



## **Monthly brief on the monitoring of Chapter 23 – judiciary, fight against corruption and fundamental rights - November 2017 -**

### **I JUDICIARY**

#### **Judicial reforms**

At its 40<sup>th</sup> session held on 28.11.2017, the Government adopted the Reform Strategy for the Judicial Sector (2017-2022) along with the Action Plan, whereby they enter assembly procedure to be adopted<sup>1</sup> after the previously the Strategy was submitted for an opinion to the European Commission on three occasions. At this session, the Government also reviewed and adopted the Draft-Law on Pardons, whereby it charged the Ministry of Justice to review text of the proposal as a text adopted by means of regular procedure and envisage a provision in it which would specify that the said law refers to the crimes stated in it, committed by 20.09.2017. In addition, the Government emphasized the need to organize a public hearing and gave the Ministry the task of submitting a new, consolidated and harmonized text, once the period of consultations and open debates is over.<sup>2</sup>

At the meeting with the EU Commissioner for Enlargement and Neighborhood Policy, Johannes Hahn, the Minister of Justice Bilen Saljiyi referred to the activities undertaken regarding the dynamics of fulfilling the urgent reform priorities envisaged in the Government Plan “3-6-9”.<sup>3</sup>

Among other things, over the course of November, the draft-laws related to the judicial reform referring to the Judicial Council, the Ombudsman, the criminal procedure, the Public Prosecutor's Office, the Council of Public Prosecutors, as well the Law on the Public Prosecutor's Office were uploaded in the Single National Electronic Registry of Regulations (ENER).<sup>4</sup>

#### **Independence**

#### **The Constitutional Court revoked the Law on Determining the Type and Measuring the Amount of the Sentence**

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<sup>1</sup> [http://www.pravda.gov.mk/novost\\_detail.asp?lang=mak&id=1410](http://www.pravda.gov.mk/novost_detail.asp?lang=mak&id=1410)

<sup>2</sup> <http://vlada.mk/node/13793>

<sup>3</sup> [http://www.pravda.gov.mk/novost\\_detail.asp?lang=mak&id=1408](http://www.pravda.gov.mk/novost_detail.asp?lang=mak&id=1408)

<sup>4</sup> [https://ener.gov.mk/default.aspx?item=pub\\_regulation](https://ener.gov.mk/default.aspx?item=pub_regulation)



The Constitutional Court announced its decision to abolish the Law on determining the type and measuring the amount of the sentence, with the explanation that this law had seriously interfered with the independence of the judiciary and violated the principle of separation of powers. The law had led to interfering of the legislative with the judicial power which should be independent. In addition, the decision points out that the law was contrary to the legally envisaged free assessment of evidence and judicial conviction, which was formalized with this law, and no attention was paid to the individualization of the sentence. According to the constitutional judges, the provisions of this Law did not comply with the Constitution of the Republic of Macedonia and the rule of law, as indicated by the analysis<sup>5</sup> of the professors of criminal law, Buzharovska and Nanev, which is also referred to in the Court report<sup>6</sup>.

### **The Judicial Council elected the presidents of the Criminal Court, and presidents and judges in several courts**

The Judicial Council of the Republic of Macedonia informed that at its 266 session, they adopted the decision to elect Judge Ivan Djolev to be the President of the Primary Court Skopje 1, Skopje.<sup>7</sup> Djolev took the oath in front of the President and the members of the JCRM.<sup>8</sup>

At the next, 267<sup>th</sup> session, the Council adopted decisions for election of new presidents of the Court of Appeals in Shtip (Nake Georgiev), as well as the primary courts in Kumanovo (Snezhana

<sup>5</sup> Оваа анализа беше изготвена во рамките на проектот „Мрежа 23+“ и е достапна на линкот [http://www.merc.org.mk/Files/Write/00001/Files/Network23/studies/Analiza\\_Primena-na-ZOVOVK\\_SPPMD-Juni-2017.pdf](http://www.merc.org.mk/Files/Write/00001/Files/Network23/studies/Analiza_Primena-na-ZOVOVK_SPPMD-Juni-2017.pdf)

<sup>6</sup> <http://www.ustavensud.mk/domino/WEBSUD.nsf>

<sup>7</sup> [http://www.vsrn.mk/wps/portal/ssrm/sud/vesti/ac33d32d-06ae-427c-95d6-dbb2e31c0e4d!/ut/p/z1/rVNNU9swFPwtHHyU9W3LvRloSNMmwFCXWBePbMuOC\\_7AFjb011fpdKaTQJMyVlc3s2\\_fvn0rKOEaykaNValM1Tbq3tax9BLvgjEkPqMvYnEeoDBidHZ99RUzn8HbXcAFvhQWcBl5wXxGoohCebj\\_G5RQZo3pzAbGQztqk9R3Dhoecwd1baZNoxw06sFUDIIzPtkIOUCeOoARPwMBzz2QpynRFGdIs3xL12VVDmOac8YyTgDNmQeYjykQxA8Az3GqVZEpllp9-S\\_1beWjv7wQ\\_e4\\_AJDH7JPHRshdjpcOL6Cs0tqdstpFrsCUUyI8zggTvoe3FwybIloSyl4Xute9-9jbw26M6YYPDnLQNE1u2bbblvXaztnbQay2bdjBwvYuEsV3e\\_6Pscj7zrbKpMlfimtZMrTtjPScYNW1f2yzdvPE2ImBvwp5\\_M\\_zahNuzXZL1CcZ4WzRDcpAg-YVWpXYpoz7myAOCYitJ-IUNI01YgYkKOPMDxQmMyRt3OLzAir\\_Toip0\\_jvpF8fia5NSfX94kKH9w21j9JMNyf\\_4xJaX9MuzpU1gp8wGVE3RwvU\\_tXZ1VAV6XIG7Yml4ysss6OT9d8XEF4sX443QFZPo8hScnPwFVUIhO/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fsovet\\_mk%2Fsud%2Fpocetna%2Fvesti%2Ffac33d32d-06ae-427c-95d6-dbb2e31c0e4d](http://www.vsrn.mk/wps/portal/ssrm/sud/vesti/ac33d32d-06ae-427c-95d6-dbb2e31c0e4d!/ut/p/z1/rVNNU9swFPwtHHyU9W3LvRloSNMmwFCXWBePbMuOC_7AFjb011fpdKaTQJMyVlc3s2_fvn0rKOEaykaNValM1Tbq3tax9BLvgjEkPqMvYnEeoDBidHZ99RUzn8HbXcAFvhQWcBl5wXxGoohCebj_G5RQZo3pzAbGQztqk9R3Dhoecwd1baZNoxw06sFUDIIzPtkIOUCeOoARPwMBzz2QpynRFGdIs3xL12VVDmOac8YyTgDNmQeYjykQxA8Az3GqVZEpllp9-S_1beWjv7wQ_e4_AJDH7JPHRshdjpcOL6Cs0tqdstpFrsCUUyI8zggTvoe3FwybIloSyl4Xute9-9jbw26M6YYPDnLQNE1u2bbblvXaztnbQay2bdjBwvYuEsV3e_6Pscj7zrbKpMlfimtZMrTtjPScYNW1f2yzdvPE2ImBvwp5_M_zahNuzXZL1CcZ4WzRDcpAg-YVWpXYpoz7myAOCYitJ-IUNI01YgYkKOPMDxQmMyRt3OLzAir_Toip0_jvpF8fia5NSfX94kKH9w21j9JMNyf_4xJaX9MuzpU1gp8wGVE3RwvU_tXZ1VAV6XIG7Yml4ysss6OT9d8XEF4sX443QFZPo8hScnPwFVUIhO/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fsovet_mk%2Fsud%2Fpocetna%2Fvesti%2Ffac33d32d-06ae-427c-95d6-dbb2e31c0e4d)

<sup>8</sup> [http://www.vsrn.mk/wps/portal/ssrm/sud/vesti/857d19cc-9e44-42ba-965d-58baefaf75a5!/ut/p/z1/rVNNc5swFPwtOXAU-kBCojeS1HHd2kkmpTG6MAIEpgkFAQWS\\_vrKnc507KR2M6lub2bfvn37VIDCNZSNGqtSmapt1L2tY-kn\\_gWISHxGX8TiPEBhRL3Z9dVXTDmFt7uAC3wpLOAy8oP5jESRB-Xh\\_m9QQpk1pjMbGA\\_tqE1S3zloeMwd1LWZNo1y0KghUzIIMJ7jIMtAoCkFIKQKBD7LAROp0oUqOFNsS9dIVQ5jpEjOkUIA-7IFaxyAtEgZ8EVBVJ5iC2b78l\\_q28pHf3kh-t1\\_ACCP2SePjZC7HC8dXkzBpbU7ZbWLXIE95hHhM0qo4D7eXjBsUk-UUPa60L3u3cfeHnzjTDD8cJCDpmlly7Yt77WbtbWDXmvZtIOB610kjO3y\\_l-yy\\_mMW2UfMQvFNbmZW3fGSK8watq-tlm6eeNtLMHedD3\\_Zvi1Cbdny-TqE4zxtmiG5CBB8gutSu161OOYIR8ID\\_vAeleAgPEMFJiogFEeKEZgTN64w-EFVuydFh2h5--kXxyLr01K9f3hQYb2D7eN0U82JP\\_jE1te0i\\_PljaBnTibUDVFC9f\\_1NrVUS285wrcFUvDUlBWyfnpio0rEC\\_GH6crlNPnKT\\_w5-QkXFO2V/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fsovet\\_mk%2Fsud%2Fpocetna%2Fvesti%2F857d19cc-9e44-42ba-965d-58baefaf75a5](http://www.vsrn.mk/wps/portal/ssrm/sud/vesti/857d19cc-9e44-42ba-965d-58baefaf75a5!/ut/p/z1/rVNNc5swFPwtOXAU-kBCojeS1HHd2kkmpTG6MAIEpgkFAQWS_vrKnc507KR2M6lub2bfvn37VIDCNZSNGqtSmapt1L2tY-kn_gWISHxGX8TiPEBhRL3Z9dVXTDmFt7uAC3wpLOAy8oP5jESRB-Xh_m9QQpk1pjMbGA_tqE1S3zloeMwd1LWZNo1y0KghUzIIMJ7jIMtAoCkFIKQKBD7LAROp0oUqOFNsS9dIVQ5jpEjOkUIA-7IFaxyAtEgZ8EVBVJ5iC2b78l_q28pHf3kh-t1_ACCP2SePjZC7HC8dXkzBpbU7ZbWLXIE95hHhM0qo4D7eXjBsUk-UUPa60L3u3cfeHnzjTDD8cJCDpmlly7Yt77WbtbWDXmvZtIOB610kjO3y_l-yy_mMW2UfMQvFNbmZW3fGSK8watq-tlm6eeNtLMHedD3_Zvi1Cbdny-TqE4zxtmiG5CBB8gutSu161OOYIR8ID_vAeleAgPEMFJiogFEeKEZgTN64w-EFVuydFh2h5--kXxyLr01K9f3hQYb2D7eN0U82JP_jE1te0i_PljaBnTibUDVFC9f_1NrVUS285wrcFUvDUlBWyfnpio0rEC_GH6crlNPnKT_w5-QkXFO2V/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fsovet_mk%2Fsud%2Fpocetna%2Fvesti%2F857d19cc-9e44-42ba-965d-58baefaf75a5)



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Овој преглед го подготвуваат членките на Мрежа 23+, која дејствува во областите покриени со Поглавјето 23 од пристапувањето во Еу правосудството и темелните права.



Manev), Tetovo (Hasan Asani) and Resen (Emelj Kranli Ali), while the candidate for new president of the Primary Court Debar did not win the necessary majority of votes from the Council.<sup>9</sup>

Judge Afrim Fidani, who on November 25, 2017 was to rule whether the Internet recording from the cabinet of the then mayor of Strumica, Zoran Zaev, could be used as evidence in the “Bribe” Case, was elected a judge in the Supreme Court. The Skopje Court of Appeal confirmed to the media that Judge Fidani will not be ruling on the recording, and it is yet to be determined whether the public session on “Bribe” will be taken over by another judge or it will be postponed.

At the session, the members of the Council elected Judge Tanja Mileva to be a judge in the criminal area of the Skopje Supreme Court, while for civil cases they supported the candidacies of Zoran Gerasimovski and Alija Elezi. Aleksandar Kambovski is the new judge in the Court of Appeals Bitola, and additional calls will be opened for the positions that remained vacant for judges in the Skopje Court of Appeal and the Supreme Court. According to President Karadzovski, the vacant places are due to the fact that the candidates did not fulfill the necessary conditions.

Otherwise, as many as two dozen of the 56 judges in the Skopje Criminal Court applied for the four positions announced in Skopje, while the former acting president of this court, Tatjana Mihajlova, who is the judge in the proceedings against the former Prime Minister Gruevski for the case in the Municipality of Centar, had applied for the position of a judge in the Court of Appeals Bitola, as well as the position of president of the Resen Court, yet during the session she withdrew both candidacies.<sup>10</sup>

### **Impartiality and responsibility**

**The PPO is prosecuting 36 people, including 6 lawmakers, for “Terrorist threat to the constitutional order” in connection with the violence in the Parliament - the Criminal Court set precautionary measures for 19 of them**

At the end of the month, the PPORM informed the public that the Public Prosecutor's Office for Organized Crime and Corruption (PPOOCC) after investigating all the facts related the events that happened on April

<sup>9</sup> [http://www.vsrn.mk/wps/portal/ssrm/sud/vesti/f07f90a0-0886-4d59-b63e-32130239134c/!ut/p/z1/tVPLUuMwEPwaH2WNLNmS9-ZiN6TCI1BgEutC-SEnBiwZW9jLfv0qJ4rA8igWXVQqTffMdM9giddY6nxsNrltjM7v3DuT0XV0yBillzgWi58xJCMjs\\_OzS8I4w6vnAYdkKVzAMo3i-SxIU4rI2\\_grLLEste3sFmeDGZW9bm89GB4qDzpTKqtzD0Y12MaDGngdQw4IhIqQq8IYFRFViAaEQkBJQIm5o-vKpsKZqGtaKe6-w6BCTOQUFYoLxEmZU8ZooUq1X\\_7L-nblwz9OAg4v3wtZYnkUrT-VrQ--IDSkgYhCFjDBI7ITONEFFRsse1WrXvX-Q-9031rbDT888GCaJn9jzOZO-aVpPXgNsjWDxevnkThzvfGn3pbzGxe9\\_SJhIs6Di7krfmzUhfnt-tZZffJ6RzBXoY99Wwbkixnepi8Nv5eef5F-8d7oOx-D\\_uTgxPnY5XaLGI0bvp7QkDtoc3N\\_LxO3O0Zb9du5\\_z-Wp2vTVtBHP8cqXKFuM0XdbtQSF210oMfwHgmTZx/dz/d5/L2dBISevZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fsovet\\_mk%2Fsud%2Fpocetna%2Fvesti%2Ff07f90a0-0886-4d59-b63e-32130239134c](http://www.vsrn.mk/wps/portal/ssrm/sud/vesti/f07f90a0-0886-4d59-b63e-32130239134c/!ut/p/z1/tVPLUuMwEPwaH2WNLNmS9-ZiN6TCI1BgEutC-SEnBiwZW9jLfv0qJ4rA8igWXVQqTffMdM9giddY6nxsNrltjM7v3DuT0XV0yBillzgWi58xJCMjs_OzS8I4w6vnAYdkKVzAMo3i-SxIU4rI2_grLLEste3sFmeDGZW9bm89GB4qDzpTKqtzD0Y12MaDGngdQw4IhIqQq8IYFRFViAaEQkBJQIm5o-vKpsKZqGtaKe6-w6BCTOQUFYoLxEmZU8ZooUq1X_7L-nblwz9OAg4v3wtZYnkUrT-VrQ--IDSkgYhCFjDBI7ITONEFFRsse1WrXvX-Q-9031rbDT888GCaJn9jzOZO-aVpPXgNsjWDxevnkThzvfGn3pbzGxe9_SJhIs6Di7krfmzUhfnt-tZZffJ6RzBXoY99Wwbkixnepi8Nv5eef5F-8d7oOx-D_uTgxPnY5XaLGI0bvp7QkDtoc3N_LxO3O0Zb9du5_z-Wp2vTVtBHP8cqXKFuM0XdbtQSF210oMfwHgmTZx/dz/d5/L2dBISevZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fsovet_mk%2Fsud%2Fpocetna%2Fvesti%2Ff07f90a0-0886-4d59-b63e-32130239134c)

<sup>10</sup> <http://24vesti.com.mk/razreshuvanje-i-imenuvanje-sudii-i-pretседатели-na-sudovi>



27, 2017 in the Parliament of the Republic of Macedonia, had completed the preliminary procedure. After reviewing and analyzing the collected evidence, the PPOCC issued an order to conduct an investigation procedure against 36 people on grounds of reasonable suspicion of them committing a crime.<sup>11</sup> According to the media, the prosecution demanded the measure of detention for all 36 people.<sup>12</sup>

The Primary Court Skopje 1 announced that upon the proposal of the prosecution on 28.11.2017, 26 persons were taken before the judge of the preliminary proceedings, whereby the judge accepted the proposal of the prosecution and made a decision for the measure of 30 days detention to be imposed on M.Ch., O. P., I.D., M.P., O.R., G.A., V.T., D.L., I.C., B.I., J.CH., I.S., and V.M., while S.M., G.G., M.P., E.D.B., B.D. and V.J. , got the measure of house arrest.<sup>13</sup>

At the same time, it was reported that when it comes to the persons covered by the proposal who were serving their term as MPs at that moment, the judge in the preliminary procedure would proceed to decide upon the proposal of the prosecution after the decision on the request for revocation of their immunity has been made. In the meantime, the Committee on Rules of Procedure and Mandate - Immunity Issues held a session where it unanimously decided to revoke the MPs' mandates.<sup>14</sup>

### **The verdict for “Monster” revoked, the case goes back for retrial**

The Supreme Court said it had accepted the appeals of the defense in the case known to the public as “Monster”, and it abolished the second instance and first instance verdict, bringing the case back for retrial before the first-instance court.<sup>15</sup> The defendants in the case have been in custody since 2013.

<sup>11</sup> <http://jorm.gov.mk/?p=4416>

<sup>12</sup> <http://www.sudstvo.mk/2017/11/28/%D1%84%D0%BE%D1%82%D0%BE-%D0%BE%D0%B1%D0%B2%D0%B8%D0%BD%D0%B8%D1%82%D0%B5%D0%BB%D1%81%D1%82%D0%B2%D0%BE%D1%82%D0%BE-%D0%BF%D0%BE%D0%B1%D0%B0%D1%80%D0%B0%D0%BB%D0%BE-%D0%BF%D1%80%D0%B8%D1%82%D0%B2/>

<sup>13</sup> [http://www.vsrn.mk/wps/portal/oskopje1/sud/vesti/41532aca-6228-4fdc-aed8-e2b3b9828999!/ut/p/z1/rVJdT8lwFP01e2x66cbWPRYQxSJAo71hXRfUGXdyGUov97yZKJxYPC-3eR83HNzMMdLzJV05FpoWSqxNXvE3ZUboA7Qe3igs-cesAF4dO4zgiGHwzZAMATM2\\_kvmGOeKF3pDY6qQ7yVyap4s6A-pBZUZZJpJSxoslpLC5xO1yYiEcglhClnTxMkspSijMR27FNCfd8\\_61WJTHFOFTq8FPB8P\\_wyDAYfX4JExsL7spiOhh6wxaDTZfSJTJn5YSOzl16ocl-YI8\\_-mGD0w-FbiHH3RodW-dmde6P8-FJHTAnJftKfrl2sOBskVV7i5VXahipfdzvOTMIKpbN3jZf\\_OrKqWBTU\\_kDq1HtEQT-mx3lehLT-BBoe4P8!/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fpublic\\_mk%2Fsud%2Fpocetna%2Fvesti%2F41532aca-6228-4fdc-aed8-e2b3b9828999](http://www.vsrn.mk/wps/portal/oskopje1/sud/vesti/41532aca-6228-4fdc-aed8-e2b3b9828999!/ut/p/z1/rVJdT8lwFP01e2x66cbWPRYQxSJAo71hXRfUGXdyGUov97yZKJxYPC-3eR83HNzMMdLzJV05FpoWSqxNXvE3ZUboA7Qe3igs-cesAF4dO4zgiGHwzZAMATM2_kvmGOeKF3pDY6qQ7yVyap4s6A-pBZUZZJpJSxoslpLC5xO1yYiEcglhClnTxMkspSijMR27FNCfd8_61WJTHFOFTq8FPB8P_wyDAYfX4JExsL7spiOhh6wxaDTZfSJTJn5YSOzl16ocl-YI8_-mGD0w-FbiHH3RodW-dmde6P8-FJHTAnJftKfrl2sOBskVV7i5VXahipfdzvOTMIKpbN3jZf_OrKqWBTU_kDq1HtEQT-mx3lehLT-BBoe4P8!/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fpublic_mk%2Fsud%2Fpocetna%2Fvesti%2F41532aca-6228-4fdc-aed8-e2b3b9828999)

<sup>14</sup> <http://www.sobranie.mk/materialdetails.nsp?materialId=2f6ebb9c-af48-459f-8489-265b77153355>

<sup>15</sup> [http://www.sud.mk/wps/portal/vsrn/sud/vesti/25d81d88-3f1f-4c76-a275-a3d3a06f8a60!/ut/p/z1/rVJNT8JAEP01PW5maOI2PS4EiigSBYtuhSz9gFW6LbAU9de7PZloLBic2yTvY97kgYAFCC0rtZZGFVpu7R4JuqRhu43sDu\\_Z5KmdVlcBm95wxF4A8yZA2EcQzfxnECBibUqzgag8rrYqXuavDh6OiYNIeAdGSwer9GCUg66fSfBCGPGyVkbacUCJdAOfSC\\_xJNKMSYq1XhmrBKKL0PNzAev78ZfhNV-cg0TWlvivGA\\_6AfJZr-Vz9uiOuf1hpdITzHSxz-3LJ39MMPjh8C3EOL\\_SoVF-ckuvlB-e64gtobsfdUdrKyvNhiidFbC4SntS1ctuJ7gtWaFN-mZg8S8tK\\_NZrx3oj86DyTsrthpmuVzdvgegljVUG!!/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fpublic\\_mk%2Fsud%2Fpocetna%2Fvesti%2F25d81d88-3f1f-4c76-a275-a3d3a06f8a60](http://www.sud.mk/wps/portal/vsrn/sud/vesti/25d81d88-3f1f-4c76-a275-a3d3a06f8a60!/ut/p/z1/rVJNT8JAEP01PW5maOI2PS4EiigSBYtuhSz9gFW6LbAU9de7PZloLBic2yTvY97kgYAFCC0rtZZGFVpu7R4JuqRhu43sDu_Z5KmdVlcBm95wxF4A8yZA2EcQzfxnECBibUqzgag8rrYqXuavDh6OiYNIeAdGSwer9GCUg66fSfBCGPGyVkbacUCJdAOfSC_xJNKMSYq1XhmrBKKL0PNzAev78ZfhNV-cg0TWlvivGA_6AfJZr-Vz9uiOuf1hpdITzHSxz-3LJ39MMPjh8C3EOL_SoVF-ckuvlB-e64gtobsfdUdrKyvNhiidFbC4SntS1ctuJ7gtWaFN-mZg8S8tK_NZrx3oj86DyTsrthpmuVzdvgegljVUG!!/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fpublic_mk%2Fsud%2Fpocetna%2Fvesti%2F25d81d88-3f1f-4c76-a275-a3d3a06f8a60)



### **PPPO has filed an indictment for the attempted murder of MP Zijadin Sela**

PPO Skopje announced that it had filed indictments against ten people to the Primary Court Skopje 1 for committing the criminal act of Murder according to Article 123 paragraph 1 and Article 19 and Article 22 of the Criminal Code. According to the prosecution, all of the defendants jointly, along with other individuals whose identity has not yet been identified, tried to deprive the damaged Sela of his life, whereby some of them used hard objects that were thrown at the victim and inflicted life-threatening injuries on him, while others inflicted bodily injury -- blows and kicks to commit the crime they are being charged with.

The public prosecutor from the Public Prosecutor's Office in Skopje also filed a motion for extension of the detention measure for nine of the defendants, and for one of them a proposal for the extension of the house detention measure, as there are grounds for possible escape of the defendants, possibility that they might influence the witnesses and attempt to commit the crime they are charged with again.<sup>16</sup>

### **SPPO initiated proceedings to determine the responsibility of Judge Monika Bahchovanovska**

The Special Public Prosecutor's Office submitted a complaint to the Council Determining the Facts for determining the responsibility of Monika Bahchovanovska from the Primary Court Skopje 1, the trial judge in the "Tifani" Case, where the SPPO is prosecuting journalist Ivona Talevska for tax evasion. The complaint requires the Council to examine Bahchovanovska's work from the aspect of unprofessional and unethical conduct in performing the judicial function. According to the SPPO, Judge Bahchovanovska, while acting upon a complaint with a proposal for separation of the unlawfully obtained evidence from the case files in a case that the SPPO had filed an indictment for, on 11.09.2017 made a decision in which she referred to the decision of the Court of Appeal in Skopje delivered on 18.09.2017, which indicates that this decision was misdated, or another type of behavior was in question which involved abuse of the position and overstepping of the official authorizations, from the aspect that the judge was able to know the decision of the Court of Appeal<sup>17</sup> beforehand.

### **Judge Nanev: The ACMIS system in the Skopje Court of Appeals was functioning relatively well**

Judge Lazar Nanev, who is the chairman of the working group at the Ministry of Justice for checking the ACMIS system for distribution of cases in the courts, stated that the verification showed that the keeping of the registries in the Court of Appeal had been performed relatively well. Unlike the Criminal Court, in the Court of Appeal the judges act in groups of three and there is significantly less electronic data entry. Nanev said he expects the members of this working group to also inspect the Supreme Court in order to

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<sup>16</sup> <http://jorm.gov.mk/?p=4394>

<sup>17</sup> <http://www.jonsk.mk/?p=1305>



soon issue a final report on possible abuses of the ACMIS system in all the three courts that were subject of assessment.<sup>18</sup>

### **The Judicial Council allowed retrial of Mitrinovski after the verdict of the ECtHR**

After the European Court of Human Rights issued a judgment establishing a violation of Article 6 (the right to a fair trial) of the Convention in connection with the procedure for dismissal of Judge Jordan Mitrinovski, who at the time was the President of the Skopje Court of Appeal, the council allowed the proceedings against Mitrinovski to be restarted. In his dismissal, the Council found that Mitrinovski had acted unlawfully when he made the decision that Bajrush Sejdiu be released under house arrest with a large financial guarantee.

Over the course of 2017, the Commission scheduled hearings for 27.02.2017, 24.04.2017 and 11.05.2017, which were adjourned at the request of Mitrinovski and his defenders. The Judicial Council established a commission for the implementation of the repeated proceedings, which scheduled a hearing on 22 November 2017, held in the presence of the applicant for determining the unprofessional and unethical performance of the office, and in the absence of Mr. Mitrinovski, who had been duly summoned.<sup>19</sup>

### **Professionalism, competence and efficiency**

#### **Monitoring matrix measuring the performances in the judiciary launched**

On 06.11.2017, the matrix for measuring the performance in the judiciary was launched, developed in collaboration between the Ministry of Justice, the British Embassy and the Center for Legal Research and Analysis (CPIA). This tool was prepared on the basis of a comparative analyzes of the mechanisms for measuring judicial reforms in European countries and international standards according to the CEPEJ and the EU Justice Scoreboard. Minister Saljii emphasized the significance of the Matrix for evaluating the fulfillment of the goals envisaged in the Reform Strategy and the Action Plan in terms of strategic planning and policy making, whereby for the first time in the judiciary in the Republic of Macedonia systematic

<sup>18</sup> <http://a1on.mk/archives/818899>

<sup>19</sup> [http://www.vsrn.mk/wps/portal/ssrn/sud/vesti/e3197fd0-81b7-472b-8e1d-42e27de74738/lut/p/z1/rVNNU9swFPwtHHyU9WIL7s1AQ5o2AYa6xLp4ZFt2XPAHtrBLf32VDjOdBJqUobq9mX379u1bQQnXUDZqrEplqrZR97aOpZ\\_4F4wh8RI9EYvzAIURo7Prq6-YcQZvdwEX-FJYwGXkB\\_MZiSIK5eH-b1BCmTWmMxsYD-2oTVLfOWh4zB3UtZk2jXLQqAdTOUhTHPAiR0DglAPGSQqExiljRBOea844FVu6LqtyGBeiyEiufJBqJQLkAABURnAPmcsxVThIN-X\\_1Lfvj76yvwRc\\_8BgDxmnzw2Qu5yvHR4AWWV1u6U1S5yBaYeJcL3GGGC-3h7wbBJqSih7HWhe927j7097MaYbvjglAdN0-SWbVveazdrawe91rJpBwPXu0gY2-X5H2WX8xm3yj5iLxTX5GZu3RkrPcGoafvaZunmjbexBHsT9vyb4dcm3J4tk6tPMMbbohmsGwTJb7QqtUsZ5dhDPhAU-8B6V4DA4xkoMFGbx3igPPJM-oYdDi-w8t5p0RF6\\_k76xbH42qRU3x8eZGj\\_cNsY\\_cOG5H98YstL-uXZ0iawU2YDqqZo4fqfWrs6gqV9qsBdsTRe6pV1cn668sYViBfjz9MVkOnTFJ6c\\_AKKiU6j/dz/d5/L2dBISevZ0FBIS9nQS\\_Eh/?urilc=wcm%3Apath%3A%2Fsovet\\_mk%2Fsud%2Fpocetna%2Fvesti%2Fe3197fd0-81b7-472b-8e1d-42e27de74738](http://www.vsrn.mk/wps/portal/ssrn/sud/vesti/e3197fd0-81b7-472b-8e1d-42e27de74738/lut/p/z1/rVNNU9swFPwtHHyU9WIL7s1AQ5o2AYa6xLp4ZFt2XPAHtrBLf32VDjOdBJqUobq9mX379u1bQQnXUDZqrEplqrZR97aOpZ_4F4wh8RI9EYvzAIURo7Prq6-YcQZvdwEX-FJYwGXkB_MZiSIK5eH-b1BCmTWmMxsYD-2oTVLfOWh4zB3UtZk2jXLQqAdTOUhTHPAiR0DglAPGSQqExiljRBOea844FVu6LqtyGBeiyEiufJBqJQLkAABURnAPmcsxVThIN-X_1Lfvj76yvwRc_8BgDxmnzw2Qu5yvHR4AWWV1u6U1S5yBaYeJcL3GGGC-3h7wbBJqSih7HWhe927j7097MaYbvjglAdN0-SWbVveazdrawe91rJpBwPXu0gY2-X5H2WX8xm3yj5iLxTX5GZu3RkrPcGoafvaZunmjbexBHsT9vyb4dcm3J4tk6tPMMbbohmsGwTJb7QqtUsZ5dhDPhAU-8B6V4DA4xkoMFGbx3igPPJM-oYdDi-w8t5p0RF6_k76xbH42qRU3x8eZGj_cNsY_cOG5H98YstL-uXZ0iawU2YDqqZo4fqfWrs6gqV9qsBdsTRe6pV1cn668sYViBfjz9MVkOnTFJ6c_AKKiU6j/dz/d5/L2dBISevZ0FBIS9nQS_Eh/?urilc=wcm%3Apath%3A%2Fsovet_mk%2Fsud%2Fpocetna%2Fvesti%2Fe3197fd0-81b7-472b-8e1d-42e27de74738)



assessment of reforms based on measurable and clear criteria will be enabled.<sup>20</sup> On November 13, 2017, a meeting was held of the members of the Judicial Council with representatives of CPIA, where they discussed the manner in which the pilot survey will be conducted in several courts in the Republic of Macedonia, based on the aforementioned matrix, consisting of five areas of work: efficiency, transparency and accountability, quality of judicial justice, independence and impartiality, professional development and equitable representation<sup>21</sup>.

### **Workshop and regional conference through the mediation of AJP**

Within the project “Strengthening the judicial expertise on freedom of expression and media in the South East Europe (JUFREX)” on 2 and 3.11. 2017 in Budva, Montenegro, a regional conference on the topic of “Freedom of Expression and the Internet” was held, attended by judges, public prosecutors, lawyers and project representatives from 6 countries (Republic of Macedonia, Serbia, Bosnia and Herzegovina, Montenegro, Kosovo and Albania).<sup>22</sup>

On 23 and 24 November 2017, the Academy for Judges and Public Prosecutors “Pavel Shatev” organized a meeting of representatives of the four Courts of Appeals and the Judicial Council, within the frames of the project “Strengthening the capacities of the judiciary for protection of human rights and fight against inhuman and degrading treatment and against impunity” financed by the EU and implemented by the Council of Europe, where the need to harmonize the case law was discussed, with an emphasis on the contentious issues in the criminal and civil areas.<sup>23</sup>

## **II FIGHT AGAINST CORRUPTION**

### **The documentation for extradition of Grujevski and Boshkovski completed and submitted**

The Primary Court Skopje 1 informed the public that it had acted upon the request of the Ministry of Justice of the Republic of Macedonia related to the extradition procedure of Grujevski and Boskovski,

<sup>20</sup> [http://www.pravda.gov.mk/novost\\_detail.asp?lang=mak&id=1405](http://www.pravda.gov.mk/novost_detail.asp?lang=mak&id=1405)

<sup>21</sup> [http://www.vsrn.mk/wps/portal/ssrm/sud/vesti/fcdde36a-1b15-48fb-b260-73a222069584!/ut/p/z1/rVNNU9swFPwtHHyU9W3LvRloSNMmwFCXWBePbMuOC\\_7AFnbpr6\\_SYaaTQJMyVLC3s2\\_fvn0rKOEaykaNValM1Tbq3tax9BLvgjEkPqMvYnEoDBidHZ99RUzn8HbXcAFvhQWcBI5wXxGoohCebj\\_G5RQZo3pzAbGQztqk9R3Dhoecwd1baZNoxw06sFUDiqyPNfUUwCnmAMmihSkxEPAp4oQgryAC7aI67IqhzHKOeJexgDRSABGVAYU\\_TTUI8olQnQvFGd2X\\_1LfVj76ywwRc\\_8BgDxmznw2Qu5yvHR4AWWV1u6U1S5yBaacEuFxrPjwPby9YNikVJRQ9rrQveZdx94edmNMN3xwkiOmaXLLti3vtZu1tYNea9m0g4HrXSSM7fL-H2WX85lvIX3EPBTX5GZu3RkrPcGoafvaZunmjbexBHsT9vyb4dcm3J4tk6tPMMbbohmSgwTJb7QqtUsZ9TFHHhAUezZcfgEC7megwEQFnPmB4uSZ9A07HF5gxd9p0RF6\\_530i2PxtUmpvj88yND-4bYx-ocNyf\\_4xJaX9MuzpU1gp8wGVE3RwvU\\_tXZ1VAv6VIG7Yml4yss6OT9d8XEF4sX483QFZPo0hScnvwAWRw38/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fsovet\\_mk%2Fsud%2Fpocetna%2Fvesti%2Ffcdde36a-1b15-48fb-b260-73a222069584](http://www.vsrn.mk/wps/portal/ssrm/sud/vesti/fcdde36a-1b15-48fb-b260-73a222069584!/ut/p/z1/rVNNU9swFPwtHHyU9W3LvRloSNMmwFCXWBePbMuOC_7AFnbpr6_SYaaTQJMyVLC3s2_fvn0rKOEaykaNValM1Tbq3tax9BLvgjEkPqMvYnEoDBidHZ99RUzn8HbXcAFvhQWcBI5wXxGoohCebj_G5RQZo3pzAbGQztqk9R3Dhoecwd1baZNoxw06sFUDiqyPNfUUwCnmAMmihSkxEPAp4oQgryAC7aI67IqhzHKOeJexgDRSABGVAYU_TTUI8olQnQvFGd2X_1LfVj76ywwRc_8BgDxmznw2Qu5yvHR4AWWV1u6U1S5yBaacEuFxrPjwPby9YNikVJRQ9rrQveZdx94edmNMN3xwkiOmaXLLti3vtZu1tYNea9m0g4HrXSSM7fL-H2WX85lvIX3EPBTX5GZu3RkrPcGoafvaZunmjbexBHsT9vyb4dcm3J4tk6tPMMbbohmSgwTJb7QqtUsZ9TFHHhAUezZcfgEC7megwEQFnPmB4uSZ9A07HF5gxd9p0RF6_530i2PxtUmpvj88yND-4bYx-ocNyf_4xJaX9MuzpU1gp8wGVE3RwvU_tXZ1VAv6VIG7Yml4yss6OT9d8XEF4sX483QFZPo0hScnvwAWRw38/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fsovet_mk%2Fsud%2Fpocetna%2Fvesti%2Ffcdde36a-1b15-48fb-b260-73a222069584)

<sup>22</sup> <http://www.jpacademy.gov.mk/novosti/-----2-3--2017----->

<sup>23</sup> <http://www.jpacademy.gov.mk/novosti/----oe-a-o-->



whereby the criminal council of the Department of Organized Crime and Corruption completed the necessary documentation and submitted it to the Ministry of Justice of the Republic of Macedonia for further action.<sup>24</sup> Grujevski and Boskovski, that the Ministry of Interior was searching for after SPPO's warrant was approved by the judge of the preliminary procedure, are in extradition detention in Thessaloniki, Republic of Greece.

### **Investigation ordered against nine people for misuse of official position and authorization**

PPO Skopje issued an order for conducting an investigation procedure against nine persons for committing the criminal acts of unscrupulous operations in the service from Article 353 p 3 and 1 and Art. 353 c p. 2 from the Criminal Code, as well as for committing the crime of Misuse of official position and authorization from Art. 353 paragraph 3 of the Criminal Code, Art.353. p 2 of the Criminal Code, Art.353. p 2 and Article 23 of the Criminal Code, Art.353. para 3 and para 1 with Art. 23 from the Criminal Code. The persons are suspected that in 2014 they acted unlawfully when acting in procedures upon submitted requests to establish the legal status of illegal objects, thus causing damage in the amount of 4,100,090 MKD. The public prosecutor in charge of the case submitted a proposal to determine security measures for six of the suspects to the judge in the preliminary proceedings (prohibition to leave the place of residence, obligation to appear in court and seizure of a travel document).<sup>25</sup>

### **Public debate on the draft amendments to the Law on Protection of Whistleblowers**

On 21.11.2017, the Ministry of Justice held a public hearing where the envisaged amendments to the Law on Protection of Whistleblowers were presented. According to the members of the working group, their goal is to harmonize it with the international recommendations in the area, as well as to overcome the ambiguity and ensure internal compliance of the legal provisions that regulate the channels for protected reporting and protection of the whistleblowers.<sup>26</sup> The consultants and experts involved in the study "Towards a Civic Panopticon - Improved Balance between Privacy Protection and the Need for Interception of Communications", which was developed within the project "Network 23+", were consulted in the process of changes.<sup>27</sup>

### **Workshop on "Prevention of corruption, conflict of interests and protection of whistleblowers"**

<sup>24</sup> [http://www.sud.mk/wps/portal/oskopje1/sud/vesti/f9c20a3f-ff89-4eba-86c8-b2dc51f5d86d/!ut/p/z1/rVJdT8lwFP0tPuyx6WXsozwWMOAUiSLC-kK6boUK6waUKf56S2JionHDYN-anl97zz2Y4TlmmldqyY0qNN\\_Yf8yCRdD3PCC3cEcmj12gEYTkqUMBohDP6gD9HmBWz3\\_GDDOhTWIWOC4PyUaJRb5\\_2YH9IHSgIkRnNHaiyvVEQyI5wgbclkpJ0kJclHJFAEJS4qfBb0k9Jk70SgFSHJ-FnjUteJoffnkUPvk1ANaUH2uyYHUap4hjO0P4BRgPeiHQadTyKXlwx9SaVCp7xVNd7HJ708kflxr8cPi2xtC\\_0KFWfnITXCg\\_bDqCbbl62W4ZtVUstMneDJ7\\_SxetsLsbXY-Wdl5uVkhPWeD5WdQyn-akfVRoLUdR24uH1Xv3HrHk-EqvPgBhy1Xk/dz/d5/L2dBISEvZ0FBIS9nQSEh/?uril=wcm%3Apath%3A%2Fpublic\\_mk%2Fsud%2Fpocetna%2Fvesti%2Ff9c20a3f-ff89-4eba-86c8-b2dc51f5d86d](http://www.sud.mk/wps/portal/oskopje1/sud/vesti/f9c20a3f-ff89-4eba-86c8-b2dc51f5d86d/!ut/p/z1/rVJdT8lwFP0tPuyx6WXsozwWMOAUiSLC-kK6boUK6waUKf56S2JionHDYN-anl97zz2Y4TlmmldqyY0qNN_Yf8yCRdD3PCC3cEcmj12gEYTkqUMBohDP6gD9HmBWz3_GDDOhTWIWOC4PyUaJRb5_2YH9IHSgIkRnNHaiyvVEQyI5wgbclkpJ0kJclHJFAEJS4qfBb0k9Jk70SgFSHJ-FnjUteJoffnkUPvk1ANaUH2uyYHUap4hjO0P4BRgPeiHQadTyKXlwx9SaVCp7xVNd7HJ708kflxr8cPi2xtC_0KFWfnITXCg_bDqCbbl62W4ZtVUstMneDJ7_SxetsLsbXY-Wdl5uVkhPWeD5WdQyn-akfVRoLUdR24uH1Xv3HrHk-EqvPgBhy1Xk/dz/d5/L2dBISEvZ0FBIS9nQSEh/?uril=wcm%3Apath%3A%2Fpublic_mk%2Fsud%2Fpocetna%2Fvesti%2Ff9c20a3f-ff89-4eba-86c8-b2dc51f5d86d)

<sup>25</sup> <http://jorm.gov.mk/?p=4389>

<sup>26</sup> [http://www.pravda.gov.mk/novost\\_detail.asp?lang=mak&id=1409](http://www.pravda.gov.mk/novost_detail.asp?lang=mak&id=1409)

<sup>27</sup> [http://www.merc.org.mk/Files/Write/00001/Files/Network23/studies/Kon-gragjanski-panoptikon-ramnoteza-pomegiu-sledenje-na-komunikaciite-i-privatnosta\\_MK.pdf](http://www.merc.org.mk/Files/Write/00001/Files/Network23/studies/Kon-gragjanski-panoptikon-ramnoteza-pomegiu-sledenje-na-komunikaciite-i-privatnosta_MK.pdf)



The workshop, which took place on 13 and 14 November 2017 in Skopje, organized by SCPC, in cooperation with the TAIEX Instrument of the European Commission, and in partnership with the Anti-Corruption Agency of the Republic of Italy, was a follow-up to the July conference at the Trieste summit as part of The Berlin process to combat corruption and take preventive measures against this phenomenon. The President of the SCPC, Dr. Tanturovski, said that there were no shortcomings in dealing with corruption from the aspect of prevention. Luca Trifone from the Anti-Corruption Agency of the Republic of Italy stressed the importance of the collaboration between Italy and the EU countries with the countries from the Western Balkans, both in terms of sharing experiences in the fight against corruption, as well as in the mutual understanding of the expectations and needs in relation to the work in this area, while the conclusions of this conference will be an integral part of the Berlin process.<sup>28</sup>

### **Meeting with the SCPC and the Bureau for International Narcotics Control and Law Enforcement**

In late November, the State Commission for Prevention of Corruption held a working meeting with representatives of the Legal Office of the Bureau for International Narcotics and Law Enforcement at the US Embassy, attended by the President of the SCPC, Dr. Igor Tanturovski and several of its members, as well as the representatives of the Office of the Bureau, who got acquainted with the work and competences of the Commission, the activities in the field of prevention of corruption, conflict of interests, protection of whistleblowers, the activities taken in the election period, as well as the ongoing projects and activities of the Commission. They also discussed the challenges and priorities in the area of the rule of law, as well as the possibility of support within the framework of the reform of the criminal justice system in the Republic of Macedonia.<sup>29</sup>

### **Discussion of the civic organizations on the struggle against corruption**

The Delegation of the European Commission organized a discussion of the civil society in the Republic of Macedonia, where three key topics were addressed: the rule of law and the fight against corruption, the challenges of civil society organizations and the freedom of the media. Over the course of the discussion it was pointed out that the activities of the civil society organizations in the fight against corruption are crucial for the development of democracy in the country, as well as the fact that the civil society organizations are currently active in the process of policy making, which shows the government's openness to cooperation, as well as that the capacity of the civil society organizations should seriously be taken into account this process, as a lot of new documents and strategies are being adopted in different areas over a very short period of time.<sup>30</sup>

<sup>28</sup> [http://www.transparency.mk/index.php?option=com\\_content&task=view&id=1238&Itemid=57](http://www.transparency.mk/index.php?option=com_content&task=view&id=1238&Itemid=57)

<sup>29</sup> [https://www.dksk.mk/index.php?id=19&tx\\_news\\_pi1%5Bnews%5D=519&tx\\_news\\_pi1%5Bcontroller%5D=News&tx\\_news\\_pi1%5Baction%5D=detail&cHash=d73e66ae7aa38679030e9bddde3855085](https://www.dksk.mk/index.php?id=19&tx_news_pi1%5Bnews%5D=519&tx_news_pi1%5Bcontroller%5D=News&tx_news_pi1%5Baction%5D=detail&cHash=d73e66ae7aa38679030e9bddde3855085)

<sup>30</sup> [http://www.transparency.mk/index.php?option=com\\_content&task=view&id=1239&Itemid=57](http://www.transparency.mk/index.php?option=com_content&task=view&id=1239&Itemid=57)



## ONGOING COURT PROCEEDINGS

**CASE: “Trista” (COC 40/17):** The hearing on this case of SPPO for November 15, 2017 was postponed due to the absence of the defendant, while the trial scheduled for November 27, 2017 was postponed for December 1, 2017, due to the severely deteriorated health of the accused, who appeared at the trial and submitted a medical certificate as evidence that he was taking painkillers and anti-depressants. It was announced that at the next hearing a neuropsychiatrist and a neurologist would be called upon to give an opinion on the health of the defendant.

**CASE: “Trust” (C.no. 1459/17):**

The trial in this case of the SPPO from November 7, 2017 was postponed immediately after its commencement due to the failure to submit the list of evidence to the defense. At the session of the main hearing from November 14, 2017, the president of the council adopted a decision rejecting the request of the defense for their hearing to be postponed as they did not have access to the evidence, with the explanation that the presentation of evidence will follow after the introductory speeches of the parties in the proceedings where they will have the opportunity to challenge the evidence in a contradictory procedure in accordance with the LCP. Then they started with the introductory speeches, starting with SPPO, followed by the attorneys of the three defendants and the three accused legal entities. They were also given information about their rights in the proceedings and on pleading guilty. In order to prepare an effective defense and get acquainted with the evidence, the hearing for the evidentiary proceedings was adjourned for 21.11.2017, when, before the start of the hearing, the defense once again appealed to the court regarding the evidence submitted by the PMO that was not legible or it was unclear what they were referring to, some of it was missing, and some were presented in a foreign language. Although witnesses summoned at the hearing were also proposed by the defense, the court decided with a formal decision to examine them as witnesses to the SPPO.

Before the start of the fourth hearing (23.11.2017), the defense once again reacted and appealed to the court to allow the witnesses proposed by SPPO to be directly examined by the defense too, because during the cross-examination they could only pose questions about the facts and circumstances that were presented before the direct examination. After this, the court reached a solution to allow the defense to ask questions related to the direct examination during the cross examination. With this action, the court made a line of procedural mistakes.<sup>31</sup> At the fifth hearing (30.10.2017) a witness of SPPO was examined, who was examined directly, then went to cross and additional examination. Due to all the procedural mistakes, the examination of the witness became a very chaotic process, where questions outside the legally prescribed rules and possibilities were posed.

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<sup>31</sup> За повеќе детали во оваа насока, види го правното мислење објавено од страна на Коалицијата „Сите за правично судење“ кое е достапно на линкот <http://all4fairtrials.org.mk/wp-content/uploads/2017/11/%D0%9D%D0%95%D0%B5%D0%B4%D0%BD%D0%B0%D0%BA%D0%B2%D0%BE%D1%81%D1%82-%D0%BD%D0%B0-%D0%BE%D1%80%D1%83%D0%B6%D1%98%D0%B0%D1%82%D0%B0.pdf>



**CASE: “Transporter” (COC. no. 30/17):** The discussion from the 06.11.2017 was postponed due to the absence of one of the defendants in this process, that the defendant had submitted medical documentation for. The next hearing was scheduled for 13.12.2017. Due to the large number of defendants in this case and the possibility for its postponement, the Special Public Prosecutor required from the court to schedule the upcoming hearings so that the case would not be postponed due to the business of the other parties in the proceedings, and in accordance with the principles of criminal proceedings. The court set the followings dates for the hearings from this case: 23.01.2018, 25.01.2018, 29.01.2018 and 31.01.2018.

**CASE: “Divo Naselje (COC.no. 127/15):** At the hearing from 02.11.2017, the court publicly and verbally explained the judgment on the “Divo Naselje” case. The defendants in this process were charged with committing crimes in accordance with Article 394 a, paragraph 2 and 294 b, paragraph 1 of the CC. Thirty three defendants were found guilty, while four of them were acquitted as the prosecution in this proceedings did not manage to prove the charges against them. Seven defendants were sentenced to life imprisonment, thirteen defendants were sentenced to imprisonment with a duration of 40 years, six defendants were sentenced to 20 years in prison, one of the defendants to 18 years in prison, two defendants to imprisonment of 14 years, two defendants to imprisonment of 13 years and two of the defendants to imprisonment of 12 years. Apart from this, in accordance with Article 33 from CC, the court sentenced all the foreign citizens to permanent expulsion from the territory of the Republic of Macedonia. The proxy of the damaged party was advised to proceed with the property claim in a civil suit.

**CASE: Separate proceedings on “Divo Naselje” (COC. No. 95/16):** At the hearing for the announcement of the judgment scheduled on 03.11.2017, the defendant was found guilty, and the court sentenced him to 10 years of imprisonment for the crime from Article 394-a and a life imprisonment for the crime from Article 394-b. According to the Criminal Code, the court pronounced a single sentence for life imprisonment. The announcement of the judgment did not contain any reference to the crime and the evidence, nor to the reasons why the court had rules in that way. The court only read the announcement of the judgment, and the evidence that it was based on was only briefly mentioned/enumerated. It was also announced that the judgment would be drafted within the legal deadline of 2 months, which would enable the public to become acquainted with the essence of the evidence that it did not have insight into and thus end to the ongoing speculations.

**CASE: “BRIBE” (COC.no. 62/16):**

The hearing began half an hour earlier than the set time without any prior notification, thus preventing the public from attending. The time and place of the trial was not even announced in front of the courtroom where it was to be held. The hearing was adjourned because the case is in the Court of Appeal, where it is being decided upon an appeal to the decision for separation of the evidence, and then it will continue on December 25, 2017.

**CASE: “Bozhinovski” (COC.no. 79/16):** Another PP was present at the hearing, due to the absence of the prosecutor who led the case, and who had previously informed the defendant and his counsel about the



absence, and agreed to postpone the hearing. Although it remained unclear who formally requested the postponement (the defense or PPO), the court ruled to postpone the hearing for 12.12.2017

**CASE: “Sopot” (COC.no 53/10):** The session of the main hearing scheduled for 23/11/17 was postponed for December 20, 2017, because the witness who was supposed to be examined did not have a valid identification document, and consequently his identity could not be determined.

**CASE: “Tvrđina 2” (C.no. 1905/16):** Prior to the start of the hearing on November 2, 2017, the attorney of the defendants proposed to postpone the hearing for an indefinite period of time in order for the defendant to not to be tried in absentia, because the defendant was already located and is in extradition custody at the request of the Ministry of Justice. This proposal was objected to by the SPP, because the defendant was unavailable to the Macedonian judicial authorities, and even in the case of the defendant being charged, the procedure would be repeated in his presence. The court issued a decision rejecting the defense proposal, assessing that there were no restrictions in the European Convention on Human Rights or in the Law on International Assistance in Criminal Matters when the accused is in extradition procedure. The proceedings continued with the presentation of evidence as a supplement to the evidential procedure that the public was excluded from due to the presentation of classified evidence. The closing arguments for this case were given at the hearing on November 6, 2017, after which on November 8, 2017, the verdict was announced, whereby the defendant Goran Grujovski, former head of the UBK, was charged with crimes “Misuse of Official Position and Authority” pursuant to Art.353 paragraph.5c.c. paragraph 1 c.c. and Article 22 and “Forging an Official Document” according to Article 361 paragraph 1 of the Criminal Code. He was sentenced to imprisonment for a period of 1 year and 6 months, while the remaining defendants received suspended sentences.

**CASE: “Mariglen” (C.no. 1271/16):** The trial of Levica's member Mariglen Demiri, charged with participating in a crowd during the demolition of the office of President Gjorge Ivanov, was once again postponed for 12.12.2017, because after the PP presented two original minutes, the defense asked for time in order to inspect the minutes.

**CASE: “Pavle” (C.no 1526/16):** The hearing scheduled for 06.11.2017 was postponed for 15.11.2017 after the prosecution asked for a new expert insight into the damage to the facade of the Ministry of Culture made during the “Colorful Revolution” that was supposed to be carried out by the Faculty of Civil Engineering at UKIM. By accepting such a request, the court wrongfully applied the provisions of the LCP.  
<sup>32</sup> The hearing scheduled for November 15, 2017 was also postponed because the aforementioned disputed expert insight was not prepared in the foreseen deadline.

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<sup>32</sup> For more details, see the legal opinion published by the Coalition “All for a Fair Trial”, available at:

<http://all4fairtrials.org.mk/wp-content/uploads/2017/11/%D0%A1%D0%A3%D0%9F%D0%95%D0%A0%D0%92%D0%95%D0%A8%D0%A2%D0%90%D0%A7%D0%95%D0%8A%D0%95.pdf>



**CASE: Centar Municipality (C.no. 1904/16):** At the hearing on November 20, 2017, one of the defendants pleaded guilty, and the announcement of the verdict was scheduled for November 24, 2017, when he was sentenced to a suspended prison sentence of 6 months that would not be enforced if he did not commit another criminal offense in the period of 2 years. At the hearing on November 29, 2017, another of the defendants pleaded guilty, whereby SPP asked for the procedure to be separated, after which a public verdict was issued and he was sentenced to a suspended imprisonment of six months, which will not be enforced if he does not commit another crime within a period of 2 years.

**CASE: “Rover” (C.no. 2454/15):** Inadequate ex-parte communication was identified before the start of the hearing, as PP entered the courtroom nearly at the same time with the other parties, but through the back door, that the defense reacted to. Due to the sickness of one of the defendants the trial was postponed for 29.01.2018 at 10 am.

### III FUNDAMENTAL RIGHTS

#### Ombudsman

At the Assembly session from 6.11.2017, the MPs did not vote on the measures contained within the report of the Ombudsman where the recommendations from the Report of the Priebe Expert Group on improving the situation with human rights and freedoms in Macedonia. In accordance with the Law on the Ombudsman, the Assembly must adopt its report and task the Government with implementing the proposed measures. This year the measures, among other things, referred to strengthening the external control mechanism on the work of the police and the prosecution, revoking the rubber bullets and the electric paralyzer as means of coercion, improving the prison conditions, improving the “Moj termin” as well as registering the children without identity in the birth registry books.<sup>33</sup>

At a press conference the next day, the Ombudsman Ixhet Memeti said that he would deliver the measures for improving of the deteriorated situation of human rights and freedoms that he had established, to the Government and accused of gross violation of the Law, according to which the Parliament should be a protector of the Ombudsman. He noted that he would ask the Government to present these measures during a plenary session and to oblige the state bodies to rectify the situation, and in six months he would demand information on the stage of implementation of the proposed measures.<sup>34</sup>

The Helsinki Committee for Human Rights appealed to the MPs from the ruling majority to approve the measures contained in the Ombudsman's report as soon as possible, bearing in mind that the

<sup>33</sup> <http://24vesti.com.mk/naroden-pravobranitel-kje-bara-vladata-da-gi-sprovede-merkite-otkako-pratenicite-go-izignoriraa>

<sup>34</sup> <https://sdk.mk/index.php/makedonija/memeti-pobara-od-vladata-da-gi-sprovede-merkite-za-chovekovi-prava-otkako-pratenitsite-gi-izignoriraa/>



implementation of the recommendations from the Expert Group led by Priebe report should be a top priority for the Parliament and the Government in order for the state to accelerate its EU integration process, and more importantly, to provide efficient protection of the human rights and freedoms of the citizens.<sup>35</sup> Finally, on 7.11.2017, the Ombudsman's recommendations went through the Commission for Political System and are now back at the start of the parliamentary procedure.<sup>36</sup>

During the month, the Ombudsman held a meeting with representatives of the European Commission, where they discussed the work of the institution and the current challenges after the adoption of the amendments to the Law on the Ombudsman. At the same time, they also discussed the human rights situation in the country and the implementation of the Ombudsman's recommendations by the administrative bodies. EC officials once again supported the work of the Ombudsman, pointing out that it is extremely important for this institution to be allowed to impeccably implement its overall mandate, since an independent and fully operational human rights institution is a particularly important segment of the country's progress towards the EU.<sup>37</sup>

On 27.11.2017 within the project "Network 23+" a thematic expert workshop was held on the topic "The Ombudsman - between the normative and the real", where a number of relevant issues related to the functioning of this institution were discussed in the presence of Ixhet Memeti, where representatives of the competent state institutions, civil society organizations and the media that have monitored the work of the Ombudsman over the longer period of time provided their constructive contribution to the discussion.<sup>38</sup>

### **Freedom of religious association**

The judgment of the European Court of Human Rights, published on 16.11.2017<sup>39</sup>, found violation of Article 11 (freedom of assembly and association) in relation to Article 9 (Freedom of Thought, Conscience and Religion) of the European Convention on Human Rights, which arose from the refusal of the competent authorities to register the Orthodox Ohrid Archbishopric (POA) as a separate religious community. For the established violation, the Republic of Macedonia is obliged to pay the applicant EUR 4,500 (for non-pecuniary damage) and 5,000 euros (for expenses and costs).

The procedure in Strasbourg was initiated with application no. 3532/07 filed by the Helsinki Committee for Human Rights in the name of "POA" as a religious association. Both requests for registration of the association were rejected by domestic courts for formal reasons, as well as on two other grounds - that

<sup>35</sup> <http://mhc.org.mk/announcements/660?locale=mk#.WiP5aEgnGUk>

<sup>36</sup> <http://fokus.mk/pratenitsite-se-skontsentriraa-i-gi-vratija-preporakite-na-narodniot-pravobranitel-vo-sobraniska-protsedura/>

<sup>37</sup> [http://ombudsman.mk/mk/aktivnosti/241439/narodniot\\_pravobranitel\\_g\\_idzhet\\_memeti\\_ostvari\\_sredba\\_so\\_pr\\_etstavnici\\_na\\_evropskata\\_komisija.aspx](http://ombudsman.mk/mk/aktivnosti/241439/narodniot_pravobranitel_g_idzhet_memeti_ostvari_sredba_so_pr_etstavnici_na_evropskata_komisija.aspx)

<sup>38</sup> <http://mhc.org.mk/announcements/674?locale=mk#.WiP7LEgnGUk>

<sup>39</sup> [https://hudoc.echr.coe.int/eng#{"documentcollectionid2":\["GRANDCHAMBER","CHAMBER"\],"itemid":\["001-178890"\]}](https://hudoc.echr.coe.int/eng#{)



the association was formed by a foreign church or state, and that his proposed name was problematic from the point that it was very similar with the title of “MOC-Ohrid Archbishopric”, which has a historical right to continuously use this name, whereby the association had the intention to become a parallel religious institution. The applicant association also conducted two unsuccessful proceedings before the Constitutional Court, which dismissed the requests for protection of the freedoms and rights on strictly formal grounds, without ruling on the merits of the demands.<sup>40</sup>

### Labour rights

Following the initiative for unscheduled inspection by the Helsinki Committee for Human Rights, the State Labor Inspectorate - PE Delchevo found violation of the workers' rights in DPTU “Textil M DOO” in Makedonska Kamenica. Upon the inspection supervision and the statements given by the employees, the state labor inspector issued a decision establishing violation of the provisions of the Law on Labor Relations in the manner of salary payment by the employer and set a deadline for the established violations to be remedied. The Helsinki Committee welcomed this decision and reported that it would continue to monitor this case from the aspect of whether the employer has acted on the decision of the inspectorate within the given deadline.<sup>41</sup>

### Personal data protection

The Directorate for Personal Data Protection adopted the new Strategy for the implementation of the right to protection of personal data (2017-2022)<sup>42</sup>, as the second strategic document in this area that describes the state of the system for protection of personal data at the national level, and expresses the need and the vision to have a complete and modern approach to the protection of the human right for personal data protection. The Strategy provides for a strong guarantee of the privacy of personal data by establishing a system for prevention, respect and understanding of rights and obligations. It also underscores the new challenges, the basic principles of independence and the need for professional, transparent and qualified staff in the Directorate.

At the same time, the Ministry of Justice prepared a draft Law on Changes and Amendments to the Law on Personal Data Protection, which aims to strengthen the independent status of the Directorate from political and other influences in accordance with the requirements of the Subcommittee on Justice and Security, as well as the Priebe Report, as well as the Progress Reports on the Republic of Macedonia for 2015 and 2016, in the direction of harmonization with the provisions of the new LGAP.

<sup>40</sup> <http://mhc.org.mk/announcements/666?locale=mk#.WiP7JUqnGUk>

<sup>41</sup> <http://mhc.org.mk/announcements/669?locale=mk#.WiQUmUqnGUk>

<sup>42</sup> [https://dzlp.mk/sites/default/files/dzlp\\_strategija\\_mk.pdf](https://dzlp.mk/sites/default/files/dzlp_strategija_mk.pdf)



## Protection against discrimination

Комисијата за заштита од дискриминација констатирала дискриминаторска содржина во прилог насловен „Сè побројни и понасилни се Циганите на раскрсниците“, емитуван во информативните изданија на ТВ „Алфа“, со што Комисијата ја прифати претставката на АВМУ дека телевизијата поттикнала и ширела дискриминација кон Ромите врз основа на етничка припадност и на припадност на маргинализирана група.

The Commission for Protection against Discrimination noted discriminatory content in a TV new story indicatively titled “Gypsies at the intersections increase in numbers and become more violent”, broadcasted in the news block of Alfa TV, thus accepting the AVMU's complaint that the television has incited and spread discrimination against Roma on the basis ethnicity and belonging to a marginalized group.

On this ground, Alfa TV was asked to publicly apologize to Roma as a marginalized group within 30 days of receiving the recommendation, and if the TV station refuses to do so, the Commission has the right to initiate a motion before the competent body for determining responsibility and the Agency is entitled to file a lawsuit before the Primary Court Skopje 2 for compensation of damages. In a response to the Commission, Alfa TV said that with a decision of the editorial collective, the journalist and editor of the news block were punished with a 20 percent cut in their salary for the next 3 months.<sup>43</sup>

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<sup>43</sup> <http://novatv.mk/alfa-ke-mora-da-im-se-izvini-na-romite-za-diskriminatsija-vo-vestite/>