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NEWSLETTER 9

WORKING GROUP 3
JUDICIARY AND FUNDAMENTAL RIGHTS

“REGULATION, PRAGMATIC CONTEXT AND EFFECTS
VIS-À-VIS CHAPTER 23 AND THE RESPONSIBILITY OF
THE RELEVANT SUBJECTS IN THE ADMINISTRATION
OF JUSTICE IN THE REPUBLIC OF NORTH MACEDONIA”

Eleventh session of Working group 3 – Judiciary and Fundamental Rights (Chapter 23)

“Regulation, pragmatic context and effects vis-à-vis Chapter 23 and the responsibility of the relevant subjects in the administration of justice in the Republic of North Macedonia”



The National Convention on the European Union in North Macedonia hosted the eleventh session of Working Group 3 – Judiciary and Fundamental Rights (Chapter 23) today in the Club of Deputies, on the topic “Regulation, pragmatic context and effects vis-à-vis Chapter 23 and the responsibility of the relevant subjects in the administration of justice in the Republic of North Macedonia”, organized by the European Movement.

The debate, which included experts in the field of law, judges, university professors, but also representatives of the civil sector, relevant to this topic, was opened by the legal expert for the Western Balkans, **Kristijan Turkalj**, otherwise the main negotiator in the negotiation team of the Republic Croatia on Chapter 23 – Judiciary and fundamental rights who explained that the executive power cannot implement a major justice reform for corruption without the support of the le-

gal sector itself.

“This year finally, Croatia experienced all the privileges of EU membership, such as free travel, the benefits of the Schengen zone, but also what was most important to Croatia, which is the help they received from the EU during the pandemic,” he said.

One of the most important things, according to Turkalj, is the political consensus.



All problems that need to be solved need to be solved together, and therefore consensus is most important. In chapter 23 there are not enough regulations, emphasis is placed on values. This chapter is difficult, because there is no one to say whether we have reached the values expected of us, says the Croatian expert, because as is well known in the public, until the first fundamental cluster is opened, the others cannot be opened, which means that this cluster opens first and closes last, because the progress that will be achieved with the first cluster will determine the way and the speed at which the negotiations will take place.

According to the Croatian experience, as Turkalj said, in the negotiation framework there is a horizontal issue that comes in all negotiations, that is, the topic of corruption, which is present in all chapters. EU funds can be frozen if there is no progress in the negotiations.

“In order to know how to help Macedonia, we need to reject the wrong idea that only the Commission negotiates, and say that all stakeholders should discuss.” The external factors that can hinder Macedonia are the military factors from Ukraine, but we can still recognize whether it has a positive or negative impact on our negotiations. If the judiciary does not sincerely want to choose the best professionals, then they will not choose them. Therefore, we should honestly see how important it is to select judges well in Macedonia”, concluded Turkalj, adding that

“the frustration is great when someone from the 150th place on the list jumps over the other 150 professionals to get a job that he did not deserve”.

From the Council of Ambassadors **Muhammed Halili**, acting as co-chairman, opening the expert part of the session, pointed out that our legal system is full of nepotism and this can have a very bad effect on the country. He added that we are all sorry that the public has not yet received a concrete answer from the judges and that there are no elements in the Law on Criminal Procedure with which the judges who make very important decisions are responsible to defend their decision, and if they made a mistake, the mistake should have consequences, and they should answer to some institution.



The professor from the Faculty of Law “Iustinianus Primus” at the University “St. Cyril and Methodius” – Skopje, **Nikola Tupanchevski**, also a continuous expert at NCEU, said that Working Group 3 is a good opportunity to see if the conclusions from the recommendations and from the session itself are relevant and reflect the reality of our country.

The working title of the session “Regulation, pragmatic context and effects vis-à-vis Chapter 23 and the responsibility of the relevant subjects in the administration of justice in the Republic of North Macedonia” covers everything that should be discussed in this session, and that the dialogue is aimed at what it is really necessary.



According to Tupancheski, if the court has a controlling role, we move along a trajectory that asks the question “Who controls the controllers?” Mistakes can be intentional and unintentional, and therefore the aspect will not be on criminal-legal responsibility, but on general responsibility. “One segment of the evaluation of the judges is that 10 percent of the total grade of the evaluation should be from the interview, which refers to the social competencies of the judicial council,” suggests Tupancheski.

The judge in the Basic Criminal Court, **Olja Ristova**, who is also a continuing expert in the NCEU-MK, explained that all the recommendations of the international judicial community are aimed at finding out why the faith in the judiciary by citizens is so low.

“The Judicial Council can act in two ways – reactively and proactively,” added Ristova, “It will act reactively if it is guided by the reports and the opinions of the citizens, but it should also act proactively, that is, not always waiting for the reports, but to act in parallel with the work of the judges.”

The public prosecutor, at the Primary Public Prosecutor’s Office – Skopje, **Lenche Ristoska**, focused her presentation on the work of the council of the public prosecution, more specifically, on how the decisions taken by the council are often not in accordance with their principles. “We should ask ourselves why the council – for more than 6 months – cannot make a decision on the selection of only two prosecutors who will be employed,” Ristoska said.



According to Ristoska, for the selection of public prosecutors, everyone wants to be familiar with the decisions that are made, but also with the reasons for making such decisions. Which means the essence of why the selection of public prosecutors is assigned to the council and not to individuals is to

open a debate about who is the most favorable candidate, but it should be carried out transparently, and the arguments should be presented at the session, not outside the public, without giving an explanation.



The executive Director at the Coalition “All for a fair trial”, **Darko Avramovski**, spoke about the fact that the citizens’ trust in the judiciary is directly related to the way in which decisions are made and not to the decision itself, and precisely that transparency is absent in our country. “Implementation of the laws themselves is much more important than changing the laws, rules and regulations,” said Avramovski.

At the end of this debate, as in all previous sessions of the National Convention, specific recommendations were adopted, which are expected to be accepted and implemented by the relevant factors in the country. From the previous practice, according to the national coordinator of NCEU-MK and president of the European movement, Mileva Gjurovska, about 40 percent of the recommendations of the National Convention have already been implemented. “In the past six years, NCEU created a special circle of experts, whose dialogues and recommendations were useful for the government sector”, concluded Gjurovska, confirming that the project National Convention on the European Union in North Macedonia is a good platform for involving the civil sector in debates on topics related to with the process of European integration, in order to prepare all the capacities of the state for the upcoming process of negotiations with the EU.

