NATIONAL CONVENTION ON THE EUROPEAN UNION IN THE REPUBLIC OF NORTH MACEDONIA (NCEU-MK)

16TH SESSION OF WORKING GROUP 3, JUDICARY AND FUNDAMENTAL RIGHTS - CHAPTER 23
3 OF FEBRUARY 2025
"FRENCH CONTRIBUTION TO THE RULE OF LAW IN THE REPUBLIC OF NORTH MACEDONIA"

TOPIC: "PATHS TO INTEGRITY AND INDEPENDENCE OF THE JUDICIARY: A KEY CHALLENGE IN THE REFORMS FOR RULE OF LAW AND FIGHT AGAINST CORRUPTION "

RECOMMENDATIONS

I. I.RECOMMENDATIONS FOR STRENGTHENING INTEGRITY IN THE JUDICIARY OF THE REPUBLIC OF NORTH MACEDONIA

1. The Judicial Council and the Council of Public Prosecutors should examine the possibility of establishing a mandatory annual self-assessment system for courts and public prosecutor's offices, with the aim of improving institutional integrity, transparency and accountability. To this end, the development of a unified methodology and a mechanism for coordinating and monitoring the results should be initiated, with the participation of representatives of the judicial and prosecutorial councils, academia and civil society organisations, taking into account the principles set out in Article 11 of the United Nations Convention against Corruption.

2. Within the working groups tasked with amending the laws governing the functioning of the judiciary and the Public Prosecutor's Office, the Ministry of Justice should initiate more precise definitions of the grounds and procedures for establishing the disciplinary liability of judges and public prosecutors, particularly in cases involving biased conduct, conflicts of interest and serious breaches of ethical standards. The legislative provisions should establish clear criteria for distinguishing between ethical and disciplinary violations, ensure the proportionality of sanctions, and guarantee the right to defence and an effective legal remedy. The Judicial Council and the Council of Public Prosecutors should ensure the regular and timely publication of final decisions establishing disciplinary liability, accompanied by appropriate reasoning and in compliance with personal data protection requirements. They should also publish periodic aggregated data on proceedings initiated and concluded, the types of violations and the measures imposed.

3. The Ministry of Justice, in cooperation with the Judicial Council and the competent judicial institutions, should initiate improvements to the existing Judicial Portal in order to ensure the regular, timely and standardised publication of judicial decisions, including non-final first-instance decisions, with their legal status clearly indicated and subject to the applicable legal restrictions on public access. To this end, unified rules should be established for the anonymisation and publication of decisions, together with a functional search system allowing decisions to be retrieved by court, type of case, area of law, date and whether they have become final. In addition, a plan for the technical upgrading of the portal should be prepared, including an assessment of the financial resources required, sources of funding, implementation deadlines and institutional responsibilities. A mechanism should also be established for periodic monitoring and public reporting on the regularity and completeness of the publication of judicial decisions.

4. The Ministry of Justice, in cooperation with the competent judicial institutions, should ensure the consistent application of ex-ante regulatory impact assessments when preparing new laws and amendments to existing legislation in the field of the judiciary. The assessment should include an analysis of the expected effects on legal certainty, consistency of judicial practice, institutional capacities and implementation costs. The assessment results should be made publicly available and subject to consultations with judges, public prosecutors, academia and civil society organisations. The identified risks and needs should be taken into account when drafting legislative provisions and planning their implementation.

5.The Public Prosecutor's Office should ensure a more active and transparent exercise of the responsibilities assigned to the Integrity Officer and the Ethics Council under the Code of Ethics for Public Prosecutors. The Integrity Officer should strengthen their preventive and advisory role by providing guidance and opinions on ethical dilemmas and risks of conflicts of interest. The Ethics Council, in turn, should regularly publish reasoned positions and opinions on the application of ethical standards, while respecting confidentiality and personal data protection requirements. Based on the problems identified in the application of the Code, periodic analyses and recommendations should be prepared to define preventive measures and targeted training for public prosecutors.

II. PROPOSALS FOR AMENDMENTS TO THE LAW ON THE ACADEMY FOR JUDGES AND PUBLIC PROSECUTORS

The implementation of the Law on the Academy for Judges and Public Prosecutors has revealed certain legislative and practical shortcomings that affect the effectiveness of the Academy's functioning, particularly with regard to the admission procedure for candidates and the delivery of initial training. It is therefore necessary to review and, where appropriate, amend the provisions of Chapter IV – Training of Candidates for Judges and Public Prosecutors, with a view to addressing the identified shortcomings.

1. Following the determination of the number of vacant positions and staffing needs by appellate area by the competent councils, the Management Board of the Academy for Judges and Public Prosecutors should adopt an annual plan for the admission and initial training of candidates. The plan should establish precise deadlines for the publication of the call for applications, the administration of the admission examination, the selection of candidates and the commencement of training. It should ensure that the admission procedure is completed in a timely manner and that initial training regularly begins on 1 September, thereby preventing delays in the preparation of future judges and public prosecutors.

2. The Ministry of Justice should initiate amendments to the legislative provisions governing admission to the Academy for Judges and Public Prosecutors by abolishing the requirement of at least two years of professional experience after passing the bar examination, as well as removing the foreign language proficiency test, psychological test and integrity test from the admission procedure. Foreign language learning should become an integral part of initial training, with the acquired knowledge assessed as part of the final examination. Psychological assessment and integrity checks should instead be moved to the selection stage for judges and public prosecutors, under the responsibility of the Judicial Council and the Council of Public Prosecutors. As part of the review of admission requirements, the justification for potentially introducing an age limit should also be reconsidered, in accordance with the principles of equality and non-discrimination.

3. The Ministry of Justice should initiate amendments to Article 34 of the Law on the Academy for Judges and Public Prosecutors, establishing a mandatory duration of at least five working days for preparatory classes, which should commence at least 45 days before the admission examination. The Academy should ensure the timely publication of the programme, schedule and learning materials, as well as equal access to preparatory classes for all registered candidates.

4. The Ministry of Justice should initiate amendments to the provisions governing the admission examination for the Academy for Judges and Public Prosecutors, providing for the examination to be organised in two parts: a qualifying part to assess legal knowledge and a practical part to evaluate candidates' ability to apply that knowledge. The practical part should include drafting a judicial decision or an indictment based on completed court cases (ad acta), as well as a structured interview. Evaluation criteria should be published in advance, and a uniform scoring system and standardised procedures should be established to ensure the objective and transparent selection of candidates based on their analytical, legal and practical skills.

5. The Academy for Judges and Public Prosecutors should introduce a flexible initial training model based on individual learning plans tailored to candidates' prior knowledge and professional experience, with a duration of between 15 and 30 months. The training should be organised in two phases: a three-month preparatory phase, during which individual training needs would be identified through self-assessment and competency assessment, and a main phase lasting between 12 and 27 months, with greater emphasis on practical instruction and mentoring. Individual plans should be developed by the Academy in cooperation with the candidates and their mentors, based on uniform criteria, while providing for specific adaptations for candidates with prior professional experience in courts and public prosecutor's offices. Candidates' progress and acquired competencies should be monitored through periodic assessments, on the basis of which the subsequent course of training would be adjusted.

6. Upon completion of initial training and successful passing of the final examination, the Academy for Judges and Public Prosecutors should submit the candidates' ranking lists to the Judicial Council and the Council of Public Prosecutors. As part of the selection procedure for judges and public prosecutors, both councils should conduct additional integrity checks, including verification of candidates' financial and property status and psychological assessments, based on legally established criteria and standardised procedures. The results of these checks should be taken into consideration when adopting reasoned selection decisions, while ensuring transparency, equal treatment of candidates and the right to legal protection.