



PROSECUTOR'S OFFICE OF THE REPUBLIC OF BULGARIA

SUPREME PROSECUTION OF CASSATION 04 INTERNATIONAL DEPARTMENT

1. Information about current problems in Bulgaria related to prosecutors' independence, accountability and ethics

Advocating independence and sometimes even abiding by ethical standards – in the context of respecting the presumption of innocence – turns out to be a challenge for prosecutors in the Republic of Bulgaria due to the media's strong influence. Some of them despite their not guided by the principles of objectivity and adhering to journalist ethics, influence public opinion as regards expectations from the Prosecution office, and the evaluation of prosecutors' acts and documents. On the other hand the willingness to satisfy the sometimes aggressive journalist interest leads to information being provided in such a stage and in such amounts as to hinder investigation or question its objectivity.

A current challenge to a prosecutor's independence and objectivity is the presence of local interests in the judicial authority, and in particular in smaller towns. To some extent this is due to the quite expanded prosecution office structure which mirrors the structure of courts, as well as to the strict rules of local and exclusive jurisdiction. On the other hand, experience also shows cases of abuse of mechanisms by nature intended to protect independence and internal belief (challenge, objections, initiating disputes of jurisdiction). Sometimes they are used in such a way that reduces efficiency, to trigger denial of responsibility or to disengage from more difficult cases.

On the higher, political level, in recent years, since the amendment of the Constitution of Bulgaria in 2015, a trend has been developing in that the regulation concerning the chief prosecutor's accountability to the National Assembly to be used to satisfy certain opportunistic political interests or to control the result from certain criminal proceedings. In response to that trend, at the request of the chief prosecutor, Judgment No. 6/2017 of the Constitution Court on case No. 15/2016 was made. CC's judgment made it unacceptable for the National Assembly to require and take from the chief prosecutor reports on certain criminal proceedings, which might endanger the independence of the Prosecutor's Office as part of the judicial system. In purely individual, terms, without challenging the need to ensure greater transparency of officials in the judicial system for the society, a problem occurs with the respecting of the regulation concerning the declaration of circumstances, membership in professional organizations, income and property of magistrates (incl. prosecutors) and their family members which is too complicated, detailed, requiring annual repetition of the same facts, and affects the rights of a wide circle of related persons.

2. Proposals for guidelines on the formulation of recommendations which might be addressed to all European countries

The anticipated effect from the adoption of the Consultative Board of European Prosecutors' future opinion No. 13 is for it to contribute to the search and introduction of a supranational, pan-European minimal standard taking also account of all the differences in the constitutional structure of prosecution authorities in the Member States of the Council of Europe.

In light of this, the recommendations must first underline the message that prosecutors' independence and adequate accountability of prosecutors should be ensured in practice, with specific mechanisms that make a difference and not only de jure.

Apart from that, it is necessary to take account of the argument that prosecutor's independence should be understood differently than court's independence. In hierarchical prosecutors' offices this concept must be combined with requirements of predictability and effective performance of the system, focusing mostly on the prosecution office's institutional independence, including ensuring that through the mechanisms of independent judicial control on certain documents and acts of the prosecutor.