

SYSTEMIC WEAKNESS OF THE JUDICIAL AUTHORITY IN THE REPUBLIC OF NORTH MACEDONIA

Mira Jovanovska

University of Library Studies and Information Technologies

Abstract: *The judicial system in every country has a central role in maintaining justice and the rule of law. In North Macedonia, as in many other countries, the judiciary is important in protecting the rights of citizens, in the fight against corruption and crime. However, this system faces serious challenges that affect its efficiency and integrity. Problems in the judiciary, the Judicial Council, the Prosecutor's Office and the Council of Public Prosecutors have significant consequences for the functioning of the judicial system, but also for the overall fair and democratic structure of the state. According to the report by Transparency International – Macedonia-NSI (2024), 15 factors that play a leading role in society in the fight against weaknesses in the judicial system were evaluated. The judiciary was rated with an index of 50.68, taking the low 12th place out of a total of 15 institutions. The Public Prosecutor's Office was rated with an index of 38.9, or the last 15th place. which is shocking, considering that the Public Prosecutor's Office is responsible for submitting indictments to the criminal court for the initiation of court proceedings. What are the vectors for such situations? How can these weaknesses be resolved?*

Keywords: *Judicial system; Judicial Council; Council of Public Prosecutors; N. Macedonia*

INTRODUCTION

In accordance with the Copenhagen criteria, the reform of the judiciary in N. Macedonia began with the adoption of the Law on the Court Budget in September 2003. In 2004, the Government adopted the first Strategy for the Reform of the Judicial System. In 2005, North Macedonia was granted candidate status for the European Union (EU). In 2008, the Council of the EU supported the country's preparations for future accession and the harmonization of its legislation with the *acquis communautaire*. The EC's 2011 report noted "limited progress in the independence and efficiency of the judicial system and in the area of anti-corruption policy". The judicial system has become the Achilles' heel of N. Macedonia's European ambitions. In order to analyze the weaknesses and recommend the necessary tools to improve the judicial system, the former Director of the European Commission, Reinhard Priebe, visited North Macedonia (2015–2017) and concluded that "the rule of law and the judicial system are in collapse, deeply politicized, inefficient and corrupt. In order to crack down on corruption in the state public prosecution. In 2015, the Special Public Prosecutor's Office (SPO) was established but it remained immobilized due to political obstacles of the then VMRO-DPMNE government that had been ruling the country for ten years. After the change of government in 2017, R. Priebe published the Second Report (2017). It recommended a thorough reform of the judicial system, increased accountability of judges and an end to polit-

ical interference. However, in 2019, the head of the SPO, Katica Janeva, was arrested for corruption. Six years later, the EC Report on N. Macedonia (2025) concluded that “there has been no progress in the fight against corruption, the independence of the judiciary, the insufficient budget, regardless of the newly adopted Judicial Reform Strategy 2023–2028”. Starting from the 26 basic courts and the Basic Criminal Court Skopje, through 4 appeal courts to the Supreme Court and the Basic Public Prosecutor’s Office (PPO) together with the remaining 27 basic public ones, bribery, corruption, political pressure, inefficiency with numerous “forgotten” and outdated cases are present everywhere. The main weaknesses are the lack of judges and prosecutors, their corrupt nature, trading interests, voluntary or oppressive submission to political pressure, lack of professionalism and efficiency, ethics and transparency. The Judicial Council and the Council of Public Prosecutors are dysfunctional; the selection of judges is political. Therefore, the first and most important reform is to free the judicial and prosecutorial system from political influence.

METHODOLOGY

The scientific-methodological approach to research in the domain of legal sciences is a structured process. The basic parameters of the research in this topic are the quantitative and qualitative research of the rule of law in N. Macedonia, as well as other weaknesses of the judicial system. In the domain of documentary research, it is important to collect primary sources and secondary sources. When choosing the positivist method, a “rigorous analysis of existing texts” is carried out, with the implementation of the comparative method, a comparison is made between the EU Copenhagen criteria and the dysfunctionality of the judicial system in N. Macedonia.

STRUCTURAL ISSUES AND PROBLEMS OF THE JUSTICE SYSTEM

The separation of powers has been established since the time of the great philosophers Montesquieu and John Locke. the foundations of the functioning of the state and the limitation of its power. The judiciary is independent of the executive and legislative branches. The basic parameters of the independence of the judiciary are a) Prohibited removal of judges. b) The careers of judges are managed by the High Judicial Council (HJC). c) The principles of impartiality d) Judges should not be subject to threats and controversies. e) In countries with a developed system of separation of powers and the rule of law, the status of the Public Prosecutor’s Office is particularly important. It is hierarchically subordinate to the Ministry of Justice and therefore in illiberal regimes its independence is questionable. f) Political pressures affect the autonomy of judges and disrupt the balance of power between political authorities and the judiciary. g) The budget in the field of justice is an important parameter for the implementation of a free and efficient judiciary (Safjan, 2006). The independence of the judiciary is an essential component of democracy, which ensures that each party to the dispute has the right to a fair trial (Ackerman, Bastard, 1988, pp. 19–48). The fundamental principles of the Judiciary of the three branches

of government are guaranteed by the Constitution of N. Macedonia. However, the judicial system in the country faces serious structural problems that affect its efficiency and independence.

THE DISCUSSED INDEPENDENCE OF THE JUDICIAL SYSTEM

N. Macedonia, as an aspirant for EU membership, was under monitoring by the EC for the independence of the judiciary, in accordance with the Copenhagen criteria. The EC expert Reinhard Priebe, after his visits in 2015 and 2017, concluded that “the rule of law and the judicial system are in collapse, deeply politicized, inefficient and corrupt. In order to crack down on corruption in the state public prosecution, the Special Public Prosecutor’s Office (SPO) was established in 2015, but the real shock came in 2019 when the head of this institution was arrested for corruption. In N. Macedonia, the Judicial Council, the Public Prosecutor’s Office, the Supreme Court, the Court of Appeals and the Basic Criminal Court have proven to be dysfunctional. The Transparency International report concludes that judges are often susceptible to voluntary or increased political influence, trading interests, lack of ethics and transparency. (<https://transparency.mk/wp>) Regardless of which political party is in power, there is no developed awareness among the political elites about the essential importance of the judiciary and the public interest in society. Often under political pressure, trials are not objective or are postponed and dragged out until the case becomes statute-barred. As a result of such a practice, doubts are created in public opinion about the fairness and objectivity of court decisions, and citizens’ trust in the judicial system is reduced to 4%. The impression is that the judiciary in N. Macedonia functions as an elitist association between the executors of different authorities, similar to that in Africa (Vanderlinden, 1983, p. 128). In such a context, the ordinary citizen cannot exercise his rights when he has a famous opponent or a successful businessman against him. This type of dysfunctionality of the judicial system is accompanied by corruption and trading interests. In this dirty game, each involved entity can be an initiator or beneficiary of corruption in order to gain privileges in relation to the other side. There are other forms of influence of individuals from the political sphere on the judiciary. First of all, this refers to blackmail and pressure that can be threatening. In conditions where there are judges with a lack of integrity, they can succumb to pressure. In such conditions, the biggest victim is justice and the citizen (Ouimet, 2012, pp. 75–92).

LACK OF PROFESSIONALISM AND EFFICIENCY

One of the most important pillars of the rule of law is the professionalism and efficiency of the judicial system. The assessments are determined by the ability of the courts to resolve disputes within reasonable time limits. For this purpose, the EC for the Efficiency of Justice (CEPEJ) was established in the EU in 2002. This institution plays a key role in assessing performance and strengthening public trust through modern methods of governance in the EU. One of the questions that arises is: how is judicial professionalism and competence achieved? It is considered nec-

essary to encourage continuous education (Ackermann, Bastard, 1988, pp. 19–48). The quality of justice depends on the training of judges, prosecutors and lawyers, the provision of technical expertise and increased independence. However, it is wrong to think and act according to the principle “that in the name of efficiency all tools are allowed”. Efficiency must not be built at the expense of ethical standards and the rights of the parties to the dispute. An integral part of the efficiency of the judicial system is its modernization. With the acceleration of scientific discoveries with digitalization and the use of artificial intelligence, the introduction of digital technology (e-justice) for resolving disputes is also desirable. In N. Macedonia, professionalism and efficiency in the judiciary are often compromised due to the inefficient management of court processes by judges and the lack of appropriate mechanisms that can control inefficiency. Court proceedings are often delayed, and judges do not resolve cases within a reasonable time. This problem reduces citizens’ trust in the judicial system and increases the impression that justice is not available to everyone, but only to those with power and resources (<https://transparency.mk/2025/>). In general, the lack of professionalism among judges stems from decisions that do not contain an explanation of the reasons for their adoption or do not offer detailed explanations. Who is to blame for such a situation? Is it the Judicial Council that selects judges based on political affiliation? Is it the AKMIS system that manipulates the small number of honest judges and removes them? (Blaževska, 2017, p. 2)

FINANCES – A GUARANTEE OF THE INDEPENDENCE OF THE JUDICIARY

In the judiciary, the main legal basis for budgeting is the percentage of the gross domestic product allocated to the judiciary. In N. Macedonia, the percentage of GDP allocated to the judiciary has been 0.8% for decades. By 2025, this minimum was not respected and fell to 0.3% of GDP. Due to lack of financial resources, many courts are unable to fulfill their daily obligations due to the insufficient number of judges and administrative staff. This handicap negatively affects the judicial procedure, slows down the judicial process and leads to corruption (Djurovski, 2025).

SHORTAGE OF HUMAN RESOURCES

The next major handicap facing the judicial system in S. Macedonia is the lack of human resources. This deficit is primarily reflected in the lack of judges and court officials without whom judicial power cannot be effectively realized. According to the EC Report on S. Macedonia for 2025, it is emphasized that the Macedonian judicial system lacks at least 160 judges. Due to the age structure of judges, it is estimated that by 2028, about 40 judges will retire (EC Progress Report on Macedonia for 2024). The most relevant indicator of the crisis surrounding the shortage of judges was the scandal surrounding the illegal selection of 130 candidates to the Academy of Judges and Public Prosecutors during the parliamentary and presidential elections in the spring of 2024. This competition was soon annulled, and the director of the Academy of Judges and Public Prosecutors resigned (Trpčevska-Zafirovska, 2025).

ETHICS AND TRANSPARENCY

Transparency and ethics in the judicial system assume that this professional system guarantees independence, transparency and impartiality, which are guaranteed by law. Transparency and professionalism imply transparent external communication to strengthen public trust and internal communication for harmonization of practices. In the EU, these issues are under the jurisdiction of the EC for the Efficiency of Justice (CEPEJ), while in N. Macedonia this function is performed by the Judicial Council, which is completely dysfunctional. The general conclusion is that many court decisions are challenged by citizens and often end up in the European Court of Human Rights in Strasbourg. The most common observation of European experts is that a large number of judges and legal professionals are not sufficiently transparent in their work. In this regard, corruption and nepotism in the judiciary are often pointed out. When it comes to the integrity of the person of a judge or prosecutor, it means respecting physical and moral integrity. Moral integrity presupposes respect for human dignity, the right to honor, respect for privacy, the right to one's own image, the right to one's own voice, the right to privacy, the right to silence, the right to respect, the right to the presumption of innocence, the right to the inviolability of the home (Ouimet, 2012, pp. 75–92). Unfortunately These qualities are not found among the majority of judges in N. Macedonia.

INTEGRITY OF JUDGES AND PROSECUTORS

Article 11 of the United Nations Convention against Corruption emphasizes the central role of judicial integrity. The Convention states that, in order to effectively discharge its functions, the judiciary must be free from corruption, its members must be independent and must act with integrity and impartiality. This presupposes the fulfillment of several imperatives: a) Identifying priority issues and challenges related to judicial integrity and the prevention of corruption; b) Linking local and regional initiatives on judicial integrity; c) Creating an online library of useful resources, publications, guides; d) Promoting the exchange of best practices and lessons learned, advisory services, ethics training, etc.; and e) Supporting the strengthening of oversight and accountability mechanisms. Integrity should be a fundamental value for every judge. Without integrity, justice can be jeopardized, and judicial decisions can be suspected of bias or corruption. A judge with high integrity will not allow external factors or corruption to influence his work. The judicial system in S. Macedonia is filled with numerous scandals, bribery, corruption, political influence, where the integrity of the judge has been destroyed, from the basic, appellate to the Supreme Court (Geroski, 2025, p. 3).

THE NON-FUNCTIONALITY OF THE JUDICIAL COUNCIL AND THE COUNCIL OF PUBLIC PROSECUTORS

The Judicial Council has a central role in the management of the judiciary. It is responsible for the selection, promotion, disciplinary liability and dismissal of judges. In S. Macedonia, the Judicial Council faces a lack of transparency and professionalism in its functioning. The selection of judges is often subject to political

pressure, which reduces the independence of the judiciary. Regardless of the fact that according to the law, the Judicial Council is an independent and autonomous body of the judiciary with the status of a legal entity (<https://jorm.gov.mk/>). This institution fails to effectively implement its competencies. Some judges behave unprofessionally and with a high level of corruption. Such an atmosphere of impunity undermines the credibility of the Judicial Council. The prosecution in North Macedonia plays an important role in protecting the legal order and preventing crime. The Council of Public Prosecutors is an institution that appoints and disciplines prosecutors, but it also faces numerous problems such as: the lack of independence and professionalism in the prosecution often leads to selective administration of justice and favoritism of certain individuals or groups. Prosecutors are susceptible to political and other external influences, which undermines their independence and increases corruption. The shortage of judges and public prosecutors is a serious problem that must be resolved as soon as possible if effective and efficient courts and public prosecutors are to be established. The Academy for Judges and Public Prosecutors is not adequate to provide the necessary number of judicial and prosecutorial personnel to fill the gaps in a short time. Therefore, it is much more useful to approach a combined selection of judges and public prosecutors. This means that they should be recruited primarily from among those who graduated from the Academy for Judges and Public Prosecutors, but also from other profiles such as legal professionals, people from the field of advocacy, law professors and the like, for whom a legally established length of service and experience of more than 15 years in the profession would be required.

CONCLUSION

The judicial system of N. Macedonia is collapsing and needs an infusion. The first and most important reform is to free the judicial and prosecutorial system from political influence. Independent bodies are needed for the selection of judges and prosecutors, and transparency in the selection and appointment. In the fight against corruption, it is necessary to conduct checks on the property status of judges and prosecutors, as well as transparency and accountability. The leading role is played by the Judicial Council, the Council of Public Prosecutors and the State Commission for the Prevention of Corruption. However, the three mentioned institutions are dysfunctional and in a state of “stroke”. Legislative amendments are necessary for greater accountability and control of judges and public prosecutors. The personnel deficit of judges and public prosecutors is a serious problem. The Academy for Judges and Public Prosecutors is not adequate to provide the necessary number of judicial and prosecutorial personnel. A combined selection of judges and public prosecutors is needed, recruited from the Academy of Judges and Public Prosecutors, as well as legal professionals and experts in the field of advocacy, law professors, etc. Reforms need to be swift and decisive, in order to create a stable and fair judicial system that will reduce the level of corruption. Modernization through digital networking will enable a rapid flow of information to the State Commission for the

Prevention of Corruption. This is an important condition for the efficient functioning of this institution in the fight against corruption. New mechanisms are needed to promote the education and professional development of judges and prosecutors, training in ethics and independence, as well as redefining the profile of members of the Judicial Council and the Council of Public Prosecutors. The judicial system must be subject to regular audits and public reports that will improve its transparency. The accountability of judges and prosecutors should be based on clear and verifiable standards.

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СИСТЕМНА СЛАБОСТ НА СЪДЕБНАТА ВЛАСТ В РЕПУБЛИКА СЕВЕРНА МАКЕДОНИЈА

Резюме: Съдебната система във всяка страна играе централна роля в поддържането на правосъдието и върховенството на закона. В С. Македонија, както и в много други страни, съдебната система е важна за зашитата на правата на гражданите, в борбата с корупцията и престъпността. Тази система обаче е изправена пред сериозни предизвикателства, които засягат нейната ефективност и почтеност. Проблемите в съдебната система, Съдебния съвет, Прокуратурата и Съвета на прокурорите имат значителни последици за функционирането на съдебната система, но и за цялостната справедлива и демократична структура на държавата. Според доклада на Transparency International-Macedonia-NSI (2024) са оценени 15 фактора, които играят водеща роля в обществото в борбата срещу слабостите в съдебната система. Съдебната система е оценена с индекс от 50,68, заемайки ниското 12-то място от общо 15 институции. Прокуратурата е оценена с индекс от 38,9, или последното 15-то място, което е шокиращо, като се има предвид, че прокуратурата е отговорна за внасянето на обвинителни актове в наказателния съд за образуване на съдебни производства. Какви са посоките на действие за подобни ситуации? Как могат да бъдат отстранени тези слабости?

Ключови думи: съдебна система; съдебен съвет; Съвет на прокурорите; Северна Македонија

Mira Jovanovska, PhD Student
University of Library Studies and Information Technologies
Sofia, Bulgaria
E-mail: mirajovanovska@yahoo.com