

TO
THE PLENARY OF
THE SUPREME JUDICIAL COUNCIL

THE PROSECUTORIAL CHAMBER OF THE
THE SUPREME JUDICIAL COUNCIL

Regarding the position of Borislav Sarafov, deputy general prosecutor and director of the National Investigation Agency

DEAR HONORABLE MEMBERS OF THE SUPREME JUDICIAL COUNCIL,

On the 8th of May this year the Bulgarian telegraph agency issued Borislav Sarafov's statement, deputy general prosecutor and director of the National Investigation Agency, which states the following: "*Meanwhile, I would like to state clearly that both I and the majority of my colleagues believe that the prosecutor's office should leave the political terrain, where it has gone deep and return to its traditional milieu - in defence of justice only within its institutional powers.*" Mr. Sarafov's statement about the political activism of the Prosecutor's office in Bulgaria has been shared by the Bulgarian civil society for years.

However, such allegation that the independence of the judiciary has been violated, that the principle of separation of powers has been violated and that the rule of law has been undermined made by such a high-ranking magistrate is unprecedented.

In the quoted position, Mr. Sarafov presents concrete evidence of direct interference of the Prosecutor General Ivan Geshev in the investigation of the alleged attempt of assault against himself. According to the statement, the Prosecutor General ordered to provide access to the scene to an unknown foreign person - an expert on counter-terrorism, brought by Sarafov's deputy Yassen Todorov. This order was complied with by the officials present at the scene. Later on the Prosecutor General publicly reveals that the same expert has shared information with him about what had been found at the scene.

According to the Constitution and the Judiciary Act, the Supreme Judicial Council ensures and defends the independence of the judiciary. As representatives of civil society organisations, we believe that the Plenary of the Supreme Judicial Council should convene an extraordinary meeting to consider Mr. Sarafov's position and to discuss in detail the reasons for his observation that the independence of the prosecution and the judiciary has been violated. The Supreme Judicial Council should fulfil its legal obligations and provide an institutional response to the issues raised in the position.

The Prosecutorial Chamber of the SJC should immediately address a throughout clarification of this case. It is well known that the Prosecutor General neither has the power to give instructions on specific investigations, nor can he order what persons are to be granted or refused access to a crime scene. The case is even more worrying because of the fact that, in a pre-trial investigation regarding an alleged assassination attempt against himself, the Prosecutor General has an apparent conflict of interests and should, on even more grounds, stay as far as possible from the investigation so as not to influence its objectivity.

In addition, the Prosecutorial Chamber of the Council should also address the reason why this instruction, presumably given verbally and lacking any legal justification was carried out by the officials conducting the procedural-investigative action.

We consider that specific evidence of both abuse of power and misconduct in office has been put forward.

Thus, an adequate response should be given to public expectations for rule of law and good governance, and against the capture of institutions.

Sofia, May 10 2023

Anti-Corruption Fund

Bulgarian Helsinki Committee

Bulgarian Institute of Legal Initiatives

Bulgarian Lawyers for Human Rights

Institute for Market Economy