

Functioning of the judiciary

Strategic documents

Preparation of the 2015-2020 strategy and action plan for judicial reform is at an early stage. Six working groups have been established, including on access to justice, administrative law and IT and e-justice. The process requires stronger political support and far better coordination between different stakeholders, which could be achieved by using the Council for Judicial Reform more effectively. Recent changes to the legal framework suffered from inadequate consultation with the legal professions and international bodies in the field.

Management bodies

The Judicial Council's election of its new President and Deputy President in March triggered widespread criticism, given that both are lay members appointed by parliament who do not have judicial experience. The legal requirement that lay members should come from the ranks of university law professors, lawyers or eminent legal experts is not honoured in practice: three of the five current lay members were previously career officials in the public administration and two were previously acting judges. This undermines the professional balance and high level of competence foreseen by the legislation. Additional criteria added by April amendments to the Law on the Judicial Council did not significantly clarify the situation. In October 2014, the Council of Public Prosecutors elected an appropriately experienced President.

Independence and impartiality

The extent of previously suspected political interference in both the appointment of judges and the outcome of court proceedings was confirmed by the content of the intercepted communications. In order to restore public confidence, professional bodies such as the Judicial Council and the Association of Judges need to be proactive in visibly promoting judicial independence and defending the judicial profession from any form of explicit or implicit pressure, both external and internal. Long-standing concerns about the security of tenure of judges were not addressed by the recent creation of a new 'Council for Determining the Facts and Initiating a Procedure for Determining the Responsibility of a Judge'. Given that the number of disciplinary proceedings has actually fallen dramatically in recent years, the timing and creation of a new body devoted entirely to preparing the procedure for dismissing judges appears misplaced and is a further blow to a profession which is already under siege. The defective legislative grounds for dismissal, which jeopardise judicial independence, have still not been addressed.

Accountability

Revised codes of ethics for judges and prosecutors were adopted in 2014. The Judicial Council, the Ministry of Justice and the Ombudsman's Office continued to handle complaints about the work of the courts in 2014 (the latter received 901, up from 732). However the Judicial Council's competence to hear complaints from members of the public, which had been carried out transparently for several years including through public meetings, was removed in 2015. This constitutes a step backwards. The Supreme Court continued to receive compensation claims for unreasonably lengthy court proceedings (637 in 2014, compared with 434 the previous year) and it awarded EUR 115 963 in compensation and costs. One

dismissal procedure was initiated by the Judicial Council in 2014. The Council for Public Prosecutors dismissed two prosecutors, one of whom was accused of several crimes. The State Commission for the Prevention of Corruption launched misdemeanour proceedings in 2014 against 5 judges, 1 former judge and 2 prosecutors for failing to submit asset declarations and against 15 judges and 1 prosecutor for failing to submit statements of interest. In October 2014, the sensational arrest of 25 employees (including 14 sitting or former judges) of Basic Court Skopje I amid accusations of corruption raised concerns about the line between accountability and political pressure. The case concerned high numbers of misdemeanour fines whose enforcement had been delayed beyond the limitation period. Given the need to protect the procedural rights of the judges involved, the case could have been handled in a different way. The apparent failure at court management level to detect any systemic problem at an earlier stage raises questions about the timing and nature of the criminal allegations.

Professionalism and competence

In 2014 the Judicial Council appointed three new judges, all graduates of the Academy for Judges and Prosecutors, as required by law. It also appointed 14 basic court presidents, of whom eight had already served as presidents and two were acting presidents. The Council of Public Prosecutors appointed 14 prosecutors including four graduates of the Academy. Despite the objective, merit-based criteria set out in the law, the appointment of court presidents and higher court judges is still vulnerable to political bargaining which not only affects the outcome but often also delays the appointment procedure, to the detriment of the courts concerned. Professional evaluation criteria still need to be introduced which focus on appraising judges' core competencies, such as legal drafting and reasoning, organisational skills, participation in training activities and level of specialisation. The current system is heavily focused on quantitative criteria, targets and deadlines, without reference to quality of performance or professional development. The lack of clear of reasoning in court judgments is a problem. This skill needs to be taught in a more harmonised way and applied consistently by the courts.

Quality of justice

A revised Law on the Academy for Judges and Prosecutors introduced stricter criteria for appointment of the Academy's Programme Council, as well as for the students. The fifth generation of students to undertake the two-year initial training programme (13 candidate judges and prosecutors) have completed the nine-month theoretical training and are currently on placement in courts and public prosecution offices for the 15-month practical training. In 2014, the Academy provided in-service training via 280 training programmes for 7 560 participants. The Supreme Court continued to take structural measures to ensure the consistency of judgments of the lower courts.

Efficiency

In 2014 the vast majority of first instance and appeal courts, as well as the Administrative Court, High Administrative Court and Supreme Court, continued to maintain a clearance rate of 100 % or more. The overall length of proceedings, particularly for 'old cases', remains a concern. There is still no dedicated human resource management system or strategy aimed at improving resource allocation across the court system, and disparities persist. The 2015

budgets for the courts and prosecution service are both significantly lower than the per capita European average. The number of both judges and court staff per 100 000 inhabitants are significantly above the European average, raising questions about efficiency. Recent changes to the legislative framework for court staff removed many of the professional criteria previously required and give rise to concern that the court administration will increasingly employ more numerous but less qualified staff. In 2014, the Public Prosecutor's Office (PPO) recruited 55 new support staff across the country and in 2015 a further 129. At the same time, several prosecutors' offices, notably in rural areas, suffer from severe shortages of prosecutors.