

Expert: Dusko Stojanovski, PhD

## **4. Internal Affairs and Judiciary**

### **4.1. Planned and implemented activities of the Government of RM in the reporting period**

#### **4.1.1. Reforms in the judiciary**

Strengthening the independence, increasing the efficiency and specialization of the judiciary with the purpose of ensuring free and efficient access to justice, as well as establishing the principle of rule of law are the basic aims and directions of the reforms in the judiciary.

In that direction were the several work meetings between the members of the Judiciary Reform Council and the European Commission Ambassador-Erwan Fouere, the President of the Supreme Court of RM, the President of the Judicial Council of RM, the Ombudsman of RM, the Director of the Agency for Training of Judges and Public Prosecutors, the Public Prosecutor, etc. Besides the analysis of the conditions in the judiciary, the main accent on those meetings was put on the activities related to publishing court verdicts and opening public relations offices in courts, as well as on the transparency of the work of the Judicial Council and the Public Prosecutor's Council. Furthermore, the financing of courts and the need for a further increase of the financial means of the courts and public prosecutor's offices was emphasized as a serious problem, as well as the increase of the trend of employing professional associates in those institutions.

In general, growing political independence in the work of the judiciary, public prosecutions and the ombudsman can be noticed in 2009. All that contributed to receiving a positive report from the European Commission for the progress of RM in those areas in 2009.

In November, 2009, it was established the State Council for Juvenile Delinquency Prevention<sup>1</sup>, foreseen with the Law on Juvenile Justice<sup>1</sup>. The Council is an independent body comprised of 15 members chosen by the Parliament of RM with a mandate of 5 years and with the right to re-election. Seven members of the Council are chosen at the suggestion of the Minister of Justice, eight of them are chosen through public call, and the President is chosen out of these members with a mandate of two years. The Council, among other things, adopts the National Strategy for Facing the Juvenile Delinquency, initiates taking activities and measures, above all for prevention of the juvenile delinquency. The Council for Prevention of the Juvenile Delinquency follows in the forthcoming period in the municipalities and in the City of Skopje.

In the analyzed period, the Project dedicated to the novelties in the legal procedure was promoted, and they refer to audio recording of the legal procedures and litigations, instead of the up-to-now practice of dictating the records by the judges. The Project is being realized with the support of USAID-DPK.

---

<sup>1</sup> As a failure in the implementation of the Law on Juvenile Justice, the delay of the establishment of the State Council was concluded.

<sup>1</sup> Adopted in 2007, and enforced on 30 June, 2009.

As of 2010, the implementation and efficient use of the Automated Computer System for keeping court cases has been started in all of the courts of RM and with the support of USAID-DPK. The overall registry of the court cases and court records is kept electronically in accordance with the amendments of the Court Rules of Procedure adopted by the Minister of Justice.

The fourth generation of authorized court translators has been promoted in the reporting period. Out of 63 candidates in the fourth session, 58 have successfully passed the test for court translators. Out of 329 applicant candidates in four sessions so far, 263 candidates received diplomas for court translators. They are very important for RM in its aspiration towards Euro-Atlantic integration structures, and doing work in the diplomatic-consular offices as well, in the courts and other institutions where there is a need of foreign language translators. RM enhanced its condition for fulfilling the European Union criteria in the implementation of the multilingualism and the public use of languages as a determined policy of the EU.

Meanwhile, the Academy for Training of Judges and Public Prosecutors continued to realize the initial training<sup>2</sup> of 17 trainees from the third generation. In December 2009, the final exam for the trainees from the second generation was conducted (27 trainees). All of the trainees have successfully passed the final exam. Out of the first generation of 27 trainees, 13 were elected for judges, and 9 of them were elected in the public prosecution. The Academy regularly conducted all of the planned events and activities during the reporting period.

Moreover, the new software solution was installed and started working in the Academy in the reporting period, which should enable more efficient work, storing vast quantity of digital data and relaxing the communication of the employees with papers required for continuous operation of every day tasks for the corresponding persons.

On 27.01.2010, 20 notaries and 12 bailiffs that have fulfilled the legal provisions for notary and bailiff function were given Charters for doing their duties. With that, the total number of notaries on the territory of RM reached 161, and the total number of bailiffs reached 78 persons<sup>3</sup>.

The draft for amendment of the Law on Free Access to Information of Public Character was presented in the analyzed period. The application of its provisions should enable transparency and openness in the work of the holders of information, as well as allowing the physical and legal entities to exercise the right to free access to information. With the offered solutions, certain provisions of that Law are specified, and there is harmonization with the Law on General Administrative Procedure, the Law on Administrative Dispute, the Law on Misdemeanors and the Law on Civil Servants. With the amendments, the status of the Commission for Protection of the Law on Free Access to Information of Public Character is as well specified as an independent state body with the function of a legal entity.

---

<sup>2</sup> The training started on 15 September, 2009, and lasts for 5 months.

<sup>3</sup> According to the Rulebook on the number and schedule of notary offices in RM, it was determined that the number of the official offices is 219, and the number of the executive officers is 132 in 11 regions of the Courts of First Instances on the basis of the authority of the Courts of First Instances determined by the Law on Courts.

Towards the end of 2010, the news in the Draft Law on the Inspection Supervision were presented and also the Rulebook on Mediation for Judges and Public Prosecutors was promoted.

The tendency of decreasing the number of cases and their solutions in courts continued, which have not been solved in courts and other judicial bodies for years. A great decrease in the number of newly submitted cases can be noticed which is due to the fact that, in compliance with the international documents, part of the work of the courts will be transferred under the competence of other bodies, i.e. the executive proceedings shall be transferred to the bailiffs, and the probate proceedings to the notaries.

According to the Amendments to the Law on Personal Identification Registry<sup>4</sup>, as of the beginning of 2010 the Directorate for Keeping the Registries started its work as a body within the Ministry of Justice, with the function of a legal entity. The authority for keeping the registries and issuing extracts and other certificates from the registries of births, marriages and deaths in compliance with the Law on Registries which has been under the competence of the Ministry of Internals until now, shall take over the Directorate for Keeping Registries through its 8 regional departments, 26 regional offices and 239 local offices in rural populated areas.

The achievements of RM in the realization of the fundamental human rights were presented in the reporting period, which was positively evaluated by the representative in the United Nations. The submitted results about RM in the United Nations in New York and in Geneva, are evaluated with a good mark in the part of achieving minority human rights which is mainly a result of the adoption and renaming of new laws, such as the Law on the Rights of the Small Ethnic Groups and the Law on the Use of the Language.

In the reporting period, the reform of the penitentiary system continued with the purpose of improving the conditions in the penitentiary institutions and more efficient implementation of the sanctions which are above all, under the level of the international standards. The issue concerning the biggest jail "Idrizovo" is still open, where activities for building new rooms are projected for the middle of 2010, as well as a closed section, semi-closed section and open section, training centers and health care centers.

#### **4.1.2. Activities of the Ministry of Justice in the fight against corruption**

The priority for the Government of RM is zero tolerance of corruption. Inter-sector collaboration for fight against organized crime and corruption is frequent and on a satisfying level.

The Ministry of Justice in the reporting period worked for completing the legal framework, strengthening the capacities of the institutions for performing activities, preventing organized crime and corruption, strengthening the capacities of the courts, operationalization of the Public Prosecutor's Office for organized crime and corruption, filling in specific number of judges in courts according to the decision of the Court Council, as well as on the question for education of judges within the Academy for Training of Judges and Public Prosecutors.

For the purpose of improving the election processes in RM in future, changes are made in the election code that enable greater transparency in financing of the election

---

<sup>4</sup> "Official Gazette of RM", no. 98/08

champagne. Besides that, a more intensive work is done on the cleaning of the election registry.

#### **4.1.3. Reforms in the Police**

The base for reforms in the police is the Law on Police<sup>5</sup>, which begin its implementation on 11 November 2009. The whole redefining of the current and creation of new by-laws that result from its provisions were done for its implementation. The Ministry of Internals (MOI) prepared all of the by-laws in the time limits determined with the Action Plan for realization of the activities concerning the creation of the legal regulative. They are left to be adopted in the course of 2010.

The established system of career and merits should increase the stability of the professional personnel and eliminate one usual practice, due to a change of the political option that is currently on the position, besides high-ranked officials in MOI, lower-ranked officers in the professional services to be redeployed because of political motives. In the reporting period, measures have been taken for the elevation of the level of responsibility within the members of the police and authorized officials in MOI.

In 2009, 432 procedures were conducted for determining the responsibility for violation of working discipline against employees in the MOI. Out of the total number of conducted procedures, measures for termination of the employment agreement were pronounced in 108 procedures, measure “fine” was pronounced in 285 procedures; a decision for termination of the procedure was adopted in 33 procedures; a decision for redeployment of the employee two positions lower than the position he/she held before was adopted in 2 procedures and a written warning for the employee was pronounced in 4 procedures.

In the reporting period, the system for Integrated Border Management was completed, which by signing of the agreement for readmission and establishment of the National Coordinating Center for Border management had a great effect on the establishment of the visa liberalization for the citizens of RM starting from 19.12.2009.

With the aim of promoting the technical-information potential of MOI, in a phase of realization are the projects for improvement of the Tetra system for the area of Skopje, as well as establishing a modern 24 hour Operational Centre equipped with the most sophisticated electronic equipment for following the important criminal hot spots in Skopje, as well as a bigger insight in the activities and tasks by the officially authorized persons.

In the view of issuing personal identity cards, the increased waiting line and the prolongation of the time period for their creation and issuance is particularly noticeable. That is mainly because of the following: the approaching of the due date for replacement of the identity cards and the weak prior reponse of the citizens<sup>6</sup>; the adopted decision for visa liberalization and the fact that it shall be valid only for the new biometric passports and the new pandemic swine flu.

---

<sup>5</sup> “Official Gazette of RM”, no. 114/06

<sup>6</sup> In the pervious 2, 5 years, a 100 persons applied a day, and immediately the number of applications was increased to 10.000 persons a day.

#### **4.2. Overall evaluation by the expert on implemented activities for the reporting period, with possible recommendations**

In the reporting period the realization of the program commitments of the Government of RM continued, i.e. the work of its sector ministries and institutions that are in charge of the implementation of the activities in the field of justice and security. The cycle for adapting of a great part of the Macedonian with the EU legislative is completed.

The late implementation of the Law on Juvenile Justice is moving with the creation of a State Council for Prevention from Juvenile Delinquency. In the following period its implementation should follow in the courts, as well as the creation of the Councils for prevention from Juvenile Delinquency on the municipal level and the city of Skopje.

The Law on Police is implemented more intensively in practice. In the determined deadlines, all of the foreseen by-laws have been adopted, and the commanders of the police stations have been elected (in joint action of MOI and the local self-government).

The Law on Internal Affairs is adopted which introduces a career and merit system. The career and merits system should increase the stability of the professional personnel and eliminate one usual practice, due to a change of the political option that is currently on the position, besides high-ranked officials in MOI, lower-ranked officers in the professional services to be redeployed because of political motives.

The reform of the penitentiary system with the aim of improving the conditions in the penitentiary institutions and more efficient implementation of the sanctions is still at a satisfying level, although it can be concluded that it is restrained by the lack of financial means. The help of the Government of the Kingdom of Netherlands is generous, which on a bilateral level pays great efforts for improving that condition.

With the aim of elevating the level of public and state security, especially for preventing the violent forms of organized crime, in the upcoming period things should be done for renewing the work of the police officers in the monitored and patrolled area, activity that the Macedonian police practice has conducted quite well until the conflict in 2001 when, because of the current situation at that time, that practice was almost abandoned.

The need for enlarging the capacities of the information-technological system for issuing personal identity cards for the citizens of RM is evident.