

**Media Monitoring and Analysis of
Attacks against Courts
(Summary)**

in the period 1.01.2015—1.07.2017

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AIM AND SCOPE OF THE MONITORING STUDY

The aim of the monitoring study is to identify, trace over time and explore the attacks in Bulgaria against courts, judges and their professional organisations.

The media monitoring study and analysis set out below have two main aspects:

- In the first place, they outline the attacks against courts in the media and those implicit in statements made by public figures with strong opinion-making potential, including attacks from representatives of the three branches of government — judiciary, executive and legislative — and by representatives of non-governmental organisations, including sociologists and political scientists. The analysis then seeks to uncover and explore the underlying reasons, gauge the intensity and explore the nature of the attacks against courts on the part of leading opinion makers in Bulgaria.
- They also provide a chronological account of the media publications containing attacks against courts, judges and their professional organisations. The monitoring exercise takes a critical look at journalistic articles purporting to report on developments in the judiciary (materials and information updates relating to key events); interviews with opinion leaders; analyses; commentaries and investigations with implications for the judiciary.

In the context of the study, *attacks against courts* should be understood as opinions and statements containing fabricated, untruthful and biased allegations obtained from unreliable sources, insults and statements that harm and undermine the reputation of the judiciary, rumour mongering and spreading insinuations, as well as appeals to *'take the law into one's own hands'*. Attacks against courts should also be understood as institutional acts undertaken in a context that reasonably qualifies them as such.

SHORT INFORMATION ABOUT THE MEDIA COVERED BY THE MONITORING STUDY

The printed and electronic media covered by the monitoring study fall into three segments of the media market — national daily newspapers (and their web-based platforms), online news outlets and news agencies. More specifically, they are as follows:

Daily newspapers (and their web-based platforms)

- *Trud, 24 Chasa, Standard, Sega, Telegraph, Monitor*

Online media outlets

- *Mediapool, ClubZ, Dnevnik, DeFacto, Legal World*

News agencies

- *PIK, BLITZ*

The national daily newspapers *Trud*, *24 Chasa*, *Standard* and *Sega* had flagship status during the transition period in Bulgaria.

In 2015, Petyo Blaskov (long-time editor-in-chief of the *Trud Daily*) acquired ownership of the newspaper. In the early 1990s, Blaskov was one of the co-founders of the *168 Chasa* Media Press Group, which launched the *24 Chasa* and the *168 Chasa* — a novel type of daily and weekly newspaper that did not exist prior to 1989 and went on to gather strong momentum. After the press group was acquired by the German media conglomerate *WAZ*, Blaskov started other newspapers — *Monitor*, *Politika* and *Telegraph*, which in 2007 he sold on to Irena Krasteva (mother of Delyan Peevsky, Member of Parliament for the Movement for Rights and Freedoms, MRF).

In 2014, *24 Chasa* was acquired by the editor-in-chief of the newspaper, Venelina Gocheva.

The *Standard* was originally owned by the businessman Todor Batkov. Over the years *GM Press*, initially a minority shareholder, gradually took over two of the most influential regional newspaper — *Struma* and *Maritsa* — and in November 2011 it acquired a 50 % stake in *Intermedia*, the company behind the website *BLITZ* and publisher of the newspapers *Show*, *55 Plus* and *Doctor*. At the beginning of 2018, Batkov announced that he was to shortly transfer ownership of the newspaper to the journalists who worked for it and at the beginning of November 2018, 26 years after the first edition going to press, the newspaper ceased existing in print and currently operates as a web-based news outlet. The long-time editor-in-chief and Executive Director of the *Standard* remains in charge.

The daily newspaper *Sega*, owned by the businessman Sasho Donchev, is known for its critical stance toward the government. Donchev has recently become the target of multiple probes by the prosecution service, which were launched shortly after the scandal that came to be known as *TSUMgate*.

The daily newspapers *Telegraph* and *Monitor* are owned by Delyan Peevsky, Member of Parliament for the MRF and business mogul (in October 2018, Peevsky announced that he was to shortly discontinue his involvement in newspaper publishing and transferred ownership of the newspapers to a foundation, which he continues to fund. The Not-for-Profit Legal Entities register does not contain an entry ascertaining the official registration of a foundation in the name of Mr. Peevsky). Although the MRF purports to be an opposition party in Parliament, in recent years the governing majority has consistently acted to protect its economic and political interests while the party has repaid the favour by backing up the government in critical votes.

The independent media platform *Mediapool* is owned by the veteran journalist Stoyana Georgieva. Its operation is primarily supported by grant funding.

ClubZ is a web-based media outlet owned by the businessman and owner of the company *Sopharma*, Ognyan Donev. A criminal investigation was launched against Donev for the alleged commission of serious tax offences. On 8 February 2019, after a trial that continued almost three years, the Sofia City Court acquitted him on all charges. The news outlet has a critical stance toward the government.

Dnevnik is published by the *Capital Press Group*, co-owned by Ivo Prokopiev. A criminal investigation has been initiated against Mr. Prokopiev, which is currently pending before the Specialised Criminal Court. Both the web-based news outlet *Dnevnik* and the *Capital*, which is still printed as a weekly newspaper, maintain a critical stance of the government.

DeFacto is a relatively recent news outlet, which focuses primarily on developments in the domain of legislation and the judiciary. According to the information published on its website, its owned by the *DeFacto* Foundation.

Praven Svyat is a specialist legal media outlet. During the period referenced in the study its ownership was linked to Ivan Todorov, an attorney-at-law.

PIK is a news agency. The publisher behind it, Nedyalko Nedyalkov, is a co-owner of the tabloid *Weekend*. Nedyalkov has repeatedly publicly denied accusations of being associated with Delyan Peevsky, but his newspapers and media outlets are fervently backing the MRF Member of Parliament and his interests, businesses and the political lobbies gravitating towards him.

BLITZ is owned by *Intermedia*. At the end of 2017, the company shareholders gave several interviews, alleging that the media outlet had been literally stolen from them by parties closely affiliated with Delyan Peevsky. The owner on record remains the long-time editor of the *Standard Slavka* Bozukova.

PERIOD COVERED BY THE MONITORING STUDY

The media monitoring exercise covers the period 1 January 2015—1 July 2017. The reference period has been chosen for several reasons. Firstly, it abounds with rapid developments and changes in the setup and functioning of the judiciary:

- On 29 January 2015, the Supreme Judicial Council (SJC) elected a new President of the Supreme Court of Cassation with a term of seven years;
- At the end of 2015, the Parliament adopted at first reading amendments to the Constitution to divide the SJC into two chambers of judges and prosecutors, respectively;
- During the reference period a number of major amendments to the Judiciary Act (JA) were adopted and became effective;

- The SJC conducted hearings to appoint presidents (administrative managers) of several key bodies in the judiciary;
- In May and June 2017, the members of the new SJC were elected by a fully majoritarian voting system for the first time;
- In 2017, a general election took place.

For the sake of completeness, it should be noted that although internal and external observers unanimously agree that the continuation of judiciary reform remains key for the development of democratic processes in Bulgaria, since the beginning of the transition period the powers that be have been largely reluctant to do what is needed to ensure that the judiciary is set up and functions in accordance with recognised international recommendations.

The reform of the Bulgarian Constitution and the amendment of the Judiciary Act undertaken in 2014—2015 ostensibly aimed to ensure greater independence of courts and the prosecution service, limiting the influence of the SJC members elected by Parliament and strengthening judicial self-governance. Despite these proclamations, both the ruling party and opposition parties in Parliament, in an act of striking unanimity, joined hands to subvert the original declared intent of the amendments proposed. This created tension and unrest in the judiciary, especially courts. A group of judges organised a protest to express their support for the initially drafted amendments to the Constitution and the Judiciary Act.

Secondly, during the period covered by the study several scandals erupted, renewing strong doubts of meddling on the part of the executive branch in the affairs of the independent judiciary.

- In November 2015, the investigative journalism platform *Bivol* began publishing a series of leaked wiretaps, revealing that the Prosecutor General, Sotir Tsatsarov, has discussed a potential indictment of the former President of the Sofia City Court (SCC) with the Prime Minister, Boyko Borisov, and that SJC members colluded to ensure that the disciplinary proceedings initiated against the judge in question were resolved in her favour. The serious doubts that lingered after the scandal failed to be either substantiated or dispelled and became known in the media as *Yanevagate*;

- On 11 December 2015, at a celebration on the occasion of the 135th anniversary of the Supreme Court of Cassation, the President of the Supreme Court, Lozan Panov, made a memorable speech, calling on all justices and judges to uphold the rule of law, not allowing the executive branch to substitute the original intent of the reform. In the media, the speech became known as '*Say No to Fear!*'. Soon after, a protest took place outside the Palace of Justice in Sofia. At the event, judges from all instances left the court building wearing their robes and silently joined the protest to demonstrate their disagreement with the turn the much-hailed judiciary reform was about to take;

- On 7 December 2015, judges from the Sofia District Court (*court of first instance*) organised a protest in front of the building of the SJC on account of the failure of that body, which

is responsible for all matters relating to the working conditions and career development in the judiciary, to take effective measures to improve the dire conditions in which the judges of the busiest trial court in Bulgaria worked;

- On 13 January 2016, the SCJ terminated the probe into the scandal that had become publicly known as *Yanevagate*, concluding that the SJC members and the Prosecutor General, Sotir, Tsatsarov, had not breached disciplinary rules.

- On 14 January 2016, at a meeting of the SJC, the President of the Supreme Court of Cassation, Lozan Panov, made a proposal that the probe be reopened, arguing that it had not been conducted in a proper and thorough manner. He announced that he had just received a text message from the telephone number of the Prime Minister Boyko Borisov, which read: '*Lozan Panov renewed his demands that we invite you to a hearing relating to the leaked wiretaps. We turned down the proposal*'. The content of the text message created strong doubts that an SJC member was reporting, directly and in real time, to the Prime Minister to appraise him of the vote of the Council on a proposal relating to a case in which the Prime Minister was implicated. Shortly after the text message received was disclosed, the Prime Minister gate crashed the meeting of the SJC to explain the situation without an invitation do so;

- On 26 October 2016, judges from the Sofia District Court organised another protest after the refusal of the SJC to appoint as President the judge nominated by and enjoying the support of the General Assembly of Sofia's trial court;

- On 8 November 2016, the SJC yet again refused to reopen the probe into the *Yanevagate* scandal in connection after new revelations had leaked into the public domain;

- On 13 April 2017, a video was posted on YouTube in which the owner of the company *Overgas* and publisher of the daily newspaper *Sega*, known for its critical stance towards the government, Sasho Donchev disclosed the details of receiving an invitation to attend a meeting in *TSUM (Sofia's Central Department Store, which comprises multiple stores and offices — Author's Note)*, at the office of the businessman and member of the Bulgarian Socialist Party (NSP) Georgi Gergov. In the video, Donchev made allegations that at the meeting, the two parties present were joined by the Prosecutor-General, Sotir Tsatsarov, who explicitly warned Mr. Donchev that his conduct (meaning the editorial policy of his newspaper) was becoming difficult to tolerate. According to Dochev the Prosecutor-General was displeased because he believed that Mr. Donchev was supporting *Da, Bulgaria*, a new political party lead by the former Minister of Justice, Hristo Ivanov (*who was the driving force behind the original amendments to the Constitution and the Judiciary Act — Author's note*). In the public domain the meeting became known as *TSUMgate*;

- On 27 April 2017, the SJC refused to reopen the probe into the *TSUMgate* scandal.

ATTACKS AGAINST JUDGES BY PUBLIC FIGURES AND INSTITUTIONS. SUMMARY AND ANALYSIS

This section identifies examples of statements made by public figures, representatives of public institutions, political parties and non-governmental organisations that can be described as attacks against the courts, judges and their professional organisations.

The review of media reporting on events and developments in the judiciary clearly shows that public institutions and their representatives in Bulgaria have no respect for the democratic principle of protecting the authority and reputation of the judiciary, and in particular that of courts.

The media monitoring study identified clear instances of attacks against at least 8 judges — the President of the Supreme Court of Cassation, Lozan Panov; the President of the Sofia City Court, Kaloyan Topalov; the Supreme Court justice and acting President of the Sofia City Court, Vladimir Yordanov; the President of the Sofia Regional Court, Metodi Lalov; the judge and former President of the Sofia City Court, Vladimira Yaneva; the Sofia City Court judge Miroslava Todorova; the Sofia Appellate Court judge Nelly Kutzkova and the Sofia Appellate Court judge and member of the SJC, Kalin Kalpakchiev. The statements contain insults that clearly harm the reputation of both individual judges and the respective court as well as insinuations and groundless allegations. The latter can be easily characterised as attacks against the courts by representatives of the government, the non-governmental sector and public figures, including:

- Bulgaria's Prime Minister Boyko Borisov;
- Bulgaria's President Rumen Radev;
- The Prosecutor-General Sotir Tsatsarov
- The Deputy Prosecutor-General Evgeni Dikov
- The President of the Supreme Administrative Court Georgi Kolev;
- The Minister of Justice Tsetska Tsacheva;
- the Supreme Judicial Council members Yasen Todorov, Dimitar Uzunov, Galya Georgieva, Dimitar Kozharev;
- Members of several political parties represented in the national Parliament (Tsvetan Tsvetanov, Danail Kirilov, Toma Bikov (*Citizens for European Development of Bulgaria, CEDB*), Lyutfi Mestan, Yordan Tsonev, Chetin Kazak, Hamid Hamid (*Movement for Rights and Freedoms, MRF*), Alexander Simov (*Bulgarian Socialist Party, BSP*), Iskren Veselinov, Yavor Notev (*United Patriots*))
- representatives of other political parties (Yane Yanev (*Order, Law and Justice, OLI*), Georgi Parvanov and Rumen Petkov (*ABV*));

- Members of the European Parliament (Nikolay Barekov — Bulgaria without Censorship) and Emil Radev (CEDB/EPP)
- advisors in the cabinets of the Prime Minister and the President (Sevdalina Arnaudova, Yane Yanev, Borislav Tsekov)
- former justices of the Constitutional Court (Georgi Markov, Plamen Kirov)
- (former Prime Ministers and Cabinet ministers (Georgi Bliznashki, Zinaida Zlatanova)
- representatives of non-governmental organisations, etc.

The analysis of results indicates that the court has been attacked by representatives of each of the three branches of government — judiciary, legislative and executive (including by the Head of State and senior-ranking public officials in all three branches of government). Although the number of judges targeted by these attacks is relatively small, the statements making untruthful allegations or containing insults abound throughout the reference period covered by the study. Furthermore, these were repeated on numerous occasions at short intervals.

Most allegations against the judges targeted by the attacks insinuate that they are behaving as if and are effectively attempting to become politicians or that by their actions they are aiding or working directly for party political organisations. In the past, the appointment of a judge in the executive branch of government was almost uniformly perceived as lack of objectivity and impartiality. The governance of entire bodies of the judiciary has effectively been placed under the control of political figures or structures.

EXAMPLES:

- In a statement made on 12 January 2016, the Prime Minister, Boyko Borisov, addressed directly the President of the Supreme Court of Cassation, Lozan Panov, saying: ‘You criticise the work of my parliamentary group and the Parliament as a whole. This is a political attack. But you are not a politician and it is not for you to criticise. Everyone who wants to be in politics is welcome to beat me in a Parliamentary election and govern as they see fit’. Having said this, the Prime Minister ‘advised’ Lozan Panov not to be taken in by ‘a rising political project that will never beat us’.

- On 29 February 2016, the media reported on a conference dedicated to the 120th anniversary of the adoption of the first Criminal Act. At the time, BLITZ published a commentary on the speech of the Prosecutor-General under the heading: ‘Tsatsarov Chides Lozan Panov and Implicates Him in Political Speculation’, with the daily Monitor tagging the same line with the heading: ‘Prosecutor-General Says that Themis is Not a Spring Board for Wannabe Politicians’. The Prosecutor-General Tsatsarov was quoted as having said the following: ‘You do not become a politician after a single term of office in the judiciary. Certain people tend to regard speculation with judiciary reform as a justification for their future plans’. The comments made by the Prosecutor-General about Lozan

Panov were published on 2 March 2016 by PIK under the heading: 'Sotir Tsatsarov Decimates Lozan Panov: Let Him Be Assured that I Would Never Hesitate to Say Exactly What I Think of Him'. It is interesting to note that Sotir Tsatsarov in fact made a thinly-veiled threat against the President of the Supreme Court, saying that he would not hesitate to share 'facts' about the Chief Justice 'should I be given a reason to do so'.

The media has published numerous allegations insinuating or directly asserting that certain judges (or entire courts) are corrupt or that they are in the pocket of the mafia and oligarchic circles, essentially rubber-stamping decisions made in a select few lawyer's firms and by certain politicians and other parties.

EXAMPLE:

- On 8 March 2016, Mediapool published an interview of the journalist Polina Paunova with the Prime Minister Boyko Borisov. In the interview, Borisov mentions how happy he is with the work of the Prosecution Service, saying: 'On the other hand, what troubles me deeply is that more and more judges are pledging allegiance to one political party or another'. He went on to specify that the political party in question is Democrats for Strong Bulgaria (DSB), adding that judges: '[including] Panov and a busload of others are making public appearances and political declarations to be met with approval by the same people, every time'. He continued: 'Let us, in theory, ask ourselves whether this means that other members of society, seeing that certain judges are affiliated with certain media, political parties, individuals, etc. can still rely on impartial and unbiased justice, if they were to give evidence against these people [...] See the DSB is a two-headed dragon — one of the heads sits on the managing boards of State-owned enterprises, collecting fat checks, while the other head wants to usurp the judiciary. If you look at the three largest courts in Bulgaria, you will see that two are directly answerable to the DSB'.

Public statements alleging that individual judges have attacked the Prosecutor-General, the SJC and generally the entire system of State government are also common.

EXAMPLE:

- On 17 May 2017, BLITZ published a material under the heading: 'Top judge sitting on the SJC makes explosive revelations: A probe has been initiated against Lozan Panov on account of alleged conflict of interest', with a subheading that alleged the SJC member SJC, Kalin Kalpakchiev, never missed an opportunity to cause scandal at each and every meeting of the Council. The publication quoted the SJC member Galya Georgieva who, in an interview for the TV channel Kanal 3, said the following about Justice Kalpakchiev: 'I have been working side by side with him for five years and I believe that he has some hidden agenda. He will just not give up making trouble for the Prosecutor-General on every conceivable occasion'.

Other cases have been registered in which public figures have alleged that judges are not performing their judicial duties impartially or that they cannot be trusted to adjudicate disputes on account of alleged conflicts of interest. A number of court presidents have been accused of influencing the judgment of their fellow judges or directly exerting pressure on them.

Such media attacks have experienced by several court presidents alleged to be failing in the proper performance of their duties, rigging tenders, putting forth the nominations or promoting judges with whom they were on friendly terms or to whom they were related.

EXAMPLE:

- On 20 January 2016, the daily newspaper Trud published an article under the heading 'Yane Yanev: The same clique is in charge of major courts at all four instances'. In said publication, Yanev allegedly continued his 'revelations' (first made in an interview for the TV channel Kanal 3), ostensibly dealing with attempts to 'gain control' of the courts. In this context, he said: 'Now, in order to return Yordanov's gesture, and he did a lot of work that can hardly be described as being consistent with the duties of a magistrate, they want to put him in charge of the Sofia Appellate Court, which would ultimately mean that they have gained control of the District Court, the Sofia City Court, the Supreme Court and the Court of Appeals, i.e. courts at all four instances have effectively being brought under the control of the same coterie'.

During the period covered by the report, a further statement was made that may be interpreted as investigative bodies being prompted to launch a criminal investigation against a judge. The statement in question was compounded by the fact the party who made it also shared their opinion on the sentence that should be given to the magistrate in question.

EXAMPLE:

- On 12 February 2015, the Prime Minister Boyko Borisov commented on the scandal with the unlawful orders authorising the use of wiretaps issued by judges from the Sofia City Court. He noted that the media 'jealously guarded the judge who had granted the unlawful authorisations — Vladimira Yaneva', adding that 'Prosecutors have a lot of work to do and I hope that they will be uncompromising and pursue this to the end. Because if Tsvetanov can receive a four-year prison sentence for what he did, everyone else down the line—from the judge to the last person involved—should be given a sentence of 400 years to ensure proportionality'.

The opinions of judges have not only been misrepresented and purposefully misinterpreted as political statements, but also presented as an act of putting pressure on institutions and fomenting discord between them or disagreements between SJC members. Multiple instances of insults against judges are on record, most alleging incompetence and poor knowledge of the law. Individual representatives of the different branches of government have also publicly called for the resignation of judges and court presidents.

Most such attacks have targeted the President of the Supreme Court of Cassation. They have come from public figures of different background. In this context, it would not be an overstatement to say that the President of the Supreme Court has been the target of a continuous and highly intensive smear campaign, aiming to discredit him and create a public perception that he is not among those public officials entitled to publicly express an opinion. This has been achieved by continually diminishing the importance of his statements and intentionally misrepresenting his views.

During the reference period covered by the study, the Prime Minister made at least 4 public statements targeting the courts or judges that clearly undermine the independence of the judiciary and the authority of courts. A number of opinions expressed by the Prosecutor-General Sotir Tsatsarov and SJC members to the same effect have also been examined. This, together with the multiple attacks by representatives of other institutions and public figures — a fact compounded by the limited possibilities available to a judge to protect their reputation — warrants the conclusion that courts are often an easy target of malicious attacks.

A further cause for concern is that on many occasions SJC members have also openly criticised certain courts and expressed opinions in direct contravention of the constitutional duty of that body to protect the independence of the judiciary and enhance its authority and reputation.

The origin and escalating frequency and intensity of attacks against judges follow an established model: the attacks target opinions expressed on current developments in the public domain and/or argued positions aiming to protect the judiciary. However, an attack they may equally be prompted by statements and demands put forward by courts that the powers that be find 'disagreeable'. The conducted analysis shows that the apparent goal pursued is to silence dissenting voices or misrepresent the demands of courts as unrealistic, unreasonable from both a legal and practical standpoint and seeking to achieve unlawful aims.

During the period covered by the study a trend was observed where representatives of public institutions and non-governmental organisation coordinate the filing of complaints against judges while simultaneously announcing these in public via the media. Some of these statements unambiguously allege ethical breaches and criminal offences while others call for the resignation, removal or impeachment of particular judges.

At least three purportedly anonymous protests against judges been organised, more specifically targeting the President of the Supreme Court of Cassation, during which demands echoing those voiced in the public statements attacking judges were made. More specifically, during the reference period there were two distinct attacks against Lozan Panov, accompanied by anonymous posters being displayed at prominent locations in Sofia, which depicted him as a puppet masterminded by and serving the interests of prominent businessmen (some of whom indicted or defending themselves in trials on trumped up charges).

EXAMPLE:

- On 27 April 2017, a meeting of the SJC was in progress, when a group of young people wearing clown masks appeared in front of the building of the Council, holding blood-covered skinned lambs' heads in their hands (the media PIK, BLITZ, Telegraph, Monitor and Trud often use 'Lambs' Heads' when collectively referring to a group that includes the President of the Supreme Court of Cassation, several politicians, businessmen, etc. — Author's Note).

The monitoring study has registered several cases in which public institutions (the SJC or the Inspection Service under its jurisdiction) would target a certain judge or court for no apparent reason (in that no such special attention is given to other courts or judges), typically in the form of

multiple and extended inspections and audits. The latter usually chronologically coincide or follow soon after a court or the judges from that court publish a position or make a statement, which the powers that be perceive as critical.

REPORTING ON CURRENT AFFAIRS AND EDITORIAL POLICY OF THE MEDIA WITHIN THE SCOPE OF THE STUDY

The analysis of the attacks against courts in the media warrant several conclusions. Firstly, some media have taken a wholly uncritical line towards attacks against courts, judges and their professional organisations by the representatives of public institutions. The daily newspapers *24 Chasa* and *Standard* have consistently refused to publish materials that uphold and safeguard the independence of the judiciary. The two media generally publish materials that can be described as information updates. They also regularly publish statements made by public officials that essentially represent attacks against courts, rarely giving the opportunity to those affected to set the record straight. Their reporting has a strong bias towards the positions and opinions expressed by government officials and other public figures with pro-government leanings.

Our analysis shows that in reporting on current affairs and developments in the judiciary, the newspapers and news outlets *Trud*, *Monitor*, *Telegraph*, *PIK* and *BLITZ* are heavily biased against courts in an attempt to build a reputation for being strongly critical of their work. These are also the media that frequently and uncritically interview and liberally quote from the statements made by all public figures that make negative statements about courts, judges and their professional organisations. Our study shows that the newspapers and news outlets in question have published the greatest number of materials containing attacks against the courts, including in terms of the numbers of interviews given to journalists working for them and number of citations from interviews published in other media. No attempt is made to ensure a balance of opinion because the positions of those criticising courts with malicious intent far exceed the publications dedicated to the position of the affected parties.

The cited newspapers and news outlets are not only the most frequently used platform for launching attacks against courts but invariably enjoy strong and unconditional support. The representatives of the public institutions who express critical opinions and positions against courts and judges are always presented in a positive light and actively encouraged. Among these are the Prime Minister, the President of the Republic, the Prosecutor-General, certain members of the SJC and Members of Parliament. At the other extreme, the judges targeted by the attacks are denigrated, often insulted and presented as arrogant, unscrupulous, corrupt, biased and dependent. In connection with this, the media in question actively seek substitute 'scandals', giving the floor to a host of commentators with an ostensibly 'critical' stance toward courts.

Most materials published as information updates are used as a means of diminishing the importance of courts and the positions expressed by individual judges, often relying on lurid and defamatory allegations that are entirely unfounded. The scandals that erupted during the period

were either not reported in the media in question or, when reported, the public figures for which the newspapers and news outlets had a strong preference were presented as the 'victims' of an attack by the court.

The study has shown that the daily newspaper *Sega* and *Praven Svyat* (it should be noted that on 30 August 2017 the ownership of *Praven Svyat* changed hands, its editorial policy following suit to match the publications that appeared on a regular basis in ***Trud, Monitor, Telegraph, PIK and BLITZ — Author's note***), *DeFacto*, *Mediapool*, *ClubZ* and *Dnevnik* provided consistently balanced coverage and the statements made by public figures were critically examined. The commentaries published in the media in question focused on exploring the underlying reasons for events and recalling key developments the reader needs to keep in mind to be able to correctly understand and appraise the situation. They further took a critical view of the attacks against individual judges, published analyses providing an interpretation of the events and disproving false allegations. Overall, they provide an objective appraisal and balanced view of events.

This warrants the conclusion that there is a disconcerting trend where a significant number of public figures feel free to make derogatory statements that undermine the authority of courts with unsubstantiated and fabricated allegations or loose interpretation of facts. This serves to create a perception that judges do not have the right to express and publicly defend their opinions and that they should confine themselves to hearing and adjudicating lawsuits without participating in public debate.

MEDIA ATTACKS AGAINST THE COURT

This section contains examples of materials published in the media during the reference period, including examples of insults that harm and erode the reputation of courts, false, biased and defamatory allegations, and rumours and insinuations published about individual judges and their professional organisations. It also contains commentaries, analyses and other materials ostensibly presented as investigative journalism as well as articles published on specific occasions containing a commentary element.

The media monitoring of these phenomena during the reference period has revealed a strongly polluted media environment in which the court, as an institution, as well as specific judges and their professional organisations are continually put under pressure by the media. Attacks in the media are on record against the following judges:

- **15 Supreme Court justices** (Lozan Panov, Pavlina Panova, Borislav Belazelkov, Elena Avdeva, Galina Zaharova, Krasimir Vlahov, Kapka Kostova, Emilia Vasileva, Tanya Mitova, Galina Toneva, Valya Alexieva, Evgeniy Staykov, Vladimir Yordanov, Nikolay Gunchev and Atanaska Disheva);
- **5 Appellate Court justices** (Nelly Kutzkova, Kalin Kalpakchiev, Elizabeth Petrova, Daniela Rosenova and Daniela Vracheva);
- **18 judges from provincial courts** (Kaloyan Topalov, Radostina Danailova, Daniela Borisova, Atanas Atanasov, Miroslava Todorova, Valentin Boykinov, Vesislava Ivanova, Vera Chochkova, Rummyana

Spasova, Hripsime Magardichyan, Angelina Hristova, Mariana Georgieva, Jacqueline Komitova, Ivan Koev, Emil Dechev, Petya Valcheva, Krasimira Milachkova and Nedyalka Nikolova);

- **6 judges from district courts** (Metodi Lalov, Albena Boteva, Petko Petkov, Yana Dimitrova, Valeria Bratoeva and Tanya Marinova).

The conducted analysis shows that the attacks against judges from all levels of the judiciary have been prompted by:

- **their judgments and rulings in pending cases**

One of the most common lines of attack is blaming courts for the absence of convictions in trials on charges of corruption, organised crime and other serious crimes against the person. Judges are accused of bias and conflicts of interest. The allocation of cases to certain benches is interpreted as a sign that the judgment to be delivered is a foregone conclusion.

Various judgments and acts of the court have been interpreted as surprising and incompatible with public expectations, even as an insult to citizens and the victims of committed crimes.

EXAMPLE:

- *On 15 January 2016, the daily Trud ran an article under the heading 'The Court gifts the Petrol chain of filling stations to an offshore company owned by Grisha Ganchev'. According to the publication, in the lawsuit concerning the ownership of the assets of Petrol judge Jacqueline Komitova had delivered a judgment that had manifestly lobbyist consequences;*

- *On the same day, BLITZ carried another article on its website under the heading: 'Judge Jacqueline Komitova from the Sofia City Court gifted Petrol to Grisha Ganchev, despite two distraints levied on the company by the National Revenue Agency!' The published material strongly alleges that 'the behaviour of judge Komitova can probably be attributed to the fact that Grisha Ganchev's lawyers had paid several visits to the office of the new President of the Sofia City Court, Kaloyan Topalov, and had even dropped in on judges and the registrars of several divisions of the court'.*

- *On 30 January 2017, PIK published a commentary, signed by Zvezdomira Mastagarkova, with the following heading: 'JUDICIAL OCTOPUS! The President of the Sofia City Court Kaloyan Topalov is the new political commissary of the defendant Ivo Prokopiev'. The author went on to say that 'several active members of the Bulgarian Judges Association, having grown fat on grant financing, are 'taking the piss', sucking up to private interests better than roadside prostitutes, amply rewarded by generous grants.' The Bulgarian version of Themis has literally been dragged down to the level of a roadside whore, enjoying an orgy orchestrated by the Bulgarian Judges Association, an organisation richly sponsored by grants handed out by the foundation America for Bulgaria, complete with the Head Honcho Lozan Panov in his present role as President of the Supreme Court of Cassation, and his faithful lap dog Kaloyan Topalov, the President of the Sofia City Court. The author then demanded an explanation from the judges for the slow-grinding and 'corrupt' justice system that panders exclusively the interests of failed politicians and oligarchs and entangled in a mesh of despicable schemes, well-padded with millions. According to the commentary, the judge*

owes an explanation to thousands of mothers 'who have been waiting for justice for years on end for their children being either raped or killed in road traffic accidents'.

- **delayed opinions in trials and number of cases heard and disposed of by judges**

Another method involves the use of inaccurate statistical information or information taken out of context to create the impression that certain judges are not performing their judicial duties appropriately. A judge is first targeted and media publications begin to appear, alleging that, by way of example, the judge in question has the lowest number of cases on their calendar in the respective court division. The selective publishing of such statistical data does not derive from a sense of duty to inform the public, in the least because said data is published in an entirely random fashion and typically affects a judge who has recently expressed a public position at odds with the speculations spread via the media or news outlet in question. This conclusion is further supported by the fact that during the reference period no similar publications were found about, for example, the caseload of individual prosecutors, departments of the prosecution service or about the length of pretrial investigations;

EXAMPLES:

- On 8 December 2016, the daily newspaper Trud published an article under the heading 'Saving Judge Miroslava Todorova', which contained a chronological overview of the complaints filed by the Prosecutor-General, Sotir Tsatsarov, alleging that the Sofia City Court and the Sofia Regional Court were delaying trial proceedings and imputing such delays to judge Todorova. The author of the publication openly congratulated the Prosecutor-General for acting in the matter and described judge Todorova as 'an arrogant proponent of judicial reform', an 'accomplished recidivist', and a 'shadowy puppeteer of an association of judges that is beholden to oligarchs and corruption';

- On 9 December 2016, the newspaper continued the attack with an article entitled 'Miroslava Todorova — Cases and Files'. The judge was described as 'the icon of the oligarchy in the realms of Themis'. The article further alleged that she systemically misapplies the Criminal Procedure Code and that she caters to illegitimate shadow interests in the judiciary, relying on full logistical support from the oligarchs Ivo Prokopiev, Ognyan Donev and similar 'grant-fed bludgeons'.

- On 6 December 2016, BLITZ published an article under the heading: 'FIRST IN BLITZ: The SJC to go after the scandalous Miroslava Todorova! The darling judge of the Capital circle is said to have delayed 229 cases!' with the subheading: 'The government of the judiciary voted in favour of instituting disciplinary proceedings with 12 to 1 votes. Only the scandalous Kalpakchiev supported Todorova'. The article published under the alias Ivaylo Krachunov concerned the decision of the SJC to open disciplinary proceedings against judge Todorova and stated that the number of cases she delayed was worth an entry in the Guinness Book of Records.

- **career development**

Information about the career development of judges is misrepresented, alleging that their promotion in the ranks of the judiciary circumvent the rules, depicting it as a 'reward' for judgments delivered or as an 'incentive' for belonging to groups that have a hidden agenda and pursue illegitimate goals. Cases are also on record in which the appointment of judges has been interpreted as nepotism while other judges have been alleged to be enjoying the protection of fellow judges in superior courts. In some cases, there have been insinuations that individual judges are promoted through the ranks on the basis of 'services' rendered and nepotistic affiliations as opposed to the merit of their work.

EXAMPLES:

- On 30 January 2017, BLITZ published an article under the heading: *'Bulgaria Humiliated! The court of the mafia gives Hristo Ivanov a political party instead of putting him on trial'* (written by Ivalylo Krachunov) in which the following commentary was provided in relation to the judgment delivered by judge Romyana Spasova on the registration of the political party 'Da, Bulgaria': *'The green light for registration of the political party was given by the President of the Sofia City Court, Kaloyan Topalov, through judge Romyana Spasova who was seconded from the Sofia District Court to the Sofia City Court by Metodi Lalov who has long been hankering after a political career'*;

- **participation in competitions or elections for the appointment as court president**

Judges enjoying the support of their fellow judges in a court are typically presented as 'our man/woman' or as nominees of professional organisations and informal destructive circles in society, typically in depictions heavily loaded with negative connotations. There is a trend toward the vilification of judges supported by the professional community, including certain cases where the media have drawn foregone conclusions (i.e. prior to the election) that their appointment would 'subjugate' a particular court to factors are detrimental to the judiciary.

EXAMPLES:

- On 15 May 2015, PIK ran an article under the heading: *'EXCLUSIVELY IN PIK!' A satanic conspiracy to annihilate the judiciary uncovered! Featuring — Prokopiev, Hristo Ivanov, Kalin Kalpakchiev. In the article, signed by Danka Radeva, the author alleges that the nomination of justice Nelly Kutzkova for President of the Sofia Appellate Court is part of a conspiracy to appoint the 'right' people at top positions in order destabilize the judiciary'. Dozens of publications followed suit, rehashing the original allegation: 'a judge enjoying financial support from the America for Bulgaria Foundation'... is busily campaigning in an attempt to gain control of the Sofia Appellate Court'. 'Miroslava Todorova and her best pal Nelly Kutzkova remain silent on the point of the Bulgarian Judges Association having landed a fat check of BGN 500 000 from the America for Bulgaria Foundation'. Nelly Kutzkova fights for the office of President of the Sofia Appellate Court as an enraged cobra'*;

- On 12 January 2017, BLITZ ran an article under the heading: *'Metodi Lalov activates the judges that staged a protest blocking the lines of Sofia's tram 22 in a new circus performance to remain at*

the helm of the Sofia District Court' and the subtitle: 'The lambs' heads loudly insist on a new prosecution service instead of serving prison sentences'. The article insinuates that the former President of the Sofia District Court, Metodi Lalov, has started a petition seeking the approval of his fellow judges to be reinstated as President of Sofia's trial court. According to the article 'he had pushed the judge from Razlog, Yana Dimitrova, to the forefront as a backup plan for the coveted appointment'. So far, judge Yana Todorova has failed to earn a reputation as a harsh judge, sentencing robbers, fraudsters and rapists but does have a reputation for Being a prolific poster on Facebook, where she laments and condemns the situation in the judiciary. Further in the article judge Dimitrova has been 'attached' to the entourage of the President of the Supreme Court of Cassation, Lozan Panov, and the President of the Sofia City Court, Kaloyan Topalov, the duo being described as 'spinning, day in day out, a wild web of intrigue against the prosecution service, which stands in their way';

- On 29 January 2017, the daily Trud ran an article with the heading: 'Why did the judges' protest fail?', this time singling out judge Albena Boteva as the new darling of the duo Metodi Lalov—Kaloyan Topalov and painting her as a consensual candidate for the role of interim President of the Sofia District Court, favoured by the current management of the court.

- **election of SJC members**

The nominations put forth by judges in the election for the appointment of new members of the SJC were presented as 'covert' nominations put forth by political party leaders and oligarchic circles. In this context, the articles provided a commentary of judgments delivered by the judges in question, insinuating that they were compromised by undisclosed conflicts of interest.

EXAMPLES:

- On 16 May 2017, the daily Trud carried an article under the heading 'A candidate nominated by the Bulgarian Judges Association campaigns instead of attending to judicial duties', which alleges that 'one of the hidden candidates of the BJA in the forthcoming elections for SJC members is campaigning on social media during working hours.' It is also alleged that Justice Dechev is close to the 'top ranks' of the BJA and 'has repeatedly defended—in the media—the arguments of the politicised organisation, which is at the beck and call of the oligarchy'. In the same article, Justice Dechev was described as 'Kalpakchiev's avatar'.

- On 21 April 2017, the daily Monitor ran an article under the heading 'Hristo Ivanov foments protests again' in which the author alleges that the 'tentacles of the oligarchs in Themis have targeted convenient judges, such as Atanaska Disheva, as potential candidates for SJC members, adding that the judge's husband ran in the general election for the political party Da, Bulgaria in the second place in the list of candidates in Lovech';

- **participation in protests**

The involvement of judges in events calling for a continuation of the judicial reform proclaimed by the government, protesting against the adoption of last-minute proposals, which prevent or obstruct the achievement of the initial declared goals of the legislative process, or insisting that the SJC takes urgent action to enable the continued operation of the Sofia District Court, are invariably interpreted in a strongly negative light by some media. Defending legitimate and worthwhile causes is depicted as political activity on the part of judges, which the law prohibits, allegedly inspired by illegitimate aims, such as putting pressure on the SJC, a conspiracy to take control of the courts, a vendetta against the Prosecution Service, and in particular the Prosecutor-General, or an indication of a judge's intention to pursue a political career.

The media have consistently asserted that the protests are prohibited by law and that judges may 'only speak through their judgments'.

EXAMPLES:

- On 12 December 2016, the daily 24 Chasa published an article under the heading 'What is the true aim of the judges protests ordered by Hristo Ivanov's party?', which alleged that the protest of judges in front of the building of the SJC aimed to yet again focus public attention on the judiciary because 'in the evening' the political party Da, Bulgaria had been established;

- On 15 December 2015, the daily Trud ran an article with the heading 'Strong dependence under the robes of the protest' in which the names of judges who participated in the protest were listed. The article appealed to the SJC to investigate how many of the judgments delivered by the judges in questions ended with acquittals;

- On 14 December 2015 the PIK ran the following story under the heading 'EXCLUSIVELY IN PIK': 'This is how Slavy [Trifonov], the Stanishevs and oligarchs plan to bring down Borisov's government. The pyramid of the coup d'Etat'. In the article, the owner of PIK Nedyalko Nedyalkov alleged that the coup d'Etat was being orchestrated by the 'plasticine' judge Lozan Panov. He added: 'It was particularly funny and absurd scene to behold that evening — Lozan Panov and other judges hugging with the lawyers of Ognyan Donev, currently on trial, encouraging each other to be brave in the coming war with 'Big, bad Tsatsarov', the author wrote. He then concluded that those hell bent on overthrowing the government have 'bought the court' through Lozan Panov and that this was the reason why the indictments against them would probably be quashed in the trials';

- **interpretative rulings**

In certain media, interpretative rulings (and more specifically the work of the Supreme Court of Cassation) is consistently misrepresented. In the first place, it is alleged that instituting proceedings in a case where the court is asked to collectively deliver an interpretative ruling is described as a whim of the President of the court. It is further insinuated that the opinions are written under 'dictation' from the President and the final result is always known in advance. Several articles have

been identified, which tell the story of alleged 'victims' of the interpretative rulings of the Supreme Court of Cassation, which are presented as increasing the suffering of individuals who have typically lost a close relative as a result of crime;

EXAMPLE:

- On 13 January 2017, the news outlet PIK published an interview with Nelly Petrova, a Member Parliament from the ruling party CEDB, who had lost her child (her daughter was overrun by a car at a pedestrian crossing). The interview was occasioned by the delivery of an interpretative ruling and the heading ran 'A mourning mother's victory against the Supreme Court: Pedestrians are not to blame in road traffic accidents on pedestrian crossings' (written by Gergana Ingilizova). Further in the article we read that 'the Supreme Court led by Lozan Panov posthumously fines a dead girl overrun on a pedestrian crossing for failing to correctly determine the speed of the car that killed her';

• **publicly defended positions or acting within the remit of competence of a senior position held**

As noted above, situations where judges are publicly defending a position carry a strong negative connotation. Materials have appeared in the press following the publication by the BJA of positions expressing growing concern for rule of law in Bulgaria, which have been interpreted as attempts to ruin Bulgaria's reputation before the European Commission. Furthermore, the journalistic materials in question, allege that the activity of the professional organisation of judges is a serious violation of the Code of Ethics of Magistrates and call on the SJC to immediately institute disciplinary proceedings against the members of the Managing Board of the largest organisation of magistrates are.

The media within the scope of the monitoring exercise have repeatedly presented specific actions relating to the powers and duties of a judge by law in the same light, reaching identical conclusions.

Secondly, putting forth proposals for deliberation at the meetings of the SJC is also interpreted as undue intervention and an attempt to cause intrigue in respect of certain professional matters, an attempt to subvert the judiciary, a conspiracy against the Prosecutor-General, the Prime Minister and the system of State government in general.

EXAMPLES:

- On 15 December 2015, the daily Trud ran an article under the heading 'Strong dependencies under the robes of protest', ostensibly written by Kaloyan Stoev. According to the article 'in his speech at the Palace of Justice Lozan Panov made a political statement thereby violating the Constitution, disrespecting the separation of powers and, last but not least, the Code of Ethics of Bulgarian magistrates'. The published article described the President of the Supreme Court of Cassation as a 'lackey' who has 'voluntarily placed himself at the beck and call of these failed political mentors and their economic and media circles'. The commentary concludes with the

following: ‘And precisely because the role of the court is to administer justice you, citizen Panov, have shown yourself unworthy of the position of President of the Supreme Court’;

- On 25 April 2017, the same newspapers in a different article concluded that ‘Lozan Panov is putting pressure on court presidents in connection with the forthcoming elections of SJC members’ ostensibly because the Supreme Court President wrote to provincial courts reminding them to hold General Assemblies to discuss and put forth nominations for members of the Supreme Judicial Council;

- On 15 May 2017, the publisher of PIK, Nedyalko Nedyalkov, published a commentary under the heading ‘Top judge exposed as a grass against the Prosecutor-General. Mr. Panov, why are you doing one stupid thing after the other all day long, instead of adjudicating cases?’ The author then alleged that the Supreme Court President has been ‘churning out one false allegation against the Prosecutor-General after the other’;

- **accepting appointments in the executive branch of government**

Some of the media have interpreted past appointments of judges in the executive branch of government as an indication, and sometimes proof, that their impartiality had been compromised. Such interpretations typically insinuate that they are politically dependent, serve partisan interests in their professional capacity as judges and that they cannot be relied on to administer justice independently.

EXAMPLE:

- On 17 December 2015, the PIK published a commentary signed by Ivaylo Krachunov under the heading: ‘America for Bulgaria’ wants to buy the Bulgarian court! A failed candidate for the office of Vice President to run for key appointment in the judiciary. How much longer will we tolerate these shady machinations?’ The article referred to justice Nelly Kutzkova, alleging that ‘the scandalous judge is unperturbed that she will yet again become the laughing stock of all and sundry, but her career ambitions must have recharged the depleted batteries of her soul’. According to the article justice Kutzkova ‘has an insatiable thirst for glory and power’.

- **participation in public discussions of draft legislation**

During the period covered by the monitoring exercise materials were published, which equate the participation of judges and representatives of their professional organisations in discussions relating to the amendments of the Judiciary Act to political activity, calling the judges in question ‘non-governmental players’.

EXAMPLE:

- On 26 July 2016, the daily *Trud* published an article under the heading 'Judicial reform is for genuine jurists and statesmen', which alleges that justice Vesislava Ivanova has become involved in political activity and law making in breach of the Code of Ethics of Magistrates. Her involvement in the discussion of the forthcoming amendments to the JA, the interviews she gave and her involvement in drafting a position on the repression of magistrates in Turkey was presented in a wholly negative context as 'commitments that are typical for politicians or, at the very least, non-governmental agents, but not magistrates who would be much more useful if they attended to their caseload in a timely manner';

• **Membership of professional organisations**

Some media have consistently and intentionally demonized the membership of judges of professional organisations, and in particular membership of the Bulgarian Judges Association. These insinuations first of all affect the implementation of projects by the BJA with international grant financing, which according to the media in question, is at odds with the principle of judicial independence.

Secondly, membership of the BJA is described as a 'ticket to career development' while the organisation is presented as a secret society vying to destabilise the system and the remaining branches of government.

Thirdly, the influence of the Association on developments in the judiciary is exaggerated, insinuating that the organisation is a 'shadow government' and 'centre of parallel power' operating hidden levers to wield influence and determine the agenda of the judiciary.

EXAMPLES:

- On 16 June 2017, the daily *Trud* ran an article under the heading: 'Who is afraid of Tsetska Tsacheva?' with the subheading 'The dependent Lozan Panov has been set the task of undermining judicial reform and ultimately destroying the independence of the prosecution service'. The article was prompted by a petition started by 16 jurists who called for the resignation of the Minister of Justice Tsetska Tsacheva. According to the publication 'we should not harbour any illusions that while Lozan Panov remains in charge rule of law or justice will triumph', allegedly because Panov 'relies on the protection of lawyers who attack his opponents' and on the 'top echelons of the politicized and oligarchic Judges Association' whose attempts to 'gain control of the next SJC' with 'manipulations, insinuations and defamatory statements will soon fail';

- On 24 September 2015, the daily *Trud* carried another article under the heading 'Hunger for power' ostensibly written by Kaloyan Stoev, a nom-de-plume. The article alleges that 'the BJA, being a catapult for economic and political actors hankering after power, will almost certainly succeed in having Borislav Belazelkov or Pavlina Panova confirmed as Constitutional Court justice'.

- On 28 January 2017, the same newspaper published another article under the heading: 'FRAUD OF EPIC PROPORTIONS EXPOSED. PHOROGRAPHs show Hristo Ivanov discussing his strategy with

judges and an EU official'. The same material reprinted photographs published in the Monitor and the Telegraph. The newspaper drew the conclusion that 'the Chairperson of the BJA, Atanas Atanasov, and the Secretary of the Association, Vesislava Ivanova, are discussing with Hristo Ivanov their strategy to gain the upper hand in the judiciary and control of the prosecution service';

- **Financial situation**

Information required to be publicly disclosed and available from a variety of registers, including the declarations disclosing the financial situation of magistrates filed annually with the National Audit Office, have been used to insinuate that certain judges live 'beyond their means' and have acquired assets in an unlawful manner. These insinuations follow the pattern described above — 'inconvenient' judges are targeted (exclusively those consistently defending public positions) and the information disclosed in their financial status declarations is misrepresented, often together with unsubstantiated claims of ownership of significant assets, i.e. property acquired at unrealistically low prices, sudden and inexplicable improvement in their financial situation, information about loans that cannot be repaid from their salaries, etc.

EXAMPLE:

- On 21 February 2016, the daily newspaper Monitor ran an article under the heading 'Hydra's judges own properties worth millions' and the subheading: 'The top judge of the Supreme Court, Lozan Panov, repaid a 270-grand mortgage on an apartment in 4 years'. The article quotes a check in the Property Registry, concluding that 'properties worth millions of Levs in the capital and on the Black Sea coast are owned by judges affiliated with the oligarchic circle Hydra established by the majority shareholder of the failed Corporate Commercial Bank, currently on the run from justice, and the former Prime Minister Ivan Kostov, described as the guru from Dragalevtsi'. The article mentions the names of the President of the Supreme Court, Lozan Panov, Kalin Kalpakchiev, Nelly Kutzkova, Pavlina Panova and Miroslava Todorova;

- **Personal life**

Many published materials aim to destroy the good name and reputation of judges by manifestly false allegations. Some media have run stories grounded entirely in rumours, failing to cite not only credible but, in fact, any sources. The materials in question contain insulting speculations about the sexual orientation of certain judges, extra-marital relationships, child abandonment or frequent travel abroad.

There have also been several cases when the materials have involved the spouse or other relatives of a judge, attempting to raise doubts as to the judge's impartiality in certain cases or questioning their career development.

EXAMPLES:

- On 17 January 2016, the PIK published an article under the heading 'EXPLOSIVE REVEALATIONS in PIK! Who is behind the downfall of judge Vladimira Yaneva? Despicable worms crawl out of the darkest nooks of the Palace of Justice...', again attributing it to the author 'Ivaylo Krachunov'. The

occasion was the judgment delivered by the court of first instance by which the bench presided by judge Ivan Koev sentenced the former President of the Sofia City Court. Untruthfully alleging that the name of the judge who delivered the judgment had failed to be publicly disclosed, the media outlet noted that ‘the soft (in Bulgarian slang—gay. Translator’s note) individual was one of the judges who joined the protest in front of the Palace of Justice’. The author then adds that ‘it is a matter of public record that judge Ivan Koev is gay’ and that he is ‘affiliated with the coterie of the scandalous judge Romyana Chenalova’.

It is especially disconcerting that some of the media published photographs of judges without citing the source (and the date) on which the photographs were taken, also publishing personal correspondence exchanged that could not have been obtained from legitimate sources. This raises reasonable doubts that ‘inconvenient’ judges have been subjected to unlawful surveillance, including the use of wiretaps, and that such material is available to and used arbitrarily by a small number of government bodies. The article alleged that it published the photographs and personal correspondence as ‘evidence’ of earlier defamatory materials arguing from false premises that have already been published in the same media in a concerted attempt to create an impression that judges and political leaders were in cohort, making plans to ‘take over the judiciary’, maintain their grip over the SJC, ‘humiliate’ the prosecution service in front of Bulgaria’s partners in the EU and impeaching the Prosecutor-General;

EXAMPLE:

- On 12 June 2017, the daily Trud ran an article under the heading: ‘Justice Kalpakchiev lies about the ‘our people’ lists’, citing personal correspondence exchanged between judges. The newspaper failed to reveal where and how it obtained the correspondence.

- **violations in the organisation and management of courts**

During the period covered by the study there was a discernible trend of vilifying and alleging abuse of the powers vested in court presidents and their decisions. As noted above, media attention was focused solely on the work of the presidents of those courts about which the media in question published negative materials in a coordinated manner.

EXAMPLES:

- On 16 March 2016, the daily Trud ran an article under the heading: ‘Why Kaloyan Topalov no longer has the high moral ground and right to remain at the help of the Sofia City Court’. The article took cue from an interview given by Judge Topalov, alleging that ‘he sought to be propped up by the obsequious support oligarchic and political circles provided him with against the right fee through which they ensured they had control over the judgments of the key judiciary body’. It was further alleged that this ‘support’ allowed the President of the Supreme Court to carry out an ‘unceremonious purge and reduce staffing policy to nepotistic principles that became known as the ‘Best Men’ group, which has taken over the Sofia City Court’. It was further stated that with his ‘unsubstantiated allegations, Kaloyan Topalov had placed himself in the position of a pub musician playing his trumpet with a 20 EUR note attached to it’;

- On 2 June 2016, the PIK ran an article under the heading: *'AFTER PIK FIRST CARRIED THE STORY! The boss of the Sofia City Court Kaloyan Topalov exposed to have unlawful links to the lawyers in the Naglite trial—he is to be put on trial for posing a threat to national security'*, which insinuated that the President of the SCC was *'one step away from being put on trial for making public classified information relating to wiretaps on foreign embassies used by the Bulgarian security services'*. It was also alleged that Judge Topalov was *'hanging around' lawyers' offices trying in an attempt to prepare his defence*.

The media monitoring clearly shows a strongly negative bias toward one of the professional organisations of judges — the Bulgarian Judges Association (BJA) and its members. The BJA is the oldest and most active professional organisation and its positions defending court independence, the need for continuation of judiciary reform, the organisation and participation in public discussions dedicated to proposed legislative amendments are often strongly critical of the status quo in the system. The Association has often published positions defending individual judges from attacks in the media and from government officials and opinions on contentious decisions of the SJC or failure on its part to act in certain cases. The public criticism of the BJA most often targets the projects implemented by the organisation with grant financing from international foundations and the judges who are members of the Association are often accused of being dependent, biased and being solely interested in foreign grant financing.

The analysis above warrants the general conclusion that most media attacks, including those that are most aggressive, are against the presidents of the Supreme Court of Cassation, the Sofi City Court, the Sofia Regional Court and judges who are members of the Bulgarian Judges Association. The most vilified judge in the press is the President of the Supreme Court of Cassation.

EDITORIAL POLICY OF THE MEDIA INCLUDED IN THE MONITORING STUDY

The media monitoring study has shown that the media publishing the greatest number of speculative information, untruthful allegations and insults are the daily newspapers Trud, Monitor, Telegraph and 24 Chasa, along with the news outlets PIK and BLITZ. The study has further shown that Trud, Monitor, Telegraph, PIK and BLITZ consistently violate journalistic standards when reporting on topics relating to the judiciary. The materials published by the newspapers and news outlets in question contain the greatest number of unverified allegations, insinuations and outright lies, insults and even nicknames (made up by and used exclusively in the media in question) in their depictions of judges. They have also published a significant number of calls for the removal of and *'dealing with'* judges outside the remit of the law.

The results of the study clearly demonstrate that most journalistic materials, including commentaries and analyses have either not been signed by their authors or are signed by pseudonyms. Such materials are routinely based on anonymous sources.

The 5 media identified above publish identical materials, which are then reprinted, particularly in the case of defamatory or *'compromising'* information about the courts printed in the other media

in this group. Furthermore, the media in question use identical wording and phrases, 'borrowing' highlights and continually expanding the range of insults and insinuations used against the targeted judges.

Ordinary and regular events in the judiciary or public positions expressed by court representatives are exaggerated, presented as scandals, immoral, sensational, unacceptable or as violations of the law or a breach of judicial duty. The range of defamatory statements or allegations made against certain judges affects all areas of their professional or public activity and often targets their personal life. One of the most blatant cases in which the media in question used intolerable insinuations against the judges are the attacks against the presidents of the Sofia City Court and the Supreme Court of Cassation who were alleged to have been involved in the suicide of a judge from the Sofia City Court, the media in question going as far as alleging that the two court presidents conspired to cover it up by concealing documents that allegedly implicated them as involved parties.

Another journalistic 'method' the cited media often resort to is the publication of commentaries signed by journalists, editors-in-chief or publishers, which contain a great number of allegations against specific judges and strongly insinuating or openly calling for their resignation or removal.

The analysis clearly shows that the media under discussion publish in indirect threats purporting to 'announce' forthcoming investigations and revelations about allegedly disconcerting 'facts' about the personal life, career development or professional activity of judges.

As noted above, it is particularly disconcerting that private correspondence between judges and photographs of judges are published (without indicating the source of the information), which points to unlawful surveillance and a brutal violation of personal privacy. Furthermore, in one of the cases the publication was used as an attempt to put pressure on a member of the disciplinary panel of the SJC to recuse himself from instituted proceedings in a case.

During the period covered by the study some of the media ran articles, which publicly announced that complaints were to be filed against a judge and that a swift and decisive response was expected from the competent institutions (the SJC, the Inspection Service under the SJC and the prosecution service).

It should also be noted that the media in question never sought the opinion of the party affected by the publication. Insofar as the opinion of affected judges has been quoted, this has been done in order to diminish and ridicule the statements made with utter disregard for human and professional dignity and often presenting such statements as 'excuses.

In conclusion, the analysis of the results of the monitoring exercise conclusively show that the daily newspapers *Trud*, *Telegraph*, *PIK* and *BLITZ* are involved in a dedicated campaign targeting individual judges with methods that starkly contravene the principles set out in the Code for Ethical Behavior of the Bulgarian Magistrates and serve to overtly put pressure on and denigrate judges.

REASONS FOR AND GENESIS OF THE EMDIAL ATTACKS AGAINST COURTS

The results of the study outline several **trends**, which can be described as a growing threat to court independence.

Firstly, it is clear that the public attacks against the courts, judges and their professional organisations are coordinated by individuals holding positions of power (for example, the President of the Republic, the Prosecutor-General, Members of Parliament and members of the SJC) with the attacks in some of the media under scrutiny. The allegations and assertions made in the statements made by public officials are identical and coordinated with those of media attacks, down to the style and figures of speech used. In some cases, the attacks from public officials result in dozens of journalistic materials being published, which reiterate the allegations in the public statements made. The opposite is also true with published materials containing untruthful and unsubstantiated allegations being given 'clout' in the statements made by public officials in positions of power.

The analysis of the period covered by the study has further identified a causal relationship between particular events and attacks against courts. There are several factors that typically prompt an attack against courts:

- Publicly expressed positions defending court independence in the context of important developments in the judiciary or expressions of concern in connection with scandals that undermine the authority and reputation of the judiciary;
- Judicial activism;
- Actions within the remit of competence of court presidents;
- Proposals made by SJC members for in-depth probes into facts and circumstances relating to scandals involving senior ranking officials in the judiciary, including SJC members.

By way of example, attacks from senior government officials and in the media against the President of the Supreme Court of Cassation were prompted by his emblematic speech on the occasion of the 135th anniversary of the Supreme Court of Cassation at the end of 2015 (until then the dailies *Trud*, *Monitor* and *Telegraph* and the news outlets *PIK* and *BLITZ* published positive materials about Lozan Panov and were waging a media war on those critical of his appointment). These attacks became more intense in January 2015 when at a meeting of the SJC Lozan Panov insisted that an impartial and objective probe into the *Yanevagate* scandal was conducted and publicly disclosed the text message received from the Prime Minister.

A new spate of media attacks against Justice Panov came in November 2016, when he tabled a proposal to the SJC for reopening the probe into the *Yanevagate* scandal. The intensity of these attacks again registered an increase in April, May and June 2017, freshly prompted by the activity of the President of the Supreme Court and members of the SJC who insisted that a probe be launched into the *TSUMgate* scandal and on account of Justice Panov's appeal to the President of

the Republic to set up an independent enquiry committee to appraise the facts of the case. The opinion expressed by the President of the Supreme Court that a Grand National Assembly should be convened to amend the Constitution in order to remove the Prosecution Service from the judiciary similarly unleashed a wave of media attacks.

During the periods in question, the newspapers and media outlets identified above published hundreds of materials tarnishing the reputation of Justice Panov, with *PIK* and *BLITZ* publishing **more than 15 materials** about the President of the Supreme Court **in a single day**.

EXAMPLE:

On 14 January 2016, the President of the Supreme Court of Cassation, Lozan Panov, announced that he had received a text message from the Prime Minister Boyko Borisov, which made it clear that a member of the SJC was reporting the deliberations of the Council to the Prime Minister in real time.

***The same day PIK published 6 materials** mentioning the name of Lozan Panov, including three directly related to the developments that had taken place earlier in the day. The other three articles had the following headings: ‘Lozan Panov Descends to the Level of Nikoleta Lozanova. Hardly Top Judge — More Like Top Gossip, Plus Whether He is a Man Remains an Open Question’; BREAKING NEWS! Blaskov Annihilates Top Judge Lozanov over Text Message Affair! The editor-in-chief of Trud: ‘The whole puny scandal was planned in advance! Lozan Panov is a puppet on strings. New provocations to be expected’; ‘The scandalous President of Bulgaria’s Top Court owns properties worth more than 1 million BGN (documents)’.*

*On 14 January 2016, BLITZ ran **4 materials** about the President of the Supreme Court under the headings: ‘Lozan Panov to be investigated over ties to the banker Tsvetan Vasilev’; ‘Shame on Themis! Is the mafia puppet Lozan Panov (aka the Camorra) in charge so that he ‘dreams up’ moles everywhere?’ ‘Having shouted ‘Enough already!’ we suggest he sets an example and resigns!’; ‘The scandalous Lozan Panov owns properties worth millions—6 apartments in Sofia, land and retail outlets’. ‘The disgraced Supreme Court President abandoned his family and was showering dozens of women with money’; ‘Masks have been removed! Hristo Ivanov announces that the government must fall. After Lozan Panov’s intrigues, the failed former minister crawls out of the woodwork’.*

*On the next day (15 January 2016), PIK published **5 materials** about Lozan Panov under the headings: ‘BREAKING NEWS! Yuliy Moskov says that Lozan Panov behaves like the old gossip down the street. This is intolerable and dangerous for the State. Lozan Panov’s ties to Radan Kanev exposed’; ANOTHER SCANDAL EXPOSED BY PIK! Radan Kanev giving instructions on the continuation of the mutiny against Borisov! Lawyers’ firms pull the strings of judges, Kostov ready to nominate Lozan Panov for President of the Republic after his failed attempt with Radan Kanev, aka Rada Dalbokata (In Bulgarian, this carries a deeply insulting connotation. The male name Radan has been converted to the female equivalent ‘Rada’ and ‘Dalbokata’, an adjective in the feminine, which ordinarily means ‘deep’, here can be loosely translated as ‘Deep-throat Rada’ — Translator’s note); ‘Yane Yanev’s political party with a searing declaration against Lozan Panov’;*

'Monsters from the court mock the memory of the brutally murdered Todor'; 'ENOUGH IS ENOUGH! The house arrest of Ponichkite (Doughnuts—Translator's note) as the summit of judicial political ambition! High time that prisons be populated with judges and oligarchs!'

BLITZ carried **4 articles** with the following headings: 'Exclusively on BLITZ TV: Borisov reveals who sent him the notorious text message! It received it from one of my advisors, and not from a member of the SJC, the Prime Minister said'; 'Bachvarova and Lozan Panov hum to the same tune of *Enough Is Enough* in the run-up to the presidential election (the slogan coined in the 1930s by which the Democrats and Roosevelt won the US Presidential election after failing to have a Democrat elected as President in 30 years)'; 'Judge Jacqueline Komitova of the Sofia City Court gifts the oil company Petrol to Grisha Ganchev, despite two distraints imposed by the National Revenue Agency! Where and how are the President of the Sofia City Court, Kaloyan Topalov, and the recently-hatched President of the Supreme Court of Cassation and shrill protester, Lozan Panov, involved?'; 'Is this the judiciary of the new 'reformists' who pander to the whims of the oligarchs Ganchev, Prokopiev and Donev?'; 'National Disgrace for Themis and the gallows for the judges who released the Vratsa killers from pretrial detention! The true killer of Todor is the rotten Bulgarian judiciary. Street justice claims another victim while the two killers are released under house arrest'.

This conclusion applies equally to all other judges who became the target of media attacks (Kaloyan Topalov, Metodi Lalov, Nelly Kutzkova and Miroslava Todorova, among others) inasmuch as the materials published contain untruthful allegations or other defamatory assertions about more than one judge.

In contrast to the ferocity displayed by the media subjecting the positions expressed by courts and judges to biased criticism, the opposite approach was taken as regards the authority and reputation of public officials implicated in the scandals outlined above. The monitoring study clearly shows that the newspapers and media outlets in question evenly openly support and encourage the public officials attacking courts, respectively insinuate that the victims of those attacks brought them onto themselves and deserve them.

Here, we should also mention yet another causal link that clearly demonstrates the mechanism that prompts the attacks in the cited media. There have been a number of cases in which institutional reactions have prompted the publication of series of materials containing attacks targeting specific judges or even entire courts.

Last but not least, this warrants the conclusion that the 'scandals' fabricated by the above media, which allegedly implicate judges or the court as an institution, serve to distract attention from other genuinely disconcerting developments that require in-depth investigation and analysis. The monitoring study of the selected newspapers and media outlets further clearly demonstrates that this fabricated and exaggerated sensationalist reporting fully overlaps with the times when 'inconvenient' facts or doubts of unlawful acts or abuse of power on the part of senior government officials and functionaries (such as the Prime Minister, the Prosecutor-General and SJC members) became public knowledge. They have created an artificial media 'noise', which serves to cover up

and diminish the importance of the scandals that truly jeopardise the independence of the judiciary or undermine its authority and reputation.

CONCLUSION

The Bulgarian judiciary is subject to aggressive attacks on a daily basis that jeopardise its authority and undermine its independence. During the period under review representatives of the three branches of government, certain political figures, representatives of non-governmental organisations and journalists have endeavoured to create a distorted and biased public image, fostering a strongly negative public image of courts and judges. It would hardly be an exaggeration to say that the court—as an institution—as well as judges and their professional organisations have been subjected to crossfire while the SJC, the body which by Constitution is called upon to protect the independence of the judiciary, has remained inexplicably passive. Furthermore, its members, acting in direct contravention of their duties, contributed to the attacks that have harmed the reputation of courts. The attacks from representatives of the SJC appear to be in full synchrony with the speculative and libellous statements made by political party leaders and functionaries and warrant the reasonable conclusion that the SJC, in its current composition, is failing in the performance of one of its essential functions—to protect the authority and good name of the judiciary.

The number of the attacks against courts, their authors, the coordinated fire against individual judges who express positions that differ from those of government officials show that in Bulgaria a war is being waged, both openly and in an underhand manner, against court independence. This offensive aims to create a distorted image of courts and their place in the democratic structure of government while fostering hatred for the judiciary. It is greatly disconcerting that the mouthpieces in this march against courts include some of the most senior government officials—the Prime Minister, Cabinet members, Members of Parliament, the President, the Prosecutor-General as well members of the Supreme Judicial Council. This fact alone attests to the lack of will to strengthen and promote court independence as the only safeguard for citizens' rights, clearly demonstrating the exact opposite — an open desire to put courts fully under the political control of the powers that be.

The judges targeted by this malicious campaign are not arbitrarily selected — they are those who choose to openly protect court independence and advocate for unpopular measures to be taken in order to ensure meaningful and significant progress in judicial reform and making open critical statements against deficiencies in the system in place. These are the opinion leaders among judges and active professional organisations convinced that courts should not only speak through their judgments but should be actively involved in matters relating to the judiciary and, on a broader scale, society as a whole.

The natural conclusion is that attacks against them must be construed as a dedicated attempt to silence the voice of courts, creating a public perception that the institution must remain passive and voiceless. Concerted attempts are being made to eliminate opposition against the perception that the judiciary must remain outside public debate, which is highly detrimental to society, refraining from expressing positions even on matters relating to its governance instead of requiring transparency, continuity and sustainability of reform.

The public attacks against courts are only one of the instruments used to silence dissenters. This goal is also pursued by the whole range of instruments available to public institutions. The judges who voice opinions in the public debate are subjected to multiple disciplinary proceedings and inspections that often violate the standards and practices established by the SJC and the Inspection Service under the jurisdiction of that body in stark contrast to the deafening silence and passivity of the two bodies in cases when reasonable doubts have emerged as to the work of certain judges and judiciary bodies.

Some media have been willingly complicit in this campaign. Without making an attempt to disguise their support and approval for the attacks against courts, they systematically amplify them in the public domain, expanding on the original allegations in some cases. In addition to being an uncritical conduit for arbitrary and untruthful allegations and conclusions, the media in question have fabricated and orchestrated some of the most insulting and merciless attacks. It would not be an exaggeration to say that the media have forgotten their true calling, becoming a weapon in the hands of those waging a war on independent courts and a source of unstoppable propaganda that cannot be drowned out. This is highly dangerous because it undermines trust in courts and thus democratic standards and values and the rule of law, enabling phenomena such as 'taking justice in one's own hands'. There are indications that other bodies have been prompted to begin investigations against them by way of intimidation, such as the National Criminal Investigation Service, the National Revenue Agency, etc.

This is the reason why in its latest report on Bulgaria under the Mechanism for Cooperation and Verification the European Commission took the unprecedented step of discussing the media environment in Bulgaria. The Commission has expressly noted that: *'The media environment has a specific significance for judicial independence, with targeted attacks on judges in some media connected to non-transparent interests, and with difficulties in finding effective redress. The Supreme Judicial Council has a key role to play in defending the judiciary and the principle of judicial independence against such attacks'*¹.

The media placed under scrutiny in the study engender hatred for courts, singling it out as the sole culprit for lawlessness in society thus also indirectly blaming it for the low standard of living. Society is particularly prone to absorbing such interpretations because of the specificity of the judiciary and a generally weak democratic reflex. Thus, lacking in knowledge and skill to oppose this trend and continually prompted by authoritative public figures, including the media, society is easily misled into blaming and condemning courts.

¹ Page 3 https://ec.europa.eu/info/sites/info/files/progress-report-bulgaria-com-2018-850_en.pdf

Public opinion is being groomed by spreading insinuations and allegations that courts are intransigent, untouchable, nepotistic and lacking in empathy for the victims of corruption. In the media, the court is not presented as an impartial arbiter but a body whose sole duty is to rubber stamp by way of convictions the charges brought by the prosecution service in cases when they are made public knowledge. Any acquittal delivered by courts in such circumstances is described as unacceptable and highly dubious. This obliterates the presumption of innocence in the media, opening the doors widely to the phenomenon of 'trial by media'.

The full coordination between the attacks on the part of public officials and media attacks against courts is clearly discernible. The publications reviewed reveal a striking synchrony between the statements made by public officials and critical and unsubstantiated allegations against judges published in the media. The published materials essentially reiterate, and in some cases build on, the allegations made by public figures, the latter also sometimes taking cue from such publications and using them as a weapon, despite the total lack of substantiating evidence. On the one hand, this warrants the conclusion that a central source from which the attacks originate exists that pursues aims that are wholly illegitimate.

On the other hand, the failure of the media to counter and temper such allegations amplifies them, further fuelling negative attitudes towards the court. The protection of court independence and the attempts to introduce a democratic standard for dialogue between the different branches of government is becoming increasingly difficult and requires a level of effort that most judges are unable to match.

The court is thus forced in a situation of perimeter defence when it comes to fundamental democratic principles, depriving it of the role of a factor for meaningful continuation of the efforts to reform the system and a driving force for progress in public affairs.

BIBLIOGRAPHICAL NOTES ON THE JUDGES MENTIONED IN THE STUDY

Justice Lozan Panov, President of the Supreme Court of Cassation and former President of the Sofia Administrative Court. During his term as President of the Supreme Court he has repeatedly spoken in public in support of the need for continued reform and amendments to the legislation governing the judiciary, candidly voicing opinions on a number of scandalous developments in the judiciary, including controversies in which the Prime Minister, the Prosecutor-General and SJC members are directly implicated.

Justice Nelly Kutzkova, former Chair of the Bulgarian Judges Association, former member of the Supreme Judicial Council, currently a judge at the Sofia Appellate Court. Justice Kutzkova is a strong proponent of court independence unafraid to voice her positions in public.

Justice Kalin Kalpakchiev — former member of the SJC, member of the BJA, judge at the Sofia Appellate Court, known as a strong proponent of judicial independence.

Judge Miroslava Todorova — former speaker of the BJA, judge at the Sofia City Court. Dismissed on disciplinary grounds by the SJC (and subsequently reinstated by the Supreme Administrative Court) on account of openly defending judicial independence. Judge Todorova subsequently files a lawsuit for libel against the former Minister of Home Affairs, Tsvetan Tsvetanov.

Judge Atanas Atanasov — member and former Chair of the Bulgarian Judges Association, judge at the Sofia City Court, a strong proponent and a public voice defending court independence.

Justice Vesislava Ivanova—former Executive Secretary of the Bulgarian Judges Association, judge at the Sofia Appellate Court, known as a strong proponent and a public voice defending court independence;

Judge Kaloyan Topalov — former President of the Sofia City Court. In the latter capacity, he made public a number of offences committed by the previous management of the court, which had enjoyed the blessing and protection of the Supreme Judicial Council for many years.

Judge Metodi Lalov — former President of the Sofia District Court. In this capacity, he repeatedly called on the SJC to take measures to alleviate the enormous workload of the judges of that court and address the problem of the poor conditions in the building used by the court.

Some of the other judges mentioned are also members of the Bulgarian Judges Association or have a reputation of being excellent professionals.