

## THE JUDICIAL MAP – A MATTER LARGER THAN THE JUDGE’S COLLEGE

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The restructuring of the judicial map is declared a priority in the work of the Supreme Judicial Council for at least 6-7 years so far. The topic is undoubtedly sensitive as it is related to the possible close down of courts, relocation of people and other resources, and the subsequent financial and infrastructural changes. The prosecutor's office has already started such a process by closing down more than 30 district offices so far. That was followed by protests of the people from the towns where prosecutor's offices were closed, because the criteria for doing this was not clear.

Seems like the reforming of the judicial map will follow the one of the prosecution's office and will go even further. From a meeting of the Judge’s College (JC) held on October 15, 2020, it became clear that the members of the SJC, participating in the project for the reform of the map, will lobby for the most radical option. It includes reformatting the generic jurisdiction fundamentally as district courts become the first instance by default, not by exception, and the current regional courts (for the most part at least) will become something like "one-stop store" administrative units. What are some of the worrying aspects?

1. As far as we know (since the report containing the developed options is not publicly available), only young and junior judges will work in these regional sections. Where does, in this situation, go the requirement for 2 years of practice in a district court as part of a judicial panel, during which they gain the relevant professional and life experience? What will happen to the figure of the mentor judge, who must assist the junior or the newly appointed judge in his work? The proposals for a drastic reduction of the internship and the training in NIJ to 6 months (by the way, that was the length of the initial compulsory training when the NIJ was established, but it turned out to be insufficient and it was increased to 9 months), are an indicator of a reform concerning mainly the quantity without taking into account the quality.
2. It remains unknown what type of analyses were made to reach this favored 4th option. The other 3 options were mentioned during the JC meeting, but the emphasis was on the latter. The issue of the judicial map should be part of the state’s policy, not remain "stuck" in the judiciary. The same applies to the reform of the prosecution’s offices. Restructuring must come after a series of analyses, empirical research and statistics not only on workload but also on social and demographic information, economic factors, population mobility, and the potential use of electronic and other services. That should be done for a period of at least 3 years and used as a means to detect trends and issues.

Such an analysis was made only once <sup>1</sup> more than 5 years ago and there is no information whether it was used by the SJC for the purpose of optimizing the judicial map. Currently

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<sup>1</sup> <http://www.vss.justice.bg/root/f/upload/5/t8-doklad.pdf>

the information needs an update, but it is absolutely necessary for making an informed decision on the type reform of the courts' map.

Some of the most successful reforms of the judicial map (in Belgium, Spain, Sweden, Brazil, Romania, etc.) rely on models that analyze the efficiency of court proceedings. The so-called Data Envelopment Analysis (DEA) is a mathematical model borrowed from programming and applied in the abovementioned countries. In addition to the workload, it also considers the optimal ratio of judges and court employees through a comparison of each court with the others (of the same instance). It also gathers information about demography, economics, and economic development to get the full picture of the situation in the court. The model is not ideal but works as a balanced approach in determining the relocation of judges and court staff when compared to the workload.

Furthermore, the analysis starts with information about the district and appellate courts to see what is the current ratio there and what additional workload they could take if regional courts need to be opened or relocated.

3. The optimization of the judicial map should also be followed by the relevant financial parameters. It's yet another thing that remains unknown. Turns out that the proposal includes the creation of 5 new courts of appeal, which will inevitably lead to an increase in the budget. However, it is not clear whether it was calculated how much it would cost (not only as finances) and where the money will come from (increased court fees, reduction of staff, etc.). More questions arise. Were the Ministry of Finance, the Ministry of Interior, representatives of the local government, the Ministry of Regional Development and Public Works, representatives of the local communities, and civil organizations included in the process of preparation of the models? Regardless of what the final decision will be about the model, representatives of these institutions should be involved or at least informed about the work of the SJC, so as not to further delay the process and lead to discontent and protests. At the bare minimum, each model should be introduced with an estimated financial framework, showing the best and worst-case scenario.
4. Last but not least is the social or community factor. In smaller settlements, the court has a much broader social function. In a one-of-a-kind study on the "The Role of Regional Courts in the Life of Local Communities"<sup>2</sup>, respondents said that the termination of different kinds of state structures is perceived as "... *destroying the very fabric of society, which in return, starts processes of irreversibility and declassification of the small communities and affects hundreds of Bulgarian citizens.*" The issue doesn't concern only the access to justice

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<sup>2</sup> [http://judgesbg.org/wp-content/uploads/2019/07/BJA\\_The\\_Role\\_of\\_District\\_Courts\\_Sep-Oct\\_2016\\_Portrait.pdf](http://judgesbg.org/wp-content/uploads/2019/07/BJA_The_Role_of_District_Courts_Sep-Oct_2016_Portrait.pdf)

but also the active participation of citizens in the court procedures. The procedural justice provided by the judge has a much greater effect in the smaller towns than in the big cities.

The matter concerning the judicial map is too ambiguous to be the subject of implementation of a certain project and the result of hastily-made decisions under the pressure of expiring deadlines. It should also not amount to mechanically closing of existing structures and opening of new ones. It shouldn't also boil down to numerous changes in the relevant legislation, because in that way some parts of the work will be left to the parliament and this is a risk indicator in the whole process. Undoubtedly there is a need to redraw the map. Whether the Judge's College will succeed in the reform depends a lot on its approach not only to the judges but also to the other institutions that are related to the topic.