

**REPORT**

**ON THE EXECUTION OF THE PROGRAMME FOR  
IMPLEMENTATION  
OF THE STRATEGY FOR REFORM OF  
THE JUDICIARY IN BULGARIA  
in 2007**

The interests of the Bulgarian society require improvement of the legislative and institutional framework for operation of the judicial system so that it becomes accessible, transparent and capable of fully protecting the individual rights and freedoms of the citizens. Bulgaria's membership in the European Union gives further impetus for accelerated implementation of the reform of the judiciary. It is necessary to ensure sufficient capacity to meet the obligations ensuing from EU membership as well as adequate basis to deal with the expected increase in the case load, in relation to the application of the EU law. Promotion of the independence and the efficiency of the judicial system are key factors since the strengthening of the judicial system is of essential importance for the application of the EC law.

Measures to continue the implementation of the main priorities of the Strategy for reform of the Judiciary in 2006 and 2007 have been identified in the Programme. The objectives and priorities set out therein are in conformity with the requirements and commitments undertaken by Bulgaria in the negotiation process for accession to the European Union and the priorities identified during the enhanced monitoring in the period after closure of Chapter 24 "Justice and Home Affairs".

The subject matter of the Programme is the outlining of the directions for development of the judicial system immediately before and after the Bulgaria's EU accession and the definition of specific measures and legislative amendments to be implemented in short and medium-terms as well as permanent priorities in the area of the reform of the criminal and civil justice. The formulation of such priorities is in line with the existing basic principles, namely:

1. The principles of a State governed by law and order and the rule of law.
2. The principles of separation of powers and the independence of the judiciary.

3. Maximum protection of the rights and interests of individuals and the society and equal access to justice.

4. Strengthening of the application of the European standards of justice.

The implementation of the objectives set out in the Programme will ensure the security and the rights of the Bulgarian nationals also in the pan-European context and will contribute to the strengthening of the area of freedom, security and justice throughout the European Union.

## **I. Strengthening of the law enforcement capacity and improvement of the administrative activity of the judiciary**

**Objective:** Provision of human resources and material support for resolving law suits of larger amount and complexity.

The judiciary has an independent budget which is adopted by the National Assembly separately for each branch of the judiciary. The budget of the judiciary includes all receipts deriving from the activities of the judicial bodies and the expenditures for their maintenance. The budget of the judiciary consists of the own budget of the Supreme Judicial Councils and the budget accounts of the judicial bodies. The budget provides for a reserve for pressing contingent expenditures. Its amount is specified in the annual State Budget Act and is utilized in conformity with a decision of the SJC.

### **The 2007 budget of the judiciary, adopted with Article 2 of the 2007 State Budget of the Republic of Bulgaria Act.**

Execution of the budget of the judiciary as at 31.12.2007:

**1. Revenue** (including subsidy from the Ministry of Finance - 335, 070 million BGN, of which:

Receipts coming from the activity of the judicial bodies - 79,533 million BGN compared to 50,500 million BGN planned in the 2007 State Budget Act, or overfulfilment of the revenue by 28,714 BGN (without the grants from the country and from abroad).

**2. Expenditure** – total amount of the expenditures - 335,070 million BGN compared to 313,020 million BGN planned in the 2007 State Budget Act which was increased with Decree of the Council of Ministers № 60/31.01.2007 by 0,150 million BGN and Decree of the Council of Ministers № 130/12.06.07 by 0,197 million BGN.

**3. Carry over at the end of 2007** - 22,520 million BGN which is formed by unallocated funds from the overfulfilment of the revenue, unallocated funds from the carry over of 2006 and the funds from economy on the plan for 2007.

#### **4. Other indicators:**

4.1. *Filled in vacancies* - 12 511 permanent positions

Including:

- magistrates - 4 287 permanent positions;
- enforcement agents – 217 permanent positions;
- recordation judges – 186 permanent positions
- officers – 7 821 permanent positions;

4.2. *Vacancies* – 1 200 permanent positions, including:

- magistrates – 467 permanent positions;
- enforcement agents – 16 permanent positions;
- recordation judges – 11 permanent positions;
- officers – 706 permanent positions.

4.3. *Number of cases tried by the courts* - 773 286 (including ordinary courts – 683 260, administrative courts – 26 377, the Supreme Administrative Court – 13 086; the Supreme Court of Cassation – 50 563).

Number of the case files in the prosecution office – 614 021.

Number of preliminary investigations and investigation cases in the investigation services – 34 874 (including investigation services – 33 811, the National Investigation Service – 1 063).

4.4. *Number of concluded cases in the courts* – 565 444 (including ordinary courts – 501 513, administrative courts – 19 416, the Supreme Administrative Court – 13 141; the Supreme Court of Cassation – 31 374).

Number of concluded case files in the prosecution office – 602 594

Number of preliminary investigations and investigation cases in the investigation services – 29 409 (including in the investigation services – 28 728, in the National Investigation Service – 681).

4.5. Average monthly salary for the period of the cash report as at the end of the year – 1 169 BGN.

4.6. The execution of the budget of the judiciary as at 31.12.2007 was 97,48 %.

#### **The 2008 budget of the judiciary, adopted with Article 2 of the 2008 State Budget of the Republic of Bulgaria Act.**

**1. Revenue** (including subsidy from the Ministry of Finance - 385, 300 million BGN, of which:

receipts from the activity of the judicial bodies - 52,000 million BGN. The increase compared to 2007 is amounting to 2,9%.

**2. Expenditure** – total amount of the expenditures - 385,300 million BGN or the increase compared to the execution of the expenditure for 2007 is

almost 15%. This growth is due to the fact that the budget 2008 covers funds for capital expenditures which have not been included in the debit part of the budget 2007 of the judiciary in compliance with the amendment to the Constitution made in 2006 in the part for the judiciary.

- Development of criteria for planning of the appointment in the judiciary;
- Strengthening of the competition principle for initial appointment in the judiciary;
- Establishment of criteria for evaluation of the work of the magistrates, applicable in rank promotion or demotion, which should guarantee impartial and accurate evaluation in their career planning.

## **Selection, appointment and evaluation of magistrates**

### *Centralized competition in 2007*

<u>Vacancies announced for magistrate's post</u>	<u>Number of applicants</u>
8 permanent positions – judges in the Supreme Administrative Court	- 33
1 permanent position – judge in the Administrative Court – Plovdiv	- 10
20 permanent positions – junior judges	- 380
29 permanent positions – prosecutors	- 239
6 permanent positions – judges in a regional court- “criminal law”	- 56
21 permanent positions – judges in a district court “civil law”-	- 177
19 permanent positions – judges in a district court “criminal law”	- 253
31 permanent positions – judges in a district court “civil law”	- 301
4 permanent positions – investigators	- 41
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139 permanent positions – filled permanent positions	- 1490

Strengthening of the competition principle in the selection and appointment of magistrates continued in the period 1 January – 31 December 2007. The newly adopted Judicial System Act introduced rules governing the initial appointment of judges, prosecutors and investigators and junior magistrates. It provides for competitions through evaluation at promotion and transfer of acting magistrates.

**Ordinance No. 1 of 19 December 2007 on the procedure and organization of conducting competitions for appointment, promotion and transfer of judges, prosecutors and investigators** was adopted with a decision of the SJC (published SG No. 2/8.01.2008). **Evaluation Methodology** was adopted on 11 January 2008 which introduced common and specific criteria when evaluating the work of individual magistrates.

Common criteria for the appraisal of judges, prosecutors, investigators, administrative heads and deputy administrative heads are:

1. number, type, complexity and workload related to case-files and cases;
2. compliance with statutory periods;
3. number of effective and rescinded acts and the grounds therefore;
4. comprehensible and grounded reasoning of acts;
5. outcomes from the inspections made by the Inspectorate with the Supreme Judicial Council;
6. incentives and sanctions during the period for which the appraisal is made;
7. observance of the professional code of conduct of judges, prosecutors and investigators.

In the appraisal, account is also taken of the general workload of the respective judicial district and body of the judiciary, as well as of the workload of the evaluated judge, prosecutor or investigator.

Specific criteria for evaluating a judge are:

1. observing the time schedule for court hearings;
2. skills to manage a court hearing and to make a record.

Specific criteria for evaluating a prosecutor are:

1. skills to plan and structure actions in the pre-trial and court proceedings;
2. following written guidelines and instructions of higher-standing prosecutors;
3. skills to organise the work and management of the investigating bodies and teams taking part in the pre-trial proceedings.

Specific criteria for evaluating an investigator are:

1. skills to plan and structure actions in the pre-trial and court proceedings;
2. following written guidelines and instructions of prosecutors.

In evaluating administrative heads or administrative heads' deputies, the results of the operation of the body of the judiciary they manage should also be analysed and accounted for.

The specific evaluation criteria for holding managing position are:

1. ability for team work and assignment of tasks;
2. decision-taking abilities;
3. representation, including
  - a) behaviour that enhances the prestige of the judiciary;
  - b) skills to communicate with other state bodies, citizens and legal entities.

*Medium-term priorities (by the end of 2007):*

- Training of magistrates on the application of the European Communities and EU acts in the area of judicial cooperation in civil and criminal cases.

For the period March – May 2007 the National Institute of Justice, together with the Ministry of Justice conducted a series of seminars on the subject “EU Legal instruments for judicial cooperation in civil matters”. The seminars were organized within the framework of the PHARE BG – 04 – IB – JH – 02 Twinning Project in partnership with the General Council of the Judiciary of the Kingdom of Spain and the National Judicial Administration of the Kingdom of Spain. Participants in these seminars were magistrates from different appellate districts (Sofia, Plovdiv, Varna, Veliko Tarnovo, Burgas). Seminars were organized also for court officers as well as for lecturers in the National Institute of Justice within the framework of the “Training of trainers” Programme with respect to the pedagogical aspects of the issues of judicial cooperation in civil matters in the EU.

The following seminars were held during that period:

- Legal instruments for judicial cooperation in civil matters – 14-16 March 2007 – 30 participants – judges from the appellate districts Sofia and Plovdiv;
- Judicial cooperation in civil matters in the EU – 30 participants – judges from the appellate districts Veliko Tarnovo and Varna;
- Judicial cooperation in civil matters in the EU – 30 participants – court staff only;
- Judicial cooperation in civil matters in the EU – training for trainers - 25 participants – trainers;
- Judicial cooperation in civil matters in the EU – 30 participants - judges from the appellate districts Veliko Tarnovo and Varna;
- Legal instruments for judicial cooperation in civil matters in the EU – the seminar was designed for 30 participants – judges from all appellate districts;

- Judicial cooperation in civil matters in the EU – the seminar was designed for 30 participants - judges from the appellate districts Burgas and Varna;

Training on the subject “Judicial cooperation in criminal and civil matters” was conducted during the reporting period within the framework of the PHARE BG – 04 – IB – JH – 05 Twinning Project. There were 28 participants – 18 civil and 10 penal judges.

In relation to the training of the magistrates in the application of the EC and EU acts in the area of judicial cooperation in civil and criminal matters, besides those held under PHARE twinning projects, other seminars were organized in this area:

- Judicial and police cooperation in criminal matters – 22-24 January 2007 - 30 participants, of which 20 judges, 6 prosecutors and 4 investigators;
  - Judicial and police cooperation in criminal matters – 21-23 May 2007 - 36 participants, of which 25 judges, 7 prosecutors and 4 investigators;
  - Judicial and police cooperation in criminal matters – 26-28 September 2007 - 29 participants, of which 26 judges and 3 investigators;
  - Judicial cooperation in civil matters – 11-13 April 2007 - 27 participants - judges;
  - Judicial cooperation in civil matters – 18-20 September 2007 - 20 participants - judges.
- Introduction of European standards in the work of all magistrates;

## **1) Disciplinary practice**

The Regulation on the organization and the activity of the Supreme Judicial Council, adopted with a decision of 1 November 2007, provides for the setting up of a permanent Commission on Disciplinary Proceedings with the SJC.

The composition of the Commission of Disciplinary Proceedings (CDP) with the SJC is defined with a Decision under the Record of Proceedings No. 37/01.11.2007 of the SJC. At its first meeting held on 08.11.2007 was elected the chairperson of the Commission and was examined the Draft-Internal Regulations on the organization of the activity of the Commission on disciplinary proceedings within the SJC. The Internal regulations comply with the provision of Article 28 of the Regulation on the organization of the activity

of the Supreme Judicial Council and its administration and they were adopted with a decision under Record of Proceedings No. 2 of 13.11.2007 of the CDP.

In view of specifying more precisely the practice of instituting disciplinary proceedings, instruction has been forwarded, on the initiative of the Chair of the CDP, to the administrative heads of the bodies of the Judiciary – courts, prosecution offices and investigation services, to comply with the requirements of Article 310, paragraph 1 of the Judicial System Act providing for an explicit act – an order – under which disciplinary proceedings may be instituted.

The Commission examines the files and the orders of the administrative heads imposing disciplinary sanctions “rebuke” and “reprimand” of judges, prosecutors and investigators and submits the proposals to the SJC which may confirm, rescind or amend the sanctions imposed.

In 2007 there were disciplinary proceedings not only against magistrates but against administrative heads as well. The Supreme Judicial Council and the disciplinary panels and rapporteurs designated by it, have examined the cases while observing the procedural requirements securing the right of a fair trial. The average length of the disciplinary cases shows that they were concluded in reasonable time.

## **2) Anti-corruption measures**

The activity for implementing the main tasks set out in the Strategy to combat corruption within the judiciary continued in 2007.

Meetings of the Council on coordination of the fight against corruption with the active participation of the SJC’s representatives are held on monthly basis. The joint meetings of the three anti-corruption commissions examine signals for perceived corruption practices, hear the respective state bodies responsible for prevention and counteracting to unlawful actions and examine proposals for draft-laws and secondary legislation relevant to the fight against corruption.

The activity for establishment of a uniform information system connecting all authorities in the Republic of Bulgaria which receive signals for corruption has been finalized during the reporting period. E-signals and proposals to the administrations connected to the system will be delivered through it only. To that effect the e-addresses for giving signals already available will be replaced by a link to the website of the Commission on prevention and countering corruption to the Council of Ministers.

In 2007 was fully implemented the first phase of the EU Project “Strengthening of the capacity of the Commission on prevention and countering corruption with the view to improve the fight against corruption in the state administration and the judiciary” and the second phase of the project was launched which provides for training of 300 magistrates in anti-corruption behaviour.

Experts of the Commission on fight against corruption with the SJC took part as speakers in the Round table organized by the “Transparency without borders” Association aimed at addressing corruption practices in the area of public procurement. Concrete suggestions were made for legislative amendments in the Public Procurement Act.

The Commission on the fight against corruption with the SJC proposed to the Council on coordination of the fight against corruption amendments also to the Civil Procedure Code in relation to the numerous signals received against magistrates concerning rulings on securities of future claim.

Examination of signals and proposals received in the SJC and in the anti-corruption boxes placed in the premises of the bodies of the judiciary continued in 2007 on regular basis. In the cases where the Commission on fight against corruption with the SJC admitted that there were data about unlawful actions on the part of magistrates, the signals have been referred to the relevant competent authorities for carrying out of checks.

- Development of specific programmes for needs-oriented training

In pursuance of Section II, p. i) of the Action Plan adopted by the Council of Ministers of Bulgaria on 12 June 2006 and the Measures for implementation of the main recommendations of the European Commission, identified in its Comprehensive Monitoring Report of 16 May 2006, the National Institute of Justice organized two training courses dedicated to the subject “Fight against money laundering” which were attended by 60 prosecutors from the regional prosecution offices. Separate programme on the subject “Money laundering” was developed within the framework of the Twinning Project “Strengthening of the judiciary in Bulgaria. Training of magistrates and administrative staff”. The said programme has been worked out in cooperation with Spanish experts.

Taking into consideration the relevance of the subject and on recommendation of the European Commission, in 2006 the National Institute of Justice included the development of a regular course for training of magistrates as a key priority in its Strategy for development in the period 2006 – 2009. The idea was that this should be the first course which is obligatory for all magistrates. A working group in charge of the development of a programme on the theme “Ethics and

anti-corruption” was set up in the autumn of 2006. Representatives of the court, the prosecution office, the media and the scientific circles have been invited for membership in the working group.

As a result of the meeting of the working group a programme was prepared providing for 5 seminars aimed at 150 persons in total – judges, prosecutors and investigators from the whole country.

Main purpose of the programme was to familiarize the magistrates with the working mechanisms of management of the structures of the judiciary in conformity with the principles of transparency, openness and interaction between institutions. In the course of the training have been discussed the concepts of conflict of interests and corruption, the factors for their appearance, the forms and the areas of appearance, the methods of identifying them and the models for counteracting.

The issues of the fight against organized crime and the forms of organized crime have been discussed within the framework of a specialized training on European law, the “Police and judicial cooperation in criminal matters” training course, in particular. Six training courses were organized on this subject with 146 magistrates participating in them.

On 18-20 June 2007 the National Institute of Justice conducted a seminar on the subject “Money laundering” with 30 participants.

*Permanent priorities in the area of the reform of the criminal and civil justice:*

- Application of the monitoring criteria for the implementation of the Penal Procedure Code (PPC) worked out in January 2006 and approved in February 2006 by the Supreme Judicial Council and the Council of Ministers.

The Working group for the monitoring of the Penal Procedure Code entrusted with the task to analyze and summarize on monthly basis the data about problems established in the application of the PPC coming from the bodies of the executive and the judiciary and to propose to the competent authorities measures for addressing them continued its activity during the reporting period. The following proposals for amendments to the PPC were discussed at the meetings of the Working group in November and December:

- the Minister of Interior to assign the investigation functions to officers of the Ministry of Interior who can carry out investigation actions under the procedure of the PPC;

- elaboration of more precise provisions in relation to the use of special intelligence means;
- establishment of legal guarantees for efficient protection of the life and health of the undercover agents by keeping secret their activity.

In the context of the adoption of the new National Security State Agency Act, the work on drafting of a Law on Amendments to the Penal Procedure Code is going on.

The reports on the application of the PPC have been published on website of the Supreme Cassation Prosecution Office thus contributing to the creation of prerequisites for a unified case-law and addressing of possible difficulties in the application of the newly adopted procedural legislation. With Order of the Minister of Justice of 04.09.2007 a representative of the bar has been included in the Group for monitoring of the PPC.

In view of the development of a penal policy in Bulgaria, with Order LS-04-695/25.09.2008 of the Minister of Justice, **the Advisory Council on Penal Policy** was **set up** as a special consultative body to outline the directions and the principles of the penal policy in the Republic of Bulgaria.

- Development of criteria for monitoring of the application of the Civil Procedure Code (CPC) after its approval by the National Assembly and publication in the State Gazette.

In relation to the entry into force, on 01.03.2008, of the new Civil Procedure Code and taking into account the specific proposals for implementation of the benchmarks identified in the last Monitoring Report of the European Commission and the Decision of the European Commission of 13.12.2006 establishing a mechanism for cooperation and verification as well as in relation to the implementation of the Action plan for implementation of the benchmarks for the progress in the areas of the judicial reform and the fight against corruption and organised crime (adopted with Council of Ministers' Decision of 25.10.2007, measures 2.8.1 and 2.8.2), a working group is being established which should elaborate, by 01.03.2008, criteria for monitoring of the application of the Civil Procedure Code. It is envisaged that the same working group should carry out also the monitoring, the inspections and the analysis of the application of the new CPC.

## **II. Ensuring adequate participation of Bulgaria in the judicial cooperation within the framework of the EU.**

**Objective:** Fulfilment of the commitments undertaken under Chapter 24 "Justice and Home Affairs".

- Strengthening of the administrative capacity of the Ministry of Justice for efficient participation in the activities of the EU working bodies and establishment of internal mechanism for preparation of the national positions within such bodies

New Rules of Procedure of the Ministry of Justice have been worked out which provide for better coordination in the preparation of the positions of the Ministry of Justice to be presented to the working groups and the committees with the EU institutions.

- Improvement of the mechanism for development of draft-positions which should be submitted to the working groups and the committees with the EU institutions through study of the best practices of the Member States in this area.

Two permanent working groups have been set up with the Ministry of Justice – on civil matters and on criminal matters, involving experts from the Council of Legislation Directorate and the International Cooperation and European Integration Directorate, representatives of the judiciary and outstanding specialists in the field of civil and criminal law. The working groups are assigned with the task to discuss on the draft-positions of Bulgaria on specific issues before their submission to the working groups and the committees with the EU institutions and to prepare the required amendments to the legislation in view of the incorporation and the application of the EU acts.

- Introduction of the mechanism of surrender of persons on the basis of the European Arrest Warrant.

During the reporting period the interagency group with the Ministry of Justice involving representatives of the judiciary and of the Ministry of Interior who have law enforcement powers, elaborated a Draft-Law on Amendments to the Extradition and European Arrest Warrant Act which should be approved by the Council of Ministers. The Draft-Law aims at addressing certain practical problems encountered by the law enforcement authorities in view of the coming assessment of Bulgaria which will be made by the European Commission in the area of the implementation of the European Arrest Warrant at the end of 2008.

- Regulatory introduction of a mechanism for recognition and enforcement of foreign judgements in civil and commercial matters and of the

international jurisdiction of the same in compliance with the EU standards

Instructions were forwarded to all bodies of the judiciary concerning the application of the EU acts in the area of judicial cooperation. The following seminars and training courses have been organized during the reporting period:

*Trainings organized by the MoJ*

- 10-14 July 2007 - Seminar “Judicial Cooperation in Civil and Criminal Matters” - 30 Bulgarian participants;
- 18- 19 December 2007 - Seminar within the framework of the bilateral cooperation between the German Foundation for International Legal Cooperation (IRZ) and the Ministry of Justice of the Republic of Bulgaria in the field of cooperation in criminal matters with the EU Member States for 60 participants – experts, judges and prosecutors.

*Trainings organized by NIJ*

- 21, 22 and 23 February – Training on the legal instruments of judicial cooperation in civil matters – in Sofia, 3 working days. Target group: 30 participants – judges, state and private enforcement agents, experts from the State Agency for Child Protection and the Ministry of Justice;
- 14, 15 and 16 March - Training on the legal instruments of judicial cooperation in civil matters – in Borovetz, 3 working days. Target group: 30 participants – judges and experts from the Ministry of Justice;
- Training on the legal instruments of judicial cooperation in civil matters – in Veliko Tarnovo, 3 working days. Target group: 30 participants – judges, prosecutors and experts from the Ministry of Justice – 28 - 20 March 2007;
- Training on the legal instruments of judicial cooperation in civil matters – in Sofia, 3 working days. Target group: 30 participants – judges and state enforcement judges – 11 - 13 April;
- 21, 22 and 23 May - Training on the legal instruments of judicial cooperation in civil matters – in Burgas, 3 working days. Target group: 30 participants – judges and enforcement agents;
- 11, 12 and 13 April - Training on the legal instruments of judicial cooperation in civil matters – in Sofia, 3 working days. Target group: 30 participants – court staff, administrators, book-keepers;

- 24, 25 and 26 April - Training of trainers on the legal instruments of judicial cooperation in civil matters – in Sofia, 3 working days. Target group: 30 participants – judges and prosecutors;
  - 6 - 7 June 2007 - National Conference on Judicial Cooperation in Civil Matters – in Sofia, Target group: 60 participants - judges, state enforcement agents, experts from the State Agency for Child Protection and the Ministry of Justice;
  - 6 - 7 June 2007 - National Conference on Judicial Cooperation in Civil Matters 60 participants - judges, prosecutors, enforcement agents, experts from the State Agency for Child Protection and the Ministry of Justice;
  - 24 - 25 September 2007 - Seminar on the Practical Application of the web-based European Union instruments of Judicial Cooperation in civil and commercial matters - 15 court officers;
  - 25 - 26 September 2007 - Seminar on the Practical Application of the web-based European Union instruments of Judicial Cooperation in criminal matters - 15 court officers;
  - 26 - 27 September 2007 – National Conference on the Practical Application of the web-based European Union instruments of Judicial Cooperation in civil and commercial matters – 20 judges and prosecutors;
  - 27 - 28 September 2007 – National Conference on the Practical Application of the web-based European Union instruments of Judicial Cooperation in criminal matters – 20 judges and prosecutors;
  - 2 - 3 October 2007 - Seminar for Training the Members of the Bulgarian National Judicial Network for International Cooperation - 12 Members of the newly established Bulgarian National Judicial Network for International Cooperation;
  - Seminar on the subject “European model for handing and resolution of commercial disputes. Belgian experience” under a Flemish project.
- Adoption of a new Administrative Procedure Code and preparation for the application thereof and improvement of the administrative justice

The monitoring mechanism for the application of the Administrative Procedure Code (APC) based on the monitoring criteria was put in place after the administrative courts started functioning – on 1 March 2007. Interagency working group to monitor and analyze the APC involving prominent representatives of the doctrine and the judicial authorities was set up with order of the Minister of Justice of 7 March 2007. Great majority of the working group

members participated in the drafting of the APC and the monitoring criteria. The group consists of three judges of the Supreme Administrative Court, one prosecutor from the Supreme Administrative Prosecution Office, three inspectors under Article 35b of the Judicial System Act from the Ministry of Justice and five representatives of the Ministry of State Administration and Administrative reform.

On 12 April 2007 the Ministry of Justice organized National Meeting with the participation of the heads of the administrative courts throughout the country in order to explain the monitoring criteria for the application of the Administrative Procedure Code. At this meeting were presented also the outcomes of the national study “Expectations from the new Administrative Procedure Code” carried out by the Ministry of Justice in 2006.

Working group for the monitoring of the APC started functioning as from March 2007. The first interim report on the APC monitoring was presented for information in June 2006 at a meeting of the Council of Ministers. The report was adopted for information with an official decision of the Council of Ministers thereby assigning joint implementation of the APC monitoring to the Minister of Justice and the Minister of State Administration and Administrative Reform.

The reports on the application of the APC are published on the website of the Supreme Administrative Court. It is provided for meetings of the working group to be held in administrations and administrative courts outside Sofia.

- Adoption of the Commercial Register Act

The Commercial Register Act entered into force on 1 July 2007 (published SG No. 34/2006) whereby the registration of legal entities procedure was changed from judicial to administrative one. After the publication of the Commercial Register Act, an internal plan-programme was developed providing for the steps to be taken in order to ensure launching thereof. The following measures have been taken during the reporting period in pursuance of the above mentioned plan-programme:

### **1) Legislative measures**

A. Ordinance No.1 of 13 February 2007 on keeping, storing and access to the Commercial Register was prepared and adopted. The Ordinance regulates the procedure of making entries to the Commercial Register as well as of storing and access to the information contained therein. In the same period the Ordinance was amended with the purpose of setting in detail and improving the

procedure of making registration of the traders and the circumstances subject to entry.

B. Working group at expert level was established involving representatives of the Registry Agency and the Agency of Geodesy, Cartography and Cadastre which is working on drafts of ordinances under Article 6, paragraph 3 and Article 7, paragraph 3 of the Cadastre and Property Register Act. The provisions of Article 6 and Article 7 of the Cadastre and Property Register Act provide for bilateral connection and the exchange of data between the Cadastre and the Property Register and the connection between the information systems to be made under the terms and the procedure prescribed by ordinances. Both ordinances aim at establishing of a functional interconnection between the Cadastre and the Property Register. At present the preparation of the draft-ordinances is at a final stage. The same were submitted to the World Bank for approval. If the Bank makes recommendations they should be reflected in the draft by the working group which would cause delay in the submission of the final draft of the ordinances.

## **2) Administrative capacity (establishing of new structures, training, technical equipment)**

A. With the entry into force of the **Commercial Register Act**, the process of the commercial registration is removed from the competence of the court and is entrusted to an administrative authority. On the grounds of Article 3 of the Commercial Register Act the authority which will keep and store the Commercial Register is the Registry Agency with the Ministry of Justice.

All required preparatory arrangements for the implementation of the reform in the registration of traders have been carried out during the reporting period.

*- New structural unit has been established with the Registry Agency:*

- Rules of Procedures of the Registry Agency (published SG NO. 36/04.05.2007) was adopted with Decree No. 89 of 23.04.2007 under which a new structural unit was set up, namely the Commercial Register and BULSTAT Register Directorate General. 115 permanent positions – 90 officers and 25 book-keepers have been approved for the said Directorate General. With the amended Rules of Procedures (published SG No. 110/21 December 2007) the number of the permanent positions of book-keepers was increased from 25 to 115.
- Five competitions were conducted for appointment of registration officers to the Commercial Register and BULSTAT Register Directorate General under

the procedure established by the Ordinance for conducting competitions for civil servants as follows:

- - 7 registration officers were appointed in June 2007;
  - 5 registration officers were appointed in July 2007;
  - 14 registration officers were appointed in October 2007;
  - 6 registration officers were appointed in December 2007;
  - the last competition for the moment was opened in December 2007 but was concluded in 2008 where 4 candidates for registration officers were qualified for appointment.
  
- Training courses for the appointed registration officers and book-keepers were organized during the reporting period as follows:
  - Complete training of all appointed registration officers and book-keepers was conducted from 15 August to 30 August 2007;
  - Training of registration officers organized by USAID was held in November and December. The training was conducted by judges from the Company Division of the Sofia City Court and lecturers from Bulgarian universities;
  - From 17 December to 29 December 2007 all book-keepers to the Commercial Register participated in training how to work with the information system.
  
- *Concerning the material-technical equipment, the Registry Agency has carried out the following actions during the reporting period:*
  - Premises for the registration services have been provided in all regional towns on the territory of the country. Repair works were carried out in most of the premises with the purpose to make them fit to the needs of the commercial register (Silistra, Stara Zagora, Lovech, Shumen, Vidin, Burgas, Gabrovo, Pernik, Vratsa, Veliko Tarnovo, Tagovishte, Russe);
  - Technical means required for the launch of the Commercial Register have been provided – computers, printers, scanners and copiers;
  - Communication interconnection with a speed of 2Mb was secured between the different territorial units of the Registry Agency, necessary for the launch of the Commercial Register;
  - Internet portal of the Commercial Register has been established at the following addresses: [www.brria.bg](http://www.brria.bg) and [www.businessregister.bg](http://www.businessregister.bg);
  - The Information system of the Commercial Register has been set up and introduced. A pilot project for the introduction of the information system has been implemented in the period 01.09.2007 – 01.12.2007 in seven regional towns – Varna, Gabrovo, Burgas, Velilko Tarnovo, Kardjali, Russe and Stara Zagora in pursuance of Orders Nos. LS-04-613/31.08.2007 and LS-04-

714/28.09.2007 of the Minister of Justice. The results of the project were taken into account for the improvement of the information system.

*- The necessary steps were taken during the reporting period for securing the functioning of the Commercial Register for the next reporting period concerning:*

- conversion into electronic format of the company cases of traders when making re-registration in accordance with §4, paragraph 4 of the Transitional and Final Provisions of the Commercial Register Act;
- securing communication interconnection between the individual territorial units of the Registry Agency;
- establishment of a reserve data storing centre;
- servicing of the technical means;
- systematic maintenance and administration of the infrastructural, communication and information systems.

**B. The following activities have been carried out in pursuance of the provisions of the Cadastre and Property Register Act in relation to the conversion of the personal into real system of entry and establishing of Integrated cadastre and property register information system:**

- the process of scanning of pages from the books of entry and digitalization of the data thereof (entered manually) is going on. Thus the conversion of the data available in the books of entry will continue in respect of the circumstances subject to entry in digital form which will facilitate the process of creation of property lots to a maximum degree;

- a pilot project was launched in November in the registration services with the Property Register Directorate General in the towns of Balchik, Shumen, Burgas and Vratsa which was intended to test the programme for Integrated cadastre and property register information system for entry of all acts subject to entry. The pilot project will be concluded in March 2008;

- initial introduction of the Integrated cadastre and property register information system to the registration services with the Property Register Directorate General in the towns of Plovdiv, Plevan and Russe started in December 2007. The project of initial introduction of the system will end in March 2008. This is the first stage of introduction of the system preceding its final putting in place in the registration services throughout the country. The Integrated cadastre and property register information system ensures the conversion of the personal into real entry system and establishment of property lots and property register;

- training of the registration services staff that implement the pilot project and the introduction of the system was held in December concerning the theoretical and practical side of the work with the information system.

- Adoption of a Law on Amendments to the Judicial System Act and drafting of a new Judicial System Act

In pursuance of the Programme for implementation of the Strategy for reform of the judiciary in Bulgaria for the period 2006-2007 new **Judicial System Act** was drafted in order to introduce a rigid system in the legal regulation and full guarantees for the independence of the judiciary. The new Judicial System Act was adopted by the National Assembly on 24 July 2007 and published SG No. 64/7 August 2007.

The provisions of the new Judicial System Act comply with the amendments to the Constitution and take into account the recommendations of the experts of the European Commission. They guarantee the independence of the judiciary and secure accountability and efficiency of the functioning of the judicial system through detailed regulation of:

- the statute and the powers of the Supreme Judicial Council (SJC);
- the statute and the powers of the Inspectorate with the SJC;
- the statute and the powers of the Inspectorate with the Minister of Justice which will inspect the work of the state and private enforcement agents, of the notaries and the activity related to the recordation cases as well;
- the criteria and the procedure of appraisal of the magistrates;
- the interpretative functions of the supreme courts;
- the functions of the prosecution office in line with the new Penal Procedure Code (PPC);
- the principle of competition when appointing to the bodies of the judiciary;
- the disciplinary responsibility of the magistrates; limitation of the powers of the administrative heads of the courts as mediators between the magistrates and the SJC.

Thus the duplication of the powers of the Inspectorate with the Ministry of Justice and the Inspectorate with the SJC has been removed as evident from Article 54 and Article 372, paragraph 1 of the JSA.

A number of additional steps aiming at securing more transparent and efficient court proceedings have been taken during the reporting period.

In pursuance of the JSA provisions the Minister of Justice issued orders for the setting up of working groups which worked out, during the reporting period, the following pieces of secondary legislation:

1. Decree No. 327 dated 21.12.2007 on adoption of Ordinance on the Uniform Information System for Combating Crime (UISCC) (published SG NO. 2/2008);
2. Ordinance No. 1 on the automated information system inside the Judiciary (published SG No. 6/2008);
3. Ordinance No. 4 on the rules and standards of safety and security in the design, construction, reconstruction, upgrading and exploitation of Judiciary sites of the Minister of Justice, in coordination with the Ministry of Regional Development and Public Works - (published SG No. 8/2008);
4. Ordinance No. 3 of the Minister of Justice and the Minister of Interior on the type and the procedure of providing information by the Ministry of Interior to the Ministry of Justice for the needs of the Security Directorate General (published SG No. 6/2008);
5. Ordinance on the procedure of maintaining and disseminating the standards on the grounds of Article 378, paragraph 3, p. 1 and Article 385, paragraph 2, p. 1 of the Civil Procedure Code is under preparation;
6. Ordinance No. 2 of the Minister of Justice in coordination with the Supreme Judicial Council on court assessors (published SG No. 6/2008);
7. Ordinance of the Minister of Justice on the functions and organization of the activity of the criminal record units has been prepared and its publication is forthcoming;
8. Ordinance of the Supreme Judicial Council on the registration, the qualification and remuneration of expert witnesses (published SG No. 11/2008);
9. Regulation on the administration of the Supreme Court of Cassation (published SG No. 6/2007) and Regulations on the administration of the bodies of the Judiciary – the Supreme Administrative Court, the Prosecution Office, the Investigation Service and the district, regional, administrative and appellate courts (published SG No. 9/2008).

State experts of the Legislative Council Directorate with the Ministry of Justice, representatives of the SJC, of the bodies of the Judiciary, the Bar, the Chamber of Notaries, the National Association of Court Clerks, the Association of the NGOs - Razgrad, the Association for expertise, financial, economical and technical analyses and other NGOs were involved in the working groups responsible for development of the above legislation.

The experience gained by the legal NGOs specialized in the field of legal expertise, expert witnesses and court assessors was also taken into account in the process of elaborating the new acts.

- Adoption and amendments to the Penal Code in view of harmonization with the best European practices and with the new Penal Procedure Code;
- Elaboration and adoption of a new Civil Procedure Code (CPC)

The new Civil Procedure Code was passed by the National Assembly on 6 July 2007, published SG No. 59 of 20 July 2007. It is envisaged that the new CPC should come into force from 1 March 2008. The new CPC is designed to achieve fast and inexpensive civil proceedings which would improve the conditions of performing economic activity of local and foreign physical persons and legal entities in Bulgaria. With regard to the elaboration of the **secondary legislation for the application of the CPC**, a Working group comprising representatives of MoJ, judges, lawyers and NGOs, developed a Draft Ordinance of the Council of Ministers on debtor's housing needs and his/her family which was approved at a meeting of the Council of Ministers.

In the course of coordination with the remaining ministries, in compliance with the procedure provided for in the Rules of Procedure of the Council of Ministers and its administration, is the Tariff of State fees levied by the courts on the grounds of Article 73, paragraph 3 of the Civil Procedure Code. Two legislative pieces under the CPC - Ordinance on the establishment of samples of all papers related to the serving (of summons and communications) on the grounds of Article 55 and Ordinance on the establishment of samples of an order for execution, of an application for issuing of execution orders and other papers related thereto, on the grounds of Article 425 of the CPC, are under preparation.

- Drafting and adopting new Family Code

The Draft-Family Code has been elaborated by a working group set up with Order No. LS-04-649/12.09.2005 of the Minister of Justice. Members of the Working group are representatives of the doctrine, the Ministry of Justice, the State Agency on Child Protection, the judiciary and the non-governmental sector.

The Draft of the Code is included in the Legislative programme of the Council of Ministers for the first semester of 2008 and a date was set for the discussions thereon at the Council of Ministers, namely 27.03.2008.

The new Family Code will provide for an up-to-date legal regulation in response to the necessity of new legal solutions and removal of shortcomings in the existing regulation in conformity with the changes that occurred in the social and economic life and in the responsibilities assigned to the families in respect of growing and upbringing of the children.

New provisions have been introduced in relation to the marriage and the relations between parents and children. For the first time was regulated the factual conjugal partnership of a man and a woman thus regulating the origin of the children born in this partnership.

The Family Code introduced three regimes of property relations between spouses: statutory regime of community property; statutory regime of division; marriage agreement.

There are a number of new aspects in the legal regulation in matters of origin, adoption, maintenance, trusteeship and guardianship.

- Drafting and adopting a new Statutory Instruments Act

The Draft Law on Amendments to the Statutory Instruments Act, approved by Decision No. 739 of the Council of Ministers from 30.10.2006 has been prepared by an interagency working group with the Council of Ministers. The Law is aiming at securing conditions for incorporation of the requirements and the application of the EU acts into the Bulgarian legislation as well as to updating the legal regulation related to the drafting and adoption of statutory instruments in line with the Constitution of the Republic of Bulgaria. The Draft-Law contains only the most indispensable and urgent amendments in the regulation of the legislative activity. Development of a new Statutory Instruments Act is envisaged for 2008.

*Medium-term priorities (by the end of 2007):*

- Training in the application of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States and of the Extradition and European Arrest Warrant Act

In relation to the training of magistrates in the application of the above mentioned acts a seminar on the topic “Judicial and police cooperation in criminal matters” was organized in the reporting period, comprising a course of lectures on the European Arrest Warrant.

Round table was held at the National Institute of Justice in the period 11 – 12 June on the topic “Practical application of the European Arrest Warrant”. It was organized within the framework of the MATRA-Programme of the Ministry of Foreign Affairs of the Netherlands under the project “Establishment of a Documentation Centre of EC law for the judiciary” by Asser Institute, the Dutch Helsinki Committee, jointly with the National Institute of Justice, the Ministry of Justice and the Supreme Judicial Council. Participants in the Round Table were 30 judges, prosecutors and investigators.

- Securing active participation in Eurojust and the European judicial networks in civil and criminal matters

The Republic of Bulgaria appointed the national representative in Eurojust as well as contact points in the European judicial networks in civil and criminal matters.

The National Institute of Justice organized a seminar for training of the members of the Bulgarian national judicial network for European cooperation in civil and criminal matters. The training was held in the period 4 – 5 October 2007 within the framework of the PHARE twinning project BG – 04 – IB – JH – 05 “Strengthening of the Bulgarian judiciary. Training of magistrates and court staff”. The seminar aimed at training of the members of the newly established network for judicial cooperation and other Bulgarian judges and prosecutors in the organization and the operational methods, the theoretical and practical instruments of judicial cooperation existing in the European Union in view of providing adequate assistance in addressing difficulties encountered in cases of international nature. Participants in the seminar were 20 judges and prosecutors.

On 18 – 19 December 2007 in Sofia a Bulgarian-German seminar was held, organized in cooperation with the German Foundation for International Legal Cooperation (IRZ) on the subject “*European legal assistance in criminal matters, recognition of financial sanctions and property divestment decisions, the European Evidence Warrant*”, attended by 57 participants.

- Implementing continuous qualification and training in the application of the Council of the European Union Regulation No. 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters and the application of the Code of International Private Law in the parts regulating the international competence of the Bulgarian courts and the other competent authorities as well as the recognition of enforcement of foreign judgements.

In the context of the continuous qualification and training of magistrates in the application of Regulation No. 44/2001, during the reporting period the National Institute of Justice conducted a seminar “Judicial cooperation in civil matters” comprising a course of lectures on the above mentioned Regulation. Two seminars were held on this topic in which 47 judges took part.

- Reinforcement of the specialized administrative courts

All administrative judges were subject to training in the period March – April 2007 at the National Institute of Justice. Three training courses of initial qualification of the newly appointed administrative judges were conducted (19 February - 02 March; 05 – 16 March and 19 – 30 March) involving 135 magistrates. Seminars themed “Administrative Justice” designed to the new administrative judges with professional expertise as magistrates appointed to the newly established administrative courts have been also organized in the period April – May with 82 judges attending.

In the period January – December 2007 judges from the administrative courts throughout the country attended also the seminars organized by the National Institute of Justice. The magistrates from the newly established specialized administrative courts took part in a number of seminars, *inter alia* the principal seminar “Foundations of European Law”, “Case-law of the European Court of Justice” and in the training courses on “Human Rights”, “The role of the national judge”, “EU Intellectual property law”. Judges from the administrative courts attended also the European conference on issues of judicial training entitled “Mutual trust and judicial training. Towards a common culture in European law training”.

- Training programmes to ensure adequate participation of Bulgaria in the judicial cooperation within the framework of the EC

#### *Trainings organized by NIJ*

- 28 May - 1 June 2007 - Seminar on “Industrial Property” - 30 Bulgarian participants;
- 4-8 June 2007 - Seminar for Junior Judges and Junior Prosecutors - 30 persons;
- 20-21 September 2007 - on-line course to continue training in “Procedural guarantees and rights of suspects in criminal process” (2<sup>nd</sup> part) - 30 Bulgarian participants;

- 24-26 October 2007 - European Conference on “Mutual Trust and Judicial Training” - 48 Bulgarian participants;
- 14-16 November 2007 - Final Conference on Judicial Training Methodology - 35 Bulgarian members of representative institutions.

*Trainings organized by the Ministry of Justice:*

- International seminar themed “Efficiency of the legislation and good practices in the fight against cyber crimes. Training of judges” under “Octopus” Programme of the Council of Europe, Plovdiv 17-18 December 2007, with 50 participants;
- Seminar on the application of art. 11 of European Convention for the protection of human rights and fundamental freedoms”, organized together with the Council of Europe in cooperation with Execution of Decisions of the European Court of Human Rights Department in the Council of Europe Secretariat, 17-18 December 2007, Sofia, 40 participants.

### **III. Strengthening of the capacity of the Supreme Judicial Council for management of the judicial system**

**Objective: Successful implementation of the statutory functions of the SJC.**

- Further improvement of the organization of the SJC’s activity

With Decision under Record of Proceedings No. 25 of 18 July 2007 the Supreme Judicial Council adopted **Strategic Plan of the SJC for the period 2007-2010** outlining the short, medium and long-term priorities in its activity.

In pursuance of Article 30, paragraph 3 of the new Judicial System Act, in August 2007 the administration staff of the SJC was reduced – from 73 to 63 persons so that it would not exceed two times and a half the number of the SJC’ members.

With Decision under Record of Proceedings No. 37 of 1 November 2007 the SJC adopted **Regulation on the organization of the activity of the Supreme Judicial Council and of its administration** (published SG No. 94/16.11.2007). In order to regulate the procedure for ensuring **publicity** of the activity of the Supreme Judicial Council, in conformity with Article 6, paragraph 1, p. 31 of

the Regulation, the SJC established and maintains, including in e-format, a **Public Register** where it enters all of its decisions and the reasoning thereto. The Regulation was **published on the SJC's website** in December 2007.

The first SJC staff as a standing body was constituted under Article 16, paragraph 1 of the new Judicial System Act on 3 December 2007. In December 2007 the SJC adopted Plan for the administrative building and institutional strengthening of the SJC and for its work.

On the grounds of Article 132a, paragraph 1 and 2 of the Constitution of the Republic of Bulgaria and Article 42, paragraph 2 and Article 46 of the Judicial System Act, on 19 December 2007 the National Assembly adopted a Decision thereby electing the Chief Inspector and eight inspectors of the Inspectorate. Under § 7, paragraph 2 of the Transitional and Final Provisions of the Judicial System Act the chief inspector and inspectors should assume office within one month following election. On 9 January 2008 the Chief Inspector assumed office and the remaining elected inspectors came into office on 16 January 2008.

On 16 January 2008 the Inspectorate with the SJC adopted **Regulation on the organization of the Activity of the Inspectorate with the SJC** which was forwarded for publication in the State Gazette.

With regard to the establishment of the Inspectorate with the SJC, concrete steps have been taken during the reporting period in view of **securing the required facilities**, which task has already been fulfilled. There is a building available which was repaired to fit the specific needs of the Inspectorate and the administration thereto. At its meeting held on 9 January 2008 the SJC entrusted the person representing the Council to organize public procurement of the equipment and furniture for the premises of the building.

In order to secure **IT equipment for the Inspectorate** 30 computer configurations have been supplied to the inspectors and the Inspectorate's administration.

**The Administration of the Inspectorate** comprising 44 persons (22 experts and 22 specialists in the general administration) will be set up after the Inspectorate schedules, by the end of January 2008, a competition for filling the above mentioned positions.

Standing committees with the SJC were set up on 1 November 2007 in accordance with the requirements of the new JSA. At present the **Budget and Finance Standing Committee** is functioning and it **presents information on**

**monthly basis** at the meetings of the SJC on the implementation of the budget of the Judiciary.

With Decision under Record of Proceedings No. 45 of 19 December 2007 the SJC adopted **Regulation on the administration in the district, regional, administrative, military and appellate courts** (published SG No. 9/29.01.2008).

With Decision under Record of Proceedings No. 46 of 27 December 2007 the SJC adopted **Regulation on the organization and the activity of the administration of the Prosecution Office of the Republic of Bulgaria** (published SG No. 6/18.01.2008), **Regulation on the administration of the Supreme Court of Cassation** (published SG No. 6/18.01.2008), **Regulation on the administration of the National Investigation Service and of the regional investigation services** (published SG No. 9/29.01.2008) and **Regulation on the administration of the Supreme Administrative Court** (published SG No. 9/29.01.2008).

#### **IV. Alignment of the Bulgarian legislation with the global and European achievements in the area of child protection**

**Objective:** Fulfilment of the commitments arising from Bulgaria's membership in the Hague Conference on International Private Law as well as from the commitments undertaken in the process of Bulgaria's EU accession.

##### *Medium-term priorities (by the end of 2007)*

- Securing transparency in the intercountry adoption procedure

Press conference was held on 13 February 2007 at the Ministry of Justice before more than 50 media, including foreign media representatives, covering issues of intercountry adoptions at which essential aspects of the new regime of international adoptions were outlined.

**Round Table on issues of problems in the area of international adoption procedures in its legislative and practical aspects** was held in December 2007 with broad participation of representatives of state authorities, mediation organizations, specialized institutions for child care.

In order to raise the qualification of the officers of the International Legal Child Protection and International Adoptions Directorate the following trainings have taken place:

- three months training of three experts from the above Directorate to specialize in issues of the European administrative practice;
- three months training of two experts from the above Directorate to specialize in issues of the Bulgarian administrative practice;
- Up-to-date information about the application of the Hague Convention on the Civil Aspects of International Child Abduction and the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (the Luxembourg Convention)

Twenty five new applications were filed in the Ministry of Justice in 2007:

- 12 under the Hague Convention;
- 5 under the Luxembourg Convention;
- 1 under the Convention of 1996;
- 2 under the Regulation;
- 9 other applications in relation to the above mentioned acts.

In addition, the work on 10 applications lodged during the preceding period continued in 2007.

## **V. Strengthening of the penitentiary system and the infrastructure for the security of the judiciary**

### **Objective:**

- Optimizing the management of the system with a view to efficiently use the existing resources (men and facilities);
- Demilitarization of the supervisory-security staff;
- Improvement of the state of human rights in the places for deprivation of liberty.

### *Medium-term priorities:*

- Updating the legislation concerning the execution of penal sanctions
- Updating the Execution of Penal Sanctions Act with the purpose of providing a base for drafting of Penal Sanctions Execution Code

The Programme of the Ministry of Justice for accelerated judicial reform securing fast, efficient, transparent, fair and accessible justice provides for elaboration of a draft of a Penal Sanctions Execution Code by the end of 2009.

Working group entrusted with the drafting of a Law on Amendments to the Penal Sanctions Execution Act was established with Order No. LS-04-884/27.09.2006 of the Minister of Justice. Members of the group are experts from the Ministry of Justice, of the Execution of Sentences Directorate General, of the Security Directorate as well as representatives of NGOs. This Order was overruled by Order No. LS-04-15 of 09.01.2008 thereby providing for drafting of a new Execution of Penal Sanctions Act by 15 March 2008. The Draft-Act has been included in the Council of Ministers' legislative programme for the first semester of 2008 and the date of discussions thereon is scheduled for 17.04.2008.

The purpose of drafting the new Execution of Penal Sanctions Act is to introduce public-private partnership to the places of deprivation of liberty (e-supervision, construction and management of prisons, probation) as well as to synchronize the legal provisions in the field of execution of penal sanctions with the European Prison Rules.

*Medium-term priorities (by the end of 2007):*

- Establishment of territorial directorates on the grounds of Article 44 of the State Administration Act
- Identification of republican and regional convoy itineraries securing the whole convoy activity in the Republic of Bulgaria

In the past years convoy activity was carried out by rail way, by ordinary interurban buses and by special convoy cars.

After putting into operation, at the beginning of 2007, of 10 new special convoy cars, 2 of which with big capacity (22 seats), the total number of special convoy cars and special convoy buses of the Security Directorate General reached 54. Consequently, the officers of the Security DG are already able to carry out 85% of their convoy activity with special convoy cars and special convoy buses. The use of railway transport is more and more rare and interurban public buses are not used at all nowadays.

This resulted in enhancement of the convoy safety, improvement of the isolation and security measures, reduction in the number of officers involved, the time required for such activity and the financial costs and, last but not least, improvement of the conditions for the convoyed persons and observance of their rights.

In 2007 the appropriate allocation of the forces and financial resources made it possible to maintain 4 (four) first-rate and 2 (two) second-rate republican convoy itineraries. Constant convoy itinerary in the North Bulgaria has been identified and is already functioning.

Two hundred and forty five (245) convoy itineraries have been identified and approved for the implementation of convoy activities on the territory of the regional security units. They are sufficient for the moment but in case of change in the factual situation there is preparedness to modify them partially or to identify new ones.

For maximum speedy and safety convoy of particularly dangerous persons (reinforced severe convoys), minors, pregnant women, persons for forced bringing, where necessary, 100 (one hundred) additional convoy itineraries crossing the territory of two or more regional security units have been approved. Complementary measures are taken for interaction between all regional security units and other services along the itinerary when carrying out such type of convoy.

Important in the stage-by-stage convoy along the republican convoy itineraries on the territory of the Republic of Bulgaria is the use of stage convoy bases thus enhancing the security when shifting the convoying duty details; measures of isolation and security when receiving and surrendering of convoyed person are successfully implemented; living conditions are improving; sanitary-hygienic problems are solved, feeding, etc.

The stage convoy base provided by the Ministry of Justice for Regional Security Unit “Veliko Tarnovo” in the town of Gorna Oryahovitsa (important railway junction) was thoroughly repaired to this effect and should be furnished in the near future.

Draft-amendments to the Rules for the terms and the procedure of carrying out convoy activity, including isolation and security measures, by the officers of the Security Directorate General have been developed in the second semester of 2007 and proposed for approval by the Minister of Justice.

- Undertaking of security duties in respect of all judicial premises at district level

Security of all judicial premises is ensured by the security guards of the Security Directorate General, the regional units which are structured in each regional centre respectively.

Ensuring the order in the judicial premises and security of the bodies of the judiciary when exercising their powers is implemented by introducing admission regime and physical presence of guards in the court-rooms.

In order to achieve the above goals the Minister of Justice defines with an order the Rules of security, internal order and safety of the premises of the Ministry of Justice, the Supreme Judicial Council, the Supreme Court of Cassation, the Supreme Administrative Court, of the Prosecutor General, the Supreme Prosecution office of Cassation, the Supreme Administrative Prosecution Office, the National Investigation Service, the National Institute of Justice, the administrative, appellate, regional and district courts.

The guard of 106 judicial premises has been organized and the categorization of the judicial premises in the country was approved by 31.12.2006.

The guard of some of the newly established administrative courts and a number of district courts and prosecution offices was organized in the period 01.01.2007 – 31.12.2007. Thus as at 31.12.2007 the number of guarded sites increased to 133.

The total number of the sites subject to guard by the Security Directorate General is 263 involving 448 officers of the Security DG.

In compliance with the new Judicial System Act, in 2007 the Security DG prepared and proposed to the management of the MoJ a series of texts regulating its activity. They were included in Section V of Chapter Twenty and Chapter Twenty Two of the Act. Accordingly, the powers of the Security DG and the regional units officers have been extended in respect of carrying out of checks and control over the observance of the rules and norms of security and safety in designing, construction and exploitation of the premises of the judiciary; coordinating projects and giving opinions on the fitness for use of premises of the judiciary; receiving, processing and storing of the information obtained on the occasion of discharging their functions; implementing administrative penal activity.

- Enhancement of the efficiency of the system of selection, training, qualification, evaluation and appraisal of the staff

### *1. Security of the judiciary*

Due to lack of new permanent positions no urgent structural changes were made in 2007 in the Security Directorate General and the regional units. Decree No.

303/14.12.2007 of the Council of Ministers amended the Rules of Procedure of the Ministry of Justice and 38 new permanent positions were allocated to the Security Directorate General. Thus the administrative capacity of the Directorate in respect of the number of officers was increased to 1462 persons (still not approved by the Minister of Justice). At present 1309 permanent positions are occupied, 58 are vacant, 57 are under competition procedure and 38 are those allocated in December.

New structure of the Security Directorate General was developed in the beginning of January 2008 and is proposed to the Minister of Justice for approval.

In order to enhance the efficiency of the selection of civil servants system and to attain higher degree of publicity, an Order of the Minister of Justice was issued No. LS-04-526/03.07.2007 amending the Rules for the terms and the procedure of assuming civil service in the Security Directorate General and Execution of Sentences Directorate General with the Ministry of Justice.

It is envisaged to adopt amendments to the Rules of Procedure of the Ministry of Justice so as to establish Training and Qualification Sector thereby raising substantially the professional schooling of the Security Directorate General officers.

“Methodology for evaluation of the performance of the duty by the civil servants of the Security Directorate General and Execution of Sentences Directorate General” has been worked out and adopted in the beginning of 2007.

The Director General approved the “System of monitoring and control over the efficiency of the methodological and supervision activity of the Security Directorate General with the Ministry of Justice”.

Two hundred and ninety three (293) civil servants were appointed in 2007 of which 185 have attended a course of initial training in the Ministry of Interior Academy, 17 have undergone a course for managers and were appointed at managing positions; a training course for 12 inspectors-probationers was conducted.

Two twinning projects in partnership with Northern Ireland have been implemented (one of them was concluded on 22 October 2007) in view of the Security DG staff training in compliance with the European requirements. Four hundred and forty four (488) officers have undergone the courses in 2007. The training continues also in 2008.

150 computers and 85 peripheral devices were delivered for the Directorate General and the regional units, bought with resources from the budget of the judiciary. Tendering procedure was launched in the beginning of January 2008 by the Ministry of Finance for procurement of IT equipment to fully satisfy the needs of Security Directorate General.

## *2. Penitentiary system*

New staffing plan was approved with Order No. LS-03-536/04.07.2006 whereby, upon proposal of the Execution of Sentences Directorate General, the regional “Investigation Detention Facilities” and the regional probation services were unified to form “Execution of Penal Sanctions” regional units.

Such restructuring enables their common financial and legal servicing, improvement of the administrative capacity, efficient use of the human resources and optimization of the territorial units’ activity. The unification of the investigation detention facilities and the probation services was successfully finalized and since the middle of the year 2007 they have been effectively functioning as an administrative structure.

In respect of the human resources - Strategy for management and development of the human resources was elaborated in order to improve the activity of the penitentiary system. It aims at outlining the main areas of activity of the system. It will serve as a base for drafting and implementing of strategies for training of the staff, evaluation of the work of the officers and development of a strategy for combating narcotic substances.

The strategy enabled a clear linear management to be carried out in order to optimize the contribution of the staff members, the introduction of objective accountability of the managing staff. It secured the most efficient way of use of the resources allocated to the penitentiary system.

Strategy for training of the officers working in the places for deprivation of liberty has been developed aiming at:

- establishing a comprehensive three-component model of training of the staff including initial training, individual career development and specialized schooling;
- setting up the module approach in implementing the necessity for training of the different categories of the staff;
- restructuring the financial limits which are used for budget funding only at the stage of initial training of the staff;

- overall review of the curricula in view of introducing more practical elements;
- introducing a training planning system related to the individual career development and the special professional training and taking this into account when making appraisal of the performance;.
- extending the use of interactive forms in the whole training process.

As a long-term objective it is provided for enhancement of the efficiency of the system of selection, training, qualification, evaluation and appraisal of the staff. In order to improve the selection of staff members of the penitentiary system in the Execution of Sentences Directorate General, Rules for the terms and the procedure of assuming civil service in the Execution of Sentences DG and Rules for determining the terms and the procedure of promotion in category, degree of category, occupation of posts and temporary appointment of the civil servants in the Execution of Sentences DG have been developed and approved.

With regard to the training of the penitentiary system staff analytical evaluation has been made of the staff training needs.

The curricula have been revised to fit the requirements for the different posts and the individual development of the officers.

- Drafting of a strategy for combating drugs in the places for deprivation of liberty

National strategy for combating drugs for the period 2006 – 2011 has been developed within the framework of the Strengthening of the penitentiary system in Bulgaria Twinning Project with the Execution of Sentences DG. Main priorities of the strategy are:

1. Establishing a network of coordinators in the places for deprivation of liberty to assist the implementation of the regime measures and social activities in respect of detainees who are drug addicts;
2. Introducing a short-term 12-steps special programme for work with convicted persons suffering from drug addiction.
3. Reinforcing the security by limiting the distribution of drugs in the prisons and the prison hostels involving introduction of specially trained dogs, scanners and improving the functioning of the video-system.

The Strategy provides for training of prison guards and social workers for working with convicted persons suffering from drug addiction.

- Development and introduction of new penitentiary programmes for treatment of drug and alcohol addicts

In the context of the developed strategy, the English short-term programme for drug addicts in all prisons was approved in 2007. 175 prisoners have undergone the programme last year.

The 12-steps English partnership programme for rehabilitation of drug addicts in the prisons was attended by 45 convicted persons. Permanent therapeutic groups have been established in the prisons of Burgas, Stara Zagora, Belene and Varna.

Two compulsory programmes for group working with the prisoners have been implemented in the prisons. The first one is the “Programme for adaptation of newly entered offenders in prisons” which is implemented in the admission section and it aims at adaptation of the newly-admitted persons to the conditions in prison, at acquiring positive and socially acceptable behavioural models of communication, getting prepared to serve the term of imprisonment without problems and getting prepared to make profits from their stay in the prison. 4273 offenders have undergone the adaptation programme in 2007. Team work has been used for its implementation by implementing the three modules of group work provided for in the programme. 100% of the newly-admitted offenders undergo the information module in the admission section. Depending on the individual needs of the offenders, the same undergo the remaining two programme modules upon decision of an inspector on the social activity and education work in the admission section.

The other compulsory programme “Life in freedom – a challenge and a choice” is implemented at the outlet, 3 to 6 months before the release from the prison. The purpose of the programme is to build a positive vital strategy through raising the legal awareness, activating the positive relations with the family and the social environment, building motivation for seeking job and acquiring skills of competitiveness on the labour market, enhancing the communication skills and motivating for lawful life style. 1640 offenders have undergone this programme last year.

With regard to humanization of the treatment and giving meaning to the stay of the offenders in prison, greater and greater attention is paid to the specialized group working with prisoners. Here the programmes are designed to satisfy the substantial needs of the offenders, to overcome their deficits, identified on the basis of offender’s appraisal, in order to reduce the risk factors which have led to committing crimes.

Two PHARE projects, namely “Strengthening of the penitentiary system” and “Establishment of a probation system in Bulgaria” were finalized. Two PHARE projects were developed: PHARE-BG/06/IB/JH/03 “Strengthening of the stability of the probation system in Bulgaria”; PHARE- BG/07/IB/JH/12 “Strengthening of the role of the Bulgarian prison service”. Activities related to both projects have started. The National Offenders Management Service of the United Kingdom was elected as a partner in implementing PHARE-BG/06/IB/JH/03 Project “Strengthening of the stability of the probation system in Bulgaria”.

The “Introduction of probation in Bulgaria – establishing and structuring of regional probation services” Project, financed as priority action for European integration, was implemented in the reporting period. Three programmes for social impact were developed within the framework of the above project by the New Bulgarian University, the Free Burgas University and the Institute for social activities and practices: “Attaining social skills and active conduct on the labour market; “Mastering of anger”; “Correctional programme for training in communication social skills” and materials related to the communication strategy of the probation service – logo, leaflets, video-clip, website have been developed as well within the framework of the project.

At present the probation services work on the approbation of the said programmes and the practical application thereof.

A pilot programme worked out by the probation service of Great Britain is running, designed for offenders driving in a drunken state.

- Raising the qualification of the probation officers

In 2007 the implemented training plans were based on monthly trainings in subjects related to the activity of the probation officers and the lawful application of the different provisions as well as sharing of specific cases from the practice and the steps required to solve them. At the same time particular attention was paid to the further teamwork building and elaboration of efficient communication models amongst the officers. In addition to participating in the approved plan for internal training of the probation officers, great majority of them took part in the second training module implemented under the “Establishment of probation system in Bulgaria” Twinning Project and other workshops and trainings conducted by short-term experts of the project. Upon invitation of NGOs, officers attended a seminar-training concerning the methodology of appraisal of minors, training in projects designed to mastering skills of crime prevention and building of more efficient interagency cooperation.

In 2007 one hundred and fifty (150) officers attended the initial course of training of probation officers, 30 probation officers attended basic training under developing programme for social impact held in Sofia and prepared by the New Bulgarian University; 60 officers underwent training in the application of the “Correctional programme for training in offenders’ communication social skills”; 10 officers took part in the training for application of the programme “Driving in a drunken state”. Within the framework of the new PHARE project BG/06/IB/JH/03 “Strengthening of the stability of the probation system in Bulgaria” a series of activities for raising the qualification of the probation services officers were planned. Under a schedule established beforehand, in the period 21.01.2008 to 14.03.2008 training in basic skills will be conducted in the Training Centre – Pleven for all junior inspectors from the probation services – 112 persons.

The Protocol for Interaction between the Ombudsman and the Minister of Justice signed in February 2006 provided for a number of concrete possibilities and supervision mechanisms on the part of the institution of the Ombudsman which are not directly envisaged, and in some respect even go beyond the regulation in the Execution of Penal Sanctions Act, such as: the right of the Ombudsman to talk to convicted or detained in custody offenders at any time, at the absence of other persons; the complaints and signals of the deprived of liberty forwarded to the Ombudsman in closed envelopes are not subject to check by the administration; organization of inspections and reception-rooms of the Ombudsman institution in penitentiary establishments; circulation of the Ombudsman’ editions in the places for deprivation of liberty.

The fruitful cooperation is going on and the Ombudsman’s report with the outcomes of the inspections carried out in the places for deprivation of liberty in the period February – May 2007 was published in the middle of 2007.

- Other issues

Project BG 2005/017-353.07.01 financed under the PHARE Programme was finalized in 2007 concerning:

a/ establishment of ERP system able to serve finance, budgeting, staff and logistics management in the Ministry of Justice and Security Directorate General.

b/ procurement of software and hardware for the information system for management of the Security Directorate General.

c/ hardware and software for introduction of the convoy tracing system in the Security Directorate General.

In pursuance of the Protection of Persons Endangered in Relation to Criminal Proceedings Act an international agreement for cooperation and understanding in the area of protection and support to witnesses was signed between the Republic of Bulgaria and three other States.

Accession of a fifth State is forthcoming.

## **VI. Introduction of European standards for protection of crime victims**

**Objective:** Improvement of the crime victims' situation through comprehensive legal protection and material support on the part of the State for compensation of the victims for damages suffered by them.

*Medium-term priorities (by the end of 2007):*

- Implementation of an efficient mechanism for protection and compensation of the victims of violent crimes

From the beginning of 2007 all necessary steps have been taken to establish an efficient **system for compensation of crime victims under the Crime Victims Assistance and Financial Compensation Act** in force as from 1 January 2007. National Council for assistance and compensation of crime victims and an Expert Commission thereto were set up with orders of the Minister of Justice within the statutory terms. The members of the National Council for assistance and compensation of crime victims were appointed with Order No. LS-04-244/29.03.2007 of the Minister of Justice. Experts Commission to support the activity of the National Council was set up by Order No. LS-04-112/01.02.2007 and the samples of the documents related to granting of compensation under the above Act were approved by Order of the Minister of Justice LS-04-308 16.04.2007.

Under the above Act the Expert Commission receives and examines the filed applications for financial compensation, prepares a written opinion on each application and proposes the amount of financial assistance for each individual case, and the National Council takes final decision on all applications filed. During the reporting period 58 applications for financial assistance were filed with the Expert Commission, and at its meetings the National Council made decisions on 32 of them. At the same time the Expert Commission answered more than 200 inquiries made by citizens in writing or by phone concerning their rights under the Crime Victims Assistance and Financial Compensation Act.

At its meetings the National Council adopted a great number of documents required for the implementation and efficient application of the Crime Victims Assistance and Financial Compensation Act, a part of which were published on the Ministry of Justice website and on the websites of other institutions. Samples of application for financial compensation and a list of documents required in order to be examined, rules for the activity of the Expert Commission with the National Council, financial concept for implementation of the activities under the above Act, draft-concepts for a phone line for crime victims, etc. have been developed. For the purposes of better awareness of the citizens on their rights under the Crime Victims Assistance and Financial Compensation Act, an information leaflet intended for crime victims was prepared, and for the purposes of the awareness of the Bulgarian citizens abroad was prepared Collection of Acts concerning compensation of crime victims in the European States. Some interviews were given in the central printed media and in some periodicals.

Steps for coordination of the activities under the Crime Victims Assistance and Financial Compensation Act with other institutions and organizations were taken during this period. A joint training seminar was held in the beginning of 2007 in order to coordinate the activity of the regional governors, the NGOs and the Ministry of Interior.

Initial steps have been taken as well to secure financing of the NGOs providing free psychological assistance to crime victims under Article 9 of the Crime Victims Assistance and Financial Compensation Act. At its recent meeting the National Council approved the procedure of financing of the above mentioned organizations and the selection criteria thereof. Through announcement on the website of the Ministry of Justice a procedure has been launched for applying by the organizations for crime victims assistance which will be soon finalized.

## **VII. Improvement of the system of providing legal assistance, alternative dispute resolution and enhancement of the efficiency of judicial enforcement.**

**Objective:** Introduction of the European standards in the area of legal assistance, judicial enforcement and alternative dispute resolution.

The reform of the judicial enforcement and the adoption of the Private Enforcement Agents Act have led to the necessity to establish an efficient system of supervision over the activity of the private enforcement agents.

Inspectors of the Inspectorate under Article 372 of the Judicial System Act carry out ongoing and follow-up supervision over the activity of the private enforcement agents through:

- participation in the working group which carried out monitoring under the Private Enforcement Agents Act on the basis of set up criteria;
- carrying out of planned inspections of the private enforcement agents' activities;
- participation in a workshop for training of inspectors concerning the powers of the inspectors under the Private Enforcement Agents Act, held on 16.04.2007, as well as familiarization with the Manual for the process of supervision, the Methodology for carrying out of planned inspections of the private enforcement agents and the monitoring criteria under the Private Enforcement Agents Act. The workshop was organized by the MoJ with the support of the USAID Project for reform of the commercial law.

In relation to the reform of the judicial enforcement the inspectors:

- participated in a training course organized by USAID and the Chamber of Private Enforcement Agents concerning the Information system for judicial enforcement in Bulgaria;
- take part in a working group entrusted with the task to draft concept for development of the judicial enforcement;
- attended seminar in relation to the publication of a "Collection of case-law on forced execution".

With regard to the powers of the Minister of Justice under the Private Enforcement Agents Act for carrying out administrative and financial control, experts from the Judicial Activity Directorate have been involved in the elaboration of a draft-law on amendments to the Private Enforcement Agents Act which was adopted by the National Assembly and published SG No. 31/13.04.2007. The amendments were indispensable because more detailed regulation of the procedure of exercising financial control was needed.

Instruction No. I3-849 of 14 May 2007 for the terms and the procedure under which the bodies of the Ministry of Interior provide assistance to the private and state enforcement agents when exercising their powers (published SG 56/10.07.2007) was issued jointly by the Ministry of Interior and the Chamber of Private Enforcement Agents.

Experts of the Judicial Activity Directorate participated in the working group responsible for elaboration of the draft of Ordinance No. 3/11.12.2007 of the

Minister of Justice on the procedure of conducting examinations for assistant private enforcement agents (published SG No. 108/19.12.2007).

Drafts of the rules of procedure of the administration of the Supreme Court of Cassation, the Supreme Administrative Court, the Prosecution Office, the Investigation Service, of the appellate, administrative, regional and district courts have been prepared.

Experts of the Judicial Activity Directorate and other structures of the Ministry of Justice, jointly with the USAID Project for reform of the commercial law is working on the establishment of an efficient system of supervision over the activity of the private enforcement agents. The following materials have been prepared and adopted by the working group: Manual for the supervision process, Assessment criteria for the application of the Private Enforcement Agents Act, Questionnaire for appraisal of the private enforcement agents and Methodology for carrying out of planned inspections of the activity of the private enforcement agents. The working group prepared a report reflecting the positive trends as a result of the reform, such as: substantial shortening of the terms of undertaking enforcement actions; enhancement of the activity of private enforcement agents entrusted under Article 18 of the Private Enforcement Agents Act to establish the debtor's assets and choose the way of enforcement; shortening of the period of administration of the papers related to the complaints lodged by the parties; the explanations under Article 333 of the Civil Procedure Code are reasoned and detailed.

The report proposes amendments to some laws regulating judicial enforcement, including in the tariff of the private enforcement agents. It proposes issuing interpretative decisions on certain issues, reinforcing the policy of training both of enforcement agents and judges who will carry out instance supervision over the work of the enforcement agents.

The Ministry of Justice, with the assistance of the USAID, is working jointly with the Chamber of Private Enforcement, on the establishment of Information system of judicial enforcement which is intended to enhance the efficiency of the work of the state and private enforcement agents.

To this end the Ministry of Justice provided computers for the state enforcement agents to 113 district courts.

State enforcement agents, officers in the judicial enforcement services and system administrators in the courts were familiarized with the principles of operation of the developed information system of judicial enforcement in view of introducing it to the courts.

The necessity of continuing the amendments in order to enhance the efficiency of execution of judgements and the mixed system established by the legislator led to creation of a Concept for the development of the judicial enforcement for the period 2008 – 2010 approved by the Minister of Justice. It was elaborated with participation of representatives of the Chamber of Private Enforcement Agents, representatives of the Supreme Council of the Bar, state enforcement agents and experts of the Judicial Activity Directorate.

The concept provides for priorities which should be achieved in three stages: short-term – 2008; medium-term – 2009-2019 and long-term 2011-2012 and are aiming at improvement of the judicial enforcement in its two branches – forced enforcement of court decisions by private enforcement judges and forced enforcement of court decisions by state enforcement judges.

In the context of the reform in the judicial enforcement 20 permanent positions for state enforcement judges have been closed with an order of the Minister of Justice.

In view of facilitating the access to justice and the related access to enforcement of court decisions, the Minister of Justice exercised his powers and announced competition for 79 permanent positions for the post of a state enforcement judge under the procedure of the new Judicial System Act in force as from 13.08.2007.

Following the centralized competition conducted in 2007 for recordation judges 38 applicants have been appointed as recordation judges.

Assuming of office by the newly appointed recordation judges conformed in time with the leaving of posts of those appointed with time-limited labour contracts until conduction of the competition which prevented problems with the staffing of the courts and uncertainty in the civil turnover in respect of the entry of transactions.

New aspect of the work of the Department “Judicial staff and Central Criminal History Unit” is the application of Decision No. 2005/876/JHA of the Council of the European Union on unification of the exchange of information about sentenced persons – nationals of Member States.

In pursuance of the above decision from July 2007 the department “Judicial staff and Central Criminal History Unit” provides information to the EU Member States within the framework of the existing regulation.

Draft of a new ordinance to regulate the activity of the criminal history units has been prepared with the participation of this department.

One-stop service system has been introduced to the “Judicial staff and Central Criminal History Unit” and has been functioning successfully since 2003. Two kinds of services are provided to the citizens on this principle, namely issuance of criminal record certificates for persons born abroad or whose place of birth is not known and “apostille” certification of court and notary acts.

With the purpose of improving the above services, information about the services provided by this unit, the information phone number, the business hours, the terms of issuing of the required document, the State fee due and the bank account to which it should be transferred was published on the website of the Ministry of Justice.

The same information is made public through the information tables at the Ministry of Justice and is duly updated.

Samples of applications for issuance of criminal record certificates for persons born abroad or whose place of birth is unknown are provided on the website and at the counter.

Criminal record certificates are issued immediately after the check made by the officer in the electronic and paper archive of the criminal record bulletins. Criminal record certificates for institutions, agencies and organization are issued on the day they have been requested, where possible, but not later than 3 days after filing the request.

In compliance with the Declaration of the Republic of Bulgaria under Article 6, paragraph 1 of the 1961 Hague Convention made in the Ratification Act (published SG No. 47/09.06.2000) the Ministry of Justice certifies with “apostille” court and notary acts only.

The documents with “apostille” applied are returned on the day following presentation thereof at the Ministry of Justice and where their number exceeds 10 – within 5 working days.

In relation to exercising the powers of the Minister of Justice a proposal was made to the Supreme Judicial Council for establishment of a district court in the town of Galabovo which was adopted.

In view of the timely and lawful servicing of the citizens of this new judicial district, the department “Judicial staff and Central Criminal History Unit” took

the required steps for court staffing with a state enforcement judge and recordation judge especially because there is no notary in this new judicial district. Permanent positions for 1 state enforcement judge and 1 recordation judge were set up with an order of the Minister of Justice and they were duly appointed.

- Establishment of Mediators Register with the Ministry of Justice:
  - publication on the website of the Ministry of Justice of all approved samples of papers and documents related to trainers and mediators which are necessary for the functioning of the Unified Mediators Register;
  - participation of a representative of the Ministry of Justice in the Managing Board of the National Mediators Association;
  - active cooperation in the activity of explaining the Mediation Act and the rules for out-of-court dealing with disputes between physical persons and legal entities;
  - participation of representatives of the Ministry of Justice as observers of the training of trainers in mediation;
  - study and approval of organizations responsible for training of mediators.

The Unified Mediators Register which was established in pursuance of § 1 of the Transitional and Final Provision of the Mediation Act, represents a WEB-based information system intended especially for the needs of the Register. The register started running on 1.06.2006 when the first documents for registration of a mediator were filed. As at 28.03.2007 there were 389 mediators registered, 11 are waiting for registration and 1 was deleted.

To help applicants for mediation, samples of papers and documents required when lodging application for entry in the Unified Mediators Registry have been approved and published on the website of the Ministry of Justice.

National Mediators Association was established with the support of the Ministry of Justice. The coordination with this Association is made by a representative nominated by the Minister of Justice who participates in the monthly meetings of the Bureau of the National Mediators Association in order to carry out joint activities.

The Ministry of Justice, in cooperation with the National Mediators Association and NGOs organized a number of seminars and other forms of training in order to promote mediation as a means of out-of-court dealing with and resolution of disputes between individuals and legal entities. Information materials were

distributed in the premises of the bodies of the judiciary to facilitate citizens. The press and e-media were used to popularize the activities of the mediators.

In pursuance of the provision of § 7 of the Law on Amendment of the Mediation Act (in force as from 28.10.2006) a working group composed of experts from the Ministry of Justice, magistrates, representatives of the National Mediators Association, prepared a Draft-Ordinance on the application of the law to regulate in detail the powers of the Minister of Justice in respect of the organizations which will conduct training of mediators. Publication of the Ordinance is forthcoming.

In order to fulfil the commitment of the Ministry of Justice to encourage the application of alternative dispute resolution and conclusion of agreements through setting up of a Mediation Institute, the following steps and measures have been taken:

Improvement of the legal regulation in the area of mediation in order to attain high standards in training of mediators and to secure observance of the procedural and ethical rules of conduct by those exercising the activity of mediation on the territory of the Republic of Bulgaria.

Ordinance under Article 8, paragraph 4 of the Mediation Act was adopted – Ordinance No. 2 of 15.03.2007, issued by the Minister of Justice (published SG No. 26 of 27.03.2007, in force as from 27.04.2007) regulating the terms and the procedures of approval of the organizations which are responsible for training of mediators, the procedure of registration, striking off and deletion of mediators from the Unified Mediators Register and the procedural and ethical rules for mediator's conduct. Procedure for study and approval of the organizations which carry out training of mediators in Bulgaria was launched.

The cooperation with the National Mediators Association continues through a representative of the Minister of Justice in the Managing Board in view of joint work in the area of the State policy and formation of a positive public attitude in respect of the mediation as an alternative method of resolution of legal and no-legal disputes.

## **VIII. Computerization of the judicial system and establishment of a Unified Register Centre**

### **Objectives:**

- Transformation of the registration procedures – from judicial to administrative ones (adoption of the Commercial Register Act)

- Development, application and use of application software system for the needs of the courts and the places for serving a term of imprisonment and of the central administration of the Ministry of Justice and the Security Directorate General as well;
- Harmonization of the existing application software at national level;
- Unification, standardization and centralization of the registers kept in order to attain cheap and fast registration through simplified and secure procedures.

*Short-term priorities:*

- Introduction and use of the developed software for management of cases, management of the working documents flow, for issuing of criminal record certificates and of a Unified Register System throughout the country

The computerization of the judiciary in the Republic of Bulgaria is legally regulated in the Judicial System Act and the Ordinance on the automated information systems within the judiciary.

Updating of the Information strategy of the Bulgarian justice authorities is forthcoming as well, which will contribute to the establishment of closer relation between the investments intended for IT and the measures for improvement of the results of the work in this direction.

The introduction and the use of the developed software are of paramount importance for optimizing the work of the judicial system in Bulgaria. This will provide opportunities for efficient Bulgaria's accession to the European e-Justice project.

The efforts to completely introduce the developed software, by using European and national budget funds, are continuing. The Ministry of Justice is in the process of setting up of a Unified communication interconnection between the bodies of the judiciary and the Ministry of Justice. At present the first contract under this project is implemented and another one is in the course of preparation for the next stage of the project implementation.

The Unified communication interconnection will create conditions for full introduction of the developed software for case management, management of the working documents flow, for issuing of criminal record certificates and will secure information safety.

The presence of the Unified communication interconnection will secure also the implementation of the following stages of development of the Uniform Information System for Combating Crime (UISCC).

At present the status of the above systems is as follows:

The court cases management system has been introduced and is functioning in the Sofia District Court, Sofia Regional Court, District Court – Slivnitsa and District Court – Velingrad. A module for random allocation of court cases has been also set up which is a prerequisite to secure transparency in the work of the magistrates.

The system of random allocation of cases has been introduced in about 95% of the courts in the country.

The system of issuing of criminal record certificates has been introduced and is functioning in all district courts in the country.

- Introduction of computer systems and network equipment to the courts

The implementation of projects for hardware and communication equipment supply for the needs of the judicial system in the country is going on. It is expected for successful integration of the information systems developed under the PHARE projects 2002, 2003 and 2004. The following will be introduced in each of the courts:

- Information system of court cases management;
  - Centralized e-Services - email and active directory;
  - New automated IT system for the needs of the Execution of Sentences Directorate General and its territorial units.
- Elaboration of a legal framework for administrative reform of the business registration system

After publication of the Commercial Register Act an internal plan-programme has been developed, specifying the required steps that should be taken in order to ensure the application thereof. The Act provides for the entry not only of new company registrations but also for re-registration of the existing traders.

In pursuance of the law the following secondary legislation has been developed:

- Ordinance on the procedure and manner of ensuring *ex officio* access to the commercial register (adopted with Degree of the Council of Ministers No. 304 of 14.11.2006, published SG No. 95/24 November 2006, in force as from 01.01.2007);
  - State fees tariff concerning the fees levied by the Registry Agency – relevant amendments have been made with regard to the Commercial Register Act – SG No. 105 of 22 December 2006;
  - Instructions concerning the manner of carrying out of exchange of information with information systems used by the courts about the registered traders and cooperatives and information on the company names used – approved by the Minister of Justice and the Minister of Finance on 01.11.2006;
  - Ordinance No. 1 of 14 February 2007 on keeping, storing and access to the commercial register – adopted by the Minister of Justice;
  - Draft-Rules of Procedure of the Registry Agency – forwarded for coordination. Its adoption by the Council of Ministers is forthcoming.

The following steps for material support of the application of the Act have been taken during the reporting period:

- Supply of the required technical means for putting into operation of the Commercial Register – (Contract No. 93-00-105/24.11.2006);
  - Supply of technical means for initial start up and technological support of the Commercial Register (work stations, periphery, copy equipment and equipment for telephone exchange) – contract No. 93-00-113/22.12.2006;
  - Information system for setting up of a Unified Commercial Register – contract No. 93-00-117/29.12.2006, preparedness for pilot operation as of 01.06.2007;
  - A contractor for the “System integrator for development and introduction of the Commercial Register” has been selected.
- Pilot use of a newly developed system of property registration under the Cadastre and Property Register Act.

Under the contract for implementation of the “Integrated information system for cadastre and property register (IISCPR)” the following stages have been implemented:

- Stage 1 – 05.10.2006 – Inception report;
- Stage 2 – 01.12.2006 – Business model;
- Stage 3 – 15.01.2007 – Prototype and model of data basis.

In the process of execution is:

- Stage 4 – 01.03.2007 – Pilot.

Under the “Plan for implementation of the pilot” the pilot realization will cover registration services in Balchik, Shumen, Burgas and Vratsa according to the following schedule:

Март 07 г						
понеделник	вторник	сряда	четвъртък	петък	събота	неделя
Февруари 26	27	28	Март 1	2	3	4
		◆ Клиентът е изпълнил изискванията (предоставил е хардуер, софтуер, данни ...)	София - проверка на изпълнени от клиента изисквания			
5	6	7	8	9	10	11
София - инсталация и миграция на данни				Добрич – миграция на данни и обучение на потребители		
12	13	14	15	16	17	18
Добрич – миграция на данни и обучение на потребители			Шумен – миграция на данни и обучение на потребители			
Балчик – обучение на потребители						
19	20	21	22	23	24	25
Шумен – миграция на данни и обучение		Бургас – миграция на данни и обучение на потребители				
		Враца – миграция на данни и обучение на потребители				
			Балчик - комисия	Добрич - комисия		
26	27	28	29	30	31	Април 1
Бургас – миграция на данни и обучение						
Враца – миграция на данни и обучение						
Шумен - комисия	Бургас - комисия		Враца - комисия	Среща - приемане		

*Medium-term priorities (by the end of 2007):*

- Development of a unified information system for management of the places for serving a term of imprisonment

The contract for establishment of an Automated Information System for the needs of the prisons, the investigation detention facilities, the probation services as well as for the structures of the security forces within the judiciary is at a final stage and is planned to be finalized in April 2008.

- Introduction of computer systems and network equipment in the places for serving a term of imprisonment

The necessary steps for introduction of computer systems and network equipment to the places for serving a term of imprisonment have been taken under the project “Streamlining of the Penitentiary System” financed by the European Union. At present a tender procedure is in place and selection of contractors for computer and office equipment for the system of deprivation of liberty in Bulgaria is forthcoming.

- Supply of hardware, communication equipment and basic software for the establishment of unified active directory (user’s access) and email in the courts throughout the country.

Hardware, system and application software to secure an integrated information infrastructure for the needs of the judiciary have been provided under projects of PHARE 2003 Financial Memorandum. Data Centre was established and domain was registered which secures independent functioning and administration of the system and application software.

The Ministry of Justice has taken steps to secure, with financial resources from the republican budget, the functionality of an active directory of the Ministry of Justice for the existing courts on the territory of the regions of Dobrich, Burgas and Stara Zagora.

Selection of a contractor for the introduction and the configuration of an active directory to the remaining courts will be made in 2008.

- Introduction of e-justice

The work for implementation of the second phase of the e-justice project financed with EU financial resources is going on.

Hardware and communication equipment have been delivered and applications and integration solutions concerning e-justice in Bulgaria have been developed.

In relation to the fulfilment of this project, the Ministry of Justice invited representatives of the Supreme Judicial Council to participate in an Expert Commission for acceptance of the software system and the “E-justice” web-portal.

After the implementation of the project for Unified communication interconnection and the activities of building of appropriate server premises, the

applications developed for e-justice will be finally accepted by the Expert Commission set up to this end.

- Supply of hardware and software for the Monitoring System and Oracle Database management at the Ministry of Justice.

Central server has been supplied to and installed at the Ministry of Justice with suitable software product for monitoring (HP Open View Operations) which will secure distance control and Oracle Database management.

- Introduction of the Unified Information System for Combating Crime

In 2007 the investigation module of the Unified Information System for Combating Crime (UISCC) has been introduced in all investigation services.

Upon proposal of the National Investigation Service, the Supreme Judicial Council made decisions (under Record of Proceedings No. 13/2007 and No. 21/2007) for the introduction of data from the court proceedings in criminal matters to the UISCC thus regulating the functioning of the system.

On the grounds of Article 378, paragraph 2 of the Judicial System Act, at its meeting held on 20 December 2007, the Council of Ministers adopted Ordinance on the Unified Information System for Combating Crime (published SG No. 2 of 08.01.2008, in force as from 09.02.2008).

On the grounds of Article 385, paragraph 5 of the Judicial System Act, Ordinance on the automated information systems inside the judiciary was developed in January 2008. The Ordinance has been forwarded for publication in the State Gazette.

At present, on the grounds of Article 386, paragraph 1 of the Judicial System Act, Ordinance on the procedure for maintaining and disseminating the UISCC standards and automated information systems inside the judiciary is under preparation.