

SUPREME COURT OF CASSATION

PRESIDENT

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President of the Supreme Court of Cassation: The rule of law is a fundamental value, necessary for citizens' trust in public institutions

The "position" published on the website of the Prosecutor's Office regarding the judicial orders issued by the Deputy President of the Supreme Court of Cassation (SCC) and the President of the Second Criminal Division of the SCC is ill-considered in terms of content and affects the prestige of the judiciary.

It impermissibly challenges the sovereign power of the judges of the Criminal Division of the Supreme Court of Cassation to independently perform their constitutional duties.

According to the Constitution of the Republic of Bulgaria, the Supreme Court of Cassation is the highest court. This judicial body is entrusted with the examination and resolution of certain types of cases, including proceedings for the reopening of criminal cases. Its competence to assess the admissibility and, respectively, the merits of a request for reopening is indisputable. There is no democratic country in which a representative of the prosecution service would allow himself to publicly challenge the exclusive power of the judges of the Supreme Court of Cassation to decide cases on the basis of their own interpretative analysis.

Stigmatising judges for their legal conclusions in specific cases – in this case, for not sharing the interpretation of the Prosecutor's College of the Supreme Judicial Council regarding the effect of the provision of Article 173(15) of the Judicial System Act – goes far beyond the limits of permissible criticism, generating only negative attitudes towards the court, undermining its authority and effectively infringing its independence.

The "position" contains dangerous insinuations about unclear political ties of the "leadership of the Supreme Court of Cassation" and its illegitimate involvement in the resolution of cases.

No command-and-control administrative methods are exercised in the Supreme Court of Cassation, to influence the internal judicial conviction based on the law and the evidence on the case. Judges are free people, completely politically neutral, with excellent legal qualifications and high moral qualities, with a strong awareness of their judicial independence. The grounds for the

orders issued, which provoked the anger of high-ranking representatives of the prosecution, clearly reveal the objectivity, concrete analysis and sound reasoning inherent in judicial acts. The intimation that the members of the General Assembly of the Criminal Division are susceptible to influence and may uncritically adapt their legal conclusions to a certain outcome convenient for someone is tendentious and discredits them.

The judges of the Supreme Court of Cassation are not executors of someone else's will. They should not be expected to violate their official duties in order to justify someone's expectations.

In a state governed by the rule of law, it is unthinkable that senior representatives of the prosecution service should incite the public against the court. It is immoral for the violation of the law (Art. 173, para. 15 of the Law on the Judiciary) established by the judges to be opposed to the rights of citizens who have been victims of crimes. The interests of justice cannot be protected neither by multiplying a violation of the law, nor by ignoring it. Then the very idea of legality would lose its meaning.

The rule of law is a fundamental value, necessary for citizens' trust in public institutions. The court cannot fulfil its social purpose if state institutions do not respect its acts or instil distrust in the integrity of judges, or attempt to sow division among judges. When the objectivity of judicial activity is groundlessly called into question, the intended result is to discredit the independence of the court. And the vilification of the Supreme Court in particular is a clear sign of a massive pressure on all judges. Such goals, in particular, are illegitimate and contrary to the principle of the rule of law. Attempts to achieve them must meet determined resistance, because our declared commitment to European democratic values is not demagoguery.

GALINA ZAKHAROVA –

PRESIDENT OF THE SUPREME COURT OF CASSATION