

CENTRE FOR APPLIED LAW STUDIES AND PRACTICES

*THROUGH TRUST IN THE MAGISTRATES TOWARDS PUBLIC AND
INTERNATIONAL TRUST IN THE BULGARIAN JUDICIARY.*

Corruptio optimi pessima
The corruption of the best is the worst

STUDY

LEVEL OF EFFICIENCY OF THE SUPREME JUDICIAL COUNCIL'S ANTI-CORRUPTION STANDARDS DURING THE STAFF APPOINTMENT PROCEDURE

Sofia 2011

The study was carried out by the Centre for Applied Law Studies and Practices /CALSP/ - a research entity, established by members of the Black Sea Law Community, including:

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with support from a number of magistrates, to whom we express our sincere gratitude.

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INTRODUCTION

This study by the Centre for Applied Law Studies and Practices is a stage in our complex research on problems, related to the reform in Bulgarian Judiciary. It is an interim assessment of the opinions of a representative magistrate group on the progress and development of the Judiciary, resulting from four years of activities by the newly established permanent Supreme Judicial Council /SJC/ and the inspectorate to it /Inspectorate to the Supreme Judicial Council, ISJC/.

We have focused on SJC and ISJC activities because of the hopes for positive development, expressed in Chapter 3.1 “*Judicial Reform and the Fight against Corruption and Organized Crime*” of the European Commission /EC/ regular report from 2007.

In 2008 we carried out the initial assessment of Bulgarian magistrates’ expectations on this issue. It was in the form of a set of questions about introduction of staff into the Judiciary and the criteria for subsequent professional development. We particularly focused on the initial introduction and subsequent development of staff, as the previous four years involved the implementation of reform policies, resulting in a series of legislative amendments. In spite of the efforts, the Judiciary did not progress towards stability, effectiveness, transparency, accountability and increased public trust.

The EC Report from 20.07.2011 finds that guilty magistrates still are not prosecuted by the competent authorities and that imposed penalties are too lenient. The EC made the following recommendations:

1.Reform of the Judiciary

a) Establish proposals for reform of the structures, legal powers, composition, appointment process and internal organization in the Supreme Judicial Council, Supreme Prosecutor’s Office of Cassation and the Prosecution in general.

2. Transparency and accountability of the Judiciary

b) Demonstrate a track record in judicial appointments and appraisals, including appointments to the Supreme Judicial Council, which fully respect the principles of transparency, independence, integrity and professional merit;

c) Demonstrate a track record of disciplinary and criminal follow-up to corruption and malpractice within the judiciary;

EC recommends continuation of the judicial reform strategy, but we have serious reservations about it. This strategy was implemented for more than a year, without visible result. **We are worried by the proposal to change the structure, legal powers, composition, appointment process and internal organization in the Supreme Prosecutor's Office of Cassation and the Prosecution in general.** We believe that judicial staff plays a decisive part in the success of every legislative amendment. Lack of knowledge on these issues has, for years, motivated the government to implement reforms in the wrong direction. The judiciary and not the politicians were criticized for the negative result from these reforms.

The fragmented reform, implemented until now, strengthens our belief that it is necessary to develop a unified concept for an overall reform of the structure, functions, competence and staff potential. Strengthening each of these modules alone and in relation to the reform of the others is a guarantee for success. However, this will only be possible after serious research and analysis.

The judicial reform is implemented during a complex period of economy and policy changes in Bulgaria. The state must maintain balance and stability during the transition. The Judiciary is the third component of state government. Its positive reform and its development in consistence with state objectives directly depends on the activities of the staff, which enforces the law. Before reaching the final stage of law enforcement, the state goes through the complex and lengthy process of defining the public purpose, introducing it as part of specific policy objectives and integrating it into legislation. The

correct implementation of law guarantees state stability and balance in the public. Precisely for this reason, the appointment of magistrate staff that does not yield to corruption and external pressure is of particular importance. The penetration of corruption into the judiciary leads to disbalance between legislative objectives and the outcome of protection and restoration of violated rights. The discrepancies between legislative objectives and the final outcome of law enforcement strongly reduce government stability.

We already noted in our previous study, and would now like to mention again that:

Law enforcement should never be implemented for its own sake. It is a means to restore violated rights and achieve the public purpose, set out in legislation. This should not be forgotten by any of us – the Bulgarian magistrates.

Study methodology

Our methodology, approved by CALSP, is based on assessing the expert opinions of Bulgarian magistrates, who, as participants in law enforcement, on one hand experience the objective and subjective problems of daily work and, on the other hand, are chief objects of public mistrust and criticism.

Thirteen years after our first study, it is much easier for us to be convincing, that the work of the vast majority of Bulgarian magistrates is based on law, justice and morality. Unfortunately we must once more admit that we cannot cite positive developments in the anti-corruption resilience of the system as a whole. There still are serious symptoms of systematic corruption, showing up mainly in relation to the judiciary's administrative positions which concentrate power and information. The corruption processes are veiled in the amounts of information, known only to a limited circle of magistrates. It is hard to recognize the final corruption product – a magistrate act in violation of the law – because it usually develops through a chain-driven process during the collection, analysis and assessment of facts and evidence.

This is why the magistrates are our expert resource, whose assessments are formed through daily observations and internal information. The judiciary is conservative and highly specific in structure and function. Its internal processes remain difficult to detect and are little understood by external analyzers.

Monitoring of the subjects of study

Traditionally the study involves monitoring of the subjects of study – judiciary units at the supreme, district/city/ and regional level. As this is a second, interim measurement, we have at our disposal a database from the initial measurement, carried out in 2008. It involved an assessment of Bulgarian magistrates' expectations on how the new Judiciary Law and the activities of the permanent Supreme Judicial Council and Inspectorate would affect the optimization of staff appointment and dismissal policies. In 2009 and 2010 we also had the unique opportunity to monitor the procedure for appointment of the judiciary's administrative chiefs. The report from this monitoring is included further on in this text.

From a previous study named “A Holistic Approach in the Fight against Corruption in the Judiciary”, carried out by us as a research team of the Black Sea Law Community in 2002-2003, we already knew, that the Bulgarian Judiciary operates under pressure from interests of varying source, and that this pressure is exerted in a network manner, through the horizontal and vertical control of leading magistrate positions in the judiciary.

The administrative chiefs are the key magistrates, who, based on their legal powers concentrate power and have unlimited access to incoming and outgoing information. At the same time they have direct and indirect administrative control over ordinary magistrates. Our observations on administrative control practices revealed that all hierarchical levels in the judiciary are governed by fear. We personally sensed that during the monitoring process. Many colleagues shared valuable information with us on the express condition that they remain anonymous. The sense of fear also came

through in the protest letter of 26 judges from the Sofia Court of Appeal against the appointment of their administrative chief.

This is why, when we had to face the problems of the judiciary once more, we were as anxious as always about whether our colleagues would accept our proposal to assist us in visualizing the studied problems. Would they freely and openly express their opinion about the issues, addressed in the questionnaire? Would they appreciate the importance of our idea and our motivation to improve the system together?

Study preparation

As usual, we prepare each study in an extended research team. The research matrix, prepared for the initial measurement in 2008, was now redefined with the participation of 12 magistrates from the Supreme Prosecutor's Office of Cassation, the Supreme Cassation Court and the Sofia City Prosecutor's Office. The plan was to distribute the study questionnaires in two ways, namely:

✚ Group I questionnaires are distributed administratively, from the Supreme Prosecutor's Office of Cassation (SPOC) to the respective Prosecutor's Offices of Appeals – **APO-Bourgas, APO-Varna, APO-Veliko Tarnovo and APO-Plovdiv.**

✚ Group II questionnaires are personally distributed by the members of the research team to our colleagues.

Sofia City Court (SCC) and Sofia City Prosecutor's Office (SCPO),

During the preparatory process we were comprehensively assisted by the administration of the Supreme Prosecutor's Office of Cassation and personally by the Prosecutor General, Mr. Boris Velchev, for which we express our sincere gratitude.

From our experience with monitoring of the appointment procedure for chief administrative staff, we knew that the administrative distribution of questionnaires, would yield important information about management and control. The information, from

questionnaires, distributed without the participation of administrative chiefs, would be as important.

We wanted to study the reaction of magistrate communities in regions, where we witnessed **direct and indirect reappointment of chief administrative staff** (APO-Bourgas and APO-Plovdiv, respectively).

In the first case the appointed administrative chief was employed in chief positions in the same Appellate District of the system for nearly 20 years.

In the second case, the appointed Appellate Prosecutor was dismissed by the SJC because of his connections with the SJC vote trader – “Krasyo from Pleven”.

During the preparation of this analysis, a follow-up appointment procedure for a new administrative chief took place. A group protest letter against the selected candidate was filed. The SJC ignored the letter.

Undeniable leaders, respected by their colleagues and trusted by the public, were appointed in APO-V. Tarnovo and APO-Varna.

We expected to obtain important information from the questionnaire study among the judges from the Appellate Court (AC) of Sofia. The appointment of the administrative chief, followed by a dismissal and reappointment by the Supreme Administrative Court, caused tension. Expectations were that this tension would be reflected in the results.

This is why, in the analysis that follows, we will trace the internal dependencies in the system with regard to the personality of the administrative chief.

Methodologically, the questionnaire was structured as an anonymous set of questions, including 45 statements, grouped in 7 sections:

✚ Section I – Findings in the EC Monitoring Report from 2007. Efficiency of the constitutional changes and the new Judiciary Law, adopted in 2007/creation of an inspectorate to the SCJ and a permanent SJC/.

✚ Section II – Findings in the EC Monitoring Report from 2007.

✚ Section III – Legal Powers of the SJC Art. 30, Par. 1, P.4 of the Judiciary Law

✚ Section IV- Current Anti-corruption Monitoring of the Professional Community of SJC Magistrates.

✚ Section V – External Corruption Pressure.

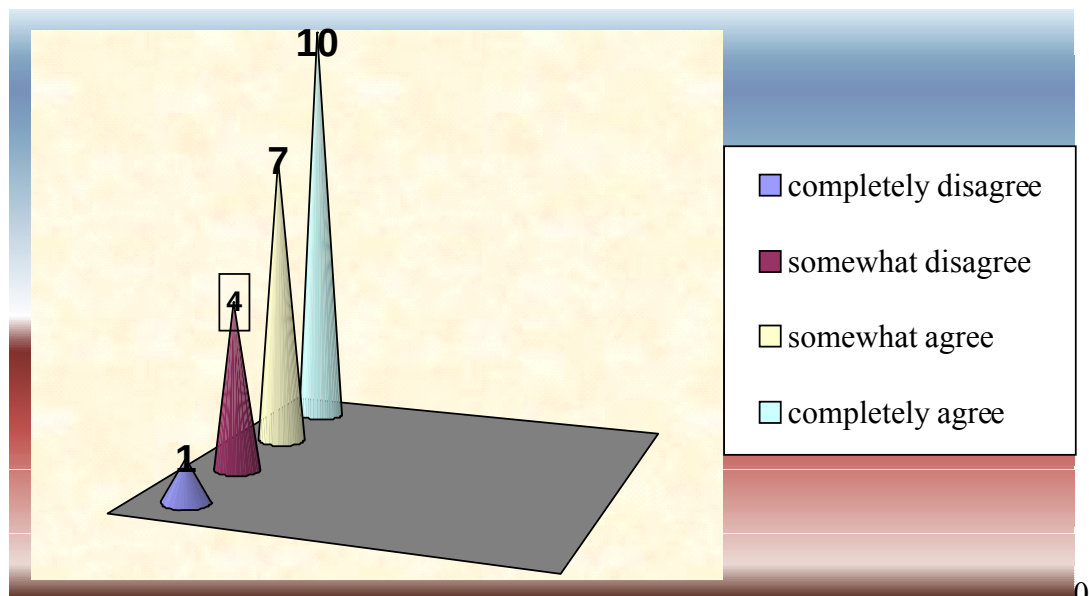
✚ Section VI – Judicial Reform Mechanism.

✚ Section VII– Administrative Service Organization

In the analysis below, it must be taken into account that the questions from Section II of the questionnaire study, carried out in 2008, match those in Section II and Section III of the current study.

As the addressed issues are complicated, in order to ensure uniform interpretation of the meaning of statements in the separate sections, we introduced, in a part of the sections, working definitions of the used concepts.

The questions were consciously formulated in a positive manner. Answering took place through an assessment of each statement on a **10-grade scale**, with a grade from **0 to 1** indicating strong disagreement of the respondents with the statement; from **2 to 4** - somewhat disagree; from **5 to 7** – somewhat agree; and from **8 to 10** – completely agree with the formulated statement.



In practice, the assessment axis **disagreement-agreement** reflects to which degree the respective criterion is present or absent in the judicial system today.

The representativeness of data is also improved by the fact that the participating magistrates work in different units and at different levels of the judiciary. Questionnaires were filled in by representatives of the appellate, district and regional levels in all judiciary regions.

SECTION I – Findings in the EC Monitoring Report from 2007

Effectiveness of the constitutional changes and the new Judiciary Law, adopted in 2007 /creation of an Inspectorate to the SJC – Art. 132 A from the Constitution and a permanent SJC – Art. 16 from the Judiciary Law/

1. The established Inspectorate to the SJC led to discipline in the judiciary and satisfied society's need of an effective and transparent judiciary.
2. The procedure for nomination of candidates for the Inspectorate to the SJC ruled out their prior involvement with the political parties, which nominate them.
3. The appointment procedure for nominees ruled out their future involvement with the political parties, which nominated them and did not restrict the independence of the judiciary.

4. The appointment procedure of nominees from the National Assembly, ruled out the possibility to appoint candidates with low professional and moral qualities.

5. The powers of the inspectorate to the SJC allowed it to develop effective and radical control activity, which corresponds to public expectations.

6. The conditions for appointment as Chief Inspector and Inspector in the Inspectorate to the SJC, introduced by the provisions in the Judiciary Law (JL), are efficient and select for candidates with high professionalism and integrity.

Results 2008

SECTION I	JUDGES	Prosecutors	Investigators	Lawyers	All respondents
1	5.3	4.09	5.7	4	4.77
2	3.78	2.6	3.14	3.25	3.19
3	3.74	2.64	3.2	2.14	2.93
4	3.84	2.92	3.76	4.25	3.69
5	5.24	4.33	5.51	4.37	4.86

Results 2011

SECTION I	AC¹ Sofia	SCPO²,SCC³	APO⁴-V. TARNOVO	APO- VARNA	APO- PLOVDIV	SPOC⁵	APO- BOURGAS	All
1	0	3.32	4.78	3.22	6.33	3.78	6.80	4.03
2	0	2.36	4.50	2.74	4.83	4.22	6.40	3.58
3	0	2.09	3.89	2.83	4.83	3.89	6.60	3.45
4	0	2.45	3.74	2.39	3.83	4.78	5.60	3.26
5	0	2.90	4.81	2.68	5.50	4.63	6.10	3.80
6	0	3.09	4.96	3.91	6.67	4.78	6.90	4.33

1: Appellate Court; 2: Sofia City Prosecutor's Office; 3: Sofia City Court; 4: Appellate Prosecutor's Office; 5: Supreme Prosecutor's Office of Cassation.

The new Judiciary Law (JL) entered into force in 2007. Art. 16 from the JL established, for the first time, a permanent Supreme Judicial Council and an Inspectorate to it. This amendment was preceded by the fourth change in the Constitution of the Republic of Bulgaria. The structure of the judiciary was completed through Art. 132 A. This amendment was introduced with the hope of disciplining the system and moving it towards stability and efficiency.

Unfortunately we recognized that the expectations were too high. Indeed this was the introduction of a new control body to assist in the administrative functions of the SJC. This new state policy of judiciary administration created pathways for political influence on inspectorate activities. The candidates to be selected by parliament were nominees of the parties, represented in parliament. Election took place through a majority vote of 2/3 of the MPs. However, the parliamentary majority in the 40th National Assembly was formed by the parties from the Triple Coalition. This allowed people who had direct connections to one or more representatives of the ruling coalition, to become part of the inspectorate. It should not be forgotten, that a former MP, with a close connection to a political party, was appointed chief inspector.

With a total grade of 4,03 on Question 1 and 3,58 on Question 2, the optimism and approval of the magistrates from the Bourgas and Plovdiv Appellate Regions and the strong disagreement of the judges from the Sofia City Court of Appeal make an impression. As we explained in the study methodology section, we expected that the results from the separate groups of respondents will be influenced by tensions in the system, caused by the choice of some administrative chiefs. Summarizing the first two questions, it must be assumed that, with an overall result 4,03 in 2011 and 4,77 in 2008, the interviewed magistrates do not agree now, and did not agree four years ago, that ISJC will discipline the system and that its members will not be involved with political parties.

The total result from the answers to Question 3 from 2011 is 3,45 and was, in 2008, 2,93.

For Question 4, the result in 2011 is 3,26 and in 2008 – 3,69. With insignificant differences between the initial and present study the resulting grade remains under 4, indicating that the respondents still rather disagree with the statement, that the selected members are not suspected of political involvement.

The questioned political noninvolvement has caused the magistrates to accept, that the candidates have been appointed chiefly because of the protection of the ones who hold power, rather than because of professional and personal qualities.

In 2008, the questions in Section I were 5.

In 2011, because of a change in the law and the introduction of the requirement that the chief inspector be an appointed magistrate,

we included Question 6, regarding the appointment procedure for of inspectorate chief.

Question 5, which appears in both studies, got a grade of 3,80 in 2011 and a grade of 4,86 in 2008. This leads to the conclusion that, according to the respondents, the limited legal powers of the inspectorate do not allow it to develop efficient and radical control activity. In this respect we must recall the checks on the activity of judges from the Sofia City Court and the following mass complaints. At the same time, interviews in electronic media and the press showed, that the official finding about the problem with mass delay of cases, has been known to the inspectorate for a long time, with no action taken. This puts doubt in the goals and objectivity of the revision that followed.

We must once again bring attention to the “happy” perception of the prosecutors from APO-Bourgas and APO-Plovdiv and the despair, demonstrated in the assessment of the judges from the Sofia City Court of Appeal.

The trend in the answers of the mentioned groups of magistrates is identical with respect to Question No. 6. The first two groups of respondents accept the legal requirements for chief inspector and inspectorate member selection as a guarantee for a precise choice. The overall grade by all respondents, however, is 4.33, which indicates doubt and lack of trust in the appointment criteria.

SECTION II – Findings in the EC Monitoring Report from 2007.

Radical nature of the newly adopted Judiciary Law from 2007 /JL/, brought about through the creation of a permanent Supreme Judicial Council /SJ/

1. The permanent Judiciary Council carries out a comprehensive management of the judiciary and efficiently solves both current and fundamental problems.
2. The appointment procedure for parliamentary quota members of the SJC does not allow magistrates with doubtful moral and professional qualities to become members.

3. The appointment procedure for parliamentary quota members of the SJC took place in a democratic way, without the influence of internal lobbying groups, administrative pressure or external interest pressure.

4. Removal of the SJC members from the teams, which appointed them, does not prevent them from having a detailed understanding of the current problems in the system.

5. SJC implements an objective and impartial appointment procedure for administrative chiefs of the Supreme Court of Cassation, Supreme Appellate Court, Prosecutor General and Director of the National Office of Investigation.

Results 2008

SECTION II	JUDGES	Prosecutors	Investigators	Lawyers	All respondents
1	6.82	5.11	7.04	3.5	5.62
2	4.09	2.56	4.67	2.75	3.52
3	4.97	3.81	5.25	2.37	4.1
4	5.99	4.31	5.65	4.28	5.06
5	4.81	3.65	4.65	3	4.03

Results 2011

SECTION II	AC Sofia	SCPO,SCC	APO-V. TARNOVO	APO-VARNA	APO-PLOVDIV	SPOC	APO-BOURGAS	All
1	0.8	3.58	4.92	3.39	5.83	4.89	6.30	4.25
2	0	3.03	3.25	3.17	3.50	4.44	5.00	3.20
3	1.2	3.77	4.46	4.17	5.67	5.75	6.50	4.50
4	0.5	3.81	4.75	3.00	5.67	5.11	6.30	4.16
5	0	2.58	4.54	3.17	3.67	4.56	5.70	3.46

The analysis of the questions, included in this questionnaire section aims to assess the policies of the country, with regard to the management of the judiciary through a permanent Supreme Judicial Council /SJC/ and its assistant bodies, in relation to the Judiciary Law, adopted in 2007.

The statements in this section aim to directly probe the opinion of respondents with regard to the reform in the most-supreme administrative and representative body in the judiciary, as well as the evolution in this opinion from 2008 /first study/ to 2011 /current study/.

In 2008 all three respondent categories – judges, prosecutors and investigators – were unified in their position, that it is possible for a permanent Supreme Judiciary Council to manage the judiciary comprehensively, and to efficiently solve both its current and principal problems – the average grade of 6,35 given by the three judiciary units to statement one indicates approval of the new principle, by which the Judiciary Council functions.

However, in 2011 the trust in the permanent Supreme Judiciary Court has declined. The average grade is now 4,25. The change is considerable since a grade of 6,25 indicates the relative agreement of respondents, while a grade of 4,25 indicates their relative disagreement with the statement that a permanent SJC carries out comprehensive management of the judiciary and efficiently solves both its current and fundamental problems. What is worrying is that, three years after the initial study, the trust in the SJC as a body, which successfully tackles the problems in the judiciary, has declined. While in 2008 the magistrates still pinned their hopes on the newly established permanent body, the results from 2011 already indicate dissatisfaction from its activity, linked to a number of scandals.

What the magistrates did not approve in 2008, was the interference of political powers, materializing in the appointment of the parliamentary quota members of the SJC. All respondents expressed their relative disagreement with statement two - The appointment procedure for parliamentary quota members of the SJC does not allow law practitioners with doubtful moral and professional qualities to become members. The average grade, given by the respondents, was 3,52, with lowest expectations declared by the prosecutors /2,56/. Through the discussed mechanism for appointment of SJC members, the politicians have secured not only influence and control over the “government” of the judiciary, but also a decisive role in the choice of “presidents” of the judiciary, as SJC is the body, that proposes for appointment or dismissal to the President of the Republic of Bulgaria the chair of the Supreme Court of Cassation, the chair of the Supreme Administrative Court, and the Prosecutor General and appoints and dismisses the director of the National Office of Investigation. Even though, in the last twenty years, “the great three” of the judiciary have, dramatically or more

diplomatically, distanced themselves from the parties, considered responsible for their appointment, this second layer of the problem is assessed by the magistrates with an average grade of 4,73. This indicates their distrust with the statement that the SJC will implement an objective and impartial appointment procedure for the administrative chiefs of the Supreme Court of Cassation, Supreme Appellate Court, Prosecutor General and Director of the National Office of Investigation /fifth statement/.

The disapproval of magistrates in 2011, with regard to statement two, has similar dimensions to 2008 – 3,20. This indicates that the negative expectations have been confirmed. The magistrates do not want the parliamentary quota to be as big as the JL provides. The widespread position is that, in this way, magistrates with dubious moral and professional qualities become members of the SJC. Even more explicit is the disapproval towards the way in which administrative chiefs of the Supreme Court of Cassation, Supreme Appellate Court, Prosecutor General and Director of the National Office of Investigation are appointed. The average grade for statement five is decreased from 4,37 to 3,46. This is a clear sign, that the worries of the magistrates about the appointment of judiciary administrative chiefs have been increased owing to the excessively large quota, elected by the National Assembly – 11 people – as many as are elected by the judiciary bodies. It can be deduced, that a reduction of the quota, elected by the National Assembly /without its complete exclusion as a corrective entity/ and an increase of the quota, elected by the judiciary, will lead to an increased trust in the SJC institution.

The above conclusion is confirmed by the results, regarding the position of magistrates towards the appointment of SJC's judiciary quota – statement three. In 2008, the interviewed judges and investigators rather agree, that the choice of professional representatives in the Judiciary Council is democratic, without external influence and internal administrative pressure. With a total grade of 4,67, which falls very close to the border between disagreement and agreement, the magistrates declare a desire for more transparency and honesty in the choice of their representatives in the Judicial Council. In 2011 there is practically no change – the grade, given by magistrates is 4,50. Regardless of the borderline agreement-

disagreement values, the higher trust of magistrates in SJC members, elected from their quota, is manifested clearly.

Whether removal of the SJC members from the teams, which elected them, will hinder their understanding of system problems – this is the subject of statement four in this section. With an average grade of 5,32 in 2008, the magistrates believed that this would not happen and grant a high trust to the members they chose. Three years later, however, the skepticism is higher and the grade has declined to 4,16, which already falls closer to distrust in the chosen persons. Here, once again, one can not neglect the numerous scandals, which were connected to the SJC and may explain the very low grade.

SECTION III – Legal Powers of the SJC under Art. 30 Par.1 P. 4 from the JL

This group of questions concerns the efficiency of the Judiciary Law, adopted in 2007, with regard to changes, related to the career development of magistrates.

1. The effective legal mechanism for appointment, promotion, transfer and disciplinary penalties for magistrates disciplines the judiciary and eliminates existing corruption practices.
2. SJC has developed a transparent and effective mechanism for appointment of judiciary staff.
3. The rules for magistrate appraisal are implemented exactly and impartially.
4. SJC implements objective and impartial recruitment procedures for new judiciary staff.
5. SJC has created an objective and impartial mechanism for staff promotion and transfer in the judiciary.
6. SJC has created an objective mechanism for the announcement and penalization of the misconduct of all responsible magistrates, which overcomes circles of nepotism.

7. SJC has organized clear and transparent rules, governing the qualifications of judges, prosecutors and investigators in Bulgaria and abroad, by which it has eliminated the existing practices of nepotism.

*nepotism – a type of corruption environment, formed on the basis of friendship, kinship etc.

8. The competition procedure for promotion and transfer of judges, prosecutors and investigators within the bodies of the judiciary, introduced by the legislator, is a good mechanism, which guarantees the objectivity and impartiality of its own implementation.

9. The competition procedure, applicable to the magistrates, corresponds to the appointment procedure, established by the legislator with regard to administrative chiefs.

10. The competition procedure, introduced by the legislator, is a guarantee for high professionalism and the opportunity for the professional recognition and career growth of magistrates.

11. The aims of the legislator, set out in the JL are clear and specific and do not serve particular party, political or lobbying interests.

12. The JL contains legal mechanisms, which fully correspond to the public needs for the establishment of a functioning, efficient and transparent judiciary,

Results 2008

SECTION II Sub-section 2	JUDGES	Prosecutors	Investigators	Lawyers	All respondents
1	5.51	4.36	5.67	3.25	4.69
2	4.64	4.2	5.45	4	4.57
3	4.93	4.04	5.39	3.37	4.43
4	4.56	3.9	5.06	3	4.13
5	5.11	4.29	5.43	3.5	4.58

Results 2011

SECTION III	AC Sofia	SCPO,SCC	APO-V. TARNOVO	APO-VARNA	APO-PLOVDIV	SPOC	APO-BOURGAS	All Respondents
1	0	2.94	3.80	2.13	3.50	3.78	6.80	3.28
2	0	2.50	3.22	2.39	3.67	3.22	5.70	2.96
3	0	3.39	4.19	2.35	5.00	5.13	6.50	3.79
4	0	3.39	4.96	4.04	6.17	4.56	7.00	4.30

5	0	2.61	4.00	2.22	5.50	4.00	6.60	3.56
6	0	3.35	4.67	4.13	4.33	3.44	6.90	3.83
7	0	2.71	4.64	3.35	5.25	4.11	5.80	3.69
8	0	3.68	4.63	3.87	6.67	5.56	7.50	4.56
9	0	3.32	5.04	4.04	4.50	2.56	5.80	3.61
10	0	3.16	4.67	4.17	6.67	4.22	6.70	4.23
11	0	3.87	5.37	4.43	6.50	3.78	8.10	4.58
12	0	3.52	5.04	3.91	4.83	4.78	7.00	4.15

The questions in this section are aimed at the analysis of the competence of the SJC with regard to the appointment, growth and development of magistrates, as well as with SJC's ability to control and stimulate the conduct and moral of judiciary employees. As the issues, dealt with here pertain to the career development of magistrates, the position of lawyers was not measured by the questionnaire in 2008.

With regard to the objective of the study and to assist the respondents, the term "nepotism" has been defined – a type of corruption environment, formed on the basis of friendship, kinship etc.

In 2008, the respondent magistrates demonstrated cautionary trust towards the new government of the judiciary. With an average grade of 5,18, they indicate a relative agreement with the expectation that the new powers of the SJC will allow it to discipline the judiciary and to eliminate existing corruption practices /statement one/. Unfortunately, three years later the expectations were not fulfilled and the average grade on this criterion fell to 3,28. This means that the magistrates already declare a relative disagreement with the statement, that the current mechanism for appointment, promotion, transfer and disciplinary penalties of the magistrates will discipline the judiciary and eliminate existing corruption practices. Obviously, the magistrates are not satisfied with the current staff appointment and dismissal policy of the SJC. This discontent towards staff appointment and dismissal policies has also been taken into account by the legislative bodies. Legislative amendments, which limited the power of SJC with regard to staff appointment and dismissal, were adopted. An amendment to the Judiciary Law, effective from 04.01.2011, introduced a new Section II "a" to Chapter IX, pertaining to a competition procedure for the promotion and transfer of judges, prosecutors and investigators in the bodies of the judiciary. A

competition committee /a new body/, consisting of magistrates, was introduced. The competition is carried out through an interview with the candidates, involving practical questions, related to law enforcement. The result of each candidate is now determined on the basis of the assessment from the interview and the results from the periodic employee appraisals /also introduced with the new JL/, which have been carried out. An overall assessment of the professional qualities of the candidate is compiled on this basis. Another new development is the statement given by the committee “Professional ethics and corruption prevention” to the SJC. It carries out assessments of the integrity of each candidate, based on the documents, submitted by the candidate and the documents in the staff file, regarding the results from checks on the candidate by the Inspectorate to the Supreme Judicial Council, the rewards and penalties, and signals for infringement of judges’, prosecutors’ and investigators’ professional ethic rules. The Supreme Judicial Council already acts, to a large extent, under terms of commitment to the prepared rating of candidates, and adopts a decision for the promotion or transfer of a judge, prosecutor or investigator, based on the position in the ranking until the places have been filled. These attempts by the Legislature to answer to the desire for change in staff appointment and dismissal policy must be appreciated. However, time and practice still must show, whether they will bring about good results and whether they will increase the trust of magistrates in this very sensitive area. A competition for the free positions in the Specialized Courts and Prosecutor’s Offices has already been carried out. During these competitions the different committees implemented different ways to carry out the competitions and different assessment criteria. This necessitated an adoption by the SJC of Guidelines for the Activities of Competition Committees and the SJC Administration in Carrying out Interviews with the Candidates. This should also be appreciated, with a view to a unification of the way in which competitions are carried out. There is no doubt that, at this stage, the mentioned Guidelines are not complete – they consist of seven points only. However, as competitions will be carried out in the future, the Guidelines will probably be extended by the SJC.

Statements two, three and fore, were not included in the study from 2008, as the new procedure at this time was still at the beginning

of its implementation. Three years later, the procedure for staff development of magistrates has already been implemented a number of times and, due to its inefficiency, has been replaced by the procedure, described above /competition/. The opinion of magistrates on the development of a transparent and efficient mechanism for appointment of administrative chief staff in the judiciary /statement two/ is strongly negative – the grade, given by the magistrates, is 2.96. They are not happy with the choice of administrative chief staff. The magistrates are not of the opinion that the rules for appraisal are implemented exactly and impartially /statement three/, and this has lead to the low grade of 3,79.

The grades of the magistrates for all further questions in this section are in the range of “relative disagreement”, between 4 and 5 in 2008 and between 3 and 4 in 2011. With an average grade of 4,76, the respondents declare their relative disagreement with the statement, that the SJC will organize the qualification of judges, prosecutors and investigators in Bulgaria and abroad, while following clear and transparent rules, thus eliminating the existing practices of nepotism. The analysis in 2008 indicates that there are two possible explanations for this “negative vote”. Either the inertia of the familiar old times was strong and the administrative chiefs still sent “their people” to trainings and missions abroad /justice deficit/ or there was no clarity or form of clarification about the decisions, adopted in this area /transparency deficit/. The grade of 3,69 in 2011 clearly shows a deepened disagreement of magistrates, and the explanations, indicated in the report from 2008 are fully valid in 2011.

Close and still in the mistrust area are the opinions of respondents on two other statements. In 2008, with average grades of 4,78 and 4,51 the magistrates believe, that the SJC is likely to encounter problems during the procedure for objective and impartial competitions for new staff in the system, as well as in the creation of an objective and impartial mechanism for promotion and transfer of magistrates. In 2011 the situation is similar, and the grade of magistrates with regard to the completed competitions for new staff in the judiciary /statement four/ is still low – 4,30. This grade still falls in the sector of rather negative grades. The grade for the statement on the creation of an objective and impartial mechanism for the promotion and transfer of magistrates, however, is significantly reduced to 3,56,

which indicates that the negative position of magistrates is significantly increased after they witnessed how the staff appointment and dismissal policy was implemented with regard to them for three years. All these grades, however, regard an already removed procedure, which has been replaced with a new one /described in detail above/. The negativism towards staff appointment and dismissal practices in the judiciary, logically, has led to an attempt to change the rules in this area through the amendments in the Judiciary Law.

Upon comparison with similar questions and results from the study, completed in 2003, it becomes evident, that the grade of magistrates on the discussed topics /around 4/ was lower than the one in 2008, but higher than the one in 2011. Therefore, mistrust was initially reduced, but later deepened. As pointed out in the analysis from 2008, the optimism has been increased due to the clear rules, adopted by the SJC, for entrance into the system and career growth through competitions and appraisals. Later on, however, it was found that the new rules have not been implemented coherently for all members of staff /a fear which was indicated in the report from 2008/ and this has led to a strongly negative grade.

In the analysis from 2008, it is indicated, that there is a visible fluctuation in the answers, regarding the future activities of the SJC towards the creation of an objective mechanism for announcement and penalization of misconduct by all guilty magistrates, which overcomes circles of nepotism. The answers of magistrates are on the border between agreement and disagreement, with a grade of 4,94. The analysis from 2011 shows, that the magistrates are disappointed by how misconduct has been announced and by the penalty policy of the SJC. The disapproval is already strong, with a grade of 3,83.

Positions on the competition principle introduced by the legislator in 2011, for promotion and transfer of judges, prosecutors and investigator in the bodies of the judiciary, as a good mechanism, guaranteeing the objectivity and impartiality of its own implementation /statement eight/ are again on the border between agreement and disagreement. It must, however, be emphasized, that the magistrates have positive expectations, as this grade is one of the highest among the questions from Section III, regarding staff appointment and dismissal policies in the judiciary. The magistrates,

however, do not agree, that the competition principle corresponds to the appointment principle, established by the legislator with regard to administrative chiefs /statement nine/, and assess this with the low grade of 3,61. The competition principle once again receives a grade of 4,23 between agreement and disagreement, with regard to statement ten, according to which this principle guarantees high professionalism and an opportunity for professional recognition and career growth of the magistrates. As already mentioned, the grades above 4 in this group of questions are the highest ones. Therefore, it can be concluded that, in spite of all doubts, the magistrates have positive expectations with regard to the introduction of a competition principle in career development.

The highest grade, achieved in 2011 for questions in this section is 4,58. Once again, magistrates hesitate in their position, which is on the border between skepticism and optimism. As already mentioned the competition principle, addressed in the chief amendments of the JL in 2011, brings hopes and optimism, which explains this highest result in the section. If looked at outside from the section, however, this result is very low and demonstrates the high uncertainty of magistrates on this issue.

Very logically, taking into account the answers to all questions in this section, statement twelve - that JL includes legal mechanisms, which fully correspond to the public needs for the development of a functioning, efficient and transparent judiciary - is again placed between agreement and disagreement. Here the magistrates indicate their hesitant position about the legislative framework. Despite the amendments to the law, the magistrates do not believe that the current legislative regulations are good enough. Probably the negative assessment of the overall staff appointment and dismissal policy before the introduction of the competitive principles, as well as the cheated expectations for objective staff appointment and dismissal mechanisms /the grades in 2008 were higher/ have lead to pessimism towards the new legislative amendments as well.

SECTION IV – Current Anti-corruption Monitoring of the Professional Community of SJC Magistrates

Definition of corruption pressure - /transformation of official powers into personal interest, upon which the actions of the magistrate are caused by oral or written guidelines, in accordance with a hierarchical order./

1. The SJC has established anti-corruption mechanisms which rule out the influence of superior magistrates over their subordinate magistrates with respect to solving with particular cases.

2. There are no circles of nepotism, surrounding magistrates who are also administrative chiefs.

3. If you have become witness to corruption influence from a superior to a regular magistrate, assess the conditions for corruption influence in the different units of the system, as follows:

court.....

prosecution.....

investigation.....

4. The randomized distribution of cases and files is guaranteed legislatively and is an efficient anti-corruption mechanism.

5. The randomized distribution of cases and files guarantees the equal load of magistrates.

6. The trust in magistrates, appointed in positions, which concentrate power and information, has increased. There is no suspicion about serving political, economic and other groups of external interests.

7. The introduced mandate principle for leading positions in the judiciary is a prerequisite for the limitation of conditions for corruption.

Results 2008

<i>SECTION III</i>	<i>JUDGES</i>	<i>Prosecutors</i>	<i>Investigators</i>	<i>Lawyers</i>	<i>All respondents</i>
<i>1</i>	<i>6.68</i>	<i>4.77</i>	<i>5.94</i>	<i>3.12</i>	<i>5.13</i>
<i>2</i>	<i>4.72</i>	<i>3.7</i>	<i>4.46</i>	<i>2.71</i>	<i>3.89</i>
<i>3 court</i>	<i>3.61</i>	<i>5.56</i>	<i>4.81</i>	<i>5</i>	<i>4.74</i>

<i>prosecution</i>	6.08	4.71	6.39	7.67	6.21
<i>investigation</i>	6.06	5.17	3.30	5.67	5.05
4	7.49	5.84	6.37	5	6.17
5	6.63	5.29	4.63	4.75	5.32
6	5.1	3.87	3.8	2.71	3.87
7	6.65	5.82	5.98	5.87	6.08

Results 2011

SECTION IV	AC Sofia	SCPO,SCC	APO-V. TARNOVO	APO-VARNA	APO-PLOVDIV	SPOC	APO-BOURGAS	All respondents
1	0	2.65	4.93	2.96	4.17	4.78	7.00	3.78
2	0	1.97	3.78	2.45	3.00	3.00	6.50	2.96
3. a	0	5.00	3.50	5.80	2.67	4.63	n/a	3.60
3. b	3.5	4.80	4.20	6.00	5.50	8.25	n/a	5.38
3. c	0	5.50	3.50	4.60	2.67	8.13	n/a	4.07
4	0	4.23	7.33	5.59	7.50	6.67	7.20	5.50
5	0	3.52	6.26	4.13	5.33	6.33	6.20	4.54
6	0	2.60	4.48	3.00	5.33	3.44	6.70	3.65
7	0	4.77	6.78	5.52	7.33	6.44	8.50	5.62

This part of the questionnaire focuses on corruption practices, resulting from influence, exerted in an administrative-hierarchical way. For this study the corruption practices have been defined as a “transformation of official powers into personal interest, upon which the actions of the magistrate are caused by oral or written guidelines, in accordance with a hierarchical order”. It is clear that the seven statements from this section deal with highly specific questions, often invisible to an external observer, which, however, are of key importance when looking for the reasons behind and methods for counteraction of corruption in the judiciary. In the 2003 study, the problems with internal system functioning were placed third among the factors, generating corruption. A considerable part of the judicial reform was targeted exactly at these problems, for example through the introduction of a mandate principle for chief administrative positions, the introduction of randomized distribution of cases and files etc. Once again, in 2008, the assessment of lawyers was not included in this section, as it is hard to accept that they have an

objective view of what's happening in the back office of the magistrates.

The study from 2008 shows, that the cases of pressure, exerted by superior magistrates to their subordinate magistrate, with regard to solving particular cases, have declined in comparison to 2003. Unfortunately, however, such situations have seriously increased in the last years, according to the 2011 study. This is confirmed by the answers to the first statement in the section, which, in 2008 are got an average grade of 5,8 that, by 2011, declined to 3,78. The assessment of the SJC is highly negative, and demonstrates the reserves of magistrates with regard to this area, mainly due to the lack of established anti-corruption mechanisms by the SJC. Unfortunately, according to magistrate opinion, the attempts of leading members of staff to “direct” their subordinates in the solving of cases, have increased.

The second statement pertains to these practices in the narrow circle of “close” magistrates, gravitating around the figures who are appointed to leading positions in the system. The disagreement with the statement, that such circles of nepotism do not exist, has an average numerical value of 4,3 /somewhat disagree/ in 2008. The results, however, are much more worrying in 2011 with an average grade of 2,96. This means, that the opinion of magistrates this year already is, that there are circles of nepotism, which are a true corruption pathway. Another fact is of note here – the strange deviation in the results from Bourgas – an average grade of 6,50. This means, that the magistrates there believe that there are no circles of nepotism or are afraid to express their opinions exactly because of the existing circles of nepotism.

This is why it is probably not surprising to see the results from statement 6 – that the leading magistrates enjoy high trust and that there are no doubts as to their involvement with political, economical and other external interests. The average grade of 4,26 or “somewhat disagree” in 2008 is even lower in 2011 – 3,65 and indicates that an opposite statement would be true. With regard to this it is not hard to imagine the psychological atmosphere in units, which are called forward to counteract corruption and where the leaders invoke arouse suspicion of engagement precisely with the ones, subject to investigation by subordinate employees. The situation in 2011 has

deteriorated significantly and even negative grades are lower than the ones in the previous study from 2003, when the respondents demonstrated strong criticism towards their administrative chiefs with a grade of 3,9.

The third statement from the section requires the respondents to assess the conditions for corruption influence from a superior to a subordinate magistrate in the different units: court, prosecutor's office and investigation service. The picture here is predictable – each community of magistrates assesses their own unit as less affected by inter-departmental pressure in comparison to other units.

The fourth statement in this section is related to the randomized distribution of cases and files, as an effective mechanism for limitation of corruption practices. In 2008, the respondents rather agreed with this statement, with grade of 6.57, which is clear enough. Despite the relative decline in the grade for this criterion in the study from 2011 – 5,50, it must be noted, that the magistrates still approve of the randomized case distribution as a measure to limit corruption practices, with a grade among the highest in this section.

This anti-corruption practice has improved the atmosphere in the judiciary in 2008 also in another aspect – the sense of equal and fair load of magistrates. The average grade of 5,52, achieved for the fifth statement in 2008, leads us to this conclusion. Three years later, however, with an average grade of 4,54, the magistrates rather disagree with this view of things, which means that the randomized distribution of cases and files has not brought about the expected fair load on magistrates. It can be concluded that randomized distribution alone is not sufficient and that other methods for fair and equal load of the magistrates must be found, like, for example, taking into account the volume of received cases and files and their complexity and reduction of the percent load of magistrates with regard to received cases and files of large volume and complexity.

One of the better steps, taken in the reform of the judiciary, becomes clear from analyzing the answers to the seventh statement – the introduction of a mandate principle for leading positions in the judiciary is a prerequisite for the limitation of conditions for corruption. With an average grade of 6,15 in 2008, the respondents express their support for this statement. A higher skepticism manifests itself in 2011 – 5,62. Still, the answers are in the zone of

“relative agreement” with the proposed statements, which indicates serious internal support for the direction of the judiciary reform and the introduced mandate principle.

The wide approval by magistrates of the idea for introducing a mandate principle for leading staff members is already evident in 2003. This step, taken by the legislator, is positive, and is still appreciated highly by the law practitioners in the judiciary.

SECTION V – External Corruption Pressure

1. Due to the nature of its job – to solve conflicts and arguments – the judiciary is under pressure of interests with varying genesis, including in the activity of the SJC.

2. External corruption pressure for the control of key magistrate positions, which concentrate power and information, is not manifested.

3. There is no political pressure, in any form.

4. Defending the independence of the judiciary and compliance with the law do not create personal problems for specific magistrates and members of the SJC.

5. There are mechanisms, created in the legislative and executive authorities, which minimize the possibilities for corruption pressure over the judiciary.

6. The activity of non-governmental organizations is a significant factor in the creation of a stable anti-corruption environment in the judiciary.

Results 2008

<i>SECTION IV</i>	<i>JUDGES</i>	<i>Prosecutors</i>	<i>Investigators</i>	<i>Lawyers</i>	<i>All respondents</i>
1	7.92	7.58	7.51	7.75	7.69
2	3.44	3.17	3.89	2.83	3.33
3	3.21	2.78	3.43	2.5	2.98
4	4.37	3.56	5.59	3.37	4.22
5	3.89	3.27	4.37	2.75	3.57
6	4.66	5.02	4.47	6.25	5.1

Results 2011

SECTION V	AC Sofia	SCPO,SCC	APO-V. TARNOVO	APO- VARNA	APO- PLOVDIV	SPOC	APO- BOURGAS	All respondents
1	5.4	7.13	7.30	7.70	8.50	6.89	8.30	7.32
2	0	2.19	3.54	2.78	2.33	3.89	5.80	2.93
3	0	2.13	3.46	3.04	2.83	2.56	4.20	2.60
4	0.5	3.00	4.14	3.09	3.00	3.56	5.20	3.21
5	0	2.97	5.00	3.09	4.17	4.00	6.50	3.67
6	0	4.39	6.04	4.39	6.67	5.67	6.90	4.86

The topics in this section are aimed at studying the forms, consequences and possible methods to counteract one of the most negative phenomena of the current reality in Bulgaria – the more or less open, directly brutal or more refined pressure on magistrates in their work. Whether and how much this is a significant corruption factor becomes clear, again, from this study, after in our previous study on this matter in 2008, the respondents placed in second place, after the corrupt practices of certain individuals, as a source of corruption in the judiciary.

The respondents are almost unanimous in their responses to the first statement, that, due to the nature of its job, the judiciary is under pressure from various external interests, with an average grade of 7,32, which borders with complete agreement with this statements. The answers in different regions make an impression – the judges from AC-Sofia disagree the most – 5,4, whereas the magistrates in Plovdiv and Bourgas agree the most. It is likely that the magistrates in all countries are subject to such influences, but the force of unauthorized pressure, felt by the Bulgarian judges, prosecutors and investigators, is worrying. A question that naturally follows from here is whether and how much the constitutionally defined independence of the judiciary is only a myth. And whether, today, we are not faced with a situation, in which the very foundations of European values are not endangered in Bulgaria.

The next, second statement, specifies one of the most active ways to realize external corruption pressures, namely through striving to control key magistrate positions, which concentrate considerable power and information. Here the overall numerical value of 2,93 points towards the clear disapproval of participants with the claim that this striving is an anachronism, with the grade marking the real

pressure and dangerous consequences for the system of the deformations, caused by the appointment at high positions of law practitioners, lead in their actions by mercenary interest rather than by their professional and citizen morals. The answers with regard to this statement once more confirm the usefulness of the introduction of a mandate principle for the leading positions in the judiciary. In the previous study the result is 3,3. The results, coming from judges in AC-Sofia stand out – 0. At the other extreme are the answers from the magistrates in Bourgas – 5,80.

The third statement – the political powers do not exert pressure on key magistrates in the cases, when the work of the judiciary concerns their interests, points to one of the most discussed questions in the public. What is the position of the magistrates themselves on this issue? Their average grade of 2,60 shows that, overall, they rather disagree with the statement that there is no political pressure. The political class of Bulgaria, apparently, has still not given up its desire to control the judiciary and continues to put pressure on it, albeit not as direct as before, but still aggressive and disappointing. This becomes clear also when comparing these results with the results from a similar question in our study from 2008 – the overall grade then was 2,98, and in 2003 – 3,2, and thus the grade has become a stable indicator for the presence of political pressure as an external corruption factor. This position of magistrates probably owes to the more and more clearly demonstrated political will and actions, aiming at judiciary reform. But, if politicians are to be understood and in order for them not to cause negative reactions, they should include new forms of dialog and means to convince the magistrates.

It is, however, clear, that its presence is not different in the different regions and units of the judiciary, as there are no considerable differences in the opinions of magistrates. Once again, the positions of the judges from AC-Sofia - 0 and the magistrates from Bourgas – 4,20, stand out.

In light of what has been presented, the data, gathered from the fourth statement – that defending of the independence of the judiciary and compliance with the law does not bring about personal problems for specific magistrates – is not surprising. The respondents do not agree with the statement, and this is demonstrated by the average grade of 3,21. A curious difference between the results in different

regions stands out – the judges from AC-Sofia feel most threatened with a grade of 0,5 whereas the magistrates from Bourgas agree to the highest extent with the statement – 5,20. A negative trend in comparison with the previous study is observed. The average grade in 2008 is 4,22.

In this case, the concept “personal problems” includes not only the physical security of magistrates, but also the public atmosphere of doubt and distrust towards the judiciary, which has lately become even more problematic due to systematic and often ungrounded attacks on the judiciary as a whole. In an atmosphere of this kind, the dignified practice of the profession requires a lot of courage and the fact, that the negative grade from respondents is even lower, is evidence that a number of them do not lack civic courage.

The last two statements in the section are related to options for counteraction: the fifth - There are mechanisms, created in the legislative and executive authorities, who minimize the possibilities for corruption pressure over the judiciary; and the sixth - The activity of non-governmental organizations is a significant factor in the creation of an anti-corruption environment in the judiciary. With regard to both statements, the respondents express their relative disagreement or hesitant position with average grades of respectively 3,67 and 4,86. They are more critical towards the other two state powers, than towards the citizen groups. We would like to hope, that the consistent work and efforts of the Black Sea Law Community – Bourgas in the last year, as well as those of the other similar non-for-profit organizations with anti-corruption objectives, have contributed, albeit modestly, to this.

A very disturbing trend must be mentioned here. The trust of magistrates in the non-governmental sector has decreased in the last 4 years – in the 2008 study, an analogous question about the role of these organizations in the creation of an anti-corruption environment, received the disappointingly low grade of 5,1.

SECTION VI – Judicial Reform Mechanism

1. The parameters of the judicial reform are determined objectively and accurately and correspond to public needs.

2. When introducing legislative amendments, the opinion of magistrates is studied in depth and taken into account. A voice is given to opinions which differ from the official ones.

3. Teams of judges, prosecutors and investigators participate in a reciprocal fashion in the judicial reform, which allows for a maximal knowledge of the judiciary model as a whole and of the specifics in its separate units.

4. The forums, regarding the problems with the judiciary reform, are widely announced, and everyone willing can participate.

Results 2008

SECTION V	JUDGES	Prosecutors	Investigators	Lawyers	All respondents
1	4.66	4.09	4.21	3.25	4.05
2	3.02	2.23	3.18	3.25	2.92
3	3.82	2.93	3.48	3.67	3.47
4	3.54	3.14	3.82	3.62	3.53

Results 2011

SECTION VI	AC Sofia	SCPO,SCC	APO-V. TARNOVO	APO- VARNA	APO- PLOVDIV	SPOC	APO- BOURGAS	All respondents
1	0	3.23	4.48	4.00	3.33	4.00	5.90	3.56
2	0	2.31	3.56	1.91	3.33	2.67	4.60	2.63
3	0.5	2.86	4.41	2.70	5.00	3.67	4.90	3.43
4	0	2.97	4.30	3.22	3.50	3.78	5.30	3.29

The topic of this section is defined as “influence of interests of a varying sort, aimed at the strategic control of positions in the system” and is logically connected with the problems, analyzed above in Sections IV and V.

The first statement seeks an answer to the question of whether, and to what extent, the functioning and development of the judiciary, in accordance with the changing economic basis, are subject to ceaseless observation and study, which objectively determines the parameters of the judicial reform. According to the respondents' grade – with an average of 3,56, this is rather not so, although the magistrates from Bourgas are of a different opinion – 5,90. The

judges from AC-Sofia are at the other extreme, with the result 0. Overall the predominant position is, that the judicial reform is carried out inconsistently, without a clear strategy, with many arguable steps, caused by a number factors, including political change and the state of affairs (the conjuncture).

In this section, the highest dissatisfaction manifests itself through the answers of respondents to the second statement - the opinion of magistrates is studied in depth and opinions which differ from the official ones can be voiced and are taken into account. The average rating is 2,63, with grades varying from 0 from the judges in AC-Sofia to 4,60 from the magistrates in Bourgas. The regular magistrates obviously feel neglected and isolated from the reform processes in the judiciary, which demotivates them and reduces their internal commitment to and support of the changes. This is confirmed by the data from the third statement on reciprocal participation by teams of judges, prosecutors and investigators in the judicial and legal reforms. The average grade of 3,43 indicates, that respondents rather disagree that this is so, with prosecutors in the SCPO /grade 2,86/ feeling in a worse position than magistrates from Bourgas /4,90/ and Plovdiv /5,00/. The position of all respondents, however, is unified on the impossibility of achieving maximal knowledge of the system model as a whole and of the specifics in the structure and activities of its parts, without the participation of representatives of all units.

The last statement from the section pertains to whether forums on the problems in the legal and judicial reform are widely announced and whether everyone willing can participate. The average grade of 3,29 clearly indicates, that the transparency and access to the discussions of amendments are not sufficient and do not answer to the needs of the magistrates. In general, for this section, the participants are rather dissatisfied by the way in which the judicial reform is carried out, with this tendency being stronger with the judges of AC Sofia and prosecutors from the SCPO and weaker with the rest of the respondents.

SECTION VII – Administrative Service Organization

1. The administration in the judiciary is reliable, does not allow for the неправомерно leak of information and guarantees the safeguarding of cases and files.
2. It is impossible for the administrative services to issue documents without a resolution from the magistrates and without the payment of fixed fees.
3. The administrative services guarantee the protection and safeguarding of all evidence submitted with regard to various cases.
4. The administrative services do not allow for manipulation with regard to summoning and service of documents.
5. The appointment, dismissal, as well as career development of administrative employees is transparent and takes place in accordance with procedures, established by law.

Results 2008

SECTION VI	JUDGES	Prosecutors	Investigators	Lawyers	All respondents
1	5.47	3.95	4.78	3.25	4.36
2	6.91	5.94	7.26	7	6.78
3	6.72	5.34	6.27	5.62	5.99
4	6.12	4.68	6.12	4.37	5.32
5	4.94	3.53	4.43	3.25	4.04

Results 2011

SECTION VII	AC Sofia	SCPO,SCC	APO-V. TARNOVO	APO-VARNA	APO-PLOVDIV	SPOC	APO-BOURGAS	All respondents
1	4.2	3.71	5.74	5.04	4.83	3.33	7.50	4.91
2	2.4	4.84	7.04	6.74	7.17	5.78	8.40	6.05
3	3.4	4.67	6.41	6.78	6.33	5.56	8.10	5.89
4	3.4	4.93	6.44	6.30	5.33	5.56	8.30	5.75
5	0	3.87	6.41	3.61	6.33	4.33	7.80	4.62

The questions in this section are related to the reliable functioning of administratively-technical units in the judiciary and to the degree in which they can be a passage for corruption activity. This is another specific issue, which often evades the attention of unprofessional observers, including the media, but is a real source of

hardship and problems, which prevent effective justice and its perception among the public.

The first statement on the ability of administrative services to guarantee the safeguarding of confidential information and of case and file documentation, received one of the lowest grades – an average of 4,91. An exception in this regard is observed in the assessment by magistrates from Bourgas, where the result is 7,50 and shows trust in the administrative reliability. The prosecutors from SCPO – 3,71 and SPOC – 3,33 considerably distrust the administrative and file handling capacity of the judiciary.

The situation with regard to the second statement is considerably better. The respondents rather agree – an average grade of 6,05 - that it is impossible to issue documents without the permission from a magistrate and without payment of fixed fees.

The results for the next two statements are similar; the third one, that the administrative services are a reliable guarantee for the safeguarding of all evidence, submitted with regard to the cases /a grade of 5,89/ and the fourth one, that they do not allow for manipulations with regard to summoning and service of documents – 5,75. Even though they are above the middle between disagreement and agreement, the grades are too close to the area of “somewhat disagree” and indicate both progress and the necessity for further efforts towards the removal of weaknesses in this area. And probably this is most valid for the Supreme Prosecutor’s Office of Cassation, AC-Sofia and the Sofia City Prosecutor’s Office, as the numerical grades, given by them to these statements are remarkably lower than those of their colleagues.

A comparison with the results from our previous study in 2008 is unavoidable. The results then indicated the same trends. Evidently, a lot has been done in the last 4 years to improve the administrative and file handling capacity – through the creation of new organic and promotion rules, investment, control etc. These efforts have led to a visible result towards better quality.

One of the problematic areas is outlined by the answers to statement five – the appointment, dismissal and career development of administrative employees is transparent and takes place in compliance with legal rules. The average grade, given by the respondents is 4.62 and expresses the position of “somewhat disagree” with the statement.

Thus the lawfulness and transparency in the careers of administrative employees, which are desirable to everyone, remain more of a chimera than reality. The new rules for appointment and growth through competition are not always applied, or are applied only formally, as a “cover” for somebody’s subjective decision. The respondents from the SPOC, SCPO and the judges from AC Sofia and Varna have given the lowest assessments of this statement – from 0 to 4,33. The results from Bourgas – 7,80, Veliko Tarnovo – 6,41 and Plovdiv – 6,33, are much higher.

Conclusion

It must be admitted that, regretfully, the objectives, set out in the Judiciary Law from 2007, to optimize the management of staff resources in the judiciary, have not been achieved. Neither the newly established permanent SJC, nor the ISJC fulfilled the expectations about the introduction of transparent mechanisms for the initial introduction further career development of staff. Administrative chiefs, causing doubt as to their personal and anti-corruption profile, have been appointed. The distrust in the implementation of objective criteria for career development has deepened. The suspicions as to influences, exerted by circles of nepotism on the staff appointment and dismissal process, have increased. In many places within the system’s structure, these circles are visible to the magistrates.

The scandal about the trading with SJC member votes by a person, named “Krasyo from Pleven”, destroyed the trust in the Council.

For the first time we witnessed mass protests, both from magistrate groups and from a number of non-governmental organizations. Unfortunately, the SJC has remained under the control of its internal mechanisms and dependencies and silently ignored the worried cry of protesters.

We must, however, agree that the actions of the ISJC have, to a large extent, disciplined the system with regard to time limits of the law-enforcement process. In spite of its limited competencies and its revision function, the ISJC can summarize important administrative information about the proportional distribution of time limits,

individual magistrate load, and complexity of the cases which the magistrate solved. This is extremely important, in view of the computerized distribution which calculates the load in accordance with the number of cases but not their complexity. At the same time it is deeply disappointing, especially for the judges from the SCC and the prosecutors from SCPO, that load criteria are equalized according to numerical values, without taking into account the specifics of crime in Sofia, which are way more complicated than those in smaller towns in the country. There is no practice for the preparation of periodic analyses on this very important problem by the ISJC and SJC.

Recommendations

1. Each decision to introduce legislative amendments must be preceded by serious studies and analyses of the specific problem.
2. An analytical assessment of the structural and functional changes, completed until now and of their effect /limitation of the powers of the investigator apparatus, introduction of the Office of Investigation into the structure of the Prosecutor's Office, introduction of investigative bodies in the structure of the Ministry of Internal Affairs etc/ must be prepared urgently.
3. Objective and true information, reciprocally submitted by the court, prosecution and investigation, must be directed towards the monitoring mechanism of the European Commission.