

# REPORT ON THE IMPLEMENTATION OF THE UPDATED STRATEGY TO CONTINUE THE REFORM OF THE JUDICIAL SYSTEM

2016

## STRATEGIC OBJECTIVE 1: GUARANTEEING THE INDEPENDENCE OF THE COURT AND THE OTHER JUDICIAL AUTHORITIES THROUGH EFFECTIVE MEASURES AGAINST CORRUPTION, POLITICAL AND ECONOMIC PRESSURE AND OTHER DEPENDENCES

### Specific objective 1:

#### Overcoming the institutional reasons for undue influence on and through the Supreme Judicial Council

**Measure 1.1.1** *Restructuring the Supreme Judicial Council (SJC) in such a manner that the decisions on career and disciplinary matters concerning judges be taken by a college including a majority of judges, elected by judges, and such decisions concerning prosecutors and investigating magistrates be taken by a college of prosecutors and investigating magistrates.*

According to the constitutional amendments of December 2015, and the two packs of amendments to the Judicial System Act (JSA) in 2016, SJC is divided into two colleges – judicial and prosecutor’s, exercising self-governing and disciplinary powers over judges and prosecutors and investigating magistrates. The Judges’ College and Prosecutors’ College will make their own decisions about appointment, career development, appraisals, disciplinary sanctions, demotion and dismissal of magistrates.

On 14 April 2016, SJC adopted criteria for the allocation of its members elected by parliament to the judicial and prosecutors’ colleges. The composition of the judicial and prosecutors’ colleges is constituted based on the allocation.

On 16.06.2016 Rules for organization of the SJC’s activities and its administration were adopted, in accordance with the new constitutional and legal provisions. On 07.06.2016, Rules for the work of the SJC Judges` College were adopted and on 15.06.2016 the Rules for the work of the SJC Prosecutor’s College were adopted. The Internal Rules are posted on the ISJC website.

**Measure 1.1.2** *Direct election of the members of the professional quota in the SJC, held at the respective general assemblies with guaranteed secrecy of the ballot.*

With the amendments to the CRB and JSA, the members of SJC from the professional quota are elected directly from the relevant General Assembly. The SJC’s prosecutor’s college includes four members elected directly by the prosecutors and one of the investigating magistrates, and in the judges` college 6 elected by the judges. Elections are held by secret ballot on the spot – with a paper ballot or electronic remote voting. In July 2016, SJC adopted Election Rules for SJC members by judges, prosecutors and investigating magistrates. In November 2016 a test vote was conducted with the system for electronic remote voting. After the test analysis, the Rules were amended and supplemented.

**Measure 1.1.3** *Improving the accountability of the members of the SJC from the professional quota and increasing the involvement of higher number of magistrates in*

***the work of the SJC by adopting a model of a SJC, in which the Council works in sessions, assisted by standing commissions, composed of magistrates seconded for this purpose.***

With the amendments to the CRB and the JSA of 2016, SJC is divided into a Plenum consisting of all members of the SJC and two colleges – judicial and prosecutors’, who are assisted by permanent and temporary committees in their work. In 2016, the Plenum of the Supreme Judicial Council appointed the Standing Committees of the Plenum with equal representation by the judges` and prosecutor`s college.

Five Standing Committees have been constituted to the Judges` College – the Appraisal and Competition Committee (ACC), Professional Ethics Committee (PEC), Committee for Disciplinary Activity and Interaction with the Inspectorate at the SJC, Judicial Administration Committee and Committee on Judicial Card, workload and judicial statistics”. Three committees have been set up at the Prosecutor`s College – Appraisal and Competition Committee, Professional Ethics Committee and the Committee for Disciplinary Activity and Interaction with the Inspectorate at the Supreme Judicial Council. Members of the ACC are both representatives of the SJC and active magistrates elected by the General Assemblies of the Supreme Administrative Prosecutor`s Office (SAPO); Supreme Prosecutor`s Office of Cassation (SPOC) and the National Investigation Service (NIS) for prosecutors and investigating magistrates, and for the judges respectively by the General Assembly of the Supreme Court of Cassation and the SAC.

**Measure 1.1.4** *Development of effective statutory and organisational guarantees for transparency of the process of nomination and election of the SJC parliamentary quota and its public nature. The process will guarantee that the elected individuals will have high authority and they will be widely supported by the professional community, to which they belong.*

According to the changes in the CRB, the election of the parliamentary quota in the SJC is made by a majority of 2/3 of all MPs. The National Assembly elects eleven members of the Supreme Judicial Council, of which six – for the judges` college and five – for the prosecutor`s college. Elections by colleges are made between judges, prosecutors, investigating magistrates, legal scholars, attorney-at-law and other lawyers with high professional and moral attributes, according to their professional qualifications and direction.

JSA contains regulatory safeguards for the transparency of the nomination and election process of the parliamentary quota in the SJC and its public character by ensuring the publicity of nominees and nominees of information from expressed positions of professional, academic and other organizations. Nominations, concepts and declarations of the nominees, opinions and questions of NGOs, higher schools and scientific organizations are published on the National Assembly website.

**Measure 1.1.5** *A public discussion of the need of other changes in the SJC model, including on:*

- *the public mechanisms of control over the parliamentary quota and the need to reduce its size so as not to pose a risk of dominating over the professional quota;*
- *mechanisms for exercising control by the magistrate community over the members of the SJC from the professional quota;*
- *changes in the status of the presidents of the Supreme Court of Cassation (SCC), the Supreme Administrative Court (SAC) and the Prosecutor General.*

There was a wide public discussion on the two packs of amendments to the JSA in 2016 at meetings of several sessions of the Council on implementation of the Updated Strategy to Continue the Reform of the Judicial System. The discussion was attended by representatives of the judicial and executive authorities, other institutions, representatives of associations of judges, prosecutors, court clerks, representatives of NGOs and the academic community. The

chairperson of the Committee on Legal Affairs of the National Assembly and representatives of the parliamentary groups took part in the discussions on the amendments to the JSA.

Amendments to the JSA introduced additional requirements for candidates for the chair of the Supreme Court of Cassation, chairman of the Supreme Administrative Court and Prosecutor General. Their ability to adhere to and enforce a high ethical standard must be checked; existence of high professional competence, which includes the possession of in-depth knowledge in the field of law, extensive practical experience in the relevant field of law, management and administrative skills, prominent analytical capabilities. Individuals must have demonstrated prominent independence, willingness to impose lawfulness, determination in the performance of their official duties and contributing to the rule of law, and have developed skills for teamwork, motivating colleagues, seeking and taking responsibility.

**Measure 1.1.6** *Annual preparation and discussion of reports on the independence of the judiciary. Formulating measures on the problems detected by the institutions in charge.*

According to Art. 30, para. 2, item 12 of the JSA, SJC prepares and publishes an annual report on the independence and transparency of the activities of the bodies of the judiciary and on its own activities, which it provides for public discussion.

A project proposal “Effective Access to Justice” was submitted for funding under the Operational Programme “Good Governance” (OPGG), which is at evaluation stage. It aims to improve access to justice by assessing the efficiency and independence of the judicial system, creating a model for access to justice and effectively assessing the implementation of the Civil Procedure Code, Criminal Procedure Code and the Administrative Procedure Code, including in terms of access to justice. The project envisages the development of a questionnaire for assessment and analysis of the independence of the judiciary in two parts – for magistrates, as self-assessment and for persons outside the judicial system – legal professionals and citizens; developing a methodology for analysing the factors leading to dependence of the judiciary. A report on the quality and adequacy of the studies on the independence of the judiciary is planned. The project aims to increase the accountability and transparency of the SJC and credibility of the judiciary.

## **Specific objective 2:**

**Judges’ self-governance as an effective means to limit the possibilities for administrative forms of influence on the independence of the court and increasing the responsibility and efficiency of courts’ administration**

**Measure 1.2.1** *Broadening the powers of judges’ general assemblies in the process of administrating the courts and nominating and/or electing the presidents, vice presidents and heads of division.*

**Measure 1.2.2.** *Effective affirmation of the status of court presidents respecting the principle of “first among equals” by enlisting judges in the exercise of the presidents’ organisational powers.*

The amendments to the JSA in 2016 extend the powers of the general assemblies of judges, with the possibility for making proposals for the appointment of a chairman of the respective court. The general assemblies have the right to hear all candidates and express an opinion on the applications; to determine the number and composition of departments and their specialization in matter; to discuss and accept the Chairman’s report on the work of the court; to give opinions on requests for the adoption of interpretative decisions and interpretative decrees concerning the activities of the respective courts; to adopt rules for determining the workload of the chairman of the court, his deputies, chairs of sections, if any, of the judges, etc.

**Measure 1.2.3** *Direct election, by the general assemblies of each of the magisterial professions, of the personal complement of the standing commissions at the SJC and the commissions for conduct of the competitions for transfer and promotion.*

Section I (a) of the JSA provides for the direct election of SJC members from the general assemblies of judges, prosecutors and investigating magistrates. The SJC, upon proposal from the relevant colleges and after discussion with the judiciary authorities, adopts election rules, which it publishes on its website.

The activities of the judiciary and the prosecutor's office are assisted by standing committees, such as the number of members, composition, powers and rules governing their activities are determined by the relevant college. The Appraisal and Competition Committee (ACC) includes members of the College as well as elected members of acting magistrates. Administrative heads and their deputies may not be members of committees (Article 37, paragraphs 3 and 4 of the JSA).

**Measure 1.2.4** *Inclusion in the annual reports of judges, adopted by the judges' general assembly, of a special section on court independence, analysing and commenting all cases of attempts to exert influence on the court, the recusals made, the alerts submitted and the results of the regular or unscheduled inspections carried out, including by the Inspectorate with the SJC. The measure will be analogically implemented in regards to the Prosecutor's Office and the National Investigation Service.*

The annual reports of the bodies of the judiciary contain information on the measures taken on established problems related to the independence of the judiciary.

### **Specific objective 3:**

#### **Systematic policy for prevention of corruption in the judiciary**

**Measure 1.3.1** *An integrated policy for the prevention of conflict of interest and corruption within the judiciary and reevaluation of the current legislative framework. Electronic registers for declaring an extended range of circumstances, including cohabitation and involvement in organizations without public purpose, etc.*

**Measure 1.3.2** *Setting up an Integrity Auxiliary Unit with the SJC Ethics Commission, entrusted with periodic checks, according to an approved methodology, of magistrates and the court administration for the existence of pro-corruption factors.*

With the changes in CRB and JSA ISJC shall be instructed to perform checks on the integrity and conflict of interest of judges, prosecutors and investigating magistrates, their property declarations and to identify actions that undermine the prestige of the judiciary and violate the independence of judges, prosecutors and investigating magistrates.

**Measure 1.3.3** *Introducing mechanisms for effective application of judicial ethics rules by judges, prosecutors and investigating magistrates and on the part of the SJC.*

According to Art. 39b of the JSA Professional Ethics Committees in the courts, prosecutor's offices and the National Investigation Service shall assist the respective Professional Ethics Committee at the Judges' and Prosecutors' Colleges by giving an opinion on the moral qualities of judges, prosecutors and investigating magistrates from the respective court, prosecutor's office, investigative department or National Investigation Service.

The Professional Ethics Committees carry out their work on the implementation of the Code of Ethics for Bulgarian Magistrates in accordance with the rules of their organization and activity adopted by the college of judges and prosecutors to the SJC respectively.

**Measure 1.3.4** *Introducing mechanisms for celerity, objectivity and accountability in the investigations conducted against magistrates, as well as providing effective guarantees that the investigations are not used with the purpose to make the subjects*

*dependent. Also the introduction of reports from the Prosecutor General to the SJC on six months basis in regards to such type of investigations.*

**Measure 1.3.5** *Eliminating administrative discretion in determining supplementary financial incentives in the magistrates' remunerations.*

Project "Improvement of Procedures for Attestation and Improvement of Disciplinary Practice in the Judiciary" was approved under the OPGG, aimed at implementing the measures related to motivation and self-evaluation of magistrates, remuneration formation and additional benefits and conducting of disciplinary proceedings. An integral part of the process is also the creation of an effective model for the formation of remuneration and additional benefits of magistrates, setting objective rules and stability and predictability in their formation.

**Measure 1.3.6** *Imposing restrictions on the secondment of magistrates.*

According to Art. 227 JSA a judge, prosecutor or investigating magistrate may be seconded as necessary for up to 12 months with his prior written consent. In exceptional cases, he may be seconded without his consent for a period of up to three months. He may not be reassigned to the same body of the judiciary.

**Measure 1.3.7** *Elaborating a standard for security of the information technologies used in the judiciary.*

Art. 360c of the JSA introduces an obligation for the SJC to establish and maintain a unified e-Justice portal. The SJC has developed a project proposal for funding under the OPGG, which is approved and provides for the development and implementation of a unified e-Justice portal in stages. It is envisaged that the electronic portal will enable: requesting certification statements in electronic form; carrying out procedural actions in electronic form; serving of messages and summons; access to electronic files and public registers maintained by the judiciary; free and public access to the protocols and statistics on random selection in the allocation of cases provided by law or other legal act, as well as other information and functionalities.

In March 2016, a pilot test was carried out in six pilot courts – District and Regional Court of Blagoevgrad, District and Regional Court of Smolyan, Sofia Court of Appeal and Supreme Court of Cassation. Information on the case from these courts is available to registered users of the portal who have the right to access it. Information from courts using the case management system ACMS in addition to the pilot ones has been transferred to the unified portal.

Transfer of data was carried out from the district courts in Varna, Pazardzhik and Pleven to the storage of the Unified Judicial E-Portal.

An electronic summoning system is built into the Unified Electronic Portal of the judiciary.

**Measure 1.3.8** *Providing guarantees of security and transparency of the random case allocation process and the appointment of the personal complement of the various court panels.*

SJC reviews information coming from the courts about the use of the new centralized random case allocation system. On 1.04.2016, Rules for Assessing the workload of the Courts came into operation and the Court's Workload Reporting System integrated into the centralized system of random selection of cases was launched. A Mechanism for monitoring the application of the Rules and Nomenclature of statistical codes by type of cases has been established.

On the other hand, the amendments to JSA of 2016 introduced an obligation to ensure free and public access to protocols and statistics on random selection in case allocation.

In March 2016, the ISJC adopted a new Methodology for conducting inspections in the judiciary bodies by Inspectorate teams, including the mandatory actions in complex planning checks in the judiciary bodies, investigating compliance with the principle of random selection of cases and files. The ISJC must check if there are established rules for the allocation of cases on the principle of random selection, whether orders are issued to insure the compliance with Art. 9 JSA, who actually makes the electronic distribution, does the order of the electronic distribution is observed.

**Measure 1.3.9**      *Building capacity of the Inspectorate with the Supreme Judicial Council (ISJC) to watch for systemic pro-corruption factors in the work of the judicial authorities.*

The funds needed to provide new posts for ISJC staff are foreseen in the budget of the Inspectorate for 2017. The Chief Inspector has approved a change in the establishment plan, consisting in the opening of 13 new posts for experts. The competition announced at the end of 2016 for the appointment of 8 experts with legal education and 5 experts with economic education is completed. In the beginning of 2017, all experts were appointed.

In December 2016, a Regulation was adopted on the organization of the activities of the ISJC and on the activities of the administration and experts.

The ISJC, in partnership with the SJC, has applied within the framework of the Operational Programme “Good Governance” with a project proposal “Provision of software and methodological support and administrative capacity building of the ISJC for the prevention of corruption in the judiciary”. It was submitted at the end of December 2016 and includes activities for building specialized expertise within the ISJC. The aim is to develop a draft of internal rules (methods) on which the ISJC will carry out checks on the property declarations of judges, prosecutors and investigating magistrates, which is necessary for the implementation of the powers of the Inspectorate pursuant to Chapter IX, section Ia of JSA; conducting training for working with new internal rules (methodologies) and working with registers; purchase of computer equipment and other hardware; information and communication activities.

**Measure 1.3.10**      *Preparing annual reports by the SJC on evidence of corruption and evaluation of the effectiveness of the counter-corruption measures and their public discussion.*

**Specific objective 4:  
Strengthening ethical regulation**

**Measure 1.4.1**      *Assessment of the current model regulating the professional ethics. Introduction of more effective mechanisms for prevention of ethical issues and unification of the case practice.*

**Measure 1.4.2**      *Development of specific regulations for the professional ethics of judges, prosecutors and investigating magistrates, and organizing discussions with the increased participation of representatives of the relevant professional communities.*

In accordance with Art. 39b (5) of the JSA, the professional ethics committees carry out their work on the implementation of the Code of Ethics for Judges, Prosecutors and investigating magistrates in accordance with the rules of their organization and activity adopted by the respective College of the Supreme Judicial Council.

On 07.06.2016, Rules for the work of the Judges` College of the SJC were adopted and on 15.06.2016 the Rules for the work of the Prosecutor`s College of the SJC were adopted. The Rules are posted on the SJC website.

**Measure 1.4.3**      *Improvement of the training of magistrates on the principles of ethical behaviour and introduction of mandatory training following infringements of the professional ethics.*

In 2016 trainings on “Ethical challenges in the work of magistrates” was held in NIJ (20 participants); “Ethical challenges in the work of court clerks” (15 participants); “Ethical Challenges in the Work of the Judge and Prosecutor (Candidates for Junior Magistrates) (47 participants)”

**STRATEGIC OBJECTIVE 2:  
THE JUDICIARY’S HUMAN CAPITAL: AN ESSENTIAL RESOURCE AND  
FOCUS OF THE REFORM; STATUS OF JUDGES, PROSECUTORS AND  
INVESTIGATING MAGISTRATES**

**Specific objective 1:**

**Reform of law education and internships as a guarantee of high qualification upon entry and motivation of human capital of the judiciary**

**Measure 2.1.1**      *Updating the State requirements to the subjects taught at the faculties of law.*

**Measure 2.1.2**      *Introducing new forms of student work, intended to teach them skills necessary in practice and to increase their social competence and commitment.*

A Draft Ordinance on uniform state requirements for acquiring higher education in the subject “Law” and a professional qualification “lawyer” have been developed. The draft was discussed at a meeting of the Council on the Implementation of the Updated Strategy to Continue the Reform of the Judicial System on 24.11.2016.

The Draft Ordinance provides for:

- introduction of specialized masters programs in the specialty “Law” after the completion of the main program.
- changing the order of admission in the “Law” specialty in accordance with the views of the different law faculties and higher schools.
- “Law” specialty should be studied only in full time form of education.
- introduction of a comprehensive unified order of the state examination according to uniform criteria corresponding to the best achievements in the legal education.
- taking into consideration the students’ opinion on the change of the curricula and programs in the specialty “Law”.
- introducing basic guarantees for evaluation objectivity, as well as introducing forms of ongoing assessment of student performance during the semester.

**Measure 2.1.3**      *Turning work-experience and post-graduation internships into a tangible form of practical training.*

**Measure 2.1.4**      *Turning the examination in theory and practice for attainment of licensed capacity to practise law into a genuine test of practical skills.*

In accordance with Art. 297 JSA trainee lawyers are assigned to the district court of residence.

The apprenticeship for acquiring legal capacity is carried out in two stages: basic – general knowledge of the main functions, duties and organization of the bodies of the judiciary with a duration of not less than two months; in each body of the judiciary of the trainee-lawyer, is appointed a mentor and a professional– for a lawyer, public notary, private enforcement agent, representative of another profession for which legal education is required, in the body of the executive power or another institution designated by the ordinance under Art. 297a whose

activities are related to the development of law, judiciary or the protection of human rights; the professional experience lasts 4 months and is conducted under the guidance of a mentor with at least 5 years' experience in the respective job or profession. According to Art. 300 of the JSA, the legal qualification test is unified and anonymous, includes a practical case study and test, verifying the practical knowledge and skills acquired during the apprenticeship, including the ability to analyse the legal facts and the applicable law, as well as knowledge of professional legal ethics.

In order to implement the measure, a project proposal approved by the Ministry of Justice "Developing the Human Resources Potential in the Judiciary by Building an Effective Model for the Acquisition of Legal Capacity" has been approved for OPGG funding. The aim of the project is to contribute to the practical implementation of the amendments to the JSA on a post-graduate course. The project foresees the development of criteria and algorithm for the case study that will be included in the practical test for certification. A methodology for selecting test questions will be developed within the project and the model of the theoretical and practical exam will be improved.

## **Specific objective 2:**

### **Guaranteeing trust in competitions for magistrates' appointment and promotion**

**Measure 2.2.1** *Evaluating the arrangements and methodology for holding the competitions and the mistrust factors; soliciting suggestions for an improvement of the competitions arrangements and methods, including guarantees of uniform standard in interviews.*

On 9 February 2017, the Plenum of the SJC adopted an Ordinance under Art. 194 of JSA (State Gazette No. 17/2017) for the magistrates' competitions and for the election of administrative heads in the judiciary bodies. It regulates the terms and conditions for conducting competitions for the appointment of junior judges, junior prosecutors and junior investigating magistrates; competitions for the initial appointment of judges in the regional, district, military and administrative courts and the specialized criminal court, prosecutors in regional and district prosecutor's offices, as well as investigating magistrates in the district investigation departments; displacement competitions and competitions for the promotion of judges, prosecutors and investigating magistrates; as well as election competitions for administrative heads, except for the chairperson of the SCC and SAC, the Prosecutor General and the Director of the National Investigation Service. The drafting of the Ordinance has taken into account the legislative requirement for carrying out two types of internal competitions – for mobility and promotion, removal of interview as a stage of the procedure, assessment of the magistrate's qualities based solely on the professional skills displayed by him/her in the course of his/her professional development. In making the assessment, the selection board will take into account the results of the last evaluation, the data of the higher judiciary authorities' inspections and those carried out by the ISJC, the magistrates' personal data and the judgements of the cases and files examined and completed, chosen by the selection board and the presented by the candidates.

The new rules provide a completely new mechanism for forming the overall assessment of candidates in the competition for mobility or promotion. It will be an arithmetic average of three digital components: evaluation of the appraisal, data of the ISJC inspections and the magistrates' personal file, assessment of completed cases and files and assessment from the written examination (in cases where the passing of a judge to the post of prosecutor or investigative magistrate, prosecutor – to a judge or investigative magistrate post; and investigative magistrate – to a judge or prosecutor's position, is made through a competition for promotion or mobility, including examination of the knowledge of taking up the respective position through a written exam based on a conspectus).

**Measure 2.2.2** *Making knowledge of professional ethics and personality development assessment, including general and legal culture, legal awareness and applicants' individual independence, part of the initial competitions for appointment of judges and prosecutors and the appraisals for acquisition of tenure status.*

The Ordinance under Art. 194 of the JSA stipulates the new concept of the legislator providing for the initial appointment of judges, prosecutors and investigating magistrates to be limited to the occupation of positions in the primary level judiciary bodies – regional and district level. The criteria for the initial appointment of judges, prosecutors and investigating magistrates are increased by strengthening the mechanism for verifying their legal knowledge. An additional examination of EU law and human rights knowledge by passing a written test as well as mechanisms for pre-assessment of the moral qualities of candidates is introduced by filling in a questionnaire by the applicants when submitting the applications for participation in the competitions, as well as inclusion in the interview with candidates of the oral examination of questions of the Code of Ethics for Bulgarian Magistrates.

**Measure 2.2.3** *Holding centralised competitions by commissions designated on a subject-matter-specific basis.*

**Measure 2.2.4** *Appointing the commission members from a list approved by the general assembly of the respective SCC and SAC college.*

**Measure 2.2.5** *Introducing professional-qualification and experience requirements for the magistrates in the competition commissions.*

With the latest amendments to the JSA (Article 189 of the JSA), the activities of the judges` and the prosecutor`s office are assisted by a standing ACC and by the CPA, as the number of members, composition, powers and rules governing their activities are determined by the relevant college. The members of the Board include members of the college as well as elected members of acting magistrates with rank or function as a judge at the Supreme Court of Cassation or the Supreme Administrative Court, who are elected by the Supreme Court of Cassation Plenum and the Supreme Administrative Court Plenum, respectively prosecutors with rank or prosecutor at the Supreme Prosecutor`s Office of Cassation or investigative magistrates in the NIS, elected by the GA of prosecutors and investigating magistrates, with one-year mandate. A member of the committee concerned may not be elected for more than two consecutive mandates. Selection boards are defined in terms of the type of competition matter with the mandatory inclusion of a representative of the ACC to the relevant SJC College with the status of acting magistrate. The appointment of members is done by lot among the magistrates proposed by the relevant bodies` assemblies. The members of the appraisal committee should have acquired tenure status and for the last 5 years they should not have been subject to any of the disciplinary sanctions under Art. 308, para. 1, item 3, 4, 5 or 6 of the JSA with effective decision and should have a rank equal to or higher than the rank of the vacant position announced. The Ordinance introduces the limitation of the law in the selection committees that members of the SJC and administrative heads may not participate.

**Measure 2.2.6** *Limiting the initial appointment to no more than 20% of the free positions and to the appropriate court instance level, as well as providing the necessary additional qualification.*

Art. 178 of the JSA stipulates that the SJC by lot shall determine up to 10 per cent of the number of vacant positions in the court, the prosecutor`s office and the investigative bodies to be occupied upon a competition for initial appointment. Percentages are determined individually according to the needs of each level in the court, the prosecutor`s office and the investigating authorities.

### **Specific objective 3:**

#### **Sustained improvement of the quality of operation of the National Institute of Justice (NIJ) and affirming its achievements**

##### **Measure 2.3.1      *Improvement of initial training and enhancement of the role of mentor magistrates.***

After analysing the results of the training in the previous years on 11.11.2016, the NIJ adopted the updated, supplemented and agreed with the SJC programme for initial training of candidates for junior prosecutors.

The Institute continued to support and monitor the work of junior judges and junior prosecutors while they occupy the relevant position. In 2016, the traditional annual meetings – debates of junior judges and prosecutors from class 2015 were held, they are an important tool to get feedback on the content and practical benefits of the initial training of the applicants for junior magistrates.

NIJ continued to perform a coordinating and generalizing function with regard to the magistrates-mentors of junior judges and junior prosecutors. At the end of 2016, the network of mentors includes 34 judges – mentors in district courts and 52 prosecutors – mentors in district prosecutor’s offices. In order to comply the Rules on the Statute and Activities of the Judge – mentor and the Rules on the Statute and Activities of the Prosecutor – mentor in the Prosecutor’s Office with the amendments and supplements to the JSA introducing the figure of the magistrate for the newly appointed judges and prosecutors (Article 259 (2) JSA), amendments to the rules have been adopted upon proposal of the NIJ Director. The amendments were adopted by a decision of the Prosecutor’s College of the SJC of 2.11.2016 and a decision of the SJC of 25.10.2016.

##### **Measure 2.3.2      *Expanding the range of subjects and diversifying the forms of training and the target groups and introducing new curricula for compulsory training.***

All the training activities of the NIJ in the field of the current qualification of magistrates during the year were complied with the current justice needs arising from the new legislation and the specific law enforcement issues. In 2016 260 training sessions were held on new, updated and existing training programs involving 3637 trainees.

On 11 November 2016, a grant contract was signed between the NIJ and MA of the OPGG for the implementation of the project “Quality Vocational Training for Enhancing the Effectiveness of Justice”. The project envisages conducting a wide range of attendance, regional and distance training courses, offered in accordance with the best European practices.

##### **Measure 2.3.3      *Improving the system of continuous identification of the needs of training within a particular judicial entity or judicial district. Developing an effective quality assessment system for each training course.***

NIJ launched an initiative to improve the identification of training needs. In October-November 2016, NIJ carried out training needs study campaign. Along with holding of meetings by appellate areas, the possibilities of information technologies are also used to obtain up-to-date information about the needs of the target groups. Methods were used to fill in electronic forms (questionnaires) and electronic data summaries.

##### **Measure 2.3.4      *Implementing a quality management system and a long-term programme for organisation development, including an improvement of the organisation and management structure ensuring the NIJ’s curricular independence.***

The NIJ submitted a project proposal “Innovative products and services in the training provided by NIJ” for financing under OPGG on 13.12.2016. The project proposal together with a comprehensive concept for introducing innovative approaches for advanced training of the

target groups includes the construction and implementation of an information system for management of the training process. The aim is sustainable increase the quality of training in NIJ according to the European standard and taking into account the process of digitization in all spheres.

**Measure 2.3.5** *Developing a system of measures to encourage and monitor the upgrading of prosecutors' and judges' legal qualification and guarantees of their participation in training.*

NIJ participates as a beneficiary under the procedure "Increasing the competence of magistrates and judicial officers through effective training at the National Institute of Justice under the Operational Programme "Good Governance". The objectives of the procedure correspond to sub-targets 2.3.2, 2.3.3, 2.3.4 and 2.3.5 to specific objective 3 of the Updated Strategy.

**Specific objective 4:**

**Effective appraisals based on a uniform integral standard assessing in depth all aspects of the work of a judge, prosecutor and investigating magistrate**

**Measure 2.4.1** *Evaluating the practice of carrying out an appraisal for acquisition of tenure status.*

The measure has been implemented with regard to the elaboration of a new ordinance under Art. 209b of the JSA for the appraisal of a judge, chairman and deputy chairman of a court and in the process of implementation regarding the project "Improving the procedures for attestation and improvement of the disciplinary practice in the judicial system".

On 23.02.2017 the SJC plenum adopted separate ordinances under Article 209b of the Judicial and Prosecutor's Colleges, in full compliance with the amendments to the JSA of 2016 on the types of appraisal, incl. for the acquisition of a tenure status which aims to make an objective assessment of professional qualification and compliance with the rules of the relevant code of ethics after the completion of a 5-year length of service as a judge, prosecutor or investigative magistrate. The specificities of the attestation for acquisition of tenure status are reported in the methods and evaluation mechanism and the data sources for analysis as well as in the content of the complex assessment.

**Measure 2.4.2** *Introducing specific rules and mechanisms for appraisal of judges, respectively prosecutors and investigating magistrates, in compliance with their specific role and the measures to reorganize prosecution and investigation, including by strengthening the role and accountability of administrative heads within prosecution and investigation.*

In both separate ordinances under Art. 209b of the JSA specifies the indicators and the methodology for conducting appraisals of judges and for appraisal of prosecutors and investigating magistrates. All types of judges' appraisals are only done by the ACC, and this of prosecutors and investigating magistrates are conducted by the standing appraisal committees and the ACC at the SJC Prosecutor's College.

The Ordinance on Prosecutors and Investigating magistrates takes into account the specifics of the pre-appraisal, the appraisal for acquisition of tenure status and the periodic appraisal that are reflected in the components and sources of the data for analysis in the implementation of the appraisal methods, as well as in the content of the complex assessment of the draft Ordinance. It reflects the increased role of the administrative heads and their responsibilities to participate in the preparation and control of individual career development plans.

**Measure 2.4.3** *Introducing centralized appraisal. Discussing a model that provides for commissions, composed of expressly seconded judges and prosecutors with the respective SJC college.*

**Measure 2.4.4** *Regulating the eligibility requirements of the members of the central appraisal committee (for judges and prosecutors) and their election by the general assemblies.*

With the amendment to the JSA of 2016, it is foreseen to include members of the college as well as selected members of judges with rank or function as judges at the Supreme Court of Cassation or the Supreme Administrative Court. The judges' appraisal is done centrally by the ACC to the SJC Judges' College. The Committee consists of 17 members, including eleven seconded judges elected by the Plenums of Supreme Court of Cassation and the Supreme Administrative Court and six members of the SJC Judges' College. The members of the committee elected by the Plenums of the SCC and the SAC shall carry out their duties for a period of one year temporary leaving job.

A differentiated approach was introduced in the appraisal of prosecutors and investigating magistrates, depending on the type and level of appraised persons. A centralized ACC body is introduced to the SJC Prosecutor's College. The composition and requirements for elected members – currently in office of prosecutors or investigating magistrates with the rank or position of prosecutors in the SAPO, SPOC or NIS – are strictly regulated. The Committee consists of 11 members, including 5 members from the Prosecutor's Office and 6 seconded as follows: 1 prosecutor directly elected by the General Assembly (GA) of the Supreme Prosecutor's Office of Appeal, 3 prosecutors directly elected by the General Assembly of the Supreme Prosecutor's Office of Cassation, and 2 investigating magistrates elected by the General Assembly of investigating magistrates of the National Investigation Service.

The members of the Committee elected by the relevant general assemblies fulfil their obligations for a period of 1 year without leaving work but with 50% of the workload in the performance of direct employment duties.

**Measure 2.4.5** *Affirming the objective accounting for the quality of performance on the basis of an analysis of all acts rendered and full information on the magistrates' other professional activities through relevant changes in the appraisal methodology.*

In the Ordinance on the indicators, the method and the procedure for appraisal of a judge, a chairman and a deputy chairman of a court, the assessment of the quality of the judges' work is envisaged to be carried out by an analysis of the facts established in the context of the in-house control over the acts ruled by them, according to the specifics of the individual subjects. Assessing the work of a judge will be based on the analysis of the content of the acts and the comparison and analysis of: the ratio between established, subject to appeal and appealed acts; the ratio between the number of appealed (verified), confirmed, totally repealed, amended acts, terminated proceedings, resumed ones and the grounds thereof; number of acts not admitted to cassation appeal; number of accepted applications for delays and judicial acts subject to appeal.

The qualitative evaluation of the work of the prosecutors is based on a complex analysis, comparison and summarization of the results of the investigated prosecutor's acts in the order of the in-service, official and court control, statistics on the type and number of the other acts observed and determined by the attested files and cases, focusing on the quality of the work of the appraised ones.

**Measure 2.4.6** *Introducing methods to evaluate the motivation of appraised magistrates and developing a system of measures to support the increase of motivation and coping with various work-related challenges. Introducing, on the basis of an analysis of the acts rendered and a self-evaluation of the appraised magistrate, a system of measures to*

*identify the need of his or her individual training and of his or her enrolment in suitable forms of continuing training and upgrading of his or her professional qualification.*

A contract was signed between the SJC and the Managing Authority of OPGG on 8 September 2016 for the implementation of a project “Improving the Procedures for Attestation and Improving the Disciplinary Practice in the Judicial System”. It is aimed at implementing the measures related to motivation and self-evaluation of magistrates, remuneration formation and additional benefits and conducting of disciplinary proceedings. A model for an individual assessment plan for personal development planning will be introduced, taking into account the need for improvement of professional qualifications and competencies, as well as Guidelines thereto, containing specific mechanisms for enhancing motivation and evaluation and self-assessment. An integral part of the process is also the creation of an effective model for the formation of remuneration and additional benefits of magistrates, setting objective rules and stability and predictability in their formation.

**Measure 2.4.7** *Introducing an individual personal development plan for each judge, prosecutor and investigating magistrate as part of his or her appraisal, specifying his or her intentions and obligations to undergo additional qualification in a particular problem or legal subject matter and for inclusion, if necessary, in the system of support measures.*

The main priority in the SJC project “Improving the Attestation Procedures and Improving Disciplinary Practice in the Judicial System” is the development and implementation of an individual development plan that will enable the planning of the magistrates’ personal development, incl. the need for specific individual training to improve the professional qualifications of a given subject, which is in direct relationship with the new legal regulations. Within the framework of the project, trainings will be carried out for filling the Unified Appraisal Form, as well as training on the implementation of the Approved Ordinance and the Individual Development Plan developed by both Standing Appraisal Committees.

#### **Specific objective 5:**

#### **Introducing the fair trial principles in the disciplinary proceedings against magistrates**

**Measure 2.5.1** *Setting up a centralised disciplinary commission with each of the SJC colleges, composed of expressly seconded magistrates, elected by the respective general assembly.*

Standing Commissions on Disciplinary Activity and Interaction with the Inspectorate with the Supreme Judicial Council were constituted on 26 April 2016 to the Prosecutor’s Office and on 19 May 2016 to the Judicial Council of the SJC.

**Measure 2.5.2** *Consultations on developing a draft on restructuring disciplinary proceedings so as to comply with international standards and recommendations, and ensure the genuine adversarial nature of such proceedings, by providing for the carrying out of the disciplinary procedure before the SCC, which should be designated as the only authority competent to impose disciplinary sanctions on magistrates, or before a directly elected disciplinary college.*

The actions for implementation of the measure are included as part of the activities in a project proposal of the SJC “Improvement of the Attestation Procedures and Disciplinary Practice in the Judicial System” for financing under the OPGG. A key element of the project is the evaluation of the disciplinary production, based on the established deficiencies and after a study of the European practice it is envisaged the development of a standard for carrying out the disciplinary proceedings.

**Measure 2.5.3** *Introducing possibilities to hold the presidents of the SCC and the SAC and the Prosecutor General disciplinary liable.*

**Specific objective 6:**  
**Predictable remuneration fixing rules**

**Measure 2.6.1** *Guarantees of automatic adjustment of magistrates' remuneration, by providing for a mechanism for binding with the average monthly remuneration in the public sector and establishment of corresponding budgetary provisions.*

According to the amendments to the JSA of 2016, the basic monthly salary for the lowest judicial, prosecutorial and investigation position is set at the level of the double average monthly salary of the employed in the budgetary sphere, according to data of the National Statistical Institute.

**Measure 2.6.2** *Eliminating the elements of individual discretion in fixing the supplementary labour remuneration in the judicial authorities and their administration by regulating by law the type and amount of this remuneration.*

**Measure 2.6.3** *Evaluating the forms of bonuses and proposals for their development.*

A contract was signed between the SJC and the Managing Authority of OPGG on 8 September 2016 for the implementation of a project "Improving the Procedures for Attestation and Improving the Disciplinary Practice in the Judicial System". An integral part of the process is also the creation of an effective model for the formation of remuneration and additional benefits of magistrates, setting objective rules and stability and predictability in their formation.

**Specific objective 7:**  
**Reckoning with the opinions of judges, prosecutors and investigating magistrates in the process of administrating the judiciary**

**Measure 2.7.1** *Periodic research of the opinions of judges, prosecutors and investigating magistrates on matters concerning the administrating of the judiciary and subjecting the results to a public debate.*

<p style="text-align: center;"><b>STRATEGIC OBJECTIVE 3: EFFECTIVE ADMINISTRATION OF THE JUDICIARY</b></p>
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**Specific objective 1:**  
**Knowledge-based governance: capacity for research related to the governance and performance of the judicial authorities**

**Measure 3.1.1** *Setting up an expert methodological unit to ensure uniform and reliable statistics about the operation of the judicial and pre-trial proceedings authorities.*

**Measure 3.1.2** *Building capacity at the NIJ to carry out theoretical and empirical research in the field of criminology, including critical studies of penal sanctions and their alternatives, sociology, statistics, psychology, organisational development, information support, software and hardware, etc. for the needs of administrating and developing the judicial authorities.*

The scope of the NIJ research work is defined in the amendments to the JSA of August 2016. According to Art. 249 (2) "... organizes applied research and analysis of practices in the field of justice".

The conduction of three legal studies is underpinned by a project of the NIJ for funding from the OPGG "Qualitative Vocational Training for Improving the Effectiveness of Justice".

**Measure 3.1.3** *Enhancing the SJC's analytical capacity in planning and administrating the judiciary: analytical units for assessment of caseload, access to justice, professional qualification of personnel, etc.*

On 1.04.2016, Rules for Assessing the workload of the Courts came into operation and the Court's Workload Reporting System integrated into the centralized system of random selection of cases was launched. A Mechanism for Monitoring the Implementation of the Judges' Load Assessment Rules and the Nomenclature of statistical codes by type of cases has been established. Updated Nomenclature that amends the revisions of the texts in Chapter IV "Criteria to adjust the weight ratios of administrative cases" from the Rules for assessment of the workload of judges is adopted.

### **Specific objective 2:**

#### **Regulating magistrates' and judicial entities' caseload**

**Measure 3.2.1** *Introducing a permanent mechanism to measure the load of the separate types of cases and case files and the additional official duties.*

**Measure 3.2.2** *Introducing a mechanism to set a caseload target for magistrates and for the court administration and even allocation of cases and case files within the framework of the separate judicial entities and integrating that mechanism with the rest of the planning processes (under 3.3 and 3.4).*

The Proposals and Appraisal Committee until the constitution of ACC and further ACC of the Judges' College develops as a major activity the optimization and reallocation of posts in the judiciary bodies, linking this optimization with a mandatory study and consideration of the indicators of the workload of the relevant bodies, the monthly number of cases for consideration by a judge and the monthly number of solved cases by a judge (magistrate efficiency parameter). Continuous monitoring of the workload is carried out and proposals for closure/opening or for the transfer of judges from lower-level courts to higher-level courts are made periodically.

**Measure 3.2.3** *Working conditions standard for the courts and prosecutor's offices.*

**Measure 3.2.4** *Set of measures to reduce caseload, including simplified procedural rules, enhanced application of alternative dispute resolution methods and introduction of e-justice.*

Project proposal "Promoting the Use of Mediation as an Alternative Dispute Resolution Method" was submitted under "Strategic Projects" Procedure in the Implementation of the Updated Strategy to Continue the Reform of the Judicial System and the Strategy for the Introduction of Electronic Governance and e-Justice in the Justice Sector 2014-2020 under the Operational Programme "Good Governance".

### **Specific objective 3:**

#### **The judiciary budget: a tool of effective governance, accountability and reform**

**Measure 3.3.1** *Introducing programme budgeting for each entity of the judiciary institutions and orienting the budget to achieving results and pegging financing to*

*the targets, activities and caseload set and an objective assessment of expenditures disaggregated by type of case file and case so as to achieve adequate financing of the administration of justice as an essential function of the State.*

**Measure 3.3.2** *Defining and periodically renewing the objectives and fulfilment indicators in partnership between the SJC, the Ministry of Justice, the Ministry of Finance and civil society, as well as periodic renewing the assessment of expenditures disaggregated by type of case.*

**Measure 3.3.3** *Introducing effective measures to decentralise budget planning and implementation, bound to requirements of increased transparency, publicity and reporting of the results and attainment of targets and planning the expenditures and activities of each judicial entity in line with locally planned priorities.*

**Measure 3.3.4** *Quarterly and annual reporting of the attainment of the targets (under 3.3.2 and 3.3.3) and the achievement of results, periodic external assessment (“Report on the State of the Judiciary”).*

The implementation of the measures is forthcoming, as a decision of the Budget and Finance Commission has been assigned to the Finance and Budget Directorate and the European and International Programs and Projects Department in the SJC administration to take action on the measure for launching the project “Implementation of program budgeting for each structure of the judiciary institutions and budget orientation to achieve results and linking funding to the objectives, activities, workload and objective cost estimates by types of files and cases so to achieve adequate funding for the administration of justice as a major state function.”

#### **Specific objective 4:**

#### **Introducing long-term planning tools**

**Measure 3.4.1** *A standard and a system of measures to assess individuals’ and legal persons’ access to justice.*

The Ministry of Justice, in partnership with the SJC, submitted a project proposal “Effective Access to Justice” for funding under OPGG. By implementing activity “Model of Access to Justice for Citizens and Business”, practical implementation of the measure will be achieved. An analytical report on the possibilities for access to justice in Bulgaria, including judicial enforcement, is envisaged; a model for assessing access to justice will be developed and a survey will be carried out among citizens and businesses on the developed model of access to justice.

**Measure 3.4.2** *Creating a specialised geographic information system (GIS), including tools to analyse and monitor the factors of socio-economic development of the judicial districts and the courts’ caseload.*

**Measure 3.4.3** *Assessing the effectiveness of the separate judicial entities and a reform of the court map.*

**Measure 3.4.4** *A human resource development plan, bound to programme budgeting, and using this plan as a basis to draw up and update a plan for regular conduct of competitions in the judiciary.*

**Measure 3.4.5** *Assessing the effectiveness of the specialised justice-administration entities (the system of administrative courts; the military courts; the specialised criminal justice institutions).*

Implementation of the measures is enshrined as activities of SJC under the project “Creation of a model to optimize the judicial map of the courts and prosecutor’s offices and development of a Unified Court Information System” was signed under Operational Programme Good Governance (OPGG). On 04.01.2017 a contract was concluded for “Provision of consultancy services in connection with the preparation of tender documentation for selection of contractors and support of the project management activities”.

In 2016, commissions of SCC judges, appointed by orders of the SCC Chairman, carried out inspections of the organization of the judges' activity in all courts of appeal in the Republic of Bulgaria (including the activities of the Specialized Court of Appeal and the Military Court of Appeal). An Analysis Report on the activity of the military courts for the period 2014 – 2015 was also prepared. The audit reports were sent to the SJC College and the Presidents of the Courts of Appeal for discussion, with meetings held to discuss the findings and recommendations made in the courts of the relevant Courts of Appeal. The reports of the inspections were sent for discussion to the SJC Judges' College, to the Chairmen of the SCCA, SpCC, the Military Court of Appeal, the Military Courts, and the SCCA and SpCC analyzes – to the Minister of Justice.

An analysis and evaluation of the work of specialized prosecutor's offices has been carried out since their establishment until the end of 2015. The results of the analysis are objectified in a report, including recommendations for improving the work of both prosecutors' offices.

**Measure 3.4.6** *Introducing a mechanism for ongoing monitoring of Civil Procedure Code, the Criminal Procedure Code and the Administrative Procedure Code.*

The implementation of the measure is enshrined as an activity the “Tool for Assessment of the Implementation of the Civil Procedure Code, the Criminal Procedure Code and the Administrative Procedure Code”, in the project proposal “Effective Access to Justice” funded by the OPGG, submitted by the Ministry of Justice. The implementation of the project envisages development of a methodology for evaluation of the implementation of the Civil Procedure Code, the Criminal Procedure Code and the Administrative Procedure Code; conducting training for implementation the new methodology and conducting a pilot analysis of their implementation containing conclusions and recommendations. There is also a public discussion on the results of the study.

**Measure 3.4.7** *Monitoring the duration of cases and case files and analysing the possibilities to improve the effectiveness of their examination.*

The SJC has prepared a project proposal for funding under the OPGG “Implementation of a system for monitoring and regulating the workload of magistrates and the judicial administration, creating a standard for the working conditions in the bodies of the judiciary and increasing the efficiency of their work”.

**Measure 3.4.8** *A mechanism to analyse the impact of draft legislative amendments on the workload of the judicial authorities and endorsing the application of this mechanism to all bills that would affect the judiciary through its inclusion as a mandatory element of the coordination procedure in the adoption of statutory instruments.*

Since November 2016 the amendments to the Regulations Act regulating the procedures for impact assessment of the normative acts are in force. An obligation to draft laws, codes, regulations, etc. was introduced, carrying out a preliminary impact assessment with guaranteed participation of citizens and legal entities in the public consultation process. As a result of an ex-post impact assessment on the implementation of a specific act, it may be revoked, amended or supplemented.

**Specific objective 5:**  
**E-justice**

**Measure 3.5.1** *Building an operational capacity to support the processes of phasing in and implementing e-justice in the Justice Sector.*

There is the strategic framework for the introduction of e-Justice – Concept, Strategy and Roadmap. The ultimate goal involves a significant change that will affect millions of citizens.

The Roadmap for e-Justice, adopted by the Council of Ministers and the SJC, sets out concrete measures for moving towards a fully digital format of justice. The Ministry of Justice has already taken steps to build a number of e-services such as the possibility for Bulgarian citizens abroad to declare and to provide them with a criminal record electronically by the consular services; providing criminal records electronically, which can be done throughout the day; electronic submission of accounting documents for the activities of non-profit legal entities.

The measure corresponds to specific objective 1.1 A) Establishment of a centralized organizational structure in order to successfully implement a unified e-government and e-justice policy in the Justice Sector (JS), incl. consistently meeting the objectives of this Roadmap by restructuring the staffing of the MoJ and the SBMP from the Strategy for e-Government and e-Justice in the Justice sector 2014-2020.

**Measure 3.5.2**        *Reliable and secure e-communication between the judicial and executive authorities, citizens and business. Centralising the resources by use of the State hybrid private cloud (HPC).*

The measure corresponds to specific objective 2.1.A) Inventory and analysis of the state of the IT and communication infrastructure, information systems and services of the JS.

A project proposal for financing under the OPGG of measure B) Further development of the virtual private network covering the buildings of the sector, ensuring reliable and secure exchange of information for the structures in the Justice Sector was prepared, which is in under evaluation.

A project proposal under the OPGG measure 2.2.A) Staged migration of the existing distributed resources, systems and services of the structures in the JS to hybrid private cloud (HPC) for e-Government, which is under evaluation.

**Measure 3.5.3**        *Equal access, as close as possible, for citizens and business to e-justice and e-governance by electronic means and making this access preferred to the conventional one using hard-copy documents.*

The measure complies with the Strategy for e-Governance and e-Justice in the Justice sector 2014-2020 – Specific objective 3 of the Roadmap.

A project proposal under measure 3.1.B) Further development and centralizing the portals in the JS for access of citizens to information, e-services and e-justice has been prepared and is under evaluation.

Art. 360c of the JSA introduces an obligation for the SJC to establish and maintain a unified e-Justice portal. The single e-Justice portal is an information system that provides the ability for requesting electronic statements; carrying out procedural actions in electronic form; serving of messages and summons; access to electronic files and public registers maintained by the judiciary.

The aim is the bodies of the judiciary to provide free, uninterrupted, direct and permanent electronic access of persons to identifying and other useful information when exercising rights in electronic form.

**Measure 3.5.4**        *Handling electronic content by employees and magistrates by switching from the use and keeping of documents and cases on hard copy to soft-copy documents and cases and regulatory support for their use in accordance with the strategic documents adopted in the sector.*

With the amendments to the JSA of 2016, Chapter Eighteen (a), Section III, regulates the keeping, preservation and access to a unified electronic register of acts of the courts. The Register of Acts of the Courts is an electronic database containing the acts that put an end to the proceedings before the relevant court or are subject to an independent appeal. In the register, acts may be announced and other notes may be made in the cases provided for by the law.

A judicial administrative system has been put into operation in the Specialized Criminal Court, which is also consistent with established practice in different courts. It is intended for automated activity of magistrates and court clerks. Through it, the documents submitted to the court are recorded in detail, such as after a case has been scheduled, for example, the program generates individual summons and notices and accompanying letters notifying the parties of the judicial acts drawn up. Through the filing system, judicial acts are published in the Central Web Based Interface for the publication of judicial acts.

The measure complies with the Strategy for e-Governance and e-Justice in the Justice sector 2014-2020. A project “Redesign of the AIS in the MoJ and the SCBR with the purpose of switching to the use and exchange of only electronic documents and electronic content in sector (a) and training of the employees for working with electronic documents” has been developed, which is in the evaluation stage for financing under the OPGG.

Another project proposal submitted for funding from the OPGG, which is in the evaluation stage and its implementation will contribute to the implementation of the measures of the Strategy is “Creation of facilities for videoconferencing and their use in the stages of pre-trial and judicial proceedings; cross-border cooperation in the administration of justice”. 26 videoconferencing halls (20 in courts and 6 in places of detention) will be equipped and put into operation with the implementation of the project and users will be trained to work and administer the system. Handbook with rules for use of videoconferencing, It is envisaged to be approved by the SJC Plenum including, if necessary, proposals for changes in the legal framework.

With the amendments to the JSA, Chapter Eighth (a) provides for authentication statements and procedural actions in electronic form. The mode for creating electronic cases is defined.

**Measure 3.5.5** *Access to and communication between the registers by electronic means only in providing integrated administrative services to citizens and business.*

The measure complies with the Strategic Objective 5 of the Roadmap to the Strategy for e-Governance and e-Justice in the Justice sector 2014-2020. A project proposal “Analysis of the existing registers and the necessity of their transformation or creation of new ones with regard to the provision of electronic services and integrated administrative services to citizens and business” is in process of evaluation.

#### **Specific objective 6:**

#### **Development of the separate judiciary institutions**

**Measure 3.6.1** *Plan for controlling SAC and administrative courts workload system, including revision of courts’ jurisdiction for particular type of cases and other structural changes*

**Measure 3.6.2** **Plan for reducing the SCC workload**

**Measure 3.6.3** *Implementing the Strategy plan “Policies for SJC Management”*

**Measure 3.6.4** *Analysis and assessment of ISJC and ISJC practice; discussion on the necessity of legislative and organizational changes, including setting up judicial, as well as prosecutorial and investigative teams.*

The ASA of CRB supplements the provision of Art. 132a, para. 6 of the CRB, defining the powers of the Inspectorate. The division of judges and prosecutors-investigation teams in the composition of the ISJC was achieved with the amendment of Art. 42, para. 3 JSA (SG No. 62/1916, effective as from 9.08.2016). The provision introduces differentiated requirements for ISJC inspector candidates to allow subsequent profiling of the Inspectorate teams.

**STRATEGIC OBJECTIVE 4:  
MODERN AND EFFECTIVE PENAL POLICY**

**Specific objective 1:  
Updating penal policy**

**Measure 4.1.1** *Evaluation of the existing Concept of Penal Policy (valid until 2014) and its implementation.*

**Measure 4.1.2** *Developing a new Concept of Penal Policy as a basis for the rest of the measures under this priority.*

On the basis of the defined comprehensive current picture of the criminogenic environment and analyzes of the current Criminal Policy Concept and the Penal Code, a new Criminal Policy Concept of the Republic of Bulgaria will be developed. The Ministry of Justice provides for an in-depth analysis of criminogenic factors and will develop a Concept for Criminal Policy within a project funded by the OPGG entitled “New Criminal Policy”. An idea of a new criminal policy has been developed together with experts from the Netherlands who have conducted an expert mission in Bulgaria and have submitted a report.

**Measure 4.1.3** *Adopting a modern Administrative Violations and Sanctions Act (AVSA) to meet the target of replacing penal sanctions by more flexible and socially justified administrative penalties for a large number of acts. A steady process of monitoring the application and the impact of the AVSA.*

A draft Administrative Violations and Sanctions Code (AVSC) has been prepared. (See 2015 Report)

**Measure 4.1.4** *In the light of the new Concept of Penal Policy, assessing the need to update particular institutes and substantive elements constituting criminal offences under the Criminal Code and elaborating a relevant draft.*

A project proposal “A New Crime Policy Concept” was submitted for funding from the OPGG, which is in process of evaluation. The aim of the project is to contribute to the conceptual update of the penal policy. On the basis of the defined comprehensive current picture of the criminogenic environment and analyzes of the current Criminal Policy Concept and the Penal Code, a new Criminal Policy Concept of the Republic of Bulgaria will be developed. As a result of the project an analytical report will be prepared with recommendations for amendments to the current Penal Code.

**Measure 4.1.5** *A steady process of monitoring the application and the impact of the Criminal Procedure Code, supported by the necessary auxiliary research.*

The Ministry of Justice, in partnership with the SJC, submitted a project proposal “Effective Access to Justice” for funding under OPGG. The implementation of “Tool for Assessment of the Implementation of the Civil Procedure Code, the Criminal Procedure Code and the Administrative Procedure Code” will bring to the development of a methodology for

assessing the implementation of the three Codes stated above; training of representatives from the Ministry of Justice for the implementation of the new methodology is envisaged; an analysis of the implementation of the Civil Procedure Code, the Criminal Procedure Code and the Administrative Procedure Code will be made, containing conclusions and recommendations; public discussion will be held on the results of the study.

**Measure 4.1.6** *Analysis and evaluation of the probation system and ongoing monitoring.*

In April 2016, the National Assembly adopted ASA of the Execution of Punishments and Pre-Trial Detention Act (SG 32/2016). The new organization is aimed at expanding and optimizing the application of probation measures in accordance with European standards via the introduction of a system of electronic surveillance.

The Ministry of Justice has submitted a project proposal “A New Criminal Policy Concept” for financing from the OPGG. It is envisaged to analyse the probation system in Bulgaria and to assess the implementation of the specific probation measures contained in the probation punishment, including proposals for updating the institute.

**Measure 4.1.7** *Analysis and evaluation of the system of forfeiture to the Exchequer of unlawfully acquired assets.*

**Measure 4.1.8** *A plan for development of social measures for reintegration, envisaging the provision of resources and the making of arrangements for the effective application of support measures for the persons sentenced to probation, including their enrolment in literacy courses, professional qualification and other public support measures.*

Under project “Modernization of the penitentiary system in Bulgaria” financed by the OPGG, implemented by the Ministry of Justice, a system for electronic monitoring and training is planned to be purchased and implemented. This is how are implemented the legal provisions and recommendations of the European Rules of Penalties without Sentences of Imprisonment of the Council of Ministers to the CE and the Recommendation CM/Rec (2014) 4 of the Committee of Ministers on Electronic Monitoring as a tool for rehabilitation, reduction of recurrence and security of society. The project will assess the May 2006 Development Concept of the Execution of Punishments General Directorate (EPGD) Concept and will develop a Strategy for the Development of the Penitentiary System.

**Measure 4.1.9** *Applying alternative methods for disposal of criminal cases, including through forms of restorative justice.*

**Measure 4.1.10** *Building capacity for empirical and multi-disciplinary criminological research.*

## **Specific objective 2:**

### **Reform and development of the investigating authorities**

**Measure 4.2.1** *Assessment of the state of pre-trial proceedings and the authorities entrusted with investigative functions.*

In 2016, PORB prepared an analysis of the judgements of the European Court of Human Rights (ECHR), which found that the Bulgarian authorities had failed to fulfil their obligation to conduct an effective investigation. The analysis covered also national proceedings in respect of which complaints were filed with the ECHR and ECHR’s judgements against Bulgaria were ruled. The report contains recommendations for addressing the gaps and violations related to the conducting an effective investigation.

The Ministry of the Interior implements monitoring since March 2016. Data on all regional structures (number of out-of-court inspections, number of pre-trial proceedings initiated, etc.) are collected and summarized on a monthly basis for the crimes included in the Uniform Catalogue of Corruption Crimes approved by the Prosecutor’s Office. In order

optimization and increasing the effectiveness of the work on this line, regular contact is maintained and methodological assistance is provided to the relevant departments at the Sofia Capital Directorate of the Interior and the Regional Directorate of the Ministry of Interior (from the employees of the Economic Police Department in the National Police Directorate General”). The analysis of the data for the period March – December 2016 shows that, as a result of the measures implemented, the number of pre-trial proceedings initiated for corruption offences has been significantly increased.

**Measure 4.2.2** *Developing a comprehensive integrated strategy for development of the authorities entrusted with investigative functions.*

The PORB continues the implementation of the Mechanism for monthly monitoring of cases initiated for corruption offences, established in 2014. In this regard, a Uniform Standard for reporting and monitoring cases of corruption offences and organized crime has been introduced and an organization for priority work has been established on the fight against corruption and organized crime. On the basis of the monthly data, an analysis of trends in the efficiency and timeliness of the investigation is made and the comparisons are carried out for a six-month period. The analyzes are reported to the management of the PORB for taking the necessary measures.

**Measure 4.2.3** *Binding the appraisal and personnel development of the authorities entrusted with investigative functions to criminal procedure results.*

**Measure 4.2.4** *Finding a lasting solution to the status of the investigation service, the number and caseload of the investigating magistrates on the basis of the new Concept of Penal Policy and the Integrated Strategy for Development of the Authorities Entrusted with Investigative Functions.*

**Specific objective 3:  
Effective Prosecutor’s Office**

**Measure 4.3.1** *An independent expert monitoring in the framework of the EC Cooperation and Verification Mechanism of the state and effectiveness of the Prosecutors’ Office of the Republic of Bulgaria (PORB), the factors of political, hierarchical and other undue influence in it, as well as the forms of abuse of prosecutorial powers.*

In 2016 Independent Analysis of the Structure and Functional Model of the Prosecutor’s Office of the Republic of Bulgaria was made by five independent international experts – prosecutors from United Kingdom, Spain, Germany and the Netherlands. Their mission is organized by the Support of Structural Reform Office (SSRO) upon request by the Bulgarian authorities. Independent experts had 7 visits to Bulgaria, during which more than 200 people were interviewed – magistrates, police officers, lawyers, investigative journalists, experts and representatives of NGOs. Prosecutors also were introduced to several thousand pages of documents. Their mission was coordinated by the MoJ and the SSRO, working closely together.

A final report containing a number of recommendations on the work of the Prosecutor’s Office, the court, SJC and ISJC and the MoJ was drafted. A draft road map for implementation the SSRO recommendations is forthcoming.

**Measure 4.3.2** *Exploring the status of prosecutors and the factors that restrain their professional independence, effectiveness, responsibility and motivation.*

Independent prosecutors from the Kingdom of the Netherlands, the United Kingdom, Germany and Spain, with the support of the EC Structural Reform Office, conducted an analysis of the Prosecutor’s Office of the Republic of Bulgaria. They have found that not only the prosecutor’s office is responsible for the unacceptable delays in completing criminal

cases. Other actors in the criminal justice system, including the courts, are also responsible for this. They have expressed concerns that there is a vertical structure in which the Prosecutor General may issue orders to any prosecutor or investigator (including NIS investigating magistrates). However, most prosecutors work on most of their cases with minor or no interference from higher level. In their view, in principle, there is no problem with a higher-ranking prosecutor, or even the Prosecutor General, to issue injunctions or to take decisions in particularly sensitive cases, as long as he acts within the law and is responsible for his decisions. Prosecutors consider that especially younger prosecutors enjoy considerable independence in matters pertaining to their work on specific cases. They are of the opinion that the standard of internal decision-making should be amended for prosecutors. In their view, there are significant opportunities for corruption of prosecutors and judges. In terms of workload and pressure, they believe that ranks and wages need to be reviewed and made more attractive to ensure a more regular flow of high-quality candidates.

As a result of the recommendations from the independent analysis, a road map will be developed to overcome these.

**Measure 4.3.3** *Developing a new organisation model of the PORB as part of the judiciary, taking into account, among other things:*

- *the division of the SJC into two colleges,*
- *the proposals, declared by the Prosecutor General and the results following the discussion under them,*
- *the new Concept of Penal Policy and the reform strategy for the investigating authorities,*
- *reckoning the scope of the legality supervision powers of the prosecution service with the constitutional protection of fundamental rights and the rule of law,*
- *affirming the conformity of the structure of the PSRB to Article 126 (1) of the Constitution of the Republic of Bulgaria,*
- *increasing the initiative and responsibility of the administrative heads in the system of Prosecution and Investigation,*
- *shaping a local (for each unit) and national (for the PSRB as a whole) planning and reporting process under criteria of quality and effectiveness, bound to programme budgeting,*
- *the need of specific criteria for appraisals and disciplinary sanctions, reckoning with the specificities of the prosecutorial function and pegged to criminal procedure results,*
- *the specialisation, the formation of interdepartmental teams and task forces to handle complicated cases.*

In 2016, the Prosecutor General initiated an interpretation of the constitutional texts defining the structural correlation between the prosecutor's office and the courts. The Constitutional Court's decision of February 2017 states that full overlapping of the territorial structures of the court and the prosecutor's office is not mandatory within the meaning of Article 126 (1) of the Constitution.

**Measure 4.3.4** *Strengthening the accountability and public trust in the Prosecutor General by introducing additional regulation of the content of the reports to the Parliament and the Supreme Judicial Council and the procedure for hearing, including by providing additional opportunities for public participation. Six-monthly reports to the SJC for corruption cases and organized crime cases, affecting individuals in senior government*

**Measure 4.3.5** *Systematising all intra-departmental acts in the prosecution service, to ensure their accessibility, the transparency of the reasons for their adoption, and thus to provide guarantees of their conformity to the law and of their internal harmonisation.*

Intra-governmental acts in the PORB are regularly updated and systematized by order of the Prosecutor General. The magistrates and the employees of the PORB are provided with access to them in electronic form, through the prosecution's internal information website (IIW).

#### **Specific objective 4:**

#### **Effectiveness of the Specialized Prosecutor's Office and Court**

**Measure 4.4.1** *Analysing the effectiveness of the Specialized Prosecutor's Office and the Specialized Criminal Court in the light of successful international models for authorities to fight corruption and organized crime.*

At the end of 2016, a comprehensive analysis of the results of the Special Criminal Court and the Specialized Criminal Court of Appeals (SCCA) will be carried out from their establishment in 2012 until the end of 2015, with emphasis on the assessment of the workload, the quality and timing of cases and court rulings thereto.

An analysis and evaluation of the work of the specialized prosecutors' offices since their establishment until the end of 2015 has been carried out, with emphasis on the assessment of the workload, the quality and the timeliness of the work on the cases and the court rulings thereto. Positive practices, system errors and weaknesses were identified, also the need for legislative changes. The results of the analysis are objectified in a report, including recommendations for improving the work of both prosecutors' offices.

An Analysis Report on the activity of the military courts for the period 2014-2015 was also prepared.

The reports of the inspections were sent for discussion to the SJC Judges' College, to the Chairmen of the SCCA, SpCC, the Military Court of Appeal, the Military Courts, and the SCCA and SpCC analyzes – also to the Minister of Justice.

**Measure 4.4.2** *Plan for development of the capacity and effectiveness of the Specialized Prosecutor's Office for work on high level corruption cases and major cases of organized crime, including by strengthening the guarantees for its independence and responsible guidance, increasing its human resource, foreseeing special measures for selection, current inspection, appraisal and motivation of its employees and upgrade of the capacity of its own analytical and operational activities while respecting the restrictions, following from Art. 119, para. 3 of the Constitution of Republic of Bulgaria.*

#### **Specific objective 5:**

#### **Expert examinations**

**Measure 4.5.1** *Developing an entire model of expert examinations, including:*

- *tightening the requirements for selection of experts considering their professional qualification and integrity*

- *requiring experts to maintain and upgrade their qualification and periodic professional appraisal, accompanied by arrangements for various forms of training*

- *anti-corruption measures*

- *guarantees of transparency and prevention of conflict of interest*

- *guarantees of an adequate case-specific choice of experts*

- *adequate pay*

- *a mechanism to plan the budget for expert examinations and adequate financing*

**Measure 4.5.2** *Building an institutional capacity to cope with particularly complicated or expensive expert examinations.*

**Measure 4.5.3** *Appropriate measures in terms of expertises in civil and administrative proceedings.*

Legislative changes are envisaged with regard to the regulation of the expert working conditions, and in this connection a working group has been established in the Ministry of Justice. Development of a new Expert Act is also discussed. Work on draft acts has not yet been finalized.

The project “Improving the Model of Forensic Expertise”, which will be funded under the OPGG, has been developed in order to improve the existing regulation regarding the experts, their activities and expertise. It is envisaged studying the legal framework and research and analyse good European practices in the field. A unified national methodology for experts and expert reports will be developed. A unified national information register of experts will be established.

### **Specific objective 6: Penitentiary reform**

**Measure 4.6.1** *A penitentiary reform action plan including:*

- *measures in response to the negative findings of the CPT and the ECHR*
- *building a mechanism internal to the Chief Directorate for Implementation of Penal Sanctions to ensure respect for human rights;*
- *anti-corruption policy*
- *measures for reintegration of prisoners, including broader social work with each one of them*
- *building a new prison and renovation of the prison buildings*
- *ensuring adequate working conditions to the personnel of the Chief Directorate for Implementation of Penal Sanctions*

In cooperation with representatives of the scientific community in 2016, PORB prepared an analysis of the rulings of the European Court of Human Rights (ECHR), which found that the Bulgarian authorities had failed to fulfil their obligation to conduct an effective investigation. The analysis covered also national proceedings in respect of which complaints were filed with the ECHR and ECHR’s judgements against Bulgaria were ruled.

In April 2016, the National Assembly adopted ASA of the Execution of Punishments and Pre-Trial Detention Act. It proposes an amendment to the current system of places of detention. It is envisaged for reformatories for juveniles to be established as subdivisions of the prisons where they have been opened, as is the case with prison dorms. A new regulation of electronic surveillance at the legislative level as a means to control the behaviour of certain categories of sentenced persons, as well as suspects and accused persons under the detention measure of house arrest, has been proposed. The new organization is aimed at expanding and optimizing the application of probation measures in accordance with European standards via the introduction of a system of electronic surveillance.

In January 2017, the National Assembly adopted a Amending and Supplementing Act of the Execution of Punishments and Detention in Custody Act with regard to the pilot Decision “Neshkov and Others v. Bulgaria” (State Gazette No. 13/2017). The law provides for:

- clearer definition of bad conditions for serving the sentence of deprivation of liberty and detention;

- amendment of the regulation for initial allocation of inmates and assignment of more powers to the authorities responsible for execution of punishments.
- protection against violations of the prohibition of torture, cruel or inhuman treatment of an inmate and in less severe case of their placement in unfavourable conditions in places of detention.
- a specific legal tool for inmates and detained persons is introduced for compensation of damages resulting from a breach of the prohibition of torture, inhuman or degrading treatment by specialized bodies.

A project “Modernization of the Penitentiary System in Bulgaria”, funded under the OPGG, was approved. According to the signed contract, the implementation of the EPGD Development Concept will be carried out in May 2014, a strategy for the development of the penitentiary system will be developed and approved by 2025, as well as a purchased, installed, tested and implemented electronic monitoring system of offenders.

<p><b>STRATEGIC OBJECTIVE 5: GUARANTEES OF THE RULE OF LAW, PROTECTION OF HUMAN RIGHTS, ACCESS TO JUSTICE AND HUMANITY OF JUSTICE</b></p>
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**Specific objective 1:**

**Effective judicial protection of human rights**

**Measure 5.1.1**      *Assessing the need of constitutional guaranteeing of citizens’ right to a fair trial.*

A project proposal “Enhancement of guarantees for a fair trial in executive proceedings through the building of an information system” was submitted for funding under the OPGG. The aim is to establish and implement a centralized Judicial Implementation Information System (JIIS), as well as setting up electronic reporting services.

By building the system for casework information, electronic access will be provided for users wherever they are. The implementation process will be disciplined, through the creation and use of uniform nomenclatures of concepts, types of documents, electronic forms, etc. The scope of scrutiny of bailiffs’ actions will be extended through the JIIS and very good monitoring possibilities will be created for the enforcement process, including in relation to the implementation of Measure 5.1.4.

Access to JIIS will be provided for the bailiff, parties to the case, other participants in the court proceedings and other persons with a legal interest.

**Measure 5.1.2**      *Assessing the instance structure of the courts from the point of view of an effective protection of the right of access to court and the provision of effective guarantees of respect for the fundamental rights under the ECHR.*

**Measure 5.1.3**      *Assessing the effectiveness of the judicial review of administrative acts.*

**Measure 5.1.4**      *Analysing the cases in which the court was found to have restricted itself in the scope of judicial review, provided for by law, of the actions of the administration or the pre-trial proceeding authorities by exploring the reasons for this and formulating specific measures to remedy the violated right to a fair trial.*

The implemented project “Strengthening national compensatory measures for compensation for alleged violations of the Convention for the protection of human rights and fundamental freedoms of the Council of Europe and the capacity for implementing ECHR Decisions” funded by the Norwegian Financial Mechanism (NFM) had its main purpose enhancing the capacity of the Bulgarian judiciary in the field of human rights to implement the

decisions of the ECHR, including overcoming systemic violations found by the Court. Within the framework of the project, an Analysis and Recommendations on the effectiveness of the administrative compensation mechanism have been prepared in view of the decisions of the ECtHR, a report and a public discussion have been carried out. Following the recommendations of the first two pilot decisions of the ECHR against Bulgaria (Dimitrov and Hamanov vs. Bulgaria and Finger vs. Bulgaria), an administrative mechanism for damages for violations of the right to a fair trial was established within a reasonable time.

**Measure 5.1.5** *Introducing a mechanism to assess the effectiveness of the SCC and the SAC to reconcile the courts' case-law so as to achieve predictable and adequate justice compliant with human rights law and EU law.*

**Measure 5.1.6** *Introducing a mechanism to improve compliance with the obligation under the Judicial System Act of the Judges' General Assembly to summarise and analyse case-law on topical legal issues on which conflicting judgements have been rendered.*

### **Specific objective 2:**

#### **Direct constitutional complaint**

**Measure 5.2.1** *Drafting constitutional and legislative amendments to introduce direct constitutional complaint after a citizen and expert discussion justifying the prerequisites and the need to broaden the access to constitutional justice.*

With the amendments to the CRB Supreme Bar Council has the right to refer to the Constitutional Court regarding cases of unconstitutionality of the law that violate the rights and freedoms of citizens.

### **Specific objective 3:**

#### **Overcoming the reasons for the ECtHR judgements against Bulgaria and respect for international human rights standards**

**Measure 5.3.1** *Assessing the reasons for the steadily large proportion of ECtHR judgements finding violations in cases against Bulgaria.*

**Measure 5.3.2** *Introducing an assessment of the conformity of draft statutory instruments with human rights law and standards.*

Within the framework of a predefined project funded by NFM, an analysis has been prepared – a mechanism for the compliance of the drafted regulations with the human rights law and standards. In accordance with the Report on the preliminary review mechanism of the draft regulations and their compliance with the Convention, a proposal for amending and supplementing the Regulations Act was adopted by the National Assembly on 21 April 2016 (effective as from 04.11. 2016). There is a requirement for the administration to carry out a preliminary, binding review of the draft laws on their compliance with the Convention.

Following the recommendations of this Report on the mechanism, an initiative has been launched since October 2015 for setting up a network of experts from different Ministries who have undergone initial human rights training. Expectations are that the network of experts will continue to function after the end of the project. Further training of experts from this network in the central administration could be the subject of future project activities.

**Measure 5.3.3** *Arranging a translation of all ECHR judgements relevant to Bulgaria.*

A new specialized portal on human rights has been created – humanrights.bg. There are already strong indications that the e-Portal will be used by stakeholders after the end of the

Project. As long as the development of the portal is a joint activity with the National Institute of Justice, it is expected that it will be used by magistrates and future magistrates in the process of their training. More than 400 ECHR decisions and other CE documents, which were published on the Portal, have been translated within the NFM-funded project. Selected and translated into Bulgarian are 79 decisions and summaries of the ECHR which are included in the “Collection of Summaries of Selected Decisions of the ECHR”, issued within the framework of the NIJ project “Improving the Capacity of the Judiciary and Training under the European Convention for the Protection of Human Rights and Fundamental Freedoms at the National Institute of Justice” under the BG 14 Programme of NFM 2009-2014.

The created electronic bulletin with summaries of ECHR’s judgements against Bulgaria will continue to be published after the end of the project.

**Measure 5.3.4** *Annual reports on the development of the ECtHR case-law relevant to Bulgaria, to be prepared with the participation of the SJC, discussing the necessary measures at the Council of Ministers and laying the report before the National Assembly with discussion at the Legal Affairs Committee.*

By decision of the Council of Ministers No. 358 of 12 May 2016 was adopted the Third Annual Report of the Minister of Justice on the execution of the judgements of ECHR in cases against the Republic of Bulgaria for 2015.

**Measure 5.3.5** *A mechanism to plan the required compulsory trainings in connection with the ECHR case-law and with other applicable international standards in the various branches of public administration, related to judgements rendered against Bulgaria, and in the judicial authorities.*

Regional and centralized training and trainings of trainers were carried out under the predefined NIJ project “Enhancing the Capacity of the Judiciary and Training under the European Convention for the Protection of Human Rights and Fundamental Freedoms in NIJ”, funded by NFM. Pilot seminar and distance course on individual aspects of the ECHR were also carried out. A total of 780 magistrates and court clerks were trained under the project.

The project has established bilateral and multilateral cooperation to ensure the protection of human rights by creating a platform for dialogue between all stakeholders involved in the implementation and realisation of human rights protection. A consolidated database on human rights protection and an electronic platform on human rights has been created.

#### **Specific objective 4:**

#### **Development of the legal aid system**

**Measure 5.4.1** *Improving the systems for monitoring and evaluation of the quality of legal aid offered: improvement of the selection of lawyers listed, specialisation, qualification.*

On 28.12.2016 the National Legal Aid Bureau has submitted a project proposal entitled “Strategic Reforms in the National Legal Aid Bureau under the Procedure” Strategic Projects in the Implementation of the Updated Strategy to Continue the Reform of the Judicial System and Strategy for Implementation of the e-Government and e-Justice in the Justice Sector 2014-2020”, to be funded under the OPGG.

**Measure 5.4.2** *Easing the access to primary legal aid.*

Amending and supplementing Act of the Legal Aid Act (SG 13/2017) was adopted. The amendments aim to improve the legal aid system, to bring the legislation in line with the

changed socio-economic conditions and relationships, to ensure access to legal aid to a wider range of people from vulnerable social groups by creating new forms of and providing legal advice and consultations under favourable conditions. The amendments provide for the establishment of Regional Counselling Centers at the relevant Bar Councils. Under relaxed conditions, people whose income does not exceed the country's poverty line will be counselled. The consultations will be carried out by lawyers registered with the National Legal Aid Register and appointed by the relevant Bar Council.

**Measure 5.4.3**        *Raising citizens' awareness of the legal aid system.  
See Information on the implementation of measure 5.4.1.*

**Specific objective 5:  
Court fees**

**Measure 5.5.1**        *Assessing the court fees system and analysing possible changes  
in it.*

**Specific objective 6:  
Restorative justice**

**Measure 5.6.1**        *A plan to introduce and popularise restorative justice  
approaches, including the establishment of a National Council for Restorative Justice,  
training at the NIJ, pilot projects and proposals for legislative amendments.*

In the draft Law on the abolition of criminal proceedings and the imposition of remedial measures on minors the essential element is the possibility for using a mediation procedure. This will allow the introduction of restorative justice in deviation of minors from criminal proceedings so as to achieve the elimination of the damages caused by the unlawful behaviour and as far as possible the restoration of the relations between the offender, the victim and the public. In this way, questions such as harm, needs, responsibility and obligations may be addressed through a tripartite relationship (offender, victim, and society). Applying this new approach to the treatment of juvenile offenders aims to make the perpetrator liable for damages caused by the offence, to enable him to prove his positive capacity and qualities, to deal with guilt in a positive way, to give the ability of other persons who play a role in resolving the conflict, including the victim, parents, members of the extended family, the school and the offenders' peers to actively participate in the resolution of the conflict. In order to guarantee the rights of the participants in mediation and for reasons of legal certainty, the draft legal act provides for the agreement or the refusal to reach a mediation agreement to be sent for approval by the court.

Within the framework of the Bulgarian-Swiss Cooperation Programme under Thematic Fund "Security", the E-Learning Portal of the NIJ was used for holding electronic modules on "Introduction to Juvenile Justice" within project "Strengthening the legal and institutional capacity of the judicial system in the field of juvenile justice".

**Measure 5.6.2**        *Pilot projects for the introduction of models of cross-sectoral  
integration between the court procedure and other social services and programmes in order  
to achieve the effects of justice without imposition of sanctions, including through  
appropriate amendments to the Social Assistance Act.*

**Specific objective 7:  
Juvenile justice system targeting prevention, ensuring effective protection and humane  
remedial measures**

**Measure 5.7.1** *A statutory framework oriented to the rights of the child and conforming to international standards.*

The draft Diversion of Criminal Proceedings and Imposition of Disciplinary Measures for Juveniles Act, developed in 2016, aims to build a policy that prevents the child's public-dangerous and victim-behavioural attitude of children, while ensuring effective high-level protection of their rights and legitimate interests, including a humane and lawful correction of their behavioural deviations, tailored to the best interests of the child under conditions of legal certainty and stable legal order. In the preparation of the project an analysis of the international acts, to which Bulgaria is a party, as well as of the international standards was made.

**Measure 5.7.2** *Specialised court panels and specialised units at the prosecution service and the investigating authorities.*

The draft Diversion of Criminal Proceedings and Imposition of Disciplinary Measures for Juveniles Act developed in 2016 identifies the competent authorities that may impose the specific types of remedial measures. The requirement recourse cases to be dealt with only by a specialized composition of the District Court at the current address of the minor is introduced and this law should be applied by judges, prosecutors, investigative bodies and specialized police officers who have specialized knowledge on working with children. Regulating the specialization of all professionals working with juvenile offenders meets international standards and recommendations to Bulgaria, but provides greater efficiency and promptness of the system by developing the professional capacity of experts working with juvenile offenders.

**Measure 5.7.3** *Court-controlled inter-institutional coordination of the juvenile justice system reacting to each case.*

The draft Diversion of Criminal Proceedings and Imposition of Disciplinary Measures for Juveniles Act developed in 2016 proposes establishing coordination between the juvenile justice system and the protection system in order to ensure respecting the best interests of minors. With this regard, when the educational measure is imposed by a parent/guardian, a tutor, relatives or persons close to the family or a foster family, the court may also refer to the use of the relevant social service within the meaning of the Social Assistance Act, Center for the support of personal development within the meaning of the Law on pre-school and school education or other specialized day care and where necessary to include specialists on issues of personal development, health culture and/or education of minors.

In order to increase the capacity of prosecutors and investigating magistrates to work with children who have suffered from crimes and children in conflict with the law, trainings are regularly conducted. In May 2016, in fulfilment of the Memorandum of Understanding and Cooperation between the PORB and Unicef Bulgaria, the first cycle of specialization of 16 prosecutors as trainers on the subject was completed. Under project "Strengthening the legal and institutional capacity of the judiciary in the field of juvenile justice" under the Bulgarian-Swiss Cooperation Programme, judges and prosecutors of judicial districts of DC Varna, DC Plovdiv and RC Kozloduy were trained.

As a result of the above-mentioned training events, the number of interrogations of children victims of crimes in the existing adapted rooms for hearing – "blue rooms" in accordance with international standards for guaranteeing the rights of the child, has increased considerably.

**Measure 5.7.4** *Applying the measures envisaged in the Concept of State Policy in the Area of Juvenile Justice by developing and implementing an action plan.*

The draft Diversion of Criminal Proceedings and Imposition of Disciplinary Measures for Juveniles Act, developed in 2016, is in line with the Concept on State Policy in the Field of Juvenile Justice and the Roadmap for its implementation.

**STRATEGIC OBJECTIVE 6:  
BUILDING TRUST IN THE JUDICIARY THROUGH PUBLIC PARTICIPATION  
AND TRANSPARENCY**

**Specific objective 1:**

**Strengthening the social responsibility of the SJC parliamentary quota**

**Measure 6.1.1**            *Measures for transparency of the process of nominations of SJC members by the parties.*

**Measure 6.1.2**            *Enhanced public participation in the election procedure of the SJC parliamentary quota.*

The National Assembly elects eleven members of the Supreme Judicial Council, of which six – for the judges’ college and five – for the prosecutor’s college. JSA contains regulatory safeguards for the transparency of the nomination and election process of the parliamentary quota in the SJC and its public character by ensuring the publicity of nominees and nominees of information from expressed positions of professional, academic and other organizations. Etc. Nominations, concepts of the applicants and declarations of the nominees, opinions and questions of NGOs, higher schools and scientific organizations are published on the National Assembly website. The name and the reasons of the Member of the National Assembly that has raised the respective candidacy are also published. Proposals for candidates for elective members of the Supreme Judicial Council are considered by a specialized commission of the National Assembly. It hears every candidate who presents his/her concept thereto. A full verbatim report is prepared for the hearing, and is published on the website of the National Assembly.

**Measure 6.1.3**            *Transparency and accountability of the work of the members of the SJC parliamentary quota.*

**Specific objective 2:**

**Ensuring tangible public participation in the administration of justice through the institute of lay judges**

**Measure 6.2.1**            *Transparency and public participation in the election of lay judges by the municipal councils.*

The municipal councils in the respective judicial district announce in a local daily newspaper, in electronic media and on the electronic pages of the municipalities and municipal councils the procedure for appointment of the jurors and the rules for its implementation.

The list of admitted candidates together with their CVs and other documents are published on the website of the municipal council. The municipal councils shall hear each of the admitted candidates in a public hearing. Non-profit legal entities designated for the performance of public benefit activities may submit to the municipal council opinions on the applicant, including questions to be put to him/her. Jury candidates are elected by a simple majority in the municipal councils, offer to be elected by the general assemblies of district and appellate courts, and the Sofia Municipal Council – and the General Assembly of the Specialised Appellate Criminal Court.

**Measure 6.2.2**      *Transparency of lay judges and safeguards against conflict of interest.*

According to the JSA, a court juror may not be a person who is a court juror in another court; who is a municipal councillor from the judicial district for which he is elected; who takes part in the leadership of a political party, coalition or organization with political ends; who works in a court, prosecutor's office, investigative bodies, the Ministry of Interior, or other national security systems located in the judicial area for which he is elected. In this case, the court juror shall be dismissed early by the respective general assembly upon proposal by the chairman of the court.

**Measure 6.2.3**      *Debate of the possibilities to increase further public participation through the institute of lay judges.*

**Specific objective 3:**

**Turning the budget procedure into a tool of transparency and public control**

**Measure 6.3.1**      *Introducing programme and results-oriented budgeting for each judicial entity.*

**Measure 6.3.2**      *Public debate with specialized and professional non-governmental organisations of the draft judiciary budget and the budget implementation report.*

**Measure 6.3.3**      *Parliamentary debate at separate sittings of the judiciary budget and its implementation report.*

The amendments to the JSA in 2016 introduce the requirement that the National Assembly, when adopting the state budget, should listen to a report of the plenum of the Supreme Judicial Council presented by its representative.

The Council of Ministers shall submit to the National Assembly, together with the report on the implementation of the state budget, the report on the implementation of the budget of the judiciary, adopted by the plenum of the Supreme Judicial Council, with detailed justification.

**Specific objective 4:**

**Strengthening the transparency of the judiciary and dialogue with citizens**

**Measure 6.4.1**      *Periodic public opinion surveys on the judiciary and the satisfaction of citizens who have approached judicial entities.*

The Ministry of Justice, in partnership with the SJC, submitted a project proposal entitled "Effective Access to Justice" for funding under OPGG, including activity "Model Access to Justice for Citizens and Business". The implementation of the project will develop and approve a methodology for conducting a public opinion poll on the satisfaction of the judiciary. A test and pilot study and an analytical report on its outcomes are envisaged, as well as a public discussion on the results of the study.

**Measure 6.4.2**      *Annual report on the transparency of the judiciary.*

For the preparation of an annual report on the transparency of the judiciary, the Civil Council at the SJC is involved, and should prepare annual information. To secure this activity, the Civil Council of the SJC does not have the necessary financial means ensured.

The Prosecutor General annually submits to the Supreme Judicial Council, by April 30, an annual report on the application of the law and on the activities of the Prosecutor's Office and the investigative bodies and publishes it on the Prosecutor's Office website. The SJC submits the report to the NA by 31 May. The reports shall be heard after the NA has heard the Prosecutor General as Members of Parliament may also put written questions received from

citizens, institutions and non-governmental organizations on the reports to which the Prosecutor General is responsible.

Similar is the requirement for the Chairmen of the Supreme Administrative Court and the Supreme Court of Cassation on the annual reports on the activities of the Supreme Courts.

**Measure 6.4.3** *Introducing models for active dialogue between the judicial authorities and the various communities.*

The activity of the Civil Council, established in 2012, which includes 14 professional and non-governmental organizations in 2016, continues.

**Measure 6.4.4** *Publishing online the acts of the judicial authorities in a standard machine-readable format.*

**Measure 6.4.5** *Making the acts of the judicial authorities more communicative.*

**Measure 6.4.6** *Periodic research of the assessment of the business community of the performance of the judicial authorities as an element of the domestic investment climate and considering possible measures with the representative business organisations.*

**Measure 6.4.7** *A mechanism to encourage alternative means to dispose of the cases as a way to build trust and strengthen citizens' responsibility and cultivating legal culture.*

The Ministry of Justice submitted a project proposal "Promoting the Use of Mediation as an Alternative Dispute Resolution" to be funded by the OPGG, which is under evaluation. Through the implementation of the project activities, an in-depth analysis of the current situation and good practices in the field of mediation will be prepared as a means of alternative dispute resolution, as a result of which proposals for legislative changes will be prepared. Specific measures are envisaged to increase the use of out-of-court dispute resolution, in particular mediation. A Centralized Electronic Mediation Portal will be set up and one of its aims is to contribute to the awareness and access to mediation of the parties to the dispute in order to encourage them to use the means of mediation before entering court and initiating a case. The project involves media campaigns to promote mediation as well as the development of multimedia videos to be broadcasted in public places.