



---

Palazzo di Giustizia - Piazza Cavour - 00193 Roma - Italia

Rome, 21st July 2017

**To the hon. Chairperson of the Committee on Legal Affairs of the 44th National Assembly of the Republic of Bulgaria**  
**Mr DANAIL KIRIRLOV**

Dear Mr Chairman,

At its meeting in October 2016, the European Association of Judges has had drawn to its attention the implementation of Article 195 A of the Judiciary System Act and the requirement of this Act for a judge to make a declaration to the Supreme Judicial Council of all activities including membership of a professional organization. The EAJ - Assembly unanimously decided to write to the Bulgarian authorities (government, parliament) and to ask them to take steps to amend this law by excluding professional judicial associations from its ambit. We add this letter in the appendix.

As noted in the previous letter of the European Association of Judges, the right of judges to join professional associations is an important one, that is designed to support the independence of the judges and is recognized by international legal principles including Article 25 of CCM/Rec 2012/12 Council of Europe and similar recommendations of the UN.

The requirement to register membership in professional organizations with the Superior Council of the Judiciary responsible for recommending the promotion and career development of judges has a chilling effect deterring the exercise of this right.

Moreover there is no apparent purpose in including membership of a judicial association within this law. Such membership is confined to judges, and involves no conflict with the judicial function in an individual case. There is independent of this law a general requirement for a judge to declare any interests relevant to a case he or she is deciding.

The introduction of such an obligation – to register membership - serves no legitimate aim, undermines the right of association and is inconsistent with the policy agreed in Sofia of strengthening judicial associations rather than undermining them. Following that «Sofia policy» is a matter of principle, not least because of the declaration, adopted by the Ministers of Justice of all Member States of the Council of Europe, along with the Action Plan for Independence of the Judiciary, at the meeting held on 21 April 2016 in Sofia.

The implementation of the *Judiciary System Act* adopted on first reading of the Bulgarian Parliament will be prone to impede the free association of magistrates in professional organisations while at the same time might prohibit them from sitting on the governing boards of organisations jointly established with representatives of other legal professions.

Moreover the *Judiciary Act* Bill introduces a ban on the work of professional organizations of magistrates being financially supported on a project basis. It should be noted that the involvement of professional organisations in donor-financed projects is a necessity in so far that they allow organising relevant and timely professional discussions, training events, meetings of fellow magistrates, presentations by international guest speakers, exchange of experience with fellow magistrates from other countries, publishing manuals, compendiums and other legal literature.

The arguments put forth in the explanatory notes accompanying the Act, notably that the restrictions and prohibitions are being put in place to preclude "foreign influences" and dependencies in the judiciary, are rather farfetched and resemble a reasoning often used in undemocratic societies.

The European Association of Judges therefore once again asks the Bulgarian Parliament and Government to exclude professional judicial associations from this amendment to the Judiciary System Act.

A handwritten signature in black ink, appearing to read 'José Igreja Matos'.

**José Igreja Matos**

President of the European Association of Judges (EAJ)