

Magistrates' Remunerations - an Unpopular Problem Seeking for a Solution

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For years the meaning behind the Judicial reform conversation is a reform for structural changes that lately, affect the Prosecutor's office and especially the Prosecutor General's figure. The public and political attention is focused on these topics, as they are the fastest to circulate and can be more easily explained.

However, there are other unreformed areas of the Judiciary which are neglected but affect every single magistrate. A topic of such a matter is the one about the remunerations of judges, prosecutors and investigators. How are they formed, what is taken into account in designing them and how are the additional remunerations distributed in the system.

According to the Judicial System Act (JSA), the salaries of "**The Big Three**" /respectively the Presidents of the Supreme Court of Cassation (SCC), the Supreme Administrative Court (SAC) and the prosecutor general/ are equal to 90% of the salary of the Chairman of the Constitutional Court (CC) of the Republic of Bulgaria. The exact amount is not clear, because it is calculated as a function of the salary of the President of the National Assembly and that of the President of the Republic. Moreover, the figure is not publicly announced which complicates further the calculation. It can be reached through a complex system of estimations and still the final figure will be rather approximate. This case contrasts strongly with the calls for more publicity and transparency in the system and objectivity in the process of forming the basic and additional remuneration.

It is even harder to calculate the salary of the crank and file magistrates at each instance, as this is left for the Supreme Judicial Council (SJC) to decide. **In art. 218 of JSA** it is said that the SJC's plenary defines the amount of the remunerations in the system. The only exception is the salary of the lowest magistrate position, which again according to **Art. 218, para. 2 of JSA** is formed by "*... the doubled average monthly salary of the employees in the budget sphere according to the data of the National Statistical Institute*". In comparison, in Austria, the Law on Judges and Prosecutors (*Richter- und Staatsanwaltschaftsdienstgesetz*) explicitly states the exact amount (to the last cent) that judges from the different groups receive. Back in Bulgaria, specific figures can

be found in the so-called Table 1 of the SJC for determining the maximum basic monthly salaries of judges, prosecutors and investigators. The salaries for each rank in the system are also set in Table 1, which are currently: 1st rank - 275 BGN, 2nd rank - 385 BGN and 3rd rank - 440 BGN. The table itself is not publicly available and only older versions can be found - the latest being from 2017. Table 1 is updated at the beginning of each year when the SJC decides to raise all salaries by an average of between 5% and 10%. The fact that the plenary sessions are public and can be viewed in real time turns the decision to increase salaries and, respectively, the changes in Table 1, into the only information that reaches the public and the media. **That's why by default this topic is always met with negativity, as amounts are thrown in the public sphere without explanation and they seem absurdly high in the eyes of the average citizen compared to relatively low wages in other sectors.** Same scenario happens when the SJC decides to distribute the so-called "bonuses" at the end of the year. The lack of objectively defined criteria in the forming of the magistrates' remuneration **adds fuel to the fire** of the already low image of the system.

Beyond that, however, it is very important to say that judges, prosecutors and investigators must be well paid so that they are not tempted to succumb to undue influence and engage in corrupt schemes. **At the beginning of the so-called transition period, there was a massive outflow of magistrates as the salaries were extremely low while the risk and stress associated with doing this work was disproportionate.** Most of these people became attorneys at law. **Now the situation is different and these professions are among the best paid in the public sphere.** They guarantee security and stability, which is proven by the applicants who want to enter the system - they are much more than the vacant places.

Nevertheless, this doesn't detract from the fact that the model by which the amount of salaries is formed is still not transparent and it remains in the competence of the SJC only. There are numerous recommendations for improving the current situation coming from **GRECO, The Venice Commission, the reports on the EC horizontal mechanism for the Rule of Law** and others. All of them point out that clear and objective criteria in forming the remunerations in the judiciary are a strong anti-corruption measure and among the main guarantees for its independence. The same applies to the reduction of the subjective factor, which is understood not only as the SJC, but also as the influence of the administrative heads in determining additional remunerations.

At present, the difference between the salaries at the highest and the lowest level in the system is a little over 2,500 BGN. This gap seems excessive, given the fact that the judges, regardless of their level, do the same type of work - they administer justice. That is also true for the prosecutors and the investigators. Meanwhile, due to the current model of forming wages, this gap deepens even more and creates tension in the system. There is a clear tendency for advancing in the system through competition procedures motivated only by the significantly higher salaries. This is an additional prerequisite for conflicts in the system.

It is necessary to consider possibilities for closing the gap and such intentions were hinted by the newly elected President of the Supreme Court of Cassation - judge Galina Zaharova during her public hearing for the position. In the same context are BILI's recommendations, indicated in its statement on the Law for Amendment and Supplement of the JSA, which provides for the closure of the specialized courts prosecution offices and the abolition of the career bonuses.

The required change goes through amendments in the JSA, so that it is provided in the law how the basic remunerations of the magistrates are formed. Various options are possible and based on the gathered information, from which a legislative initiative can start, BILI proposed to the SJC three models.

Model 1 builds on the current provisions by proposing the basic salaries of the instances below the Supreme one to be formed as a percentage of the statutory remuneration of 90% of "the big three" compared to the remuneration of the CC's chairman. The percentages' value is a matter of estimation and calculation, but it can vary between 60% for junior magistrates and up to 80% or 85% for magistrates at the Appellate level.

Model 2 proposes a completely new concept for the remuneration forming - a basic amount which is the same for all magistrates above the junior ones, a sum for the leadership positions and additional remuneration for the complexity of the legal cases at the two highest instances. The basic amount is linked to the remuneration of the members of the Parliament and is calculated as a percentage of it. This model also offers higher rates for the individual ranks in the system than the current ones. Linking to the salaries of the MPs creates an opportunity for a balanced growth of the salaries in the system and for closing the gap to a greater extent.

Model 3 does not differ conceptually from Model 2 with the only difference that it does not increase the amounts for individual ranks (these amounts rather decrease compared to their current value), but instead includes a 13th and a 14th remuneration, which will be given to all magistrates

in the middle and at the end of each year.

The remuneration topic is not among the most popular ones, but it's important for the people who are part of the Judiciary and whose work on a daily basis is highly skilled and, in some cases, even dangerous. Criticisms have already been heard of the proposed models that they will lead to a reduction in wages at the highest levels. Criticisms that definitely do not correspond to the truth, and do not help to conduct an open and objective discussion on the issue. **The majority of the magistrates in the country are convinced that such a reform is necessary** and postponing it in time would only deepen the problems in the system. In this regard, the efforts of some members of the SJC to find a solution to the problem should be encouraged.