

**ANALYSIS
OF THE ACTIVITY OF THE INSPECTORATE TO THE SUPREME
JUDICIAL COUNCIL REGARDING THE INSPECTIONS FOR
INTEGRITY INITIATED PURSUANT TO CHAPTER NINE, SECTION I
“B” OF THE JUDICIARY SYSTEM ACT**

I. INTRODUCTION

1. Research subject:

This analysis is based on a review of:

- importance of integrity as a collective concept of conflict of interest, integrity, independence and discrediting the prestige of the judiciary;
- current regulatory framework for integrity inspections;
- conditions for initiation of an inspection in compliance with Chapter Nine Section I "B" of the Judiciary System Act;
- types of integrity violations and the object of proving each of these;
- means of collecting evidence for inspections of integrity violations;
- statistics on the proceedings initiated in accordance with Chapter Nine Section I (B) of the Judiciary System Act and the results thereof;
- actions undertaken by the Supreme Judicial Council following the proposals submitted by the Inspectorate to the Supreme Judicial Council for initiation of disciplinary proceedings for disciplinary violations committed by judges, prosecutors and investigating magistrates under Art. 175k of the Judiciary System Act.

2. Research period:

The research period covers the time interval from 01.01.2017 when powers were delegated to the Inspectorate to the Supreme Judicial Council for inspecting the property of judges, prosecutors and investigating magistrates and for monitoring the integrity of the latter, until 10.10.2019.

3. Research purpose:

The purpose of the analysis is to provide an objective assessment of the activities of Inspectorate to the Supreme Judicial Council in performing the inspections under Chapter 9, Section I „B“ of the Judiciary System Act, by identifying good practices but also the main problems being encountered in its activity as well as by considering and examining the reasons that have led to the outcomes of the proceedings initiated in accordance with Chapter Nine Section I

„B“ of the Judiciary System Act, and in proposing specific measures based on the conclusions drawn in view of improving the quality and efficiency thereof.

4. Research content:

The analysis contains the following main parts:

1. Introduction.
2. The concept of integrity.
3. Legal framework.
4. Conditions for initiation of an inspection in accordance with Chapter Nine Section I „B“ of the Judiciary System Act;
5. Types of integrity violations and subject of proof;
6. Means of collecting evidence;
7. Statistics on the proceedings initiated in accordance with Chapter Nine Section I (B) of the Judiciary System Act during the analysis period and the results thereof;
8. Actions undertaken by the Supreme Judicial Council following the proposals submitted by the Inspectorate to the Supreme Judicial Council for initiation of disciplinary proceedings for disciplinary violations committed by judges, prosecutors and investigating magistrates under Art. 175k of the Judiciary System Act.
9. Findings and conclusions;
10. Proposals for improving the quality and efficiency of the activities related to the inspections under Chapter N, Section I “B“ of the Judiciary System Act.

II. CONCEPT OF INTEGRITY

The concept of "integrity" originates from the Latin word *integritas* and means "intactness, wholeness, integrity, honesty, selflessness". Usually when translating the term "integrity" into Bulgarian, words like "honesty", "decency" and "immaculateness" are used, often the word "incorruptible" is added to the description of its meaning.

As stated above, the term "integrity" refers to appropriate behavior, values, morals and ethics, integrity and protection of the public interest. In this sense, integrity means not only zero tolerance for corruption, but also implies behavior complied with the laws, standards and rules, with ethical principles and values such as integrity, honesty, openness, neutrality, respect, reliability, decency and objectivity.

In personal terms, integrity is the quality of an individual to do the right thing even when he or she thinks no one is watching him or her.

In the aspect of the authorities, exercising power, including the judiciary - judges, prosecutors and investigating magistrates, integrity is used to refer to the maintenance of their moral integrity and impeccability. In order for the latter to

carry out law enforcement activities, they must fulfill their obligations with the required quality and within the required deadlines, while obeying only the law. IN addition however, judges, prosecutors and investigating magistrates should also possess those moral and ethical qualities that guarantee their independence, objectivity, impartiality and fairness. The lack or presence of these qualities is a necessary prerequisite for the administration of justice as a multi-layered and multi-faceted, collective concept that includes investigative activities (pre-trial proceedings), prosecutorial supervision and justice.

In the aforementioned sense, integrity encompasses both conflicts of interest, integrity, independence, and ethical rules that magistrates should observe.

More specifically:

- Conflict of interests, according to the common understanding, is a condition in which a particular person has interests - private and professional, which do not coincide or are opposite. Conflicts of interest may lead to lack of objectivity and bias and may prevent the will to act in accordance with the laws, rules and morals. Often a conflict of interest is defined as a situation in which a person is able to use a professional or official position for his or her personal benefit, as competing interests may impair the ability to objectively fulfill professional duties and responsibilities.

It is accepted that when the actions and words of a person must be impartial, then even the smallest hint of distrust and suspicion of a conflict of interest has a devastating effect. Conflicts of interest do not necessarily lead to irregularities. However, the existence of a conflict of interest gives the impression of irregularity. This undermines confidence not only in the person concerned, but also in the judicial system to which the person of the respective magistrate belongs, and ultimately, the trust in the profession of magistrate.

A conflict of interest exists, even when it does not lead to unethical or unlawful acts, and yet is an incentive for such actions. Conflicts of interest may be declared and voluntarily remedied before the occurrence of irregularities.

- **Integrity** is the behavior of a person who is honest and conscientious in respect of the activity that he or she performs and in respect of the persons who participate therein, as well as having an objectified feeling or belief in someone or something that has a high moral value (e.g., the law and its supremacy), or ultimately, as an objectified feeling or conviction that in its essence is decent, polite, respectful, a feeling of regard or respect to something (e.g., the law)¹.

In addition, integrity is a quality of the individual. The honorable person is conscientious, honest, moral, correct, diligent, reserved, responsible, fair and reliable.

It is accepted that the honorable person voluntarily and on his/her own refuses to acquire benefits to which he is not entitled by law, i.e., the refusal is not of the acquisition in general, but only of acquiring those benefits which are not

¹ Dr. Raimundov, Peter, Ethical issues related to the office of a judge, prosecutor and investigator”, Nova Zvezda publishing house, Sofia, 2017, p. 144.

lawful and which at the same time constitute a factual basis for the adoption of an unlawful act which cannot be objective and impartial².

- **Independence** is considered as the independence of the judiciary in general and the independence of the individual judge, prosecutor or investigating magistrate in particular.

In addition, a clear distinction is made between the objective and subjective independence of the judicial system and that of the magistrate. The independence of the judiciary as a whole is necessary, and yet it is not a sufficient condition for the independence of a judge, prosecutor or investigating magistrate. The individual independence may be affected by external interference and influence by state institutions, public organizations, the media and citizens, and by internal influences within the judiciary. Objective independence is related to the manner in which judicial structures are organized in practice, while subjective independence is related to the perception of the judiciary by various stakeholders, and users of the services of the court and judges.³

- **Prestige of the judiciary** is the assessment given by the public to the judiciary for their activities and behavior. Therefore, the conduct of the magistrate should always be complied with the established rules of decency.

In summary, the integrity of the magistrate implies behavior complied with the laws, standards and rules, and with the ethical principles and values as adopted by society.

Therefore, in order to establish specific high moral and ethical conditions for judges, prosecutors and investigating magistrates to administer justice, the Bulgarian legislator, similar to the good practices of EU Member States and other developed democracies, regulates the order of review and inspection of their possible violations. With the introduction thereof a preventive effect has been achieved against the potential more serious cases of corruption practices that may constitute criminal offenses under the Criminal Code.

III. LEGAL FRAMEWORK

With the Law on Amendment and Supplementation of the Constitution of the Republic of Bulgaria (LASCRB), SG, issue 100 of 2015, authority is delegated to the Inspectorate to the Supreme Judicial Council to conduct, in addition to the inspections under Art. 54, para. 1, items 1-4 of the Judiciary System Act, or the so-called. inspections in the general order, the subject of which is the result of the activity of the magistrate being inspected and its compliance with the requirements of the law with regard to the initiation, scheduling, movement and closing of cases and the inspections they under Art. 54, para. 1, item 9 of the Judiciary System Act -

² Dr. Raimundov, Peter, Ethical issues related to the office of a judge, prosecutor and investigator”, Nova Zvezda publishing house, Sofia, 2017, p. 144.

³ Standards of Judiciary Independence, p. 2.

on the applications for violation of the right to hear and resolve cases within a reasonable time limit, the following inspections as well:

- for integrity of judges, prosecutors and investigating magistrates;
- for conflicts of interest of judges, prosecutors and investigating magistrates;
- for establishment of actions related to the violation of the independence of judges, prosecutors and investigating magistrates, and
- for identifying any actions that undermine the prestige of the judiciary.

The said constitutional power of the Inspectorate has been further developed in the Law on Amendment and Supplementation of the Judiciary System Act, SG, issue No. 62 of 2016, effective as of 1.01.2017, as the subject of the inspections for specific types of violations is regulated by Chapter Nine, Section I “B” of the Judiciary System Act (Art. 175k, par. 1 - par. 4 of the Judiciary System Act).

Along with the specific subject matter to be examined by the inspections as regards the particular types of violations under Chapter Nine, Section I „B“ of the Judiciary System Act, the latter also regulates the procedure for their initiation, the act by which same are finalized and the subsequent actions to be undertaken by the Inspectorate to the Supreme Judicial Council. It is also envisaged that the information about the identity of the persons who have submitted the alert for initiation of the inspection under Chapter Nine, Section I „B“ of the Judiciary System Act, the facts and data related to the examination of the alert and the written inspection documents are official secret.

At the same time, the Judiciary System Act does not specify the procedure and content of the actions to be initiated by the teams of the Inspectorate to the Supreme Judicial Council, nor do they outline the specific circumstances that need to be clarified.

For this reason, the Inspectorate to the Supreme Judicial Council has adopted Internal Rules for Conducting of Inspections under Chapter Nine Section I „B“ of the Judiciary System Act by teams of the Inspectorate to the Supreme Judicial Council, which regulate the inspection of judges, prosecutors and investigating magistrates for integrity, independence and conflict of interest and for establishing acts that undermine the prestige of the judiciary; the procedure by which they are inspected is defined, including the order and content of actions and acts to be carried out and the main circumstances that are to be established in the course of these inspections are listed. Subject to these rules is also the drawing up and content of the final report of the inspections, its approval by the Inspectorate and the legal consequences thereof.

Along with these, pursuant to Art. 175, para. 6 and Art. 175l, para. 8 of the Judiciary System Act, the Chief Inspector of the Inspectorate to the Supreme Judicial Council has also approved the Internal Rules for Protection of the Identity of Persons Who Have Submitted Alerts for Performance of an Inspection under Chapter Nine Section I „B“ of the Judiciary System Act, which regulates the procedures and measures for protection of the identity of persons submitting an alert

for initiation of an inspection under Chapter Nine Section I „B“ of the Judiciary System Act.

Precisely the aforementioned Internal Rules set out the framework within which the inspections for violations under Chapter 9, Section I „B“ of the Judiciary System Act should be carried out.

IV. CONDITIONS FOR INITIATION OF AN INSPECTION FOLLOWING THE PROCEDURE UNDER CHAPTER NINE, SECTION I “B” OF THE JUDICIARY SYSTEM ACT. PROTECTION OF THE ALERT SUBMITTER. ORDER ON INITIATION OF INSPECTION.

1. Alert. Inspection for regularity and admissibility thereof:

Pursuant to Art. 175l, para. 1 of the Judiciary System Act anyone who has available data about a private interest of a judge, prosecutor or investigating magistrate in the course of fulfilling his or her specific official functions or about any acts that violate the principles of integrity, undermine the prestige of the judiciary or are related to violations of the independence of judges, prosecutors or investigating magistrates, may submit an alert to the Inspectorate at the Supreme Judicial Council.

As alert shall also be deemed a publication in the mass media if it fulfills the conditions under Art. 175l, para. 5, ii 2 - 4 of the Judiciary System Act.

Pursuant to Art. 175l, para. 5 of the Judiciary System Act each alert shall contain:

1. the full name, personal ID number, address, telephone, fax and e-mail address, if any;
2. the names of the person against whom the alert is submitted and the position occupied by the latter;
3. specific data on the alleged violation, including the place and period of such violation, description of the act and other circumstances in the context of which same has been committed;
4. references to documents or other sources containing information in support of the alert, including specification of the data of persons who can confirm the reported data or provide additional information;
5. date of submission of the alert;
6. signature of the submitter.

Any type of information sources may be attached to the alert in support of the allegations stated therein.

Where the alert is not signed and in the event of any doubt as to whether it originates from the citizen or organization specified thereon, the examining inspector shall request its confirmation by handwritten or electronic signature within three days as of the notification thereof. If no timely confirmation is submitted, the consequence is termination of the proceedings.

If the alert does not meet the other requirements under Art. 175l, para. 5 of the Judiciary System Act, the submitter is notified to rectify the defects within three days as of the notification thereof, stating that failure to rectify these will result in termination of the proceedings.

If the alert is regular, it shall be subject to an inspection of its admissibility, as:

- alerts that are not within the competence of the Inspectorate to the Supreme Judicial Council shall be immediately forwarded to the competent authority, or at the discretion of the inspector concerned, reported to a meeting of the Inspectorate and shall be sent by decision of the latter to the competent authority;

- alerts against persons who are dismissed as judges, prosecutors or investigating magistrates as at the time of submitting same filing shall be returned to the submitters thereof.

Inspection is not initiated and the alert submitter is notified when it is established that in respect of the same violation disciplinary proceedings have been instituted, or respectively, proceedings to establish conflict of interest.

Inspection for regularity and admissibility shall not be carried out at the commencement of proceedings on an official initiative of the Inspectorate, when, in the course of conducting the inspections under Art. 56, para. 1 of the Judiciary System Act, data are established on violations under art.175k, para. 1 - 4 of the Judiciary System Act; upon receipt of a court act under Article 175i, para. 6 of the Judiciary System Act; upon assignment by the respective college of the Supreme Judicial Council under Art. 30, para. 5, item 10 of the Judiciary System Act and upon publication in the mass media meeting the requirements of Art. 175l, para. 5, items 2 - 4 of the Judiciary System Act and at the request of a judge, prosecutor or investigating magistrate when the inspection concerns the latter.

2. Protection of the alert submitter

After submission of the alert, its submitter falls under the special protection under Art. 175q of the Judiciary System Act according to which a person who has submitted an alert may not suffer any adverse consequences on that ground alone; Guarantees for such protection are regulated by:

1. Introduction of obligations for the persons charged with examining the alert to:

- not disclose the identity of the person submitting the alert;
- do not disclose any facts and data which have become known to them in relation to the examination of the alert and;
- protect written documents entrusted to the them from any unauthorized access by third parties (Art. 175p, para 2 of the Judiciary System Act).

2. Regulation of an obligation for the Inspector General of the Inspectorate to the Supreme Judicial Council to approve rules that provide for measures to

protect the identity of the alert submitter(Art. 175q, para 6 of the Judiciary System Act).

3. Classification of the above information as an official secret within the meaning of Art. 26 of the Classified Information Protection Act (Art. 175q, para. 3 of the Judiciary System Act).

4. Provision of an opportunity for the Chief Inspector to seek the assistance of the Ministry of the Interior authorities for taking additional measures for the protection of the alert submitter (Art. 175p, para 5 of the Judiciary System Act).

In the validated by the Inspector General of the Inspectorate to the Supreme Judicial Council, pursuant to Art. 175, para. 6 of the Judiciary System Act *Internal rules on protection of the identity of persons submitting alerts for initiation of an inspection pursuant to Chapter Nine, Section I „B“ of the Judiciary System Act* the following measures are provided for:

- creation of specialized record keeping office;
- establishment of a special order for filing and recording of alerts;
- creating a special fax and e-mail (email) for submission of alerts;
- creation of a special incoming and outgoing register;
- identifying the circle of persons who have access to the information about alerts and defining their specific duties related to the procedure for recording, moving and processing alerts;
- validation of an alert pattern in which the submitter may further indicate appropriate means for correspondence that preserves his/her identity.

The measures on protection of the identity of the person shall be taken as soon as the alert is received at the Inspectorate to the Supreme Judicial Council, such as:

The alert is recorded in the special incoming register of the specialized record keeping office. Once registered, the alert shall be reported to the Chief Inspector for allocation. After being assigned to a particular inspector through the random selection system, the inspector to whom the alert is assigned shall check its regularity and admissibility.

Where the alert is not signed and if a doubt exists as to whether same originates from the citizen or organization specified therein, the inspector shall request its confirmation by handwritten or electronic signature within three days as of the notification thereof. If no confirmation is submitted within the time limit, the proceedings shall be terminated. If the alert does not meet the other requirements of Art. 175l, para. 5 of the Judiciary System Act, the submitter shall be notified to rectify the defects within three days as of the notification thereof, stating that failure to rectify these will result in termination of the proceedings.

If the alert is irregular, the instructions to the submitter shall be communicated to the postal address, telephone, fax, e-mail address specified by the latter, or in any other appropriate manner in accordance with the technical capacities of the Inspectorate. When the notification is made by telephone, the submitter is informed that he/she may examine the contents of the instructions at the Registry

office, in which case the notification is certified. All outgoing documents related to the initiated case files based on alerts under Chapter Nine section I “B” of the Judiciary System Act are recorded in a special outgoing register.

The time limit for completing the inspection deadline shall start running as of date of rectifying the irregularity.

3. Other grounds for initiation of inspection as per the procedure of Chapter Nine, section I “B” of the Judiciary System Act:

Except in the case of a submitted alert, inspection in accordance with Chapter Nine, section I "B" of the Judiciary System Act may also be initiated:

- at the request of a judge, prosecutor or investigating magistrate, when the inspection concerns the latter;
- on the own initiative of the Inspectorate to the Supreme Judicial Council, when in carrying out inspections they under Art. 56, para. 1 of the Judiciary System Act data on violations under said section are established;
- upon receipt of a court act under Art. 175i, para. 6 of the Judiciary System Act.

4. An order for inspection to be initiated pursuant to Chapter Nine Section I „B“ of the Judiciary System Act:

If the alert is regular and admissible, the inspector to whom the alert is assigned shall immediately notify the Chief Inspector of the issuance of an inspection order.

The order shall contain:

- the reason for initiating the inspection;
- details of the judicial authority where the judge, prosecutor or investigating officer being subject of the inspection is appointed;
- the names of the inspector and the assisting experts;
- the tasks of the inspection and the time limit for its completion;
- working qualification of the violation being subject of the inspection;
- deadline for completion of the inspection and submission of the reasoned report under art. 175o, para. 1 the Judiciary System Act.

The inspections under the Judiciary System Act, Chapter Nine, Section “B”, shall be performed within two months as of the recording of the alert, which may be extended once for one month following an order by the Chief Inspector. If the alert is irregular, the inspection deadline shall start running as of the date on which the irregularity is rectified.

After the order is issued, a copy thereof is sent to the inspected person. With the issuance of the order, the actual inspection commences in order to establish sufficient data for a violation under Chapter Nine, Section I „B“ of the Judiciary System Act, in the course of which various facts and circumstances are

checked and various pieces of evidence are collected depending on the type of integrity violation.

IV. TYPES OF INTEGRITY VIOLATIONS AND SUBJECT OF PROOF

The powers of the Inspectorate to the Supreme Judicial Council include inspections for:

1. Conflict of interest – violation under Art. 175k, para. 1 of the Judiciary System Act. Types of conflict of interest.

Pursuant to Art. 175i, para. 1 of the Judiciary System Act a conflict of interest arises when a judge, prosecutor or investigating magistrate has a private interest that may affect the impartial and objective exercise of his/her powers or duties in office.

In paragraph 2 it is clarified that "private" is any interest that results in a tangible or intangible benefit to a person under para. 1 or his/her related parties, including any assumed obligation.

In paragraph 3 it is stated that "benefit" is any monetary or non-monetary income, including the acquisition of shares or stocks, as well as the granting, transfer or renunciation of rights, receipt of goods or services free of charge or at prices below those on the market, obtaining a privilege or honors, assistance, vote, support or influence, advantage, obtaining or promise for obtaining a job, position, gift, reward or promise to avoid a loss, liability, sanction or any other adverse event.

The subject matter of the inspection of a judge, prosecutor or investigating magistrate for conflict of interest is to ascertain sufficient information about the existence of a private interest in the performance of a person's specific official functions.

In the course of an inspection for conflict of interest, the following circumstances are established:

1. Whether the investigating magistrate, as at the time of arising of the private interest and as at the time of the inspection, has the capacity of a judge, prosecutor or investigating magistrate.

2. What the nature of the committed official actions or omissions is – exerting of influence or impact (through requests and instructions, when spending budgetary funds, representation, concluding contracts, disposing of property, issuing certificates, using or permitting the use of information, obtained in the course of implementing powers or duties in office, performing consulting activities, etc.).

3. Whether a private interest exists - an opportunity to receive the benefit and to determine same according to the criteria of Art. 175i, para. 3 of the Judiciary System Act.

4. In whose favor the benefit would arise – on favor of the obliged person or in favor of the persons related to him/her.

5. Whether the committed official actions and omissions constitute an element of the official's duties or powers.

In addition to the above cases, in which a conflict of interest inspection may be carried out in connection with the impartial and objective exercise of his/her official powers or duties in office, there is another type of conflict of interest. Such is the one admitted in the performance of the duties or powers of a judge, prosecutor or investigating magistrate in relation to the examination and closing of cases and files. In this case, the inspection shall be carried out only on the grounds of Art. 175i, para. 6 of the Judiciary System Act by considering only requests to establish a conflict of interest of a judge, prosecutor or investigating magistrate as regards closed cases and files. Requests related to pending cases are inadmissible.

In cases where the inspection has commenced on the grounds of an act received under Art. 175i, para. 6 of the Judiciary System Act, evidence is collected for the following circumstances:

1. Under which law the respective proceedings were conducted (Civil Procedure Code, Criminal Procedure Code, Administrative Violations and Sanctions Act, Administrative Procedure Code, Tax and Social Insurance Procedure Code, etc.).

2. If there are any judicial or prosecutorial acts or actions of an investigating magistrate committed in violation of the procedural requirements for independence, objectivity and impartiality, and

3. What are the reasons for the unaccepted withdrawal or the omission to withdraw as established in the act under art. 175i, para. 6 of the Judiciary System Act.

2. Integrity - violation under Art. 175k, para. 2 of the Judiciary System Act.

According to Art. 8 of the Internal Rules on Conducting of Inspections under Chapter Nine Section I „B“ of the Judiciary System Act by teams of the Inspectorate to the Supreme Judicial Council a violation of integrity exists when it is established that a judge, prosecutor or investigating magistrate obtains tangible or intangible benefits beyond the limits of the law, which may call into question his/her independence and impartiality.

Therefore, the subject of the inspection for integrity of a judge, prosecutor or investigating magistrate is the establishing whether the person accepts tangible or intangible benefits beyond the limits of the law regardless of their nature, which may cast doubt on his or her independence and impartiality.

"Tangible or intangible benefits" according to Art. 9 of the Internal Rules on Conducting of Inspections under Chapter Nine Section I „B“ of the Judiciary System Act by teams of the Inspectorate to the Supreme Judicial Council comprise any monetary or non-monetary income, including the acquisition of shares or

stocks, as well as the granting, transfer or waiver of rights, receiving goods or services for free or at below-market prices, obtaining a privilege or honors, assistance, vote, support or influence, advantage, obtaining of or a promise to obtain a job position or office, a gift, reward or promise of avoiding a loss, responsibility, are or any other adverse event.

“Accepted beyond the limits of the law”, as evidenced by the provision of Art. 10 of the above cited Internal Rules is such a benefit that originates from the official capacity of a judge, prosecutor or investigating magistrate which is not legally monitored.

In the course of the inspection, the following circumstances are to be ascertained:

- whether the person has been in the capacity of a judge, prosecutor or investigating magistrate at the time of admission and at the time of acceptance and as at the time of the inspection commencement;
- whether a non-statutory benefit has been accepted;
- whether the benefit is related to the official capacity of the recipient;
- what the type of the benefit is;
- how the benefit is received, where and when;
- from whom the benefit was received;
- whether the acceptance of the benefit is likely to cast doubt on the independence and objectivity of the judge, prosecutor or investigating magistrate;
- if there are any official actions or omissions after receiving the benefit, and what they are expressed in.

The violation is considered to have been committed by the acceptance of the benefit that is not legally ensuing by the judge, the prosecutor or the investigating magistrate in his or her official capacity, which is capable of questioning his / her independence and impartiality.

If the magistrate has performed or has refrained from performing his or her official duties because of the obtained, the conflicts of interest shall also be examined in addition to said circumstances.

3. Independence - violation under Art. 175k, para. 3 of the Judiciary System Act.

The independence of a judge, prosecutor or investigating magistrate is impaired when, in the course of performance of his/her duties, he/she exercises or succumbs to pressure, threats, incentives, direct or indirect influence by representatives of the public authority or by private influence, internal or external to the judicial system.

Therefore, the subject of the inspection for independence of a judge, prosecutor or investigating magistrate is determining whether, in the performance of his or her duties, the person has exercised or is subject to pressure, threats, incentives, direct or indirect influence by representatives of public authority or private influence, internal or external to the judiciary system. The composition of

the violation of independence does not require that the influence exercised has motivated the judge, prosecutor or investigating magistrate concerned to violate his/her professional duties.

In the course of an inspection for violation of independence by exercising influence by a judge, prosecutor and investigating magistrate, the following circumstances shall be established:

- to whom the impact was exerted;
- if the inspected person has had the capacity of a judge, prosecutor or investigating magistrate at the time of exerting the impact and as at the time of commencing the inspection;
- whether at the time of exerting the impact the person on whom same was exerted was in the capacity of judge, prosecutor or investigating magistrate;
- what the form of the impact under Art. 175k, para. 3 of the Judiciary System Act is, how and by what action it was committed;
- if there is, and what the result is, of such exercise of official powers under influence, and
- what the relationship is between the impact-exerting person and the person on whom the impact was exerted.

4. Discrediting the prestige of the judiciary – violation under Art. 175k, para. 4 of the Judiciary System Act

Discrediting the prestige of the judiciary is behavior of a judge, prosecutor or investigating magistrate, which is contrary to the common understanding of decency and which compromises the honor of a judge, prosecutor or investigating magistrate in the profession and society.

"Indecent" according to Art. 22 of the Internal Rules on Inspections under Chapter Nine Section I „B“ of the Judiciary System Act by teams of Inspectorate to the Supreme Judicial Council are those acts that are cynical, indecent, brutal, shameless as well as other negative acts that scandalize society and are contrary to the requirements of the Code of Ethical Behavior for Bulgarian Magistrates.

The subject of the inspection for establishing actions that are detrimental to the prestige of the judiciary is to determine whether a person's behavior is contrary to the common sense of common understanding of decency in society and whether his/her actions compromise the honor of the judge, prosecutor or investigating magistrate in the profession and society.

The subject of establishing the violation under Art. 175k, para. 4 of the Judiciary System Act are the following circumstances:

- whether the inspected person at the time of the offense and as at the time of commencing the inspection has had the capacity of a judge, prosecutor or investigating magistrate;
- what the violation is;
- specification of the time, place and content of the violation;

- whether the act or behavior complies with the decency requirement regarding a judge, prosecutor or investigating magistrate in the profession and society;
- if there is any discrediting of the prestige of the judiciary and the professional honor of the judge, prosecutor or investigating magistrate and what is expressed;
- if there are any particular specific individuals who are targeted by such indecent behavior and who they are;
- if the normal relationship between the judge, the prosecutor or the investigating magistrate and the person targeted has been restored.

VI. METHODS OF EVIDENCE COLLECTION

Evidence in carrying out inspections may comprise data that are related to facts and circumstances relevant to clarify the main issues covered by the inspections under Art. 175k, para. 1 - 4 of the Judiciary System Act.

The facts and circumstances are established by explanations, statements of the inspected person, reports, written and other means of proof, which are not prohibited by the law, unless a special law prescribes the proof of certain facts and circumstances to be carried out by other means. The use of special investigative tools is prohibited.

The inspector may request information from public bodies, organizations and institutions, including the information under Art. 175e, para. 2 - 7 of the Judiciary System Act. This means that the inspector may:

- use information from electronic databases and other information files kept by state and municipal authorities, judicial authorities and other institutions to which the declared facts are subject of registration, announcement or certification. The access of the Inspectorate to the Supreme Judicial Council to the information arrays and registers of state and local authorities, with the exception of the security services, is by direct electronic means and is of charge. The procedure for providing information from other authorities, where technical requirements do not allow direct access, shall be governed by an agreement between the inspector general and the authority concerned. Such agreements have been concluded with a number of bodies, including the National Revenue Agency etc.;
- request additional information from the state authorities, local self-government bodies and local administration, judicial authorities and other institutions, at which the various facts, which are subject of declaring in the declarations of property and interests of magistrates, are entered, declared or certified. Authorities and institutions are obliged to provide the necessary information within one month of receiving the request;
- obtain information from the information systems under Art. 56 and 56a of the Credit Institutions Act by requesting the disclosure of bank secrecy through the

district court in whose area is the permanent residence address of the inspected person;

In the aforementioned cases, the request and receipt of information pursuant to Art. 175e, para. 2 - 7 of the Judiciary System Act shall be carried out in accordance with the provisions of Chapter II of the Internal Rules on Inspection of the Property Declarations of Judges, Prosecutors and Investigating Magistrates by teams of the Inspectorate to the Supreme Judicial Council.

Pursuant to Art. 175u of the Judiciary System Act the Administrative Procedure Code (APC) shall apply to issues not covered by this section.

Pursuant to Art. 39, para. 1 of the Administrative Procedure Code the facts and circumstances are established by explanations, statements of the parties or their representatives, information, written and material evidence, expert conclusions and other means not prohibited by the law, unless a special law prescribes the proof of certain facts and circumstances to be carried out by other means.

Pursuant to Art. 44, para. 1 of the Administrative Procedure Code, the administrative authority may require information from persons not involved in the proceedings when this is necessary to clarify material facts and circumstances relevant to the proceedings and if these cannot be otherwise established. This information is usually in writing, and only exceptionally, by virtue of Art. 44, para. 3 of the Administrative Procedure Code - verbal.

Other conditions and procedures for evidence collection are not provided for either of the Judiciary System Act or by the Administrative Procedure Code.

In this regard, the facts and circumstances relevant to the subject of the inspection shall be established by explanations, statements of the person being inspected, information, written and other evidence not prohibited by the law, unless a special law prescribes the proof of certain facts and circumstances to be carried out by other means as well.

In the inspections conducted by the Inspectorate to the Supreme Judicial Council the opportunity to collect verbal information by inviting persons other than the inspected person has not been applied, no elaboration of expert opinions has been assigned and no material evidence was collected.

The use of special investigative tools is prohibited.

In the proceedings under Chapter Nine Section I “b” of the Judiciary System Act the inspected person is entitled to a defense. The inspector must provide the inspected judge, prosecutor or investigating magistrate, as well as the defense lawyer, with the opportunity to familiarize themselves with the evidence collected within the inspection and to make notes and excerpts thereon. Prior to familiarizing with the evidence, the inspected person and his/her defense lawyer must undergo training under Art. 145, para. 3 of the Rules on Implementation of the Classified Information Protection Act.

The inspected person is invited to a hearing and/or to submit a written statement of opinion.

VII. STATISTICAL DATA:

During the period from 01.01.2017 to 10.10.2019 at the Inspectorate to the Supreme Judicial Council a total of 176 case files are initiated for establishing sufficient data for committed violations pursuant to Chapter Nine, section I “B” of the Judiciary System Act.

Out of these 79 in the year 2017; 60 in the year 2018 and 37 until 10.10.201.

1. Case files initiated in the year 2017

The diagram below shows the number of case files initiated in the year 2017 regarding which an order has been issued by the Inspector General for conducting of inspections for violations under Art. 175k of the Judiciary System Act and the number of case files on which inspections have not been initiated for committed violations under Art. 175k of the Judiciary System Act.



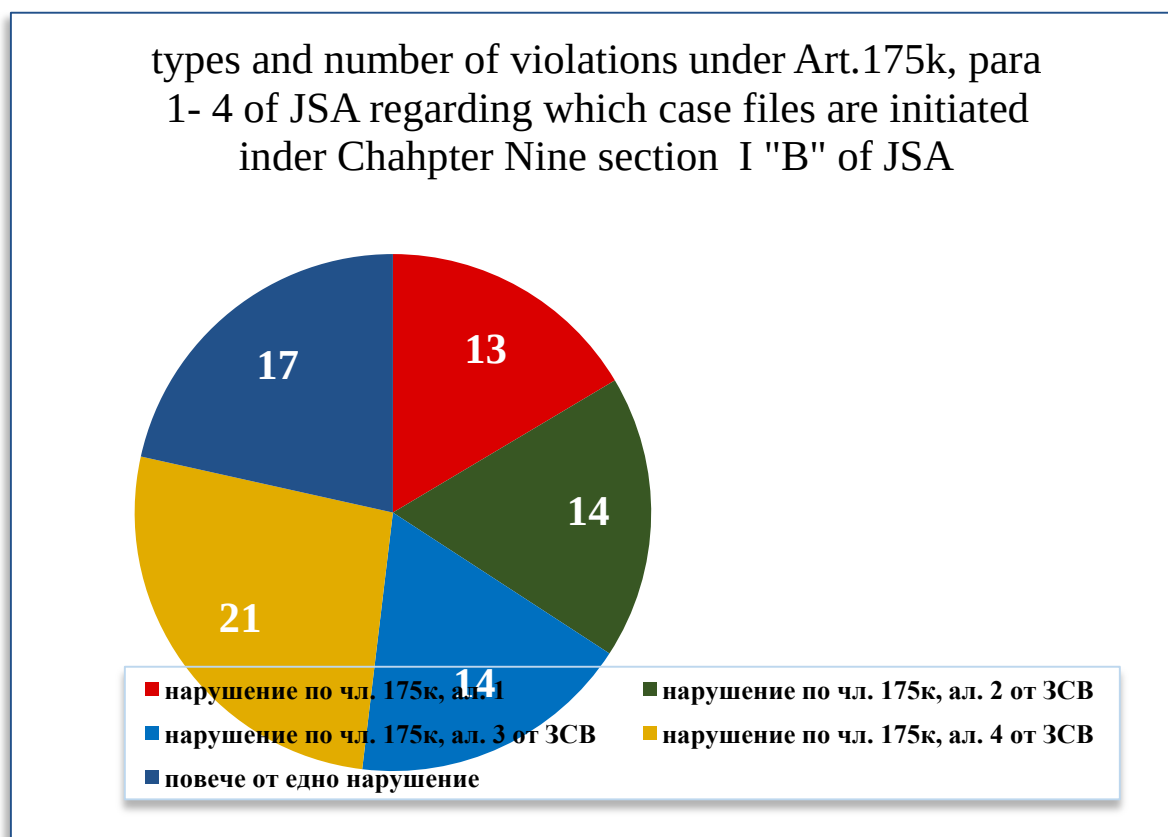
Case files regarding which inspections are initiated

Case files regarding which inspection are not initiated

As at the time of their initiation, the 79 case files contained the following allegations or data on committed violations under Art. 175k of the Judiciary System Act as follows:

- 13 contained allegations only of a violation under Art. 175k, para. 1 of the Judiciary System Act - conflict of interest;
- 14 contained allegations only of a violation under Art. 175k, para. 2 of the Judiciary System Act - integrity;
- 14 contained allegations only of a violation under Art. 175k, para. 3 of the Judiciary System Act - independence;
- 21 contained allegations only of a violation under Art. 175k, para. 4 of the Judiciary System Act - acts or omissions discrediting the prestige of the judiciary;
- in the other 17 more than one violation under Art. 175k of the Judiciary System Act.

The number and types of violations under Chapter 9, Section I “B” of the Judiciary System Act in respect of which case files have been instituted in 2017 are presented in the diagram below:

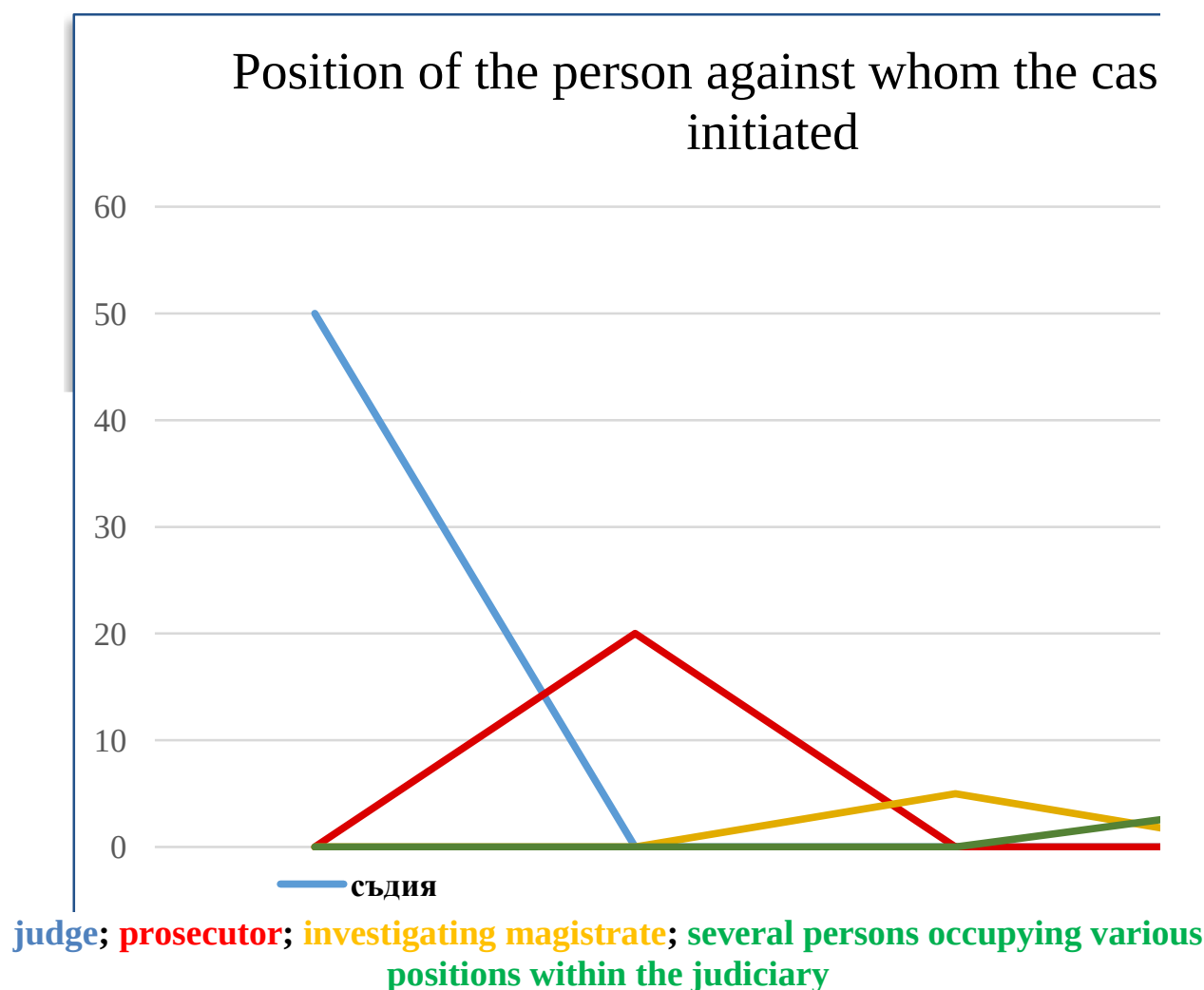


Violation under Art. 175k, para 1
Violation under Art. 175k, para 3 the
Judiciary System Act
More than one violation

Violation under Art. 175k, para 2 the
Judiciary System Act
Violation under Art. 175k, para 4 the
Judiciary System Act

Out of the 79 case files opened in 2017:

- 50 are initiated against a judge;
 - 20 are initiated against a prosecutor;
 - 5 are initiated against an investigating magistrate and
 - 4 are initiated against several persons holding various positions in the judiciary,
- as shown in the following diagram:



1.1. Files on which inspections have been initiated for committed violations under Art. 175k from the Judiciary System Act:

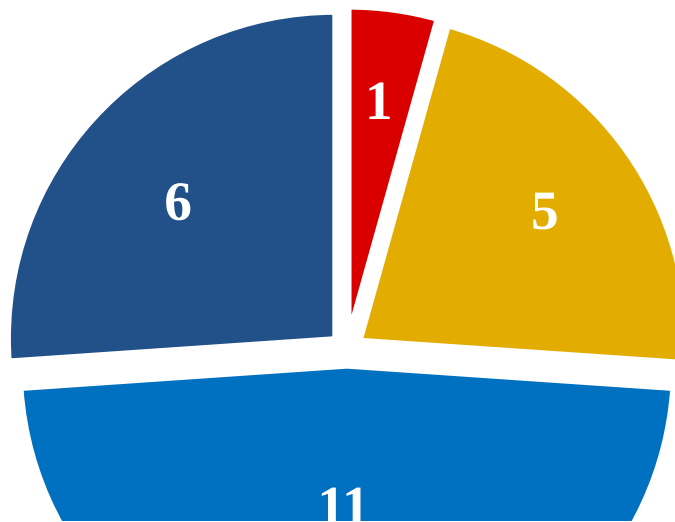
In 2017 order was issued by the inspector general to carry out an inspection for violations under Art. 175k, para. 1 - 4 of the Judiciary System Act on 23 case files out of the submitted 79.

Out of these:

- 1 is initiated for violations under Art. 175k, para. 1 of the Judiciary System Act;

- 0 are initiated for violations under Art. 175k, para. 2 of the Judiciary System Act;
- 5 are initiated for violations under Art. 175k, para. 3 of the Judiciary System Act;
- 11 are initiated for violations under Art. 175k, para. 4 of the Judiciary System Act,
- 6 are initiated for more than one violation under 175k of the Judiciary System Act.

Number of inspections for violations under Art. 175k, para. 1-4 JSA



Violation under Art. 175k, para 1 the Judiciary System Act	Violation under Art. 175k, para 3 the Judiciary System Act
Violation under Art. 175k, para 4 the Judiciary System Act	More than one violation

1.1.1. Inspections as per which no sufficient data are established for committed violation under Art. 175k of the Judiciary System Act:

- 1 inspection was instituted against a judge to establish sufficient data for the presence of a conflict of interest under art. 175k, para. 1 of the Judiciary System Act. The request for conducting thereof has been submitted by the two judges (president and vice-president of the regional court) so as to establish whether sufficient data are available for existence of a private interest for them in the conducting of a public procurement for joinery replacement at the respective regional court. Data of conflict of interest in respect of the subject persons have been stated by another judge during the hearing of the latter at SJC. According to

said judge, the vice president of the court has exerted an influence as regards the selection of a contractor, as he is a relative by marriage of a partner in the company that has been awarded the public procurement and has completed the joinery replacement at the regional court.

In the course of the inspection documentary evidence is collected from the two inspected judges, from the president of the respective regional court and from the members of the tender selection committee. The concluded contract is also attached.

Given the collected pieces of evidence, the inspecting team has reasoned a conclusion that no sufficient data are available for the existence of a private interest and respectively for obtained tangible or intangible benefit from the inspected persons in the course of performance of their specific official functions, since the public procurement procedure has been announced during the term of office of the previous president and the contract is concluded by the current one, who has submitted the request to Inspectorate to the Supreme Judicial Council. As regards the vice-president whose relative is a partner in the company that has been awarded the public procurement, it is established that same has been appointed to a senior position at the court 48 days after the installation and acceptance of the completed construction and installation works. He has not participated in any stage of the announcement of the public procurement, the ranking of the tenderers and the conclusion of the contract for performance thereof, and in the course of its performance, he has been working as a regular judge at the respective regional court. Therefore, by decision of Inspectorate to the Supreme Judicial Council the inspection against the inspected judges is terminated due to a lack of sufficient data for committed violation under Art. 175k, para. 1 of the Judiciary System Act;

- 5 inspections were instituted to establish actions that violated the independence of the magistrate under Art. 175k, para. 3 of the Judiciary System Act. Four of these inspections were instituted against judges and one against an investigating magistrate. All five inspections have been completed with a reasoned termination report due to lack of sufficient data for the violation.

For instance, a president of the Managing Board of a hunting and fishing society has submitted an alert wherein he states that via the Internet and the social network Facebook a judge at one of the supreme courts has contacted his wife and has expressed an interest in relation to a lodged statement of claim to another court for repealing of decisions adopted by the general meeting of the company for selection of new managing bodies. In the alert it has been specified that in the application “Messenger” of Facebook the judge has written to the alert submitter’s wife that if the alert submitter “does not withdraw his claim ... frightful things will follow“. It has also been stated that a judge at one of the supreme courts has met the

rapporteur-judge to the case, instituted on the occasion of the request for repealing the decisions adopted at the general meeting of the hunting and fishing society.

In the course of the inspection written data have been collected from the inspected judges and from the wife of the alert submitter. The latter has submitted a printout from the “Messenger“ application of Facebook, as she has also submitted her mobile telephone on site at the Inspectorate to the Supreme Judicial Council. From the records thereon it could not have been established definitively neither when the messages, alleged as sent by the judge at one of the supreme courts, had been sent, nor from whose Facebook account same had been sent, since the account in question had been deleted. The inspected judges on their part, have stated they had not met not only in relation to the instituted case, but also in relation to any occasion whatsoever.

After analyzing the collected pieces of evidence a conclusion is reasoned that no sufficient data are available that one of the judges has exerted any pressure, threats, incentives, direct or indirect influences on the other and/or that the former has succumbed to such pressure, threats, incentives, direct or indirect influences on the part of the first judge, on the part of representatives of the public authority or a private influence. Therefore, by decision of Inspectorate to the Supreme Judicial Council the inspection is terminated due to a lack of sufficient data for any violations committed under Art. 175k, para. 3 of the Judiciary System Act.

Other specific examples of independence violations are specified in respect of inspections by Inspectorate to the Supreme Judicial Council, as per which after decision of Inspectorate to the Supreme Judicial Council proposals have been lodged for institution of disciplinary proceedings.

- 13 inspections have been instituted to establish actions detrimental to the prestige of the judiciary under Art. 175k, para. 4 of the Judiciary System Act. Six of them were filed against judges, five against prosecutors and two against investigating magistrates. Eleven of the inspections were concluded with a reasoned termination report due to lack of sufficient data for a violation (6 against judges, 3 against prosecutors and 2 against investigating magistrates), and two (against prosecutors) are a subject of examination below in the statement, are concluded with a reasoned report containing an opinion on the availability of sufficient data on actions or omissions that discredit the prestige of the judiciary.

Among the examples where no sufficient data have been collected for discrediting the prestige of the judiciary, there is a case in respect of which an inspection is initiated on the grounds of own initiative. More specifically, Inspectorate to the Supreme Judicial Council has, on its own initiative, initiated an inspection on the occasion of Internet publications about a judge arrested by the bodies of the Ministry of Interior in relation to his participation in illegal hunting

together with a criminal, who has been driving a motor vehicle and has not complied with an order by the police authorities.

In the course of the inspection information has been requested from the Ministry of Interior and from the relevant Prosecutor's Office. Based on the received materials, it is established that in respect of the judge no evidence is collected for his participation in illegal hunting and therefore, he has been discharged without bringing any accusations against him. In addition, copies are received from the conclusions of the physicochemical tests and a ballistic expert opinion establishing that the judge has not participated in the shooting. The latter has stated in a written statement of opinion that he has neither participated in illegal hunting, nor has been in the car of a criminal. He has also enclosed pieces of evidence proving that the other person has not been convicted, two permits for individual hunting and decision of the respective competent court that has reasoned a conclusion stating that the judge has not been driving the car and has not performed any actions for the purpose of preventing a police check.

Based on the collected pieces of evidence Inspectorate to the Supreme Judicial Council has adopted a decision on lack of sufficient data for the magistrate being inspected to have committed any actions that incompatible with the commonly established public notions of decency and compromising the honor of a judge, prosecutor or investigating magistrate among the profession or society.

Along with the above specific example for discrediting the prestige of the judiciary in which the inspection has been terminated due to a lack of sufficient data, further in this analysis examples are also presented of inspections of violations under Art. 175k, para. 4 of the Judiciary System Act, under which after decision of Inspectorate to the Supreme Judicial Council, proposals have been submitted for institution of disciplinary proceedings.

- 4 inspections have been initiated for more than one violation - 1. under Art. 175k, para. 2 and para. 3 of the Judiciary System Act and 3 - under Art. 175k, para. 3 and para. 4 of the Judiciary System Act. Three of these inspections were instituted against judges and one against a prosecutor. Three inspections initiated against judges were closed with a reasoned termination report due to lack of sufficient data for a violation, and one initiated against a prosecutor was closed with a reasoned report containing a specific opinion on the availability of sufficient data for a violation under Art. 175k.

One of these inspections completed with a report on termination, is instituted on the occasion of an alert submitted to the Inspectorate by a defendant to a criminal case as per the records of ... regional court. The alert contains allegations that the rapporteur-judge to the case has received a material benefit – a monetary amount of BGN 800 from the victim to the case. The alert submitter stated that on

the date of the court hearing he has received a letter from another person, unknown to him, containing a copy of a receipt from Bulgarian Posts AD for wire transfer and express transfer of an amount of BGN 800 sent by the victim to the case to the benefit of the rapporteur-judge. A receipt from Bulgarian Posts AD is enclosed to the alert.

In the course of the inspection information has been requested from Bulgarian Posts AD based on which it is established that indeed an express transfer of BGN 800 has been sent on behalf of the victim to the case to the rapporteur-judge as recipient and yet the amount has not been sought or received by the latter. In his written statement the inspected person has specified that after completion of the court hearing at which the submitter of the alert to Inspectorate to the Supreme Judicial Council has requested his withdrawal, an inspection has been conducted at the post office and it has been established that indeed in his favour a wire transfer has been sent for the amount of BGN 800 by a person with a full name coinciding with that of the victim to the case. He has also stated that subsequently he has immediately alerted the respective district prosecutor's office. In respect of the alert submitted by the judge, by ordinance of the respective prosecutor's office, pre-trial proceedings have been instituted for committed document-related crime. In relation thereto, it has been established that the victim to the case is not the sender of the wire transfer.

Based on the collected pieces of evidence the inspecting team has justified a conclusion that no sufficient data are available for the benefit accepted by the judge beyond the limits of the law, which may give rise to doubt in his independence and impartiality, as well as that in the course of performance of his official duties he has succumbed to negative influences. Given the aforementioned, by decision of Inspectorate to the Supreme Judicial Council the inspection is terminated due to a lack of data for committed violations under Art. 175k, para. 2 and para. 3 of the Judiciary System Act.

On another occasion the inspection for establishment of sufficient data regarding more than one violations of integrity is performed following an alert submitted by a citizen alleging that he has been a victim of a crime as to which a pre-trial proceedings have been instituted. According to what is set forth in the alert the investigation has been terminated due to expiry of the limitation period, since the observing prosecutor has not performed the necessary actions for revealing the objective truth due to a received material benefit – four tires given to the latter by a criminal who has been convicted, and for whom data have been available indicating that same has been instigator of the crime committed against the alert submitter.

Allegations are also set forth about improper contacts and meetings between the prosecutor and the criminal.

In the course of the inspection documentary evidence is collected and written statements are requested from the alert submitter and from four witnesses specified therein. One of the witnesses has stated that he has sold the tires to the prosecutor for the amount of BGN 120 more than 10 years ago. The second witness has only specified that he has attended a chance meeting between the criminal and the prosecutor in front of a restaurant, and yet he has not specified the date on which such meeting has taken place. The other two witnesses have not provided any answers to the questions raised. The inspecting prosecutor has stated that he has never requested and that he has never received a gift in the course of or on the occasion of performing his official duties, as well as that he does not remember to have ever bought any tires from the specific person. Hence, in the course of the inspection it has not been undoubtedly proven that the inspected person has received four tires as a gift as well as that same has been keeping irregular contacts with a criminal, the inspection is terminated by decision of Inspectorate to the Supreme Judicial Council due to lack of sufficient data for committed violations under Art. 175k, para. 2 and para. 4 of the Judiciary System Act

1.1.2. Inspections in which sufficient data are established for committed violation under Art. 175k of the Judiciary System Act:

Out of the 23 inspections initiated following orders of the Inspector General of the Inspectorate to the Supreme Judicial Council, 3 were completed with a reasoned report containing a specific opinion on the availability of sufficient data for violation under Art. 175k of the Judiciary System Act.

In two of the reports, the Inspectorate to the Supreme Judicial Council has decided to submit a proposal for disciplinary sanction to the relevant college of the Supreme Judicial Council, since sufficient data for violation under Art. 175k, para. 4 of the Judiciary System Act are established and one for submitting a proposal for disciplinary sanction to the relevant college of the Supreme Judicial Council, since sufficient data were established for more than one violation - under Art. 175k, para. 3 and Art. 175k, para. 4 of the Judiciary System Act.

More specifically:

The first of the three inspections was instituted for violations under Art. 175k, para. 3 and Art. 175k, para. 4 of the Judiciary System Act by a prosecutor.

By its own initiative Inspectorate to the Supreme Judicial Council has initiated an inspection on the occasion of internet publications in which allegations are set forth that in relation to ongoing pre-trial proceedings, at a meeting held at a district prosecutor's office a prosecutor has offended the attending investigating magistrates addressing them by rude and disrespectful words and phrases.

By order of the Inspector General the conducting of an inspection has been ruled in order to establish sufficient data as to: 1. whether on a specific date, in the building of the respective district prosecutor's office, in the course of performance of his official duties, the prosecutor has exerted any pressure in respect of an investigating magistrate involved in the pre-trial proceedings – violation under Art. 175k, para. 3 of the Judiciary System Act; and 2. whether, in the course of performance of his official duties, the prosecutor has performed any actions that discredit the prestige of the judiciary and whether his behavior is not consistent with the established social norms of decency as well as whether his actions compromise the honor of the prosecutor in the profession and in society– violation under Art. 175k, para. 4 of the Judiciary System Act.

In the course of the inspection documentary evidence is collected from nine witnesses – seven investigating magistrates and two forensic scientists. All of the latter have accepted the behavior of the prosecutor as offensive in respect of the investigating magistrates and as regards the personal attacks to a specific investigating magistrate have clarified that these are “rude” and “disrespectful”. The latter define the behavior and discourse of the prosecutor as “delinquent” and “incompatible with the position occupied by him and contradicting any norms of decency, ethics and moral as well as rules of conduct”.

The inspected prosecutor has stated that he has not used any rude and disrespectful words.

Taking into account the collected pieces of evidence, the inspecting team of Inspectorate to the Supreme Judicial Council has justified a conclusion that no sufficient data are available to indicate that the prosecutor being inspected has, in the course of performance of his official duties, exerted an influence on an investigating magistrate involved in pre-trial proceedings, as well as that in the course of performance of his official duties same has committed actions that discredit the prestige of the judiciary.

Based on the reasoned report by the inspector who has conducted the inspection, Inspectorate to the Supreme Judicial Council has adopted a decision at its session to submit to SJC a proposal for institution of disciplinary proceedings against the inspected prosecutor for violations committed under Art. 307, para. 3, i. 4 in conjunction with Art. 175k, para. 3 of the Judiciary System Act and under Art. 307, para. 3, i. 3 in conjunction with Art. 175k, para. 4 of the Judiciary System Act. According to a decision of the Prosecutors' College at SJC disciplinary proceedings are not instituted due to expiry of the 6-month limitation period under Art. 310, para. 1 of the Judiciary System Act. The latter starts expiring as of detecting a violation. In the case under consideration for the purposes of this analysis, the violation was detected on 28.02.2017 - the date on which the articles that have

provided grounds for inspection were published. The deadline for disciplinary proceedings expired on 28.08.2017, and the proposal for disciplinary proceedings was sent to the Supreme Judicial Council on 16.05.2017.

The second inspection was initiated for a violation under Art. 175k, para. 4 of the Judiciary System Act against a prosecutor.

The inspection is conducted by initiative of Inspectorate to the Supreme Judicial Council based on information presented in a programme on one of the national free-to-air televisions. In the programme a material shot by a surveillance camera has been broadcast, in which a prosecutor at a district prosecutor's office in one of the big Bulgarian cities is present. It is shown that on a particular date, jointly with two criminals and accused persons, the prosecutor has visited the seat of a legal entity for the purpose of exerting coercion in respect of the latter for conclusion a of contract for security services by the visited legal entity and a security company in which the prosecutor holds shares.

By order of the inspector general an inspection is ruled for establishing sufficient data as to whether the behavior of the district prosecutor shown in the television programme contradicts the publicly established concepts of decency and whether his actions compromise the honor of the prosecutor's profession in society – violation under Art. 175k, para.4 of the Judiciary System Act.

In the course of the inspection written data have been received from more than 20 witnesses as well as reference data from the general prosecutor, from the Commercial Register at the Registry Agency, from the business company visited by the inspected prosecutor and from the Specialized Prosecutor's Office. Out of all collected pieces of evidence it has been established beyond doubt that the inspected prosecutor has been performing commercial activity as of the time of registration of the security company, which has had more than 200 contracts for site security services, and has subsequently continued to control this activity and participate therein, through a "front" person, as well as that same has been keeping close contacts and personal relations with criminals, with whom he has participated unofficially in commercial activities and has been assisting the recruitment of clients, through solicitation of individual merchants at a restaurant owned by one of the two criminals and accused persons. In this manner, by his actions and behavior, the inspected person has violated the principles of integrity and decency as regulated by the Code of Ethical Behavior for Bulgarian Magistrates.

On the grounds of a reasoned report of the inspector who conducted the inspection, at a session the Inspectorate to the Supreme Judicial Council decided to submit to the Supreme Judicial Council a proposal to institute disciplinary proceedings against the inspected prosecutor for a violation under Art. 307, para. 3, item 3 in conjunction with Art. 175k, para. 4 of the Judiciary System Act. The

proposal was sent to the Supreme Judicial Council on 07.09.2017. As a result of the proposal of the Inspectorate to the Supreme Judicial Council, a disciplinary proceeding was initiated against the respective prosecutor by a decision of the Prosecutor's College of the Supreme Judicial Council, which was subsequently terminated on 06.06..2018 due to the dismissal of the subject person against whom the proceedings were instituted.

The third inspection was instituted for a violation under Art. 175 k, para. 4 of the Judiciary System Act.

The inspection has been conducted following an alert submitted by a defendant to a criminal case. Therein, the alert submitter alleges that the observing prosecutor from the respective district prosecutor's office to the pre-trial proceedings brought against the submitter, has visited the home of the latter, since he has been an acquaintance with the woman with whom the alert submitter cohabits within non-marital relationship. He has learnt from him that within the criminal proceedings to which he has been an accused person and subsequently, a defendant, a pressure has been exerted by the district prosecutor on the investigating magistrate, the observing prosecutor and the judge. A portable flash drive is enclosed to the alert which allegedly contains two video files supporting what is stated in the alert.

By order of the inspector general, the conducting of an inspection is ordered for finding sufficient data as to: 1. whether on a particular date in the building of the district prosecutor's office, in the course of performance of his official duties, the administrative head – district prosecutor at the respective district prosecutors' office has exerted pressure in respect of a prosecutor at the district prosecutors' office for bringing a charge by indictment within the pre-trial proceedings against the alert submitter – for violation under Art. 175k, para. 3 of the Judiciary System Act; 2. whether on unspecified date in the building of the district prosecutors' office, a prosecutor thereof has succumbed to pressure upon bringing of a charge by indictment within the pre-trial proceedings against the alert submitter – violation under Art. 175k, para. 3 of the Judiciary System Act, and 3. whether during a specific period of time the prosecutor at the district prosecutors' office has met the alert submitter – accused within a pre-trial proceedings to which same has been an observing prosecutor, at his home, and whether same has discussed the actions initiated on his part after completing the investigation, discrediting by such actions the prestige of the the judiciary – violation under Art. 175k, para. 4 of the Judiciary System Act.

In the course of the inspection documentary evidence has been collected from the two inspected persons and from three other persons. According to the three witnesses, the inspected prosecutor has visited the home of the alert submitter, as

during said meetings attended by the three witnesses as well, issues have been discussed in relation to the ongoing pre-trial proceedings, and the observing prosecutor has explained that he has been a subject of pressure by his administrative head – the district prosecutor – to lodge an indictment to the court against the alert submitter.

The inspected administrative head of the district prosecutors' office has stated that he has never exerted any pressure on the observing prosecutor, who has twice terminated the pre-trial proceedings, and yet his acts have been repealed by the first-instance- and the appellate courts.

In its written statement of opinion the other inspected person – the observing prosecutor, has confirmed the circumstance that he has visited the home of the alert submitter since he is an acquaintance of the woman with whom the latter cohabits within non-matrimonial relationship, and yet he also has stated that only at his third meeting with her he has found out that the accused person also lives in the same house. He has definitively denied to have been subjected to pressure by the administrative head of the district prosecutors' office within the pre-trial proceedings against the alert submitter.

In the course of the inspection the two audio recordings provided by the alert submitter have also been heard in support of the allegations stated in the alert regarding the behavior of the observing prosecutor.

As a result of the collected pieces of evidence, the inspecting team has reasoned a conclusion that no data are available as regards the exerting on the part of the administrative head of the respective district prosecutor's office of any pressure, threats, incentives, direct or indirect influence on the observing prosecutor and therefore the inspection has been terminated in this part by decision of Inspectorate to the Supreme Judicial Council. At the same time sufficient data have been collected that the observing prosecutor, with his visits to the home of the accused persons to the case of whom he performs the functions of administration and supervision, and by discussing with him the actions taken as regards the investigation and outcome of the pre-trial proceedings, has committed any actions whereby he has discredited the prestige of the judiciary and has undermined the prestige of the prosecutor's profession in society. Therefore, Inspectorate to the Supreme Judicial Council has rendered a decision at its session to address to SJC a proposal for institution of disciplinary proceedings against the prosecutor being inspected for committed violation under Art. 307, para. 3, i. 3 in conjunction with Art. 175k, para. 4 of the Judiciary System Act. The proposal was sent to the Supreme Judicial Council on 19.12.2017. As a result of the proposal of the Inspectorate to the Supreme Judicial Council, disciplinary proceedings were instituted against the respective prosecutor and subsequently by decision of the

Prosecutor's College of the Supreme Judicial Council dated 29.08.2018 a disciplinary sanction of reprimand under Art. 308, para. 1, Item 1 of the Judiciary System Act was imposed to the inspected prosecutor.

1.2. Case files on which no inspections are initiated for committed violations under Art. 175k of the Judiciary System Act:

56 case files are closed with a statement of opinion on termination

1.2.1. Case files terminated by statement of opinion due to irregularity of the alert.

44 of the case files initiated in the year 2017 containing allegations or data on committed violations under Art. 175k of the Judiciary System Act were terminated since the alerts did not meet the requirements of Art. 175l, para. 5 of the Judiciary System Act in terms of their minimum content, and the gaps thereon have not been rectified after a deadline provided by the inspector.

In the examination of the files terminated for irregularities, for the purposes of this analysis, it is found that the majority of the alerts received under Chapter Nine Section I „B“ of the Judiciary System Act contain only allegations of violation, without specifying the time, location, act and/or circumstances in which the violations were committed, if any. Some of the alerts did not even contain a specific allegation, and yet proceedings were instituted in accordance with Chapter N, Section I „B“ of the Judiciary System Act, as the infringement could be inferred from the context of the alert.

Out of these alerts:

- 6 contained allegations of violation under Art. 175k, para. 1 of the Judiciary System Act, as 3 out of these were filed against judges, and 3 - against prosecutors;
- 12 contained allegations of violation under Art. 175k, para. 2 of the Judiciary System Act, as 9 were filed against judges, and 3 against prosecutors;
- 4 contained allegations of violation under Art. 175k, para. 3 of the Judiciary System Act, as 3 were filed against judges, and 1 against a prosecutor;
- 10 contained allegations of violation under Art. 175k, para. 4 of the Judiciary System Act, as 9 were filed against judges, and 1 against a prosecutor;
- 12 contained allegations of more than one violation: 1 containing allegations of violation under Art. 175k, para. 1 and para. 2 of the Judiciary System Act filed against a prosecutor; 1 containing allegations of violation under Art. 175k, para. 1 and para. 3 of the Judiciary System Act filed against a judge; 2, containing allegations of violations under Art. 175k, para. 1 and para. 4 of the Judiciary System Act, 1 of which was filed against a judge and 1 - against a prosecutor; 4 containing allegations of violations under Art. 175k, para. 2 and para. 4 of the Judiciary System Act, 2 of which filed against judges, 1 - against a prosecutor and 1 - against the investigating magistrate; 1 containing allegations of violation under Art. 175k, para. 2, para. 3 and para. 4 of the Judiciary System Act, filed against a judge, as well as 3, containing allegations of violations under Art. 175k, para. 3 and para. 4 of the

Judiciary System Act, 1 of which was filed against a judge and 2 - against prosecutors.

1.2.2. Case files terminated by statement of opinion due to inadmissibility:

7 out of case files initiated in 2017 containing allegations or data on committed violations under Art. 175k of the Judiciary System Act, were terminated with a statement of opinion due to the inadmissibility of the alert. They were found to be either relating to a pending case with an alert containing a claim of a conflict of interest of a magistrate, or it was found that the person against whom the alert was filed did not does not have or did not have the capacity of a "magistrate" as at the time of the alleged violation..

As regards the 5 case files terminated due to inadmissibility, the alert s contained allegations of violations under Art. 175k, para. 1of the Judiciary System Act, 2 being filed against a judge and 3 against prosecutors and the other 2 contained allegations of violations under Art. 175k, para. 4 the Judiciary System Act and are filed against Judges.

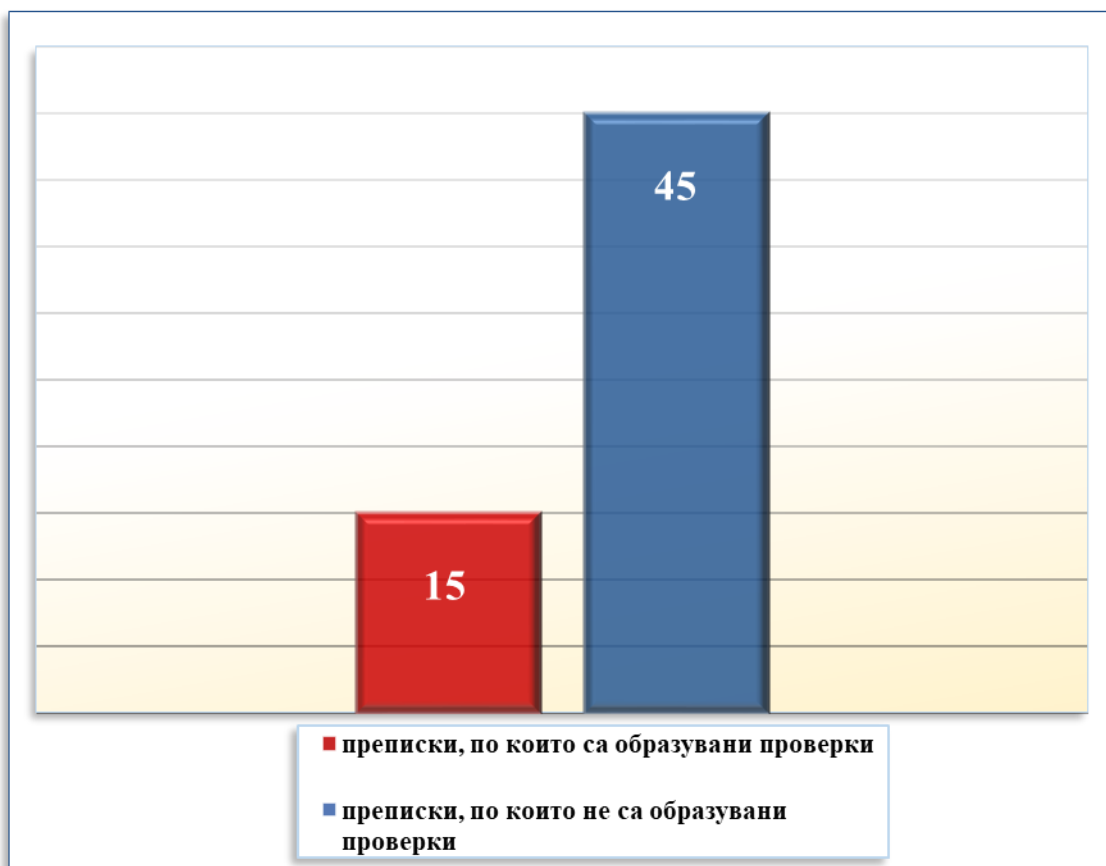
1.2.3. Case files terminated by statement of opinion due to insufficient data for committed violation under Chapter Nine section I “B” of the Judiciary System Act

5 of the case files instituted in the year 2017 files containing allegations or data on committed violations under Art. 175k of the Judiciary System Act, were terminated with a statement of opinion as the examining inspector has concluded that there no insufficient data are available for a violation under Chapter Nine Section I “B” of the Judiciary System Act.

Out of these case files 1 alert have contained allegations of violation under Art. 175k, para. 1 of the Judiciary System Act and are filed against a judge; 1 contained allegations of violation under Art. 175k, para. 2 of the Judiciary System Act and is also filed against a judge; 2 contained allegations of violation under Art. 175k, para. 3 of the Judiciary System Act, 1 of which against a judge and 1 against a prosecutor, and 1 contained allegations of violation under Art. 175k, para. 2 and 4 of the Judiciary System Act and is filed against a judge.

2. Case files instituted in the year 2018.

The chart below shows the number of case files instituted in the year 2018 in respect of which an order was issued by the Inspector General for conducting of inspections for violations under Art. 175k of the Judiciary System Act and the number of files on which inspections have not been initiated for committed violations under Art. 175k of the Judiciary System Act.



Case files on which inspections are initiated

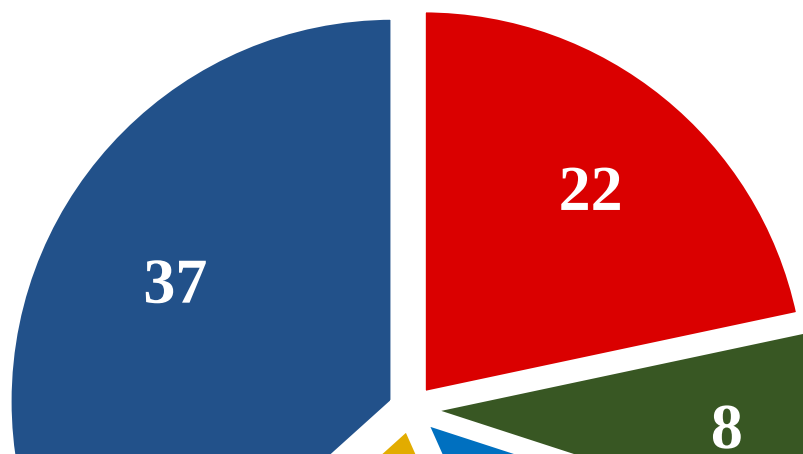
Case files on which inspections are not initiated

At the time of their instituting, the 60 case files contained the following allegations or data on committed violations under Art. 175k of the Judiciary System Act as follows:

- 13 contained allegations only of a violation under Art. 175k, para. 1 of the Judiciary System Act - conflict of interest;
- 5 contained allegations only of a violation under Art. 175k, para. 2 of the Judiciary System Act - integrity;
- 8 contained allegations only of a violation under Art. 175k, para. 3 of the Judiciary System Act - independence;
- 12 contained allegations only of a violation under Art. 175k, para. 4 of the Judiciary System Act acts or omissions discrediting the prestige of the judiciary;
- the other 22 alerts specified more than one violation under Art. 175k of the Judiciary System Act.

The number and types of violations in respect of which case files were instituted under Chapter 9, Section I “B” of the Judiciary System Act in 2018 are given in the diagram below:

Types and number of violations under para 1-4 JSA in respect of which cases initiated pursuant to Achpater Nin "B" JSA



Violations under Art. 175k, para 1 the
Judiciary System Act

Violations under Art. 175k, para 3 the
Judiciary System Act

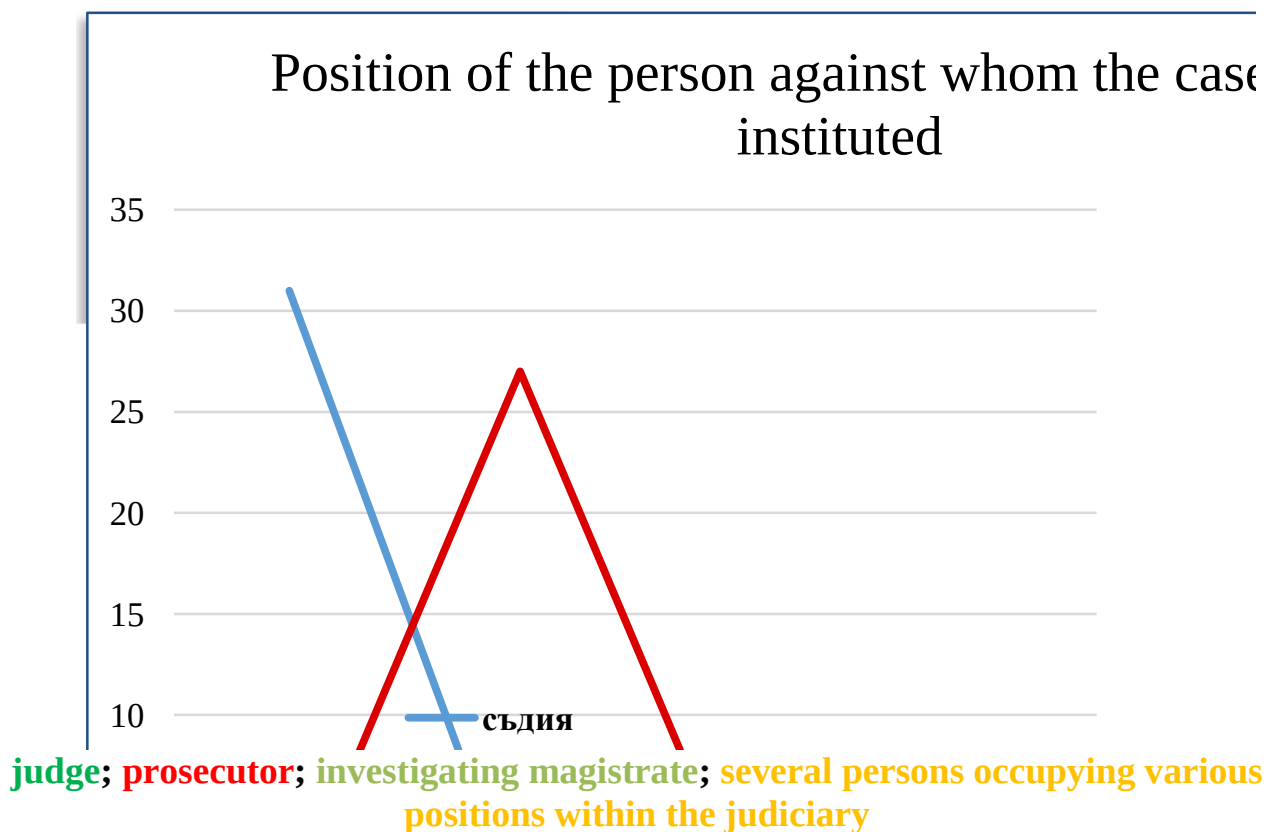
More than one violation

Violations under Art. 175k, para 2 the
Judiciary System Act

Violations under Art. 175k, para 4 the
Judiciary System Act

Out of the 60 case files instituted in the year 2018:

- 31 are instituted against a judge;
- 27 are instituted against a prosecutor;
- 1 is instituted against an investigating magistrate and
- 1 is instituted against several persons occupying various positions within the judiciary as evident by the following diagram:

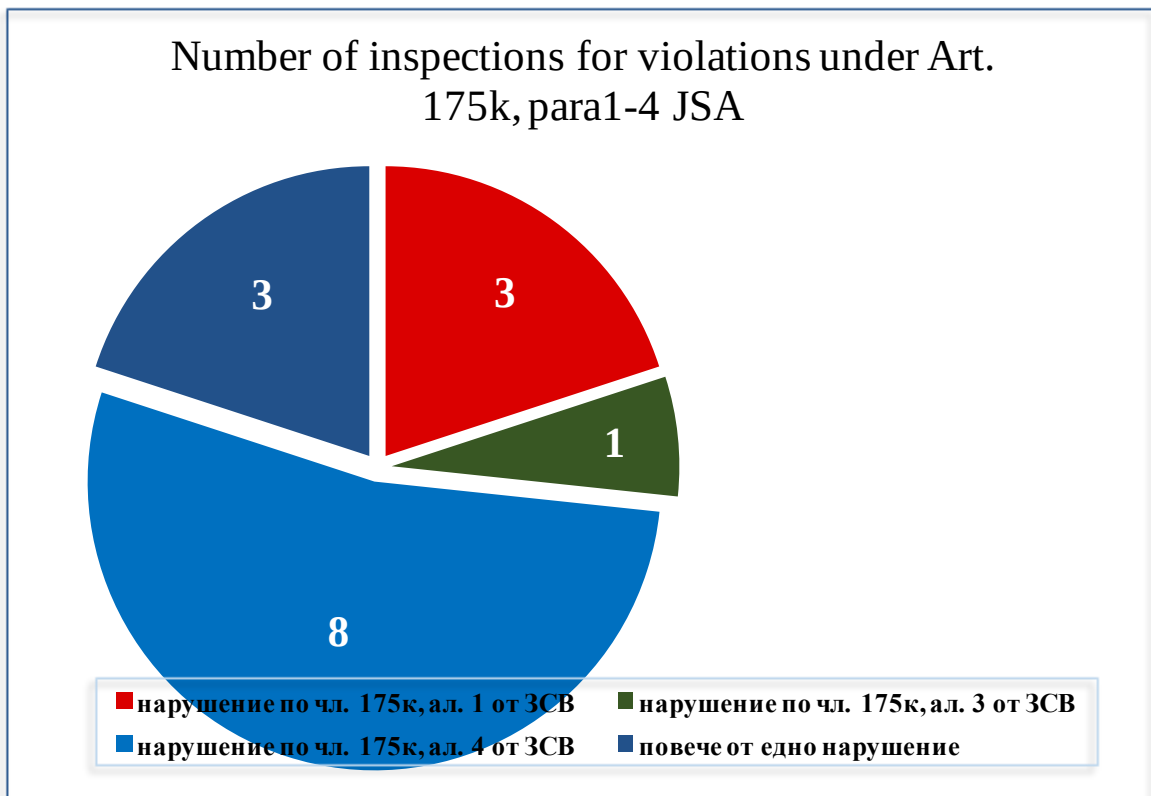


2.1. Case files on which inspections are initiated for committed violations under Art. 175k of the Judiciary System Act:

In 2018 order was issued by the inspector general to conduct an inspection for violations under Art. 175k, para. 1 - 4 of the Judiciary System Act in respect of 15 case files out of the 60 submitted case files.

Out of these:

- 3 are instituted for violations of art. 175k, para. 1 of the Judiciary System Act;
- 0 are instituted for violations of art. 175k, para. 2 of the Judiciary System Act;
- 1 is instituted for violation under Art. 175k, para. 3 of the Judiciary System Act;
- 8 are instituted for violations under Art. 175k, para. 4 of the Judiciary System Act, and
- 3 are instituted for more than one violation under Art. 175k of the Judiciary System Act.



Violation under Art. 175k, para 1 the Judiciary System Act	Violation under Art. 175k, para 3 the Judiciary System Act
Violation under Art. 175k, para 4 the Judiciary System Act	More than one violation

2.1.1. Inspections within which no sufficient data are established for committed violation under Art. 175k of the Judiciary System Act:

3 inspections are initiated to establish sufficient data on conflicts of interest under Art. 175k, para. 1 of the Judiciary System Act. Two of these inspections are initiated against a prosecutor and one against a judge. All three inspections were concluded with a reasoned termination report due to lack of sufficient data for committed violation;

For instance, in one of these cases, an inspection has been instituted at Inspectorate to the Supreme Judicial Council following an alert according to which at a court hearing within a criminal case, the representative of the respective prosecutor's office has expressed an opinion that the cassation appeals lodged by the alert submitter and her sons against a court ruling rendered by an appellate court, are unfounded. In the alert to Inspectorate to the Supreme Judicial Council the submitter states that after the court hearing, she has learnt that the prosecutor is a spouse of the judge who has participated in the consideration and resolving of the subject case at the previous court instance.

In the course of the inspection documentary evidence is collected from the alert submitter and from the inspected prosecutor and reports on the initiation, movement and closing of the case at all court instances.

Based on the collected pieces of evidence no presence of any private interest has been established, which could influence the impartial and objective performance of the powers and official duties of the inspected prosecutor. Therefore, the inspection is terminated by a decision of Inspectorate to the Supreme Judicial Council.

- 1 inspection has been initiated to establish actions leading to violation of the independence of the magistrate under Art. 175k, para. 3 of the Judiciary System Act against a prosecutor. The inspection was concluded with a reasoned termination report due to lack of sufficient data for committed violation;

According to the submitter of the alert to Inspectorate to the Supreme Judicial Council, an observing prosecutor to pre-trial proceedings, instituted following his appeal, has signed the investigation to a policeman with whom he is on friendly terms. The alert submitter has stated that he has learnt from third persons that the prosecutor has received the amount of BGN 10,000 in order to terminate the investigation against the notary by whose actions the submitter of the alert to Inspectorate to the Supreme Judicial Council has been harmed as claimed within the pre-trial proceedings.

In the course of the inspection data have been required from the notary, the investigating officer and the inspected prosecutor. The first has stated that he does not know the prosecutor, has not met him and has not exerted any influence on him, whatsoever. The second has explained that he has neither exerted any pressure, nor any other influence in respect of the prosecutor, nor in respect of him such actions have been committed on the part of the latter and has wholly denied the statements contained in the alert. The prosecutor inspected by Inspectorate to the Supreme Judicial Council has stated that his relations with the investigating officer are collegial and that he did not know the notary in person and that he has never met the latter. He has further clarified that in respect of him no pressure, threats or any other impact has been exerted in relation to the pre-trial proceedings, nor that he himself has exerted such in respect of anyone, whosoever.

Given the above, a conclusion is reasoned that there are no sufficient data indicating that the inspected prosecutor has succumbed to pressure, threats, incentives, direct or indirect influences, nor that same has exerted such in respect of the other person. In light thereof, by decision of Inspectorate to the Supreme Judicial Council the inspection is terminated due to a lack lack of

sufficient data for committed violations under Art. 175k, para. 3 of the Judiciary System Act.

- 7 inspections have been instituted to establish actions detrimental to the prestige of the judiciary under Art. 175k, para. 4 of the Judiciary System Act. Two of these inspections were instituted against judges, four against prosecutors and one against investigating magistrates. All seven inspections were closed with a reasoned termination report due to a lack of sufficient data for committed violation;

For example Inspectorate to the Supreme Judicial Council has performed an inspection for violation under Art. 175k, para. 4 of the Judiciary System Act in relation to a submitted alert by the Commission on Professional Ethics /CPE/ at the prosecutor's office for a conflict of interest arising between a prosecutor and a judge. According to the statements contained therein, at a parking area next to the building of the relevant court the judge has asked the prosecutor to move his car so as to be able to maneuver with his own car. The prosecutor has answered that his car has broken down and yet the judge has continued to insist. A scandal has started between the two during which the prosecutor, according to the submitted alert, has addressed the judge by unethical and offensive phrases.

In the course of the inspection, written evidence has been requested from four witnesses stating that a conflict actually arose between the judge and the prosecutor, without however specifying by what kind of phrases the prosecutor addressed the judge. Video files containing video surveillance recordings have also been obtained and yet, due to their poor quality, they have not been used as acceptable means of evidence.

In view of the above, the inspecting team has substantiated the conclusion that there is no sufficient data for committed actions, which are are cynical, rude, brutal, shameless and for other negative acts that scandalize society and are contrary to the requirements of the Code of Ethics for Bulgarian Magistrates on the part of the prosecutor and therefore, the inspection is terminated by decision of Inspectorate to the Supreme Judicial Council.

- 3 inspections were initiated for more than one violation - 1 under Art. 175k, para. 1 and para. 3 of the Judiciary System Act; 1 under Art. 175k, para. 2 and para. 4 of the Judiciary System Act and 1 under Art. 175k, para. 3 and para. 4 of the Judiciary System Act. The first two inspections were instituted against judges, and the third - against a prosecutor. The inspections were concluded with a reasoned termination report due to a lack of sufficient data for committed violation.

2.1.2. Inspections within which sufficient data are established on committed violation under Art. 175k of the Judiciary System Act:

An inspection, initiated in 2017, was concluded in 2018 with a reasoned report containing a specific opinion on the presence of sufficient data for a violation under Art. 175k, para. 3 and para. 4 of the Judiciary System Act.

By its own initiative the inspectorate initiated an inspection following an Internet publication stating that a prosecutor occupying the position of administrative head of a particular district prosecutor's office, has instituted pre-trial proceedings against a journalist for "scaremongering" through media publications, which is subsequently terminated. The article has described that during the investigation, the prosecutor has made several phone conversations with the journalist's lawyer, accusing him of defending the media that have been harassing him and his family. Events have also been set forth in which the prosecutor has exerted a pressure on his colleagues in respect of cases they have been observing, persuading them to terminate same or to initiate pre-trial proceedings. It is stated that the prosecutor has tried to influence a judge at an administrative court, targeting a concrete case "for the benefit of his people", and as a result of the conversations with the prosecutor, said judge has withdrawn from the consideration of the case. Also described has been scandalous behavior by a prosecutor who, during the discussion of the annual report of the prosecutor's office, has behaved "in a weird and unrestrained manner", has interrupted the reading of the report, and in conclusion he has stated to his subordinate prosecutors that he "forbids them to file drug cases for less than 5 grams." To a question by his colleague about his behavior, the prosecutor replied that he has "bought a car and an apartment and is in euphoria." The publication has also emphasized the fact that criminal proceedings have been instituted against the prosecutor and an indictment has been filed.

Following an order by the Inspector General an inspection has been initiated in order to establish sufficient data: 1. whether the prosecutor had committed any acts violating the independence of the judiciary by, in the course of performing his official duties, exerting pressure on:

- a prosecutor, by convincing him to terminate as "insignificant" pre-trial proceedings for acquisition of narcotic substances by a person close to the family of the inspected prosecutor;

- a prosecutor, by convincing him to bring an indictment against two persons within pre-trial proceedings for misappropriation of BGN 60,000 from an insurance company, and a

- a judge at an administrative court by convincing him to resolve a particular case "in favor of his people" – violation under Art. 175k, para. 3 of the Judiciary System Act and 2. Whether the prosecutor has committed any actions that

undermine the prestige of the judiciary and contradict the established public concepts of decency and behavior discrediting the honor the prosecutor in the profession and in society, by way of:

- on the occasion of investigating a journalist, he has called his lawyer and has reprimanded him for "protecting the media that is harassing him and his family;

- when discussing the annual report on the activities of the prosecutor's office, before the prosecutors and the administrative head of the superior prosecutor's office, he has behaved in an over-excited and euphoric manner and has "prohibited the institution of cases for drugs under 5 grams" - violation under Art. 175k, para. 4 of the Judiciary System Act.

In the course of the inspection, written data has been collected from three prosecutors and from the district prosecutor's office, from the administrative head - the district prosecutor at the prosecutor's office, which is superior in respect of the inspected person, from one lawyer and from one judge. Prosecutors from the district prosecutor's office have confirmed that while the inspected person has performed the functions of administrative head – regional prosecutor, he has often had conversations with two of the prosecutors about how to resolve their cases. On one occasion, he has persuaded one of the prosecutors to terminate as "insignificant" the pre-trial proceedings observed by him for acquisition of narcotic drugs by a person close to the inspected person, and on another occasion, the inspected person has called in his office an observing prosecutor on pre-trial proceedings suspended due to not disclosing the perpetrator in respect of misappropriation of funds from an insurance company and has told him that it is necessary to reopen the investigation, since the father of the manager of the company is his close friend. They have also testified that during the meeting, while the annual report of the prosecutor's office has been presented by the deputy regional prosecutor, the inspected person has abruptly interrupted her and has stated that “as of this time on he forbids the opening of drug cases for quantities under 5 grams, because one such case has stressed a whole family of one of his close friends. In her information, the judge from the administrative court has confirmed that she has had a conversation with the inspected person, who has asked her to resolve a case in favor of his acquaintance, but she has refused and subsequently, due to calls on the part of the inspected person and his attempt to exert pressure on her, she has withdrawn from the consideration of the case, which has been resolved by another panel of the Administrative Court. A lawyer has described her conversations with inspected person, initiated solely by the latter in relation to pre-trial proceedings against the journalist she was defending, as well as the prosecutor's behavior, which she described as "unacceptable and arrogant" and has stated that by reason of his

behavior she has filed a written alert to the district prosecutor. The latter has confirmed that he has received written and oral complaints from colleagues of the inspected person in relation to his rude and disrespectful attitude towards them.

The inspected person has appeared at the Inspectorate to the Supreme Judicial Council and, after examining the material collected, has confirmed that he has had conversations with his colleagues, the judge and the lawyer, and yet he has denied their allegations of exerting pressure on them. Instead, he has defined his behavior solely as expressing his personal opinion and as stating his opinion on specific cases, without any attempt at influence. He has explained the change in his behavior with the triggering of a mental illness, which he has been treating also at the time of the Inspectorate to the Supreme Judicial Council inspection. In respect of his allegations, the examining team has requested information about a comprehensive forensic and psychiatric and psychological expert opinion assigned in relation to criminal proceedings instituted against the inspected person, completed by nine expert witnesses. According to the conclusion thereof, the prosecutor has been and is able to understand the content and significance of his acts and to manage his actions.

On the basis of the reasoned report of the inspector who carried out the inspection, at its meeting the Inspectorate to the Supreme Judicial Council decided to submit to the Supreme Judicial Council a proposal to institute disciplinary proceedings against the inspected prosecutor for a violation under Art. 307, para. 3, item 4 in Art. 175k, para. 3 of the Judiciary System Act and under Art. 307, para. 3, item 3 in conjunction with Art. 175k, para. 4 of the Judiciary System Act. On 16.02.2018 the proposal was sent to Supreme Judicial Council. By decision of 29.05.2019 of the Prosecutor's College of the Supreme Judicial Council the disciplinary proceedings were suspended until the completion of the criminal proceedings instituted against the same magistrate.

Out of the total of 15 inspections initiated by orders of the Inspector General of Inspectorate to the Supreme Judicial Council in 2018, only one was completed a reasoned report containing a specific opinion on the presence of sufficient data for committed violation under Art. 175k, para. 4 of the Judiciary System Act.

To the Inspectorate to the Supreme Judicial Council an opinion of the Commission for Professional Ethics (CPE) has been referred by the superior prosecutor's office, describing certain findings of unethical conduct at a court hearing by a prosecutor at a regional prosecutor's office, which has comprised offensive replies, phrases and qualifications with regard to the President of one of

the Supreme Courts in Bulgaria, the rapporteur-judge and the mayor of the respective municipality.

By order of the Inspector General an inspection has been ruled in order to determine whether there has been sufficient data available for the prosecutor having committed any acts discrediting the prestige of the judiciary, while taking into account his conduct at the court hearing, expressed in specific unethical statements and offensive expressions against the judge, and offensive qualifications addressed to the President of one of the supreme courts - violation under Art. 175k, para. 4 of the Judiciary System Act.

In the course of the inspection, audio recording of the court hearing has been requested, the minutes drawn up thereat, as well as written information from six eyewitnesses of what has happened in the courtroom, have all been collected. All this evidence has supported beyond doubt the opinion of CPE that the inspected prosecutor has addressed offensive qualifications against the rapporteur-judge and other persons and that he has committed unethical acts discrediting the prestige of the judiciary's prestige and has compromised the honor of the prosecutor in the profession and society.

In his written statement of opinion, the inspected prosecutor has pointed out that he has arrived late at the subject court hearing and has missed the beginning thereof. He has confirmed that he has said some of the words and expressions cited in the opinion of CPE, since he has been provoked by the rapporteur-judge, who has asked him questions irrelevant to the subject matter of the case, and yet he has denied having said any offending qualifications, both to the rapporteur-judge and to other persons.

In view of the collected evidence, the inspecting team has accepted that, with his actions, the prosecutor has committed a violation pursuant to Art 175k, para. 4 of the Judiciary System Act.

On the grounds of the reasoned report of the inspector who carried out the inspection, at its meeting the Inspectorate to the Supreme Judicial Council decided to submit to the Supreme Judicial Council a proposal to institute disciplinary proceedings against the inspected prosecutor for a violation under Art. 307, para. 3, item 3 in Art. 175k, para. 4 of the Judiciary System Act. On 25.06.2018, the proposal was sent to the Supreme Judicial Council. As a result of the proposal of the Inspectorate to the Supreme Judicial Council, disciplinary proceedings were instituted against the respective prosecutor, and subsequently, by a decision of the Prosecutor's College of the Supreme Judicial Council dated 08.05.2019, the

inspected prosecutor was imposed a disciplinary sanction under Art. 308, para. 1, Item 6 of the Judiciary System Act - “Disciplinary dismissal“.

2.2. Case files based on which no inspections for committed violations under Art. 175k of the Judiciary System Act are conducted:

45 files were closed with a statement of opinion on termination.

2.2.1. Case files terminated by statement of opinion due to irregularity of the alert:

43 of the case files initiated in 2018, containing allegations or data on committed violations under Art. 175k of the Judiciary System Act were terminated since the alerts did not meet the requirements of Art. 175l, para. 5 of the Judiciary System Act as regards their minimum content, and the gaps therein have not been remedied after a deadline provided by the inspector.

In the examination of the files terminated for irregularities, for the purposes of this analysis, it is found that the majority of incoming alerts under Chapter Nine Section I „B“ of the Judiciary System Act contain only allegations of violation, without specifics of time, place, act and / or the circumstances in which the violations were committed, if any.

Out of these alerts:

- 7 contained allegations of violation under Art. 175k, para. 1 of the Judiciary System Act, as 4 were filed against judges, and 3 against prosecutors;
- 5 contained allegations of violations under Art. 175k, para. 2 of the Judiciary System Act, as 3 were filed against judges, and 2 against prosecutors;
- 6 contained allegations of violations under Art. 175k, para. 3 of the Judiciary System Act, as 2 were filed against judges, 3 against prosecutors and 1 against the investigating magistrate;
- 8 contained allegations of violations under Art. 175k, para. 4 of the Judiciary System Act, as 4 were filed against judges, and 4 against prosecutors;
- 17 contained allegations of more than one violation: 3, containing allegations of violations under Art. 175k, para. 1 and para. 2 of the Judiciary System Act, 2, of which filed against prosecutors and 1 against a judge; 2 under Art. 175k, para. 1 and para. 3 of the Judiciary System Act against judges; 1 under Art. 175k, para. 1 and para. 4 of the Judiciary System Act filed against a prosecutor; 2 under Art. 175k, para. 1, para. 2 and para. 4 of the Judiciary System Act, filed against judges; 2 under Art. 175k, para. 2 and para. 4 of the Judiciary System Act, filed against judges; 4 under Art. 175k, para. 3 and para. 4 of the Judiciary System Act, 2 of which filed against judges and 2 against prosecutors and 1 under Art. 175k, para. 1, para. 2, para. 3 and para. 4 of the Judiciary System Act, filed against a judge.

2.2.2. Case files terminated by statement of opinion on inadmissibility:

One case file initiated against a judge was terminated because of the inadmissibility of the alert as it contained a complaint of a conflict of interest

(violation under Article 175k, paragraph 1 of the Judiciary System Act) in respect of a pending case.

2.2.3. Case files terminated by statement of opinion on lack of grounds for inspection under Chapter Nine section I “B” of the Judiciary System Act

One case file initiated against a prosecutor was terminated with a statement of opinion due to lack of grounds for initiating an inspection - a violation under Art. 175k, para. 3 of the Judiciary System Act.

3. Case files initiated until the date of 10.10.2019

The diagram below shows the number of case files instituted by the date of 10.10.2019 in respect of which an order is issued by the Inspector General for conducting inspections for violations under Art. 175k of the Judiciary System Act and the number of case files on which inspections have not been initiated for committed violations under Art. 175k of the Judiciary System Act.



Case files on which inspections are initiated

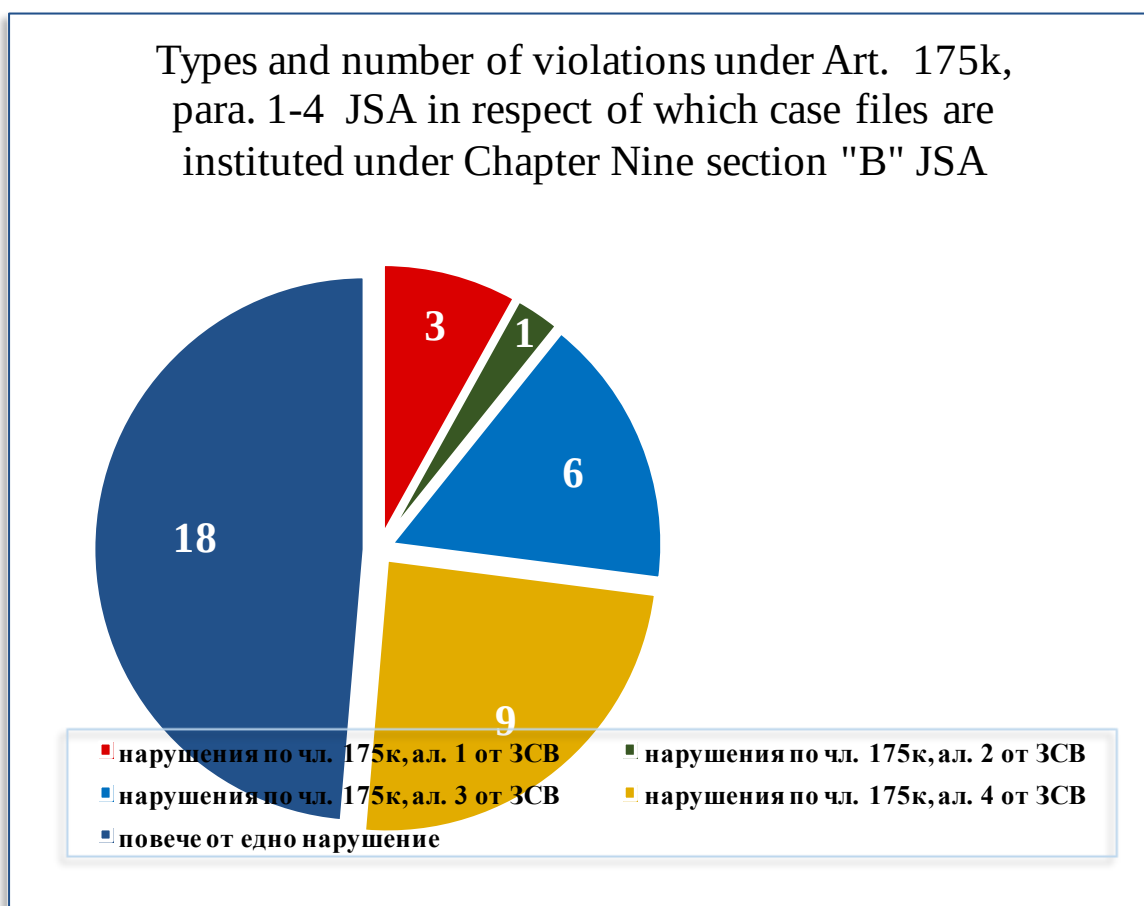
Case files on which inspections are not initiated

Case files on which ruling is pending as at the date of 10.10.2019

As at the time of their instituting, the 37 case files contained the following allegations or data on committed violations under Art. 175k of the Judiciary System Act as follows:

- 3 contained allegations of a violation under Art. 175k, para. 1 of the Judiciary System Act - conflict of interest;
- 1. contained allegations of a violation under Art. 175k, para. 2 of the Judiciary System Act - integrity;
- 6 contained allegations of a violation under Art. 175k, para. 3 of the Judiciary System Act - independence;
- 9 contained allegations of a violation under Art. 175k, para. 4 of the Judiciary System Act - acts or omissions discrediting the prestige of the judiciary;
- the other 18 alerts contained allegations of more than one violation under Art. 175k of the Judiciary System Act.

The number and types of violations in respect of which case files were instituted under Chapter 9, Section I “B” of the Judiciary System Act in 2018 are presented in the diagram below:

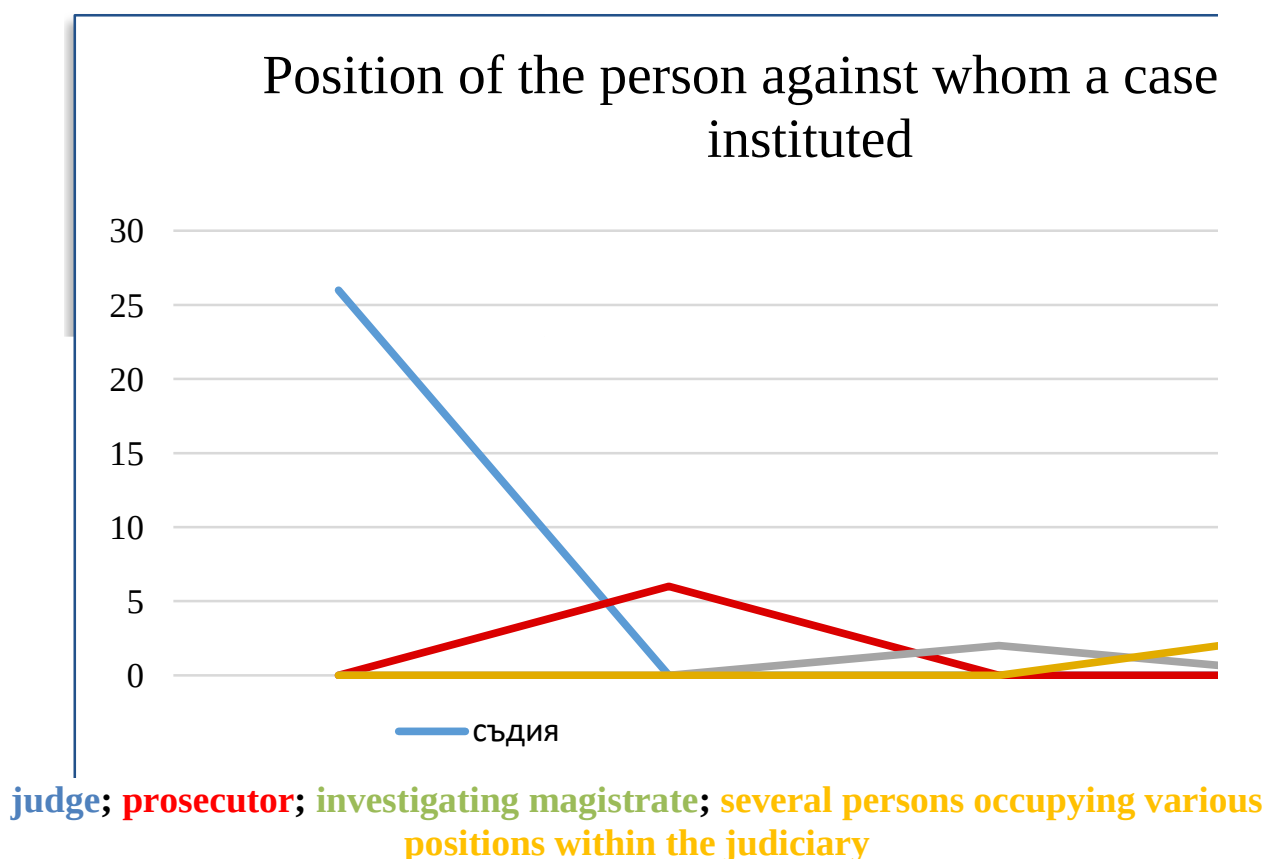


Violations under Art. 175k, para 1 the Judiciary System Act
Violations under Art. 175k, para 3 the Judiciary System Act
More than one violation

Violation under Art. 175k, para 2 the Judiciary System Act
Violation under Art. 175k, para 4 the Judiciary System Act

Out of the 37 case files instituted until the date of 10.10.2019:

- 26 are instituted against a judge;
- 6 are instituted against a prosecutor;
- 2 are instituted against an investigating magistrate and
- 3 are instituted against several persons holding various positions in the judiciary, as shown in the following diagram:



3.1. Case files based on which inspections are initiated for committed violations under Art. 175k from the Judiciary System Act:

By the date of 10.10.2019 order was issued by the inspector general to conduct an inspection for violations under Art. 175k, para. 1 - 4 of the Judiciary System Act in respect of 10 case files out of the submitted 37 case files.

Out of these:

- 0 are instituted for violations under Art. 175k, para. 1 of the Judiciary System Act;
- 0 are instituted for violations under Art. 175k, para. 2 of the Judiciary System Act;
- 0 are instituted for violations under Art. 175k, para. 3 of the Judiciary System Act;
- 7 are instituted for violations under Art. 175k, para. 4 of the Judiciary System Act, and

- 3 are instituted for more than one violation under Art. 175k of the Judiciary System Act.

3.1.1. Inspections within which insufficient data have been established for a committed violation under Art. 175k of the Judiciary System Act:

In the course of six of the inspections, no sufficient data for a violation under Art. 175k of the Judiciary System Act have been established.

Out of these:

- 4 have been instituted for violation under Art. 175k, para. 4 of the Judiciary System Act. Two of these inspections were instituted against a prosecutor, one against a judge and one against an investigating magistrate. All four inspections are concluded with a reasoned termination report due to lack of sufficient data for committed violation;

For example, one of the inspections has been initiated following an alert from a citizen stating that during a neighborly dispute between him and a prosecutor, the latter had acted and used expressions that infringe on the prestige of the judiciary.

In the course of the inspection, data have been obtained from four witnesses - direct witnesses to the conflict. Two of the witnesses - the wife and mother of the alert submitter, have supported the latter's claims, while the other two witnesses denied them completely. The inspected prosecutor has definitely stated that the allegations in the alert are not true.

Given the fact that the collected pieces of evidence do not establish the undoubtedly the specific cause of the dispute and the exact content of the expressions between by the participants therein, the Inspectorate to the Supreme Judicial Council terminated the inspection by decision due to a lack of sufficient data for any actions discrediting the prestige of the judiciary and any conduct that is contrary to the public's concept of decency.

- 2 have been instituted against judges for more than one violation - under Art. 175k, para. 3 and para. 4 of the Judiciary System Act. Both inspections are concluded with a reasoned termination report due to lack of sufficient data for committed violation.

For example, an alert submitted by a judge states allegations of pressure, direct and indirect influence by judges at a superior court, through drawing up of a report of findings of inspection in relation to the consideration and settlement of a specific case. In addition, the alert submitter has addressed request to the Inspectorate to the Supreme Judicial Council to conduct an inspection and determine whether he, in the performance of his official duties - conducting proceedings in default on a specific criminal case, has committed

any acts discrediting the prestige of the judiciary and compromising the honor of the judge in the profession and in society.

By order of the Inspector General an inspection is instructed to determine if sufficient data are available for violations under Art. 175k, para. 3 of the Judiciary System Act - for the judges at the superior court and the president of the superior court who has ordered the inspection and under Art. 175k, para. 4 of the Judiciary System Act - for the judge who has submitted the alert.

Inspectorate to the Supreme Judicial Council has requested written statements of opinion by the judges who have carried out the inspection and by the president. They have stated that the inspection is legally regulated, carried out annually at the respective court, and that their findings are entailed by the findings as regards the inspected cases and refer to all the inspected judges, not only to the alert submitter. They have flatly denied the allegations made by the alert submitter about performing the inspection in order to exert pressure or influence on him in respect of the consideration and resolution of the case.

According to the data provided by the other judges who have participated in the court panel considering the subject criminal case, it has also been established that they have not been influenced by the inspection and that the findings in the report establish violations as per the Criminal Procedure Code. In view of the collected evidence, the Inspectorate to the Supreme Judicial Council inspection team has reasoned a conclusion that no sufficient data are available that by preparing a report on the results of the inspection, the judges of the superior court and the President of the court who has ordered the inspection have been exerting pressure, direct or indirect influence, internal to the judiciary in respect of the judge, alert sender, as well as that there are no sufficient data that of violence by the latter, by the procedural actions initiated him, for discrediting the prestige of the judiciary and compromising the honor of the judge in the profession and society. In view of its powers, Inspectorate to the Supreme Judicial Council has accepted that the assessment whether in the consideration and resolving of the case any substantial procedural violations have been admitted, is a matter which must be settled by way of instance control. Given the Inspectorate to the Supreme Judicial Council decision, the inspection is terminated due to a lack of sufficient data for violations under Art. 175k, para. 3 of the Judiciary System Act and Art. 175k, para. 4 of the Judiciary System Act

On another occasion, Inspectorate to the Supreme Judicial Council has been approached by a prosecutor, who has stated that two judges have participated in a hunting trip on the territory of a forest owned by a person

accused in pre-trial proceedings. He has pointed out that the two have been invited to participate in the hunt by a lawyer of the person accused in the pre-trial proceedings.

In the course of the inspection, data have been collected from seven witnesses attending the particular hunting trip, who have stated that the judges have not participated in the hunt and that they do not know them. The two magistrates have examined the materials to case file and one of them has submitted a written statement clarifying that he often participates in hunting trips and yet he has denied visiting the particular hunting property owned by a defendant in pre-trial proceedings.

Following an analysis of the collected evidence, the inspecting team has concluded that no categorical conclusion can be drawn, nor that the judges have participated in the specific hunting trip by invitation of the defendant's lawyer to the pre-trial proceedings, nor that they have known that the defendant in the pre-trial proceedings is the owner of the game breeding farm. That is why the inspection against the two judges for violation under Art. 175k, para. 4 of the Judiciary System Act has been terminated by decision of Inspectorate to the Supreme Judicial Council.

3.1.2. Inspections in the course of which sufficient data have been established for committed violation under Art. 175k of the Judiciary System Act:

Out of the 10 inspections instituted by orders of the Inspector General of the Inspectorate to the Supreme Judicial Council by the date of 10.10.2019, only one is concluded with a reasoned report containing a specific statement of opinion on the availability of sufficient data for committed violation under Art. 175k, para. 4 of the Judiciary System Act.

The alert based on which it has been initiated is submitted by a lawyer of a defendant to a criminal case. It alleges that at the court hearing, the rapporteur-judge has behaved rudely and unprofessionally in respect of him and the defendant and has acted in a manner undermining the authority of the court and the trust in the judicial system. By order of the Inspector General an inspection has been ordered in order to determine whether sufficient data are available for the judge performing any actions discrediting the prestige of the judiciary, given his conduct at the court hearing, expressed in specific unethical statements and offensive expressions addressed to the lawyer of defendant - violation under Art. 175k, para. 4 of the Judiciary System Act.

In the course of the inspection, data have been from the parties to the court proceedings. All of them have stated that at the court hearing, the

rapporteur-judge to the criminal case has made unethical statements and has used offensive words and expressions addressed to the defendant's lawyer. Their allegations are also supported by the audio recording of the court hearing provided to Inspectorate to the Supreme Judicial Council.

In a written statement, the inspected judge has explained that his conduct has been complied with the rules of procedure.

In view of the collected evidence, the inspecting team has drawn up a reasoned conclusion that by his actions the inspected judge has discredited the prestige of the judiciary and has compromised the honor of the judge in the profession and society, and that his behavior is contrary to the public concepts of decency and to the requirements of the Code of Ethics for Bulgarian Magistrates.

Based on the reasoned report of the inspector who conducted the inspection, at its meeting the Inspectorate to the Supreme Judicial Council decided to submit to the Supreme Judicial Council a proposal to institute disciplinary proceedings against the inspected judge for a committed violation under Art. 307, para. 3, item 3, Art. 175k, para. 4 of the Judiciary System Act. On 21.06.2019 the proposal was sent to the Supreme Judicial Council. By decision dated 25.06.2019, the Judicial College of the Supreme Judicial Council decided to initiate disciplinary proceedings against the judge. The disciplinary case is scheduled for 18.11.2019. **The disciplinary case is not yet completed.**

3.1.3. Inspections in the course of which as at the date of drawing up this analysis a ruling is pending:

Ruling is pending in 3 inspections.

Out of these:

- 2 are instituted for violation under Art. 175k, para. 4 of the Judiciary System Act, one against a judge and the other against a prosecutor and
- 1 is instituted against a judge for violations under Art. 175k, para. 1, para. 3 and para. 4 of the Judiciary System Act.

3.2. Case files based on which no inspections have been initiated for committed violations under Art. 175k from the Judiciary System Act:

22 case files are closed with an opinion on termination.

3.2.1. Case files terminated by statement of opinion due to irregularity of the alert:

18 out of the case files instituted in the period until the date of 10.10.2019, containing allegations or data on committed violations under Art. 175k of the Judiciary System Act are terminated since the alerts do not meet the requirements of Art. 175l, para. 5 of the Judiciary System Act in terms of their

minimum content, and the gaps therein have not been remedied within the deadline provided by the inspector.

Out of these alerts:

- 3 contained allegations of violation under Art. 175k, para. 1 of the Judiciary System Act, as 2 were filed against judges, and 1 against prosecutors;
- 1 filed against a judge, contained allegations of violation under Art. 175k, para. 2 of the Judiciary System Act;
- 4 contained allegations of violations under Art. 175k, para. 3 of the Judiciary System Act, as 2 were filed against prosecutors, 1 against a judge and 1 against a judge and a prosecutor;
- 4 contained allegations of violations under Art. 175k, para. 4 of the Judiciary System Act, as 2 were filed against judges, and 2 against prosecutors;
- 6 contained allegations of more than one violation: 3 filed against judges and containing allegations of violations under Art. 175k, para. 1 and para. 4 of the Judiciary System Act; 1 filed against a judge and prosecutor and containing allegations of violation under Art. 175k, para. 1, para. 2 and para. 3 of the Judiciary System Act; 1, filed against a judge for violations under 175k, para. 2, para. 3 and para. 4 of the Judiciary System Act and 1 filed against a judge and containing allegations of violations under Art. 175, para. 3 and para. 4 of the Judiciary System Act.

3.2.2. Case files terminated by statement of opinion due to inadmissibility:

4 case files are terminated by statements of opinion due to inadmissibility of the alert.

Out of these:

- 2 are terminated by statement of opinion due to expiry of the limitation period for disciplinary sanction. One of these case files was instituted against a prosecutor for violation under Art. 175k, para. 3 of the Judiciary System Act, and the second was instituted against a judge for violation under Art. 175k, para. 4 of the Judiciary System Act;
- 1 instituted against a judge and contains allegations of violation under Art. 175k, para. 4 of the Judiciary System Act, is terminated due to ongoing disciplinary proceedings for the same violation and
- 1 filed against a judge and containing allegations of conflict of interest under Art. 175k, para. 1 of the Judiciary System Act is terminated due to dismissal of the magistrate

3.2.3. Case files the ruling on which is pending:

A ruling is pending on 5 case files instituted pursuant to Chapter Nine, Section I, "B" of the Judiciary System Act.

Out of these:

- 1 is instituted against a judge and contains allegations of violation under Art. 175k, para. 3 of the Judiciary System Act;
- 3 are instituted against judges and contain allegations of violation under Art. 175k, para. 4 of the Judiciary System Act and
- 1 is instituted against a judge and contains allegations of violation under Art. 175k, para 1 and para. 2 of the Judiciary System Act.

VIII. FINDINGS AND CONCLUSIONS

1. Findings:

1.1. In respect of the inspections initiated following orders by the Inspector General of the Inspectorate to the Supreme Judicial Council:

1.1.1. In respect of the terminated proceedings:

A number of inspections (42 for 2017, 14 for 2018 and 6 by the date of 10.10.2019), initiated by order of the Inspector General of the Inspectorate to the Supreme Judicial Council, are terminated by a reasoned report stating that the inspection did not collect sufficient data for a violation under Art. 175k of the Judiciary System Act.

In the course of all inspections steps have been taken to collect the evidence necessary to clarify the facts specified in the alerts. Statements of opinion in writing have been requested from the alert submitter and the inspected person or by hearing the latter in accordance with Art. 175n, para. 2 of the Judiciary System Act, as well as written information from other persons familiar with the cases being inspected.

In most cases, evidence pertaining to a specific case / pre-trial procedure indicated in the alert is collected by requiring references to the institution, movement and closing of the relevant court act.

In relatively rare cases, written information from other persons and or inquiries from state or judicial authorities is required, and even after obtaining it, it is considered that the data contained therein is not sufficient to establish a violation under Art. 175k of the Judiciary System Act.

In a number of cases, written information on the instituting and movement of the case / pre-trial procedure has been required, which is related to the inspection.

All these actions were taken in accordance with Art. 175u of the Judiciary System Act cross-referring to the Administrative Procedure Code.

However, the lack of sufficient legal capacity to collect other evidence through the means, under the terms and procedure of other procedural laws, or to ensure the collected evidence, most often led to the termination of proceedings.

In addition, the Inspectorate to the Supreme Judicial Council inspectors do not have the procedural opportunity to summon and secure the presence of

persons who do not participate in administrative proceedings before the Inspectorate for the purpose of obtaining verbal information from them. Furthermore, there is no legal obligation for the latter to appear before the Inspectorate to the Supreme Judicial Council and provide information or documents and other sources at their disposal. Such obligation is not regulated also for the persons being inspected.

Thus, the outcome is that the result of the inspection is dependent, in particular, on the will of those persons, and not on the procedural terms and conditions for collecting evidence to reveal the objective truth.

Due to the aforementioned reasons, the Inspectorate to the Supreme Judicial Council has proposed legislative amendments related to the practical application of its powers of inspection under Chapter Nine, Section I „B“ of the Judiciary System Act.

The more essential points among these are:

- **examination of the alert.** By creating a new paragraph in Art. 175l of the Judiciary System Act it is envisaged for same to be performed in two phases, the first of which is a preliminary examination and the second - an inspection in accordance with Art. 175m - 175o of the Judiciary System Act or the actual inspection. The purpose of the proposed amendment is in the pre-trial phase, which should be completed within 1 month as of the registration of the alert, to enable the performance of actions on rectification of any defects and check whether the alert is admissible;

- **the procedure for carrying out the inspections in accordance with Chapter Nine, Section I “B“ of the Judiciary System Act and their contents.** In this regard, a substantial amendment to Art. 175n of the Judiciary System Act is proposed. The new revision of para. 1 provides that the inspection should be carried out within two months as of the completion of the pre-trial proceedings, and actions that may otherwise require a sometimes lengthy period may be carried out. The Inspector General will be granted the right to extend the inspection period once by up to two months, since practice shows that the current one month extension option is often insufficient.

In addition, an obligation is explicitly stated for citizens to assist the Inspectorate to the Supreme Judicial Council in the inspections under section I "B" of the Judiciary System Act, which obligation arises from the difficulty in collecting evidence within these proceedings. The lack of assistance from the persons involved in the case leads to an inability to identify the violation. It is also possible to personally appear and provide information on the case, which will clarify to the fullest extent the circumstances set out in the alert.

1.1.2. In respect of inspections concluded by proposal to institute disciplinary proceedings:

In only six cases sufficient data were available for violations under Art. 175k, para. 1-4 of the Judiciary System Act. In five cases, data on violations under

Art. 175k, para. 4 of the Judiciary System Act have been established. In one case, data on violations under Art. 175k, para. 3 and 4 of the Judiciary System Act are established. Following one of the proposal no disciplinary proceedings have been instituted, following the second one – the disciplinary proceedings were discontinued, following the third one - the instituted disciplinary proceedings were terminated, and following the fourth one, the disciplinary proceedings instituted are not closed yet.

In two cases, disciplinary sanctions were imposed, in one of the cases – a "reprimand" and in the other - a "disciplinary dismissal".

1.2. In respect of terminated case files:

1.2.1. A large number of proceedings (105) were terminated by statement of opinion due to irregularity of the alert. This result is mainly influenced by the fact that the alerts only indicate allegations of a violation under Art. 175k of the Judiciary System Act and yet no specific information as to the place and time of the act is provided, neither the act nor the other circumstances in which it was committed, nor documents or other sources containing information in support of the aforementioned in the alert. These statutory requirements set forth under Art. 175l, para. 5, items 3 and 4 of the Judiciary System Act as regards regularity of alerts have not been met by the submitters thereof also at the initial submission of the alerts, and subsequently – upon the rectification opportunity provided to the latter under Art. 28, para. 2 of the Internal Rules on Conducting of Inspections under Chapter Nine Section I „B“ of the Judiciary System Act by the teams of Inspectorate to the Supreme Judicial Council.

1.2.2. A considerably smaller (12) is the share of discontinued proceedings on the grounds of statements of opinion on the alerts' inadmissibility. The grounds for such a decision by the examining inspector are either contained in the alert for presence of a conflict of interest but relating to pending proceedings or the existence of a disciplinary case against the same person for the same violation.

1.2.3. Insignificant, and yet also present is the share of case files (6) terminated by statement of opinion due to lack of sufficient data for a violation committed under Art. 175k of the Judiciary System Act even before the assignment of an inspection in the appropriate order (by order of the Inspector General of the Inspectorate to the Supreme Judicial Council), regardless of the absence of a legally prescribed opportunity to rule by merits as regards the allegations in the alert.

2. Taking into account the aforementioned, the following CONCLUSIONS can be draw

2.1. The first is that the number of alerts for violations of the magistrates' integrity is not high as compared to the number of alerts received by Inspectorate to the Supreme Judicial Council for violations of the initiation, movement and closing

of cases, or compared to the submitted applications pursuant to Chapter Three (a) of the Judiciary System Act - for violation of the right to hear and resolve cases within a reasonable time period.

Moreover, a trend is existing of a decrease in the incoming alerts on integrity violations - in 2017 they were 79 and in 2018 - 60. This trend continues in 2019, and until 10.10.2019 only 37 alerts have been submitted.

2.2. The second conclusion that can be drawn is that out of the total number of alerts for violation of the integrity of judges, prosecutors and investigating magistrates, the highest is the percentage - 72% of alerts that are not eligible to provide grounds for initiating an inspection. The main reason for this is that they do not meet the requirements of Art. 175l, para. 5 of the Judiciary System Act in terms of their minimum content, and the gaps therein have not been remedied within the deadline set by the inspecting team of the Inspectorate to the Supreme Judicial Council. Practice shows that the vast majority of the alerts submitted pursuant to Chapter Nine, Section I “B” of the Judiciary System Act contain only allegations of violation, without specifying the time, place, act and/or circumstances in which the violations are committed, if committed at all.

As regards the remaining regular 48 alerts, inspections have been initiated, and in 42 cases it is established that insufficient data are available for violation committed under Chapter Nine Section I “B” of the Judiciary System Act.

2.3. In conclusion, the following summary can be made:

The Inspectorate to the Supreme Judicial Council proactively engages in a serious initiative to take all necessary and possible steps to remedy the reasons that impede the exercise of its powers for performing the inspections for integrity in the most efficient manner.

At the same time, the relatively low number of alerts for violations under Art. 175k of the Judiciary System Act is an indicator of the trust on the part of society in the judiciary and an attestation of its good work.
