



Monthly brief on the monitoring of Chapter 23 - Judiciary, Fight against Corruption and Fundamental Rights - October 2017 -

I JUDICIARY

Judicial reforms

Meeting of the Minister of Justice Saljii with the EU Ambassador Žbogar

On October 19, 2017, the Minister of Justice Bilen Saljii had a meeting with EU Ambassador Samuel Žbogar and the Minister of Foreign Affairs of the Republic of Macedonia, Nikola Dimitrov. At the meeting they discussed the undertaken activities and the level of fulfillment of the obligations undertaken by the Ministry of Justice in order to realize the reforms envisaged for the judiciary from the “3-6-9” Plan of the Government of the Republic of Macedonia, including the finalization of the text of the Strategy for Reform of the Judicial Sector, the drafting of which included taking into consideration the proposals received from all stakeholders. Ambassador Zhbogar emphasized the importance of this strategic document and expressed support for all the obligations of the Ministry of Justice in order to create conditions for facilitating the process of European integration.¹

Public insight into the draft-regulations and their publishing in ENER

The Ministry of Justice uploaded the texts of the draft Law on Cessation of the Validity of the Law on the Council Determining the Facts and Initiating a Procedure to Determine the Responsibility of a Judge² and the draft Law amending the Law on the Judicial Council³ online to be reviewed by the public through its official website.⁴

From the Insights into the Single National Electronic Registry of Regulations (ENER), starting from July 2017, an increase in the updating by various state institutions, including the Ministry of Justice can be

¹ http://www.pravda.gov.mk/novost_detail.asp?lang=mak&id=1398

² <http://www.pravda.gov.mk/documents/%CF%D0%C5%C4%CB%CE%C3%20%CD%C0%20%20%C7%C0%CA%CE%CD%20%C7%C0%20%CF%D0%C5%D1%D2%20%CD%CE%CA%20%CD%C0%20%C2%C0%C6%C5%8C%C5%D2%CE%20%CD%C0%20%C7%C0%CA%CE%CD%CE%D2%20%C7%C0%20%D1%CE%C2%C5%D2%CE%D2%20%C7%C0%20%D3%D2%C2%D0%C4%D3%C2%20%8C%C5%20%CD%C0%20%D4%C0%CA%D2%C8.pdf>

³

<http://www.pravda.gov.mk/documents/%CF%D0%C5%C4%CB%CE%C3%20%CD%C0%20%20%C7%C0%CA%CE%CD%20%C7%C0%20%20%D1%D3%C4%D1%CA%8%20%D1%CE%C2%C5%D2.pdf>

⁴ http://www.pravda.gov.mk/novost_detail.asp?lang=mak&id=1396



observed due to the placing of the latest draft legislation for review by the expert and general public. Over the course of October, the Draft Law on Amending and Supplementing the Law on the Judicial Council, the draft Law on the Council Determining Facts and Initiating a Procedure to Determine the Responsibility of a Judge, the draft Law on Free Legal Aid, as well as the Draft Law on Amending and Supplementing the Law on Courts were published in ENER. All these legal projects are part of the Government's "3-6-9 Plan", and of the recently defined Strategy on Judicial Reform, the preparation of which is at its final stage.

Independence

The Presidents of the Supreme Court and the Judicial Council paid separate visits to the Primary Court Gevgelija

The President of the Supreme Court, Jovo Vangelovski, together with the head of the IT service of the court, paid a visit to the Primary Court Gevgelija in order to verify the proper functioning of the Automated Court Case Management Information System (ACMIS).⁵ On the same day, the President and two members of the Judicial Council visited the court in Gevgelija to perform inspection of the procedure at the order issued by judge Zlata Popova upon a request from the SPO to conduct a search of the working premises and the home of the former president of the Primary Court Skopje 1, Vladimir Panchevski. In some of the media outlets and among the public, there were reactions as to whether in this way they interfered with the decisions of the Primary Court in Gevgelija, which was fiercely denied.⁶

The acting President of the Primary Court Skopje 1, Skopje, Stojanche Ribarev, resigns

On 20 October 2017 the acting President of the Primary Court Skopje 1 Skopje, Stojanche Ribarev, submitted a written notification to the Judicial Council that he was starting an open-ended sick leave on the that date and that judge Dijana Gruevska Ilievska would serve as his replacement. On October 25, 2017, Ribarev submitted a written notice to the Judicial Council that he was resigning from this position

⁵ http://www.sud.mk/wps/portal/vsrm/sud/vesti/4abad687-abd0-455a-ab42-cd2b6f6ea8e0!/ut/p/z1/rVJdT4MwFP01PJJekY_62C2MOZ2Lsgn0ZSIQtuoobHRM_fWWJxONMDPvU29yPnpuDqloRlSyVmyYEpVko70n1F27gW0DvoN7HD6NgPjg4eUNAFa9FPUBggkg2s9_RhTRTKpabVFSH9OdyNblqwHNMTEgrjKuJDOg5YOSBtgsZbmLPZOIOZi24zD9si0zy63ULThnmEOnV2ciR8IZ6GgoYPd_-GVix6dDkERbeF8Wi-nEA7LyrxyCH60F0TdsBT-hlAwOpT55-McE0x8O30LMnAsdeuXDW_dc-dlQR3QJrcN8PN9oWaa2ppBFheKztDVVvOz3iOiSVVLxN4Xif2IZXa5KfP1uyo_RgxmMU3xaFmWEm0_P7UK1/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fpublic_mk%2Fsud%2Fpocetna%2Fvesti%2F4abad687-abd0-455a-ab42-cd2b6f6ea8e0

⁶ http://sud.mk/wps/portal/ssrm/sud/vesti/0557cfed-7c69-49ba-8c22-cddbe9beaf1d!/ut/p/z1/rVPbUslwEP0aHmMuTZr2EZGLyM3BCs1LJ21SqeJLJVbl6w2OMw6gIIN52p05e_bs2SwUcAxFLstsIk1W5PLZ5qFwI7dJKfLuUMdr3_ioGICncT94wJRTONoFNHHf54B-4PqtBgkCB4rj9Y9QQJHkZmGmMfWxpTbRfFZB6xdVQYsi0SaXFVTqtckqCDHGk1QrwBXPB9SPJfASQkCiVzkz9WMsUqy3diskUDDXGmlHFAEexBhQrF8TYpkqlhMeaOoq7-_IP9W3lo19eFX3VhWGIU_aJUy3ELsehW6HVwL8B_VaDW0Ads6p3T4YtK7LM9CsM8ml1tysdnmmRjDjrsDdGA_UYVTrRoNbGOJtkq-jowTRJ1pO9JVDHY4ZcoHnYBdQj6fAt1sHKSbSZ5T7khEYkjNnOD5Aj11o0Ql6fiF9-9QvsleaPS2XompPqciNfjNw_B-3ZHnJqlvrTqxcaaYgy9MCjv9UupgHc895z8As7dYdGrbLHis31z1go01Hjz4AG2Xe6Q!!/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fsovet_mk%2Fsud%2Fpocetna%2Fvesti%2F0557cfed-7c69-49ba-8c22-cddbe9beaf1d



due to personal reasons and that after the resignation he would continue to serve as a judge in the Supreme Court.⁷

Impartiality and responsibility

Investigation of possible abuse within the ACMIS system

On 10 October 2017, the President of the Commission composed by the Ministry of Justice reported that the investigation, i.e. the audit of the operation of the ACMIS system in the Skopje Criminal Court for the period of 2016 and 2017 when the court was headed by its presidents: Pancevski, Mihajlova and Ribarev, was completed. Nanev pointed out that he and the members of the Commission checked cases initiated by the SPO and conducted an analysis of the minutes, since there had been some suspicions and indications about the way in which the court cases had been distributed, but came to a conclusion that it was impossible to determine whether there was abuse in a single day, and that for this purpose, they requested acts that would show whether the system operates legally. Otherwise, the Deputy Minister of Justice Oliver Ristovski also spoke regarding the suspicions of abuse of ACMIS system.⁸

SPP conducts search of the offices and the home of the former President of the Primary Court Skopje 1, Vladimir Pancevski

The media have reported that a team from the SPO conducted a search of the offices of the former President the Primary Court Skopje 1, Vladimir Pancevski, and two IT technicians from the said court which lasted nearly five hours. At the same time, the media reported that a search of Pancevski's home was conducted as well. Off the record, the Public Prosecutor's Office seized all the necessary documents and data from his personal computer. According to the Special Public Prosecutor Katica Janeva, this is a preliminary investigative procedure in which Pancevski and two IT technicians are suspected of abuse of the computer system for the distribution of cases, and especially those coming from the SPO. Janeva told the journalists that she suspected that Judge Pancevski, as President of the court, was also revealing classified information to external parties.⁹

⁷ http://sud.mk/wps/portal/ssrm/sud/vesti/ba7112bc-4640-414f-b7cc-4dda1b79b3f2!/ut/p/z1/tVJbT8lwFP41e2zarmXtHic6FhSQwJT1hbRbB1N2AepQf73lyQgRNGhfmpN8t3PyQQFnUFSyLRbSFHUIV3ZOHDf3epQifovueP_aR0FMSTi-n2LKKHz8CujhEbeAUez5UejGMYHiNP8BCijSyjRmCZNt3WozL58dtH3JHNTUqTaVdFCrt6ZwkJIMY1elgHoUAYppDhRL7ZhlEivmK5K7e7kmLTKYEEEx1msOMHFzS-ESKN7hINUel8RHCmF5GP843z4--uYFyPLFOUhiLdinxSgKmbW4wZ2Aj91JZDXaQu9gXNWb0I588ssNoiOHgyVCfKHDAflh53_I2YXy_XMntBV3N4PuYGFfpVmCosprOPtR1yy1eFqvRWARXfdGvx04-4sON2VccvlGqverleh1Fd9N89J-b2S1-ADqEk1v/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fsovet_mk%2Fsud%2Fpocetna%2Fvesti%2Fba7112bc-4640-414f-b7cc-4dda1b79b3f2

⁸ <http://www.sudstvo.mk/2017/10/10/%D0%BB%D0%B0%D0%B7%D0%B0%D1%80-%D0%BD%D0%B0%D0%BD%D0%B5%D0%B2-%D0%B8%D1%81%D1%82%D1%80%D0%B0%D0%B3%D0%B0%D1%82%D0%B0-%D0%B7%D0%B0-%D0%B0%D0%BA%D0%BC%D0%B8%D1%81-%D1%81%D0%B8%D1%81%D1%82%D0%B5%D0%BC/>

⁹ <http://www.sudstvo.mk/2017/10/05/%d0%bf%d0%b0%d0%bd%d1%87%d0%b5%d0%b2%d1%81%d0%ba%d0%b8>



The indictment for “Trista” effective, the defense objections in “Treasury” overruled

With regards to this case, the Primary Court Skopje 1 announced that it had decided to reject the appeal as ungrounded with an explanation that a part of the legal instruction stated that the right to appeal was not granted against this decision. Defendant Popovski is charged with misusing his official position and authorization, which deprived the budget of 450 thousand EUR In the process of procurement of 300 vehicles for the Ministry of Interior, when he enabled several companies to be selected in the bidding procedure, although they had not submitted the lowest bid. Popovski demanded the wiretapped conversations not to be used as evidence against him, a request that the Criminal Council of the Primary Court Skopje 1 accepted, but upon a complaint by the SPO, the Court of Appeals ruled that the wiretapped talks could be used in the court proceedings.

The court also informed that the Council assessing the indictment based on the “Trezor” Case, chaired by Judge Goran Boshevski, rejected the objections of the three defendants in the case on the procurement of the wiretapping equipment, as ungrounded.¹⁰

The Primary Court Skopje 1 continues to reject the “bombs” as evidence in SPO’s cases

The Skopje Criminal Court informed the public that they rejected the wiretapped conversations that SPO submitted as evidence in the indictment on the following cases: “Titanic”, “Titanic 2”, “Tenk”, “TNT”, “Tifani” and “Trevnik”. Despite the decision of the Court of Appeals to accept the recordings in the Trista Case and the case known as “Shamari in Centar” in September, the Primary Court Skopje 1 has continued to reject the wiretapped conversations as evidence. The rejection of the recordings takes place during the stage of assessment of the charges, which for most the cases is still ongoing.¹¹

Professionalism, competence and efficiency

Expanded investigation on the murder attempt against MP Sela, and detention imposed on 4 people

[-%d1%81%d0%b5-%d1%81%d0%be%d0%bc%d0%bd%d0%b8%d1%87%d0%b8-%d0%b4%d0%b5%d0%ba%d0%b0-%d0%bc%d0%b5%d1%81%d1%82%d0%b5%d0%bb-%d0%bf%d1%80%d0%b5%d0%b4/](#)

¹⁰ [http://www.sud.mk/wps/portal/oskopje1/sud/vesti/1274339b-7cba-4f90-9fb7-7233625db616!
ut/p/z1/rVlJbslwEP2aHC1PVjtHg0lOUUtpCG-oKzgjjiBGGj5-
ppTpVYFKjq3kd4yb_Qwx3PMZboXy1SJRqZrvSfcW3ih4wC9hwc6fe4BC4DQmc8AAoLjc4BwAJif579ginkuVatWOGI32Vrki_rNgG5XGNA2ealkasC-7JQwwLSIY9t-hkiecipfEB-IRFELNv2LLfIPNM76bW5KHByFTq-FPBOP_wyDDSfX4Ik2oJ8WUyGAwlsCkyX0SdrwvQP96I84Eg221q_fPrHBMMfDt9CjNwbHc7KT--8G-VHlZqiS2htx_3xUsumaoWErBo8v0pbU8XrZsOZLlkjVfmu8PxfWtbWUU3tDySPvUcU9jN6mFV1TLtP_c2-IQ!!/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fpublic_mk%2Fsud%2Fpocetna%2Fvesti%2F1274339b-7cba-4f90-9fb7-7233625db616](http://www.sud.mk/wps/portal/oskopje1/sud/vesti/1274339b-7cba-4f90-9fb7-7233625db616!/ut/p/z1/rVlJbslwEP2aHC1PVjtHg0lOUUtpCG-oKzgjjiBGGj5-ppTpVYFKjq3kd4yb_Qwx3PMZboXy1SJRqZrvSfcW3ih4wC9hwc6fe4BC4DQmc8AAoLjc4BwAJif579ginkuVatWOGI32Vrki_rNgG5XGNA2ealkasC-7JQwwLSIY9t-hkiecipfEB-IRFELNv2LLfIPNM76bW5KHByFTq-FPBOP_wyDDSfX4Ik2oJ8WUyGAwlsCkyX0SdrwvQP96I84Eg221q_fPrHBMMfDt9CjNwbHc7KT--8G-VHlZqiS2htx_3xUsumaoWErBo8v0pbU8XrZsOZLlkjVfmu8PxfWtbWUU3tDySPvUcU9jN6mFV1TLtP_c2-IQ!!/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fpublic_mk%2Fsud%2Fpocetna%2Fvesti%2F1274339b-7cba-4f90-9fb7-7233625db616)

¹¹ [http://www.sud.mk/wps/portal/oskopje1/sud/vesti/7cb42e7a-e159-42d2-88a9-
cfd4b7ffdbd6!/ut/p/z1/rVJdT8lwFP01e2x6mWPtHgsZQxSjwoT1hXRfUGXdYGVov97yZKJxw-
B9u8n5uOfmYI5XmCvRyl3QsIRiZ_alu2s3cBygd3BP508DYD4QuvAYgE_wsg0QjADzdv4z5pgnSld6i6PqGO9ksi5eLaiPqQVvMWRaCQuarNbSAPLEjp0RgJe300OndqIUuGhJE-dmOR5GqfuWa9KZlqji9DLroDn--
GXYWD4vAsSGQvYzTEbjwiw00_1GX20Z8z8sJHZCYeqPBTm5fM_Jhj_cPgWYtK_0qFVfn7rXik_6eqIKaF9mA6nGyMr9BZJlZd4dZG2ocqX_Z4zU7JS6exN49W_tKwqwoLevCP1MXhAwTCmp0VeLGN9CdFYrkl!/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fpublic_mk%2Fsud%2Fpocetna%2Fvesti%2F7cb42e7a-e159-42d2-88a9-cfd4b7ffdbd6](http://www.sud.mk/wps/portal/oskopje1/sud/vesti/7cb42e7a-e159-42d2-88a9-cfd4b7ffdbd6!/ut/p/z1/rVJdT8lwFP01e2x6mWPtHgsZQxSjwoT1hXRfUGXdYGVov97yZKJxw-B9u8n5uOfmYI5XmCvRyl3QsIRiZ_alu2s3cBygd3BP508DYD4QuvAYgE_wsg0QjADzdv4z5pgnSld6i6PqGO9ksi5eLaiPqQVvMWRaCQuarNbSAPLEjp0RgJe300OndqIUuGhJE-dmOR5GqfuWa9KZlqji9DLroDn--GXYWD4vAsSGQvYzTEbjwiw00_1GX20Z8z8sJHZCYeqPBTm5fM_Jhj_cPgWYtK_0qFVfn7rXik_6eqIKaF9mA6nGyMr9BZJlZd4dZG2ocqX_Z4zU7JS6exN49W_tKwqwoLevCP1MXhAwTCmp0VeLGN9CdFYrkl!/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fpublic_mk%2Fsud%2Fpocetna%2Fvesti%2F7cb42e7a-e159-42d2-88a9-cfd4b7ffdbd6)



PPPO Skopje announced that it had issued an order to expand the investigation into the attempted murder of MP Zijadin Sela to another 5 people suspected of committing the crime of being Accomplices in Attempted Murder in accordance with Art.123 and in relation to Art. 19 and Article 22 of the Criminal Code.¹²

At the request of the competent public prosecutor, five people were taken into custody during the search of their homes. The suspects were recognized with the help of the citizens after their photos had been published. The Public Prosecutor's Office of Skopje also informed that, upon the proposal of a competent public prosecutor, the judge in the preliminary proceedings imposed detention with a duration of 30 days for four of the suspects. In addition, detention for a period of 30 days was also imposed on the fifth person who had previously been deprived of liberty for the same crime and the for whom the enforcement of the court order had been postponed due to the poor health of the suspect.¹³

An Interim PPRM Committee has been established to act upon election irregularities

PPRM informed the public that in order to conduct the local elections from October 15, 2017, it established an interim Commission to monitor possible election irregularities related to crimes against the elections and voting according to chapter 16 of the Criminal Code, as well as other crimes that could be committed during the organization and conducting of the elections. Dzelalj Bajrami, a public prosecutor from PPRM, was appointed as its president.¹⁴ The Commission held a consultative meeting with representatives of civil society organizations that monitor the election process, where Bajrami addressed them and said that if they get any information about violations they should submit the information to the Commission.¹⁵

After the end of the first election day, the Commission informed that PPRM has taken action on six criminal-legal events (one in the PPO Bitola, two in the Public Prosecutor's Office in Kocani and three in the PPO Skopje), due to the established existence of reasonable suspicion that the criminal acts of Bribe during the Elections and Voting and Electoral Fraud had been committed. There are also preliminary investigative procedures for seven more criminal-legal events that the public prosecutors' offices received information about from the Ministry of Interior, the citizens or other competent institutions. These are events that occurred on the territory of the Public Prosecutors' Offices in Bitola, Ohrid, Struga, Skopje and Kochani and are related to the crimes Violation of the freedom of voting, Bribery in the elections and voting and Illegal disposal of budget funds during the elections. Bajrami added that many applications have also arrived on their e-mail address, the allegations in which were yet to be reviewed.¹⁶ After the completion of the election process with the end of the second round, the Commission is expected to come up with new information on the course of the proceedings and, possibly, new preliminary and investigative procedures.

¹² <http://jorm.gov.mk/?p=4348>

¹³ <http://jorm.gov.mk/?p=4368>

¹⁴ <http://jorm.gov.mk/?p=4300>

¹⁵ <http://jorm.gov.mk/?p=4321>

¹⁶ <http://jorm.gov.mk/?p=4336>



II FIGHT AGAINST CORRUPTION

Fugitives Grujevski and Boshkovski arrested at the Thessaloniki Airport

The Greek police confirmed that they arrested the former employees of SCD, Goran Grujevski and Nikola Boskoski¹⁷ at the airport in Thessaloniki with fake Bulgarian passports, who starting from July 18, 2017, when the Skopje Court of Appeals sentenced them to detention, were unavailable to the Macedonian police. Since then, the police issued an international arrest warrant against them for charges related to the illegal wiretapping or, more specifically, for the “Tvrdina-Target” case, which deals with the unlawful interception of communications through abuse of the systems in the Ministry of Interior and physical destruction of some of the equipment that the crime was committed with. Grujevski is the primary suspect charged in the “Fortress 2” case in which the Primary Court Skopje 1 recently sentenced him to 1 year and 6 months in prison for the work Forging Personal Documents and found him guilty of destroying evidence that could serve in the “Fortress-Target” Case.

The indictments for the cases “Total” and “Trust” accepted

The Primary Court Skopje 1 reported that a judge assessing the indictment issued a decision that approved the indictments submitted by the SPO for the cases “Total” and “Trust”, and consequently they are now ready cases that have been distributed to the judges for further trial through the ACMIS system.

In the “Total” case, journalist Dragan Pavlovic Latas is suspected that as an owner of the a marketing and consulting services companies “Total”, “Media Mak”, “Total Marketing” and “Media Center” in the period between 2008 and 2015, he evaded paying taxes in the amount of about 180 thousand EUR.

In the “Trust” Case the directors of the companies “Transmet”, “Sileks Nemetali” and “Vato” are charged with providing false information when participating in a tender for excavation of slag, , which resulted in acquiring illegal gain amounting to 17.235 million euros.¹⁸

¹⁷ <http://www.telma.mk/vesti/grujovski-i-boshkovski-uapseni-vo-solun>

¹⁸ http://www.sud.mk/wps/portal/oskopje1/sud/vesti/7cb42e7a-e159-42d2-88a9-cfd4b7ffdbd6/!ut/p/z1/rVJdT8lwFP01e2x6mWPtHgsZQxSJwoT1hXRfUGXdYGVov97yZKJxw-B9u8n5uOfmYI5XmCvRyI3QsIRiZ_alu2s3cBygd3BP508DYD4QuvAYgE_wsg0QjADzdv4z5pgnSld6i6PqGO9ksi5eLaiPqQVvmWRaCQuarNbSApLEjp0RgJe300OndqIUuGhJE-dmOR5GqfuWa9KZlqji9DLroDn--GXYWD4vAsSGQvyZTEbjwiw00_1GX20Z8z8sJHZCYeqPBTm5fM_Jhj_cPgWYtK_0qFVfn7rXik_6eqIKaF9mA6nGyMr9BZIJd4dZG2ocqX_Z4zU7JS6exN49W_tKwqwoLevCP1MXhAwTCmp0VeLGn9CdFYrkl!/dz/d5/L2dBISevZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fpublic_mk%2Fsud%2Fpocetna%2Fvesti%2F7cb42e7a-e159-42d2-88a9-cfd4b7ffdbd6



Activities of the State Commission for Prevention of Corruption (SCPC)

At the meeting held on October 16, 2017, SCPC President Igor Tanturovski and two other members of the Commission and representatives from the Macedonian Center for International Cooperation, Transparency International Macedonia (TIM) and the Institute for Democracy Societas Civilis discussed the project “Strengthening of the Platform of Civil Society Organizations Combating Corruption”, that 15 civil society organizations are members of, and the activities that would arise from their mutual cooperation, as well as the need for amendments to the Law on Prevention and Protection against Corruption, the Law on Prevention of Conflict of Interest and the Law on Lobbying. These laws need to be harmonized in a way that will enable efficient implementation of the anti-corruption reforms in the country. The attendees agreed that through joint cooperation and support, exchange of experiences, knowledge and expertise in monitoring and analyzing the ongoing public policies and activities aimed at combating corruption they will contribute to increasing the capacity of institutions and the citizens' awareness about the fight against corruption.¹⁹

Additionally, the SCPC representatives held a working meeting with Ms. Slagjana Taseva, President of TIM, at which they discussed the Law on Protection of Whistleblowers, identification of the weaknesses in the systemic solutions, as well as joint cooperation and activities aimed at increasing the public awareness of the citizens to act in accordance with this law, informing the public about the rights and obligations arising from it, as well as effective protection of whistleblowers.²⁰

Finally, the opinions submitted by the SCPC regarding the election and dismissal of judges were reviewed by the Judicial Council within its 264th meeting held on 4.10.2017.²¹

¹⁹

https://www.dksk.mk/index.php?id=34&tx_news_pi1%5Bnews%5D=345&tx_news_pi1%5Bcontroller%5D=News&tx_news_pi1%5Baction%5D=detail&cHash=54550184ee88f617f4f82e6e046649b0

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https://www.dksk.mk/index.php?id=34&tx_news_pi1%5Bnews%5D=344&tx_news_pi1%5Bcontroller%5D=News&tx_news_pi1%5Baction%5D=detail&cHash=2200c73c870d6abf1cc6caf06eb81674

²¹ http://sud.mk/wps/portal/ssrm/sud/vesti/2e4ff935-ac97-45d8-af8a-75bd45958143!/ut/p/z1/rVNNU9swFPwtHHyUJVuSjFVmoCFNmwsGusS6eGRHdlzwB7awob--CsNMJ4EmZahub2bfvn37VIDCFZS1GspCmbKp1Z2tYxkkwQUhiH9F3_jsXKAwInhydfndI4zAm13AhbfrCMAjGd-FGEoTzc_wNKKLPatGYD474ZtEmqWwf1D2sHtU2mTa0cNOjela7yNclzSIQmWCA0DUHKucKMJquCRWUewRv6dqsXMOYoyCjmARA-AxbNGcgFSwFQuGACIYoU3pf_mt9W_noLy9EL_0HAPKYffLYCLnL8drhGZRIWrljVrnI5R6m2OcbJT7hLPC2FwzrFPMCyk7nutOd-9DZw26MaftPDnLQOI5u0TTFnXazpnLQWY2bpjdwTtYuEsV2e_VG2nE6YVfbZoyG_8q-n1p2h1COM6qarbJau33kbS7A3Yc-iffWhJuzeXL5Bcbetqj75CBB8oxWhXYxwcyjKAAcewGw3uVAUJaB3POVoIQRX0Y--c4fACC_pBi47Qsw_Sz47F1yal_HI_L0P7h5va6Ecbkv_xiS2v383P5jaBrTibUNZ5A1f_1NpWUcXxUwlu87mhKS2q5Px0_QYcFiGfDr9MFkOnTGJ6c_AbCDcx3/dz/d5/L2dBISEvZ0FBIS9nQSEH/?uril=wcm%3Apath%3A%2Fsovet_mk%2Fsud%2Fpocetna%2Fvesti%2F2e4ff935-ac97-45d8-af8a-75bd45958143



Workshop on Analysis of discretionary powers of public office holders

In the period from 18 to 20 October 2017, the working group conducting the Analysis of the discretionary powers of the holders of public office held a workshop to review the self-assessment reports submitted by the authorities and institutions. The reports contained detailed questionnaires on the discretionary powers prescribed in the separate substantive laws, which form the basis for a general assessment of this issue within the system. The analysis should provide recommendations for their reduction, i.e. for consideration of possible solutions for reduction of the discretionary powers and proposals for amendments and supplements to the laws and bylaws.²²

The findings of the analyzes of the criminal cases “Otpad” (waste) and “Muzei na Makedonija” (museums of Macedonia) presented

TIM in cooperation with “Zelena Lupa” (green magnifying glass) held a press conference where they presented the findings of the analyzes of the criminal cases “Otpad” and “Museums of Macedonia” prepared by the experts within the project “All together on the Path to Justice” supported by the CIVICA Mobilias program. In the introductory part of the press conference, it was pointed out that the citizens approached this body in order to review the actions of the competent bodies and thus assess whether the laws had been complied with and whether the authorities had acted in accordance with the principles stipulated in the laws. In these analyzes, irregularities in the proceedings were established, mainly referring to the fact that the court did not provide sufficient evidence or there were no grounds to established the existence of the crime, as well as a series of other irregularities.²³

ONGOING COURT PROCEEDINGS

“Sopot” CASE (COC No. 53/10): At the hearing on October 18, 2017, the court instructed the six defendants in this process about their rights in the proceedings, and, when asked by the court, the defendants repeated the statements given in the preliminary proceedings. Prior to the start of the evidence procedure, the prosecutor's representative proposed new evidence, material and verbal, and asked the court the hearing of the witnesses to take place after the presentation of the material evidence relevant to the witnesses' testimonies. Regarding the newly proposed evidence, the defense requested time from the court in order to get acquainted with them, and then to give its opinion. The hearing was postponed for November 23, 2017.

“Levica” CASE (C. No. 986/16): With the change of the trial judge in this procedure, the hearing on the case started again. When presenting the content of the indictment, the public prosecutor who kept the same indictment, added a supplement to the evidence list and submitted to the court and the parties in the procedure a new expert finding and opinion. Having in mind that the parties need time to take the

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https://www.dksk.mk/index.php?id=34&tx_news_pi1%5Bnews%5D=346&tx_news_pi1%5Bcontroller%5D=News&tx_news_pi1%5Baction%5D=detail&cHash=034f30763359fe55a7e27bd8f5f9c033

²³ <http://transparency.org.mk/>



new evidence into consideration and have their statements on it afterwards, the hearing was postponed for 05.12.2017.

“Violence in the Assembly” CASE (C. no. 1330/17): On October 12, 2017, the verdict against the defendant P. Arsov, charged with the crime of Violence where the damaged parties were the then MPs Radmila Shekerinska and Zoran Zaev, one of whom sustained severe bodily injury and the other one bodily injury, was publicly announced and explained in the Primary Court Skopje 1. The defendant was sentenced to 4 years' imprisonment including the time spent in house arrest. Earlier, at the hearing of 06.10.2017, the defendant voluntarily and knowingly pleaded guilty and fully accepted the indictment. The closing statements were given by the public prosecutor who presented the aggravating and mitigating circumstances against the defendant and asked the court to properly punish the perpetrator of the crime. The plenipotentiary of the damaged parties joined in in the closing statement of the public prosecutor and asked the court to refer them to a lawsuit for the property-legal claim against the defendant. The defendant's attorney and the defendant gave their closing arguments in which they asked a more lenient sentence from the court, and the defendant apologized to the damaged party and the entire public for the crime he committed.

“Tvrdina 2” CASE (C. no 1905/16): On October 2, 2017, the proceedings for the “Tvrdina 2” Case continued in the Primary Court Skopje 1, in which the former Chief of the DSC (the Fifth Department in the Ministry of Interior) is tried in absentia for the destruction of 20,000 records related to the mass wiretapping. The primary defendant in this case is the former Chief of the Directorate for Security and Counterintelligence, along with six employees from the Directorate. The witnesses in the “Tvrdina 2” Case confirmed that a commission from the Fifth Department did destroy materials from DSC in a secret base called “Brest” in Skopje village of Petrovec. When it comes to the content of the destroyed materials, which were placed in black bags, the witnesses stated that they did not know what they were. The public has been excluded from the trial on several occasions because classified documents from the DSC were presented to the court. At the request of the Defense and the SPO to supplement the evidence, the trial was postponed for 06.11.2017.

“Bozhinovski” CASE (COC. No 79/16): The hearing on 16.10.2017 started with a delay of nearly one hour. Immediately before the start of the hearing, the defendant's attorney asked for a postponement because the evidence that they previously asked for (the verdicts from the “Shpion” Case) were submitted to them late, and since there was a lot of material they were unable to go through it. The hearing was postponed for 16.11 at 10.00 am.

POSTPONED HEARINGS: In the **“Pavle” Case (C. no .1526/16)**, the hearing from 10.10.2017 was postponed for 06.11.2017 at 11:00 am; in the **“Mariglen” Case (C. no. 1271/16)** the hearing from 10.10.2017 was postponed for 09.11.2017 at 12:30 owing to the need to obtain original evidence by the PPO, while in **“Divo Naselje” Case (COC. no. 127/15)** The Primary Court Skopje 1 announced that the hearings for announcing the verdicts were postponed for November 2, 2017 at the request of the Ministry of Interior – the Public Security Bureau.²⁴

²⁴ <http://sud.mk/wps/portal/oskopje1/sud/vesti>



III FUNDAMENTAL RIGHTS

Ombudsman

During the campaign for the local elections, the Ombudsman once again emphasized the importance to comply with the right to free expression of the citizens' will as one of the fundamental human rights in every democratic society. In that direction, he urged the competent authorities, each within its capacities and competences, to contribute to conducting elections where the voting will take place in a free and uninterrupted manner in accordance with the law, as well as to respect human rights consistently.²⁵

All seven offices of the Ombudsman were open to the citizens on the days of the two rounds of the elections in order to assist them in the realization and protection of their rights. Although the SEC informed that the voting of the sick, the frail and displaced persons, as well as the prisoners in the penitentiary correctional institutions, was conducted uninterrupted and no incidents were reported, the Office of the Ombudsman came to a conclusion that 400 prisoners were unable to fulfill their right to vote because they did not listed in the Voters List because of the fact that some of the prisoners did not have valid identification documents. Mr. Memeti noted that out of 1,810 convicted persons in the biggest prison of Idrizovo only half (955 prisoners) were registered in the Voters List, only 696 of whom came to vote in the first round of the local elections, whereby as many as 273 were sent back because they did not have valid identity cards, so only 423 prisoners exercised their right to vote. Otherwise, this situation was pointed out prior to the elections as well, and the prison administration was called to organize a mobile team from the Ministry of Interior to come to the prison and photograph the convicted persons with expired ID cards in one day, which was not met with great enthusiasm by the authorities.²⁶

The Ombudsman's office also reacted to the issuance of ID cards on the day before, as well as on the very day of the elections. They pointed out that this practice is absurd because the voter list was closed on 9 September and all the citizens who had expired documents at that point were already deleted from it.²⁷

Freedom of expression and media pluralism

The Agency for Audio and Audiovisual Media Services continued monitoring the media presentation of the elections in accordance with the provisions of the Electoral Code that are to be applied during the election campaign. The Agency's report states that program services at the state level generally provided equal conditions for access to all forms of election media presentation in the first round of local elections, and that many of them made efforts to organize and debates and duels among the participants in the elections. At the same time, it was observed that some of the candidates attended in the special

²⁵http://ombudsman.mk/mk/novosti_i_nastani/241429/soopshtenie_po_povod_prestojnite_lokalnite_izbori_2017.aspx

²⁶<https://sdk.mk/index.php/makedonija/273-zatvorenitsi-vrateni-od-glasane-oti-im-istekle-lichnite-karti/>

²⁷<http://telma.mk/vesti/apsurd-e-izdavanjeto-na-lichni-karti-deneska-i-utre>



informative programs in some media outlets, while they failed to respond to the invitations of other media.²⁸

On the basis of the conducted monitoring, the Agency initiated misdemeanor proceedings against Alfa TV (for not providing balanced coverage of the local elections in the first ten days of the election campaign), as well as against Company 21-M TV and Star TV (due to broadcasting paid political advertising in special information programs). During the election silence for the second round of voting in the local elections in 2017, one violation was established in the first channel of the Macedonian Radio (Radio Skopje). Apart from this, during the last two days of the monitoring of the election campaign in the second round of elections, a violation to the restrictions for paid political advertising by TV Nova was also noted. The Agency announced that it will submit requests to the competent court for initiating misdemeanor procedures.²⁹

Discrimination

Three broadcasters in the country started airing a campaign that contained discriminatory content and spread misogyny and sexism, violating the Law on Audio and Audiovisual Media Services. In the campaign, through gender-based discrimination, the emancipation of women was presented as a negative phenomenon, and successful women were subjected to ridicule and hatred by representing their emancipation and the professional success as a negative phenomenon.

During the pre-election campaign, there was also a case of hate speech that degraded and consequently encouraged hatred towards a marginalized group. Namely, at a rally, the candidate for mayor and former mayor of the municipality of Karposh, Stevco Jakimovski, used a number of offensive and degrading words in his speech in order to “attack” the opponent, by saying that he was a homosexual. In doing so, he called homosexuals “the most dangerous mob”, “the mob that wants to be installed in the municipality of Karposh”. Such a speech constituted the crime of “Inciting hatred, discord or intolerance on a national, racial, religious and other discriminatory ground” in accordance with Article 319 of the CC. This was preceded by extensive propaganda against people with a non-heterosexual sexual orientation observed in printed materials throughout the municipality with abusive and disturbing content towards the LGBTI community.³⁰

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<http://avmu.mk/%D1%80%D0%B0%D0%B4%D0%B8%D0%BE%D0%B4%D0%B8%D1%84%D1%83%D0%B7%D0%B5%D1%80%D0%B8%D1%82%D0%B5-%D0%BE%D0%B1%D0%B5%D0%B7%D0%B1%D0%B5%D0%B4%D0%B8%D1%98%D0%B0-%D0%B5%D0%B4%D0%BD%D0%B0%D0%BA%D0%B2%D0%B8/>

²⁹<http://avmu.mk/%D0%BA%D0%BE%D0%BD%D1%81%D1%82%D0%B0%D1%82%D0%B8%D1%80%D0%B0%D0%BD%D0%B8-%D0%B4%D0%B2%D0%B5-%D0%BD%D0%BE%D0%B2%D0%B8-%D0%BF%D1%80%D0%B5%D0%BA%D1%80%D1%88%D1%83%D0%B2%D0%B0%D1%9A%D0%B0-%D0%BD%D0%B0/>

³⁰ <http://mhc.org.mk/announcements/650?locale=mk#.WgTQZtCnHIU>



The Helsinki Committee for Human Rights and the Coalition SZVPM condemned the incident and brought criminal charges to the Primary Public Prosecutor's Office for a crime committed according to Article 319 of the Criminal Code, for which a prison sentence between one and five years is foreseen and called on the prosecution to conduct a quick and efficient procedure to establish the responsibility of the perpetrator, and the court to pronounce an adequate measure that would prevent further spreading of hate speech.

Право на приватност Right to privacy

Within the project "Network 23", the public policy study "Towards a civil panopticon - Better balance between privacy protection and the need for interception of communications" was promoted by the Women's Action association.³¹ This study provides an overview of the situation, starting with the massive violations of human rights and privacy violations, the protection of personal data and freedom of expression established with the airing of the political "bombs" in 2015 through which the illegal interception of telephone communications of the political and business elites, the media and civic activists was revealed.

The study proposes appropriate measures to prevent the abuse of the communications monitoring systems, such as: reconsidering the justification for allowing interception of communications for such a wide range of criminal offenses based on an assessment of whether the violation of privacy is proportional to the severity of the crime in question and the evidence expected to be collected by special investigative measures; disabling direct access to the content of communications by the services without first informing the operator and submitting a court order for monitoring; introducing another party in the procedure for approving the interception of communications that will represent the interests of the persons whose communications are proposed to be intercepted (for example, a panel of experts, a representative of the Directorate for Personal Data Protection or the Ombudsman); to legally split the jurisdiction and regulations for interception of communications in criminal investigations from those of a security and intelligence character; as well as to introduce a civil supervisory committee to monitor the interception of communications, which will be appointed by the Parliament and consist experts and representatives of the civil society. The Minister of Information Society and Administration Damjan Manchevski pledged to include the recommendations in the legal changes for interception of communications.³²

Closed institutions

The Committee on the Prevention of Torture (CPT) of the Council of Europe in a report published on October 12, 2017, the findings of stemmed from the visit of the Republic of Macedonia in December 2016, criticized the way in which prisoners are treated and the prison conditions in the Idrizovo Penitentiary Institution which accommodated 60 percent of the imprisoned people in the country. The report states

³¹ http://www.merc.org.mk/Files/Write/00001/Files/Network23/studies/Kon-gragjanski-panoptikon-ramnoteza-pomegiu-sledenje-na-komunikaciite-i-privatnosta_MK.pdf

³² <http://www.merc.org.mk/aktivnost/31/potrebna-e-ramnotezha-pomegiu-privatnosta-i-potrebata-za-sledenje-na-komunikaciite-istranzhuvanje>



that the prison conditions observed in Idrizovo can be considered inhumane, especially given the low level of health care provided to prisoners, which is inadequate and puts their lives at risk, but also noted the problem with the mistreatment of prisoners and the violence among them, as well as the lack of activities and the lack of prison staff and their insufficient training. The report also describes the high presence of corruption in the prison system in every aspect (accommodation in an appropriate cell or leave of absence, access to medications, mobile phone or drug abuse).

Since 2006 the CPT has repeatedly emphasized the fundamental structural problems, lack of management policy, inadequate reporting procedures and a monitoring system, and the inadequate staff management along with the inability of the prison staff to perform their duties. The findings of the report show little progress has been made in dealing with problems in the penitentiary system. The CPT concludes its report by stating that “ Time has come for the rule of law and protection of human rights to be applied fully in the prison system” and for “the Republic of Macedonia” to abide by its international obligations to cooperate with the CPT”.³³

Hate crime

During the campaign for local elections, as well as during the first and second round elections, the number of hate incidents increased again. In October, the Helsinki Committee registered eighteen hate crimes. Fourteen of them, that is, almost 80 percent of the total number of incidents registered in October were committed due to political affiliation or political belief.³⁴

The practice of damaging party headquarters continued, so ten of the incidents included the demolition of party headquarters of six political parties (four of VMRO-DPMNE, two of DUI, one of SDSM, one of United for Macedonia, one of GROM and one of BESA) . In addition, incidents involving physical violence were noted during the election campaign, and in one case of physical attack, the candidate for Mayor of the Municipality of Shuto Orizari was injured. On the night of October 15, a person threatened the candidate for Mayor of the Municipality of Karposh and the citizens gathered at the party headquarters with a knife, while in Sveti Nikole, a couple was physically attacked and injured immediately after the SDSM celebration in the city center.

³³ <http://www.libertas.mk/kpt-na-sovetot-na-evropa-konstatira-loshi-uslovi-vo-makedonskite-zatvori/>

³⁴ <http://www.zlostorstvaodomraza.mk/>