

REPUBLIC OF BULGARIA

MINISTRY OF JUSTICE

STRATEGY

**TO CONTINUE THE JUDICIAL REFORM
IN THE CONDITIONS
OF FULL EUROPEAN UNION MEMBERSHIP**

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List of Acronyms:

MoJ	Ministry of Justice
EU	European Union
CVM	European Commission's Cooperation and Verification Mechanism
JSA	Judiciary System Act
SJC	Supreme Judicial Council
UISCC	Unified Information System for Combating Crime
NIJ	National Institute of Justice
ECHR	European Court of Human Rights
CVM Directorate	Cooperation and Verification Mechanism Directorate

STRATEGY

TO CONTINUE THE JUDICIAL REFORM IN THE CONDITIONS OF FULL EUROPEAN UNION MEMBERSHIP

The judicial reform is not only a legal and technical challenge, but it has also turned into a public problem with an ever growing importance in the public mind. This fact has been adequately taken into account by Bulgaria's new government which identifies the judicial reform as one of its key priorities in the Programme for European Development of Bulgaria presented in November 2009.

Improvement of the work of the judiciary, increasing the confidence in it and ensuring the legal order in the country are the specific steps on the path to achieving the most important goal of any administration of justice – strengthening the rule of law. This Strategy to Continue the Judicial Reform aims to consolidate the existing different concepts by encompassing all basic elements of this process – effectiveness, transparency, rapidity, quality, accountability and fight against corruption. At the same time, it adequately describes the present situation in the country and builds on what has been achieved so far. An essential element of the Strategy is to take into account the fact that Bulgaria is a full member of the European Union (EU) and the country needs to take into consideration the correlations the membership entails. Some new elements included in the Strategy give an additional focus and depth of vision to the reform: conducting initial research and discussions; establishment of a mechanism to evaluate and update the Strategy in the course of its implementation; setting-up of an internal body responsible for the regular monitoring of its implementation. Thus the disintegration of the debate about the state of the judiciary to individual expert discussions will be avoided and the judicial reform will acquire a clear public and political agenda.

The irreversibility of the judicial reform is a guarantee for the irreversibility of the democratic processes, the development of the human resources and the country's economic stabilisation. To ensure that the reform process is irreversible, the reforms must become part of the everyday life of both the magistrates and citizens. The best indicator for this will be the increased confidence in the system and its perception as being truly independent and transparent. Even though it does not envisage constitutional changes at any cost, the Strategy points out certain legislative amendments which, to a large extent, already make things irreversible. Along with this, it launches certain streamlining measures which do not pass through structural reforms but build on what has been achieved so far and stress on the strengthening of good management practices and solutions.

The *fourth* year of Bulgaria's membership in the European Union is marked by events which are very important for the Union's life. The entry into force of the Lisbon Treaty provides radical changes in

the EU's institutional structure and the decision-making mechanisms in the Community. Two new elements laid down in the Treaty exert a direct impact on the judiciary and the process of its reform – passing to an ordinary legislative procedure for issues included at present in the EU's third pillar *Freedom, Security, Justice* in 2014 and control by the Court of the European Communities, and the possibility for one-fourth of the Member States to propose Community legislation. This not only sets additional requirements and poses new responsibilities to the Bulgarian institutions involved in the judicial reform but it also gives Bulgaria the unique opportunity to join these significant reforms at the start and make an adequate contribution to their realisation.

An *essential* part and accelerator of the reform is the European Commission's Cooperation and Verification Mechanism (CVM) set up for Bulgaria and Romania in the areas of justice and home affairs. Established in the end of 2006, right before Bulgaria's accession to the EU as a full member, the CVM, in our opinion, is a starting point to overcome the deficiencies in the field of judicial reform, fight against corruption and organised crime. The benchmarks set in the CVM in relation to the structure, accountability and publicity of the judiciary remain strategic goals of the continuing process of reform. The fulfilment of the Mechanism's goals will guarantee that the Bulgarian citizens will enjoy the full set of privileges of the European Union membership and that the Bulgarian judicial system will be a real participant in the deepening European integration in the field of freedom, security and justice.

STATE OF PLAY

During Bulgaria's preparation for EU membership, the country's Constitution was amended 4 times in 5 years. The last amendment of 2007 provides for the setting up of a permanent Supreme Judicial Council (SJC) and an Inspectorate to it. At the constitutional level, the magistrate's immunity was brought down to a functional one. The structure of the judicial system was established with the adoption of a new Judiciary System Act (JSA) in 2007. The principle of random case assignment was introduced. Follow-up amendments to the JSA integrated the investigation in the Prosecutor's Office.

A number of changes have been accomplished for the procedural legislation as well. An Administrative Procedure Code has been adopted, administrative courts are already functional. A new Civil Procedure Code has been passed as well as a number of laws introducing legal concepts which are European in their essence. A Commercial Register has been set up. Private judicial enforcement has been introduced. In view of the level of harmonisation of the national legislation with the *acquis communautaire*, Bulgaria is constantly among the top ten EU Member States.

Substantially new steps towards publicity of the judicial system have been taken – the SJC meetings are public, all SJC decisions are published on the SJC website. All courts in the country have created websites for publication of the court acts. The implementation of a unified Internet portal administered by the SJC is underway.

A unified Code of Ethics of Bulgarian Magistrates has been adopted as the main instrument to strengthen the principle of integrity and morality in the judicial system. Competitions for magistrates and administrative heads' positions in the judicial system have become a rule. The principle of tenure has been introduced for the administrative heads. Criteria for appraisal and appointment of magistrates have been implemented as well as criteria for evaluation when the tenure status is acquired.

Investments have been targeted at the training and qualification of the judicial system staff. The Magistrates' Training Centre has become a public institution – the National Institute of Justice (NIJ). Mandatory initial training of the newly appointed magistrates and a unified national system of magistrates' training have been introduced.

Building of the Unified Information System for Combating Crime (UISCC) continues.

Specific steps have been taken to involve representatives of the civil society in the work of the institutions conducting the judicial reform. Public councils have been set up with the Ministry of Justice and the SJC in which representatives of the non-governmental sector take part as equal partners and evaluators of the actions of the judiciary. For the first time, the Minister of Justice created a Magistrates' Council involving acting magistrates from throughout the country. This guarantees a direct path from the ideas of the practising jurists to the legislative proposals.

Under the CVM and following the benchmarks in the area of the judicial reform, fight against crime and corruption, an integrated model of partnership between the legislature, the executive and the judiciary has been established to formulate measures and actions to continue the reform and to provide control and accountability for their implementation. A specific work model has been approved together with the European Commission – a Timetable of the urgent measures of the government and the judiciary which gives the direction, pace and commitments and determines the impact of each measure in the course of reforms. It consolidates the concepts and the initiative of all institutions involved and lays down the parameters of their participation in the reform process. The work model selected not only leads to a real measurement of the effectiveness of the institutions' actions but takes into account the political will and support of the government as a reliable partner in the process of the reform.

The assessment of what has been achieved in the course of the judicial reform so far is not unequivocal. The public confidence in the system and its ability to guarantee fairness continues to be critically low. Along with the partially positive assessments, each of the reform elements listed prompts ever growing criticism, above all concerning the effect of their implementation. This dissatisfaction provides the environment for the development of ever more radical ideas about constitutional restructuring and “re-start” of the constitutional set-up of the country. Should specific arguments come about, the flexibility of the Strategy allows to consider amendments to the Constitution as a separate measure. Such may be: impossibility to carry out the reform ideas proposed with legislative amendments only; streamlining the debate on some of the Strategy’s goals and reaching a consensus about changes; a possible change in the Lisbon Treaty requiring an adequate amendment to the Bulgarian Constitution as well.

The Strategy envisages a gradual implementation of measures and solutions to achieve sustainability of the continuing reform process. The proposed ideas for reforms are aimed not only at the judicial institutions but also at the citizens and business in their capacity of final users.

Special attention has been paid to the institutional strengthening and mobilisation of the capacity of the SJC, the Inspectorate to the SJC and the NIJ to improve the quality of justice and discipline the processes in the system. It is envisaged that the stages of implementation of the individual measures will be set out in detail in an Action Plan. Taking into account what has been achieved so far, the Strategy lays down the priorities to continue the reform. Uniting the efforts of government bodies and the civil society around specific actions and proposals, the Strategy should be read as a road map that ensures strengthening the rule of law. The present document deals with problems which are internal both to the judiciary and the country. Targeted at the real needs of the magistrates, the citizens and the business, the Strategy aims to increase the trust in the judicial system and to achieve maximum transparency in the work of the judiciary, a high quality of the services provided within the system, a high level of magistrates’ preparedness and a guaranteed access to justice.

A. STRATEGIC GOALS:

I. Better management of the judicial system

Highlighting the problem of the better management of the judicial institutions is a basic methodological approach: many (and probably the majority) of today's challenges can be solved at the level of competent management before it becomes necessary to reshape yet another procedural code or the Constitution. It is all about good management on the part of the SJC and the administrative heads as well as on the part of the chairpersons of every court panel with respect to the individual proceedings, including a better organisation of the resources, an adequate management of the staff, budget planning, statistics and reporting. Prioritizing these issues and finding, in the existing regulatory framework, of working solutions for them will make it possible to pursue sustainable reforms in the mentioned areas and will become a base for a constructive debate about larger procedural and possible constitutional changes.

II. Qualitative justice. Placing the citizens' point of view in the centre of the judicial reform debate

The concept of the continuing judicial reform is based on the European standards for independence, effectiveness, transparency and accountability of the judicial system which administers justice in the conditions of the inalienable European principles – the rule of law, protection of human rights and equal access to justice.

The achievement of the European standards in the implementation of the law is the real measure of the quality of justice which integrates a number of purely technical elements of the judicial reform (for example, implementation of new technologies, mechanisms to unify the practice, etc.). Every further stage of the reform is closely related to the dynamics of the European legislation, the gradual application of the Lisbon Treaty and the accomplishment of the concept of the Stockholm Programme.

An essential criterion of the quality of justice – in the conditions of full EU membership – is the comparability of the rapidity, effectiveness and level of citizens' confidence in the administration of justice in Bulgaria with the same indicators in the other Member States. An additional resource to achieve such comparability is the adoption of European standards for creation of laws and inclusion of the reform elements of the Bulgarian judicial system in the overall concept of the EU judicial reform in accordance with the Stockholm Package.

The adoption of the European standards in the application of the law would gain pace if the European experience and the European models are practically established in the entire legislation and not only in places where harmonisation is obligatory. The upcoming European discussion about the application of the Lisbon Treaty and further elaboration of its clauses concerning the area of freedom, justice and security provide Bulgaria with a unique opportunity to take part in the discussion and simultaneously to make it part of the training of the judicial system's representatives in the administration of justice in accordance with the terms of the Treaty.

The complete structuring of the figure of the judicial system's user is important for its effectiveness. The point of view of the citizens and business must be considered as a corrective for improving the accountability, defining the direction for continuation of the reform and overcoming the feeling of deficiency of the magistracy's democratic legitimacy which has gained ground in the public mind. Such a strategic goal should also lead to the expansion of the reforms' scope so that, in addition to the commitments arising from the dialogue with the EC, the agenda of the efforts to improve the Bulgarian justice will reflect in practice other priorities as well (for example, related to the improvement of the investment environment, adequate protection of the crime victims' interests, further expansion of the access to justice, participation of the civil society representatives, etc.). This will be a commitment to continue the reform within a broader and more active dialogue with all stakeholders and part of the efforts to modernise the legal order.

III. Countering corruption in the judicial system

The fight against corruption and countering all forms of unauthorised influence on the judicial system are the main criterion for the success and irreversibility of the judicial reform. The general assessment is that what has been done in this field is not enough. There is still no effective criminal prosecution of the corruption within the judiciary which is directly related to the elaboration of objective criteria for accountability of the court, the Prosecutor's Office and the investigation. Along with this, any inaccuracies in appraisal may also generate corruption; the lack of transparency in taking decisions may be regarded as part of the corruption deal; the imposition of a concrete nomination for an administrative head, despite the protests of the professional community, may result in doubts for corruption. In this sense, the implementation of each Strategy goal should be considered as an anti-corruption measure leading to the overall establishment of a sustainable anti-corruption environment.

B. PRIORITIES

1. IMPROVEMENT OF THE JUDICIAL INSTITUTIONS' MANAGEMENT

In the transitional period, a significant increase was achieved in the resources provided for the judicial structures – not only as a total budget but also as remuneration of the magistrates' labour, information technologies, etc. Significant changes were undertaken in various elements of the bodies and processes of the system's management. At the same time, it is **difficult to report proportional increase in the capacity of the judicial authorities**. Given similar resources, some courts and Prosecutors' Offices manage to achieve much better results than others. There continues to be no clear assessment of the role of factors such as the real condition of the buildings and its importance for slowness and inefficiency of the law enforcement. **The planning of budgets, staff positions, workload, equipment and management of the buildings continues to be insufficiently effective, and it is not based on detailed, measurable and verifiable indicators of effectiveness and quality**. There are no working mechanisms to identify good management practices and impose them as standards in the system. The guarantees for appointment of competent and active management staff, for stimulating them and seeking their management responsibility remain insufficient. The functions of planning, adoption, execution and reporting of the budget are distributed among different bodies which makes communication and coordination between them difficult and, as a result, damages the quality of planning and reporting for the expenditure of funds.

The measures under this priority aim to achieve an optimal realisation of the present capacity of the judicial bodies, an adequate use of the resources invested in them and establishment of real mechanism of public control. In the first place, it is focused on optimising the budget procedure as a key planning instrument. A main goal of the Strategy is to have all processes related to the budget – planning, approval and reporting – united in a system with clear programme goals and indicators for their achievement, with a specified balance of responsibilities (administrative heads, SJC, MoJ, Parliament), with a plain model of independence of the judicial system but with the participation of the other governmental branches and the society. If the budget for the next period is justified with the results reported from the previous one – on the basis of clear criteria for effectiveness, good services for the citizens and quality of justice – this will create an important guarantee of accountability, public control and overcoming the feeling of deficiency in democratism in the work of the judicial institutions. The introduction of such procedures must take into account the differences between the individual units in the constitutional judiciary.

In the second place, the Strategy aims to result in clarification of the role and responsibility of the administrative head to ensure good management of the individual system's units. It is envisaged that a

number of standards and indicators will be developed and adopted which will become the basis for an effective and transparent procedure for planning and use of the judicial units' resources and a framework for the work of their administrative heads. The role of the SJC and the Inspectorate to it for their development and implementation should be considered in view of the measures of their institutional development. The Strategy directs the attention to the development of the administrative staff's personnel potential. The adequate realisation of all measures in the Strategy will depend on the strengthening of the judicial bodies' technical modernisation and the introduction of a reliable and uncontroversial statistical accountancy. Thus, the tracking of real meaningful indicators of the work of structures' and staff in the judiciary and the use of the invested public resources will be achieved.

The improvement of the judicial institutions' management and the processes in them may be viewed as the starting point of this Strategy. The efforts to apply this priority will outline the areas in which progress cannot be achieved without structural changes. At the same time, massive transformations will be spared in places where the goals can be attained by management optimization as well. In this sense, the measures under this priority are fundamental to the successful realisation of all other elements of this Strategy.

1.1 Turning the budget procedure into a real mechanism of public control

1.1.1 Introduction of programme budgeting, including:

- Detailed, measurable and verifiable indicators of effectiveness and quality which are specific to every judicial unit in view of its functions;
- System of indicators allowing to value the work of an individual magistrate and a court clerk and track its effectiveness;
- Mechanism to define and adopt programme goals under the individual indicators of effectiveness and quality which will be taken into account in every following budget in view of the individual judicial units' specifics, including their subdivisions and regional needs;
- Tying the budgeting of the individual judicial units to their work results reported in accordance with the set programme goals.

1.1.2 Setting and publication of a programme budget of the judicial units' individual structures (regional, district, appellate, supreme, specialised, etc.).

1.1.3 In the long run, all parts of the judicial system's budgetary mechanism – planning, execution, control and reporting – are to fall within the competence of the SJC.

- 1.1.4 Development of the Parliament's capacity to exercise effective public control in adopting the judicial system's budget and the reports of its bodies' activities, taking into account the specifics of the individual system's units.
- 1.1.5 Unfolding the parliamentary procedure's potential to discuss the programme goals of the Prosecutor's Office and the Investigation, concretization of the national penal policy.

1.2 Effective and responsible administrative heads

- 1.2.1 An overall concept of the administrative heads' selection, including:
- Ensuring complete transparency of the process;
 - Introduction of profound public hearings;
 - Requirement for programmes' presentation;
 - Criteria allowing to take into account the candidates' management and leadership skills, their ability to bear responsibility and work with the unit team, their professional ethics, undoubted reputation and past;
 - Public participation.
- 1.2.2 Implementation of the team principle in the management of the judicial system units through:
- Regulating the opportunity for the administrative heads to be able to propose the appointment and release of their deputies.
- 1.2.3 Overall concept of the administrative heads' role, including:
- In relation to the management of the respective unit, its budget and resources;
 - Participation in the process of budget planning and reporting;
 - Relations with the SJC and the Inspectorate to the SJC;
 - At the regional level, role in the planning and implementation of a law enforcement policy taking into account the local needs and in a dialogue with the local community;
 - Mechanisms for a dialogue, accountability and responsibility to the team and the local community;
 - A model of relations with the other judicial institutions, law enforcement bodies, the Bar, local authorities, the media at regional level;
 - Relations with the local community and policy of transparency and representation of the judicial bodies in front of the citizens.
- 1.2.4. Specific criteria for reporting and evaluation of the administrative head's work and one's team depending on the characteristics of the unit.

1.2.5 Mechanism of identification of successful models for administration of judicial units and their imposition as a national standard. Establishment of mechanisms for stimulation of effective and responsible administrative heads.

1.2.6 Development of the capacity of the Inspectorate to the SJC to evaluate the specific managerial and administrative aspects of the judicial system's work.

1.2.7 Specific training modules for members of the judicial system's management teams.

1.3 Active management of the workload, working conditions and the number of magistrates

1.3.1 Elaboration of criteria and methodology to evaluate and plan the workload of the judicial units and their subdivisions and of the individual magistrates and administrative staff. Elaboration of a model to stimulate magistrates who presented high quality, efficiency and ethics in their daily work.

1.3.2 Elaboration of overall concept to regulate the workload of the SCC and SAC in view of their specific functions.

1.3.3 An administrative reform – development of a model to optimize the distribution of resources in the structures of the judicial system, including, if necessary, restructuring of courts/units.

1.3.4 Optimization, when necessary, of the regional courts' number keeping the citizens' guaranteed real access to justice and taking into account the tendencies of the regional demographic, economic and infrastructural development.

1.3.5 Discussion of the possibilities to introduce an element of differentiation in the remuneration of magistrates in view of their workload and/or categorisation of the unit in which they work.

1.3.6 Elaboration of standards for the magistrates' working conditions: working place, access to information technologies, administrative provision, security inside and outside the court buildings.

1.4 Active management of court buildings

- 1.4.1 An overall concept of the buildings' development and provision of new buildings, integrating the management of property with the other goals of the judicial system's development.
- 1.4.2 Establishment and maintenance of a data base for the judicial system's buildings.
- 1.4.3 Elaboration of objective indicators to define priorities for investment and repairs of the judicial system's buildings.
- 1.4.4 Development of the judicial bodies' capacity to plan and use the capital expenditure, including the SJC specialised administration, the administrative heads and their teams for the individual subdivisions.
- 1.4.5 Completion of the transition to independent management of the buildings by the SJC.

1.5 Competent and motivated administrative staff

- 1.5.1 Elaboration and implementation of criteria to optimize the number of administrative staff in view of the courts and Prosecutor's Offices' workload taking into account the specifics of the units.
- 1.5.2 Specifying the court administrator's functions and allocating the responsibilities between the court administrator and the administrative head.
- 1.5.3 Determining standards for the ratio magistrates – court clerks within the different judicial bodies and the individual administrative functions in them, including the reporting of the respective workload level.
- 1.5.4 Obligatory specialised initial and continuing training of court clerks.
- 1.5.5 Introduction and application of objective criteria and procedure of court clerks' appraisal.
- 1.5.6 Career development and growth of court clerks.
- 1.5.7 Evaluation of the remuneration status of the judicial administrative staff.

1.5.8 Evaluation of the ethical regulation and disciplinary practice with respect to the administrative heads in the judicial system.

1.5.9 Adoption of specific anti-corruption measures with respect to the administrative clerks in the judicial system taking into account the specific risks related to their functions.

1.6 Information and technological modernisation

1.6.1 Overall building of the Unified Information System for Combating Crime (UISCC). Elaboration of unified methodology for registration and report of crimes as basis for UISCC and achieving reliable statistics.

1.6.2 Integration of the institutional information systems with the UISCC core in order to establish a technological team involving all system units and an information transfer in real time.

1.6.3 Communication between the individual structures of the judicial system and between them and the law enforcement bodies through the UISCC as a guarantee for security in the exchange of information, optimal information resource, speed and effectiveness of the proceedings.

1.6.4 Implementation of systems for automated case management, including implementation of electronic file, beginning with the first act of the proceedings. In regard to criminal proceedings, the file is to be filled in immediately after a signal in the police/ filing of the formation.

1.6.5 Building a centralised Internet portal of the judicial system for publication of all court judgments – on a centrally based interface by a unified software. Implementation of a specialised software for publication of court judgments erasing any personal data in view of the protection of the citizens and legal entities' rights.

1.6.6 An electronic system for monitoring and control of the activities of clerks and experts.

1.6.7 Introduction and use of video conference in criminal proceedings.

1.6.8 Creation of regulatory, programme and organisational conditions to implement an electronic exchange of documents, communications and procedural activities between the judicial bodies and the participants in the individual proceedings.

1.7 Effective accountability and reliable statistics

- 1.7.1 Unification and coordination of the statistical reporting between the judicial units and MoI.
- 1.7.2 Increasing the reliability of statistical reporting, including additional mechanisms for external control and verification.
- 1.7.3 Tying the statistical information collected to indicators which, to a large extent, reflect the point of view of the “user” and the society and not only of internal institutional indicators.

2. STRENGTHENING THE INSTITUTIONS OF THE JUDICIARY

Strengthening the institutions of the judiciary is based on the principle of its independence. The management body of the judicial system – the Supreme Judicial Council – consists of two equal quotas one of which is proposed and elected by the Parliament. The Parliament also elects the members of the Inspectorate to the SJC. The SJC should be restructured in view of overcoming several shortcomings:

- Deficiency of legitimacy at the election of members;
- Concern that the parliamentary quota is a source of party and lobby influences;
- Striving to avoid the influence of prosecutors on the personnel decisions about judges in view of the principle of equal distance of the court from the two sides in the penal proceedings;
- Ineffectiveness in the work of the SJC;
- Lack of clear responsibility of its members.

With respect to the SJC, the Strategy proposes a system of solutions which guarantee the **broad public participation in the election of new SJC members in the conditions of transparency and presentation of the candidates’ platforms**. The provision for a possibility to recall members may become an effective instrument to stimulate the taking of responsibility. The continuation of the differentiation of the SJC career functions with respect to judges and prosecutors will result in the better management of the two branches of the magistracy taking into account the specifics of their functions.

Increasing the transparency and accountability of the prosecution’s work may be achieved by tying the process of approval and performance of its budget in Parliament to an overall system of detailed planning of the priorities and the necessary resources. Valuation of the work of a prosecutor, formation of a budget and a programme of goals of every subdivision of the Prosecutor’s Office,

codification of the rules for work in a unified framework describing accurately the levels of competence and guaranteeing the field of discretion and responsibility of the individual prosecutors – these are all measures which will make an important contribution to the improvement of state prosecution’s effectiveness. It must be emphasised that a significant progress in the fight against crime is impossible without a decisive reform in the MoI system in order to build a modern and well-trained investigating police. This Strategy envisages a minimum of measures in this regard.

To overcome the deficiency of accountability and democratic legitimacy in the area of selection of personnel in the courts and Prosecutor’s Offices, the measures of transparency and **public participation in the selection of administrative heads** are of special importance.

The Strategy also envisages ideas about the continuation of reforms in the Bar as a constitutive element of the justice system.

2.1 Strengthening the responsibility, accountability and effectiveness of the SJC

2.1.1 Discussion for the “parliamentary quota” and the following possibilities:

- Reduction in the number of the SJC members elected by the Parliament;
- Removal of the parliamentary quota;
- Increase in the majority for election of an SJC member to 2/3 of the Members of Parliament;
- The SJC to be composed of acting magistrates only;
- Retention of the “parliamentary quota” of the SJC with decreased political influence and increased participation of the civil society in the conduct of the election;
- Conducting a profound comparative legal research on European models of judicial system’s management.

2.1.2 Introduction of guarantees for publicity and competitiveness in the procedure for election of SJC members from the parliamentary quota, including by public announcement of the nominations sufficient time before the election with a view to holding a public discussion for them, an obligation to publish platforms, conducting public hearings of the candidates.

2.1.3 Introduction in reference to the judicial quota of an element which will ensure real national representation of the magistrates in the SJC.

2.1.4 Debate for the introduction of a mechanism to recall SJC members.

- 2.1.5 Separation between judges and prosecutors in the work of the SJC and its commissions when decisions about personnel issues are made: appointment, appraisal, disciplinary proceedings, in order to take into account the specifics of the status of judges and prosecutors.
- 2.1.6 Involvement of magistrates from different levels of the system in the work of the SJC – initially in the mechanisms for dialogue and the commissions and through a possible modification of the requirements for membership in the long-term.
- 2.1.7 Strengthening the transparency in the work of the SJC by promoting the practices of preliminary discussion of draft decisions, publication of exhaustive information about the work of the SJC and its commissions and introduction of an open voting.
- 2.1.8 Periodic evaluation of the work of the SJC standing commissions in view of the development of their practice and capacity.
- 2.1.9 Development of the managerial and analytical resources of the SJC, including through investments in its administration, creation of additional commissions and involvement of external experts and representatives of the magistrates and the civil society.
- 2.1.10 Strengthening the SJC as a forum for dialogue about the problems of justice with a guarantee for public participation and representation of the magistrates.

2.2 Optimization of the system and structure of judicial bodies

- 2.2.1 Optimization of the number of courts following an analysis of the workload, resources and infrastructure of the judicial system in observance of the principle of guaranteed and real access of the citizens to justice.
- 2.2.2 Periodic evaluation of the instance structure of the courts in view of the workload, optimization of the resources and duration of cases and ensuring a unification of the practice.
- 2.2.3 Debates about the creation of specialised court by areas of specialisation: for example, organised crime, underage offenders, insolvency, etc.

2.3 Strengthening the administrative justice as a guarantee for good governance

- 2.3.1 Strengthening the administrative courts as acting and independent jurisdictions. Further investments in their institutional development and training of their judicial and administrative staff.
- 2.3.2 Monitoring of their work for quality and effectiveness; the evaluation of the quality will be based not only on indicators internal for the judicial system but will take into account their influence for the promotion of good governance in accordance with the EU standards.

2.4 Development of commercial justice as an element of an attractive investment environment

- 2.4.1 Development of the capacity of commercial justice in view of the complicating economic relations and the need to improve the investment climate.
- 2.4.2 Further development of specialisation in commercial justice, increase in the competence, stepping-up of the anti-corruption measures, organisation of the process aiming at rapidity and protection of trade secrets. Specialised statistics for commercial justice.
- 2.4.3 Establishment of a mechanism of interaction with the business structures on judicial reform issues.
- 2.4.4 Elaboration and adoption of a package of measures to increase the quality of commercial justice and services provided to businesses, periodic evaluation of the results of its application and the need for new measures.

2.5 Strengthening the effectiveness and accountability of the Prosecutor's Office and the institutions of pre-trial proceedings

- 2.5.1 The budget of the Prosecutor's Office and the individual units in it must be set and reported in view of clearer standards for effectiveness which allow the assessment of the work results.
- 2.5.2 Annual setting of national and regional goals for the activities of the prosecutor's units tied to the proposed budget. This planning process must become a framework for the pursuance of an active penal policy and its approval by the National Assembly.

- 2.5.3 Development of measures to motivate the prosecutors to work on complicated cases, including by introduction of adequate differentiation in reporting and appraisal.
- 2.5.4 Strengthening the mechanisms of imposing responsibility on prosecutors when they press ungrounded charges, refuse to press charges or suspend already constituted criminal proceedings, as well as when there is an insufficient effectiveness in sustaining the charge. Elaboration of a possibility for an external monitoring.
- 2.5.5 Strengthening the activities of the specialised joint teams under the guidance of the Prosecutor's Office, expansion of the scope of their activities and targeted investments in the qualification of their staff.
- 2.5.6 Optimal use of the investigators' resource.
- 2.5.7 Detailed evaluation of the equipment and needs of the investigating police and elaboration of an overall strategy for the development of its capacity and effectiveness, including measures to:
- Adequate number of investigating police officers;
 - Planned extension of the circle of police officers who would have the right to carry out certain investigation activities. Tying the process with a respective specialised training of these officers.
 - Increase the remuneration and improve the working conditions;
 - Adequate buildings, computer and other equipment;
 - Measures for systematic improvement of the investigating police officers' qualification;
 - Joint trainings of prosecutors and investigating police officers at the NIJ;
 - Measures to improve the initiative and responsibility of investigating police officers;
 - Specific anti-corruption measures.

2.6 Updating the National Concept of Penal Policy

- 2.6.1 Elaboration of an updated Concept of Penal Policy which will adopt and propose modern criminal legal solutions in the context of the changing European environment after the entry into force of the Lisbon Treaty in view of the main goals of the reform:
- Reduction in formalism;
 - Improvement of the effectiveness and speed of the penal proceedings;
 - Protection of the victims' rights;
 - Protection of human rights;

- Consistent promotion of the principle of police investigation in combination with quality improvement of the capacity of the investigating bodies;
 - Strengthening the integrated teams of the investigating bodies as a sustainable model for investigation.
- 2.6.2 On the basis of the Concept, elaboration of a new Penal Code which corresponds to the modern realities with the following priorities:
- Continuity and consistency of penal policy;
 - Overall review and systematisation of the types of crimes, decriminalisation of actions which have lost the nature of crimes and possible criminalisation of new types of acts posing danger to the society arising from the development of technologies, the new forms of international associations and the development of economic activities in the conditions of globalisation;
 - Revision of the system of punishments and the regimes for serving punishments, criminal and administrative penal liability;
 - Protection of the rights of crime victims. Modernisation and streamlining in accordance with the current international instruments of the norms regulating the cases in which an underage person is the subject or object of a crime.
- 2.6.3 Reestablishment and development of the capacity to carry out empiric criminological researches as basis for the update of the penal policy.
- 2.6.3.1 Continuation of the monitoring of the current Penal Procedure Code's implementation.
- 2.6.4 Timely transposition of the EU framework decisions.
- 2.6.5 Adoption in the law of the European concept of execution of punishments.
- 2.6.6 Periodical analysis of the convictions of the European Court of Human Rights in Strasbourg.
- 2.6.7 Periodical (annual) planning of combating crime by assigning to the Chief Prosecutor and the MoI to present a report(s) to the National Assembly about the measures they are planning and the priorities in their work. Tying these reports and the reports for their implementation with the process of approval of the prosecution and MoI's budgets. Implementation of this approach at the regional level.

2.7 Unfolding the potential of the National Institute of Justice

- 2.7.1 Elaboration and adoption of objective criteria for evaluation of the quality of training at the NIJ.
- 2.7.2 Creation of a more flexible mechanism in order to include new elements in the curriculum.
- 2.7.3 Promotion of the practical orientation of the training at the NIJ and participation of leading practicing magistrates in the preparation of the personnel entering the system.
- 2.7.4 Development of the research component of the NIJ mandate and turning it into a resource centre of the judicial system. In addition to being a training institution, the NIJ must establish itself as a centre of empirical legal studies which give an objective evaluation of the processes in the judiciary.
- 2.7.5 Expansion of the training scope for the judicial administration to strengthen the capacity, unify the practice in the administrative work of the courts, improve the quality of customer service and support the magistrates' work.
- 2.7.6 Introduction of obligatory continuing training for all magistrates in view of the specifics of their duties and the dynamics of the legislation and the practice. Specialised training courses in cases of appointment to senior administrative positions and promotion to a higher instance.
- 2.7.7 Joint trainings of prosecutors and investigating police officers.
- 2.7.8 Development of a cooperation mechanism between the MoJ, SJC, NIJ, the Lawyers' Training Centre and the law faculties in order to improve the practical preparedness of the judicial system personnel.
- 2.7.9 Strengthening the role of remote training as a contemporary possibility to gain higher qualification without detachment of the working process.
- 2.7.10 Strengthening the interdisciplinary trainings as part of the general preparedness of magistrates /training in Psychology, Psychiatry, Finance etc. /

2.8 The Bar as an element of the constitutional framework of justice

- 2.8.1 Creation of a framework of regular dialogue between the Supreme Bar Council, SJC, the MoJ and other institutions in order to unify the court practice, discuss ethical dilemmas and disciplinary practices, legislative initiatives and other issues of common interest. Implementation of this mechanism of dialogue at regional level.
- 2.8.2 Increase the lawyers' responsibility with regard to guaranteeing a quick, disciplined and fair legal proceedings.
- 2.8.3 Increase the guarantees for the quality of the citizens' protection by lawyers, including within the system of legal aid.
- 2.8.4 Further development of ethical regulation and disciplinary practice.

3. DEVELOPMENT OF THE PERSONNEL POTENTIAL AND INCREASING THE MAGISTRATES' INTEGRITY

The development of the judicial system is a projection to the highest extent of the condition of its human resources and their integrity. The measures under this priority aim at guaranteeing that **Bulgarian justice will be administered by qualified staff having a high level of integrity and adequate motivation.** The critically low rating of the judicial system at present clearly shows the need of ensuring strict selection, high level competence and decisive measures to eliminate even the slightest suspicion of corruption.

At the entry to the system, university education in law remains outside the current reform attempts and the significant problems there have a direct impact on the initial quality of the human resources on which justice in Bulgaria relies both in terms of qualification and integrity. The internship and the practical and theoretical examination which have been rendered meaningless do not contribute in any way to filling in the gaps in the young lawyers' qualification and to the establishment of a high national entry standard of access to the lawyers' profession. Even though the NIJ provides initial and continuing training to magistrates, there is no guaranteed mechanism concerning the other representatives of the legal professions through which they can improve their qualification and attend training in the constantly changing legal framework.

The strengthening of competitions has been an important positive step but the criteria used to evaluate the candidates may not guarantee that, in addition to knowing the law, the future magistrates will have an appropriate understanding of their public role and adequate personality to bear the responsibilities of a servant of justice and will have the integrity needed to do it honourably. Even though, in the previous period, an attempt was made to build an appraisal system, to introduce a real disciplinary practice and we witnessed the first cases of application of the Code of Ethics of Magistrates, these measures are lagging behind the public expectations of decisive self-cleansing of the judicial system. No consolidated will was demonstrated to promote the career development only of people with untarnished reputation and competence.

A main goal of this Strategy is to turn the appraisal from a purely formal process into a functioning tool to screen the working from the non-working, those who bear responsibility from those who find it sufficient to comply with the formal requirements, the magistrates who understand that their public role requires a truly untarnished reputation from those who are ready to make a compromise with the confidence in the impartiality of the Bulgarian justice. Likewise, the Strategy aims to embody in practice the Code of Ethics of Magistrates and outline clearly the social perimeter which will guarantee their dignity in the public eye. The development of the disciplinary practice must take a decisive step towards publicity and demonstration of a clear will of cleansing. In the elaboration of these measures, the Strategy is based on the understanding that, along with the objective criteria and institutional mechanisms, a basic guarantee of the magistrates' integrity are their values. This requires that new criteria be added to ensure the main prerequisite for the success of this Strategy – its goals to be the goals of every Bulgarian magistrate as well.

Important anti-corruption measures are envisaged under this priority, despite the fact that, in practice, all elements of the Strategy serve, in one way or another, to improve the integrity of the system.

3.1 Bringing university law education in line with the needs of modern justice

3.1.1 Discussion of the possibility of introducing unified state criteria for admission and graduation in all law faculties as a guarantee that personnel with the same basic and multi-faceted preparation who have passed through a uniform evaluation mechanism will enter the judicial system and the system will be a place of development of human resources having a much higher level of integrity.

3.1.2 Discussion of the possibility of dividing the course of university education in law into bachelor's and master's degrees.

- 3.1.3 Ensuring a nation-wide and ongoing mechanism of objective and fair assessment of students' knowledge in order to achieve and maintain a high level of theoretical and practical preparation of future judicial system staff.
- 3.1.4 Introduction of a unified anonymous state examination in law guaranteeing an unbiased, objective and fair mechanism of evaluation of the students' overall knowledge.
- 3.1.5 Targeted and effective increase in the quota and tools of the practical training in the course of the academic education which will provide the future lawyers with an understanding of the current processes in the judicial system and, respectively, the practical skills they need.
- 3.1.6 Optimization of the form, duration and effectiveness of the training practices during the five-year education course.
- 3.1.7 Revision of the concept of teaching European Union law. Building on the limited study of the basics of EU law in one subject, differentiating EU institutional law into a separate subject and inclusion of the essence and application of the EU substantive law in the relevant legal subjects.
- 3.1.8 Introduction of obligatory training in legal ethics which corresponds to the responsibilities of performing important constitutional functions related to the protection of the rights and legitimate interests of individuals and legal entities.
- 3.1.9 Introduction of training in legislative technique. Cultivation in the future lawyers of systemic knowledge on the process of drafting normative acts in line with the contemporary European trends.
- 3.1.10 Regulatory solutions to turn the post-graduate legal internship into a field for real application of the university training. In essence, the internship must provide future lawyers with an orientation as to their appropriate place in the system and the need for developing the respective professional skills while the judicial system itself gains clarity about the new capacity coming its way.
- 3.1.11 Encouragement of real competition between the existing law faculties by introducing periodic assessments of the quality of the academic product offered. Introduction of unified state

indicators to evaluate objectively the quality of education provided with a view to stimulating the long-term and sustainable increase in the level of magistrates' professional qualification.

3.1.12 Obligatory training in one of the European working languages as the first condition to achieve professional convertibility in the European legal environment.

3.1.13 Introduction of training on the application of information technologies in the legal practice.

3.1.14 Encouragement of the professional development of the scholarly and lecturing staff to generally improve the quality of education and develop the respective capacity for cooperation with the judicial bodies for empirical studies and management of the processes developing in the system.

3.2 Improvement of the procedures for selection and career development of magistrates

3.2.1 Along with the evaluation of the competence, inclusion in the established and functioning system for selection and appointment of magistrates of an assessment of personal qualities and developmental potential in the different system sectors with a view to building profiles of the candidates for magistrates which exceed the snapshot at appointment.

3.2.2 Elaboration of an overall concept for an on-going and centralised appraisal procedure, based on uniform clear and concrete criteria. Redesign of the composition and the role of the Auxiliary Appraisal Commissions including the option for their functions being limited to collecting information and for the Supreme Judicial Council to remain the only institution competent in evaluating the work of the magistrates.

3.2.3 An obligatory element of the decision for appointment and promotion within the judicial system shall be the requirement for the candidates' indisputable social reputation. Tying career decisions with the conduct of an independent check of the biography and the qualities of the candidates.

3.2.4 Strengthening the public nature of all procedures for appointment of magistrates – from nomination to election.

3.2.5 Public hearing of the candidates for SJC members and heads of the judicial institutions.

3.3 Increase in the effectiveness of ethical regulation and the disciplinary proceedings

- 3.3.1 Constant training in the Code of Ethics at all judicial system levels.
- 3.3.2 Unification of the criteria on the disciplinary offences and sanctions in the practice of Inspectorate of the Supreme Judicial Council, the Supreme Judicial Council and the Supreme Administrative Court.
- 3.3.3 Creating an opportunity for the Supreme Judicial Council to impose all disciplinary sanctions not only the most severe ones in order to ensure unification of the disciplinary practice in compliance with the first benchmark under which the European Commission monitors the progress of the judicial reform.
- 3.3.4 Re-assessment of the provisions concerning statutory limitations of disciplinary offences.
- 3.3.5 Transparency of the ethical and disciplinary proceedings to ensure prevention and raising the magistrates' awareness and public trust.
- 3.3.6 Achievement of a higher level of correspondence of the disciplinary sanction to the gravity of the offence committed by a magistrate and its perception by the public.

3.4 Active anti-corruption measures

- 3.4.1 Development of an anti-corruption plan for the judicial system based on research and analysis of the specific forms of corruption in the judicial bodies and the factors which make them possible. Analysis of the specific reasons impeding the effective investigation and sanctioning of corruption crimes perpetrated by magistrates.
- 3.4.2 Development of control mechanisms for the application of the Conflict of Interests Act which are internal to the system, including overall control over conflict of interests and incompatibility, provisions for heightened guarantees for its effectiveness.
- 3.4.3 Reinforcement of the procedure for investigation and sanctioning of corruption crimes perpetrated by magistrates. Building the Supreme Judicial Council's capacity for a swift and unequivocal reaction in cases of doubt that a magistrate is in conflict of interests or has behaved unethically. Building within the Prosecution service of a special capacity for investigating crimes perpetrated by magistrates.

- 3.4.4 Expansion and clarification of the cases of incompatibility concerning people occupying magistrate positions.
- 3.4.5 Monitoring and evaluation of the application of rules for recusals.
- 3.4.6 Strengthening the pro-activeness of the Inspectorate to the SJC to find and counter corruption, development of its capacity for incidental and thematic inspections in the event of suspicions of corruption. The pro-active search for corruption factors must become an element of the Inspectorate's checks and analyses.
- 3.4.7 Building of an independent capacity for in-depth and complex checks of the property status of candidates for magistrate positions and analysis of other corruption risks and real or possible factors for conflict of interests in their biography and social milieu..
- 3.4.8 Unified system for acceptance and processing of complaints and signals of corruption in the judicial system, publication of statistics about the corruption offences committed by magistrates and the sanctions imposed.
- 3.4.9 Strengthening the random allocation of cases, including:
- Application of a unified random case allocation software;
 - Lack of possibility for technical manipulation of allocations;
 - Records in the software archive of any interference with allocations;
 - Transparency in the activities of the person making the allocations through maintenance of archives and print-outs of the record of allocation of each specific case;
 - Adjustment to the needs of a specific court and possibility to differentiate between groups of cases;
 - Ensuring steady workload of the judges through an equalization mechanism;
 - Systematic monitoring of the system (of random allocation of cases);
 - Efforts to introduce additional specialisation at the level of panels must not compromise random case allocation.
- 3.4.10 A set of guarantees for the magistrates' personal security, including their personal life.

4. INCREASE IN THE QUALITY OF JUSTICE AND ACHIEVEMENT OF A EUROPEAN STANDARD OF LAW ENFORCEMENT. STRENGTHENING THE SUPREMACY OF LAW

The judicial system faces two very important challenges – the dynamics of the European legislation and the gradual application of the Lisbon Treaty. The upcoming European discussion about the application of the Lisbon Treaty and further elaboration of its clauses concerning the area of justice, freedom and security give Bulgaria a unique opportunity to take part in the discussion and, at the same time, to make it part of the training of the judicial system representatives in the administration of justice in accordance with the terms of the Treaty. The achievement of European standards in the law enforcement is a process obligatory tied to two conditions: adoption of European standards as a model which will be strictly adhered to in law creation and integration of the Bulgarian judicial reform in the EU judicial reform whose concept is enshrined in the so-called Stockholm Package.

The quality of justice, i.e. guaranteeing every Bulgarian citizen's real access to the benefits of justice, depends on several system guarantees in the area of the judiciary: real access to justice regardless of property status; qualitative legal framework; ensuring sufficiently flexible tools to eliminate discrepancies in the practice of its application by the court and contradictions to the Constitution the EU law; ensuring application of the European Convention for the Protection of Human Rights' standards and implementation of the European Court of Human Rights' judgments; guaranteeing real access to effective justice, including vulnerable people; strengthening mediation as a form of accessible, inexpensive, effective and conflict-reducing tool to resolve disputes. Bulgaria has been criticised over all these areas - the quality of the legal instruments and their effective implementation in practice are a critical issue of our legal system. The constitutional protection against this problem is not sufficiently effective. The potential of information technologies has not been put to an adequate use in the process of legislative drafting and enforcement. It is necessary that the citizens are able to have a more tangible impact in process of drafting new laws and to be ensured a free access to the laws of the land and the procedures for its implementation. The drafting of a good-quality, comprehensible and easy to enforce legislation is a priority of the Stockholm Programme in the area of justice, liberty and security of the EU. The level of protection of human rights remains unsatisfactory in some areas while the implementation of ECHR judgments often lags behind. Key factors which generate distrust in the judicial system are: its failure to ensure equal application of the law, lack of effective unification of case-law and lack of disciplined proceedings. The legal aid system often fails to provide real quality of protection and the potential of mediation is far from its optimal realisation.

4.1 Implementation of the Stockholm Programme 2010 – 2014

- 4.1.1 Participation in the creation of minimal procedural standards for all Member States as an essential part of the overall process of judicial system transformation in line with the goals of the Lisbon Treaty.
- 4.1.2 Active participation in the European working discussion about harmonisation of substantive criminal law concerning grave cross-border crimes. Evaluating the process of formulation of common European definitions and sanctions in criminal law as an exclusive chance to improve the national legislation to the extent to which it coincides with the process of elaboration of a new Bulgarian Penal Code.
- 4.1.3 Intensifying the cooperation with law-enforcement bodies of the Member States within Eurojust.
- 4.1.4 Strengthening the national capacity for adequate participation in the European training mechanisms for magistrates and court clerks, including establishment as a leading regional “supplier” of expertise and experience in the field of continuous training.

4.2 Disciplining the process

- 4.2.1 Clearer responsibility of judges presiding court panels to discipline the process, introduction of incentives for a more active guidance of the process and limiting the stimuli for passivity in delaying trials and chicaning, including:
 - Specialised training at the NIJ;
 - Monitoring the use of the existing mechanisms to sanction parties abusing procedural rights and planning to improve the mechanisms;
 - Including activeness in managing the judicial procedures as an element of appraisal;
 - Provisions for powers and responsibility of the administrative head to pursue a policy of disciplining the proceedings in the court they manage, including with respect to experts and court administration and through coordination at the regional level with the bodies of the Bar, the MoI, the Prosecutor’s Office, etc.;
 - Intensifying the activities of the Inspectorate to the SJC to assess the activeness with respect to case management at the inspected courts.
- 4.2.2 Mechanisms to seek effectively the liability of lawyers and other participants in the process in the event of prolonging and abusing procedural rights.

- 4.2.3 Analysis and evaluation of the effect of the amendments in the summoning system, identifying new measures to improve its reliability and effectiveness.
- 4.2.4 Measures against the abuse of medical documents, including liability of medicine doctors.
- 4.2.5 Reform of the rules on provision of expert testimonies, including the funding model, the selection of the experts and the administration of the process.

4.3 Guaranteeing equal application of the law and uniforming case-law

- 4.3.1 Expert evaluation and discussion about the role of the Supreme Court of Cassation/Supreme Administrative Court at the last instance in view of the scope of their jurisdiction, the cassation grounds they apply, the requirements for existence of a legal interest (concerning the Supreme Administrative Court), the quality of judgment reasons, the number of judges, the availability of assistants, court rooms, offices and other elements of the structure and operation of Supreme Courts.
- 4.3.2 Analysis and discussion of the practice of the Supreme Court of Cassation/Supreme Administrative Court to issue interpretative decisions and rulings, referral of matters to the Constitutional Court.
- 4.3.3 Analysis and discussion of the work of the appellate instances and the possibilities to optimise their activities.
- 4.3.4 Structuring judicial teams in the administrative courts to enhance uniform application of the law.
- 4.3.5 Strengthening the Ombudsman's role through introducing the right to a legislative initiative in relation to human rights' protection.

4.4 Improving the quality of statutory instruments

- 4.4.1. A new Statutory Instruments Act which includes the following elements:
 - Obligatory preparation of a preliminary expert evaluation of the impact of bills, especially the ones concerning the structure and organisation of the judiciary and the legal process;

- Inclusion in the evaluation of an analysis of the budget and administrative resources and the other measures which are necessary for the application of the rules provided for, including personnel, training, public awareness expenses, etc.;
- Guarantees for conducting a broad public discussion of draft legal instruments, taking into account the opinion of a wider circle of stakeholders and experts as a condition for the adoption of the respective law;
- Obligatory impact assessment concerning the application of the instrument;
- Guaranteeing a sustainable practice in preparing professional expertise about the correspondence of the bills with the EU law, ensuring adequate functioning of the Community rules transposed, including their efficient application, and guaranteeing compliance by the competent national courts involved in judicial cooperation in penal and civil matters – training, budget and administrative resources for the application.

4.4.2 Reflection of the requirements under the previous item 4.4.1 in the Rules on Structure and Activity of the National Assembly with a view of ensuring their application for bills initiated by members of Parliament as well.

4.4.3 Introduction of an electronic system for drafting, reconciliation, adoption and publication of statutory instruments:

- Ensuring electronic administration of the process of debating and adoption of the draft statutory instruments by inclusion of all relevant institutions (ministries and agencies, The Council of Ministers and the National Assembly);
- Public access to the electronic system for reconciliation of draft statutory instrument;
- Free of charge access for the citizens and the business to the electronic data base of the legislation in force, the procedures for its application and the court case-law.

4.5 Intensifying the guarantees for the supremacy of law, human rights' protection, access to justice

4.5.1 Strengthening the practice to use the capacity of the non-governmental sector as the driving force and reference point of the policies of judicial reform and the guarantee for preserving and strengthening the supremacy of law. Provisions for consultation procedures on judicial reform priorities and policies.

4.5.2 Encouragement of the cooperation between the executive, the judiciary and the legislature with the non-governmental sector in pursuing the judicial reform.

- 4.5.3 Discussion about the introduction of a right to a constitutional petition.
- 4.5.4 Creation of a mechanism to summarise, on a regular basis, the ECHR case-law concerning Bulgaria, evaluation of the need for changes, building a national filtering mechanism to reduce the complaints inadmissible to the ECHR. Introduction of mechanisms for levelling disciplinary and material responsibility for individuals whose actions have caused ECHR decisions against Bulgaria. Annual reports on the implementation of the ECHR judgments concerning Bulgaria.
- 4.5.5 Evaluation of the effect of the application of the legal aid system and adoption of measures to increase its economy, guaranteeing quality of lawyer's defence and expansion of the forms in which it is provided in civil and administrative cases (inclusion of legal clinics and NGOs).
- 4.5.6 Regular evaluation of access to justice in the form of empirical studies and expert analyses which outline main problems and identify measures to resolve them.

4.6 Mediation

- 4.6.1. Long-term policy for constant expansion of the application of the mediation procedure and the other alternative dispute resolution means. Awareness-raising for magistrates, attorneys and the public with a view to using mediation both within pending procedures and as an independent method. This policy should result in substantial reduction of the work load of courts, increase of the access to justice and decreasing the conflict potential of the legal disputes.
- 4.6.2 Creation of an overall system of alternative dispute resolution. More specifically:
- Introduction of mediation in criminal matters;
 - Transposing Directive 2008/52 on certain aspects of mediation in civil and commercial matters not only with regard to cross-border disputes but also with regard to domestic ones;
 - Introduction of mediation in administrative disputes to alleviate the workload of administrative courts;
 - Development of measures to encourage the parties to turn to mediation;
 - Discussion about the possibility to provide for an obligation to use mediation in certain matters – divorce cases, for example;
 - Integration of mediation in the legal aid system.

4.6.3 Development of an overall mediation policy which includes the respective financial commitment of the state as a guarantee for the sustainability of the measure. Realisation of the coordination required between the MoJ, the SJC, the Bar, businesses, etc.

5. THE DIALOGUE BETWEEN THE JUDICIARY AND THE CITIZENS AS A GUARANTEE OF TRUST

Transparency, accountability and public participation in basic elements of the constitution and work of the judicial system bodies are among the most important tools with the help of which this Strategy aims to attain one of its key goals – to overcome the mistrust in justice in Bulgaria. In this sense, every measure in the Strategy aims to strengthen them - transformation of the process of budget planning and reporting into a working tool for public control; maximum increase in the public participation in the processes of appointment of SJC members and administrative heads; the measures for transparency of statistics and publicity of all decisions and processes in relation to the management of the system; the mechanisms of enhanced participation of judicial system representatives in the public debate on new legislation. The Strategy also lays down measures to improve the direct dialogue between the judiciary and the citizens by the media and by placing the view point of the users of judiciary at the foundation of the evaluation of the judicial bodies' work. The purpose of these measures is to bring justice closer to the citizens and to stimulate an effective dialogue with them. Thus, the Strategy aims to strengthen the Bulgarian magistrates' image as people who are engaged with the values of the society.

5.1. Customer service as a main criterion for quality of justice

- 5.1.1 Development and introduction of a system to monitor the implementation of the customer service standards introduced in the courts, development and introduction of customer service standards in the administration of the Prosecutor's Offices in the country.
- 5.1.2 Introduction of obligatory training in customer service for the court administration.
- 5.1.3 Regular public opinion surveys of the perception of the image of the judiciary and its institutions, the results of which will inform the process of legislative and budget planning.
- 5.1.4 Regular targeted surveys of "users" of the judicial system, especially among businesses and victims of crime.

5.2 Involvement of the citizens in the operation of the court. Public and media relations

- 5.2.1 Overhaul of the concept of court jurors.

- 5.2.2 Strengthening the models of the judicial institutions' communication with the local communities and specific social groups to gain public confidence, increase the citizens' legal awareness and ensure effective prevention.
- 5.2.3 Conducting regular training in public relations – both for public relations' officers, spokespersons of courts and Prosecutor's Offices and for administrative heads. If possible, this training should be integrated into the annual programme of the National Institute of Justice to guarantee sustainability in implementing the measure.
- 5.2.4 Measures to increase the general legal culture of the public.

C. MECHANISMS TO ENSURE THE APPLICATION OF THE STRATEGY AND PUBLIC PARTICIPATION

1. Action Plan

The measures set out in the Strategy will be developed and specified in a detailed Action Plan for its implementation. The Plan will be updated on an annual basis.

1.1 Structure of the Plan

The Plan will lay down steps, deadlines and government authority responsible for implementation of each measure.

The measures will be divided into two groups:

- Measures of immediate application;
- Measures requiring preliminary action.

The measures of immediate application are sufficiently clearly defined in terms of content and the Action Plan may set out specific steps for their implementation. The measures requiring preliminary action are the ones which require preliminary research, expert analysis and/or broad public discussion. Only as a result of them will the measure become sufficiently defined in terms of content so as to be able to be included in the Plan update as a measure of immediate application. With respect to the measures requiring preliminary action, the Plan will identify activities to conduct the respective research and discussions.

In addition to the specific steps, for every measure the Plan also sets out organisational activities for their implementation (creation of a working group, public procurement to assign a survey). In addition, the Plan provides for forms of coordination, including holding round tables or a structured dialogue process.

Along with the responsible authority, for every measure the Plan also sets out the key stakeholders – other authorities, specific structures of the civil society and persons with a significant interest in the implementation of the measure who will be involved in the main implementation stages. The Plan also defines generically wider groups which will be involved in the public discussion before the final implementation of the respective step. These stipulations do not prevent the involvement of other persons upon their request.

1.2 Indicators

For every measure the Plan must provide for specific progress indicators: both for the formal implementation of the specific steps (for example, adoption of the respective statutory instrument or

amendment) and for the achievement of the effect in view of which the measure has been included in the Strategy. To measure this group of indicators, the Plan provides for regular surveys. For every measure the Plan must also provide for a procedural indicator of the quality of the coordination procedures for decision making with regard to the specific measure and the expert information on the basis of which this has been done.

1.3 Elaboration of the Plan

After the formal adoption of the Strategy, the coordination and reporting body sets up a working group to elaborate the Plan within a period of 3 months. In addition to the Plan, the working group prepares an indicative budget for the implementation of the steps set out in the Plan.

2. Bodies of coordination and reporting of the Strategy implementation

The Strategy sets out measures which fall within the competence of the Ministry of Justice, the Supreme Judicial Council and the National Assembly. Along with them, the implementation of some measures will involve the Ministry of Interior, the Prosecutor General, the Inspectorate to the SJC, the Supreme Bar Council, the NIJ and other government bodies. The circle of stakeholders is even broader and includes magistrates, representatives of other legal professions, their organisations and the civil society as a whole. In the implementation of the Strategy and the elaboration and discussion of specific solutions, all of them must be involved in a process which provides them with an adequate opportunity to exercise their powers and interests and, at the same time, guarantees the maximum good organisation of the process in view of its productivity.

The following functions can be delineated in the implementation process:

- Administrative coordination and provision
- Exercise of powers
- Expert work
- Coordination

2.1 Council for the implementation of the Strategy

A number of government bodies will exercise their legitimate powers in the process of implementation of the Strategy. To the extent to which these actions will make up the main formal backbone of the Strategy implementation process and must be the subject matter of specific coordination, the MoJ proposes that a Council for the Strategy Implementation be set up which will include: the Minister of Justice, a Deputy Minister of Interior, the SJC Representative, a Deputy Prosecutor General, Deputy Presidents of the Supreme Court of Cassation and the Supreme Administrative Court, a representative of the Bar.

To ensure public participation, we envisage that the Council will also involve representatives of the civil society structures as one of the main stakeholder groups.

The Council will coordinate the government policy on the implementation of the Strategy, the legislative initiatives required to implement the respective measures and the budget implications related to the implementation of the Plan steps.

2.2 Administrator on the implementation of the Strategy

The administrative coordination and provision is the activity of immediate organisation and coordination of the implementation of the steps and administrative measures set out in the Plan. It will be assigned to the MoJ “Coordination and Verification Mechanism Directorate. The Director of the Directorate is the Administrative Coordinator of the Strategy implementation and reports to the Minister of Justice and the Council on the Strategy implementation.

3. Coordination

The coordination process includes the following:

3.1 Working groups

The expert part of the Strategy and Plan implementation will be conducted by expert groups set up by the Minister of Justice or the respective responsible body upon the Administrator’s proposal. Representatives of the main stakeholders in accordance with the Plan will be invited to take part in the expert groups.

3.2 Round tables

Public discussion of specific proposals or an issue laid down in the Strategy (measures requiring action).

The proposals together with the accompanying documentation will be provided to all stakeholders at least two weeks before the day of a round table discussion. Information about the round table and the documents for it will be published on the MoJ website. Representatives of the stakeholder groups will be invited to participate. The discussion will be attended by the members of the working group which has developed the respective proposal and representatives of the Council for the Strategy implementation. A record will be made of the round table discussions and its basic elements will be summarised and published on the MoJ website.

3.3. Structured dialogue

A process of a continuous distance discussion, including invitations to provide comments in writing. It may include exchange of proposals in a hard copy or in a forum specially created on the Ministry of Justice website.

4. Internal monitoring and evaluation mechanism

The progress on the Strategy implementation will be reported annually with the publication of a Report of the Council for the Strategy Implementation. The report will outline the progress in every measure in accordance with the indicators set out in the Plan. The report will be the subject of a public discussion. The main aspects of the discussion will be summarised and published together with the Report on the websites of the MoJ and the SJC.

5. Updating the Strategy

Every stakeholder, be it a person or an organisation, may propose updates of the Strategy and the Plan. The Administrator will summarise the proposals made and present them to the expanded Council which will decide on incorporating them in the Strategy or the Plan.

6. Surveys

Empirical, sociological, expert and comparative legal surveys will be conducted for the implementation of the measures and steps set out in the Strategy and the Plan. Their type and subject matter will be determined in the Plan which will also lay down the respective organisational measures.

Appendix 1

A sample form of a measure from the Action Plan

Element	Content	Example
Priority	As per the Strategy text	§ 1 Improvement of the management of the judiciary. §1.4 Active management of judicial buildings
Measure	As per the Strategy text	A data base about the buildings
Effect sought	Stemming from the Strategy text with additions in view of considerations and data	Systematisation of the information about the available buildings, data about the legal status, condition and other basic elements of decision-making. Categorisation in view of criteria elaborated
Steps	Specific steps to carry out the measure	1. Elaboration of a content model of the data base 2. Study the foreign experience 3. Elaboration of the necessary software 4. Data collection and entering of data 5. Adoption of an ordinance for support 6. Creation of an organization for support
Deadline for every step	Discretionary	
Responsible Body		Ministry of Justice
Organisational activities	Elements of the implementation of the steps	Creation of a working group (Steps 1, 2 and 3) Public procurement (Step 2) Organisation for data collection and support (MoJ, Steps 4 and 6)
Forms of coordination	Working group, round table, structured dialogue	Working group. Coordination of the concept and the draft ordinance with other government agencies and a possibility to make comments
Main stakeholders	Immediate partners in the carrying out of the steps and participants in all stages of development and coordination	SJC, Ministry of Finance, Union of Judges in Bulgaria, Association of Prosecutors, Security of the Judicial System
Stakeholder groups	Participants in the coordination	Magistrates, lawyers, organisations of people with disabilities

Appendix 2

A sample form of an indicator to report on a measure set out in the Action Plan

Indicator	Elements	Example
A. Content indicators:		
1. Conducting the measure from a formal point of view (application of the Steps)	<ul style="list-style-type: none"> - Elaboration of the respective document - Adoption of the respective statutory instrument 	<p>A concept has been developed;</p> <p>An ordinance has been adopted</p>
2. Achievement of the effect the measure aims at (in accordance with the Plan provisions)	- Conclusions from conducted sociological surveys, expert analyses and empirical research	<p>Proposals made to optimize the use and expand the buildings;</p> <p>Rules established for the ratio judge/working hours/court room;</p> <p>The relation between case delay and the lack of available court rooms has been clarified</p>
B. Procedural indicators		
1. Scope and productivity of the discussion held with stakeholders	<p>Participation of main stakeholders</p> <p>Participation of other stakeholder groups</p> <p>Form of the conducted coordination</p>	<p>Discussion held with administrative heads;</p> <p>magistrates</p>
2. Availability of empirical, analytical and expert basis of decision-making	Surveys, analyses, comparative legal materials and others	<p>Conducted survey among magistrates on the working conditions; survey among users of court services on the accessibility and convenience of court buildings</p>