Introduction

Dear friends of the same mind,

We are happy that in 2012 we are still continuing with an ardent enthusiasm to fight stereotypes and kindle reorganisation forces in the judicial system. On the backdrop of scandals and attacks, the year has begun with renewed requests for legislative amendments, more transparency and clear rules. With our innate optimism, we accept the challenge to support constructive initiatives aimed at more effective court management and improved administration of justice. Unlike traditional New Year resolutions which usually relate to quitting (cigarettes), reducing (calorie intake) and saving (money and nerves), we promise to continue implementing innovative work techniques, increase our network of supporters and improve the exchange of good judicial practices. We hope that you’ll share these goals with us and with the Diary of Good Judicial Practices. We have not started this e-bulletin to register attendance and achievements but to share common ideas for the development of the judicial system. The motto we have picked for this issue comes from Antoine de Saint-Exupéry: ‘If you want to build a ship, don’t drum up people to collect wood and don’t assign them tasks and work, but rather teach them to long for the endless immensity of the sea.’ For shipbuilding in this Diary we are joined by Judge Ekaterina Nikolova, Silvina Sobadzhieva, the working groups for improving internal control and work with expert witnesses. The following pages will help you envision the longing, and may be hear the waves ...

This newsletter and the project would have been impossible without the generous support of the America for Bulgaria Foundation to which we would like to express our sincere gratitude.
During the second half of 2011 the PDJS team and Evaluation Committee members visited seven of the courts in the *Enhancing Court Business Practices* Project: Nesebar Regional Court on 1 July 2011, the Administrative Courts in Razgrad and Ruse on 7 and 8 July, the Blagoevgrad Regional and District Courts on 15 July, the Veliko Tarnovo District and Administrative Courts on 14 October 2011.

The Nesebar Regional Court representatives declared their intentions to work on developing media policies and implementing good practices aimed at improving the internal organisation and administration of the court. They also presented an interesting concept for improving the interface of the *Court DocFlow CAS* which would facilitate navigation through the electronic case files and the evidence attached to them.

Judicial PR and media policies were also among the discussion topics during the meetings with the Administrative Courts in Razgrad and Ruse. They expressed their willingness to work on improving the professional qualifications of magistrates and court clerks, as well as on improving leadership skills and teamwork. Other issues discussed included enhancing court HR policies and better use of technology to achieve a higher quality of the administrative services offered to the citizens.

The immediate objective of the Blagoevgrad Courts, which both courts are currently exploring, is the establishment of a Mediation Program and a Mediation Centre in the local courthouse.

The Blagoevgrad District Court also prioritises the work with children and, especially, the necessity for preventive work with children. The Blagoevgrad Regional Court focused on the standards related to implementing IT solutions as a tool for providing better access to justice and development of better HR policies.

The discussions in Veliko Tarnovo focused more on the performance of the courts under the project and specifying the details of future initiatives in implementing the CIP 2 standards. The representatives of the Veliko Tarnovo District Court were interested in reviewing the court’s work for the past reporting periods, while the representatives of the Veliko Tarnovo Administrative Court discussed the upcoming first meeting of the working group on expert witnesses issues.

Additional information on the site visits can be found in the *News* section of the PDJS website: http://www.prss-bg.org/en/news
The meeting of the CIP 2 Evaluation Committee took place on 16 and 17 September in Sofia. The main discussion topic was the identification of positive tendencies and good judicial practices in implementing the quality standards of the second Court Improvement Plan (CIP 2).

The Committee members assessed the CIP 2 implementation level of all court participating in the Enhancing Court Business Practices Project based on their progress reports for the first half of 2011 and identified several good practices among the court initiatives for the reporting period.

The Committee members noted the stable positive trend in the work of the courts implementing the CIP 2. The average quality standards implementation level for the first 6-month period of 2011 is between 40% and 65%. 20 out of all participating courts reached 50% and above in implementing CIP 2 standards for court reforms, while there were only 6 for the previous period. In addition, 12 courts scored over 65%, whereas there was just one court with such a result previously.

During the meeting, the Committee members agreed to continue their work on systematisation of the good judicial practices in a handbook which would be published at the end of the project. Now, the best judicial practices from the courts will be published in the e-bulletin or on the PDJS website.

This was the fourth meeting of the CIP 2 Evaluation Committee. It was officially established in February 2010 in Veliko Tarnovo during the traditional Chairpersons’ meeting under the Enhancing Court Business Practices Project. The Committee consists of magistrates, court officials and representatives from

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the Supreme Judicial Council and the Inspectorate to it. They monitor the CIP 2 implementation, conduct site visits, identify and analyse all innovations and good practices which can be used by the courts.

Additional information on the meeting can be found on the PDJS website at: http://www.prss-bg.org/en/node/475

Chairpersons of the courts in the Model Courts and Courts in Partnership Program gathered on 30 September and 1 October 2011 in Albena. This is the third such meeting under the Enhancing Court Business Practices Project carried out by the PDJS with the support of the America for Bulgaria Foundation.

Chairpersons from 48 courts attended the event together with representatives of the Supreme Judicial Council and the Inspectorate to it, the Supreme Court of Cassation and the National Institute of Justice; as well as representatives of the US Embassy in Bulgaria and the Ministry of Justice.

The discussions focused on the measures for implementation of the indicators for the advancement of the judicial reform, measures for implementation of the CIP 2 standards and court achievements.

Encho Enchev, Dobrich District Court Chair, presented their Practical Handbook for Jurors. Agnesa Stavarova, Vratsa District Court Chair, and Aneliya Peevska, Vratsa District Court Administrator, presented the results from the first three meetings of the working group preparing the Guidelines to Internal Control Handbook and gave a brief overview of the documents and procedures developed to date. Dragomir Yordanov, National Institute of
Justice Director, spoke about programs for interdisciplinary education of magistrates. Mariyana Lazarova, Veliko Tarnovo Administrative Court Chair, elaborated on the CIP 2 Objective *Mechanisms for effective participation of experts in the process of administration of justice* followed by a commentary on the raised issues by Krasimira Vassileva, Head of Legal Services Section for the SJC Committees, Legal Affairs Directorate at the Supreme Judicial Council. Slavka Hebova, Chepelare Regional Court Chair, shared the achievement of the court in ensuring access to court services to clients with disabilities.

Additional information on the event and copies of the presented materials can be found on the dedicated section of the PDJS website at: [http://www.prss-bg.org/node/499](http://www.prss-bg.org/node/499) (bg only)

- The opening ceremony of the Information Centre of the Haskovo Administrative Court took place on 17 October 2011. It was established under the *Enhancing Court Business Practices* Project of the PDJS with the financial support of the America for Bulgaria Foundation.

  The event was attended by Judge Veneta Markovska, Supreme Administrative Court Deputy Chair, Velislava Delcheva, Chair of the PDJS Managing Board, and Dobri Angelov, Haskovo Bar Council President, who congratulated the court management for the initiative.

  The Haskovo Administrative Court is the 29th Bulgarian court to establish its own information centre with PDJS support and in accordance with the Information Centre Concept developed by the PDJS and approved by the Supreme Judicial Council as a national standard. Among the administrative courts in the Program, only two other courts have such information centres – the Administrative Courts in Veliko Tarnovo and Yambol.

  It will provide citizens from the region with easier access to court documents, information on court procedures and schedules and on the available administrative services. Court clients with visual disabilities can familiarise themselves with court documents via the *SpeechLab 2.0* specialised software which converts text files into speech, donated by the PDJS for the occasion.

- By the end of 2011, 21 new courts participating in the *Enhancing Court Business Practices* Project received the SpeechLab software from the PDJS. It helps clients with visual impairments to get acquainted with court documents. The software converts text files into speech so that people can 'listen to' judgements and records
from court hearings on a computer in the reading room.

The PDJS applied the following selection criteria to select the courts to receive the SpeechLab software: at least 30% implementation of CIP 2 and a motivated application letter. The final decision about the donation was strongly determined by the description of the intended software use and ensuring mechanism to provide feedback.

The courts to receive the software undertake to promote and monitor its use and to provide feedback. They state that they plan a number of awareness events such as organising presentations for target client groups, the media, attorneys, as well as publishing information on the court webpage and information boards in the court building. Logs, inquiries and other methods will be used to generate feedback.

A complete list of the courts receiving the specialised software can be found on the PDJS website at: http://www.prss-bg.org/en/node/585

- In the beginning of 2011, a working group under the initiative of the Vratsa District and Regional Courts began work on the preparation of the Guidelines for Internal Control Handbook. This subproject is the biggest initiative developed by courts under the Enhancing Court Business Practices Project. In all of its various stages, it involves direct participation in the work process by representatives of seven Bulgarian courts on different levels of the system, PDJS representatives, as well as members of the Supreme Judicial Council committees and the Internal Audit Directorate.

After four meetings of the working group, the handbook is already in the final stages and is expected to be fully edited and ready to be presented to the Supreme Judicial Council for approval in the beginning of 2012.

The working group has developed more than 150 internal rules and procedures related to the management processes in the courts and the control actions regarding internal organisation and administration of the work, management of human and material resources and budgeting. They cover all sections of the CIP 2 and are measures of direct implementation of 15 of its 24 quality standards.

For a complete list of the CIP 2 standards covered by the initiative please visit the PDJS website at: http://www.prss-bg.org/node/499 (bg only).
A meeting of a newly formed working group on 16-17 December 2011 marked the beginning of the implementation of phase two of the Improving the work with expert witnesses – means of reducing case delay Project. The initiative and the leading role belong to the Veliko Tarnovo Administrative Court.

The discussions focused on the challenges and the reasons leading to case delay that had been identified by a survey conducted among three target groups – judges, expert witnesses and parties to cases.

During the second phase of the project, the working group which consists of representatives of the Supreme Judicial Council and six courts implementing the CIP 2, is set to pursue the following tasks:

- To summarise good practices and to develop models for effective work practices aimed to equip the judges with case management tools on matters involving expert witnesses on the one hand, and on the another – to provide the experts themselves with useful guidelines and to clarify the difficulties experienced frequently in their work.

- To draw up recommendations addressing the current problematic matters involving the work of expert witnesses in judicial proceedings;

- To develop and recommend models for cooperation between the court and the various stakeholders involved in issues concerning the work of expert witnesses, including professional organisations.

In preparation of its future meetings, the working group will inquire and collect opinions from persons and entities that perform expert activities and/or represent and support the experts’ interests on a national level, as well as the views of the Ministry of Justice which is currently working on a Concept on judicial expertise.
'Judges should be more pro-active.'

Ekaterina Nikolova,
Blagoevgrad Regional Court Chair

'We, the judges, must be more pro-active in the process of drafting the legal framework for our work because many of our problems derive from the poor and vague legal framework.'

This is the opinion of Judge Ekaterina Nikolova, Blagoevgrad Regional Court Chair, expressed in an interview for the PDJS website. According to her, greater initiative from the judges is needed to detect contradictory case law from different courts on similar types of cases. Resolving the same litigations in different ways has a very negative effect on the public confidence in the courts' work and the system as a whole.

Like many of her colleagues, Nikolova sides with the Union of Judges in Bulgaria on the issue of constitutional amendments. I truly believe that a constitutional amendment on the Supreme Judicial Council (SJC) model and structure, the most important body of the judicial system, is needed, she says. To be effective in its activities, the SJC should consist of magistrates who are familiar with the nature of their colleagues’ work, in order to be able to objectively assess their professional qualities or, respectively, the lack of such, during transparent competitions with clear procedural rules. On the other hand, the SJC members must have the confidence of the magistrates in the system and impeccable reputation in their professional circles.

According to Ekaterina Nikolova, the answer to public criticism towards the courts’ work is optimisation of the quality and speed in administration of cases, ensuring openness and transparency in judicial work, facilitating access to legal information and isolating factors that, in the public opinion, foster corruption and conflicts of interests in the courts. The measures proposed in the Enhancing Court Business Practices Project can provide a significant degree of success in achieving those results. Also, cooperation between courts in these efforts and the exchange of ideas and good practices – the core ideas behind the project – are crucial.

Since 2000, the Blagoevgrad Regional Court has been working with the Judicial Strengthening Initiative (JSI) of the United States Agency for International Development and now with the successor of its efforts – the PDJS. This partnership has led to very good results and contributed greatly to the development and modernisation of our court, Nikolova says. It is a pioneer in introducing the Automated Case Management System (ACMS) and the first to create electronic folders of all cases whose administration can be done entirely electronically. Years later, the SJC recommended that all courts in Bulgaria introduce a case management system. Subsequently, we implemented the revolutionary for its time system for electronic exchange of information between the Regional and the District Courts in Blagoevgrad. In 2004 we set up the e-exchange of files via the ACMS with the Blagoevgrad Regional Prosecutor’s Office. The successful partnership with the PDJS until 2005 and the new standards set out in the CIP 2, which builds upon the positive results from the CIP 1, motivated the Blagoevgrad Regional Court to participate in the current project. According to Nikolova, the possibilities of continuous communication and exchange of good practices with other courts in the country and the exchange of international experience are extremely useful and valuable features of the cooperation with the PDJS. They serve as an excellent basis for cooperation between the Bulgarian courts and the unification of practices in any given area.
In the fall of 2011, all courts in the Blagoevgrad judicial district (Blagoevgrad District Court, Blagoevgrad Regional Court, Gotse Delchev Regional Court, Petrich Regional Court and Sandanski Regional Court) started testing a pilot local version of the future Unified Web Portal for Remote Access to Complete Information on Court Cases on the website: https://ecase.bg/. The main idea is that every lawyer who is a representative of a party in a court case can make inquiries in the electronic records of the respective case in real time from any work station with internet access. Such an option is available to the parties, too. The web portal allows users to make uncertified copies of the judicial acts free of charge. It also provides access to specific archived cases and to all legal papers and documents attached to the electronic case files, i.e. complete information and electronic analogue of each paper case file. In addition to this unified portal, a Module for Electronic Messaging and Electronic Subpoenas is in development. It will allow automatic forwarding of court papers to the parties immediately after they are generated in the case management system. The pilot version of the portal will first be tested. A public presentation of the product and results from its implementation will be then organised for all colleagues and courts who are interested, as well as the Ministry of Justice and the Supreme Judicial Council. If the anticipated benefits of this product are confirmed, one day all courts in the country can benefit from it and provide, free of charge, remote access to electronic analogues of their case files to all parties and their legal representatives, as well as the option of making free uncertified copies of court documents. According to Nikolova, achieving this goal is a very important step in the modernisation and development of the courts in our country, comparable with the first introduction of electronic management and administration of court cases that replaced manual labour of judges and court staff in this field.

The full text of the interview with Judge Ekaterina Nikolova is available on the PDJS website at: http://www.prss-bg.org/node/625 (bg only)

Ekaterina Nikolova graduated in law from South West University Neofit Rilski in Blagoevgrad. After completing her internship at the Blagoevgrad District Court, she took the national judicial exam and was appointed a junior judge on the same court. In July 2001 she was reappointed as a judge on the Blagoevgrad Regional Court. Between 2003 and 2005 she was Deputy Chair of the court and later its Acting Chair. In October 2010 she was appointed Chair of the Blagoevgrad Regional Court. The court she presided over took part in numerous initiatives of the PDJS and the USAID Judicial Strengthening Initiative such as transition management, court management, case delay reduction, practical issues of the work with the media, drafting media strategy, etc. The Blagoevgrad Regional Court is a member of the Model Courts and Courts in Partnership Program and is implementing the Enhancing Court Business Practices Project (CIP 2). As a result of its successful participation in the USAID initiatives, on 21 October 2005 it was awarded Model Court status and Ekaterina Nikolova received due recognition for her successful work as a chairperson of a Model Court for the advancement of the judicial reform in Bulgaria. In 2004 Judge Nikolova participated in the working group under the Open Access to Court Information Project of the Judicial Strengthening Initiative and took part in training in this field in Finland. Between 22 September and 20 October 2005 she took part in the International Leadership Training in the US which aimed at promoting the US judicial system and good practices. In 2007 she was nominated as a criminal judge by members of the public and was awarded the Woman of the Year in Blagoevgrad award for her undisputed professionalism and courage in her work in service of society. In 2008 and 2009 Ekaterina Nikolova participated in the Annual International Conference on Mediation in Lisbon, Portugal, as well as in the international working group TIN PROJECT drafting a curriculum for training magistrates in mediation. Between 2009 and 2010 Judge Nikolova participated in the working group under the Strengthening the Court System in Bulgaria through Implementation of the Court Improvement Plan Project of the PDJS and in the working group under the System of Complaints and Signals against Judicial Misconduct in the Courts Project. Since 2009 Judge Nikolova has been a member of the Control Committee of the Union of Judges in Bulgaria.
‘A mechanism for adequate payment of expert witnesses is needed and it will also guarantee the quality of the expert work.’

Silvina Sobadzhieva, PDJS expert

A mechanism ensuring adequate payment should definitely be considered, as the lack of it is one of the reasons for the unwillingness amongst many professionals to participate as expert witnesses. This is the opinion expressed by Silvina Sobadzhieva in an interview for the PDJS website. The overall policy for selection of experts should also be reviewed to ensure inclusion of highly qualified experts in the expert witnesses lists. Another issue for consideration is providing options for continuous enhancement of the experts’ professional qualification, especially in relation to areas in which the development of science is rather dynamic, she says.

Currently, for each judicial district the local District and Administrative Courts approve a list of experts. If a judge cannot find a suitable expert from the list of the respective area, they may seek one in the expert list of another district. All lists have been promulgated in the State Gazette and are available online. Also, one of the components of the specialised software for monitoring and control of expert witnesses’ activities is an integrated register - a compilation of all publicly available lists, accessible on http://ams.justice.bg/. It allows free access to its search module which is capable of performing inquiries in accordance to multiple criteria: judicial district, alphabetical order, area of expertise, etc. Its existence is very useful, says Silvina Sobadzhieva. It can be even more beneficial in judicial work because information on experts and their professional records can be updated dynamically to assist judges in making adequate choices.

The issue of lack of qualified specialists in the expert witnesses lists is very serious, especially when it comes to narrow and rare specialists. The problem has its specificities in the different regions but it seems that the most widely encountered difficulty is finding medical experts. However, there are no complete and official statistics on the issue yet, Sobadzhieva states. Perhaps this was the consideration of the authors of the Expert Witnesses, Translators and Sign Language Interpreters Act drafted under the Efficiency, Accountability and Coordination in the Judicial System Project of the Supreme Judicial Council to offer a central register of expert witnesses. Such a centralised database will allow easier access to various and detailed statistics and analyses.

Sobadzhieva points out another problem: there is no effective control over experts in practice. A form of control is the opportunity to exclude experts from the list when they continuously disrespect the principles of expert work and the ethical standards, unreasonably delay or refuse to perform their assignments. However, excluding an expert means another heavy procedure by the same Committees that approve the lists. These Committees usually gather only once a year to perform their obligation to update the lists. Meanwhile, a given incompetent or unethical expert will continue to be appointed in other cases from different judges, Sobadzhieva adds.

Another problem is the reluctance of experts to express opinion on matters of great public importance or in cases involving influential local figures.

The next thing that hinders courts’ work is the reluctance of experts from one professional community to testify in cases against their colleagues. The issue is particularly relevant in connection with the frequent cases of medical negligence. There are also cases where, due to interest, professional or collegial relations between experts from a particular list, the court actions are limited. This is why the law should provide that, when the interest of justice so requires, the court may refer to external experts with recognised qualifications and established reputation.

According to Silvina Sobadzhieva, in contrast to the high responsibility and important role of an expert witness in a law suit, the payment is low. Payment is currently defined by Regulation 1 / 2008 of the SJC and the amount is BGN 5 per working hour. From the perspective of experts
in fields where professional fees are significantly higher, this is inadequate. In order to reach a satisfactory compensation, the courts „bargain“ with expert witnesses, pleading with them to prepare reports for smaller remuneration in return of a promised compensation in another case.

There are two sources for payment of experts’ fees - the deposits of the parties to cases and the court budget. Payments are delayed when they are payable from the court budget which lacks sufficient funds. What can be done in such situations is a question for those who are responsible for the budget planning, Sobadzhieva points out.

Currently, the Ministry of Justice is working on a Concept for Judicial Expertise. The PDJS expert assumes that the draft law will be reviewed during the discussions there, as one of the main ideas is all regulations concerning expert witnesses to be codified.

The full text of the interview with Silvina Sobadzhieva is available on the PDJS website at:  http://www.prss-bg.org/node/624  (bg only)

Silvina Sobadzieva graduated in International Relations from Sofia University St. Kliment Ohridski in 2006. She has several years of experience in EU funded twinning projects beneficiaries on which are directorates at the Ministry of Justice. Before joining the PDJS team in September 2010, Silvina Sobadzhieva worked for the Judicial Mentoring Initiative of the US Embassy in Bulgaria.
ONCE UPON A TIME ...

The PDJS team is ready to participate in further activities which would promote collaboration and stronger relations between all national and foreign institutions and organisations involved in the judicial reform in Bulgaria. The PDJS may provide English translations of the materials published in the newsletter at readers' request.

Your comments, questions and information about this newsletter are welcome at office@prss-bg.org

Neli Batanova, Shumen District Court Chair

Tonyo Tonev, Stara Zagora District Court Chair

Media Training, November 2005, Sandanski

From left to right:
Vanuhi Arakelyan, Varna District Court Chair
Ken Stuart, Judicial Strengthening Initiative Director
Veselin Hadzhiev, Plovdiv Regional Court Chair
Sotir Tsatsarov, Plovdiv District Court Chair
Neli Batanova, Shumen District Court Chair

First National Conference of Magistrates, November 2006

Verginia Dimitrova, then: Chepelare Regional Court Chair, now: judge at the Sofia District Administrative Court.

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