
THE EUROPEAN FUTURE OF MACEDONIA STARTS WITH THE CHAPTER 23

Policy Brief

About the Policy Brief

This policy brief is based on the views expressed on the final conference of the project “Network 23+”, held on 5th of July, under the title “Chapter 23: Pandora’s Box or a Key for Good Governance?”. The conference consisted of four sessions, according to the structure of the Chapter 23, in which politicians, experts, speakers from institutions, organizations and international partners debated, with the aim to determine the current state of affairs in this regard and the most important steps that Macedonia is to be taking in the forthcoming period.

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This event was organized in the framework of the “Network 23+” project, financed by the European Union, co-financed by the Royal Embassy of Norway in Belgrade, and supported by the Municipality of Centar. The opinions set out in this document are the views of the authors and cannot be regarded as the official positions of the donors.

Conference Background

Chapter 23, encompassing the judiciary, fight against corruption, and fundamental citizen rights, is the first of chapters which, together with Chapter 24, is opened within membership negotiations with the European Union. This fact underlines the importance that the Union has been attaching to the rule of law principle as one of its most significant cherished values. This is why it is very important to subject to discussion conditions and challenges related with Chapter 23 fields, especially as EU Council's decision to initiate membership negotiations is being hoped for and expected.

The final conference of the Network 23+ Project, [that was held on 5 June](#) under the title “**Chapter 23: Pandora's Box, or Key to Good Governance?**”, included 4 sessions, grouped according to the structure of the Chapter itself. Politicians, experts and speakers from several institutions, organizations and international partners debated during these sessions in order to determine the current state of affairs in this regard and the most important steps that Macedonia is to be taking in the forthcoming period. The project has been funded by the European Union and by the Belgrade Embassy of the Kingdom of Norway, and the event was supported by the Municipality of Centar.



Introductory discussions were delivered by Mr. Zoran Zaev, President of the Government of RM; Mr. Bujar Osmani, Vice-President of the Government in charge of European Affairs; Ms. Renata Deskoska, PhD, Minister of Justice; Mr. Sasha Bogdanovic, Mayor of the Centar municipality; and prof. Gordan Kalajdziev, PhD, President of the Helsinki Committee of Human Rights and professor at the Justinian the First (Justinijan Prvi) Law Faculty. The conference event was opened by Ms. Simonida Kacarska PhD, Director of the European Policy Institute.

Dr. Kacarska expressed appreciation to everyone having been part of the implementation of this project which is related to an important Chapter in EU membership negotiations. "This project was not implemented only by the European Policy Institute and the Helsinki Committee Office; we did it in

partnership with other 15 Network 23 members, 9 grant beneficiaries, institutions, and public employees. We are glad to have with us representatives of the Ministry of Justice and the Secretariat for European Affairs, those are our partners, and we also have representatives of the Ombudsman, judicial institutions, and professional associations", Ms. Kacarska said, adding that "Network 23 has operated under the principle that we should be working in partnership with public officers" as that is the only way to bring about sustainable changes in the society.

Mr. Zoran Zaev, President of the Government, stressed that there should be no place for corruption in the Republic of Macedonia nor, for that matter, in any other country, but that huge efforts are required to eradicate it. "The Republic of Macedonia is a country intent on playing by European rules", Mr. Zaev said, "and, because of that, it has to provide for access to justice, access to be fully guaranteed, for an environment in which most vulnerable groups will be able to make use of all available tools, in order for them to have stronger trust in the judiciary of the country they live in". Mr. Zaev stressed the role the Network 23 project has been playing in the European Union accession process. "The recommendations and impact coming from Network 23 civic organizations have been playing a significant role in our process of acceding the European Union, by means of active participation in Chapter 23 related policy monitoring and evaluation", Mr. Zaev said. At the end of his speech, Mr. Zaev invited civic organizations to join forces with the Government in the building of a system that will not tolerate any corruption and human right violation.

Macedonia's road to full EU membership is a long one, though itself not endless, stated Mr. Bujar Osmani, Vice-President of the Government in charge of European affairs. EU membership is a process of a society's transformation, yet although the Republic of Macedonia has remained stalled in this process for a long time, the country has never stopped transforming its society. In a situation in which the country has been making progress in terms of the rule of law in comparison to the past, the Plan 18 idea is a temporary solution supposed to yield results in the period leading to the start of EU membership negotiations.

Ms. Renata Deskoska PhD, Minister of Justice, said Chapter 23 should not be viewed as Pandora's Box, and that she personally has been advocating essential reforms as she believes all strategies and action plans to be a dynamic and ever-changing substance. "Each step in the implementation of activities related to this Chapter should be a step forward in the strengthening of the rule of law and of citizen trust in the national judicial system", Ms. Deskoska said.

In view of the importance local authorities have in EU citizens' enjoying of their rights, Mr. Sasha Bogdanovic, Mayor of the Centar Municipality, said citizens have increasingly been recognizing local authority role, and municipalities can build their capacities only if they keep cooperating with various stakeholders, civic organizations included.

Mr. Gordan Kalajdziev, Law Faculty professor and President of the Republic of Macedonia's Helsinki Committee of Human Rights, stressed the need to deepen the scope of reforms and to effectuate their genuine essence. Civic sector players have acted with great enthusiasm in the State system transformation, however there has been an objective problem in terms of not meeting deadlines set in reform strategies.

Judiciary Reforms – Form or Essence?



Speakers: Mr. **Xhemali Saiti**, PhD, Supreme Court judge and President of the Association of Judges; Ms. **Lence Ristoska**, Special Public Prosecutor; Mr. **Voislav Gavrovski**, Deputy Public Prosecutor; Mr. **Lazar Nanev**, Professor and PhD, judge, and President of the Council for Prevention against Juvenile Delinquency – Network 23+ grant beneficiary; Ms. **Natali Petrovska**, Director of the All for Fair Trials Coalition – Network 23 grant beneficiary; Mr. **Zoran Jankulovski**, Director of the Association of Finance Officers of the Local Government and Public Enterprises (ZFR) – Network 23+ grant beneficiary

Moderator: Ms. **Gordana Duvljak**, journalist, editor at 1TV.

The first panel discussion focused on reforms in the judiciary. In its 2015 and 2016 reports, the European Commission (EC) marked Macedonia as a "captured state", the term mostly referring to the fact that the judiciary, being one of the three branches of power in the country, was captured by the executive power. In EC's 2015 and 2016 reports, the national judiciary was found to be regressing. The country's judiciary system was also criticized in reports made by the Senior Expert group with Mr. Priebe as its chairman, and specific recommendations were issued to improve that state of affairs. In order to effectuate recommendations contained in these EC's reports and in reports of Mr. Priebe's Senior Expert Group, the new Government of RM began taking actions in the judiciary field, determined by the [3-6-9 Plan](#). The [Judiciary System Reform Strategy, 2017 – 2022](#) was drafted as a solid basis for further reforms and legislative modifications.¹ Numerous factors were taken into consideration during the process of this document developing, and recommendations were accepted from the Association of Judges and from

¹ This fact was stated by Judge Xhemali Saiti and by Deputy Public Prosecutor Voislav Gavrovski.

other relevant non-governmental organizations. In April 2018, modifications were adopted to the Law on Courts and to the Judiciary Council Law. The process of adoption of these two legislation pieces, especially of the Law on Courts, was preceded by much political bargaining between the two largest political parties in the country. The EC April 2018 Report noted efforts made in the judiciary field. In regional terms, Macedonia and Albania have recorded greatest progress in the judicial area. While the Commission noted these efforts, it remains disputable whether reforms in the judiciary are to be viewed as a springboard for additional essential reforms to be yet undertaken, or only as reforms to satisfy the form and to meet relevant demands from the European Union. In her introductory speech, Minister Renata Deskoska stressed that, in the forthcoming period, focus will be placed on the quality of reforms to be delivered in this area, and not merely on superficial reform taking.

From discussions of participants in the first panel debate, the conclusion can be drawn that **essential judiciary reforms are yet to be carried out**. The contents of the reforms as such is still a challenge. Participants agreed that the Judiciary Reform Strategy represents a solid basis for further legislative modifications. Another positive step in this regard is the establishing of the Strategy Implementation Monitoring Council, as well as the participation in it on the part of all relevant stakeholders.² In addition, weak aspects in specific areas have been identified in the Strategy, and measures for their overcoming have been foreseen. The first series of legislative modifications began with the revoking of the Law on the Fact Determining Council, also with the adoption of modifications to the Law on Courts and the Judicial Council Law. Nonetheless, key challenges remain. Representatives of the judiciary criticized certain legislative modifications, and comments in this regard were received also from the Association of Judges. Judge Xhemali Saiti stressed that modifications to legislative pieces indeed represent a good basis for reforms, and that, while judges hold realistic expectations in this regard, they should nonetheless be aware of the weight of the reform process itself. Judge Lazar Nanev said the focus of forthcoming modifications to the Law on Courts should be placed on a **new organizational and structural setup of the national judiciary system**.

Prosecutor Voislav Gavrovski said that, though the 2013 Criminal Procedure Law (ZKP) increased the Public Prosecutor Office's competencies, a new Public Prosecutor Office Law has not yet been adopted. This new legislation piece is currently being drafted, all key stakeholders have been taking part in this process, the draft version of the Law is almost completed. The new Law identifies new competencies for public prosecutors, disciplinary measures are specified in cases of their responsibility, and another special issue is the integration of the Special Prosecutor's Office (SJO) in the national public prosecution system.³ SJO Prosecutor Ms. Lence Ristoska also stressed the need of integrating the Special Prosecutor's Office to the national public prosecution system. Ms. Ristoska discussed recent SJO activities, especially stressing the Office's teamwork and multidisciplinary approach to cases i.e. maintaining financial and criminal investigations at the same time. Ms. Ristoska said SJO need to continue operating in view of the type and complexity of their cases, as well as the fact that closure with such cases takes time in many other countries as well.⁴ Prosecutor Ristoska stressed that **SJO autonomy with high level corruption cases**

² The participation in this Council on the part of the Association of Judges was stressed by Judge Xhemali Saiti.

³ Prosecutor Voislav Gavrovski stressed that Public Prosecutor's Office operation may collapse due to lack of adequate staff if the situation is not overcome by appointing external experts to public prosecutor positions (mostly regarding public prosecutor expert associates).

⁴ Ms. Lence Ristoska, Public Prosecutor, also pointed out the recent practice with the Skopje Appellate Court's decisions regarding SJO cases in which wiretapped conversations are being admitted as evidence.

needs to be preserved. Prosecutor Voislav Gavrovski said specific proposals had been issued to delineate competencies between SJO and the Public Prosecutor's Office for Organized Crime and Corruption in order to avoid conflict of competencies i.e. that SJO should be given competencies to treat cases involving high level corruption and cases of **crimes committed by selected and by appointed officials**. Judge Lazar Nanev stressed the need to adopt a **new Criminal Code**, in which penalty minimum and maximum thresholds will be specified.

In addition to the need of legislative modifications, the (mis)trust in the judiciary was stressed as another issue. Transparency is key to the strengthening of trust in the judiciary system, Ms. Natali Petrovska from the All for Fair Trials Coalition stressed. According to a 2016 local survey, 52% of all transparency indicators have been satisfactorily achieved. A regional survey has shown only 33% of transparency indicators to have been satisfactorily achieved; our country ranks higher only than Albania, which has met 22% of these indicators. In terms of promoting transparency in the judiciary, a series of debates has been taking place organized by the Association of Judges, for the purpose of establishing a **Judiciary-Media Body/Council**; the overall shape of this body is expected to be specified during these debates, and its operation is expected to begin in September.⁵ Mr. Saiti, PhD, highlighted the need of mental transformation of all concerned parties in the judiciary, a need that was also stressed by prosecutor Lence Ristoska. By setting professionalism and integrity as two basic principles in the acting of all judiciary employees, transformation will happen in the awareness of such significant issues.⁶ Personal action needs to be transformed also with judges and with members of the Judiciary Council in terms of issues related with judge selection and promotion. Politically "acceptable" judges are still selected and promoted. Leader figures are missing in the judiciary to contribute to the judiciary being indeed established as the third branch of power in the country, independent of the other two.⁷ What is also required is awareness of legislative solutions already established.⁸ Judge Nanev stressed **the need to harmonize the national judicial practice with the highlighted role of the Supreme Court**.⁹ Former Judge Ms. Margarita Caca Nikolovska pointed out that judges in RM have insufficiently been applying the practice of the European Court of Human Rights.

Financial independence of the judiciary needs to be strengthened.¹⁰ Mr. Zoran Jankulovski stressed that 0.37% of the 2012 GDP were allocated to the judiciary, which became 0.3% in 2016; in addition, he pointed out that **judiciary activity funding must not fall below 0.5% of the GDP, the tendency being for it to reach the foreseen level of 0.8% of GDP**.

⁵ Mr. Xhemail Saiti PhD, Judge at the Supreme Court, President of the Association of Judges.

⁶ Ms. Lence Ristoska, Public Prosecutor.

⁷ Mr. Lazar Nanev, Judge.

⁸ Ms. Lence Ristoska, Public Prosecutor.

⁹ This need was also stressed by Ms. Mirjana Ivanovska, former Judge. Ms. Milka Ristova, former Judge, stressed the Supreme Court's role in developing the essential core of specific legislative solutions, as well as the need for such critically oriented opinions to be acknowledged by the executive power.

¹⁰ Mr. Xhemail Saiti PhD. This need was also stressed by Mr. Zoran Jankulovski, Director of ZFR. The need of larger budget allocations for the Public Prosecutor's Office was also stressed by Prosecutor Voislav Gavrovski.

High Level Corruption, Weak Institutions



Speakers: Ms. **Rozeta Trajan** PhD, Secretary-General at the State Commission for Preventing Corruption; Mr. **Misho Dokmanovic**, prof. PhD, President of the Strategic Research and Education Institute, and Professor at the "Justinijan Prvi" Law Faculty – Network 23+ grant beneficiary; Ms. **Ana Gjurnic**, Alternativa Institute, Montenegro; Mr. **Vladimir Mihajlovic**, European Policy Institute, Serbia; Mr. **Darko Popovski**, ZIP Institute – Network 23+ grant beneficiary

Moderator: Ms. **Gordana Duvljak**, journalist, editor at 1TV.

Relevant national and international organizations, as well as the European Commission, have assessed the recent fight against corruption in the Republic of Macedonia as rather weak. According to the [Transparency International Corruption Perception Index used by Transparency Macedonia](#), Macedonia got 35 of 100 points in 2017, whereas in 2012 it recorded 42 of 100 points. This data ranks the country lowest on the list of countries in the region, in terms of corruption perception. The public opinion poll conducted within the Network 23+ project shows 60% of respondent citizens hold the situation is poor in this regard, with 46% of State administration employees giving the [same opinion](#).

The State Commission for Preventing Corruption (DKSK) was identified during discussions as the weakest ring in the chain of fight against corruption. This statement is supported also by public disclosing suspicions of corruptive practices on the part of DKSK members, an event after which some of these members resigned.¹¹

¹¹ Weak capacities were also acknowledged by Ms. Rozeta Trajan, PhD, Secretary General of the Commission.

"The public is the main factor controlling the way institutions perform", „Ms. Rozeta Trajan, PhD, said, regarding reports on various office abuse cases involving DKSK members. Ms. Trajan added that, in view of poor performing on the part of DKSK, a working group was set up in May 2018 to draft a new proposed Law on Corruption Preventing. This working group is expected to modify the status of the Commission, to improve its independence, and to strengthen its capacities to perform in its competence field.

Mr. Misho Dokmanovic, professor at the "Justinijan Prvi" Law Faculty and member of the Strategic Research and Education Institute (ISIE) presented the [ISIE survey on the enactment of the Law on Whistleblower Protection](#) and on corruption prevalence at universities. Survey data shows 7% of student respondents in 2016 to have been corruption victims, and as many as **43% of student respondents to have witnessed some form of corruption**. Another startling fact is that 78% of respondents-law students said they prefer not to report any corruptive action because they do not believe reporting as such would have any effect whatsoever. "Many mistrust corruption reporting and preventing mechanisms", Mr. Dokmanovic, PhD, said, and added that corruption has been tightly incorporated in the Macedonian way of life and is therefore hard to detect.

Montenegrin and Serbian experience in fighting corruption showed no essential progress in this area. While formal recommendations coming from EC, SYGMA, and local experts are often taken into consideration, actual implementation of these recommendations is missing. "Montenegro is often pointed out as the regional leader in this regard", said Ms. Ana Gjurnic from the Alternativa Institute in Podgorica, associate in the Network 23+ project. The Institute's experience has shown that the Agency for Preventing Corruption, established in 2016 and having taken over corruption prosecution competencies from two bodies previously in charge, has failed to demonstrate genuine willingness to prosecute high level corruption. Numerous irregularities noted in the operation of this Agency, the closeness between its Director and officials from ruling political parties, as well as the incredibly fast "cleanwash" of State officials having been publicly charged of corruption – it all makes the Montenegrin case similar to the Macedonian one. In spite of the large financial and staffing independence that the Montenegrin Agency now maintains, effective fight against corruption has been lacking, with the Agency itself being used for political showdown.

The Serbian experience shows that there are huge political influences with state official selection and appointment, which gives good basis for corruption in the public administration system to develop. State Ministers have large discretion powers with staff selection, with no previous procedures or human resource commissions' opinions being taken into account. "As many as 75% of Serbian citizens believe it is impossible to land a job in the state administration system by simply applying to public announcements. The same number of respondents hold public administration staff to be incompetent and prone to corruption", said Mr. Vladimir Mihajlovic from the European Policy Centre in Belgrade, a Network 23+ project associate.

Another thing participants highlighted as specific of the Balkans is the high level corruption, as well as the incidence of so-called "soft corruption". Bulgarian expert Dimitar Pehlivanov said lack of trust and of institution credibility has resulted in excessive regulation. The overcoming of this problem requires change to social awareness because, if no high awareness exists of the damage corruption causes, social norms will forever remain targets of bypassing. Mr. Dragan Malinovski, Lawyer and former member of DKSK, said Macedonian elections represent a kind of a gladiator fight as, of the two opponents, the one "gets to" institutions, and the other, the opposition, becomes victim. **If we could have institutions with credibility**

and integrity, getting to power will not be that much attractive as it is now because institutions would treat everyone equally. In the Macedonian case, political actors evidently behave in different ways, depending on whether they are currently in power or not. Each ruling entity to a certain extent resents being effectively controlled in its operation; still, the biggest problem is that the body in charge of preventing corruption keeps its eyes closed to obvious events of corruption effectuated by those in power, such has been the case recently.

Participants agreed that corruption preventing requires the existence and operation of institutions credible and capable enough to fight corruption. The fact was stressed more than once during discussion that **success in fighting corruption will mostly depend on whether genuine political willingness exists on the part of relevant political actors.** The statement from Prime Minister Zaev that there exists intention to appoint DKSK members who are not affiliated to any political party represents a step forward in this direction, yet it remains to be seen what the outcome will be of the genuine implementation of forthcoming reforms in this field.

Fundamental Rights



Speakers: Ms. **Uranija Pirovska**, Director of the Helsinki Committee of Human Rights; Mr. **Idxhet Memeti**, Ombudsman; Ms. **Mirjana Lazarova Trajkovska**, former Judge to the European Court of Human Rights, and Associate to the Chinese Renmin Institute; Ms. **Natasha Gaber-Damjanovska**, Professor and PhD, former Judge to the Constitutional Court, and Acting Director to the Institute for Sociological and Political-Legal Research; Mr. **Aleksandar Nikolov**, Director of the Zenith Association and expert associate of Female Action (Zenska Akcija) – grant beneficiary of the Network 23+ project; Ms. **Radmila Stojkovska Aleksova**, Open the Windows - grant beneficiary of the Network 23+ project

Moderator: Mr. **Vasko Popetrevski**, journalist

Will reform processes contribute to the elimination of system weak sides, especially with key judicial bodies and with other independent institutions and regulatory bodies, whose proper effectuating of own constitutional and legal competencies is of key importance to the protection and exercise of human rights and freedoms? The third panel discussion was designed to offer answers to key questions and dilemmas regarding several aspects of fundamental human right protection.

It was stated in the [recent](#) report by the European Commission that, in spite of commitments to implement European standards in the protection of fundamental human rights, additional commitments are required to achieve adequate and full implementation. This finding was supported by the discussion from Ombudsman Idxhet Memeti according to whom the Republic of Macedonia's Constitution offers a sufficiently wide scope and well-designed basis for all issues related with fundamental human freedoms and rights. Mr. Memeti said the Republic of Macedonia has failed to properly enact these high values so

as to build a system that will genuinely improve our society.¹² Ms. Pirovska stressed the significance of the Network 23 Project in the process of policy creation and reporting to the international community as regards the national situation in this regard. She added the Network 23 project has helped in informing the international public on the wiretapping scandal, on the 5 May riots, on exceeding police department powers, on detentions having been used in recent years more as punishment than as genuine measures. It is important in this regard that **a great part of what the Network 23+ reported about became noted in European Commission reports**. In its [recent report on the Republic of Macedonia](#), the European Commission found commitments are required to improve conditions currently prevailing in prisons and other detention facilities. This finding was supported also by the Ombudsman according to whom, **in addition to being excessively crowded and with inhumane living conditions, penitentiary system institutions have been facing other serious problems, such as the manner of this system managing**. These grave issues were also noted in European Commission reports and are related with the convict rehabilitation system and with detainee deaths in prisons. In terms of penitentiary institution management, it was pointed out that appointing must end of political party affiliated individuals as managers or directors in the system. It was also noted that the **Law on Workplace Harassment has failed to met its goal** as it lacks provisions specifying the powers on the part of inspectors to investigate in the field upon citizen reporting.¹³

Mr. Aleksandar Nikolov from the Zenith (Zenit) Association spoke about reforms in the field of communications monitoring, based upon an analysis entitled [Towards the Civic Panopticon – Balance between Privacy and the Need to Monitor Communications](#). Mr. Nikolov stressed that new legislation pieces build upon details contained in the Public Prosecutor's Office (JO) reports in terms on communications monitoring on the basis of investigative measures. The idea has been acceted to set up the Council for Citizen Control of Communication Monitoring, specifying has been completed of processes in which immediate orders are granted to monitor telecommunications, having been suspected to be abused by the system. **One of the challenges involved with OTA (Operational and Technical Agency) operation is the fact that some of this Agency's future staff are persons currently working at the national Security and Counterintelligence Administration (UBK)**. Also, debates should be organized on the cost of such reforms. In addition, **harmonization with EU metadata standards** is required. Mr. Nikolov stressed that the new Law provided legal founding to the usage of other alternative techonlogies for telecommunications monitoring, which means introducing new methods and tools to monitor citizens, which in turn gives sufficient basis to concerns regarding possible abuse of such systems.

The EC Report stressed that human rights protection standards have not been observed in the country, especially when it comes to the most vulnerable and marginalized society groups, including persons with special needs. In this sense, Ms. Radmila Stojkovska Aleksova from "Open the Windows" presented the findings of a [survey on Macedonian courts' accessibility and inclusiveness](#). According to this survey, 59% of court buildings have easy access platforms at their entrances. As for restroom facilities, **only 2 court buildings have restroom facilities accessible to persons with special needs**, yet on-site testing showed not a singe court building has provided conditions necessary for such usage. As for elevators, only 4 court buildings have them, and even these fail to meet accessibility standards as numerical keyboards in them are not provided with Braille alphabetical systems. When it comes to deaf individuals, 44% of courts surveyed responded they appoint their own staff members to accompany these users in order for them

¹² Mr. Idxhet Memeti, Ombudsman.

¹³ Mr. Idxhet Memeti, Ombudsman.

to get the service needed; as for hearing impaired individuals, courts engage relevant interpreters if necessary.

As regards the People's Advocate/Ombudsman institution, Mr. Idxhet Memeti, Ombudsman, said that, when it comes to individual citizen protection, this institution has received more citizen complaints than any other country in the region, if measured to total population figures; this points out that this institution enjoys trust from Macedonian citizens. The Ombudsman stressed this institution has been facing the issue of **general recommendation implementing** as the national Parliament should take into consideration these recommendations and execute supervision or control over executive government operation.

Ms. Natasha Gaber-Damjanovska, PhD, stressed **the need to introduce the constitutional complaint in the Republic of Macedonia**. According to her, this extended scope will contribute to more efficient protection of basic citizen rights in the context of more efficient enactment of justice. The constitutional complaint will provide yet another possibility for citizens to exercise their own rights in the country, before bringing cases to the attention of the ECHR. Professor Gaber-Damjanovska also stressed the need to adopt **new Constitutional Court Rules of Procedure**. This new document is expected to provide detailed solutions, not only as regards procedures in front of the Constitutional Court, but also should a possible larger inflow of cases require this Court's internal reorganization, in terms of whether it will operate on plenary sessions or at smaller group councils. There are also other issues falling within the Constitutional Court's scope of responsibility and not being sufficiently covered in its current Rules of Procedure.¹⁴ Mr. Igor Spirkovski, former Judge to the Constitutional Court, stressed that Constitutional Court's autonomy and resistance to pressures actually originate from its Rules of Procedure.

The European Court of Human Rights is the ultimate instance and umbrella when it comes to human right and freedom protection. Ms. Mirjana Lazarova Trajkovska, PhD, discussed its work and role. According to her, the number¹⁵ of Court's decisions in the judiciary field issued against the State of the Republic of Macedonia has been quite high in comparison to decisions issued against the States of countries that have for 50 years been signatories to this Convention, a fact that reflects the real state of affairs in the country in terms of its judiciary, economic, and political systems. In Macedonia, cases have been noted that are specific of the XIX century, such as those involving torture, degrading, and inhumane treatment; these cases have been directly related to system problems in police and prosecutor's office operation, a situation that has prevailed for years. This, in turn, reflects a situation in which **the police have been continuously applying force, and the Public Prosecutor's Office have been silent or unwilling to act against**. The Republic of Macedonia is probably one of the few countries in Europe in which the ECHR has been mentioned, determined by law, numerous legislation pieces refer to its practice; **however, when it comes to practical application of standards and principles contained in the Convention, our judges and other participants in the judiciary system, especially those from the prosecutor's office and police departments, show very little knowledge of the practice of the European Court of Human Rights**.

¹⁴ In this sense, Ms. Gaber-Damjanovska mentioned as an example the fact that no specified procedure exists on how to act in cases involving personal responsibility on the part of the President of the country.

¹⁵ Ms. Mirjana Lazarova Trajkovska: The European Court of Human Rights has in recent 20 years issued 159 decisions regarding the Macedonian State, as well as several hundred views; some of them involve amicable settlement and unilateral agreements; this means certain previously determined violations have been amicably settled, or the State has accepted that it has committed a certain violation.

EU Citizen Rights



Speakers: Mr. **Sasha Bogdanovic**, Mayor of the Centar Municipality; Mr. **Dimitar Pehlivanov**, European integration expert, Bulgaria; Mr. **Ivan Novosel**, House of Human Rights, Croatia; Ms. **Arlinda Ilazi**, Multikultura – grant beneficiary of the Network 23+ Project

Moderator: Mr. **Vasko Popetrevski**, journalist

Participants in this panel discussed rights inherent to citizens, in particular citizen potentials and inclusion in local level decision creating and adopting, as well as citizen rights to free legal aid.

When it comes to citizen involvement in policies adopted on local level, the European Union has encouraged citizen inclusion by means of citizen guaranteed rights introduced as early as in the Maastricht Treaty. These rights were originally guaranteed by means of directives, and were afterwards included in the 2009 Lisbon Treaty. They enable EU citizens to vote on local elections irrespective of their current place of residence, irrespective of whether they are formal citizens of the specific country or not. In addition, EU citizens are given the possibility to run for Mayors in some countries' local elections, though whether this will be allowed or not remains the discretion right of each EU Member State. Another of these rights is the right of each EU citizen to run for elections for European Parliament members.

These rights are also subject of interest in Macedonia, an EU membership candidate country tending towards a functional and decentralized municipal system serving citizens. It is especially important in the pre-accession process that municipalities join citizen informing on EU membership gains, and on citizen rights and responsibilities to be automatically gained once they become EU citizens. In this regard, local authorities will have to prepare for the EU-promoted manner of operation; **municipalities need to provide**

for transparency in their operation in line with relevant EU guidelines and with principles of democracy, and need to provide for greater citizen participation in decision making processes. Mr. Sasha Bogdanovic, Mayor of the Centar Municipality, said municipal authorities have been to this end working together with civic organizations that observe European integration processes, thereby strengthening own capacities, and also learning from EU Member States' experiences.

From recent regional experience, meaning Croatian and Bulgarian EU membership, one may conclude that EU citizen rights here have been observed and exercised perhaps at a rather low level. In particular, citizens in these countries have almost not used at all their entitlement to run for offices on local elections, and citizens of other EU Member States living in these two countries rarely get to vote on local elections. One of the reasons for this trend is the fact that citizens are not sufficiently informed on these rights of theirs. Mr. Dimitar Pehlivanov said Bulgarian recent positive experience in this regard has been that, while citizens perhaps do not run for local offices, they actively participate in the life of the society. In particular, when Bulgarian citizens have addressed in written form any EU institution, reaction immediately followed. The right to address EU institutions is an entitlement civic organizations have been making use of, an entitlement whose effect has perhaps been slow to come, but has been strongly felt. EU institutions subsequently put an end to wrong decisions on the part of local authorities, thus slowly becoming an important factor in Bulgaria's internal living.

Mr. Ivan Novosel from the House of Human Rights in Zagreb shared the fact that the rights in question have not been exercised in Croatia at all. Since 2013, when the country became an EU Member State, not a single case has been recorded of a non-citizen of Croatia running for office on local elections (one round was carried out in 2017); only 25 mobile EU citizens have been recorded with passive voting entitlement. According to recent data (2016), over 12 thousand EU citizens have been living in Croatia. Entitlements of these kind have been regulated by a special law in Croatia allowing entitlement to be raised one level up: in addition to municipal level offices, citizens may run for offices on regional level and vote at local popular votes.

It was concluded in this regard that this trend has been present, not only in Croatia and Bulgaria, but also on the territory of EU in general. Low voter turnouts, especially during local elections, is an issue to be viewed in a wider context as well. Two specific problems are related with these rights: **insufficient knowledge of national policies and cultures, and lack of knowledge on the manner of EU institutions' functioning. Lack of local language knowledge has been one more barrier in this regard.**

As to free legal aid, an entitlement already enjoyed by Republic of Macedonia's citizens, it was concluded that the extent to which this entitlement has been effectuated has been worrying. According to [a survey done by Multikultura](#), presented to participants by Ms. Arlinda Ilazi, **less than 1000 requests for free legal aid have been submitted in over 8 years having passed since the enactment of the Law on Free Legal Aid.** Moreover, this Law has not been harmonized with other national laws and itself contains norms that are not sufficiently clear, for which responsible authorities fail to offer clarifications. Requests for free legal aid, themselves few in number, have been rejected for various reasons not grounded. Associations offering free legal aid do not receive any State support in terms of cost coverage, which is one of the reasons they feel reluctant to provide legal aid of this kind. In addition, **there has been low citizens awareness of the existence of free legal aid as such.**

Participants concluded that a way has to be found to promote the Free Legal Aid Law, in order for citizens to be able to obtain information on how to exercise this right of theirs. One more recommendation is that decision making in terms of granting free legal aid has to be decentralized since this will contribute to the

increased feeling of legal safety on the part of citizens and will shorten the time needed to decide upon such requests.