

There has been some progress in the area of the **judiciary**. A number of legislative amendments were adopted, covering a range of issues; however, core problems relating to independence, competence and efficiency still remain to be tackled in practice.

As regards the *independence* of the judiciary, the *ex officio* membership of the Minister of Justice in the Judicial Council was amended. The Minister of Justice now participates in the work of the Judicial Council without voting rights, in line with the recommendations of the Venice Commission. The Minister's *ex officio* membership of the Council of Public Prosecutors was removed. Dismissal proceedings were initiated against 13 judges in 2010, resulting in 7 dismissal decisions (compared with 10 in 2009). 5 judges resigned, including one in the course of dismissal proceedings. No disciplinary proceedings were initiated against any judges (compared with 2 in 2009). Further efforts are necessary in order to safeguard the security of tenure of judges, including the need for clearly defined and predictable legislation outlining less extensive and more precise grounds for dismissal and a better balance between disciplinary and dismissal proceedings. Recent amendments to the Law on courts failed to address the shortcomings, instead adding further grounds for dismissal which may encroach on independent decision-making.

As regards *impartiality* of the judiciary, the random allocation of cases has been operational in all courts since 2010 as part of the Automated Court Case Management Information System (ACCMIS). No judges were subject to dismissal proceedings on the grounds of bias or failure to treat the parties equally during 2010 (compared with 3 in 2009). A total of 11 training sessions on topics relating to judicial ethics, corruption and conflicts of interest were carried out during the reporting period.

As regards *professionalism and competence* of the judiciary, the Law on courts was amended to set out in detail the educational requirements for judges, including mandatory knowledge of English, as well as introducing psychological and integrity testing. New minimum requirements of 4 and 6 years' continuous judicial experience were introduced for Appeal Court and Supreme Court judges respectively. However, the entry into effect of these provisions was postponed until mid-2013, thus considerably delaying the positive impact on the profession. The third generation of candidates of the Academy for Training of Judges and Prosecutors (ATJP), comprising 10 judges and 7 prosecutors, successfully completed their initial training at the end of 2010. The ATJP also continued to provide ongoing in-service training for judges, prosecutors and other target groups in the justice field with a total of 240 seminars, conferences and workshops carried out in the reporting period, benefiting a total of 7156 participants. Training of trainers has begun in preparation for the implementation of the new Law on Criminal Procedure, which will enter into force in November 2012. Of the 71 graduates of the ATJP from the last three years, only 49 have so far been recruited as judges and prosecutors. By contrast, judicial recruitments from outside the ATJP continued this year, under transitional provisions which have been extended to 2013. In the reporting period, out of a total of 26 available posts for first instance judges, only 6 were filled by graduates of the ATJP, despite a healthy rate of applications by its candidates. The remainder of judges (considerably more than the 50% set out in the transitional provisions) were appointed by the Judicial Council from the ranks of other legal professions. New provisions on the monitoring and evaluation of judges' work were introduced by amendments to the Law on the Judicial Council. They seek to improve the functioning of the court system by instilling procedural discipline at the level of individual judges; however, they do not address the quality of judgments and there is no link to training needs. On the contrary, the emphasis on targets and deadlines, as well as the link to dismissal proceedings, may have an adverse effect on

independence. The Judicial Council carried out its annual evaluation of the work of 605 judges and presidents of court in 2010. Only one judge was rated as 'unsatisfactory'.

As regards the *efficiency* of the judiciary, the Judicial Council adopted a decision on the number of cases which should be processed per month by judges at different court instances, as well as a methodology for ranking the complexity of cases by subject matter. While the overall aim of these measures is to enhance efficiency, care should be taken to avoid an overformalistic application of targets at the expense of high-quality, independent decision-making. The overall duration of court proceedings is still a challenge and the country's ability to address it is hampered by the inadequacy of statistical data. A methodology was adopted in July 2011 for the gathering, analysis and processing of court data on the basis of the European Commission for the Efficiency of Justice (CEPEJ) guidelines. However, this will only be implemented through the ACCMIS from the end of 2012, following the development and testing of the necessary software. Complete and comparable information needs to be developed on the average duration of different types of proceedings, taking all instances as well as enforcement into account. It is important to identify and address unreasonably lengthy proceedings and court backlogs, which have a negative impact on citizens' fundamental right of access to justice as well as the country's attractiveness to foreign direct investment. In 2010 the Supreme Court received 398 complaints concerning unreasonably lengthy proceedings. In the same period it upheld 137 complaints and awarded compensation in 124 cases. The total amount paid out was around €160,000. Following legislative changes in 2010 around 400,000 enforcement cases will be transferred from the court system to professional bailiffs or closed in the second half of 2011 and around 37,000 payment orders will be transferred to public notaries. Around 90,000 criminal and misdemeanour fines have already been transferred to the Public Revenue Office for enforcement and a further 43,000 remain to be transferred. There are still insufficient numbers of bailiffs (90 out of a target 132), especially in the north-west part of the country. There are currently over 111,000 active enforcement cases being handled by the bailiffs. The jurisdiction for hearing appeals against decisions of the Administrative Court was transferred from the Supreme Court to the newly established High Administrative Court, which became operational in July 2011. This will ease the future workload of the former. It remains to be seen what the impact of these changes will be on the overall average length of proceedings at all levels. Reorganisation of jurisdiction alone can not ensure efficiency and quality of justice, unless it is accompanied by adequate resources, training and improved procedural rules to support the smooth functioning of the court system.

As regards alternative dispute resolution, several laws were amended to promote mediation in civil, criminal, misdemeanour, juvenile and consumer protection cases and a handbook for the training of mediators was prepared. The number of certified mediators is currently 177. Between April and June 2011 an initiative for free mediation in commercial disputes was carried out in the Basic Court Skopje 2 and 22 cases were directed towards free mediation. However, in general the level of uptake of mediation is still low. The latest amendments to the Law on court budget introduced an increase of state budget allocations from 0.4% to 0.8% of GDP, to be achieved gradually by 2015. In practice further progress is being hampered by inadequate funding. New buildings for Basic Court Skopje 1 and the Public Prosecutors' Office (PPO) are under construction, but the strategy for improving the working conditions and IT infrastructure of the PPO has not been implemented due to budgetary constraints and the ATJP is both understaffed and lacks adequate premises in view of the high number of training activities it organises.

As regards *access to justice*, there were 174 applications for legal aid, of which 141 were considered by the Ministry of Justice and 58 granted. There are 211 lawyers and 2 citizens'

associations registered as providers of legal aid. The annual budget for legal aid is currently €100,000. The system of legal aid is still at an early stage of development.

As regards *transparency and public relations*, the Judicial Council considered 1 581 citizens' complaints regarding the work of judges and courts in 2010 and 808 in the first half of 2011. These mainly concerned the length of proceedings, failure to schedule trial or hearing dates, non-enforcement of judgments and failure to comply with procedural deadlines. Amendments were made to the Law on the Judicial Council, obliging it to hold public sessions at least once a month to discuss such complaints. Amendments to the Law on courts introduced public relations offices in all courts and also require courts to publish their judgments on their websites within two days of adoption, in order to increase the transparency of their work. So far around 72,000 judgments have been published.