

To
Ms. Cecka Cacheva
Chair
Bulgarian Parliament

Mr. Boiko Borisov
Prime Minister
Republic of Bulgaria

Mrs. Catherine DAY
Secretary General
European Committee

Copy:
Ms. Iskra Fidosova
Chair of the Legal Affairs
Committee

Leaders of the Parliamentary
Fractions

Mrs. Diana Kovacheva
Minister of Justice

Media

Ladies and Gentlemen,

For a second time this year we are witnessing the vicious practice of the Parliament to deal with appointments crucial importance for the condition of the Bulgarian judicial system and the possibilities for its further reform. The extremely opaque procedure through which the parliamentary quota from the Supreme Judicial Council (SJC) was completed on July 20, 2011 is now being repeated with the election of inspectors at the Inspectorate to the Supreme Judicial Council (ISJC), an institution created and proclaimed as a corner-stone of all the efforts for increasing the accountability and efficiency of the judicial power. This is happening despite the following facts:

- On May 05, 2010 in an Open letter addressed to the Chair of the Parliament ¹ Mrs. Cecka Cacheva, eleven leading legal NGOs have suggested detailed rules for improving the parliamentary procedure for election of high state officials, including ones within the institutions from the judicial power (the letter was left without any response);
- In a letter from July 18, 2011 addressed to all members of the parliament, BILI protested against the tainted procedure through which the two members from the

¹ http://preview.bili-bg.org/cdir/bili-bg.org/files/Letter_VSS_NS.pdf (in Bulgarian)

parliamentary quota in the SJC were elected on July 20, 2011², (this letter also remained without any response);

- The explicit recommendation of the EC in its regular report on the progress in Bulgaria under the Co-operation and Verification Mechanism issued on the same July 20, 2011 which states, that “*appointments and appraisals **including** appointments to the Supreme Judicial Council which fully respect the principles of transparency, independence, integrity and professional merit*”.³

It is obvious that the Parliament is pursuing a policy of opacity and makes appointments in the judicial power in procedures lacking enough information about the candidates, motives on behalf of the nominating MPs, real public hearing, and objective and thorough evaluation of their relevant qualities, including professional capacity and behavior. All this excludes the public scrutiny and plays a key role for the vitiating of the Bulgarian justice and the lack of trust in it. Such appointments procedure does not only eliminate a real selection between the competent and incompetent, on the contrary, it turns into main selection factor backdoor deals, hidden promises and dependences. Thus, instead of getting the deserved public empowerment even good candidates are reduced to being political protégés. That is not a question of simple absence of democratic culture, but a consistent reproduction of the model spilling over vicious political influences into the judicial power. There, they could be easily linked to the bankrupted career policies of the Supreme Judicial Council, repeatedly criticized by the EC in its regular reports under the Co-operation and Verification Mechanism.

We alarm urgently that if this model does not get reformed after a broad public discussion, besides the tainting of the Inspectorate that we are witnessing, it could affect the next Supreme Judicial Council. If the next Council is elected in the same manner in couple of months, this could suffocate any hope for judicial reform in the next 5 years. After the completely opaque and perfunctory procedure carried out by the Legal Affair Committee for the Inspectorate, our concerns about how the up-coming elections of the members of the parliamentary quota of the Supreme Judicial Council are even higher. Especially, because, unlike for the Inspectorate where art. 46 from the Judicial System’s Act envisions a hearing, such requirement does not exist for the Council. We would like to remind that amendments to this effect in the Judicial System’s Act were proposed by the Minister of Justice but the parliamentary majority rejected them without any comment.

Therefore, we insist again that the Parliament terminates its persistent isolation of the civic society from the main mechanisms for the formation of constitutional mandates. It is necessary that transparency and civic participation are seen as standards for democratic legitimacy of the appointments. In the light of this, we urge the Parliament to:

- 1) Initiate a broad discussion for changes and amendments in the Judicial System Act and/or the Parliament’s internal Regulation based on our suggestions stated in the Open letter from May 05, 2010, so that they provide a transparent and open to civic participation procedure for appointments within the judicial power.
- 2) Carry out the appointments for inspectors in the ISJC according to the new procedure.

In addition, based on our long and bitter experience that without an outside pressure the Bulgarian institutions are going to ignore again our appeal, we are also turning to the Secretary General of the European Commission. We request from her that the issue on how

² <http://legalworld.bg/print.php?storyid=23929>

³ http://ec.europa.eu/dgs/secretariat_general/cvm/docs/com_2011_459_en.pdf

the Bulgarian Parliament carries out the procedures for appointments within the judicial power becomes a separate and central one in the Co-operation and Verification Mechanism reports. Currently, while the activity of the Parliament does fall within the scope of the Mechanism, it is always absorbed by the general texts about the Bulgarian government. This issue needs to be set as a high priority for determining the existence of political will to carry further the judicial reform in the country.

We do hope that the EC will find a way to publicly announce its position on our request as this will send a clear and timely signal, especially with regard to the breakneck speeding of the Parliament to finish the election of Inspectors for the ISJC.

In confirmation of our statements, we are attaching a short analysis showing our concrete findings about all the problems of the procedure for hearing of the candidates for inspectors at the ISJC, carried out on December 15, 2011 by the Legal Affairs parliamentary Committee.

19.12.2011

Sofia

Respectfully:

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Institute for Public Environment Development

Bilyana Gyaurova-Wegertseder, Director
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Margarita Ilieva, Deputy chair
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Sofia Razboinikova, Chair of the MB
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