

**Welcome address by Minister Ekaterina Zaharieva to the participants in the International
Conference of Ministers of Justice and Representatives of the Judiciary**

21 April 2016

I would like to thank everyone who joined our conference.

I would also like to express my gratitude to our partners from the Council of Europe who supported this event.

It is a great honour that one of our priorities coincides with the priorities of the Council of Europe. I took the post of Minister of Justice in December 2015, being totally aware of the difficult task associated with continuation of the judiciary reform. As a lawyer, I realize how important it is for this reform to continue in order to restore the confidence in the judiciary and magistrates. As a citizen, I am aware that my rights, our rights, cannot be fully guaranteed without independence and impartiality of the magistrates.

The judiciary, as a part of a system based on the three branches of government, is the indicator for the rule of law. It is the judiciary that revises the decisions of the executive and legislative authorities. Thus, if the judiciary does not act as a corrective, the society becomes very sensitive. The principle of separation of powers is based on the interaction and cooperation among them. This interaction, however, should be for the benefit of society and any distortion will strikes on democracy.

Judiciary independence ensures the rule of law and the respect of human rights. Bulgaria, as well as some other Member States of the Council of Europe, faces the challenge to provide adequate guarantees of independence and impartiality of the judiciary and enhance public confidence in it.

While Bulgaria has gone through several reforms of the judicial system, we have not yet complied with the requirements of our society. In December 2015, the amendments to the Constitution of the Republic of Bulgaria resulted in significant changes to the judiciary, thereby reflecting the guidelines in the standards and recommendations of the Council of Europe, including those of the Venice Commission.

Members of the Supreme Judicial Council – the authority responsible for appointment and career development in the system, will now be elected in a different way and I consider this to be a significant progress. Under our Constitution, the Supreme Judicial Council consists of 25 members; three of them are *ex officio* members – the Prosecutor General and the Presidents of the two Supreme Courts in Bulgaria. Of the remaining 22 members, 11 are directly elected by judges and prosecutors by secret ballot on the basis of their professional and personal qualities. The other 11 members, who are nominated by the National Assembly, will be elected by a majority of two thirds of MPs.

Proposals must be supported by written arguments about candidates' professional and moral qualities. Thus, we ensure that the composition of Bulgaria's Supreme Judicial Council will be dominated by magistrates, representing all levels of the judiciary.

The Supreme Judicial Council represents the judiciary and is called upon to safeguard its independence. Guarantees have been introduced for the issues of magistrates' career development to be decided by the Supreme Judicial Council without any interference from the executive. Another significant change to the Constitution is that the Supreme Judicial Council was divided into two chambers. The Judges' Chamber and the Prosecutors' Chamber shall take separate and independent decisions on appointment, career development, appraisal, disciplinary sanctions, demotion and

dismissal of magistrates. The Plenum shall determine, in an autonomous and independent way, the budget of the judiciary. The Minister of Justice shall chair the meetings of the Plenum of the Supreme Judicial Council, but he/she will not vote.

The changes to the Judiciary Act that we are currently preparing will put a particular emphasis on judges' self-government. Presidents of courts will be only administrative heads and their general meetings will decide on almost all other issues of interest to judges. Our Constitution stipulates that judges shall be independent in their decisions and the control over the judicial acts shall be performed by a higher court. Nobody else may review or assess the merits of judgments.

There is no independent judiciary without independent prosecution service. In Bulgaria, the prosecution service is part of the judiciary. The envisaged legislative changes will also provide for a reform to the prosecution service. Independence of individual prosecutors will also be provided for. Guidelines from superior prosecutors must be motivated in writing and based on the law in order to be mandatory and such as to not affect one's inner conviction.

According to the latest amendments to the Constitution, the Inspectorate to the Supreme Judicial Council shall perform checks on the integrity and conflict of interest of judges, prosecutors and investigators, on their property declarations, and also to establish actions undermining the prestige of the judiciary. In this regard, the Inspectorate is vested with enormous power, yet huge responsibility to society. There is yet a lot to be done in this field. Safeguards to prevent conflicts of interest or abuse of power should be introduced. The application of existing ethic rules should be reviewed and the professional community should be particularly sensitive when these are not respected. For this affects directly the reputation of the judiciary itself.

Other changes are also underway and I am confident that we are headed in the right direction.

I would also like to share my satisfaction with the excellent dialogue I have with the magistrates. Together with them, we prepare the amendments to the legislation and I am grateful for their active involvement and support. We also discuss the important issues of the judicial reform within a Council, which was established earlier this year. The Council for the Implementation of the Judicial Reform Strategy is composed of magistrates, their professional organizations, the academic community and NGOs.

I believe that the good dialogue and regulations are very important along the road of reform. However, I agree that no matter how valuable, constitutional guarantees and formal legal rules alone are not enough, if there is no actual independence and division of powers.

I would like to thank the Council of Europe and the European Commission, which by way of research show us where exactly Bulgaria stands on its path of reforms. We are also grateful for their recommendations. In this regard, I note the usefulness of the report by the Secretary General of 2015 regarding the state of democracy, human rights and the rule of law in Europe, and the European Commission Justice Scoreboard. I would like to stress that we take this as a friendly gesture, as it is often hard to see our own shortcomings.

Therefore, I think that the discussions during the conference will point to the working mechanisms and possible ways to achieve judicial independence. Today, many countries face difficulties in this area. The Council of Europe has developed common standards, which are updated on a regular basis and which we should observe.

Therefore, I welcome the Plan of Action adopted on 13 April earlier this year and proposed by the Secretary General of the Council of Europe, which is to be implemented in all countries.

I would like to congratulate you, Mr. Secretary General, for your perseverance and consistency in the development of such a plan. I wish also to thank the Member States that we have agreed to joint actions which have common measurable criteria. This plan will put on the agenda our common standards, which is of crucial importance to building and maintaining public trust in the judiciary in individual countries, and also among us as members of the Council of Europe.