Republic of Macedonia
Ministry of Justice

STRATEGY FOR REFORM OF THE JUDICIAL SECTOR
FOR THE PERIOD 2017-2022
WITH AN ACTION PLAN

1. INTRODUCTION

1.1. Reasons for adopting a new Judicial Sector Reform Strategy

The improvement of the judicial system and its functioning is a key prerequisite for the development of the Republic of Macedonia as a democratic state of the rule of law and a multicultural society of citizens with equal rights and freedoms and for its Euro-Atlantic integration. The development of a system of autonomous, independent and impartial judiciary and institutions that gravitate towards the achievement of its function of effective, quality and equitable justice is a central postulate of the principle of the rule of law and the humane and sustainable development of the Macedonian society as a community based on the right legitimised by respecting the highest general civilisation values.

The assessments of the conditions that reason the adoption of the Strategy correspond with the EC's assessments in its progress reports of the Republic of Macedonia in recent years, the Recommendations from the Senior Experts'Group on Systematic Ruleof Law issues relating to the communications interception revealed in spring 2015, June 2015, Recommendations from the Senior Experts' Group on systemic Rule of Law issues of September 2017, Urgent Reform Priorities of the European Commission for the Republic of Macedonia June 2015, Preparation of the EU Programme for Support of the Judicial Sector, July 2014 (hereinafter: MK Assessment), the ECtHR case-law reflected in the judgments against the Republic of Macedonia, GRECO Evaluation Report for RM - fourth round, December 2013, GRECO Compliance Report on RM - fourth round, July, 2016, European Commission for the Efficiency of Justice (CEPEJ) -Evaluation Report of the European Judicial Systems and Efficiency and Quality of Justice - last edition 2016 (data from 2014), Opinion of the Venice Commission on the Laws on Disciplinary Liability and Evaluation of Judges of the Republic of Macedonia, December 2015, Reports of the conducted evaluation mission 2012 (Luca Perili Judiciary Effectiveness, James Wohlg Independence and impartiality of the judiciary).

The Draft Strategy for Reform of the Judicial Sector drawn up within the IPA 2010 project "Further support for independent, accountable, professional and efficient judiciary and

introduction of probation service and alternative sanctions" and reports from other IPA projects[1] served as the basis for the preparation of this Strategy.

Despite all new legal projects and new institutions in the judicial sector, incorporation of international standards and norms into the legal system, the problem of their inconsistent implementation and application has remained. The results achieved in the field of judiciary efficiency remain overshadowed by its impaired independence, resulting in a low degree of quality and distrust of citizens in the institutions of the justice system.

Civil Society Organisations (CSOs) have played a significant role in Macedonian society over the past years as a key factor contributing to resolving the political crisis in the country and maintaining minimum professional standards in the justice sector.

The positive trend of enhanced coordination and networking of the civil society for the purposes of its participation in the cooperation with the Government of the Republic of Macedonia, especially in the part of the reforms in the justice sector, is noticeable. Namely, in July 2017, 73 civil society organisations, scholars and independent experts contributed to the process of drawing up the public policy contents, producing the document entitled "Proposal of Civil Society Organisations for Urgent Democratic Reforms", which contains guidelines and detailed activities for establishing democratic standards and values, achieving progress in certain areas of public policies, as well as restoring the confidence of citizens in key state institutions.

The Association of Judges as a professional association has proved itself to be a very important civil organisation in the justice sector that has succeeded to survive in the past period and to impose itself as a relevant factor trying to maintain the professional dignity and

[1] IPA 2007 - "Support for more efficient, effective and modern operation and functioning of the Administrative Court"
IPA 2008 - "Further Strengthening of the Institutional Capacities of the Academy for Judges and Public Prosecutors"
IPA 2008 - "Implementation of Juvenile Justice Reforms"
IPA 2009 - "Support for the reform of the criminal system"
IPA 2009 - "Capacity Building of Law Enforcement Institutions for Proper Treatment of Detained and Sentenced Persons"
IPA 2010 - "Further support for independent, responsible, expert and efficient judiciary and promotion of probation and alternative measures"
IPA 2010 - "Support for Efficient Prevention and Fight against Corruption"
IPA 2011 - "Enhancing the Rule of Law"
IPA 2012 - "Strengthening National Capacities to Fight against Corruption and Organised Crime"
IPA 2012 - "Strengthening judicial cooperation in criminal and civil matters"

expertise of the judges. This has not remained unnoticed by the international community, which has noted its activity as a positive one.

At the same time, the adoption and implementation of a new Strategy for the reform of the justice sector is essential to the preservation and promotion of the effects/benefits of the previous reform processes and activities, but also to the prevention of the regressions in the justice sector of the state identified over the past few years.

The new Strategy gives instructions, directions for improving the judicialsystem by overcoming the existing normative and institutional deficiencies permeating throughout the system, but above all, takes into account the main issue with the interference of the executive power and the partisation as causes of the regression and dysfunctionality of the judicial sector. The Strategy should represent a roadmap for the Government to ensure all the preconditions within its competence to create an independent, impartial, efficient, high-quality and transparent judiciary responsible for the protection of individual rights and freedoms of citizens while protecting the public interest. On the other hand, the Strategy sets out guidelines for creating legal conditions, as well as an environment for the judiciary to properly apply the principle of liability in its work. In recent years there has been a lack of such liability, primarily with the courts and the public prosecutor's office. Normative measures set out in the Strategy will often mean "going back" to legal decisions before 2009, as analyses indicate that the normative chaos in the penal, administrative, misdemeanour and civil law started exactly at that period and has continued uninterruptedly until 2017.

With the adoption and implementation of the new Strategy, the Government demonstrates serious commitment to implement reforms in the judicial system whose main goal is to restore the confidence in the institutions by providing legal certainty and access to impartial and quality justice for citizens.

1.2. Objectives of the Strategy

The Strategy has several main objectives, which represent unity and presuppose the phased overcoming of the weaknesses identified in the judiciary, its placement on the track of European and international standards and its stable functioning as the main pillar of the democratic state of the rule of law.

- Establishment of the principle of the rule of law as a top political and legal principle in regulating the relations among the three holders of power, with due respect to the autonomy, independence and integrity of the judicial power;

- Removal from the legal order of the laws threatening the autonomy, independence and impartiality of the judges and the autonomy of the public prosecutor’s office;

- Removal from the legal order and modification of the legal decisions that block the exercise of the judicial control function over the legality of the conduct of the executive power and the state administration;

- Re-examination of the functioning of certain institutions, in particular the Judicial Council and the Council of Public Prosecutors, whose constitutional and legal competence are the guarantees for ensuring the independence and efficiency of the judiciary and the public prosecutor's office;

- De-professionalisation and setupof criteria and procedure for liability of the members of the Judicial Council and the Council of Public Prosecutors;

- Reform of the administrative judiciary for the purpose of efficient realisation of its function of control over the acts of the executive power and the state administration;

- Strengthening of the functioning of the SPPO as an autonomous institution within the PPO in dealing with offences within its competence and prosecution of high-profile corruption criminal offences "white collar crime";

- Re-examination of the judicial system and the public prosecution system from the aspect of the network and the competence of the institutions, their personnel and material capabilities;

- Creation of financial, personnel, information and other preconditions, with urgent increases in budgetary investments, in order to increase the efficiency of the judiciary and the public prosecutor's office.

- Re-examination of the system for evaluation of the quality and efficiency of the work of judges and public prosecutors;

- Simplification of the access to justice by strengthening mediation, reviewing free legal aid, court fees, attorneys’ fees and costs for enforcement of judgments;

- Extension of the functions of the judicial and public prosecution information system;

- Reinforcement of the system of continuous education of judges, court associates, public prosecutors and their associates and attorneys;

- Reinforcement of the mechanisms of transparency, accountability and liability of judges and public prosecutors through the system of self-regulation of their professional associations;

- Europeanisation of the judiciary and the public prosecutor's office through the introduction of European institutional and procedural legal, managerial and other standards in the functioning of the judiciary, public prosecutor's office and the attorneyship; preparation of judges and public prosecutors for their functioning in the single European area of justice and for the consistent application of the European Convention on Human Rights and other international conventions on human rights and freedoms, harmonisation of the substantive and procedural laws with EU law and harmonisation with the laws of the EU Member States.

2. STRATEGIC GOALS OF JUDICIAL REFORMS

2.1. Independence and impartiality

Current State

The Republic of Macedonia has adopted a legal framework which generally comprises the international standards of independent and impartial judiciary and proper functioning of the judicial system. Despite such normative foundation, there is a need to carry out additional legal interventions the implementation of which will ensure greater independence and impartiality in the work of the judiciary and the public prosecutor's office.

The entry into the judiciary and the public prosecutor's office is one of the most important issues. It is therefore necessary to provide additional new strict rules for the consistent respect of the ranking list prepared by the Academy in the election of new judges/public prosecutors in the Basic Courts/Public Prosecutors' Offices from the ranking list

of AJPP graduates[2]. When electing judges/public prosecutors the Judicial Council or the Council of Public Prosecutors should respect the time sequence of the lists submitted by the Academy. At the same time, the existing discretionary right of the Judicial Council/Council of Public Prosecutors not to elect a candidate from the list of graduates must be limited by accurate and precise legal criteria for making such a decision (eg. forged documents, forged final exam, unfulfilled legal general conditions for inclusion in the list of graduates, etc.). At the same time, the decision should be reasoned and publicly announced.[3]

Although the existing constitutional and legal frameworks contain high European standards and represent a good legal basis to ensure the proper functioning of the Judicial Council, in recent years, there has been no progress primarily due to the imprecise definition of the criteria for the members of the JCRM and the CPPRM and the possibility of a different interpretation of the term "distinguished jurist", the lack of control mechanisms, liability and accountability of the work of the members of the Judicial Council. Hence the need for urgent and depth reform of the judicial system, in particular the role of the Judicial Council in providing an independent, efficient and accountable judiciary, is imposed.

All previous findings of the Judicial Council also apply to the Council of Public Prosecutors, which is is perceived by the general public as insufficiently active and is becoming unrecognisable in the system of judicial authorities.

Also, new legal provisions are needed for the composition of the bodies for managing and running the Academy of Judges and Public Prosecutors. In the future, the establishment of new institutions (courts, state commissions) should not be done by passing laws in fast procedure and without thorough analyses, public discussions and debates (as the case with the Lustration Commission and the so-called Council for Establishment of Facts was).

Having in mind the aforementioned conditions, especially when it comes to the lustration process, the Law on Determination of a Condition for Restriction to Perform a Public Function, Access to Documents and Publication of Cooperation with State Security Bodies (known as the Law on Lustration) was repealed in 2015. Nevertheless, the harmful consequences for the persons who were victims of this Law have remained even today. In

[2] Evaluation and Recommendations from the Senior Experts' Group on Systemic Rule of Law Issues 2017, recommendations in the area of the judiciary Chapter 1 page 11, Brussels, 4 September 2017.
[3] REPORT ON THE INDEPENDENCE OF THE JUDICIAL SYSTEM PART I: THE INDEPENDENCE OF JUDGES, adopted by the Venice Commission at its 82nd Plenary Session (Venice, 12-13 March 2010).

order to protect their personal integrity and dignity, a legal basis for the annulment of the measures taken against them will be established which will result in deletion of the Register in which the names of the so-called collaborators of services are listed, as well as annulment by force of law of all decisions made against these persons.[4]

The circumvention and abuse of the System for Electronic Allocation of Cases (ACMIS) in the courts act in the direction of preventing impartiality, due to which it is necessary to conduct procedures for examining the ways of its use throughout the courts on the entire territory of the state. The system for electronic alloation of cases is still not in operation in the public prosecutor's offices that are technically equipped.

An active stakeholder in the independence of each institution, hence the judiciary, is the financial autonomy. The Association of Judges has serious reactions and remarks on this part of judicial independence and has continuously been proposing measures to improve the situation. The independence of the judiciary may be guaranteed, among other things, with improved organisation and management of financial, personnel, information and other resources for the efficient operation of the court service and court personnel.The main role in achieving this strategic goal belongs to the Judicial Budget Council, which in order to implement this role consistently needs to show increased activity in the planning and adoption of the court budget before the competent bodies (presence of the President of JBC at the thematic sessions of the Government the Republic of Macedonia and the Assembly of the Republic of Macedonia, providing argumentative explanations for the required amount and allocation of the court budget). Furthermore, it is necessary for the JBC to consistently use all legal mechanisms that, in accordance with the existing legislation, are at disposal for the realisation of the basic goal for which it was created.

Strategic Guidelines

- Establishment of legal criteria for (non)election of graduates from the AJPP by the JCRM and the CPPRM. Stipulation of a legal obligation for the JCRM and the CPPRM for consistent respect for the timetable of the lists submitted by the Academy in the election of judges/public prosecutors. Compulsory explanation and public announcement of the decision on the election/non-election of a candidate from the list. Decisions of the Judicial Council and

[4]Ivanovski, A no.29908/11.

the Council of Public Prosecutors for the election of judges and public prosecutors should be explained in detail and reasoned and publicly announced.

- The members of the Judicial Council and the Council of Public Prosecutors need to be elected from among the most experienced judges and public prosecutors who at least meet the requirement for performing the office of a judge and a public prosecutor in the courts of Appeal, that is, higher prosecutor's offices.

- The condition "distinguished jurist" in the CRM for the election of the members of the Judicial Council and the Council of Public Prosecutors on a proposal by the Assembly of RM and the President of RM should be legally specified and include criteria for the length of work experience, matters they have professionally dealt with, acquired certificates, awards, published professional and scholarly papers, etc. These members who will meet the stated conditions should not be from among the judges.

- Establishment of a legal framework for annulment of the measures and legal consequences from the lustration process.

- Proper functioning of the system for the allocation of court cases (ACMIS) by conducting regular control and audit on its functioning in order to prevent any abuses of the system.

- Autonomous and sustainable court budget, consistent with the legal allocationfromthe gross national income, with greater participation of the JCB for the realisation of this guideline. Improvement of the conditions for the work of the judges by providing adequate space, technical equipment and indispensable office materials.

2.2. Quality

Current State

In all previous analyses conducted by national and foreign experts unharmonised case law of the courts has been found, which is a problem and results in legal uncertainty of the citizens. Regarding the decisions on the same or similar legal grounds, there appear to be deviations in the interpretation and application of the laws by the courts of first instance, and in particular courts of Appeal of the same or different departments.

The Supreme Court has the authority to provide fundamental legal opinions and views for the uniform application of the Constitution, laws and other regulations in order to ensure equality of legal entities before the law, thus exercising respect for human freedoms and rights. In order to align the case law the Supreme Court should fulfill its constitutional obligation by establishing basic views and basic legal opinions. It is necessary to emphasise this role and competence of the Supreme Court in providing appropriate safeguards for greater uniformity of case law and clarity and predictability of court judgments for greater legal certainty of citizens.[5] In order to achieve this goal, what is required is increased number of trainings of judges within the AJPP in analysis of the published court decisions that would be important to harmonise case-law according to European standards.

Regarding the assessment of the quality of work and the procedure for promotion of judges and public prosecutors, the existing regulations do not provide objective criteria and accurate and precise procedures. The evaluation system must be aimed at promoting the quality of court decisions, the subject-matter, methods and procedures for evaluation should be well defined, understandable and set by the judges and the evaluataion should be transparent.

The Judicial Council elects and announces the promotedjudges(elected in a higher court) without providing any specific argumentswhy these judgesare considered to be the best.The evaluation system focuses on quantitative criteria which should be avoided as a singlestandard or basis for evaluationand it is necessary to introduce qualitative criteria.

Similar situation has been found in the area of the public prosecutor's office in the Republic of Macedonia and urgent changes are required in the evaluation system, on identical principles with the evaluation of the efficiency and quality of court proceedings and adjudication.

The previous legal amendments stipulated lower criteria concerning the required work experience, that is,years of service for election of judges to the Appeal, Supreme, Administrative and Higher Administrative Court, which certainly affected the quality of the decisions, and with that the provision of greater expertise in the performance of the juridical function.

[5] Evaluation and recommendations by the Senior Experts' Group on Systemic Rule of Law Issues 2017, recommendations in the judiciary area Chapter 1 page 11, Brussels, 4 September 2017.

Professional exams such as the bar, notary, enforcement, mediator, etc., are taken electronically, which does not allow for proper assessment of the quality of the persons who are taking them. The general conclusion of the entire expert public is that the exam for entering a legal profession, especially in the field of the justice sector, is not acceptable and it is completely inexpedient to be carried out without the candidate verbally presenting his knowledge and demonstrating his speaking skills. Moreover, "case studies" from any legal area cannot be resolved on a computer.The legal acts that define the manner of taking and conducting these exams need to provide for measurable and objective criteria for assessing the knowledge of the candidates.

Attorneyshipin the country is the only profession in the judicial sector for which no legal obligations areforeseen for continuous training. Such an obligation is stipulated for judges and public prosecutors, but not for attorneys. It is impossible to talk about the quality of the judicial sector, and not to foresee obligations for professional developmentand advancement of the attorneys. The Bar Association should be responsible for the organisation and planning of such trainings, as attorneyship in the CRM is defined as an autonomous and independent public service. This determination to introduce compulsory training for attorneys is not contrary to the CRM, as the Constitution allows these issues to be regulated by law.[6] Thematic trainings for attorneys that are part of the programme of the Academy for Judges and Public Prosecutors will continue in the future to be organised and implemented by the Academy.

The initial and continuous training of judges and public prosecutors in the AJPP should be aimed at maintaining intellectual and professional fitness of judges and public prosecutors, upgrading them with new knowledge and skills, mastering the changes in the laws, as well as any new regulations in the areas in which they judge and work, stimulating the international exchange of experiences, using the practice of the ECtHR, legal writing and legal reasoning, etc., in a word, preventing their professional aging. It is necessary to legally specify the criteria and conditions for the composition of the members of the governing and managing bodies and their election for the purposes of harmonisation with social reality.

In order to create an eventual legal opportunity for entry of long-standing and experienced practitioners in the higher courts, a comprehensive and complete analysis of the

[6]Art.53 of the CRM: Attorneyship is an autonomous and independent public service that provides legal assistance and performs public authorisations in accordance with the law.

curricula and initial training programmes within the AJPP should be prepared. The results of the analysis will be the basis for possible further changes in the curricula and programmes, but also in the legislation, in order to increase the quality of the work of the judiciary. The analysis will be prepared with the participation of the international expert public.

For better and more efficient functioning of the AJPP, its staffing and technical upgrading is necessary, at the same time ensuring adequate spacial conditions.

It is necessary to strengthen the capacities of probation officers, as well as to intensify the training in the AJPP for all judges working on the criminal matters in the direction of application of the probation and other alternative measures.

Existing criteria for jury judges are not appropriate for the performers of this function, which leads to disincentives and lack of jury judges. Additionally, the extremely low pecuniary compensation contributes to this.

In order to improve the overall quality in the work of the justice sector, the Ministry of Justice, in cooperation with all other stakeholders in the justice sector with international expert assistance, will start developing a plan and assessment of the human resources management in the justice sector. This document will serve for proper, quality, efficient and long-term development planning in this sector. While preparing such a comprehensive analysis that was not prepared in the past period, the recommendations from the IPA 2011 twinning project "Strengthening the Rule of Law" and the research conducted within the Human Resources Sector of the Ministry of Justice will be great contribution. The same type of analyses and researches will have to be carried out by the expert and analytical services of all institutions of the justice sector.

Strategic Guidelines

Harmonise case law throughincreased number of trainings of judges within the AJPP in analysis of the announced court decisions.

- Review of the criteria for evaluation of judges and public prosecutors using comparative good practices and experiences. The evaluation should primarily be based on new objective quantitative and qualitative criteria and focus on professional skills, capability, integrity and experience: professional ability (knowledge of the law, ability to conduct

court proceedings, capacity to write well-reasoned judgments), personal ability (ability to deal with the assigned number of cases for handling, ability to decide, openness to accept new technologies), social skills, that is, the ability to mediate and show respect for the parties and, in addition, to possess leadership ability and skills for those who are in positions where they are required.[7]

- Redefinition of the criteria for promotion of judges and public prosecutor by taking into consideration their length of juridical/prosecutorial service, his evaluation and the complexity of the cases on which he decides.
- Repeal electronic taking of professional exams and introduction of oral and written examnation of the candidates in front of professional commissions, and on the basis of measurable and objective criteria for assessment of their knowledge.
- Introduce legal obligation for continuous training of attorneys organised by the Bar with a legally set number of hours annually.
- Analysis of eventual creation of new programme for special initial training for experienced long-standing practitioners, as well as for continuous trainings through redefinition of programmes and methods for conducting trainings.
- New legal criteria for the composition of the governing and managing bodies of the AJPP.
- Personnel and technical upgrading followed by the provision of adequate spatial conditions.
- Functional system for probation and other alternative measures, by improving the quality of training of judges who adjuciate on criminal matters in the field of alternative measures and probation, conducting trainings for newly elected probation officers, and adopting a new comprehensive Strategy for Probation.
- Redefine the criteria for the election of jury judges and increase the fees for their work.[8]
- Development of human resources of the justice sector through the drafting of a plan and programme.

2.3. Liability

Current state

[7] Judicial Reform II – Efficiency etc. Perilli.
[8] MK Justice Assesment v.11.2

When it comes to the liability of the judicial authorities, that is, those performing the activities and functions in this area, there has been noted a state of denying liability by all stakeholders in the judicial system concerning the unfavourable conditions and consequences of their work. This has most often been done by shifting responsibility from one institution to another and by hiding behind the narrow interpretation of one's own powers and competencies.

Particularly worrying is the fact that there is no legal basis (nor a factual possibility) for liability of the members of the Judicial Council and the Council of Public Prosecutors.

Disciplinary liability of judges is defined in two different laws, the Law on Courts, and the Law on JCRM. There has been a trend for judges to be dismissed instead of being imposed a milder disciplinary sanction. Some of the grounds for disciplinary liability are not precise and overlap, which leads to confusion and bias in conducting the proceedings and imposing the sanctions. It has also been noted that there is no direct connection between some of the disciplinary violations and the guilt with judges as individuals. All this leads to the lack of proper balance between liability and independence of judges.[9]

Disciplinary liability of public prosecutors is regulated by bylaws and functional and transparent mechanisms are lacking in terms of clearly defining the grounds for determination ofliability, initiation and conduct of the proceedings for determining disciplinary liability and proportionality of disciplinary measures.

It is necessary to envisage enhanced mechanisms for monitoring and exposing cases of overstepping and abuse of the official powers of the police, not only by the MoI, but also by establishing organisational units for monitoring and resolving such situations within the Public Prosecutor’s Office and theOffice of theOmbudsman.Within this framework, a unit will be established in the Basic Public Prosecutor's Office for Prosecution of Organised Crime and Corruption, which will deal with this type of cases, with its own investigators who will only act in the investigation of these crimes. Such a unit with the same competencies in the part of the civil control of the police will also be established in the office of the Ombudsman.

In 2014 the Association of Judges adopted a Code of Judicial Ethics that fully complied with the Bangalore Principles for the Independence of the Judiciary, but in practice

[9] Compliance Report Fourth Evaluation Round GRECO 27 June-1 July 2016.

an Advisory Body has not yet been established. It is necessary to establish it urgently so that the implementation of the Code of Ethics can be initiated.In parallel with the application of the Code, it is also necessary to conduct appropriate trainings for ethical conduct of judges in accordance with the provisions of the adopted Code.

The basis for adopting the Code of Ethics is currently set in international standards (Bangalore principles), but there is no such legal obligation in domestic regulations.

Strategic Guidelines

- Legal criteria and procedure for determining liability of the members of the Judicial Council and the Council of Public Prosecutors.

- Functional and transparent mechanisms for liability of judges and public prosecutors, establishment of objective and measurable criteria for the establishment of liability of judges and public prosecutors, pluralisation of sanctions, dismissal only for more severe and continuous disciplinary breaches.

- Functional and transparent mechanisms for liability of public prosecutors.

- Setting up an organisational unit within the Public Prosecutor's Office and the Ombudsman's Office for monitoring and disclosing cases of overstepping and abuse of the official powers of the police.

- Building culture and awareness of one's own personal and institutional liability in the work of the judiciary and the public prosecutor's office.

- Legal basis for adopting a Code of Judicial Ethics.[10] Establishment of the advisory body in accordance with the new Code of Judicial Ethics.

[10]Remarks and opinions of the Venice Commission of Dec.2015.

2.4. Efficiency

Current state

The rate of decided cases in most courts is 100%, which means they are able to master the influx of new cases throughout the year. For several years now, undecided court cases have not been a significant problem. For certain number of old cases that have not yet been decided, the Judicial Council, in cooperation with the presidents of the courts, has adopted a Strategy for their adjudication by projection and proposed measures to overcome the situation.

In 2016, the budgets of courts and prosecutor's offices were significantly lower than the European average per capita, while the number of judges and court staff per 100,000 inhabitants was significantly higher than the European average. Although the number of judges per capita is an important criterion for measuring the results of the work of the courts, the efficiency is also dependent on the status of the court administration. The fact that only 14.5% of the court administrators are expert associates is a concern. There are no appropriate criteria for the election and accountability of court administrators. In addition, the principle of equitable representation of the members of the communities in the Republic of Macedonia who are not the majority, especially the smaller ones, is not consistently applied.

Absence of capacities for strategic planning, budgetary and financial management and insufficiently developed capacities of expert services is observed in the judiciary and the Public Prosecutor's Office.

The lack of practice for the full disclosure of all judgments began to be overcome by the complete putting into operation of the new centralised portal www.sud.mk, which covers the Judicial Council of RM and all 34 courts on the territory of the Republic of Macedonia. In this way, a functional court database with a search function is provided.

The expert opinion system greatly influences the efficiency and quality of court proceedings. There have been ample criticisms concerning the current way of organisation and operation of this system as a result of which it will be reviewed.Thelegislative changes will take place in the direction of abandoning the role of the state (the Ministry of Justice) as a stakeholder in the judicial expertise system in order to ensure equal treatment of all entities related to the expert opinion on the market. This amendment will prevent the existence of

unfair competition in the field of expert opinion and will overcome the problem of disregarding the principle of "equality of arms" and the impartiality of the expert opinion.

Strategic Guidelines

- Monitor judicial efficiency using the indicators defined in EU Justice Scoreboard (result list), CEPEJ and other international standards;

- Consistent implementation of the Action Plan for adjudicating the old cases and regular monitoring of the situation. Introduction of special tools for identifying and prioritising cases that could lead to violation of the principle of a trial within a reasonable time.

- Harmonise the number of judges in RM with the European average per capita through the natural drain of judges;

- Reinforce the capacities of the judicial and public prosecutorial service;

- Full functionality of the court database (www.sud.mk);

- Review the system of expert opinion through legal amendments.

2.5. Transparency

Current state

Various relevant international reports note the lack of transparency in the work of the Judicial Council and the Council of Public Prosecutors with regard to content of the reasonings for their decisions. A problem for the consistent application of the principle of transparency and inclusion of the public in the work of the judiciary is the lack of an efficient system of collection, processing and analysis of statistics for the work of the courts.The methodology for court statistics is not applied in practice because the software for collecting, processing and analysing the statistical data for the work in the judiciary is dysfunctional. This situation will be able to be overcome through the development and efficient management of the system for collecting, processing and analysing statistical data on the work of the courts

and public prosecutor's offices by the new aforementioned organisational units within the JCRM and the CPPRM.

This system, already established in the JCRM, needs to become functional through the setup of a separate organisational unit within the JCRM with broad powers to manage the mentioned data records, analyse them, and regularly inform the members of the JCRM, the Supreme Court of RM and the Ministry of Justice on the identified conditions and proposed solutions. This system of collecting, processing and analysing statistical data on the work of the public prosecutor's offices should be established also in a separate organisational unit within the CPPRM. At the same time, statistics should be available to the interested public. The different levels of access to the database that will be run by the specialised unit should be provided by the State Statistical Office, the Supreme Court of RM, the Ministry of Justice and all lower courts in RM.

Furthermore, critical remarks may be addressed regarding the underdeveloped internal channels related to PR policy and communication between judiciary management bodies as well as the lack of multiple official channels and capacity of the courts/public prosecutor’s office to communicate effectively with the legislative power and other government branches with regard to the most strategic and operational issues. In the past period all courts appointed persons responsible for public relations, while professionals were hired as PR persons – spokesmen in the Courts of First Instance Skopje 1 and 2, the Supreme Court, the Judicial Council of the Republic of Macedonia and the Public Prosecutor’s Office of the Republic of Macedonia. However, this measure is evidently insufficient in maintaining consistent transparency in the work of the courts.

The form of the annual reports on the work of the courts, the Judicial Council and the Supreme Court is inconsistent, thus creating problems regarding clarity, comprehensibility and legibility of the reports especially in the part with statistics due to the non-synchronised data.The same remark also refers to the incompatibility of the reports on the work of the public prosecutor's offices, the Public Prosecutor’s Office of the Republic of Macedonia and the Council of Public Prosecutors.

Strengthened transparency in the work of the judiciary and public prosecutor’s office will also be ensuredthrough the public's access to the Ministry of Justice reports on the carried out controls of the functioning of ACMIS and the system for allocation and management of

cases in the public prosecutor's office and the reports on the supervision over the application of the Court Rules of Procedure.

Strategic Guidelines

- Strengthen the transparency of the Judicial Council and the Council of Public Prosecutors;
- Collection, processing and analysis of statistical data on the work of courts and public prosecutor's offices in JCRM and CPPRM;
- Strengthen the capacities for public relations;
- Align the form of the annual reports of courts, public prosecutor's offices, JCRM, and CPPRM;
- Publication of the reports on the conducted regular controls of the functioning of ACMIS and the system for allocation and management of cases in the PPO.

2.6. Access to Justice

2.6.1. Free legal Aid

Current State

The determination of the Republic of Macedonia to become a full member of the EU imposes the obligation to regulate the legal aid system in accordance with the EU legal framework and standards in this area.

The Law on Free Legal Aid was adopted in 2009, whileitsapplication started in 2010, when three basic problems were detected: 1) insufficient accessibility for the most vulnerable categories, including children at risk (due to poor implementation); 2) restrictive criteria for identifyingqualified parties that may provide legal aid; 3) enormously high costs paid out to a small number out of the total number ofregistered attorneys who provide legal aid. The existing system, apart from attorneys, consists of less than 30 regionally located legal professionals of the MoJ and legal professionals supported by 7 civil society organisations

who mobilise the community throughout the country andare involved in the mediation process, providing free legal aid. The number of submitted FLAapplications remains relatively low. The percentage of approved FLA applications is below 50% of the total number of applications submitted. While the budget of RM for free legal aid for years now has been MKD 3,000,000 (EUR50,000) making it one of the most modest budgets in Europe, the average legal aid costs per case in RM are the highest in Europe.[11] The system for legal aid in criminal cases is regulated with the Criminal Procedure Code and is implemented by the judiciary. In practice, however, since the courts do not have funds in this budget line, they cover the costs from the general budget line of the court for contracts and services.

The situation in the free legal aid system years back has been marked with insufficient funds in the free legal aid system in absolute and relative context in relation to the comparative European standards and lack of a holistic approach in linking the functions and the allocation of the roles of various actors from the government and non-government sector within the legal aid system.

Strategic Guidelines

- Effective, efficient, and sustainable FLA system by adopting a new Law on Free Legal Aid:

  - to extend the scope of FLA beneficiaries;

  - to strengthen the capacities of the MoJ Regional Offices;

  - to increase the scope of FLA providers;

  - to extend the FLA areas excluding the criminal area which will be regulated by the CPC;[12]

  - to optimise the legal fees for FLA;

  - to extend the costs related to FLA;

  - to monitor the quality of the work of the FLA providers.

[11] EC Progress Report on the Republic of Macedonia for 2014 and 2015.
[12] IPA 2011 "Strengthening the rule of law".

- Improvement of the funding of the legal aid system by bringing it closer to the CEPEJ average value in terms of the GDP in the country
- Cooperation among all stakeholders in the FLA system
- FLA awareness-raising

2.6.2. Attorneyship

Current State

Attorneyship has existed in continuityas an autonomous and independent public service in RM since 1945. The current Law onAttorneyship was passed in 2002, but has since thenbeen substantially amended with several decisions of the Constitutional Court which repealed some of the provisionsof the Law on Attorneyshp. Membership in the Bar amounts to over 2,500 practicingattorneys, and there is also a trend of increasing membership for about 100 people annually, primarily because of the inability to provide employment for young legal professionals in the commercial sector. In 2016, there was a substantial increase of the legalfees, which significantly affected the FLA, notarial services and forced execution.

In the direction of strengthening the attorneyship that can respond to the reformed justice sector, a comprehensive analysis is needed that will detect the basic directions for systemic reform of the attorneyship, the status, position and competences of the Bar.

Strategic Guidelines

- The Bar to open law offices for the provision of free legal aid in the region of every court in RM;
- Improvement of the cooperation between the MoJ and the BRM in conection with the content and practical application of the legal fees, in order to improve access to justice in accordance with the objectives of this Strategy.
- Analysis of the existing legal position and work of the attorneyship and commence its reform in accordance with the reforms in other segments of the justice sector.

2.6.3. Enforcement

Current State

The new system of enforcement in RM, introduced with the Law on Enforcement in 2005, was the most revolutionary solution in the country introduced in accordance with the Strategy for Judicial Reforms of 2004, which made RM a leader not only in the region, but wider. The enforcement agents have been operating since 2006 and their performance is continuously monitored. A fast enforcement status has been achieved where 50% of the completed cases end within 1 year without any cost to the state. There are over 500 employees in the enforcement offices, and a huge amount of assets (over 1 billion euros) are reintroduced again in the legal circulation in the country.

This situation led to that from 2014 the topic of enforcement not to be an issue in the Eeuropean Commission reports until the Report of 2016.

The adoption of the new Law on Enforcement in 2016, which began to be applied on 01.01.2017, meant a deviation from the existing concept and caused severe reactions in the economic sector of the country, with proceedings being initiated before the Constitutional Court. This situation was also detected by the EC in its 2016report, where it isstated that the hasty adoption of several laws, in summary procedures and without proper consultation with the relevant stakeholders, generates problems whose resolution requires a consistent political will. The main problems detected included the obligatory representation of the creditor before the enforcement agent by an attorney in enforcement requests exceeding EUR10,000, the mandatory attempt for extrajudicial debt collection for public utility bills before initiating a procedure for issuing a notarial payment order, an extremely complex procedure of appointment of enforcement agents and assignment of deputy enforcement agents, ineffective procedure for taking an electronic exam, as well as exorbitant tariff of the enforcement agents.[13]

Strategic Guidelines

- Strengthen the professional capacities of the enforcement agents, simplification of the enforcement procedure, enforcement costs reduction, appropriate design of the exam for enforcement agents and the manner of taking theexamination.

[13] EC 2016 Progress Report on the Republic of Macedonia.

- Continuous monitoring of the enforcement effects and the quality of work of the enforcement agents.

2.6.4. Notaryship

Current State

The notaryship was established in theRepublic of Macedonia in 1996 as an autonomous, independent public service with public authorisations to do verification of documents in accordance with the law, at the request of citizens, state bodies, legal entities and other interested institutions. The functioning of the notaryship hashad a positive influence on the overall functioning of the legal system, and in particular on the promotion and increase of legal certainty.

In April 2016, a new Law on Notaryship was passed which greatly disrupted the previous concept of the notaryship and the principles of the Latin notaryship, which was also noted by the EC in its 2016 report.

Strategic Guidelines

- Strengthen the professional capacities of the notaryship and increase the efficiency of their work;
- Restore the notary act in accordance with the principles of the Latin notaryship;
- Monitor the results and quality of notaryship.

2.6.5. Mediation

Current State

In the Republic of Macedonia ***mediation*** was introduced in 2006, but its application is still at a very low level. In 2013 a new Law on Mediation was adopted. However, the European Commission Progress Report has made observations for years in view of the dysfunctional concept of mediation.

There is still a lack of licenced mediators primarily due to the complex and inadequate exam for mediators.

The Mediation Board is also ineffective, and the process of establishing the Chamber of Licenced Mediators was also delayed. The judiciary stimulates the dual concept of mediation (mediation before initiating court proceedings and mediation during the proceedings itself). The Academy for Judges and Public Prosecutors is passive in organising trainings on the topic of ADR, especially concerning mediation and arbitration.

The number of reported and registered cases in the Register of Mediation Procedures kept by the Ministry of Justice does not coincide with the number of cases recorded in the individual registries of the mediators. This situation is a result of the inconsistencies in the Law regarding the obligation of the mediators to report the cases to the MoJ and the different interpretations. Mediation attempts, although foreseen as an optionin the Law on Justice for Children, are not applied because the Public Prosecutor's Office does not have enough financial resources to comply with the Law. Awareness among individualsof the advantages of mediation remains low and efforts should be made to further raise it.

Strategic guidelines

- Improve the concept of mediation through legislative changes in the part of the exam for mediators in order to review the exam for mediators, to take into account the necessary competences and skills that they should possess; introduction of electronic service in mediation, harmonisation of the keeping of registries for mediation proceedings being kept by the Ministry of Justice and the mediators;
- Frequent use of mediation by public authorities by facilitating assumptions and encouraging public authorities to resolve mutual disputes through mediation;
- Stimulate the application of mediation in court proceedings in the implementation of the Law on Justice for Children, litigation proceedings against journalists for defamation and insult, consumer disputes, insurance disputes;
- Promote the benefits of mediation for raising awareness, in accordance with the European Commission Directive 2008 on Mediation in Civil and Commercial Disputes and the Directive on Mediation in Consumer Disputes.

3. STRATEGIC PLANNING AND POLICY-MAKING

Current State

Determining the development policy and reform of the judiciary in the country does not involve only legislative initiative and amendment of the existing legislation, but also numerous other activities such as monitoring the situationin thearea, analyses, undertaking concrete measures and actions.

The Ministry of Justice plays a key role in the reform of the judicial sector and with its expertise at the technical level it is involved in the developmental and reform process with most of its capacity. For the consistent realisation of this competence, it is necessary in the Ministry to establish an organisational unit for strategic development of the judiciary with responsibility for collecting and analysing data related to the implementation of the strategy and coordination with the corresponding organisational units from other judicial institutions. This organisational unit needs to have a three-fold function: permanent tasks for collecting data from other organisational units for drawing up reports and providing incentives and professional assistance for the implementation of the set goals; the organisational unit is a permanent promoter and support of the whole process and the organisational unit provides technical and expert assistance to the Judicial Reform Council.

The Judicial Reform Council is an advisory body of the Minister of Justice, which,withits expert and analytical opinions and consultations, contributes to the creation of policies and legal acts within the competence of the Ministry regarding the reform of the justice sector. The Council also gives such contribution in the preparation of the Ministry's strategic documents.

For successful implementation of all strategic guidelines and activities covered by this document, numerous legislative amendments are needed, as well as adoption of a number of new legal acts. The Ministry of Justice is responsible for the preparation of all legislation for which it is necessary to engage domestic experts (external and from the professional service of the Ministry) and international expert assistance. At the same time, the engaged professionals need to prepare and analyse the direction and guidelines of changing the

legislation. To this end, the Ministry of Justice forms working groups in certain areas for which it provides adequate budgetary funds.

In order to monitor the implementation of the reform of the judicial sector, adopted by the Government of the Republic of Macedonia, it is necessary to set up a body headed by the President of the Government of the Republic of Macedonia which will include the Minister of Justice, the Minister of Finance and other representatives of the Government of the Republic of Macedonia as well as other representatives of relevant authorities.

Strategic Guidelines

- Coordination of the reform in the justice sector;
- Active role of the Judiical Reform Council;
- Formation, coordination and funding of the working groups for the preparation of analyses and legal projects for the implementation of the Strategy;
- Monitoring of the implementation of the Strategy for Reform of the Judicial Sector through the indicators defined with the Action Plan

4. JUDICIAL INSTITUTIONS, OTHER INSTITUTIONS SERVING THE JUDICIAL SECTOR

4.1. JUDICIAL INSTITUTIONS

4.1.1. Courts

The concept of the court organisation in the Republic of Macedonia reflects the minimum standards established by several international legal acts while observing the principles of prevalence, immediacy and functionality, taking into account the procedural principles that refer to the two-instance procedure, that is, the right to an effective remedy and access to court.

The current structure of the first instance courts and the annual reports on their work indicate uneven case work, with significant deviations suggesting need to take measures

aimed at assessing their functionality and cost-effectiveness. Hence, the efforts to optimise the number of first instance courts and transform them into court departments within the closest courts of first instance in terms of territory are justified.

The number of judges per capita in the Republic of Macedonia is higher than the European average, which imposes the need to make an analysis that will be the basis for optimising the number of judges, performed in a legally defined procedure and respecting the constitutional guarantees for the independence of judges. This approach will provide organisational and financial benefits in terms of creating better organisational and financial prerequisites for judges.

The new legal provisions for the Annual Work Schedule should enable the establishment of a judge's profile for dealing with certain types of cases, taking into account the proportion of the complexity of the case with the judge's experience, more precisely with the years of service of the judge.

4.1.2. Judicial Council of the Republic of Macedonia

The applicable Law on the Judicial Council prescribes for 8 members of the Judicial Council to be elected in direct elections by judges, 5 members from among the distinguished jurists upon the proposal of the President of the State and the Assembly of RM, the President of the Supreme Court and the Minister of Justice. What has been identified is the need to change the terms and criteria for the election of the members of the Judicial Council in order to specify the notion “distinguished jurist” as previously noted in one of the strategic guidelines in this Strategy. Furthermore, it is necessary to foresee the participation of the President of the Supreme Court in the work of the Judicial Council without the right to vote, same as for the Minister of Justice.[14]In addition, in order to prevent the interruption of the connection between a member of the JS from the ranks of the judges and the "judicial profession", it is necessary for the members of the Judicial Council from among the judges to provide a legal basis to continue to perform their primary function, that is, to continue to adjudicate but with reduced workload (deprofessionalisation of the Judicial Council). The

[14]ECHR Judgment*Mitrinovski v. RM* (A. No.6899/12); *Poposki and Duma v. RM* (A. No.69916/10 and 36531/11), *Jaskovski and Trifunovski v. RM* (A. No.56381/09 and 58738/09).

same solution should be applied also to the other members of the Judicial Council, with the exception of its President.

While some efforts have been made by the Judicial Council to improve transparency, especially by regularly updating its website and allowing journalists and civil society organisations to attend their sessions, it has been noted that there is a lack of clear procedures for the public and the accessibility of the work of the Council. Hence, it is necessary to publicly post all decisions made by the Council in particular regarding election, promotion, evaluation, disciplinaryliability, dismissal of judges, analyses, conclusions, reports and announcements for all Council activities on the web portal.

In 2015, in order to separate the stages of the proceedings for disciplinary liability of judges (initiating the procedure, conducting an investigation and deciding on disciplinary liability of a judge), a new body was established, that is, the Council for Establishment of Facts and Initiatiation of a Disciplinary Procedure, tasked to act as an investigative body upon petitions and complaints against judges. However, such a Council established as a new institution does not guarantee better management of the courts. According to the recommendations of the Venice Commission, it is planned to completely abolish the Law on the CEF and to return into force the initiation of disciplinary procedure for the members of the Judicial Council, thereby stipulating that the members who were involved in the initiation of the disciplinary procedureand"investigators" shall not participate in the process of ruling in the specific disciplinary case as "judges".

4.1.3. Public Prosecutor’s Office

In 2010, a new Criminal Procedure Code was adopted which came into force in December 2013. It significantly changed and increased the powers of the public prosecutor's office, especially in preliminary proceedings, but also during the other stages of criminal proceedings. However, a new Law on the Public Prosecutor's Office has not been adopted. It may be concluded that the Public Prosecutor's Office operates on the basis of non-compliant material and organisational regulations. In addition, no quality staffing of the Public Prosecutor's Office has been carried out.

A serious issuethat has been identified is the failure to establish investigative centres within the public prosecutor's office, which should be a tool of the public prosecutor in undertaking the necessary actions in the preliminary proceedings and provide a way of institutionalising the cooperation between the prosecutors and the police.

There is an electronic case management system which does not allow electronic distribution with respect to the principle of uncertainty. Regarding the case management system, what is required is its consistent application, greater engagement andwillingness of the public prosecutors and the public prosecutor's office, as well asincrease in the technical resources. Its actual putting into use as well as the introduction of an electronic allocation system will contribute to institutionalising the principle of the functional (personal, procedural) independence of the prosecutor. There is a significant high degree of lack of computers, scanners, servers, printers, while the networks are in a particularly critical condition.

The absence of capacities for strategic planning, budgetary and financial management has been noted.

A special problem is the lack of spatial separation of the public prosecutor’s offices and the courts. For that purpose it is necessary to ensure spatial conditions for successful performance of the work of prosecutor’s offices.

According to the CEPEJ Report, there is a lower rate of non-prosecutorial staff per prosecutor (1.0) compared to the European average of 1.6.

The system for evaluation of the prosecutor’s officeis organised in such a manner that the hierarchically superior prosecutor evaluates the subordinated prosecutors. The criteria for the evaluation of public prosecutors are part of the bylaws of the Council of Public Prosecutors of theRepublic of Macedonia, where the emphasisis placed on quantitative rather than qualitative parameters.

Therefore, it is necessary to separate the system for individual evaluation of the prosecutors from the system for evaluation of the work of the prosecutor’s office as an institution, and to regulate the procedure for establishment of a disciplinary violation and the unprofessional and unethical performance of the public prosecutor's function with the Law on thePublic Prosecutor's Office.

For the proper functioning of the Public Prosecutor's Office it is necessary to establish operational cooperation among institutionsand synchronisation with the law enforcement authorities, the courts, the penitentiary institutions and the Bar.

The organisation of the Public Prosecutor's Office will follow the court organisational setup in the country.

The insufficient activities in the criminal investigations of the public prosecutor's office in general, and especially the BPPO for Prosecuting Organised Crime and Corruption in cases of high political significance, due to involvement of holders of high political positions in the state, have led to the establishment of a special prosecutor's office – the Public Prosecutor's Office for Prosecuting Criminal Offences Related to and Arising from the Content of the UnlawfulMonitoring of Communications (SPPO).

Due to the existing legal solution regarding the mandate of the Public Prosecutor's Office for Prosecuting Criminal Offences Related to and Arising from the Content of the Unlawful Monitoring of Communications, taking into account the number and complexity of the cases under the competence of this prosecutor's office, it is necessary to create legal preconditions to ensurecontinuation of its work. It should be done with a new Law on the Public Prosecutor's Office whereby the SPPO will be transformed into a separate public prosecutor's office with autonomous competences within the PPO system. The same law will specifically define and delineate the competences of the existing SPPO and the competences of the Basic Public Prosecutor's Office for Prosecution of Organised Crime and Corruption. Taking into account the existing human and technical resources of the SPPO, its competence as a separate public prosecutor's office for the entire territory of RM, with a seat in Skopje, within the PPO should be extended to cover prosecuting high-profile corruption cases (white-collarcrime) defined by the new law on the public prosecutor's office.

The management system of the Public Prosecutor's Office still depends on the unlimited jurisdiction of the Public Prosecutor of the Republic of Macedonia. It is necessary to rationalise the duties and responsibilities within the management system for the prosecution and the key competencies of the public prosecutor's office. It is recommended that the SPPORM have a primary role in the development of policies in the field of institutional governance and management in the public prosecutor's offices, while PPORM have a primary

role in the development of policies related to the application of the criminal law and procedure by the public prosecutor's offices.

4.1.4. Council of Public Prosecutors of the Republic of Macedonia

The Council of Public Prosecutors is a passive and ineffective stakeholder in the creation and development of all relevant policies for the activity of the Public Prosecutor's Office. Its role is completely insignificant in ensuring the principle of functional independence of prosecutors from their superiors. All this emphasises the need to increase and strengthen the role of the Council of Public Prosecutors in the process of planning and preparation of appropriate legal solutions in the area of criminal proceedings, penal policy and most importantly, the prosecutor’s freedom in decision-making.

The administrative support capacity of the Council of PP should be significantly developed so as to ensure that the Council of PP will carry out its extended role in strategic planning, access to the profession and career development, ethical and disciplinary issues, budgetary issues and communication and public relations.

The lack of strategic planning capabilities is also linked to the underdeveloped research and analysis capacities of the administrative services tasked with providing comparative overview and analyses for the formulation of legislative changes on behalf of the PPO.

The election of prosecutors in the basic public prosecutor's offices, performed by the Council of the PP, is prescribed in detail to a certain extent, but the criteria and procedures for appointment in the higher public prosecutor's offices are insufficiently regulated.

The existing rules provide for "vertical" advancement to a higher prosecutor’s office, but not "horizontal" deployment within the same prosecutor's office according to the area of specialisation.

The Council of PP has a Rulebook to regulate the supervision over the work and action of the PPO, but has no active role in the PPO. The supervision is carried out directly by the immediate superior public prosecutor. It is necessary to foresee a more active role of the

Council of PP during the supervision by keeping it regularly updated as well as by giving the opportunity to the Council of PP to initiate supervision.

The competence and procedure of the Council of PP regarding the manner of acting upon petitions from the public against a particular prosecutor are not precisely regulated by law. Also, there is no possibility for a member of the Council of PP on his own initiative to instigate a disciplinary procedure against a public prosecutor.

The transparency of the Council of PP is at an unsatisfactory level, given that the website is not updated on a regular basis. The presence of journalists and the civil sector at the sessions is limited; therefore it is necessary to put in placeclear procedures regarding the transparency of their work through public announcement and reasoningof all decisions adopted by the Council, especially concerning election, promotion, evaluation, disciplinary liability, dismissal, analyses, conclusions, reports and notifications for all Council activities on the web portal.

4.2.STATE AUTHORITIES, INSTITUTIONS, PROFESSIONAL ASSOCIATIONS AND CIVIL SOCIETY ORGANISATIONS SERVING THE JUDICIAL SECTOR

4.2.1. Assembly of the Republic of Macedonia

4.2.2. Constitutional Court of the Republic of Macedonia

4.2.3. Government of the Republic of Macedonia

4.2.4. Ministry of Justice

4.2.5. Ombudsman

4.2.6. Academy for Judges and Public Prosecutors

4.2.7. MASA and universities

4.2.8. The Bar of the Republic of Macedonia

4.2.9. Notary Chamber of the Republic of Macedonia

4.2.10. Chamber of Enforcement Agents of the Republic of Macedonia

4.2.11. Chamber of Mediators of the Republic of Macedonia

4.2.12. Association of Judges of the Republic of Macedonia

4.2.13. Association of Public Prosecutors

4.2.14. Association of Court Administration

4.2.15. Professional associations

- Association of Criminal Law and Criminology

- Macedonian Penal Society

4.2.16. Civil society organisations

5. REFORMS IN INDIVIDUAL AREAS

5.1. Penal matters

The frequent and numerous amendmentsto the Criminal Code and especially the large number of extra-criminal regulations have led to the loss of sense of codification of all criminal offences in the Criminal Code. These phenomena have caused problems at several levels: first, in the stipulation of criminal offences, deviating from the principles and nomotechnics contained in the Criminal Code, and second, in creating difficulties for judges, public prosecutors and other competent entities in the application of the provisions regulating thecriminal offences in other laws, bearing in mind their confusion and non-compliance with the Criminal Code. At the same time, what is notedis non-compliance of the prescribed penalties with the severity of the criminal offence, that is, the protected good. The need for harmonisation of the penal law with the latest EU directives has also been noted.

The identified circumstances call for the need for adoption of a new Criminal Code which, apart from the abovementioned contents, may introduce an additional criminal sentence – prohibition to perform any legal profession – for judges sentenced with an effective court decision for a criminal offence related to the misuse of the juridical office.[15] Such a prohibition should be provided for as a condition for the election of a judge also in the Law on Courts.

The Criminal Procedure Code was adopted in 2010 and started to be implemented on 1 December 2013. It changed the system of criminal justice with an emphasised role of the Public Prosecutor's Office with regard to the preliminary proceedings, stipulated the establishment of investigative centres within the PPO, introduced a separate stage for assessment of the act of indictment, changed the concept of the main hearing, redefined the procedural role and powers of the court, the parties and the defence attorney, and the concept of settlement regarding the criminal sanction was also accepted.

Abuse of the measure of pre-trial detention in the criminal proceedings for minor criminal offences has been detected as opposed to the trend of complete absence of the

[15] Item 29, Evaluation and recommendations by the Senior Expert Group on Systemic Rule of Law Issues 2017, Judicial Reference Chapter 1 page 11, Brussels 4 September 2017.

detention as a measure concerning cases related to corruption and with a political notewhich fall under the competence of the Public Prosecutor's Office for Prosecuting Criminal Offences Related to and Arising from the Content of Unlawful Monitoring of Communications. Detention is also abused as a measure for coercing a suspect to a plea bargain. It is necessary to clarify the provisions for detention and to develop a system of uniform practices of judges and public prosecutors.

In order to monitor the quality of the legal aid provided by defence attorneys appointed *ex officio* as well as that provided by defence attorneys appointed by the courts for the poor, and to prevent favouring attorneys at the expense of effective defence, it is necessary to establish an independent mechanism within the Bar of RM for evaluation ofthe quality of the defence provided.

Particular concern lies with the dysfunctionality of access to a defence attorney in the criminal proceedings. There are no detailed standardised written procedures and mechanisms to ensure or facilitate the exercise of the right of the suspect to a defence attorney when being summoned for interrogation by the police, especially if in detention, which is only one of the reasons why the suspects in the Republic of Macedonia almost never use a defence attorney in the police.

The need to overcome the inconsistent interpretation due to inaccuracy of certain legal provisions and their practical application, harmonisation with the newly adopted EU Directives and fulfillment of the recommendations of GRETA, are the basis for amendments to the CPC.

For the purpose of fulfilling the internationally accepted obligations of RM, and in order to compensate the victims of crimes, it is necessary to legally regulate the establishment of a special state fund for compensation of victims.

The witness protection system established in 2005 indicates numerous problems and inconsistencies in its implementation. Considering that the Law on Witness Protection has been applied for over a decade, and in the meantime the penal system underwent major legislative changes, there is a need to review certain provisions contained in it. The Ministry of Justice works toward adapting to the perceived problems in the practical implementation, both from the aspect of the measures for protection, institutional strengthening and functionality of the authorities foreseen with the existing Law (the Council of Witness

Protection and the Witness Protection Unit), as well as its alignment with other regulations in the penal area. Also, one of the priorities in relation to this Law is to regulate the issue of protecting witnesses in the proceedings for prosecuting criminal offences related to and arising from the content of the unlawful monitoring of communications.

The Justice for Children system was established with the Law on Juvenile Justice, and updated with the Law on Justice for Children. It still faces bad material conditions, lack of basic education and systematic re-socialisation of children deprived of liberty, thus pointing to the serious concern and need for efforts to further strengthen the rights of the child. At the same time, non-compliance with the Criminal Procedure Code and the Law on Misdemeanours was noted, as well as with the EU Directives. All this urges changes in the Law on Justice for Children, aimed at complying it with the other laws and EU Directives, enhancing the protection of children-victims of crimes, introducing procedural provisions concerning the main hearing, facilitating the access of children-victims to legal advice and representation, and setting up a Compensation Fund for Children-Victims.The changes must also strengthen the mechanisms for prevention of child offenders at local and central level, as well as institutional, material and functional strengthening of the State Council for the Prevention of Child Delinquency.

International co-operation in criminal matters is regulated by the Law on International Cooperation in Criminal Matters of 2010, which began to be applied at the same time as the CPC, 1 December 2013.

In 2008, an agreement with EUROJUST was signed; the country has also signed an agreement with EUROPOL and is a member of INTERPOL, ILECU and SELEC/SEEPAG. The country has appointed points of contact for the EJN.

All relevant international instruments in the area of international judicial cooperation and international legal assistance and their additional protocols have been signed and ratified. The Third Additional Protocol to the European Convention on Extradition has also been ratified. At the same time, the country has signed numerous bilateral agreements with the countries in the region and wider.

In order to overcome the perceived problems in the practical application of the law, especially with regard to the shortened extradition procedure and the provisions for the extradition detention, the Law on International Cooperation in Criminal Matters will be

amended. It is necessary for all practitioners involved in the implementation of the law to be provided with regular training for the proper interpretation and implementation of the forms of international cooperation.

Upon the recommendations of the Venice Commission, subject to changes will be the Law on Protection of Whistleblowers and the Law on Protection of Privacy.

Considering that the National Strategy for the Development of the Penitentiary System (2015-2019) was adopted within the Ministry of Justice, this section covers only issues that are not contained in the National Strategy, but also some problems arising from its application and which requireconcrete proposed solutions.

The adoption of a new Law on Execution of Sanctions is foreseen to harmonise the legislation in the area of execution of sanctions with the strategic goals given in the National Strategy. In some courts, the number of judges for the execution of sanctions shall increase.

In order to provide an efficient penitentiary system with a professional approach in organising and supervising the work of the penitentiary and correctional institutions with the purpose of improving the key areas of the functioning of the penitentiary system, fulfillment of and compliance with the highest European standards for execution of sanctions, it is necessary to evaluate the success in implementing in practice the General Cognitive Programme for cognitive-behavioral approach in the treatment of convicted persons and reviewing the competence of the Director of the Directorate for Execution of Sanctions, increasing the competencies of the directors of the penitentiary and correctional institutions, establishing an effective system for handling appeals upon reported cases of inadequate treatment of prisoners and the use of excessive force, and proper recording and evaluation of the cases.

With regards to probation, it is necessary to fully staff the probation service with the adequate professionalsthroughout the country. It is also necessary to adopt the bylaws arising from the Law.

5.2. Administrative matters

The administrative dispute as a judicial protection of the citizens' rights from illegal acts and work of the administration in the Republic of Macedonia has a long tradition. It was introduced for the first time in the Law on Administrative Disputes in 1952, supplemented by a new Law on Administrative Disputes in 1977, and the third and last Law on Administrative Disputes adopted in 2006 according to which a separate specialised administrative judiciary was established in the country. This Law was amended in 2010 with provisions for the establishment of a Higher Administrative Court without stipulating provisions for conducting proceedings before this Court.

The biggest problems that citizens face in the administrative-legal relations with the state (with the public authorities according to the terminology of the LGAP) include:

• firstly, regarding the length of the overall administrative procedure (administrative procedure before public authorities, followed by an administrative dispute), and

• secondly, in failing to enforce the decisions of the administrative judiciary.

The length of the procedure consisting of five instances of which two before the state administration bodies called public authorities and three in the framework of the administrative dispute before the Administrative Court, the Higher Administrative Court and declaratively before the Supreme Court of RM, make the protection of citizens' rights delayedand expensive.

What can be noted from the research conducted by the academic community and non-governmental organisations, as well as the reports drawn up by the experts within IPA 2007 project[16] is the following: the protection of the rights of the citizens is stalled,the same judgments of the Administrative Court which were previously repealed and remitted for a new trial are upheld,which for the party means only a waste of time and increased expenses.

It was found out that it is unnecessary for the public authorities to be represented in the administrative dispute against them by the Attorney General's Office. Namely, under the 2015 LGAP, the official who conducted the administrative procedure is obliged to also terminate itor, in other words, to adopt and sign the decision. He/she repliesto the complaints

[16] "Capacity building of the administrative judiciary in the Republic of Macedonia in the face of the challenges for achieving European standards" - "Ss. Cyril and Methodius" University Skopje 2015; and IPA 2007 Project "Support for more efficient, effective and modern operation and functioning of the Administrative Court" Annex 6, December 2011.

against his/her decision before the second instance state commission which decides on appeals in administrative proceedings. If a citizen, in the capacity of a party, initiates an administrative dispute against the second instance state commission's decision, there is no logical or legal justification for the Attorney General to represent the public authority in such an administrative dispute.

Failure to rule in full jurisdiction by judges of the Administrative Court is an additional problem for citizens creating a ping-pong effect in the protection of their rights. On theone hand, they have received from the Administrative Court a judgment in their favour, but on the other hand, instead of solving their problem on the merits, the judgment refers them back to another administrative procedure before the state administration authorities. In this way, citizens have obtained court justice*de jure* or on paper, but not *defacto* or for real. This problem is a consequence of the failure of the respondent bodies of state administration to submit the files during the administrative dispute which is why the Administrative Court cannot decide meritoriously in a dispute of full jurisdiction.

The judgments of the Administrative Court repealing the decisions of the state administration authorities and remitting them for redress with concrete court instructions are not enforcedby the state administration authoritiesas they again make a decision with the same content as the previous repealed decision. The Administrative Court faces a problem of non-enforcement of its judgments, a phenomenon that has not been observed in any country in which the principle of the rule of law is applied consistently.

The disputes from the administrative agreements, although explicitly defined in the LADof 2006, and since 2015 also in the LGAP as the competence of the Administrative Court, are still mostly decided in the regular courts, meaning that in this areaalso there is a total disharmonisation in the application of the law.

The conditions for the operation of the Administrative Court (spatial, technical and personnel) are reduced to a minimum and completely incompatible with a court of this rank which handles the most significant disputes against the state.

Because of all the negative findings stated above, it is necessary to draft a comprehensive analysis of the situation in the administrative courts the results of which should be the basis for future legal changes in this matter.

The State Attorney's Office does not need to represent the public authorities in administrative disputes, given the new decisions in the LGAP according to which the official conducting the procedure also adopts the final act. Hence, the official representing the public authority will defend his/her decisions in an administrative dispute.

It is necessary to take measures for consistent application of the mandatory court judgments and to foresee a way to determine how many of the final judgments were enforced within the legally prescribed period of 30 days. This is one of the European principles outlined in the Protocol.

The LAD should contain provisions for sanctioning public authorities which do not submit to the Administrative Court the necessary documents required for proper conduct and conclusion of the administrative dispute.

Specific training of administrative judges is required for the proper adjudication of disputes arising from administrative contracts which will be conducted by national and international experts.

The number of trials with public hearings should increase.

The LAD should be aligned with the 2015 LGAP.

There is a need for supplementing and specifying certain data within the Annual Reports on the work of the Administrative Court, such as how many decisions were made in disputes in full jurisdiction, how many decisions were made after a previously held oral hearing, how many of the decisions were made by a single judge, that is, to specify the ground on which the decisions taken were upheld.

It is necessary to improve the spatial and technical conditions for the work of the Administrative Court in order for administrative judges to perform their work more efficiently, as well as to acquire the necessary dignity and integrity.

5.3. Misdemeanour matters

The misdemeanour legal area in RM has undergone numerous changes in the past period and, yet, it remains dysfunctional and questionable.

The Macedonian legal system recognises two categories of punishable offences: criminal offences and misdemeanour. The criminal offences are regulated with the Criminal Code while the misdemeanours with the Law on Misdemeanours. The 1995 Law on the Courts abolished the former courts of misdemeanours and a single court organisation was established. Prior to the adoption of this Law for the category of minor punishable offences - the misdemeanours - the courts of misdemeanours were competent for the imposition of sanctions but also theauthorities of the state administration and the public services which were empowered by law to impose such sanctions.

A decision of the Constitutional Court of the Republic of Macedonia of 1996 repealed the provision from the Law on the Courts which stipulated that other authoritiesmay decide upon certain types of misdemeanours (customs, foreign currency, foreign trade and tax). Such a decision was the result of the Constitutional Court's interpretation thatthe courts only may decide on all punishable offences, under the Constitution. As a consequence of this Decision, the number of misdemeanour cases increased enormously in the courts of first instance which became continuously inefficient. Due to the untimely adjudication of the misdemeanour cases, most of them became time-barred which questioned the expediency of the proceedings. On the other hand, the state administration authorities, that had their authorisations for conducting misdemeanour procedures and sanctioning accordingly revoked, found themselves in a passive state without the possibility to act effectively in the exercise of their supervisory powers.

With the promulgation of the Amendments to the Constitution of the Republic of Macedonia in December 2005, more precisely with Amendment XX, an opportunity was created, in cases determined by law, for a misdemeanour a sanction to be imposed by a state administrationauthority or organisation or other body with public authorisations, whose final decision will be subject to judicial protection under conditions and in a procedure regulated by law. This constitutional provision was legally operationalised with the adoption of the Law on Misdemeanours in May 2006. The biggest shortcoming of this Law on Misdemeanours is its nomotechnical complexity, because in the same legal text two completely different types of misdemeanoursare systematised as punishable and two totally different legal procedures before different state authorities - judiciary and administration. At the same time, the Law contained a provision according to which special substantive regulations may stipulate fines for misdemeanours outside the frameworks established by the Law on Misdemeanours as a

general regulation and systemic law. This legal possibility was used in such a way that with the enormous number of substantive laws the state administration authorities foresaw within their competence the right to impose fines of several thousand (sometimes tens of thousands) of euros in denar equivalent.

This legal solution was largely criticised by the business community as the most affected, by the sholars and the experts whose representatives demanded urgent changes in this provision which allowed two serious disruptions to the legal order in the country: firstly, prescribing fines for misdemeanour higher than the penalties for the criminaloffences defined in the CC and, secondly, non-compliance with the principle *non bis in idem* as there are more frequent occurrences where one person appears as a defendant, convicted and punished both in misdemeanour and in criminal proceedings for the same offence which is defined as a misdemeanour in one substantive regulation, whileat the same time it is defined as a criminal offence in the CC.

The new Law on Misdemeanours was adopted in 2015 and to a large extent is identical with the previous 2006 Law on Misdemeanours, where certain nomotechnical changes were made and the numbering of certain provisions changed.

The most anticipated change in terms of reducing the fines imposed by misdemeanour authorities is not only omitted in the last LM, but on the contrary, the fines remain unchanged, sometimes even increased, and there is still a provision stipulating the possibility of "the exception to remain a rule ". Actually, this means that there is a possibility with special substantive regulations to provide for fines higher than the fines determined by the Law on Misdemeanours.

Another important novelty is the introduction of two-instance proceedings in the misdemeanour cases within the state administration. Thus, now the party on which the misdemeanour authority has imposed a misdemeanor sanction has the right to appeal before the State Commission for Deciding in the Second Instance in the area of the inspection supervision and the misdemeanour proceedings defined in a separate Law on Establishing the State Commission for Deciding in the Second Instance in the Field of Inspection Supervision and Misdemeanour Proceedings. This legislative experience is a special curiosity since it hasnot happened before to adopt a law on establishing a new state authority, to have a different law (LM) regulating the authorisations of the new body while a third law (LGAP) is

regulating the rules of procedure for that authority. Even though the newly established State Commission has been operating for two years, there isnot single information about it. Its broad scope of competence to decide as a second instance authority for all misdemeanour and inspection procedures was probably the reason for determining exceptionally high salaries for its members, but it is surprising that there are no analyses of the work of the Commission, a strategy or programme for future work, statistics regarding its effectiveness, quality and transparency. The official website of the Commission does not contain any relevant data for analysis. Considering the fact that regular legal protection against the decisions on misdemeanours adopted by state administration bodies with the previous LM was provided through the right to a lawsuit for initiation of an administrative dispute, and that the inspection procedures are only one type of administrative procedures for which there is already a second instance state body, the question arises about the reasons and motives for establishing this Commission.

Such provisions in the new LM which allow the administrative authorities to impose fines in millions and court protection that does not delay their enforcement carried out by the PRO in a tax procedure is far from corresponding to the notion of a misdemeanour defined as "minor misconduct compared to acriminal offence". For a minor misconduct there is a simplified procedure and milder sanctions as opposed to what is prescribed in the current LM. If one is to go by the premise that the difference between misdemeanours and criminal offences is only quantitative (smaller versus larger misconduct) then the question remains why the amount of the fines defined in the LM and CC is inversely proportional to the severity of the misconduct. Such legal solutions are unjust, unfair, and unjustified.

The amount of fines as well as the rules for legal protection of citizens against possible unlawful decisions on misdemeanours prescribed by the LMchallenge the consistent application of the principles of the rule of law, legal certainty, fairness and proportionality.

There is an indication of the existence of inflation from misdemeanours under the jurisdiction of non-judicial misdemeanour bodies, as well as a huge number of laws that regulate these offences and the amount of fines for their commission.

Therefore, it is necessary to have a comprehensive analysis of the content and implementation of the legal framework for misdemeanours which will indicate the manners and criteria for the terms “court misdemeanour” and “administrative offence”.

The range of the amount of fines should be determined by law and the possibility of deviating from it should be limited with specific substantive laws.

There is a need to revise the misdemeanour sanctions by introducing, *inter alia*, a warning as a form of sanction for legal entities. The possibility of imposing a warning for natural persons should be stimulated as it is rarely imposed in practice even though it is foreseen with the LM.

5.4 Civil matters

The comprehensive reform of the civil law system in the Republic of Macedonia started in 2011 with the initiation of a codification of the civil law in order to improve the quality of civil law regulation, as well as to overcome the legal gaps currently faced by legal practitioners in the application of civil legal norms. The reform is planned to be implemented in four civil law areas: realright legal relations, obligation relations, inheritance legal relations and family legal relations. The regulation of three areas of the civil law matter is at advanced stage of preparation aligned with the latest European legislation covering these areas, as well as the trends of modern legal systems. Considering the longstanding application of the Law on Ownership and Other Real Rights adopted in 2001 and the need for its harmonisation with the other regulations dealing with the real right legal relations, it is planned to draft a new Law on Ownership and Other Real Rights. Once it is estimated that there is an established system of functional civil law norms, the codification of the entire civil law matter will commence.

The high amounts of damages for defamation and insult against journalists and public officials will be reduced to symbolic amounts.

Regarding the procedural laws, the reform was made with the adoption of the new Civil Procedure Act(CPA) in 2005 and the amendments in 2010 and 2015. The CPA has contributed to significantly shorten the length of the proceedings and reduce the huge workload of the courts by exempting them from handling payment orders and inheritance proceedings which had burdened the judicial system for many years. However, the practical application of some of the new provisions, especially those related to cross-examination, compulsory expertise upon filing a lawsuit, etc. indicates the need to review these provisions by organising public discussions and debates with the involvement of scholars and experts.

The Law on Expertise was adopted in 2009. However, due to the perceived problems in the application of certain norms of the existing legal solution, especially in the part of entering the profession of an expert by passing the electronic exam for experts, and the structure of the electronic examination, the entry into the profession has been significantly impeded. Therefore, the existing legal regulations will be amended.

6. LEGAL FRAMEWORK OF THE JUDICIAL SECTOR

6.1. Normative framework

- Constitution of the Republic of Macedonia (Official Gazette nos. 52/1991, 31/1998, 91/2001, 84/2003, 107/2005, 3/2009 and 49/2011);

- Law on the Courts ("Official Gazette of the Republic of Macedonia", nos. 58/2006, 62/2006, 35/2008 and 150/2010);

- Law on the Judicial Council of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" nos. 60/2006, 69/2006, 150/2010, 100/2011, 20/2015 and 61/2015);

- Law on the Academy for Judges and Public Prosecutors ("Official Gazette of the Republic of Macedonia" nos. 20/2015, 192/2015 and 231/2015);

- Law on Enforcing ECHR Judgments ("Official Gazette of the Republic of Macedonia" nos.67/2009 and 43/2014);

- Law on the Court Budget("Official Gazette of the Republic of Macedonia" nos. 60/2003; 37/2006; 103/2008 and 145/2010);

- Law on the Judges' Salaries("Official Gazette of the Republic of Macedonia" nos. 110/2007, 103/2008; 161/2008; 153/2009; 67/2010; 97/2010; 135/2011 and 231/2015);

- Law on Court Administration("Official Gazette of the Republic of Macedonia" nos. 43/2014, 33/2015, 98/2015 and 6/2016);

- Law on Managing the Movement of Cases in the Courts ("Official Gazette of the Republic of Macedonia" no. 171/2010);

- Law on the Public Prosecutor's Office ("Official Gazette of the Republic of Macedonia" nos.150/2007 and 111/2008);

- Law on the Council of Public Prosecutors ("Official Gazette of the Republic of Macedonia" nos.150/2007 and 100/2011);

- Law on the Public Prosecutors' Salaries("Official Gazette of the Republic of Macedonia" nos. 153/2009; 67/2010; 97/2010 and 231/2015);

- Law on the Public Prosecutor's Administration("Official Gazette of the Republic of Macedonia" nos. 62/2015, 231/2015 and 11/2016);

- Law on the Public Prosecutor's Office for Prosecution of Criminal Offences Related To and Arising From the Content of the Unlawful Monitoring of Communications ("Official Gazette of the Republic of Macedonia" no.159/2015);

- Law on Free Legal Aid("Official Gazette of the Republic of Macedonia" nos. 161/2009, 185/2011, 27/2014 and 104/2015);

- Law on Attorneyship("Official Gazette of the Republic of Macedonia" nos. 59/2002, 60/2006, 29/2007, 106/2008, 135/2011, 113/2012 and 148/2015);

- Law on Notaryship("Official Gazette of the Republic of Macedonia" nos. 72/2016 and 142/2016);

- Law on Enforcement("Official Gazette of the Republic of Macedonia" nos.72/2016 and 142/2016);

- Law on Mediation ("Official Gazette of the Republic of Macedonia" nos.188/2013, 148/2015, 192/2015 and 55/2016);

- Criminal Code ("Official Gazette of the Republic of Macedonia" nos. 37/1996, 80/1999, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 7/2008, 139/2008, 114/2009, 51/2011, 135/2011, 185/2011, 142/2012, 166/2012, 55/2013, 82/2013, 14/2014, 27/2014, 28/2014, 41/2014, 115/2014, 132/2014, 160/2014, 199/2014, 196/2015 and 226/2015);

- Criminal Procedure Code ("Official Gazette of the Republic of Macedonia" nos. 150/2010, 100/2012 and 142/2016);

- Law on Justice for Children ("Official Gazette of the Republic of Macedonia" no.148/2013);

- Law on Execution of Sanctions ("Official Gazette of the Republic of Macedonia" nos.2/2006, 57/2010, 170/2013, 43/2014, 166/2014, 33/2015, 98/2015 and 11/2016);

- Law on International Cooperation in Criminal Matters ("Official Gazette of the Republic of Macedonia" no.124/2010);

- Law on Probation ("Official Gazette of the Republic of Macedonia" no.226/2015);

- Law on Misdemeanours ("Official Gazette of the Republic of Macedonia" no.124/2015);

- Law on Administrative Disputes ("Official Gazette of the Republic of Macedonia" nos.62/2006 and 150/2010);

- Law on General Administrative Procedure ("Official Gazette of the Republic of Macedonia" no.124/2015);

- Civil Procedure Act ("Official Gazette of the Republic of Macedonia" nos.79/2005, 110/2008, 83/2009, 116/2010 and 124/2015);

- Law on Obligations ("Official Gazette of the Republic of Macedonia" nos.18/2001, 4/2002, 5/2003, 84/2008, 81/2009, 161/2009 and 123/2013);

- Law on Ownership and Other Real Rights ("Official Gazette of the Republic of Macedonia" nos.18/2001; 92/2008; 139/2009 and 35/2010);

- Law on Inheritance ("Official Gazette of the Republic of Macedonia" no.47/1996);

- Law on the Bar Examination ("Official Gazette of the Republic of Macedonia" nos.137/2013 and 153/2015); and

- Law on Civil Liability for Insult and Defamation ("Official Gazette of the Republic of Macedonia" no.143/2012).

6.2. Other relevant documents

- Judicial System Reform Strategy 2004-2007 with an Action Plan;

- Strategy for the Justice Information and Communication Technology 2007-2010;

- Penal Law Reform Strategy 2007-2010;

- National Strategy for Development of Penitentiary System 2015-2019;

- Strategy for Development of Probationary Administration in RM 2013-2016;

- Strategic Plan of the Ministry of Justice;

- National Programme for the Adoption of the EU acquis 2017-2019;

- State Programme for Prevention and Repression of Corruption and Prevention and Reduction of Conflict of Interest with an Action Plan 2016-2019; and

- Civil Society Organisations' Proposal for Urgent Democratic Reforms, July 2017.

6.3. International reports on the Republic of Macedonia

- European Commission Annual Progress Report for the Republic of Macedonia 2016, 2015, 2014, 2013 and 2012;

- Recommendations of the Group of Senior Experts' Group on the systemic issues of the rule of law related to the monitoring of communications disclosed in the spring of 2015, June 2015;

- 2017 Recommendations of the Groupf of Senior Experts

- Urgent Reform Priorities of the European Commission for the Republic of Macedonia, June 2015;

- Preparation of the EU Judicial Sector Support Programme, July 2014;

- GRECO Evaluation Report on RM – fourth round, December 2013;

- GRECO Compliance Report on RM – fourth round, July 2016;

- European Commissionfor the Efficiency of Justice (CEPEJ) – Evaluation Report of the European Judicial Systems and Efficiency and Quality of Justice - last edition 2016 (data from2014); and

- Opinion of the Venice Commission on Laws on Disciplinary Liability and Evaluation of Judges in the Republic of Macedonia, December 2015.

6.4. List of international instruments on the independence of the judiciary

6.4.1. UNO instruments on the independence of the judiciary

- Universal Declaration of Human Rights;

- International Covenant on Civil and Political Rights;

- Basic Principles on the Independence of the Judiciary and Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary;

- Universal Declaration of Independence of Justice.

6.4.2. Council of Europe instruments on the independence of the judiciary

- Recommendation CM/Rec.(94)12 of the Committee of Ministers to member states on the independence, efficiency and role of judges

- Recommendation CM/Rec.(2010)12 of the Committee of Ministers tomember states on judges: independence, efficiency and responsibilities

- European Charter on the Statute of Judges (1998)

- Great Charter *(Magna Carta)* of Judges

- Venice Commission, Report on the Independence of the Judicial System (2010)

- Opinions of the Consultative Council of European Judges (19 Opinions)

- European Guidelines on Ethics and Conduct for Public Prosecutors (A Guide from Budapest Adopted at the General Conference of Prosecutors of Europe of 2005)

6.4.3. Other instruments on the independence of the judiciary

- The Universal Charter of the Judge

- Judges' Charter in Europe

- Mt. Scopus Approved Revised International Standards of Judicial Independence
- (Bangalore) Code of Judicial Conduct
- European Network of Councils for the Judiciary, Development of Minimum Judicial Standards I-V (election, evaluation, independence, disciplinary procedures, etc.)

6.5. ECtHR Case-Law