, para. 1 of ACIAFA), for which the prosecutor is obliged to notify immediately the relevant directorate of the Commission for the development of the case (in case of refusal to initiate pre-trial proceedings; suspension or termination of pretrial proceedings on the grounds explicitly stated in Article 108, paragraph 2 of the ACIAFA, filing of case in court with a prosecutorial act under the Penal Procedure Code (PPC) - indictment, decree with a proposal for releasing the perpetrator from criminal liability with imposition of an administrative sanctions or with an agreement on resolution of the case in the court); in imposed precautionary measures on the property of the accused under Article 72 of PPC.

The bodies of CACIAF and the other competent state authorities (Art. 16, para. 2 of ACIAFA) for their part carry out inspections assigned to them by the Prosecutor's Office under the Judiciary System Act by collecting, analyzing and checking information in case of corruption of persons holding senior public positions.

The joint acts for interaction with CACIAF are as follows:

- Instruction for interaction between the Commission for Anti-corruption and illegal assets forfeiture and the Prosecutor's Office of the Republic of Bulgaria for implementation of the activities under Chapter Nine by the bodies

under Article 16, para. 2 of the Anti-Corruption and Illegal Assets Forfeiture Act (promulgated in SG, issue 82 of 05 October 2018, in force since 5 October 2018);

- Rules for interaction between the Prosecutor's Office of the Republic of Bulgaria and the Commission for Anti-corruption and illegal assets forfeiture under Article 72 of the Penal Procedure Code - ref. № 1186 of 22 November 2019 - regarding the frozen property according to the PPC and its storage and management by CACIAF under the special law.

- In order to effectively counteracting corruption at the highest level, in accordance with the competence granted to them, the Commission for Anti-corruption and illegal assets forfeiture, the Prosecutor's Office, the Ministry of Interior, the State Agency for National Security, the National Revenue Agency, the bodies of the Customs Agency, the Inspectorate General at the Council of Ministers, the SJC Inspectorate and the inspectorates under Article 46 of the Administration Act interact closely.

The joint acts for interaction of the prosecution with other state bodies are as follows:

- Rules for coordination and interaction between the Prosecutor's Office of the Republic of Bulgaria (PORB) and the Ministry of Interior on conducted operational cases, conducting inspections and conducting urgent and initial actions in the investigation;

- Agreement on interaction and cooperation between the Council for Coordination in the Fight against Offenses Affecting the Financial Interests of the EU and the Prosecutor's Office of the Republic of Bulgaria;

- Agreement for interaction between the PORB and the Public Financial Inspection Agency;

- Agreement for cooperation and interaction between the National Audit Office of the Republic of Bulgaria and the PORB;

- Rules for interaction between the PORB and the National Revenue Agency;
- Agreement for cooperation and interaction between the PORB and the Financial Supervision Commission;
- Agreement for ensuring access of the Inspectorate to the Supreme Judicial Council to the Unified Information System and the local site of the PORB.

Along with the abovementioned acts, it should be taken into account the Memorandum of Understanding signed between the Prosecutor's Office of the Republic of Bulgaria and the European Investment Bank, as well as the forthcoming conclusion of an Agreement between the PORB and OLAF within a few days.

Conclusion. Regarding the level of interaction with the above bodies, it should be noted that in the last 2 years there has been extremely active interaction with CACIAF, Public Financial Inspection Agency (PFIA) and NRA [4-5]. In connection with the due notifications submitted by PORB to CACIAF in the last year alone there were claims filed for seizure of property, which has reason to believe that it was acquired illegally, amounting to BGN 3 billion (about 1.5 billion euro), and this amount increases almost daily [2-3].

We are well aware that the main function of the Prosecutor's Office on prosecuting and bringing charges against separate individuals is unthinkable without the operational capacity of the executive. In exercising its powers related to detection of specific criminal activity, it is necessary to establish a number of data, subsequently collected as evidence and verified in the course of criminal proceedings. This activity is especially valuable in detecting corruption crimes. In addition, the interaction of the Prosecutor's Office with other state bodies, in particular CACIAF, is extremely important in connection with the legal possibility stipulated in ACIAFA for illegal assets forfeiture.

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