

ANNUAL PROGRAM
OF THE INSPECTORATE
WITH THE SUPREME JUDICIAL COUNCIL

Pursuant to Art. 54, para. 1, item 8 of the Judicial System Act (JSA), the Inspectorate with the Supreme Judicial Council (SJC) has drawn up and approved an annual program for its work in 2008.

The Inspectorate with the SJC is a body that has been constitutionally provided for with the latest amendment to the Bulgarian Constitution.

Pursuant to the provision of Art. 132a (new – State Gazette, issue 12 of 6 February 2007), an Inspectorate shall be set up with the SJC which shall consist of a Chief Inspector and ten inspectors who are elected by the National Assembly by a qualified majority. The Inspectorate shall inspect the activities of the judiciary without infringing upon the independence of the judges, judicial assessors, prosecutors and investigators in the performance of their functions. The Chief Inspector and the inspectors shall be independent and shall abide by the law only in the performance of their functions. The Inspectorate shall act *ex officio*, on the initiative of citizens, legal entities or government bodies, including of judges, prosecutors and investigators. The body shall have the constitutional right and obligation to submit signals, proposals and reports to other government bodies, including to the competent judicial bodies.

The main task of the newly-created body is to exercise administrative control over the activities of the judicial bodies. The purpose of the administrative control over the work of the judicial bodies is to provide protection of the public interest and stability to the judiciary, to create sustainability in the administration of justice, to ensure public trust and confidence in the delivery of justice and transparency of the work of the judiciary.

A Chapter Three, *Inspectorate with the SJC*, has been created in the new Judicial System Act (published State Gazette, issue 64 of 7 August 2007) which provides for the authority of the body in detail.

The principles on which the activities of the Inspectorate are based – legality, objectivity and publicity – have been provided for in the law.

The principle of legality requires that, in the exercise of their authority, the Chief Inspector and inspectors abide by the law only and ground their conclusions on the basis of the legislation in force in the country.

The principle of objectivity presumes that, in the performance of their functions, the Chief Inspector and inspectors are independent, impartial and objective.

The principle of publicity requires that the activities of the Inspectorate be carried out transparently in the conditions of public control and that the information provided be true and objective.

Pursuant to the provision of Art. 54, para. 1 of the JSA, the Inspectorate shall have the following authority:

1. Provide information about its activities and publish the report about its activities on the SJC website, inspect the organization of the administrative activities of the courts, prosecutor's offices and investigation services;
2. Inspect the organization in relation to the initiation and movement of court, prosecutor and investigative files as well as the completion of the cases within the established terms;
3. Analyze and summarize the cases which have finished with a judicial act that has entered into force as well as the completed files and cases of the prosecutors and investigators;
4. In the event of contradictory jurisprudence found in the performance of the activities under item 3, notify the competent bodies to make requests for the adoption of interpretative judgments or interpretative decrees;
5. In the event of violations found in the performance of the activities under item 1 – 3, notify the administrative managers of the respective judicial body and the SJC;
6. Make proposals for the imposition of disciplinary penalties on judges, prosecutors, investigators and administrative managers of judicial bodies;
7. Submit signals, proposals and reports to other government bodies, including to the competent judicial bodies;
8. Draw up and present to the SJC an annual program and report about its activities;
9. Discuss the draft judicial budget proposed by the Minister of Justice in its part concerning the budget account of the Inspectorate and submit it to the SJC;
10. Provide public information annually.

Having accepted to perform their duties in accordance with the constitutional and legislative framework and pursuant to Art. 56, para. 1 of the JSA, the Chief Inspector and inspectors who were elected by a decision of the National Assembly on 19 December 2007 and took office on 16 January 2008 have discussed and adopted this Annual Program for their activities in 2008.

I. Activities in relation to the structuring of the Inspectorate

As a newly-created body within the judiciary, the Inspectorate with the SJC must be built administratively; it must prepare and adopt the necessary internal documents, ensure the availability of facilities, appoint administrative staff, ensure the functioning of the body in the necessary administrative and expert composition.

With a view to this and taking into account the regulatory framework, the Inspectorate with the SJC envisages to carry out the following activities in the first three months after its setting up:

1. Adopt and publish in the State Gazette Rules for the Organization and Activities of the Administration of the Inspectorate with the SJC pursuant to Art. 55, para. 4 of the JSA;
2. Prepare and adopt a six-month work plan for its activities;
3. Adopt Internal Rules for the organization of the inspectors' work in the exercise of the authority under Art. 54 of the JSA, including methodologies for conducting inspections in relation to signals and ongoing and planned inspections;
4. Prepare and adopt a list of the staff positions in the Inspectorate and approve the respective job descriptions;
5. Organize and conduct a competition to appoint experts with the Inspectorate pursuant to Art. 55, para. 2 of the JSA;
6. Organize and conduct competitions and select administrative staff to be appointed in accordance with the adopted staff positions and the approved job descriptions;
7. Ensure the availability of facilities and technical resources for the activities of the Inspectorate by organizing the completion of the finishing works in relation to the renovation of the premises given to the Inspectorate in Sofia, 17 George Washington Str., ensure office furniture for the offices, buy and commission the necessary computer equipment, ensure a telephone switchboard and telephone extensions, buy vehicles for the needs of the Inspectorate and other.

II. Activities related to the exercise of the authority of the Inspectorate

The Inspectorate with the SJC exercises its authority provided for in Art. 54 of the JSA by conducting inspections used as a basis for the preparation of analyses and summaries, making proposals and submitting signals to the respective bodies depending on the findings made.

In its capacity of an inspection body of the judiciary, the Inspectorate with the SJC believes that its main goal is to introduce unified criteria of analysis and evaluation of the work of the magistrates in the different units of the judiciary which will guarantee the application of the principles of lawfulness and objectivity.

As a national body, the Inspectorate with the SJC considers that another of its tasks is to unify the models of administration in the judicial bodies by proposing that the better practices be introduced in the organization of the courts, prosecutor's offices and investigation services.

In its capacity of a body entrusted with the extremely important power to submit signals to the respective competent bodies with a view to the preparation of interpretative judgments or decrees in the event of contradictory practice, the Inspectorate with the SJC believes that its leading goal is to analyze and summarize the contradictory jurisprudence found during planned and thematic inspections and during inspections in relation to signals filed by citizens, legal entities, government bodies and others.

The inspections as a means of exercising the authority of the Inspectorate must be differentiated on the basis of their scope, object, nature and grounds for performing them:

1. Types of inspections depending on their object and scope:

- Complex (planned) – concerning the activities of all judicial bodies in relation to the initiation and movement of the cases on the territory of a judicial region, the application of the law with respect to judicial acts which have entered into force and completed prosecutor's cases with a view to finding contradictory jurisprudence within a judicial region;
- Thematic – concerning the initiation and movement of a certain group of cases at a regional or national level;
- In relation to the application of a specific legal norm with respect to judicial acts which have entered into force and completed prosecutor's

cases at a regional or national level with a view to finding contradictory court or prosecutor practices;

- In relation to signals – inspections of specific cases.

2. Types of inspections depending on the nature of the inspection:

- Inspection on site – by visiting the judicial body itself or familiarizing oneself with the necessary documents in person;

- Remote inspection – by requiring information in writing from the respective judicial body or other bodies and persons;

- Analytical inspection – by analyzing and summarizing the information provided by the respective bodies.

The inspections will be conducted in accordance with a methodology approved by the Inspectorate, annual schedule and samples of the procedures and will be assigned randomly and on the basis of an order of the Chief Inspector pursuant to the requirements of Art. 57 and Art. 58 of the JSA.

3. Types of inspections depending on the grounds for conducting them:

- Planned inspections – included in the annual program of the Inspectorate with the SJC;

- On the basis of signals – concerning specific cases which have been referred to the Inspectorate with the SJC by other bodies, citizens, legal entities, non-governmental organizations and others;

- Ex officio inspections – on the initiative of the Inspectorate with the SJC.

Planned inspections in 2008

The planned inspections of the Inspectorate with the SJC are complex in their nature and include a complete check of the administrative activities of the respective judicial body in relation to the movement of cases, observance of procedural terms by the magistrates in relation to the scheduling and resolution of cases, manner of case assignment, compliance with the plan for scheduling court hearings, drawing up minutes of the court hearings, keeping and maintenance of the judicial books in accordance with the Rules for the organization of the work of the regional, district and military courts.

In carrying out the planned inspections, the Inspectorate will assess the individual and overall workload of the respective judicial bodies.

If there is information from judicial acts which have entered into force or completed prosecutor's cases about contradictory practice, it will exercise its authority under the terms and procedure of Art. 54, item 4 of the JSA.

The Inspectorate with the SJC envisages to conduct an overall planned inspection of the activities of all judicial bodies on the territory of the Bourgas Appellate Region – courts, prosecutor's offices and investigation services – in the period April – June 2008.

For the period September – November 2008, the Inspectorate with the SJC will make an overall planned inspection of the activities of all judicial bodies on the territory of the Veliko Turnovo Appellate Region.

Thematic inspections in 2008

The thematic inspections will assist the process of summarizing and analyzing the information about the initiation and movement of a certain group of cases and the application of specific legal norms at a regional or national level. They will allow for the making of a comparative analysis of the application of the law and the administration of justice in the different judicial regions.

In accordance with the Action Plan on the implementation of the benchmarks in the areas of judicial reform, fight against corruption and organized crime adopted by the Council of Ministers of the Republic of Bulgaria, the Inspectorate with the SJC has discussed the commitments made and included the following thematic inspections in its annual program:

- Analysis of prosecutor's acts outside criminal justice in accordance with Benchmark 2, Action 2.14 of the Plan by the end of June 2008;
- Regular reporting on the movement of files in the trial and pre-trial phase in accordance with Benchmark 4, Action 6.1 of the Plan by the end of March and by the end of June 2008;
- Summary of the information about the sentences of corruption that have entered into force concerning officials from the services of compulsory border control and officials from local governance in accordance with Benchmark 5, Action 1.5 of the Plan by the end of June 2008;
- Review of convictions passed for grave crime and analysis of the reasons of termination of criminal proceedings and issuance of acquittals in accordance with Benchmark 6, Action 3.1 of the Plan by the end of June 2008;

- Review of cases concerning crimes with respect to which there are provisions for forfeiture of property acquired as a result of criminal activities to the benefit of the state in accordance with Benchmark 6, Action 4.5 of the Plan by the end of June 2008;
- Review of the convictions passed for crimes related to production, distribution and trafficking in drugs and analysis of the reasons for termination of the criminal proceedings and issuance of acquittals in accordance with Benchmark 6, Action 5.2 of the Plan by the end of June 2008;
- Review of the convictions passed in cases related to trafficking in human beings and analysis of the reasons for termination of the criminal proceedings and issuance of acquittals in accordance with Benchmark 6, Action 5.5 of the Plan by the end of June 2008;
- Review of the convictions passed for crimes related to production and use of counterfeit and forged documents and documents with untrue content and analysis of the reasons for termination of the criminal proceedings and issuance of acquittals in accordance with Benchmark 6, Action 5.7 of the Plan by the end of June 2008.

The thematic inspections will be carried out in the conditions of cooperation with the other bodies included in the Plan of the Council of Ministers as institutions responsible for the implementation of the inspections.

On the basis of a decision of the SJC, the Inspectorate with the SJC has adopted and included in its annual program a thematic inspection with the following task:

- Review of the criminal proceedings which were terminated and returned by the court to the prosecutor's office in 2007 and analysis of the reasons for this.

Inspections on the basis of signals from citizens, legal entities, government bodies and others

One of the main activities of the Inspectorate with the SJC is related to conducting inspections with regard to signals from citizens, legal entities, government bodies, non-governmental organizations and others.

In view of the correct and lawful organization of the activities of the Inspectorate in this regard, we envisage to create and adopt a special methodology for conducting inspections, to prepare samples of the

respective procedures, to provide for reasonable terms for the carrying out of the inspections and transparency in performing these activities.

The statements of the Inspectorate with the SJC on the basis of the completed inspections are the leading criterion for the effectiveness in the performance of its functions.

The Inspectorate with the SJC believes that its major and leading task is to conduct the inspections provided for in its annual program and the inspections in relation to signals from citizens, government bodies, legal entities, non-governmental organizations and others in a timely and effective manner finishing them with lawful and justified statements.

The summarized analyses, opinions, reports, statements in relation to completed inspections and the reasons for them will be provided to all stakeholder bodies and persons and, thus, we will meet the requirements for publicness of the authority exercised by the Inspectorate with the SJC.

III. Activities of the Inspectorate in relation to cooperation with other bodies

In the performance of its activities, the Inspectorate with the SJC will be guided by the will for cooperation and mutual assistance with respect to the other judicial bodies and, above all, with respect to the SJC with which it has been set up.

The Chief Inspector takes part in all SJC meetings and the sessions of the Committee on Nominations and Performance Evaluation of Judges, Prosecutors and Investigators with the SJC by virtue of the JSA. In this way, there is a direct connection between the two bodies and immediacy in the performance of their functions. Representatives of the Inspectorate participate in the weekly sessions of the Committee on the Fight against Corruption and Professional Ethics and the Committee on Disciplinary Proceedings with the SJC by virtue of the Rules for the Activities of the SJC.

The Inspectorate with the SJC will lay the necessary foundation for correct and fruitful cooperation with the Ministry of Justice. Representatives of the Inspectorate are involved in the working group monitoring the application of the Civil Procedure Code. The participation in joint initiatives, support with analyses, reports, information, inclusion of representatives of the Inspectorate in the implementation of projects for the judiciary will be of

great significance for uniting the efforts for the fruitful reform of the judiciary.

The Inspectorate with the SJC will make a direct connection with all judicial bodies and will respond timely to the signals of judges, prosecutors and investigators from the judiciary.

The Inspectorate with the SJC also envisages to prepare and participate with a project proposal in the Operational Programme Administrative Capacity in May 2008.