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FUNCTIONAL ANALYSIS OF THE SUPREME COURT OF THE REPUBLIC OF NORTH MACEDONIA

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LIST OF ACRONYMS

ACCMIS	Automated Court Case Management Information System
JPA	Judges and Public Prosecutors Academy
SCRNM	Supreme Court of the Republic of North Macedonia
GRECO	Group of States against Corruption of the Council of Europe
ESE	Association for Emancipation, Solidarity and Equality of Women
EU	European Union
ECtHR	European Court of Human Rights
ECHR	European Convention of Human Rights
PPOL	Public Prosecutor's Office Law
CPL	Criminal Procedure Law
PPO	Public Prosecutor's Office
PPORNM	Public Prosecutor's Office of the Republic of North Macedonia
PwC Macedonia	Pricewaterhouse Coopers Macedonia
JCRNM	Judicial Council of the Republic of North Macedonia
CLRA	Center for Legal Research and Analysis
CEPEJ	Council of Europe Commission for the Evaluation of the Efficiency of Justice

EXECUTIVE SUMMARY

One of the key findings of the European Commission Progress Report on the Republic of North Macedonia on Chapter 23 - Judiciary and Fundamental Rights is that ***“all reforms of the institutions in the judicial sector should be based on robust analyses of gaps and needs and that they should be properly planned and monitored following an inclusive process of consultation with all relevant stakeholders in the judiciary and public prosecution”***¹.

The Functional Analysis of the Supreme Court of the Republic of North Macedonia is a response to this challenge and the need to strengthen the functioning of the judicial institution of the highest court and the holder of the judicial power in the Republic of North Macedonia. That would help promote a more efficient access to justice for the people and through improved transparency of the courts enhance public confidence in the judiciary, which would help meet the main prerequisites for the country’s Euro-Atlantic integration, which is the overall strategic priority of the Republic of North Macedonia.

The Functional Analysis of the Supreme Court of the Republic of North Macedonia is the first of its kind providing an in-depth overview of the operations of the highest state court. The purpose of this Functional Analysis is to present the current situation of the Supreme Court and to provide recommendations to improve it. The Functional Analysis helps make assessment of the performance of the Supreme Court in five key areas: independence and impartiality, efficiency, transparency and accountability, and quality of justice. In order to be as comprehensive as possible, the analysis has also covered the court’s capacities in the areas of human resources, information technologies, finance and gender issues. This approach was followed in detail in the contents of this analysis, providing specific recommendations for each area. Apart from conclusions, the Functional Analysis presents projections about the Supreme Court’s efficiency for the next 3 years based on its current capacities. These projections were developed based on the Gaussian distribution, and together with the other conclusions, they should help prepare the Improvement Plan, which would include specific measures and activities to tackle the challenges of organisational and functional reforms of the Supreme Court. Consistent implementation of the recommendations contained in this analysis and their further development into an Improvement Plan would significantly improve the performance of the Supreme Court, and in turn improve the delivery of justice in the Republic of North Macedonia.

The analysis is one of the key products of the project “Improved Efficiency and Effectiveness in the Delivery of Justice by Improving the Performance of Judicial Institutions”, implemented by the Center for Legal Research and Analysis - CLRA and PwC Macedonia, funded by the Good Governance Fund of UK aid through the Government of the United Kingdom. The purpose of the project is to design and put in place relevant tools that would assist reform processes in order to build a more efficient, more effective and more economical access to justice, and, as a result, improve confidence in judicial institutions.

The analysis was prepared in a process of close cooperation between CLRA and PwC Macedonia, where the financial operations analysis (Chapter 6) was prepared by PwC Macedonia, and the analysis of gender equality in appellate courts (Annex 1) was prepared by ESE.

¹ European Commission Progress Report on the Republic of North Macedonia COM(2018) 450 final <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-the-former-yugoslav-republic-of-macedonia-report.pdf>

I. METHODOLOGY

When determining the methodology for this analysis, the model for conducting functional analysis of public sector institutions, which was basically developed for conducting functional analysis of the public administration, was used as a starting point². This methodology was adjusted and used when preparing the functional analysis of administrative courts.³ Therefore, when preparing this Functional Analysis of the Supreme Court of RNM, the experts used it as a model which matches the functions and needs of the Supreme Court with some modifications as per its status and powers.

The functional analysis model comprises assessment as per three basic criteria: the first criterion - strategic alignment with the higher lever goals, the second criterion - building the organisational capacities of the institution, and the third criterion - effective and efficient task performance to meet the outcomes planned. Nevertheless, the functional analysis model has been harmonised with the manner of operation of the Supreme Court and the Macedonian judiciary in general, which is generally different from the manner of operation of the public administration, and complemented by the Council of Europe's CEPEJ methodology, the EU Justice Scoreboard, as well as the First National Report on the Indicator Matrix for Measuring the Performance and Reform of the Judiciary⁴.

Consequently, the overall functional analysis began by analysing positive law, the Annual Reports of the Supreme Court and all other documents and rulebooks on the operations of the court. A questionnaire to collect information was also developed in order to understand the organisational structure of the Supreme Court and to allow for an indepth analysis of every area of the court's operations. The questionnaire requested a significant amount of data from the court and it was provided to the experts who prepared this analysis. The questionnaire covers all aspects of the SCRNM's operations, starting from archival documentation, the court's spacial capacities, the human resources available, as well as financial operations, information systems in use in the courts, the quality of work of its divisions, etc.

After the documents were analysed, missing information was added and initial conclusions verified. Statistical data from the Judges and Public Prosecutors Academy were used to that end, to get to know whether and how much judges were trained in view of the fact that this is a key factor for determining the quality of the judiciary according to the EU Justice Scoreboard. Focus group discussions, interviews and meetings were held with the justices of the Supreme Court and other staff in order to obtain a full picture of the functionaing of the highest court instance in North Macedonia. Apart from these data, with regard to the projections about the efficiency of the Supreme Court, a mathematical method Gaussian distribution was used in order to present the efficiency of the Supreme Court for the period 2014-2018, which was used as a basis for making the projections of efficiency for the next 4 years, 2020-2023.

² The model was developed under the project "Support to the Public Administration Reform Process", funded by the British Embassy Skopje.

³ The Functional Analysis was developed under the project "Improving the Efficiency and Effectiveness of Administrative Justice in the Republic of Macedonia", funded by the Good Governance Fund of the British Government.

⁴ The First National Report was prepared under the project "Enhancing the Transparency, Legal Certainty and Efficiency of the Judiciary in Macedonia", funded by the British Embassy Skopje.

The method of synthesis was used at the end of the survey. It was used to summarise all individual findings and conclusions and arrive at an overall position on the independence, efficiency, transparency and quality of the Supreme Court. Based on this position, recommendations for the Supreme Court were developed, whereas in the coming period a separate strategic document, an Improvement Plan, will be developed, which would pave the way for further development of the Supreme Court of the Republic of North Macedonia in order to reach European standards and enhance the protection of human and civil rights and freedoms.

II. CHRONOLOGICAL DEVELOPMENT AND DESCRIPTION OF THE CURRENT SITUATION AND FUNCTIONING OF THE SUPREME COURT OF THE REPUBLIC OF NORTH MACEDONIA

The Constitution of the Republic of Macedonia, which was enacted in 1991, clearly defined the division of power into legislative, which was supposed to be implemented through the Assembly of the Republic of Macedonia, executive, through the Government of the Republic of Macedonia, and judicial power, through the courts headed by the Supreme Court as the highest court in the Republic of Macedonia. Although even after the independence in 1991 the judicial system in the Republic of Macedonia preserved the structure and the form laid down by the laws of the previous socialist system, the Constitution of the Republic of Macedonia provided clear grounds for the new judicial system which was supposed to follow the newly established democratic principles and values.

According to the Constitution of RM, the judicial power in the Republic of Macedonia rests with the courts, which are autonomous and independent and adjudicate based on the Constitution, the laws and the international treaties ratified in accordance with the Constitution⁵, whereas the Supreme Court of the Republic of Macedonia is the highest court in the Republic ensuring uniform application of the law by courts.

The constitutional provisions on the judiciary were operationalised in 1995 when the Law on Courts was adopted, which regulated in detail the primary principles on which the judicial power rests, the organisation and the jurisdiction of the courts and the position, rights and duties of the judges and other issues concerning the functioning of the courts and court system⁶. The Law on Courts set down general jurisdiction of the judiciary, as a result of which all specialised courts (commercial courts, joint labour courts and misdemeanour courts) were closed down, and all judges were reelected, including the justices of the Supreme Court of the Republic of Macedonia.

According to the Law on Courts of 1995⁷, the organisation of the judicial system in the Republic of Macedonia consists of the Supreme Court of the Republic of Macedonia, which is the highest court in the state ruling as the highest court of cassation for criminal and civil cases and as the only court performing administrative and judicial control in the first and final instance over the legality of the administrative acts of state administrative bodies and public authority organisations, the three appellate courts as courts of appeal (second-instance courts) in Skopje, Bitola and Shtip, and a total of 27 basic courts as first-instance courts in criminal and civil justice protection.

The process of electing justices for the Supreme Court in the Assembly of the Republic of Macedonia was separated from the election of judges in lower courts. Notably, the process was initiated by publishing a vacancy announcement by the then Republic Judicial Council, and the portion referring to the Supreme Court was finalised at the Eighteenth Session of the Assembly of the Republic of

⁵ Article 98 of the Constitution of the Republic of Macedonia

⁶ Law on Courts, Official Gazette of RM No. 36/95, 45/95

⁷ Law on Courts, Official Gazette of RM No. 36/95, 45/95

Macedonia, held on 12.04.1996, when out of 19 candidates who had applied for justices of the Supreme Court of the Republic of Macedonia, 16 justices were elected.

According to the Law on Courts of 1995, the Supreme Court of the Republic of Macedonia had jurisdiction to rule in the second instance against the decisions of its panels when that is determined by law, to rule in the third and final instance on the appeals against the decisions of the appellate courts and the decisions of its panels made in the second instance when that is determined by law, to rule in the first and second instance on administrative disputes when that is determined by law and on final decisions made in misdemeanour proceedings, to rule on extraordinary legal remedies against final court decisions and the decisions of its panels when that is determined by law, to rule on the conflict of jurisdiction between basic courts falling within the area of different appellate courts, appellate courts and basic courts, appellate courts, and to rule on the termination of territorial jurisdiction of these courts, and to conduct other matters determined by law.⁸

A. Development of the Supreme Court of the Republic of Macedonia 1996-2006

Until the first reform of the judiciary system in independent and autonomous Republic of Macedonia (Strategy for Judiciary System Reform of November 2004), the judiciary followed the principle of general jurisdiction, which did not prove to be very efficient and economical on a number of occasions. Besides this weakness, other fundamental weaknesses in the judicial system were identified:

- Inadequate coordination between the Supreme Court, the Republic Judicial Council and the Ministry of Justice;
- Lack of competence among human resources in professional and ethical terms;
- Bad financial situation;
- The constitutional and legal provisions on the election of judges and appointment of public prosecutors allow for political influence;
- Corruption in the judiciary; and
- Lack of transparency.

The Strategy for Judiciary System Reform of November 2004 focused on enhancing the efficiency, independence and economic viability of the judicial system in the Republic of Macedonia. For this reason, the Strategy envisaged that the Supreme Court should be relieved by forming the Administrative Court, which took over jurisdiction over administrative disputes. Since the Law on Administrative Disputes was adopted in May 2006 until it started operations in December 2007, it was only the Supreme Court of the Republic of Macedonia which accepted the cases for administrative disputes, which were eventually handed over to the newly established Administrative Court.

In 2006 a new Law on Courts⁹ was adopted, according to which, apart from basic courts, appellate courts and the Supreme Court, the Administrative Court also assumed judicial power as a specialised

⁸ Article 34 of the Law on Courts, Official Gazette of RM No. 36/95, 45/95

⁹ Law on Courts, Official Gazette of RM No. 58/06

entity and a new element in the judicial system.¹⁰ This Law also established the fourth appellate court for the area of Gostivar, which helped partially relieve Skopje and Bitola appellate districts.

Notably, due to the high number of judgments of the ECtHR and following the principle of subsidiarity of Article 1 of the ECHR, with the 2008 amendments, the Law on Courts granted a new power for the Supreme Court to rule on the request of parties and other participants in the proceedings on the violation of the right to trial within a reasonable time, in a procedure determined by law before the courts of the Republic of Macedonia, but also not to have the power to rule on administrative disputes in the first instance, but rather to rule in the second instance on the appeal against a decision of the Administrative Court in cases envisaged by law.¹¹

The Law on Courts was amended in 2010 with regard to the conditions for election and dismissal of judges, where special requirements were envisaged for the judges and the provision entered into force laying down that persons who have previously completed the Judges and Public Prosecutors Academy may be elected as judges. In line with Amendment XXI of the Constitution of the RM, the 2010 amendments also established the Higher Administrative Court of the RM as a separate judicial entity ruling on the appeals against the Administrative Court, the conflict of jurisdiction between the RM bodies, the municipalities and the city of Skopje, the holders of public authority, as well as other matters determined by law, which also filled the gap that the Supreme Court, being a second instance Administrative Court, had filled that far after the decision of the Constitutional Court U.No.51/2010 of 15 December 2010¹², to introduce an appeals procedure in administrative disputes.

B. Development of the Supreme Court of the Republic of Macedonia after 2017

After the political scandal of illegal interception of communication, which revealed political influence over the election of judges in the period from 2008 to 2016, the Government of the Republic of Macedonia adopted a new Judiciary Reform Strategy 2017-2022 in October 2017. This Strategy stresses the need to highlight the role and the powers of the Supreme Court in providing adequate protection mechanisms to ensure greater uniformity in case law and clarity and predictability of court judgments to ensure greater legal certainty for people.

C. Powers of the Supreme Court

Being the highest court in the country according to the Constitution, the Supreme Court of the Republic of North Macedonia has specific duties and powers in performing its functions. The main role, power and duty of the Supreme Court is defined in the Constitution of the Republic of North Macedonia. In line with that, the Supreme Court is responsible for guaranteeing uniform application of the law. The other powers of the Supreme Court are listed in the Law on Courts¹³. In line with them, it:

- 1) rules in the second instance against the decisions of its panels, when that is determined by law;
- 2) rules in the third and final instance on the appeals against the decisions of the appellate courts;
- 3) rules on extraordinary legal remedies against final court decisions and the decisions of its panels, when that is determined by law;

¹⁰ Article 22 of the Law on Courts, Official Gazette of RM No. 58/06

¹¹ Article 35 of the Law on Courts, Official Gazette of RM No. 58/06

¹² Decision of the Administrative Court U.No.51/2010 of 15 December 2010

¹³ Article 35 of the Law on Courts, Official Gazette of RM No. 58/06

- 4) rules on conflict of jurisdiction between the basic courts on the territory of different appellate courts, conflict of jurisdiction between appellate courts, conflict of jurisdiction between the Administrative Court and another court, conflict of jurisdiction between the Higher Administrative Court and another court, and rules on the transfer of territorial jurisdiction of these courts;
- 5) rules on the request of the parties and other participants in the procedure for violation of the right to trial within a reasonable time, in a procedure determined by law before the courts in the Republic of Macedonia in accordance with the rules and principles determined by the European Convention on Human Rights and Fundamental Freedoms and directed by the case law of the European Court of Human Rights, and
- 6) addresses other matters as determined by law.

III. COURT PERFORMANCE INDICATORS

A. European Standards

One of the most important documents in the area of court proceedings is the European Convention on Human Rights, which the Assembly of the Republic of North Macedonia ratified on 10 April 1997, which marked it as an integral part of the national legal order. Article 6, paragraph 1, of the European Convention on Human Rights, reading: *“In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law...”* is of particular significance for the court proceedings. The provisions of Article 6 lay down the minimum procedural guarantees, through which the subjective rights and legal interests of the party are decided. This article refers also to the access to court (the right to appeal), attendance at trials, adversarial trial, equality of arms, burden of proof and the explanation of judgment.

Upon the initiative of the European Ministers of Justice, the Committee of the Ministers set up the Council of Europe Commission for the Evaluation of the Efficiency of Justice (hereinafter referred to as: CEPEJ) in 2002. The purpose of setting up CEPEJ was to establish an innovative body for improving the quality and efficiency of the European judicial systems and strengthening the court users' confidence in such systems in the states. After CEPEJ was set up, concrete measures and tools aimed at policy makers and judicial practitioners were developed in order to:

- Analyse the functioning of judicial systems and public policies on justice
- Have a better knowledge of judicial timeframes and optimise judicial time management
- Promote the quality of the public service of justice
- Facilitate the implementation of European standards in the field of justice
- Support member states in their reforms on court organisations.¹⁴

In order to carry out these tasks, the CEPEJ prepares benchmarks, collects and analyses data, defines instruments of measure and means of evaluation, adopts documents (reports, advice, guidelines, action plans, etc.).

CEPEJ's main tasks are:

- to analyse the results of the judicial systems
- to identify the difficulties they meet
- to define concrete ways to improve, on the one hand, the evaluation of their results, and, on the other hand, the functioning of these systems
- to provide assistance to Member States, at their request
- to propose to the competent instances of the Council of Europe the fields where it would be desirable to elaborate a new legal instrument¹⁵

Being a member of the Council of Europe, the Republic of North Macedonia is part of the CEPEJ 's biannual reports and it uses them to determine the level of development of the judicial system in

¹⁴ Council of Europe, Council of Europe European Commission for the efficiency of justice (CEPEJ), At a glance, Available at: <https://bit.ly/2xPhffd>

¹⁵ Council of Europe, About the European Commission for the efficiency of justice (CEPEJ), Available at: <https://bit.ly/2OyZdEI>

the whole country. This analysis uses data from CEPEJ's reports as well as data from CEPEJ's benchmarks in order to determine the situation of the Supreme Court in the Republic of North Macedonia.

With regard to the mechanisms to guarantee the implementation of the European Convention of Human Rights (hereinafter referred to as: ECHR), it is necessary to mention the European Court of Human Rights (hereinafter referred to as: ECtHR), which has been founded in accordance with the ECHR and implements it in practice. After a judgment or another decision is made by the European Court of Human Rights, the enforcement process, being a compulsory duty of the states, enters into force. The body responsible for enforcement in the Republic of North Macedonia is the Interministerial Commission for Enforcement of ECtHR Decisions, headed by the Minister of Justice, and comprised of the Minister of Foreign Affairs, the Minister of Interior, the Minister of Finance, the President of the Judicial Council, the President of the Supreme Court, the President of the Constitutional Court, the presidents of the four appellate courts, the President of the Higher Administrative Court, the President of the Public Prosecutors' Council, the Public Prosecutor of the Republic of Macedonia and the Government agent of the Republic of North Macedonia. The Interministerial Commission meets as necessary and at least once every three months and adopts Rules of Procedure for its work. There are two types of measures the country is expected to take in the enforcement process: individual and general. Individual measures refer to and are directly aimed at the applicant. They serve to remove the consequences that the applicant suffered as a result of the violations of the European Convention of Human Rights, stated in the judgment of the European Court of Human Rights, and aim at achieving „restitutio in integrum“. Individual measures may imply an obligation for the state to pay the applicant a certain monetary amount as fair restitution for the ECHR violation established and/or other measures, such as, retrial. General measures refer to the country's obligation to prevent future similar or identical violations of the ECHR or to put an end to continuous violations of the Convention (such as, by legal or even constitutional amendments, or by increasing the number of staff, changes to existing practices, etc.). Notably, the European Court of Human Rights has made, on a number of occasions, judgments stressing and confirming that one of the fundamental aspects of the rule of law is the principle of legal certainty¹⁶ as well as that contradictory decisions in similar cases made by the same court, which is also a court of final instance for the issue, in the absence of a mechanism that ensures consistent application of the law, may violate that principle and hence reduce public trust in the judiciary¹⁷.

B. EU Justice Scoreboard – An Instrument to Promote Effective Justice and Growth

The European Union has continuously stressed economic growth as one of its primary goals. In fact, most of the policies, that is to say, mechanisms that are developed within the Union concern its economic growth, which is, at the end of the day, even the motive for its very existence. The Union institutions have constantly dealt with the issue of which factors affect economic growth. As

¹⁶ *Brumărescu v. Romania* [GC], No. 28342/95, paragraph 61, ECHR 1999-VII

¹⁷ *Beian v. Romania*, No. 30658/05, §§ 36-39, ECHR 2007-XIII

expected, among the factors that have a strong influence on economic growth are national justice systems (or in the language of the Union: national justice).¹⁸

The improvement of quality of national justice is closely related to the role of the judiciary in the EU Member States. If judicial decisions are predictable, timely and enforceable, then the business climate will also be more attractive. The experience of the EU Member States which are subject to the Economic Adjustment Programmes¹⁹ shows that shortcomings in national justice undermine people's confidence in institutions, which, in itself, leads to lower economic growth. Hence the Union's focus on the judiciary is on *effective justice (effective judiciary)*, that is, on justice being done.²⁰

Besides being a prerequisite for economic growth, access to effective justice is a fundamental right of every citizen of the Union. The Charter of Fundamental Rights of the European Union stipulates that everyone whose rights and freedoms guaranteed in EU law were violated has the right to an effective remedy before a court in accordance with the conditions laid down in this article²¹.

C. EU Justice Scoreboard

Therefore, the effectiveness of justice (the judiciary) is crucial for the EU institutions so they will always insist on finding ways to improve it. In doing so, the mechanisms that aim to strengthen the effectiveness of justice should always be systemic, that is, broadly based and well planned rather than *ad hoc* or incidental. The *EU Justice Scoreboard* (hereinafter referred to as: the Scoreboard) is one of the basic and most significant mechanisms in this regard.

The objective of the Scoreboard, as the Commission states in one of its Communications,²² is to assist the EU and the Member States to achieve more effective justice. Such assistance will be rendered by providing reliable, comparable and objective data on the functioning of the justice systems of all Member States. Quality, independence and efficiency are the key components of an 'effective justice system'. Hence, information on these components contributes to developing more adequate justice policies at national and at EU level.

As the Commission explains,²³ the main characteristics of the Scoreboard are:

- The Scoreboard is a *comparative* tool which covers all Member States, whatever the legal tradition or the model of the national justice system. The Scoreboard includes a comparison on particular indicators, but it is not intended to promote any particular type of justice system.

¹⁸ Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions, *The EU Justice Scoreboard A Tool to promote effective justice and growth*, Brussels, 27.3.2013, COM(2013) 160 final, pp. 2;

¹⁹ Ibid, Economic Adjustment Programmes in EL, IE, LV, PT.;

²⁰ Ibid, pp.2-3;

²¹ Article 47 of the Charter of Fundamental Rights of the European Union

²² Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions, *The EU Justice Scoreboard – a tool to promote effective justice and growth*, Brussels, 27.03.2013

²³ Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions, *The EU Justice Scoreboard – a tool to promote effective justice and growth*, Brussels, 27.03.2013

- The Scoreboard aims to present *trends* in the functioning of national justice systems over time. The Scoreboard presented certain data for the first time in 2013, which means this data does not necessarily reflect the effects of the on-going reforms in certain national justice systems.
- The Scoreboard is a *non-binding tool*, to be operated as part of an open dialogue with the Member States, which aims to help them and the EU in defining better justice policies. The Scoreboard is used to identify issues that deserve particular attention. If indicators reveal poor performance, a deeper analysis of the reasons behind such performance is made, after which appropriate reforms may be undertaken.
- Finally, the Scoreboard is an *evolving tool* that will gradually expand to cover areas that haven't been covered initially. Depending on essential parameters, the Scoreboard may also develop different indicators and methods. In dialogue with Member States, the Scoreboard could progressively cover areas that haven't been covered but are part of the 'justice chain', so it may be necessary to analyse them.

Apart from these basic characteristics, it is necessary to stress that the Scoreboard deals with *non-criminal cases* only. Therefore, the Scoreboard analyses only those aspects of the justice system which are directly related to the investment climate. So, it deals with *litigious civil and commercial cases*, which are relevant for resolving *commercial disputes*, and for *administrative cases*. For preparing this Scoreboard, the Council of Europe Commission for the Evaluation of the Efficiency of Justice was asked by the European Commission to collect data and conduct an analysis. CEPEJ uses the most relevant and significant data it has access to, which include data from external sources (e.g. the World Bank, the World Economic Forum).

D. EU Justice Scoreboard Indicators

The Scoreboard indicators mostly refer to the efficiency of the judiciary. The primary indicators for 2013 are the length of proceedings, the clearance rate, and the number of pending cases.²⁴

- *The length of the proceedings* expresses the time (in days) needed to resolve a case at first instance. The 'disposition time' is a subindicator. This subindicator is the number of unresolved cases divided by the number of resolved cases at the end of a year multiplied by 365.
- *The clearance rate* is the ratio of the number of resolved cases over the number of incoming cases. It measures whether a court is keeping up with its incoming caseload. For example, if the court has resolved 500 out of 1000 incoming cases, it has resolved half of the cases. Were there 1500 incoming cases, would the court still manage to resolve half of them?
- The number of *unresolved cases* expresses the number of cases that have still not been resolved at the end of a reference period (e.g. a year). The number of "*pending*" cases influences "the disposition time".

Such explanation of the indicators used to measure the efficiency of the judiciary shows that they are, in fact, closely related. The length of proceedings is closely related to the clearance rate,

²⁴ With regard to the effectiveness of the judiciary, these indicators are defined by CEPEJ. More information can be found at: http://www.coe.int/t/dghl/cooperation/CEPEJ/evaluation/default_en.asp

whereas the number of unresolved cases at the end of the reference period (the year) is added to the number of “pending” cases.

Still, the Scoreboard does not deal with the efficiency of the justice system only, but also studies the indicators of justice quality in the material sense of the word. That is, in order to determine justice system quality, other methods are used besides those that measure efficiency. These are the methods used to analyse:

- The monitoring and evaluation of courts' activities. The quality and efficiency of court proceedings depend to a large extent on the monitoring by the public and the experts. If the system allows for information dissemination, this ensures better transparency and, in turn, quality of decisions. Besides, evaluation is necessary as it reveals weaknesses, and, in turn, leads to improvement in performance in the future.
- Monitoring includes publications, that is, annual activity reports, as well as the measurement of the number of incoming cases, of decisions delivered, of postponed cases and of the length of proceedings.
- Evaluation, on the other hand, is an indicator of court activities. It is based on:
 - the definition of performance indicators,
 - regular evaluation of performance and outputs (results from the courts' work),
 - the definition of quality standards (quality assurance policies, human resource policies, etc.),
 - specialised court staff entrusted with quality policy.
- ICT (information and communication) systems for courts. The use of information and communication technologies has become indispensable for any entity, including the courts. One cannot speak about an adequate level of development of the justice system unless courts use modern information and communication technologies. Hence, this indicator reflects the availability of relevant technologies in courts that would allow for the registration and management of cases, and for communication between the courts and other entities.
- Alternative dispute resolution methods. Alternative dispute resolution methods are vital for litigious civil and commercial cases. They have a number of advantages over traditional court proceedings. Therefore, they are considered to enhance justice system quality.
- Training of judges. The training of judges, initial training and continuous training, is an important element of the quality of the judiciary. Training does not cover legal specialisation training only, but also training on improving any skills that would be useful for the judges in their performance of duties.
- Budgetary resources allocated to the judiciary.

These quality indicators were used for the period from 2013 to 2018, whereas more direct contacts with judiciary staff were made in 2015, which has allowed for a more comprehensive analysis. The 2015 Scoreboard also contains data on legal assistance and gender balance in the judiciary.

In the end, apart from justice system efficiency and quality, the Scoreboard deals with the perceived independence of the judiciary. It is important to mention that these are not indicators of actual independence but indicators measuring the perceived independence of the judiciary. If the people perceive the justice system as sufficiently independent, they would decide to invest their resources in the country in question. The analysis of the World Economic Forum, which provides an annual

‘perceived independence index’, is closely related to this analysis. The index is obtained through surveys answered by companies from key economic sectors. This provides a picture of the perceived independence of the justice system. Besides, the Court of Justice of the European Union and the European Court of Human Rights have underlined the importance of the appearance of judicial independence.

1. INDEPENDENCE AND IMPARTIALITY

The principle of independent and impartial court is integrated in the national law as a primary principle in the Constitution of the Republic of North Macedonia as the highest legal act. Article 98 (2) of the Constitution lays down that “judges are autonomous and independent. Judges adjudicate based on the Constitution and the laws and the international treaties ratified in accordance with the Constitution”. Article 99 of the Constitution sets down that judges have an unlimited term of office and determines the grounds for termination of the judge’s office and their dismissal. Article 100 of the Constitution guarantees judges’ immunity. All these provisions are laid down in detail in the Law on Courts and the Law on Judicial Council of the RNM.

Independent and impartial court is one of the fundamental pillars of the concept of fair trial. In this sense, the right to a fair trial of Article 6 (1) of the European Convention of Human Rights implies that the case should be considered by an “independent and impartial court”.

The Judicial Reform Strategy (Strategic guideline 2.3.2) provides for functional and transparent mechanisms for liability of judges. Based on the strategic guidelines for judiciary reform, a Law was adopted repealing the Council for the Determination of Facts and Initiation of a Procedure for Establishing Liability of a Judge. At the same time a Law was adopted in 2018 amending the Law on Judicial Council of the Republic of North Macedonia, which has restored the power of the Judicial Council to conduct proceedings to establish liability of a judge and the court president, in accordance with the recommendations of the Venice Commission, and the Law on Courts was amended according to the international recommendations and the GRECO recommendations.

When determining if a body may be considered “independent”, the European Court of Human Rights takes into account the following criteria: how members are appointed and the duration of their term of office; if there are guarantees against external pressure; and if the body demonstrates the appearance of independence.

One of the goals of the Judicial Reform Strategy 2017-2022 is “to create financial, staff, information and other preconditions by urgently increasing the budgetary allocations in order to improve the efficiency of the judiciary and the Public Prosecutor’s Office.”²⁵

One of the strategic guidelines in the area of independence and impartiality foresees: “Autonomous and sustainable court budget, consistent with the legal allocation from the gross national income and greater involvement of the Court Budgetary Council to put this into place”²⁶. The Strategy also points to the current situation in the judiciary noting that there are no capacities for strategic

²⁵ Judicial Reform Strategy (2017-2022), Available at: <http://www.pravda.gov.mk/resursi/12>

²⁶ Ibid.

planning, budgetary and financial management and the capacities of expert services are insufficiently developed.

It is necessary to point out that when conducting an analysis which aims at measuring the independence and impartiality of the judiciary quantitatively, only two methodological approaches to analysis may be used: 1. Analysis of the legal norm and 2. Measuring the perception of courts' independence. Therefore, this Functional Analysis does not deal with indicators of actual independence, but with indicators used to analyse positive law in the Republic of North Macedonia:

- judges' election and status
- protection mechanisms against transfer of judges without their consent, judges' promotion and assessment
- allocation of incoming cases
- judges' recusal when there is conflict of interest
- financial independence of the court.

The judges' own perception of the courts' independence is also measured. These are the only methodological tools to study independence. The World Economic Forum also publishes a 'perceived independence index' annually. The index is obtained through surveys answered by companies from key economic sectors. This provides a picture of the perceived independence of the justice system. Besides, the Court of Justice of the European Union and the European Court of Human Rights have underlined the importance of the appearance of judicial independence.

1.1. Supreme Court Judges' Election and Status

The Law on Courts and the Law on Judicial Council of the RNM lay down the procedure for electing judges in the courts of the Republic of North Macedonia, which is initiated by the decision of the Judicial Council of the RNM to establish there are vacant judges' positions. The Judicial Council of the RNM makes this decision after having obtained the opinion of the general session of the Supreme Court of the Republic of North Macedonia and the opinion of the session of the judges of the relevant court, based on analysis and projections of vacant judges' positions and applying the principle of adequate and fair representation of the non-majority communities in the Republic of North Macedonia, in accordance with the Annual Programme of the Judicial Council of the Republic of North Macedonia.

The Judicial Council hands down the decision to establish there are vacant judges' positions in basic courts to the Judges and Public Prosecutors Academy by 31 March of the year it was made at the latest.

The Judicial Council of the RNM made a decision in November 2019 to increase the number of justices' positions in the Supreme Court of the RNM by 3 (three), so the current number of justices in the Supreme Court, based on the Judicial Council decision, is 28 justices.

The procedure for the election of judges is laid down in Articles 41-47 of the Law on Courts. Article 46 sets down specific requirements for the election of judges in the basic courts, appellate courts and the Supreme Court of the Republic of North Macedonia.

In December 2017 the Assembly adopted the Law amending the Law on Judicial Council²⁷, which stipulates that every candidate may lodge an appeal to the Supreme Court against the decision of the Judicial Council to elect a judge within eight days of the notification. The same legal provisions are stipulated for the election of a court's president, according to Article 5 of this law.

The latest amendments of the Law on Courts²⁸ set down specific requirements for the election of justices in the Supreme Court of the Republic of North Macedonia. A person may be elected justice of the Supreme Court if s/he has at least six years experience, or at least 6 years experience as a judge in an appellate court by the time s/he applies for the position. For the person to be elected judge, s/he must obtain a positive assessment from the Judicial Council according to the Law on Judicial Council of the Republic of North Macedonia. According to the recommendations of the TAIEX Evaluation Mission for Judges and Public Prosecutors Training of 23.04.2018, there is a novelty that is of great importance for ensuring the quality of the Macedonian judiciary, which is the possibility for a judge who has served a judicial function in the European Court of Human Rights, or another international court, to be elected judge in all judicial instances.

During the past years the Supreme Court has continuously operated with a lower number of justices than the one stipulated in accordance with the decision of the Judicial Council of the RNM. This is mainly due to the fact that the positions of a judge elected a member of the Judicial Council and a judge elected judge of the Constitutional Court are pending, as well as to the fact that the election of judges is postponed for the positions which have become vacant as a result of retirement or death.

During the past three years, 2016, 2017 and 2018, there were four vacancy announcements for the election of judges for this court, two each in 2016 and 2017. The Supreme Court announced a vacancy announcement for 3 judges in September 2019²⁹, two for criminal and one for civil matters, whereas in November, right after the decision was made to increase the number of justice positions in the Supreme Court of the RNM by 3 (three), an announcement was made for three justices positions, all of which for civil matters.

1.2. Protection Mechanisms against Transferring Judges without Their Consent

This indicator identifies if the current mechanisms for judges protection allow for this kind of model of transfer of judges, identifies the institutions in charge of such cases, as well as the reasons for which judges' transfer is allowed. In addition, the indicator analyses and identifies the admissibility of the appeal of such cases, that is, establishes to which judicial entity the appeal is lodged. Judges in the Republic of North Macedonia may be transferred with their consent only. The Constitution of the Republic of North Macedonia provides protection of judges with regard to their transfer.³⁰ It sets down that a judge may not be transferred against his/her will.

This constitutional provision is transferred to the Law on Courts, where Article 39 (3) lays down that it is only with the judge's consent that s/he may be transferred from one court to another. As an exception, every judge may be transferred to another court division against his/her will with a decision of the president of the court elaborated in writing, after an opinion has been obtained from

²⁷ Law on Judicial Council, Official Gazette на Republic of Macedonia No. 197/2017

²⁸ Law on Courts, Official Gazette of RM No. 58/2006, 352008, 150/2010, 82/2018, 198/2018, 96/2019

²⁹ 318th session of the Judicial Council, held on 26.09.2019

³⁰ Article 99 of the Constitution of the Republic of Macedonia

the general session of the Supreme Court of the Republic of North Macedonia, in cases when that is needed due to an increased workload and the nature of work of the court, but for a period of one year at the most and not more than once in five years. After the expiry of the period for which the judge was transferred to another court division, it is compulsory for him/her to be returned to the division in which s/he was located before. Hence, we can conclude that the Law on Courts offers adequate protection in this regard, providing for a possibility for time-definite transfer.

1.3. Dismissal of Justices in the Supreme Court of the Republic of North Macedonia

This indicator refers to the organisation of the institution which makes the decision to dismiss a judge, as well as to the entities competent to initiate or propose a judge's dismissal. The Judicial Council is the only one to initiate a procedure for dismissal of judges in the Republic of North Macedonia. This legislative solution of the Law on Courts provides greater protection of the judges themselves because the initiative for dismissal of a judge is taken only by the judiciary as a separate branch of power. This is envisaged in order to relieve the pressure that the executive and the legislative powers put on the judiciary. The Judicial Council of the Republic of North Macedonia makes the decision to dismiss judges, whereas the Law on Judicial Council of the RNM regulates the disciplinary procedure in greater detail.

The May 2018 amendments of the Law on Courts reforming disciplinary mechanisms set down a range of offences regarding: a) unprofessional and neglectful performance of duties (Article 75); b) serious disciplinary offences (Article 76) to be established in a disciplinary procedure; c) disciplinary offences (Article 77), such as violation of ethics rules, disruption of the work of the court, unjustified absence, failure to wear judge's robe, etc. The sanction for offences according to Article 75 and 76 is dismissal from office (according to Article 74), whereas for other offences the following is stipulated: written warning, public reprimand, salary reduction and the newly introduced compulsory training.

In accordance with the latest amendments to the Law on Courts, a judge may be dismissed for two reasons:

- severe disciplinary violation which makes her/him unworthy of performing the judicial function prescribed by law, and
- due to unprofessional and unconscientious performance of the judicial function under the conditions defined by law.

Article 74 of the Law on Courts stipulates that a judge may be dismissed if s/he has committed the violation with intent or by gross negligence without justified reasons and if the violation has caused severe consequences. In this sense, a severe disciplinary violation for which a procedure for determining disciplinary liability is initiated to dismiss a judge is:

- 1) More severe disturbance of the public order and peace and other serious forms of misconduct causing harm to the reputation of the court and his/her own reputation;
- 2) Undue influence and interference in the performance of the judicial function of another judge;
- 3) Failure to make assets declaration in accordance with the law or providing incorrect information in the assets declaration or

- 4) Evident violation of the rules on recusal in cases when the judge knew or was supposed to know there were grounds for recusal prescribed by law.

The procedure is urgent and confidential, that is, it is not open to the public. The Council may decide to make the procedure open to the public upon the request of the judge. This legal formulation implies that upon the judge's request the Council may decide to make the procedure open to the public but this is not compulsory. Nevertheless, the latest amendments provide that the Judicial Council makes public the decisions to dismiss elaborating its decisions. This raises the question of whether the disciplinary procedure is transparent enough, that is, if the legislation of the Republic of North Macedonia provides sufficient protection of judges from the Judicial Council?

Upon the recommendations of GRECO³¹ that the violations should be subject to a single disciplinary procedure and with meticulous observance of the principle of judicial independence, Article 54 of the Law on JCRNM lays down that the authorisation to initiate procedures and conduct investigation should be separated from the authorisation to rule on sanctions. The Law amending the Law on Judicial Council of the Republic of North Macedonia (JCRNM), adopted in December 2017, which re delegated all powers to the Judicial Council, introduced changes to the procedure in order to separate the functions of those involved in the procedure, JCRNM members initiating the procedure and those involved in investigation - they are no longer allowed to vote for the subsequent decision on the disciplinary liability of a judge.

Criteria on unprofessional and unconscientious performance of the judicial function are laid down in Article 76 of the Law on Courts and they refer to the judge's unsatisfactory expertise or conscientiousness that affect the quality and efficiency of his/her work. Among the grounds stated are the following:

- if, during two consecutive assessments, it is concluded that the judge has failed to meet the criteria for successful work at his/her own fault for no justified reasons;
- if the judge is convicted with a final judgment for a severe disciplinary measure;
- if without being authorised to do so, the judge discloses classified information, that is, information and data about court cases thereby violating his/her duty to protect the secrecy of the proceedings prescribed by law;
- if the judge causes delay in the proceedings for no justified reasons and fails to schedule hearings for the cases assigned to him/her;
- if the judge fails to hear the case due to which the criminal prosecution is statute-barred or the criminal sanction for the crime is statute-barred;
- if the judge hears a case that was not assigned to him/her through the ACCMIS case management system;
- if the judge makes a professional mistake on purpose and for no justified reason such that the different interpretation of the law and the facts may not be grounds for determining the judge's liability.³²

³¹ Evaluation Report on the Republic of Macedonia - GRECO Fourth Round of Evaluation - Corruption Prevention in respect to Judges and Public Prosecutors, point 66, pp.13; Available at: <http://www.pravda.gov.mk/toc1/413>

³² Article 77 of the Law on Courts, Official Gazette of RNM No. 58/2006, 352008, 150/2010, 82/2018, 198/2018, 96/2019

Disciplinary measures to determine judge's liability are imposed in cases of minor disruption of public order and peace or other minor misconduct which destroys the dignity of the court or the judge's own dignity; of abuse of one's function and the court's reputation for personal legal interests; of failure to meet mentor duties; violation of the rules for absence of work; failure to attend compulsory training; and failure to wear the judge's robe during trials. The Law provides for a possibility for the Judicial Council to impose a disciplinary measure in the form of written warning, public reprimand and salary reduction by 15% to 30% of the monthly salary for a period of one to six months.

The Law provides for special liability of the president of the court, who may be dismissed in the following cases:

- if s/he exceeds and violates his/her official powers;
- if s/he makes unlawful and negligent use of the court's funds;
- if s/he exerts influence on the judges' independence when they adjudicate certain cases;
- if s/he fails to apply the provisions on court case management and distribution;
- if s/he violates the provisions regarding the amendment of the Annual Schedule for Judges;
- if the president of the court fails to notify the Judicial Council of the RNM about a severe disciplinary violation made in the court where s/he is president knowing about the violation and not reporting it in order to conceal it; and
- if s/he fails to allow supervision in the court as prescribed by law.

With regard to the decision on disciplinary measures, the provisions of Article 72 of the Law on Judicial Council stipulate that the Supreme Court has the power to rule on the right to appeal of the candidate against whom disciplinary procedure has been initiated. According to the law, the Supreme Court is to form an Appeals Council, composed of nine members, of whom three judges of the Supreme Court of the RNM, one judge of the appellate courts, and two judges of the court where the judge implicated in the procedure comes from. The President of the Supreme Court of the RNM and the judge, that is, the president of the court and the party in the procedure before the Council, may not be members of the Appeals Council of the Supreme Court.

In order to provide guidelines and standards of judicial operation, and in view of the international standards like the Bangalore Principles³³ of Judicial Conduct, the Supreme Court of the Republic of North Macedonia adopted the Code of Ethics for Judges and Lay Judges in September 2019.

1.4. Promotion and Assessment of Judges and the Court Service

GRECO has recommended that the system of assessing judges should be revised in order to (1) introduce more qualitative criteria and (2) remove automatic reduction in the judge's grade resulting from his/her decisions being quashed. The new Law on JCRNM, adopted in May 2019, provides for complete revision of the judges assessment system, which will put emphasis on qualitative criteria. The new rules imply that assessment will use the computerised system for court case allocation, which provides data on certain decisions/legal remedies/annulments/procedural violations at case management level; and to harmonise all procedural steps in terms of time limits. **Regarding qualitative criteria, the amendments include:** a) implementation of the work programme, b)

³³ The Bangalore Principles of Judicial Conduct cover six main principles of judicial conduct: independence, impartiality, integrity, propriety, equality, competence and diligence

consistency in the implementation of the Court Rules of Procedure (annual work schedule, recusal of judges, reallocation of cases, etc.), c) functioning of the automatic case allocation system, d) the quality of decisions made in court administration, e) public relations and transparency.

Judges' assessment is based on the Annual Court Workload Report after it has been reviewed at a general session of the SCRNM, the Work Programme of the president of the court, as well as the results of the control reports of the higher courts, the JCRNM and the Ministry of Justice of the RNM. Qualitative criteria will have a weight of 60% in the final overall assessment (quantitative criteria: 40%).

The new provisions on judges' assessment contained in Article 82 of the Law on Judicial Council grant power to the Supreme Court to give an opinion at a general session on the judges' assessment forms and methodology adopted by the Judicial Council.

The judges mostly do not agree with how they are evaluated and promoted. Their perception is that the promotion procedure is regulated well, but not implemented well mainly due to political and other influences. The justices of the Supreme Court share the same opinion as the judges of appellate courts confirming that it is appropriate for judges to be evaluated among themselves, directly by higher courts, rather than leaving that role to the Judicial Council only, as was the case in the previous law. At the same time, the assessment and promotion of justices of the Supreme Court is not of particular interest as it is the case with lower courts as it is important only if a Supreme Court justice wishes to apply for the court's president position. Having said that, the Supreme Court's opinion on assessment and promotion is significant as a doctrine on which the system itself would be based. The novelties introduced by the Law on Judicial Council are expected to bring real peer to peer assessment, which would help obtain a more realistic picture of the judges ratings in lower courts. Regarding the election of justices in the Supreme Court, the justices stressed that it is necessary to reintroduce the practice of the Supreme Court justices providing an opinion on candidates.

The status of the court service is regulated by the Law on Court Service³⁴. Regarding the court service, the focus group with representatives of the court service of the Supreme Court stressed that the current system of employment in the court service of the Supreme Court is inadequate. There is incompatibility between the status of administrative workers employed in the public sector and court servants. This is mainly due to the difference in the description of the work, the complexity of the work and the very status of the institution Supreme Court, which may not and should not be at the same footing as the other institutions which are, above all, part of the state administration. Supreme Court representatives have made it clear that the previous system of internal promotion in the court service worked more efficiently and more effectively because expert associates were employed who had previously worked in lower courts and had at least 5 years experience. Trainees were hired only in basic courts and there was no possibility for them to be hired in the Supreme Court. It is important to mention that this practice was changed in the past decade, so when staff was employed in the Supreme Court the last time, which was in 2014, people were employed who did not have any or had modest experience as expert associates. In comparison, the job of expert associate in supreme courts in the region and the European Union is performed by basic court judges.³⁵ This is the reason why it is recommended that the old employment system for the Supreme Court is restored.

³⁴ Law on Courts, Official Gazette of RNM No. 43/2014, 33/2015, 98/2015, 6/2016, 198/2018, 248/2018

³⁵ The Supreme Court in the Republic of Croatia is an example of such organisation of the service.

It is also recommended that promotion in the court service should be done based on the principle of internal vacancy announcement. There has been more than 10 years since court servants were promoted because the law does not prescribe such a possibility. This makes people on these positions less motivated to do their jobs. Providing opportunities for their promotion, regulating their status and professional development would result in greater quality of the Supreme Court's work and it would also help avoid cases of employing inexperienced expert associates in the Supreme Court.

The 2014 amendments of the Law on Court Service replaced the position of Secretary General of the Supreme Court of the RNM with the position of Court Administrator, which puts the Secretary General on the same footing with the court administrators of all other courts. At the same time, a new position of Secretary General was introduced in the Judicial Council of the RNM. This change is in full contradiction with the principle of division of power because the legislative power is with the Assembly of the RNM, and the executive power is with the Government of the RNM, so they have the position of the Secretary General, whereas the Supreme Court, being the highest court and holder of the judicial power in North Macedonia, is deprived of this influential position transferring it to the Judicial Council of the RNM, which is not a judicial body. In view of the judicial hierarchy in North Macedonia, it is necessary to restore the position of Secretary General in the Supreme Court. In order to avoid such mistakes in the future, it is necessary to define the status and to regulate the expert service of the Supreme Court as the holder of the judicial power in the country in separate provisions in the Law on Court Service.

1.5. Allocation of Incoming Cases in a Court

Courts in the Republic of North Macedonia have an automatic (information) system for case allocation. It is called "Automated Court Case Management Information System" known as ACCMIS. After the cases are physically received and registered in the courts, they are fed into the ACCMIS and then automatically allocated. The President of the Supreme Court manages the ACCMIS system for the Supreme Court of the Republic of North Macedonia and s/he is also in charge of the automated computerised system for court case management for all courts in the country.

In theory such a system makes it impossible for humans to interfere with case allocation. The court administration itself is also incapable of exerting its influence.

Still, the very first report of the experts' group led by Reinhard Priebe noted that there are suspicions that this system may be manipulated. Therefore, the Ministry of Justice formed a Commission in 2017 to inspect the functioning of the information system and to supervise the implementation of the provisions of the Court Rules of Procedure. The Commission carried out inspection in three courts: Basic Court Skopje 1 Skopje, Appellate Court Skopje and the Supreme Court of the Republic of North Macedonia.

Inspection in the Supreme Court was made on 17 September 2017 when the following was reviewed: the ACCMIS procedures, the Annual Work Schedule for Judges, the procedure for recusing a judge from automatic allocation and reallocation of cases, as well as all decisions on case reallocation. In its report on the Supreme Court, the Commission noted that there was inconsistency in the application of the Law on Case Flow Management in Courts and the Court Rules of Procedure, as well as inconsistency in the use of ACCMIS. There was a Working Body on the Standardisation of Court Procedures for ACCMIS Use and Improvement in the Supreme Court in that

period. Nevertheless, even though the court was obliged, it failed to publish on its website the guidelines and the conclusions of the Working Body and they were also not sent to the Commission on Expert Opinion on the Application of the Court Rules of Procedure. The latest amendments of the Law on Courts³⁶ define a new Working Body for the Standardisation of the Procedures for Use of the Automated Computer System for Court Case Management, composed of one justice of the Supreme Court of the Republic of North Macedonia, one judge of each of the appellate courts, one judge of the Administrative Court, one judge of the Higher Administrative Court, one judge from a basic court, the administrator of the Supreme Court of the Republic of North Macedonia and three information officers from the courts.

The Commission Report further concludes that the Supreme Court has not done its duty to form a Working Body for Managing Case Flow in Courts. This report also noted the frequent changes to the Annual Work Schedule, that is, that every new president of the court makes a new annual schedule without respecting the principle of judges' specialisation in areas. For instance, the Supreme Court's Work Schedule for Judges for 2017 was changed 9 times. Such frequent changes to the annual schedule directly affect the composition of the panels which rule on cases. In that way the random election of a judge resulting from automatic allocation is suspended and the president of the court makes a written decision on case allocation, which is not in line with the provisions of the Court Rules of Procedure. The Report noted as indicative the fact that there are many requests for recusal in the Supreme Court, that is, 80 requests in 2016 and more than 100 requests for recusal in 2017. It is important to mention that according to Article 181 of the Court Rules of Procedure, cases are reallocated upon a decision stating that all cases for which decisions were not delivered by a judge are allocated to another judge who is appointed from the roll. In this sense, the Commission has established that in the Supreme Court even though a judge hearing pre-trial detention cases (Criminal Division) announced his/her sick leave, s/he had not been excluded from automatic case allocation in ACCMIS for 30 days after s/he was on a sick leave. The Commission Report also noted that a small number of cases are automatically allocated several times a day, which is contrary to the rules on automatic allocation.

After the investigation and interrogation conducted, the Public Prosecutor's Office issued an indictment in July 2019 against the President of the Basic Criminal Court in Skopje for abuse of the ACCMIS system, and interrupted the procedure against the current President of the Supreme Court, Jovo Vangelovski, confirming not enough evidence was found to issue an indictment.

These findings of the Commission were accompanied by a range of conclusions and recommendations for judges, among which that it is necessary for the Supreme Court's Working Body for the Standardisation of Court Proceedings to meet regularly and ensure a complete implementation and improvement of the ACCMIS in all the courts in the country. The Supreme Court has adopted a quality procedure for the work of the Working Body for the Standardisation of Court Proceedings. The procedure is in line with ISO quality standards and contains the rules for the Working Body's establishment and operations.

³⁶ Law on Courts, Official Gazette of RM No. 58/2006, 352008, 150/2010, 82/2018, 198/2018, 96/2019

1.6. Judges' Recusal from Proceedings in Cases Where There is a Possible Conflict of Interest or When the Judge's Impartiality is Jeopardised or When There are Grounds for Judge's Partiality

These indicators indicate that there are protection mechanisms for cases when a judge who is not recused from a trial (in the said cases) may be sanctioned (disciplinary, etc.), which institution has the power to rule on a third party's request for a judge's recusal and if it is possible for the judge to lodge an appeal against a decision on his/her recusal to a higher judicial body.

The Law on Litigation Procedure contains a separate chapter on the recusal of judges. Article 64 of that Chapter prescribed a number of grounds on which a judge is not allowed to perform his/her judicial duty. Such cases are when the judge:

1. is a party, legal representative or proxy of the party, co-authorised, co-debtor or regress debtor of the party, or if s/he has been questioned as a witness or expert for the same case;
2. is in permanent or temporary employment with an employer who is a party to the proceedings;
3. is a straight line kin of any degree or a side line kin of up to a fourth degree with the party or the legal representative or the proxy of the party, or is a spouse, non-marital partner or in-law of up to second degree irrespective of whether the marriage has dissolved or not;
4. is a guardian, adoptive parent, adopted child, supporter or dependent of the party, their legal representative or proxy;
5. was involved in making a decision on the same case in a lower court or another body; and
6. impartiality is called into question due to other circumstances.

The provisions of the law further prescribe that as soon as the judge becomes aware of any of the circumstances provided in Article 64, points 1 to 5, s/he is to stop working on the case and notify the president of the court, who is to appoint a replacement for him/her. If the judge considers there is any other circumstance, in line with point six of Article 64, s/he is to notify the president of the court, who is to rule on recusal.

These provisions of the Law on Litigation Procedure make it clear that there are two types of circumstances/reasons for recusal. The first ones are those where the judge must not hear the case and must be recused. These are stated in points 1 to 5 of Article 64 of the Law. The other ones are those where the judge need not be recused. In such circumstances the president of the court rules on recusal.

In addition, the Law on Litigation Procedure provides a possibility for the parties themselves to request recusal of a judge. In such a case, if recusal is requested due to any of the reasons in points 1 to 5 of Article 64, the judge interrupts any work on the case immediately until the president of the court makes a decision on the party's request. If recusal is requested for other reasons according to point 6 of Article 64, the judge may take those actions which are at risk of deferral until a decision is made.

The Law on Criminal Procedure also contains provisions on the recusal of judges³⁷. The provisions of Article 33 and 35 prescribe special criteria on circumstances which cause suspicions about judges' impartiality. A judge may be recused upon the request of the parties, whereas the president of the court rules on the request. In criminal cases, recusal of minute-takers, translators, interpreters and expert staff, as well as expert witnesses, is also envisaged. It is also possible to request the recusal of the public prosecutor in the case.

According to the Court Rules of Procedure, the requests for recusal of judges, lay judges, complaints and grievances are submitted to the president of the court, the judge or the court officer appointed by the president of the court. When there is a request to recuse a judge, the president of the court makes a decision to recuse the judge and a decision to automatically reallocate the case (in which case the recused judges are not involved in automatic reallocation). Also, the case may not be assigned to the judges who were involved in the case in a lower court or another body or who were previously recused. Upon the request for recusal or sudden absence of a judge who is a member of the panel, the president of the court appoints another judge to replace the judge who is recused from the case and records the decision in the register on recusal IZZ.

Both focus groups pointed out the problem that the Supreme Court is facing, particularly its Criminal Division, when a judge coming from the Appellate Court in Skopje is appointed. Notably, the Criminal Court Skopje, the Appellate Court Skopje and the Supreme Court are the only courts which have the power over organised crime cases. Thus, when a judge coming from the Criminal Division of the Appellate Court in Skopje is appointed in the Criminal Division as per the Annual Schedule, it is possible that s/he heard the organised crime cases in the second instance, which means s/he must be recused when the case is reviewed and ruled in the Criminal Division of the Supreme Court. Hence, in view of the fact that the number of justices is reduced due to lack of election or dismissal by the Judicial Council and the fact that the last two justices transferred to the Criminal Division come from the Appellate Court in Skopje, the Supreme Court is forced to appoint justices not belonging to this division as deputy members of the Criminal Division so that they hear and rule on cases when there is a request for recusal of some of the justices in the Division.

1.7. Procedure in Case a Judge's Independence is Jeopardised

This indicator shows if there is (or there is not) a procedure in such a case, which institution has the power to protect judges' independence and what measures it may take.

Judicial independence in the Republic of Macedonia is raised at a level where it is one of the basic principles of the legal order. According to Article 98 of the Constitution, courts in the Republic of North Macedonia are independent and autonomous and adjudicate based on the Constitution, the laws and the international treaties ratified in accordance with the Constitution. Such judicial independence on an individual level is reflected in the judge's independence. A general legal framework regulating judges' independence is elaborated in the Law on Courts and the Law on Judicial Council of the Republic of North Macedonia. These laws contain several general (declarative) provisions mentioning independence, as well as a range of other provisions defining specific measures for cases when the judges' independence is jeopardised. It is important to mention that

³⁷ Law on Criminal Procedure, Official Gazette of RM No. 150/2010, 100/2012, 142/2016, 198/2018

the provisions safeguarding judges' independence are dispersed in the abovementioned laws, which indicates there is no systematic legal framework on this matter, except for aspects referring to determining judges' liability.

Finally, criticism on the judges' independence was expressed by all past EC Progress Reports on the Republic of Macedonia, as well as the GRECO's Reports on the Fourth Evaluation Round, which, besides other institutions, refers to the judiciary. The 2018 GRECO's Report³⁸ notes the progress is greatly dependent on whether the judiciary in the country may begin to work independently and impartially.

In this sense, it is important to point out that for the first time in the recent history of the Macedonia judiciary, the Judicial Council dismissed two judges, one of whom was the President of the Supreme Court. The trials for these two judges are in the second instance, that is, there are no final decisions on the cases. At the same time, the Judicial Council conducts proceedings against 6 more justices of the Supreme Court on various grounds, and the cases have still not been closed.

1.8. Financial Independence of the Court

The Annual Court Budget approved, government expenditure expressed as a percentage of GDP, the number of judges and attorneys per 100,000 inhabitants provide information about the funds used in the justice system.

According to CEPEJ's methodology, the level of funds allocated to all courts is measured by the amount of all funds (national and regional) allocated annually per capita. Based on this methodology, the 2011 Annual Judiciary Budget was EUR 14 per capita in the Republic of Macedonia, which is the lowest out of 32 countries evaluated. Additional indicator used in the EU Justice Scoreboard is the amount of funds allocated to courts expressed as a percentage of the annual budget. Besides financial resources, the Scoreboard assesses the quality of court decisions delivered based on the available human resources in courts. The indicator was revised in 2014 so that only full time judges are calculated and court servants are excluded. There were 33 judges per 100,000 inhabitants in the Republic of Macedonia in 2011. The number gradually decreased so that there were 32.4 in 2012 and 31.8 in 2013. The number of judges dropped to 30.12 judges per 100,000 inhabitants in 2014 and the downward trend continued so that there were 28.6 judges in 2015, 27.45 judges in 2016 and 26.26 judges per 100.00 inhabitants in 2017.

Judicial independence is directly related to its financial autonomy. According to paragraph 2 of the Opinion No. (2) of the Consultative Council of European Judges of the Council of Europe to the attention of the Committee of Ministers of the Council of Europe on the funding and management of courts with reference to the efficiency of the judiciary and to Article 6 of the European Convention of Human Rights, "the funding of courts is closely linked to the issue of the independence of judges in that it determines the conditions in which the courts perform their functions". According to the

³⁸ FIFTH EVALUATION ROUND, Corruption Prevention and Integrity Promotion of the Central Government (the highest executive functions) and the Law Enforcement Authorities, North Macedonia Report, adopted by GRECO at its 82-th Plenary Meeting (Strasbourg, 18-22 March 2019)

Recommendation No. 8 of Opinion No. (1) of the Consultative Council of European Judges of the Council of Europe regarding the salaries of judges, the following is stated: “Remuneration should be commensurate with their role and burden of responsibilities and guarantee sickness pay and adequate retirement pensions. It should be guaranteed with specific legal provision guaranteeing judicial salaries against reduction and provisions to ensure salary increases in line with the cost of living”.

Even though the funds allocated to courts per capita are low, they should be analysed taking into account their share of the total national budget and the size of the country’s economy. A critical remark is to be made regarding the transparency of court budgets. The court budget is expressed cumulatively in the Budget of the Republic of North Macedonia, and it is only the budget of the Constitutional Court of the Republic of North Macedonia that is presented as a separate item. According to the Law on Court Budget, the court budget is an annual assessment of the revenues and expenditure of the units of the judicial power determined by the Assembly of the Republic of North Macedonia and is aimed at funding them.

According to Article 4 of the Law on Court Budget, the funds for “Judicial Power” allocated in the Budget of the Republic of North Macedonia necessary to fund the units are determined in the amount of at least 0.8% of GDP. However, this percentage was 0.29% of GDP in 2018. This remains to be one of the key issues regarding the judicial power’s financial dependence on the executive power. The justices of the Supreme Court are mainly of the opinion³⁹ that the judiciary should have a budget of its own and a treasury system to transfer quarterly installments from the Budget of the RNM and that the Judicial Budgetary Council should be the only institution to have the power over the financial operations of the courts. That would help overcome current administrative procedures of obtaining approval for employment and procurement from the Ministry of Finance, which greatly affects courts’ effectiveness. That function would be performed by the Judicial Budgetary Council.

Courts have internal procedures for budgetary planning of their court budgets. Budgetary planning in courts is done based on a separate IT system on financial operations which is connected in a network with the Automated Budgetary Management System (ABMS). The parameters used are based on the analysis of the funds spent in the previous years and the needs of the court. Every court manages its finance in line with separate internal documents. Salaries and remuneration, as well as points and coefficients are calculated based on the Law on Judges Salaries and the Law on Court Service. Every court has a treasurer and an accountant responsible for salary calculation and payment.

Based on the focus group discussions, judges and the court service receive salaries based on salary coefficients and “frozen” base pay due to the anticrisis measures adopted to mitigate the effects of the 2008 world financial crisis. Considering that more than 8 years have passed since the measures were adopted, a question arises as to whether the judges and court service salaries are not increased due to lack of political will to lift the anticrisis measures of “freezing” the base pay as opposed to the increase of the average salary in the Republic of North Macedonia.

³⁹ Focus group with justices of the Supreme Court of the Republic of North Macedonia, held on 18 November 2019.

In addition, the justices and the court service of the Supreme Court stressed that there is a serious problem in the procedure for employing new servants or for electing judges on positions that have been made vacant during the budgetary year in which funds have been provided for salaries and allowances. The justices of the Supreme Court mentioned two situations which make clear the excessive formalism in the financial control exercised by the Ministry of Finance, as a representative of the executive power. The first case is the reduction in the number of judges due to retirement when the Ministry of Finance has failed for an extended period of time to approve the election of judges to fill in the vacant positions, which makes it impossible for the Judicial Council to announce a vacancy announcement for election of a judge or judges to fill in the vacant positions, which is visible in the tables presented below, where the number of Supreme Court justices on panels was 16 at some point, whereas it was supposed to be 25 according to the systematisation. The second instance is when a position in the court service becomes vacant in the Supreme Court or the other courts during the budgetary year for which funds have been provided for salaries and allowances. The Supreme Court is forced to ask for the approval of the Ministry of Finance to fill the position although this is not a new position only a case of filling an existing one which is covered by the court budget which has been adopted and allocated.

Regarding the budget projected by the Supreme Court, the judges and the court service mentioned that it has never been accepted in the amount requested, but rather it would first be reduced by the Judicial Budgetary Council and then by the Ministry of Finance. This means that the institutions have a great influence on the budgetary projections whereas they are not familiar with the needs and the circumstances of the Supreme Court and fail to provide arguments for reducing the amounts projected by the Supreme Court.

In view of the fact that the Supreme Court together with all the other courts is one of the three powers in the Republic of North Macedonia, the information presented above makes it evident that it is not able to fully perform its function of a corrector of the executive power and, in turn, ensure balance between the three powers. This is the result of the budgeting system, but also of the strong position of the executive power towards the judicial power through the Ministry of Finance, whose draft budget is almost always adopted without major corrections by the Assembly of the Republic of North Macedonia. The examples provided make it clear that the Supreme Court, together with the other courts, operates below normal standards of work considering that the executive power through the Ministry of Finance does not provide sufficient funds to them, which is evident from the fact that there is inconsistency in the prioritisation of the vacant judge positions and court service positions due to retirement or resignation, as well as from the fact that no court service employee has been promoted in the Supreme Court in the past 15 years in line with the Law on Court Service and the Job Systematisation Document of the Supreme Court.

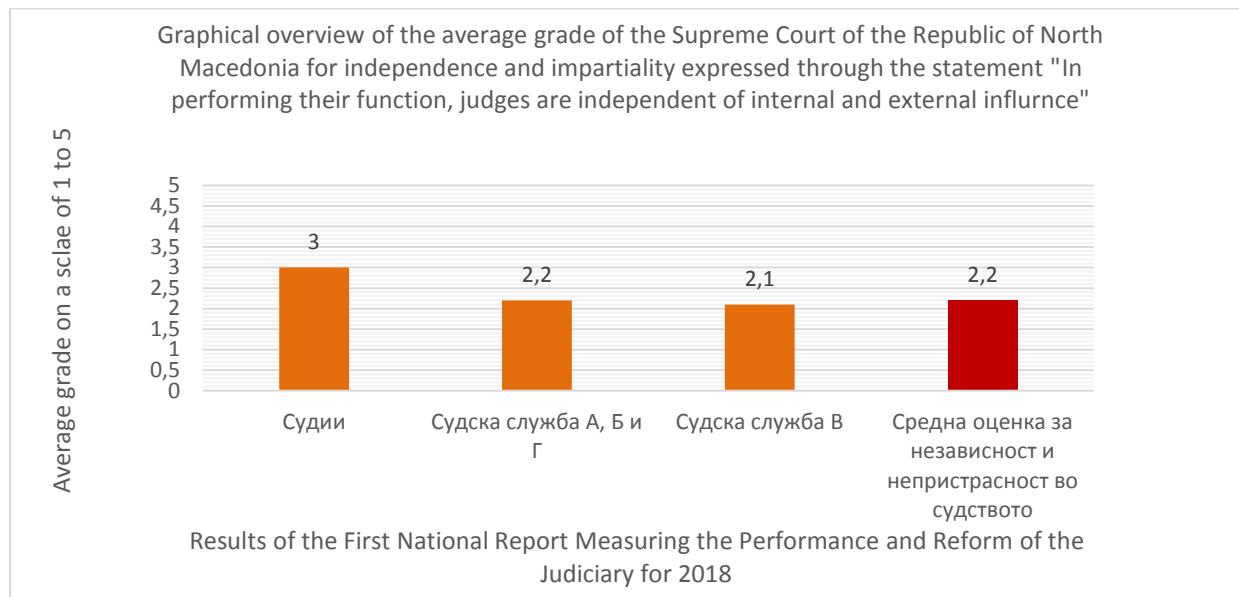
1.9. First National Report Measuring the Performance and Reform of the Judiciary

Besides the progress made in the legal framework regarding independence and impartiality, the majority of the respondents in the First National Report Measuring the Performance and Reform of the Judiciary have awarded the average grade of 2.2 to judicial independence and impartiality, which is the area with the lowest grade out of all five areas covered by the Indicator Matrix for

Measuring the Performance and Reform of the Judiciary⁴⁰. This indicates there is a need for additional efforts to continuously improve this area of the judiciary.

The justices and court servants of the Supreme Court of the Republic of North Macedonia are of the same opinion. Their grade of the judiciary performance and reform in the area of independence and impartiality is 2.2 on a scale of 1 to 5.

Chart 1 Graphical overview of the average grade for independence and impartiality of the Supreme Court of the Republic of North Macedonia ⁴¹



⁴⁰ First National Report on the Indicator Matrix for Measuring the Performance and Reform of the Judiciary, available at: <https://cpia.mk/prv-nacionalen-izveshtaj-od-matricata-na-indikator-i-za-merenje-na-performansite-i-reformite-vo-pravosudstvoto>

⁴¹ A full overview of the results of the first national measuring of judiciary performance for the area of independence and impartiality is provided in Annex 1.

1.10. Conclusions on the Independence and Impartiality of the Supreme Court

- Independence of judges in courts of all instances, as well as in the Supreme Court, is closely related to the financial independence of the judiciary. **Consistent implementation of the legal norm according to which the court budget should amount to 0.8% of GDP** is necessary.
- True independence of the judiciary from the executive power requires both **normative and actual independence of the financial resources of the courts** in such a way that public procurement and human resources in the judiciary will not be subject to approval by the Ministry of Finance.
- A mechanism of pressure on judges, even though they are guaranteed a permanent term of office, is the dismissal of judges and disciplinary proceedings against judges by the JCRNM. Political presence and influence have been felt in the work of the JCRNM both at present and in the past⁴². Therefore, it is necessary that the JCRNM to show **resistance in its work to possible external influences primarily by reducing disciplinary proceedings against justices in the Supreme Court**, which have turned into common practice in the period 2016-2019. In undisputed cases of necessity to institute disciplinary and dismissal proceedings for judges of these courts, they must be carried out in a highly transparent and consistent manner so as to meet the new statutory requirements, and to be thoroughly and precisely reasoned in particular because the Supreme Court, through its justices, is a guarantor for the judiciary in the RNM.
- Elaborate a methodology for the **vertical evaluation of judges by higher courts** is a serious tool for strengthening the independence of each judge separately. Through this mechanism, the SCRNM as assessor of appellate court judges will be able to consistently exercise control over the application of legal opinions and general views in order to ensure legal certainty and predictability.
- **Strengthen the status of the court service** in the Supreme Court by restoring the office of Secretary General of the Supreme Court and allowing for promotion of expert staff in the court.
- Court service of the Supreme Court needs to be strengthened by the **establishment of two cabinets within the court - the Cabinet of the Court's President and the Cabinet of the Court's Secretary General**, which will function in accordance with their responsibilities under the Rules of Procedure of the Supreme Court.
- Proper implementation of the Rules of Procedure of the Supreme Court is necessary to **prepare two work schedules - the work schedule for justices adopted by the president of the court and the work schedule for the expert associates adopted by the court secretary general**.
- Minimise external and internal influences on justices, the Supreme Court needs to establish a system for **strengthening and constantly vetting the personal integrity of judges**. To this

⁴² The constitutional and statutory provisions on the composition of the Judicial Council of the RNM demand presence and work of politically elected persons, which in itself, as a legal norm, is not exclusive; in many countries of the world judges are elected and dismissed by politically appointed officers/bodies.

end, much greater attention is needed to the Supreme Court's codes of ethics as well as to the development and delivery of ongoing training through the Academy on topics such as ethical conduct, conflict of interests, receiving gifts and services and building integrity of judges and the court service through practical examples, team exercises and workshops with professionals.

- Provide fully equipped and trained judicial police in order to make it fully operational through a separate entry in the court budget. Consistent application of the rulebooks on the organisational setting and job systematisation of the judicial police in order to meet the minimum standards that guarantee the safety of courts and judges during and outside their place of work.
- Independence and liability are inseparably intertwined. Hence, **in assessing the quality of the work of a Supreme Court justice, it is necessary that the liability for a decision be borne by every justice who participated in the decision of a panel**, not only by the justice-rapporteur; there are absurd situations when the rapporteur receives a negative score for a decision, even in cases when s/he had a dissenting opinion. Such an unfair situation also arises when all members of the panel were unanimous about the decision, but the liability lies only with the president of the panel. The present situation leaves enough room for the other members of the panel not to study the case at all and the decision to be taken by one judge only. Responsibility of all panel members for the decisions of their panel shall promote serious interest and engagement on each panel case irrespective of whether or not the justices are rapporteurs in the particular case.
- True equality between the three powers of government (legislative, executive and judicial) requires the **introduction of equal privileges** for the holders of each of these powers. In particular, the justices of the Supreme Court need to be provided with additional mechanisms to safeguard their safety and their personal integrity commensurate to the privileges of the **justices of the Supreme Courts in the region, which are similar to the security of the representatives of the legislative and executive power (the President of the Assembly of the RNM, the President of the Government of the RNM, the ministers, etc.)**.

2. EFFICIENCY

The efficiency of justice is one of the main components of the concept of fair trial. Article 6 of the European Convention of Human Rights, paragraph one, provides that “everyone has the right to... trial within a reasonable time...”. According to the case law of the European Court of Human Rights, the reasonableness of the length of the proceedings should be determined in the light of the circumstances of the case, where comprehensive assessment is needed (Boddaert v. Belgium, § 36). The requirement for the efficiency of the court proceedings, expressed through the concept of trial within a reasonable time, is incorporated in domestic law too as one of the main components of the broader concept of the right to fair trial.

Hence, the Law on Courts⁴³ provides that “when ruling on the citizens’ rights and obligations and when ruling on criminal liability, everyone has the right to trial within a reasonable time ...”. The same law provides that one of the principles on which the proceedings are based is the principle of trial within a reasonable time. In addition, the law provides that if the party “considers that the competent court has violated the right to trial within a reasonable time, s/he has the right to lodge a complaint for protection of the right to trial within a reasonable time to the Supreme Court of the Republic of Macedonia”.

To reach an adequate level of efficiency of the proceedings, adequate working conditions are necessary. In this sense, paragraph 26 of the Opinion No. 3 (2002) of the Consultative Council of European Judges of the Council of Europe to the attention of the Committee of Ministers of the Council of Europe on the principles and rules governing judges’ professional conduct, in particular ethics, incompatible behaviour and impartiality, sets down the following: “Judges must also fulfil their functions with diligence and reasonable despatch. For this, it is of course necessary that they should be provided with proper facilities, equipment and assistance. So provided, judges should both be mindful of and be able to perform their obligations under Article 6 (1) of the European Convention on Human Rights to deliver judgment within a reasonable time”.

2.1. Tentative Monthly Norm

The Judicial Council sets down the tentative monthly norm that the basic and appellate courts, the Administrative Court, the Higher Administrative Court and the Supreme Court of the RNM should meet depending on the type, legal matter, individual cases and workload.

Table 1 Tentative Monthly Norm of the Supreme Court for 2019

Type of case	Tentative Monthly Norm
KVP1 extraordinary review of a final judgment (a panel of three judges)	10
KVP2 extraordinary review of a final judgment (a panel of three judges)	5
KVP KOK 1 extraordinary review of a final judgment - organised crime (a panel of three judges)	2
KVP KOK 2 extraordinary review of a final judgment - organised	1

⁴³ Law on Courts, Official Gazette of the RNM No. 58/2006, 352008, 150/2010, 82/2018, 198/2018, 96/2019

crime (a panel of five judges)	
VKZ 1 appeals against pre-trial detention decisions	18
VKZ 2 appeals against third instance judgments	5
KZZ request for the protection of legality in criminal cases	5
VUK request for extraordinary mitigation of sentence	16
KR various criminal cases	35
REV 1 commercial cases after revision	10
REV 2 civil cases after revision	12
REV 3 labour cases after revision	12
Various civil cases	35
PSRRG right to trial within a reasonable time, civil	15
PSRRG right to trial within a reasonable time, criminal	15
PSRRG right to trial within a reasonable time, administrative	15
PSRRG right to trial within a reasonable time, appeal	13
UZZ request for the protection of legality in administrative cases	5
USPIZ appeals against decisions of the Administrative Court	10
UR various administrative cases	35
Request for the protection of legality	5
Appeals panel	5

According to the latest amendments of the Law on Judicial Council of 2019, the Council is to define a new methodology with indicators of the complexity of the cases, which would set the basis for determining the real monthly norm, in view of the fact that the previous system was heavily criticised for affecting the quality of judge's hearing by favouring productivity at the expense of quality in ruling. This was the conclusion confirmed jointly by all respondents in all focus groups (four appellate courts and the Supreme Court).

In order to analyse how far the justices of the Supreme Court meet the norm, data were provided by the Judicial Council for the period 2014-2018. Based on the data provided, more than half of the justices of the Supreme Court meet the norm set by the Judicial Council. In some cases, some justices do not only meet the norm, but also exceed it by 50 or 60 percent, so some justices meet a norm of 150 or 160 percent per month and year. Below is an illustration of how the justices of the Supreme Court met the norm for 2018.

Chart 2 2018 Norm



Based on the chart, it can be concluded that around 60% of the justices of the Supreme Court exceed their monthly norm set by the Judicial Council, and based on the data obtained from the Judicial Council, this was repeated in the past 4 years. The reasons for such continuous overtime work are partly due to the fact that the Supreme Court is constantly working with insufficient staff, that is, with a lower number of justices and expert associates. Having said that, this finding may be analysed in view of the role and powers of the Supreme Court justices and the Supreme Court itself. Notably, the tentative (obligatory) norm set by the Judicial Council as a quantitative criterion affects the work of the judges, especially in the Supreme Court, and considering that the justices of the Supreme Court are not subject to regular assessment, meeting the norm should not be a dominant factor when assessing their work. This approach should strengthen the position of the Supreme Court and stress the status and role of Supreme Court justices in harmonising law enforcement and providing legal opinions and general views. This reflects the need for the justices of the Supreme Court to perform their function through other activities which highlight their status in the legal system. As a result, Supreme Court justices should be guided to review legal issues, publish expert papers and articles, get involved in educating their lower court colleagues through the JPA and other activities directly related to their functions and powers as judges who have the power to administer justice and ensure the principle of legal certainty in the Republic of North Macedonia.

2.2. Efficiency in Ruling on Cases

The main parameters used to analyse the efficiency of the Supreme Court are the clearance rate and the rate of unresolved cases for the past three years (2016, 2017 and 2018). The disposition time was also taken into account.

The **clearance rate** is expressed by the ratio between the number of resolved cases and the number of ongoing cases during the year concerned. The percentage of resolved cases is obtained when this number is multiplied by 100. A lower clearance rate means longer disposition time, and, in turn, lower efficiency of the judiciary.

The rate of unresolved cases is expressed by the number of unresolved cases per 100 inhabitants which need to be resolved by the end of the reporting period (for example, one year). This rate also affects the **disposition time**. In order to calculate the rate of unresolved cases, data on the number of inhabitants in the Republic of North Macedonia is needed (the number of unresolved cases is divided by the number of inhabitants, and the figure obtained is multiplied by 100). According to the

data of the State Statistical Office, there were 2.077.132 inhabitants on the territory of the Republic of North Macedonia as of 31 December 2018.⁴⁴

The disposition time is expressed in such a way that the number of unresolved cases at the end of the year is divided by the number of resolved cases, and the result obtained is multiplied by 365 (the number of days in the year).

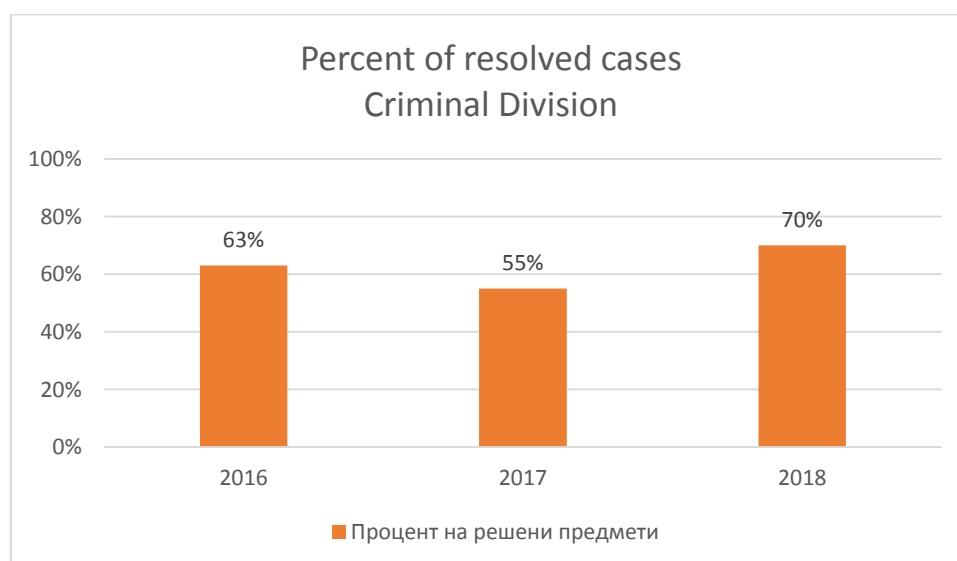
Table 2 SCRNM - Criminal Division

SCRNM - Criminal Division	2016	2017	2018
Number of justices	5	9	7
Number of court servants	5		
Unresolved cases at the start of the year	260	374	321
New cases received	544	446	449
Cases under reconsideration	0	0	0
Total ongoing cases	804	820	770
Resolved cases	505	449	544
Unresolved cases	299	321	226
Clearance rate	0.63	0.55	0.70
Percent of resolved cases	63%	55%	70%
Rate of unresolved cases	0.01	0.01	0.01
Disposition time	216	261	152

Based on the data presented for the Criminal Division of the Supreme Court of the Republic of North Macedonia, the clearance rate is around the mean for the years analysed. The clearance rate was 0.63 (505 ÷ 804), that is, 63 percent in 2016. The lowest clearance rate for the period analysed was 0.55 (449 ÷ 820) or 55% in 2017. There is an increase in the clearance rate in the Criminal Division in 2018, when it was 0.70 (544 ÷ 770) or 70%.

The percent of resolved cases in the Criminal Division is graphically shown as follows:

Chart 3 Percent of resolved cases- Criminal Division



⁴⁴ State Statistical Office, data available at <http://www.stat.gov.mk/OblastOpsto.aspx?id=2>

The rate of unresolved cases of the Criminal Division for 2016 was 0.01, the same as for the other years (2017 and 2018). The disposition time was also calculated, which was 216 days in 2016, 261 in 2017 and 152 days in 2018, which is a significant reduction.

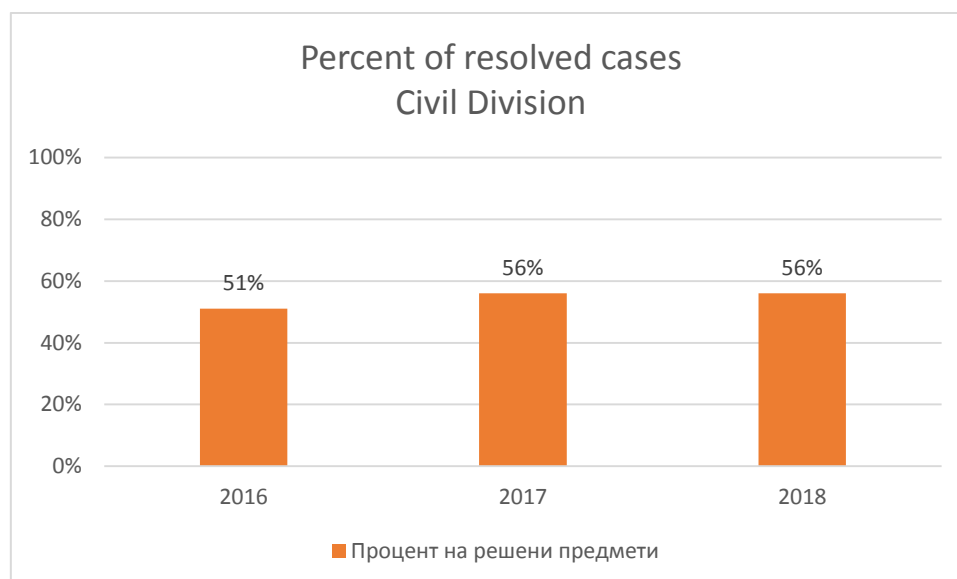
Table 3 SCRNM – Civil Division

SCRNM – Civil Division	2016	2017	2018
Number of justices	14	16	10
Number of court servants	10		
Unresolved cases at the start of the year	1241	1230	1084
New cases received	1270	1226	1093
Cases under reconsideration	0	0	2
Total ongoing cases	2511	2459	2067
Resolved cases	1281	1375	1162
Unresolved cases	1230	1084	905
Clearance rate	0.51	0.56	0.56
Percent of resolved cases	51%	56%	56%
Rate of unresolved cases	0.06	0.05	0.04
Disposition time	350	288	284

The situation of the Civil Division of the Supreme Court is similar. The clearance rate is continuously around the mean for the analysed period. The clearance rate in these three years was the lowest in 2016, when it was 0.51 (1281 ÷ 2511) or 51%. During 2017 and 2018 the clearance rate increased a little and was the same for both years, 0.56.

The percent of resolved cases in the Civil Division is graphically shown as follows:

Chart 4 Percent of resolved cases- Civil Division



The rate of unresolved cases in the Civil Division is decreasing every year, so it was 0.06 in 2016, 0.05 in 2017, and 0.04 in 2018. The disposition time in the Civil Division was 350 days in 2016, and it decreased in 2017, when it was 288 days, and also in 2018, when it was 284.

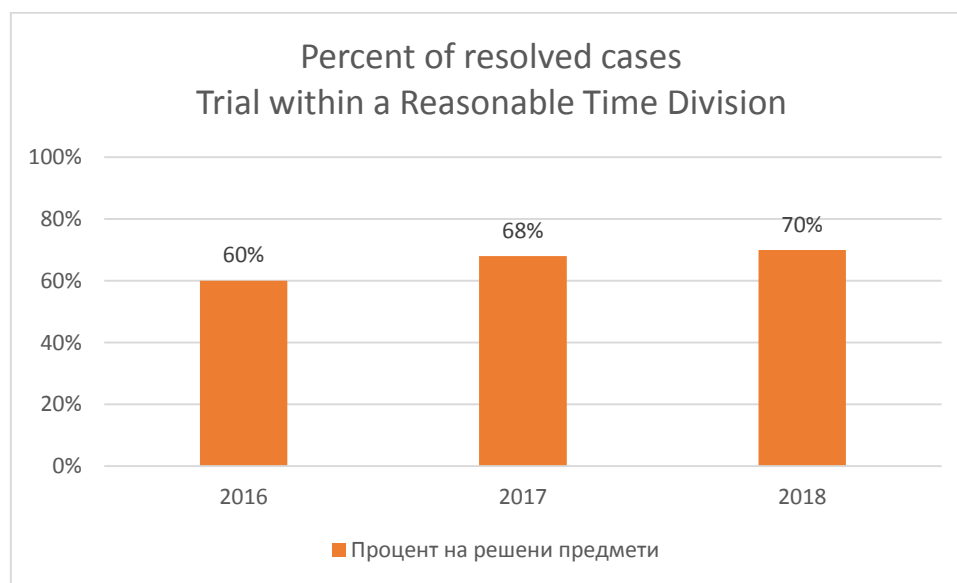
Table 4 SCRNM – Trial within a Reasonable Time Division

SCRNM - Reasonable Time	2016	2017	2018
Number of justices	15	16	8
Number of court servants	3		
Unresolved cases at the start of the year	213	339	305
New cases received	605	595	497
Cases under reconsideration	0	10	6
Total ongoing cases	818	944	807
Resolved cases	490	639	572
Unresolved cases	328	305	235
Clearance rate	0.60	0.68	0.70
Percent of resolved cases	60%	68%	70%
Rate of unresolved cases	0.02	0.01	0.02
Disposition time	244	174	150

The Trial within a Reasonable Time Division of the Supreme Court has a mean clearance rate with an upward trend during the years. The clearance rate was the lowest in 2016, when it was 0.60 (490 ÷ 818) or 60%. The clearance rate increased in 2017, when it was 0.68 (639 ÷ 944), and it was the highest in 2018, when it was 0.70 (572 ÷ 807).

The percent of resolved cases in the Trial within a Reasonable Time Division is graphically shown as follows:

Chart 5 Percent of resolved cases - Trial within a Reasonable Time Division



The percent of unresolved cases in the Trial within a Reasonable Time Division is relatively low and variable throughout the period analysed. The rate of unresolved cases was 0.02 in 2016, was 0.01 in 2017, and again 0.02 in 2018. With regard to the disposition time, the Trial within a Reasonable Time Division is the most efficient one compared to the other two Supreme Court divisions. Notably, 244 days was the disposition time of the Trial within a Reasonable Time Division in 2016, 174 days in 2017 and 150 days in 2018.

Based on the data obtained and the calculations made, it can be concluded that the Trial within a Reasonable Time Division is the most efficient division of the Supreme Court.

2.3. Efficiency Seen through the Trial within a Reasonable Time Division

The Supreme Court has the power to ensure that lower courts administer justice in a timely manner. In this sense, the justices of the Trial within a Reasonable Time Division hear and rule on requests of the parties and other participants in the proceedings claiming violation of the right to trial within a reasonable time in accordance with the rules and principles laid down in the European Convention on Human Rights and Fundamental Freedoms.

The Trial within a Reasonable Time Division keeps detailed records of the upheld requests for trial within a reasonable time per matter and reports this statistics in the Annual Reports of the Supreme Court. It can be used to notice the trend in the length of the proceedings per matter, but not per court. If the Trial within a Reasonable Time Division was to add to the statistics and begin to keep record of the requests per court as well, a much clearer picture would be obtained of which courts face the problem of timely completion of proceedings and at which instance they are. The table below shows the number of allowed, refused and dismissed requests for trial within a reasonable time in the years analysed.

Table 5 Number of allowed, refused and dismissed requests for trial within a reasonable time

	2016	2017	2018
Total number of resolved requests for trial within a reasonable time	490	639	572
Allowed	170	240	191
Percent of allowed	34.7%	37.6%	33.4%
Refused	266	334	319
Percent of refused	54.3%	52.3%	55.8%
Dismissed	54	65	62
Percent of dismissed	11%	10.2%	10.8%

Based on the statistics presented, it is evident that around one third of the requests processed by the Trial within a Reasonable Time Division annually are upheld. This shows that the Macedonian judiciary is still trying to attain the optimal standard for disposition time and follow the guidelines of the European Court of Human Rights, which points out the great length of the proceedings in the Republic of North Macedonia.⁴⁵

2.4. Empirical Projections of the Efficiency of the Supreme Court for the Period 2020-2023

One way of attaining an adequate level of efficiency in the operations of the Supreme Court is to assess trends by using empirical methods adjusted to the parameters characterising the court's operations. This way a conclusion can be drawn as to the number of justices and court servants

⁴⁵ European Court of Human Rights, *Mitkova v. The former Yugoslav Republic of Macedonia (Mitkova vs. Republic of Macedonia)*, Application number 48386/09

needed for the period 2020-2023. These empirical conclusions can contribute towards adequate human resource planning to achieve full efficiency.

Number of Incoming Cases

The number of incoming cases per year is a random number which depends on major societal factors, but also on minor, unpredictable situations and circumstances, in many complex ways which are too complicated or impossible to perceive and explain. Nevertheless, for each court there are data in terms of time series of incoming cases for the past 5-7 years, so they can be used to develop a model of the number of incoming cases to be expected in the coming years.

Such modelling is done using the normal Gaussian distribution. Normal distribution is the most frequently used distribution for modelling random processes in natural and social sciences, particularly because it is an excellent tool to present physical phenomena which are the sum of or the product of many different and mutually independent processes⁴⁶.

Normal distribution is characterised by two parameters:

- mean, which is the arithmetic mean of the values of the process we want to model (the sum of values divided by the number of values):

$$\bar{x} = \frac{1}{n} \left(\sum_{i=1}^n x_i \right) = \frac{x_1 + x_2 + \dots + x_n}{n}$$

- standard deviation, which is the variation of data around their mean, where high deviation means values are spread out over a wider range, and a low deviation means that the majority of the values are close to the mean:

$$s = \sqrt{\frac{1}{N-1} \sum_{i=1}^N (x_i - \bar{x})^2},$$

For known mean μ and standard deviation σ , normal probability is calculated according to the formula:

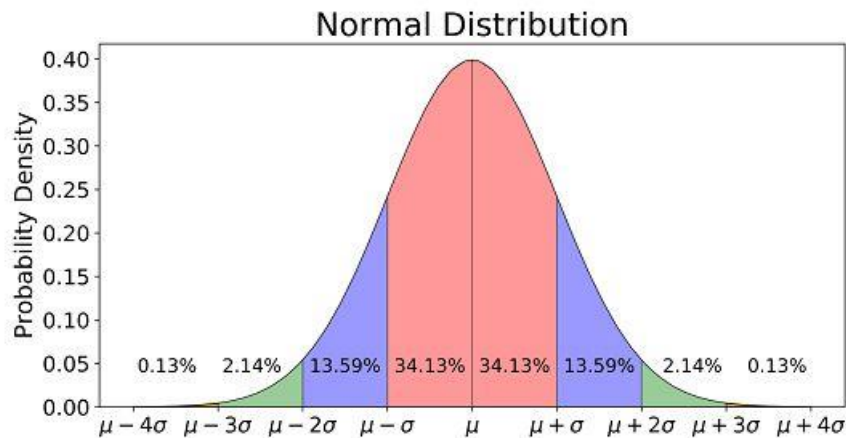
$$f(x) = \frac{1}{\sigma\sqrt{2\pi}} e^{-\frac{1}{2}\left(\frac{x-\mu}{\sigma}\right)^2}$$

where x is the value of the random variable, and $f(x)$ is the probability of obtaining that value. For a random process of normal distribution, it is considered that around 68% of random variables will be immediately around the mean value, and that around 95% of them will be within two standard deviations of the mean⁴⁷.

⁴⁶ J. K. Patel, C. B. Read, Handbook of Normal Distributions, Marcel Decker Inc., 1982.

⁴⁷ D. J. Wheeler, D. S. Chambers, Understanding Statistical Process Control, SPC Press, 1992

Chart 6: Normal distribution



During this study for each court the mean and the standard deviation are calculated for the series of incoming cases and that way the process of receiving new cases is modelled as a process with normal distribution and adequate mean and deviation. That model is then used to generate the number of new cases for each of the next 5 years. It may be considered that these random numbers are a good representation of the expected number of new cases for each year based on available data.

Number of Cases under Reconsideration

These cases are very few and are therefore modelled with an ordinary uniform (equal) random distribution, where there is equal probability for a value between the lowest and the highest number of returned cases in one time series. Due to the indigence and inconsistency of these data (and perhaps of the events themselves), there is no basis for normal distribution modelling.

Modelling the Influence of Judges and Servants on the Number of Resolved Cases

The influence of judges and servants on the number of resolved cases is modelled every year using a simple linear dependency model. This model has been selected for two reasons:

- It is assumed that every judge and every servant has an influence on the resolution of cases. Accordingly, the number of resolved cases is supposed to increase lineary as the number of judges and/or servants increases.
- The number of data available to be able to build a dependency model is too small (for a period of 5-7 years there are only 5-7 available data points). Using more complex models built on such little data may cause so called overfitting, which means the model will cover the data given ideally because "it will learn it by heart", but it will not be that good with new data.

The linear model describing the dependency between the number of court staff and the number of resolved cases is the polynomial:

$$N = C_1\text{court} + C_2\text{service} + C_3,$$

where court is the number of judges, service is the number of servants, N is the number of resolved cases, C_1 is the typical coefficient of the number of judges (it roughly presents the individual contribution of each judge), C_2 is the typical coefficient of the number of servants (it roughly presents

the individual contribution of each servant), and C_3 is a free item used to correct the model and to compensate for the joint influence of the judges and servants based on the number of resolved cases.

The three coefficients of the above given equation are obtained with the least square method⁴⁸. This is a known statistical method frequently used in statistical analysis to minimise errors in modelling and regression. The approach is simple and consists of two steps:

- First, the difference is calculated between the real value of a function (in this case, the known number of resolved cases in a year) and its estimated value (in this case, the N value of the previous equation for that year). This difference (also called an error) is then squared. This step is repeated for all samples (in this case, for all previous years for which data are available) and the squares of errors are summed:

$$S = \sum(N_{\text{real}} - N)^2$$

- Using iterative approximation methods, the values of C_1 , C_2 and C_3 are determined so that the sum S (which is a measure of the total model error) is minimal.

When the model is developed this way, simply by entering the number of judges and servants, the estimated number of resolved cases is obtained for such distribution of the court staff.

It must be mentioned that this simple linear model is not always able to successfully denote the correlation between the number of court staff and the number of resolved cases. This is particularly true in cases where there is great variation in the number of resolved cases when the number of judges and servants is constant (or slightly variable). In such cases, which result from the fact that the number of resolved cases is sometimes dependent on other factors which are invisible in the data given or impossible to model, the model and its projection must be taken with a grain of salt or even ignored.

These projections are made for the following 4 years, 2023 inclusive. It is considered that it is hard to consider them valid for a longer period of time in view of the little data available to train and develop the model. This indigence was also a major problem for this study. Still, it is considered that this approach to the study and estimation of the correlation between the number of resolved cases and the number of court staff could be used in the future because the number of data will grow bigger every year. Additional information and data on relevant factors would certainly greatly improve the models and make them more precise in the future.

Conclusion

These projections are made for the following 4 years, 2023 inclusive. It is considered that it is hard to consider them valid for a longer period of time in view of the little data available to train and develop the model. This indigence was also a major problem for this study. Still, it is considered that this approach to the study and estimation of the correlation between the number of resolved cases and the number of court staff could be used in the future because the number of data will grow bigger every year. Additional information and data on relevant factors would certainly greatly improve the models and make them more precise in the future. The projections for each division of the Supreme Court are provided below.

⁴⁸ T. Kariya, H. Kurata, Generalized Least Squares, Wiley Press, 2004

Projections about the Civil Division of the Supreme Court of the RNM

The table contains the projection about the number of justices and expert associates needed for smooth operation of the Civil Division of the Supreme Court for the period 2020-2023. If the systematisation is implemented as projected with mathematical projections, the Civil Division will resolve the remaining unresolved cases and will successfully meet the flow of incoming cases in 2021.

Table 6 Projections about cases and staff of the Civil Division of the Supreme Court of the RNM

Civil Division	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Number of justices	19	14	14	16	10	10	14	14	14	14
Number of court servants	14	10	9	11	11	14	14	14	14	14
Unresolved cases at the start of the year	1465	1231	1241	1230	1084	905	1095	716	0	0
New cases received	1692	1451	1270	1226	1093	1553	1202	811	1357	1232
Cases under reconsideration	0	0	0	0	2	0	0	0	0	0
Total ongoing cases	3155	2682	2511	2459	2067	2458	2297	1527	1357	1232
Resolved cases	1924	1440	1281	1375	1162	1363	1581	1581	1581	1581
Unresolved cases	1231	1242	1230	1084	905	1095	716	0	0	0
Clearance rate	0.61	0.54	0.51	0.56	0.56	0.55	0.69	1.04	1.17	1.28
Percent of resolved cases	61%	54%	51%	56%	56%	55%	69%	104%	117%	128%
Rate of unresolved cases	0.06	0.06	0.06	0.05	0.04	0.05	0.03	0.00	0.00	0.00

Projections about the Criminal Division of the Supreme Court of the RNM

The table contains the projection about the number of justices and expert associates needed for smooth operation of the Criminal Division of the Supreme Court for the period 2020-2023. If these projections come true, the number of unresolved cases in this division will be reduced by half.

Table 7 Projections about cases and staff of the Criminal Division of the Supreme Court of the RNM

Criminal Division	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Number of justices	6	4	5	9	7	7	7	7	7	7
Number of court servants	4	4	4	4	5	7	7	7	7	7
Unresolved cases at the start of the year	121	208	260	374	321	226	330	45	0	109
New cases received	843	816	544	446	449	664	275	401	669	599
Cases under reconsideration	0	0	0	0	0	0	0	0	0	0
Total ongoing cases	963	1024	804	820	770	890	605	446	669	708
Resolved cases	754	683	505	449	544	560	560	560	560	560
Unresolved cases	209	341	299	321	226	330	45	0	109	148
Clearance rate	0.78	0.67	0.63	0.55	0.71	0.63	0.93	1.26	0.84	0.79
Percent of resolved cases	78%	67%	63%	55%	71%	63%	93%	126%	84%	79%
Rate of unresolved cases	0.01	0.02	0.01	0.02	0.01	0.02	0.00	0.00	0.01	0.01

Projections about the Trial within a Reasonable Time Division

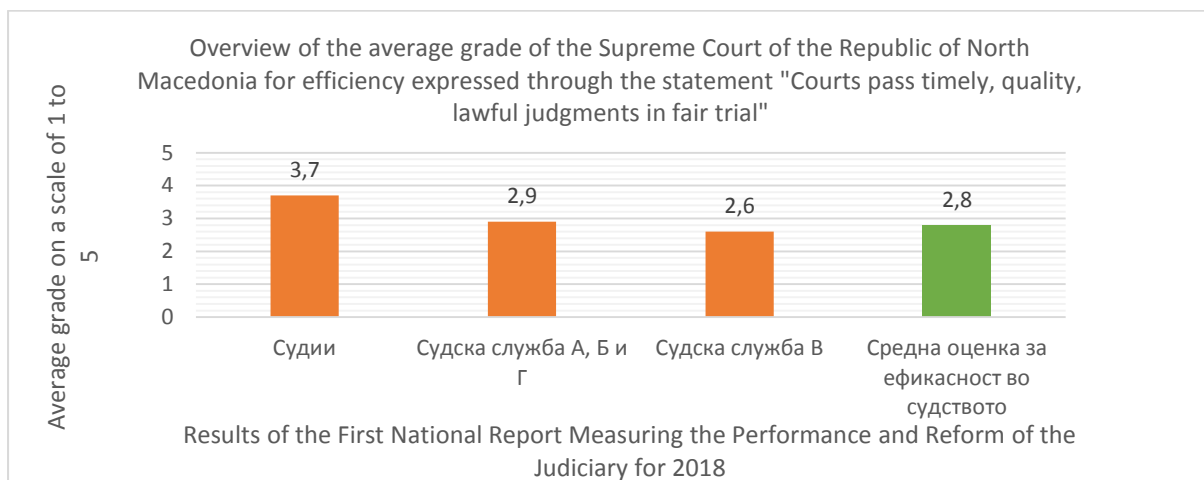
The table contains the projection about the number of justices and expert associates needed for smooth operation of the Trial within a Reasonable Time Division of the Supreme Court for the period 2020-2023. According to this systematisation of the number of justices and court servants, the Trial within a Reasonable Time Division will reduce the number of unresolved cases and will successfully manage the incoming cases and have a high clearance rate.

Table 8 Projections about cases and staff of the Trial within a Reasonable Time Division

Trial within a Reasonable Time Division	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Number of justices	14	16	15	16	8	8	8	8	8	8
Number of court servants	5	4	5	6	6	7	7	7	7	7
Unresolved cases at the start of the year	137	191	213	339	305	235	225	219	191	211
New cases received	637	610	605	595	497	584	588	566	614	475
Cases under reconsideration	0	0	0	10	6	0	0	0	0	0
Total ongoing cases	773	801	818	944	807	819	813	785	805	686
Resolved cases	582	588	490	639	572	594	594	594	594	594
Unresolved cases	191	213	328	305	235	225	219	191	211	92
Clearance rate	0.75	0.73	0.60	0.68	0.71	0.73	0.73	0.76	0.74	0.87
Percent of resolved cases	75%	73%	60%	68%	71%	73%	73%	76%	74%	87%
Rate of unresolved cases	0.01	0.01	0.02	0.01	0.01	0.01	0.01	0.01	0.01	0.00

2.5. First National Report Measuring the Performance and Reform of the Judiciary

Efficiency, being one of the most important parameters indicating judiciary performance, was covered by the First National Report Measuring the Performance and Reform of the Judiciary. In this study, on a scale of 1 to 5, the respondents of the Supreme Court awarded an average grade of 2.8 to judiciary efficiency in the Republic of North Macedonia.



2.6. Conclusions of the Efficiency of the Supreme Court

- The efficiency of the Supreme Court's work is primarily determined by the **human resources**. In other words, in courts in which inefficiency or lower efficiency has been found, the situation can be improved **firstly by new hires and secondly by better human resources management**:
 - As concerns the Supreme Court, in addition to the decision to increase the number of justices, it is necessary that the justices be elected by the Judicial Council as soon as possible.
 - Consistent publishing of the vacancy announcement for expert associates and other court servants in the Supreme Court as soon as possible, given the risk that some of the associates will take the initial training at the Academy or leave to work for other public authorities (the Ombudsman, the State Attorney and other).
 - The Supreme Court of the RNM has an alarming need for **advancement of the existing court servants**.
- The second factor for improving the efficiency of the Supreme Court is the **complete digitalisation of cases, delivery and communication among the Supreme Court, the appellate courts and the lower instance courts**. In particular, electronic interconnection or interoperability between courts will greatly enhance the efficiency of courts and speed up court proceedings. The analysis shows that each individual judge is highly effective and exceeds the set monthly norm.
- There is a normative and factual chaos regarding the level of salaries and allowances of the court service in the higher courts. All of this has an extremely demotivating and discouraging effect on the court servants, hence there is a serious danger that the extremely important and necessary staff will leave the judiciary. Therefore, it is recommended that the presidents and administrators of all four courts urgently convene together with representatives of the SCRNM, the Judicial Budgetary Council and MISA representatives, adopt common positions and **draft secondary legislation that would determine the salaries and allowances of the court service and harmonise them across the board**.
- The prescribed tentative norm of the Judicial Council is fulfilled and often significantly exceeded by the justices of the Supreme Court. But in addition to effectively resolving cases, it is necessary to refer justices to other judicial activities required by their office and powers.
- In addition to the lack of IT staff (all court staff working as IT professionals are burdened with a number of additional responsibilities under the Supreme Court's jurisdiction), existing IT specialists are not offered any specialised training in IT judiciary, e-case management and other topics specific to their work and necessary for their specialisation. It is recommended that the **Programming Council of the Academy for Judges and Public Prosecutors anticipate and offer a greater number and type of such training to court IT staff**.
- Organise meetings of Supreme Court justices with the justices of the supreme courts from the region and the European Union, as well as with judges of international courts, at the Academy for Judges and Public Prosecutors, so as to exchange experiences and discuss possible solutions to issues currently faced by the Supreme Court of the RNM.

3. TRANSPARENCY И ACCOUNTABILITY

The transparency and accountability of justice are the fundamental postulates of the right to fair trial. They are put in practice through the principle of publicity of court proceedings and public availability of court decisions. Article 6 of the European Convention on Human Rights lays down that the judgment shall be pronounced publicly and determines specific situations when the press and public may be excluded from the trial.

The Law on Courts mentions publicity and transparency among the primary principles of court proceedings. This law also regulates how information is transferred from the court to the press and public. According to the Law on Courts, public information is provided to the press by the president of the court, a person responsible for public relations. During the trial, judges and public relations officers may provide information to the public having regard to the presumption of innocence and not disclosing details that may affect the ongoing trials. According to the Law on Courts, it is obligatory for courts to have a public relations office. To improve transparency and publicity, every court is to inform the public about its work and the work of its judges at least once per year.

In view of the fact that the availability of court decisions does not only mean that they should be read in public during the last section of the main hearing, but also that they should be delivered in full to the parties and the public, a web portal (www.sud.mk) has been developed, where court decisions are electronically published, which is a great contribution towards court transparency. The manner and timeframe for electronic publication of court judgments are regulated by the Law on Case Flow Management in Courts, which describes the procedure for publishing (final and non-final) decisions, their anonymisation and time.

Court public relations are also regulated in detail in the Court Rules of Procedure⁴⁹, according to which every court is to have a public relations office which has to be available to provide information on the decisions published on the court's website. Courts are to announce information about the time, place and subject matter of trials in a prominent location in the court, whereas for trials for which there is greater public interest, the court administration is to provide a courtroom which can accommodate a larger number of people.

According to the Court Rules of Procedure, to ensure transparency and openness for citizens, the president of the court may use the press to provide information about the work of the court and about the course of proceedings taking caution not to damage the reputation, honour and dignity of the person concerned, and, in turn, the court's independence and autonomy.

Data provided or announced to the public must be accurate and complete, and when expressing opinions on cases or case law, they are to stress that they share their own opinion. In cases when the trial is open to the public, the court is to ensure there are proper working conditions. The Court Rules of Procedure also regulate how audiovisual reporting is to be made on trials and the court. In order to inform the public, the court may use a closed system with an internal TV to allow for free access to and downloading of video and audio recordings.

⁴⁹ Articles 101-111 of the Court Rules of Procedure, Official Gazette of RM No. 114/2014

3.1. Free Access to Public Information

According to the Law on Free Access to Public Information, the Supreme Court of the Republic of North Macedonia has appointed two people responsible for this type of communication. Both persons are employed as state advisors in the Supreme Court, and their contact information is available on the court's website.

The 2016 Annual Report of the Supreme Court contains no information about the number of requests for free access to public information received and how they were handled. However, the 2017 and 2018 Annual Reports of the court demonstrate that the Supreme Court handles these requests efficiently. In 2017, 38 requests for free access to information and 4 appeals were addressed to the Supreme Court. All requests were handled and resolved in the same year. In 2018, 40 requests for free access to information were submitted to the court and all of them were handled and resolved positively in the same year. The Supreme Court's website contains a list of public information divided in groups as per the powers of the Supreme Court, as well as a form people can use to request the information they are interested in. The court has also made public the names of the staff responsible for handling requests for information and the person responsible for communicating with persons with disabilities.

According to the Law on Free Access to Public Information, the Supreme Court, holding public information, is obliged to inform the people and share data on its website as stipulated by law⁵⁰. The Supreme Court largely meets this legal obligation, however, there is information of certain type for which the court has failed to publish information on its website, such as, for example, its organisational structure or its annual plan and work programme. Annual Auditor's Reports are also missing on the Supreme Court's website.

3.2. Publication of Decisions

Anonymised decisions of the Supreme Court have been continuously published on its website throughout the three years analysed. Although no precise figures can be found in the 2016 Annual Report of the Supreme Court as to the number and type of decisions published, the Supreme Court kept detailed records of the decisions published in 2017 and also reported them in its Annual Reports. Thus, we can see that the Supreme Court published a total of 2.246 decisions on its website in 2017, most of which were on civil cases (1.218).⁵¹ The court published a total of 2.148 decisions in 2018, most of which were on civil cases too (1.187).⁵²

3.3. Communication and Public Relations

There is a separate service in the Supreme Court, that is, an office responsible exclusively for public relations. The office has one employee, a spokesperson, responsible for communication and providing information to all interested people about the Supreme Court's work and operations. The court's spokesperson is also responsible for preparing the Annual Work Programme of the Public Relations Office.

Nevertheless, even though the Communications and Public Relations Office is organised relatively well, the President of the Supreme Court or the other judges do not usually give interviews or

⁵⁰ Article 10 of the Law on Free Access to Public Information, Official Gazette of RM No.

⁵¹ 2017 Annual Report of the Supreme Court of the Republic of Macedonia

⁵² 2018 Annual Report of the Supreme Court of the Republic of Macedonia

statements about topical issues. The justices of the Supreme Court do not have any direct communication with the public and are not present in the media in any way. This type of communication with the wider public is important for a number of reasons because that way people would be informed better about the work of the courts and thereby build or maintain confidence in the judiciary.

With regard to electronic communication with the public, the Supreme Court is part of the web portal www.sudovi.mk, where every court has its own page to publish data about the court and the reports and news on events of the courts or the judges involved. The Supreme Court page is regularly updated in the news section, where open calls, announcements and notifications are published on meetings between the President of the court and other justices or representatives of embassies or other diplomatic missions in North Macedonia.

3.4. Monitoring and Regular Reporting on Courts Work

The Supreme Court of the Republic of North Macedonia prepares Annual Reports on its work and submits them to the Judicial Council. The reports contain data about the work of the Supreme Court, that is, its divisions, as well as data on the cases handled by other courts in the country.

The Supreme Court generally follows the same contents structure and reporting methodology every year. The reports are clear to read and contain a lot of information about the work of the Supreme Court. The contents of the reports are generally the same every year analysed, and, besides introduction and conclusions, include a section on human resources, describing the situation of court staff, including judges and all other court employees. The reports contain a separate section on case decisions at court level, where details are provided per area on the number of unresolved cases, incoming cases, misrecorded cases and cases under reconsideration, as well as the total number of resolved cases and pending cases for the reporting year. The reports contain a section on the workload and the manner of hearing per division, where all four divisions are covered. The reports contain data per year on the court administration, on the work of the General Session of the Supreme Court and information on the sessions held per division. Every report contains a section on international cooperation of the Supreme Court and visits to international and domestic institutions, as well as a separate section on information technology and the work of the ICT Centre of the Supreme Court. **What is missing in the Annual Reports of the Supreme Court is more detailed information about the number and type of training attended by the justices and the expert service staff during the reporting year.**

However, differences in the presentation of data may be noticed in the 2016, 2017 and 2018 reports analysed. For instance, the 2017 Annual Report shows the length of the proceedings for civil cases per type of register, which is not the case with the 2016 and 2018 reports. On the other hand, it may be concluded that different divisions keep different statistics during the year. How the length of the proceedings for civil cases as opposed to criminal cases is recorded is an example. Notably, the Civil Division presents the number of resolved cases for each month separately, whereas the Criminal Division keeps statistics on how many months the disposition time is.

3.5. Judiciary and Media Council

In order to improve communication between the judges and the media and in order to improve cooperation and to open courts to the public, a Judiciary and Media Council was established in

September 2018. At a meeting of the Judges' Association of North Macedonia⁵³, a decision was made to elect members of the Council, which is composed of 21 members. 11 of them are journalists and 10 come from courts. Two justices of the Supreme Court of the Republic of North Macedonia are members of the council.

The Judiciary and Media Council (JMC) is an advisory body which works to promote cooperation and dialogue between journalists and judges on issues of common interest, and to strengthen transparency and public access. The body monitors and analyses judiciary transparency and has the task of taking initiatives, opinions, recommendations and conclusions to overcome problems for the benefit of both the media and the courts. It is also responsible for initiating amendments to existing legislation regarding transparency, as well as education activities for judges and journalists by organising workshops where they can get to know each other better. Members are appointed for a period of two years with the right to be reelected, and they work on a voluntary basis without any compensation.

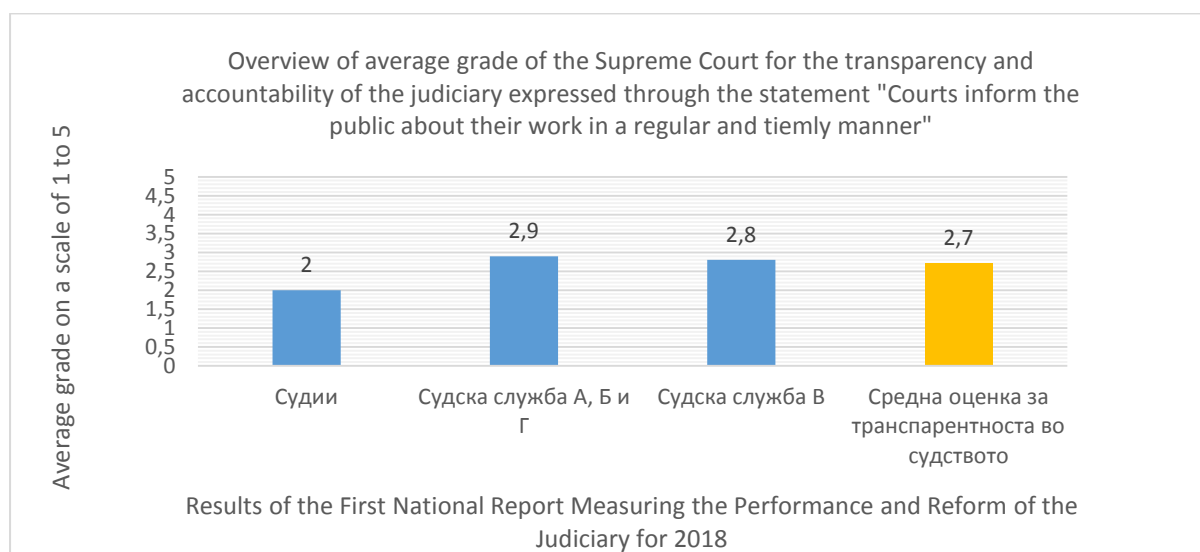
Upon its establishment, the body adopted its Rules of Procedure, a strategy for the coming period and worked on its promotion and greater visibility. At the same time, working groups formed by the new media body are currently working on amendments of the Law on Criminal Procedure and of the Court Rules of Procedure.

The establishment of the Judiciary and Media Council as a new body responsible for cooperation between courts and the media was noted as "good news" in the 2018 EC Progress Report on North Macedonia, in the section on judiciary reform.

3.6. First National Report Measuring the Performance and Reform of the Judiciary

Transparency and accountability of the judicial bodies is one of the main areas measured and evaluated in the First National Report Measuring the Performance and Reform of the Judiciary. In this study, on a scale of 1 to 5, the respondents of the Supreme Court awarded an average grade of 2.7 to judiciary transparency and accountability.

Table 9 Overview of average grades of SCRNM for judiciary transparency and accountability



⁵³ Held on 11.09.2018

3.7. Conclusions on the Transparency and Accountability of the Supreme Court

- Establish the practice of regular meetings on a monthly basis **for the Supreme Court to present information** through public relations officers to a group of accredited journalists specializing in the judiciary.
- Establish **intensive cooperation with the Judiciary and Media Council** in order to present important aspects of the work of the judiciary to the general public.
- Optimise the Supreme Court web portal in order to simplify the **search system for both the expert public and the general public according to the principles of Open Judiciary**.
- Prepare **uniform statistical data processing methodology between the SCRNM and JCRNM and in the SC of the RNM, with respect to the preparation of monthly and annual reports**.
- Establish **regular publication of legal opinions and general legal views of the Supreme Court on the web portal**, as well as editing and publication thereof.

4. QUALITY OF JUSTICE

There are various methods and tools for measuring the quality of justice. The quality of courts' work largely depends on monitoring by the wider and expert public, and it is closely linked to the transparency of the court. If the system allows for information to be shared with the public, greater transparency is ensured, and hence greater quality of decisions.

In addition, evaluation is necessary because it allows insight into the flaws, and consequently improvement of the performance in the future. On the other hand, evaluation is also an indicator of the courts' activities and the quality of the court's decisions. It is based on: setting up indicators to measure performance; regular performance and output evaluation (court operation results); introducing quality standards (quality assurance policies, human resources policies, etc.); specialised court staff working on and implementing the quality assurance policies.

Training of judges, both initial and CPD, is extremely important for the quality of the judiciary. Training, however, does not cover only training in a relevant legal field, but also improving any skills that would be of use to the judges in carrying out their duties.

In order to improve the transparency of the quality and efficiency of court proceedings, courts' operation should be monitored via a user-friendly and publicly available system that will collect information and evaluate it regularly. The indicators reflect the availability of the existing (regular) systems for monitoring and evaluation of courts' operation. Monitoring systems include publication of annual operation reports and measuring the number of new cases received, decisions pronounced, cases postponed and the duration of the proceedings. Evaluation of courts activities on the basis of indicators is conditioned by the existence of: a clear definition of performance indicators (incoming cases, resolved cases, pending cases, growth rate of backlogs, performance of judges and court staff, enforcement of judgments, costs), regular evaluation of productivity outputs, definition of quality standards (quality assurance policies, human resources policies, review of procedures, utilisation of available resources), specialised court staff entrusted with the task of implementing quality assurance policies.

In the SCRNM Assessment and Conclusions for Courts 2018, although quality is mentioned, more detailed data on how to measure the quality of court decisions is lacking. Quality, according to this report, is expressed by the ratio of cases received and resolved, and most often by the number of upheld decisions, as opposed to the number of quashed or overturned decisions, per legal area, as a parameter from which to draw a quality conclusion. Still, a lack of more detailed quality assessment is noted, save the listed indicators.

In line with the procedural laws of RNM, under certain conditions, parties have the right to use extraordinary legal remedies against final decisions. The number of legal remedies used in the SCRNM and their outcome can serve to draw conclusions on the quality of the work of appellate courts and of courts of first instance in each appellate district.

The work of judges and court staff is organised pursuant to the Annual Court Schedule which governs the internal operation of the court, the implementation of the court's work programme and the operation reports, problematic legal issues and administrative and technical issues related to the court's operation. The president of the court is also responsible for overseeing the work by inspecting the work of the panels of judges, of the individual judges, the court administrator and the court staff. In addition, the president of the court coordinates the work of the divisions. S/he is

responsible to establish a working body to manage the flow of cases; so as to prevent and reduce backlogging, the president is required to adopt an annual plan for preventing and reducing backlog of unresolved cases. This procedure is governed in more detail by the Law on Case Flow Management in Courts.

In the context of quality improvement, the Court Rules of Procedure provide that a court library needs to be established in each court. The court library needs to be provided with copies of laws, regulations, commentaries, as well as professional literature, books and magazines; the professional literature should be constantly renewed and updated. Texts of laws, in accordance with the Court Rules of Procedure, should be in sufficient number of copies so as to be easily available to each court employee. Although such requirements are restrictive, the court library must have the texts and regulations available in electronic form, and as electronic record. This also applies to the access of courts to legislation published on the portal of the Official Gazette of the RNM and on other relevant portals.

On the other hand, when speaking of quality of justice, it is difficult to establish precise criteria so that it can be quantified. The quality of a court decision is not only a matter of form and procedure, but of the application of law as well. Therefore, the analysis of the domestic and international legal framework, that is, the RNM Constitution, shows that the rule of law and legal certainty are regarded at the level of fundamental values, and that normative provisions set forth guidelines and framework that define the Supreme Court as the highest court that ensures uniform application of the laws, i.e. conformity in the application of the case law by the courts. The issue of the quality of justice is also addressed in the provisions of the Law on Courts, where the postulates set by the Constitution are elaborated in more detail. One of the most important criteria for the quality of justice is the manner in which court decisions are explained. Consequently, the interpretation of Article 6 of the ECHR which regulates the right to a fair trial as an indispensable element of the quality of justice, reflects not only the quality of the court proceedings and procedures in terms of form but also the content, clarity and reasoning of court decisions and their effective enforcement.

The quality of justice depends to a great extent on whether the case law is uniform or inconsistent. This analysis also covers the current mechanisms in place within each appellate court to bring their practice into line with that of the Supreme Court, as well as that of the lower courts. Among the powers of the presiding judge of the appellate court, as a court of higher instance, is the right to inspect court data in the area of its jurisdiction. To this end, the higher court shall convene a joint meeting, or shall counsel or visit all courts of first instance in its appellate district at least once a year. The visits are also used to discuss issues of common importance to the work of the lower courts. During the supervision, the higher instance court collects reports and other data on the work of the lower instance courts under its territorial jurisdiction. The president of the appellate court reports to the Supreme Court of the Republic of North Macedonia, the Judicial Council of RNM and the Ministry of Justice. This practice is extremely important for establishing the quality of justice. Even though the ECHR does not explicitly provide for the right to a uniform case law, there are examples of ECtHR cases where violations of the right to a fair trial have been determined. Especially as evidently there are similar cases where different judgments have been pronounced by the Supreme Court or by several other courts adjudicating in higher or in the highest instance. Such lack of consistency and compliance in the decisions can create legal uncertainty and reduce citizens' confidence in the judiciary. The trust of the citizens is in effect the most important component of the rule of law.

The Supreme Court of the Republic of North Macedonia as the highest court determined by the Constitution ensures uniformity in the application of the laws by the courts⁵⁴, and thus represents the last instance of the quality of the case law. It is precisely this power of the Supreme Court that constitutes the most complex part of its operation, as for the Supreme Court the quality of justice goes two ways. The first is to monitor, intervene and care for the quality of justice enforced through lower courts' decisions, while the other is to guarantee the quality of case law through consistent application of the case law already established by the Supreme Court divisions and by the application of the case law of the European Court of Human Rights and Freedoms.

Namely, as concerns monitoring work and decisions of lower courts, it should be noted that the Supreme Court has a limited direct influence on the quality of justice of lower courts. This is because only a small number of decisions based on regular and extraordinary remedies have been contested before the Supreme Court.⁵⁵ Hence the importance of the indirect influence of the Supreme Court on the quality of justice administered by the lower courts, as their cases end up before the appellate courts. The Supreme Court indirectly pursues or controls justice through its legal views and legal opinions, which, although not mandatory for the lower courts, still constitute a legal doctrine for lower court judges when deciding in particular court cases.

4.1. Direct Monitoring of Quality of Justice

The Supreme Court has the power to monitor the quality of justice in two segments: the first being criminal justice and the second civil justice. In the first case, the Supreme Court monitors the quality of lower courts' case law via decisions pronounced for regular and extraordinary remedies on decisions of lower courts, whereas in the second case it monitors the quality of justice of the Supreme Court.

4.1.1 Monitoring Quality of Justice in Lower Courts

The Supreme Court monitors and evaluates criminal justice through its decisions in the **Criminal Division**. Based on the methodology already established, this analysis examines the last three years of the Supreme Court's operation. The following table presents the total number of cases decided by the Criminal Division in the three reporting years, with a break down according to cases upheld, dismissed, quashed or overturned.

Table 10 Presentation of resolved cases in the Criminal Division for years 2016, 2017 and 2018

Year	Resolved cases	Upheld	Dismissed	Quashed	Overtured
2016	590	320	93	98	79
2017	499	296	30	161	12
2018	544	314	45	150	35

Therefore, in 2016⁵⁶, out of a total of 590 resolved cases the Supreme Court's Criminal Division upheld 320, dismissed 93 cases, quashed 98 cases and overturned 79 cases. The highest percentage of decisions of the Criminal Division of the Supreme Court or 54% were refused cases, 16% dismissed cases, with only 16.6% quashed and 13.4% overturned.

⁵⁴ Article 101 of the Constitution of the Republic of North Macedonia

⁵⁵ Law on Courts, Official Gazette of the RNM No. 58/2006, 352008, 150/2010, 82/2018, 198/2018, 96/2019

⁵⁶ Annual Report 2016 of the Supreme Court of the Republic of North Macedonia

Chart 7 Criminal Division 2016 – percentage of upheld, dismissed, quashed and overturned cases



This situation clearly indicates that the Supreme Court's Criminal Division, in its decisions on regular and extraordinary remedies, found that more than half of the cases, or with the dismissed cases up to 70% of the cases, were lawful and upheld them.

In 2017⁵⁷, the Criminal Division of the Supreme Court, out of a total of 499 resolved cases, upheld 296 cases, dismissed 30 cases, quashed 161 cases and overturned 12 cases; i.e. 59% of the decisions of the Criminal Division were refused, 6% were dismissed, 32.2% were quashed and 2.8% were overturned.

Chart 8 Criminal Division 2017 – percentage of upheld, dismissed, quashed and overturned cases



It is evident that the Supreme Court has noted in its proceedings a growing trend in the quality of justice, which is also confirmed by the work of the Criminal Division in 2018⁵⁸, when of a total of 544 resolved cases 314 were upheld, 45 were dismissed, 150 were quashed and 35 cases were overturned, i.e. 58% of the Criminal Division decisions were refused cases, 8% were dismissed cases, only 27.5% were quashed and 6.5% were overturned.

⁵⁷ Annual Report 2017 of the Supreme Court of the Republic of North Macedonia

⁵⁸ Annual Report 2018 of the Supreme Court of the Republic of North Macedonia

Chart 9 Criminal Division 2018 – percentage of upheld, dismissed, quashed and overturned cases



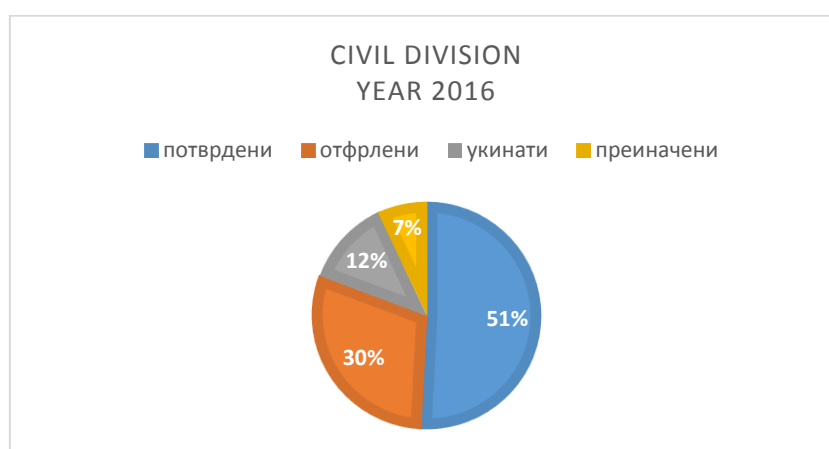
The Supreme Court monitors and evaluates civil justice through its decisions in the **Civil Division**. The following table presents the total number of cases resolved by the Civil Division in the three reporting years, with a break down according to cases upheld, dismissed, quashed or overturned.

Table 11 Presentation of resolved cases in the Civil Division for years 2016, 2017 and 2018

Year	Resolved cases	Upheld	Dismissed	Quashed	Overturned
2016	1,044	530	312	129	72
2017	1,218	717	253	165	83
2018	1,188	741	206	158	83

In 2016, the Civil Division of the Supreme Court adjudicated a total of 1044 civil cases, out of which it upheld 530 cases, dismissed 312 cases, quashed 129 cases, and overturned 72 cases. The highest percentage of Supreme Court Civil Division’s decisions or 51% were refused, 30% dismissed, only 12% were quashed and 7% were overturned.

Chart 10 Civil Division 2016 – percentage of upheld, dismissed, quashed and overturned cases



This situation clearly indicates that the Supreme Court's Civil Division, in its decisions on regular and extraordinary remedies, found that more than half of the cases, or with the dismissed cases over 80% of the cases, were pronounced in accordance with law and upheld them. In 2017, the Civil

Division of the Supreme Court adjudicated a total of 1218 cases of which 717 cases were upheld, 253 cases were dismissed, 165 cases were quashed and 83 cases were overturned, i.e. 59% were refused, 21% dismissed, only 13,2% were quashed and 6.8% were overturned.

Chart 11 Civil Division 2017 – percentage of upheld, dismissed, quashed and overturned cases



A similar trend in the quality of civil case law is observed in 2018 as well. Namely, in 2018, the Civil Divisions of the Supreme Court adjudicated a total of 1188 civil cases, of which 741 cases were upheld, 206 were dismissed, 158 were quashed and 83 cases were overturned; i.e. 62.4% were refused and 17.4% dismissed, only 13.3% were quashed and 6.9% were overturned.

Chart 12 Civil Division 2018 – percentage of upheld, dismissed, quashed and overturned cases



It is obvious that there is a relatively high quality of the overall case law that is under the direct control of the Supreme Court, since the trend of contested court decisions is positive and ranges from 54% to 62%, which means that these court decisions are in compliance with the legal opinions of the Supreme Court as the highest court in the Republic of North Macedonia that ensures uniform application of the laws.

4.1.2 Monitoring Quality of Justice at the Supreme Court

The Supreme Court monitors and controls the quality of justice through General Sessions in which it takes and adopts legal views and opinions. It also monitors justice through the Case Law Division by ensuring consistency in the adjudication of the cases.

Under its power to formulate general views and legal opinions at the general session⁵⁹, the Supreme Court is obliged to provide clear legal doctrine which is mandatory only for the Supreme Court divisions, but is also relevant for the lower courts. In 2016⁶⁰, the Supreme Court held 9 general sessions, and only on 1 of these sessions it decided on a request for protection of legality filed by the Republic's Public Prosecutor. In 2017⁶¹, the Supreme Court held 18 general sessions, and only on one of these sessions it decided 17 requests for protection of legality filed by the Republic's Public Prosecutor; on another session three legal issues were deliberated. In 2018⁶², the Supreme Court held 15 general sessions, and on one of these sessions it decided 10 requests for protection of legality filed by the Republic's Public Prosecutor; on another session one legal issue was deliberated. As shown in the overview of the last three years, the Supreme Court has very rarely convened general sessions to discuss legal issues of particular relevance to the work of both the Supreme Court divisions and the lower courts. In spite of the large number of general sessions, the Supreme Court has only deliberated on 4 legal issues in two sessions in the last three years, not as a result though of the clarity and precision of the laws of the Republic of North Macedonia, known not only for its rapid hyperinflation of the legislative power but also for its inertia. Namely, the general sessions of the Supreme Court should be attended by all justices, but having in mind that the number of justices is always reduced due to the performance of other functions⁶³ or participation in other activities and the day-to-day operation of the court, this situation also affects the convening and the content of the general sessions of the Supreme Court.

The latest amendments to Article 6 of the Law on Courts⁶⁴ provide that “in Article 37, paragraph (1), line 1 shall be amended and read:” “- define general views and legal opinions on issues of significance for ensuring uniform application of the laws by the courts within three months, but not to exceed six months, at its own initiative or at the initiative of a president of a court or by an initiative of the sessions of judges or the session of the court divisions in the courts or by an initiative of lawyers, and shall publish them on the website of the Supreme Court of the Republic of Macedonia”, which expands the Supreme Court’s power with respect to the general sessions. This new power or ground for more frequent convening of Supreme Court sessions introduces the risk of drastically increasing the work of the Supreme Court because there is no way in which to limit the possibility essential legal issues to be presented before the Supreme Court so that it would establish general views and legal opinions relevant for ensuring uniform application of laws. Still, this new mechanism is a good opportunity for the Supreme Court to establish general views and legal opinions on legal issues arising from court cases which by their nature are not subject to assessment by the Supreme Court.

4.1.3 Case Law Division

The Case Law Division is the only division of the Supreme Court that does not process court cases but works to create and maintain consistency of Supreme Court’s case law and to put into practice

⁵⁹ In 2008, the Supreme Court introduced a quality assurance procedure for division sessions and general session that encompasses all activities and documents pertaining to the court’s rules of operation for division sessions, justices’ sessions and general sessions, in accordance with its jurisdiction under the Constitution, the law and the internationally ratified agreements.

⁶⁰ Annual Report 2016 of the Supreme Court of the Republic of North Macedonia

⁶¹ Annual Report 2017 of the Supreme Court of the Republic of North Macedonia

⁶² Annual Report 2018 of the Supreme Court of the Republic of North Macedonia

⁶³ Among other, some of the Supreme Court justices take part in: The Council for Monitoring Judicial Reform Strategy Implementation, the Judicial Council of RNM, the Judicial Budgetary Council of RNM, the Programing Council and the Admittance Council of the Academy of Judges and Public Prosecutors, the Working Groups for amending and revision of laws, the Inter-ministerial Body for Monitoring the Enforcement of the ECtHR decisions.

⁶⁴ Official Gazette of RNM number 83/2018

the case law of the European Court of Human Rights. The Case Law Division consists of a division president and members - the presidents of the Criminal Division, the Civil Divisions and the Trial in Reasonable Time Division (Reasonable Time Division).

The Case Law Division, each year, adopts a Work Plan and a Work Programme that follow the general legal views and the general opinions for uniform application of the laws in the Republic of Macedonia, participates in the preparation of draft general views and general legal opinions and records them, conducts selection, record keeping and systematisation of decisions of legal relevance (important decisions) per legal area upon notifications and ex officio checks, controls whether certain decisions are in accordance with the legal opinions expressed in a previous or concurrent decision and monitors and studies the case law of the lower courts and of the Supreme Court.⁶⁵

Table 12 Number of legal opinions and sentences of the Case Law Division (2016-2018)

Year	Legal opinions	Sentences
2016	6	3
2017	3	23
2018	8	17

The Case Law Division is responsible for issuing legal opinions and sentences; in 2018 the Case Law Division issued and published 8 (eight) legal opinions and 17 (seventeen) sentences at the court's website⁶⁶.

As stated above under the Law Amending the Law on Courts dated 08 May 2018 (Official Gazette of RNM No. 83/2018)⁶⁷, **judges and lawyers are allowed to file legal questions or requests with the Supreme Court for the Supreme Court to adopt an opinion or establish a general view. Upon receipt of a particular legal question, a justice is appointed to prepare it and present it at a session with the other justices so as to adopt a general opinion. Where a legal question has been referred by an appellate court, it is also forwarded to the other appellate courts for opinion and reasoning. However, it has been noted that appellate courts are not always up-to-date on the answers to these legal questions and that no time limit has been set for the Supreme Court to take a position on these issues. This is accompanied by the fact that the Supreme Court has been operating for many years with a lower number of justices than the one established with a Judicial Council Decision. With such an arrangement, it is not uncommon for judges or lawyers to wait for a long time for the Supreme Court to adopt a general opinion.**

In addition to the responsibility of the Case Law Division to adopt opinions and extract sentences from the decisions of the other divisions, it also assists in the application of and conformity with the case law of the European Court of Human Rights by citing it. For the last 4 years, the Supreme Court has been actively cooperating with the Center for Legal Research and Analysis, an NGO in North Macedonia, to strengthen the capacity of the Case Law Division so as to provide greater legal certainty and predictability⁶⁸. This collaboration included activities such as putting into digital form the Supreme Court's case law from year 1960 to year 2004 and hiring an expert with a previous experience as lawyer at the European Court of Human Rights, as well as supporting the preparation of an ECtHR Case Law Citations Guide.

⁶⁵ Annual Report 2018 of the Supreme Court of the Republic of North Macedonia

⁶⁶ Ibid

⁶⁷ Law on Courts, Official Gazette of the RNM No. 58/2006, 352008, 150/2010, 82/2018, 198/2018, 96/2019

⁶⁸ 2015-2016 "Support to Ensuring Uniform Case Law in the Macedonian Legal System" Project

2016-2018 Improving Quality of Justice in Macedonia Project

2018-2020 Enhancing the transparency, legal certainty and efficiency of the judiciary in North Macedonia Project, supported by the British Embassy in Skopje.

By engaging an external expert in the Case Law Division in 2018, the Supreme Court intensified its efforts to incorporate the Convention principles and standards into the SC judgements; however, very often the application of the Convention stops there without any direct reference to specific ECtHR judgments and decisions. This is especially the case in criminal cases, where the number of such decisions is at least 50. At the same time, at least additional 20 judgments also invoke the jurisprudence and the case law in the ECtHR judgments, with a significant number of them (at least 10) noting a full observance of the citation rules elaborated in the ECHR Case Law Citations Guide issued by the Supreme Court Case Law Division.

In most of the decisions, it is only a matter of general reference to the opinions of the European Court of Human Rights, especially with respect to the manner of determining the legally relevant period, the contribution of the parties, and the complexity of the case; less often there is direct reference to ECtHR judgments and decisions. The number of such decisions is difficult to estimate precisely, but would correspond to the total number of decisions pronounced within a reasonable time, in first and second instance, in the past.

So as to properly apply and cite European Court of Human Rights decisions and to monitor the quality of justice, the Supreme Court's Case Law Division brought a conclusion at its session of 29 March 2019 to adopt the ECtHR Case Law Citations Guide. In 2019, the Supreme Court presented and disseminated the Guide to all judges and courts in the country. Until and including October 2019, the Guide was presented to the courts of the Stip appellate district⁶⁹, of the Bitola appellate district⁷⁰ and of the Gostivar appellate district⁷¹. By the end of 2019, the Supreme Court will present the content of the Guide and how to cite ECtHR case law to the judges of the Skopje appellate district, as well as to the judges of the Higher Administrative Court and the Administrative Court of the Republic of North Macedonia.

The positive trend of case law development in the Supreme Court is also noted in the Progress Reports 2018 and 2019 for the Republic of North Macedonia. Namely, in the EC Progress Report for the Republic of Macedonia 2018 it is noted that "the Supreme Court notes progress in ensuring consistency of the case law", whereas the EC Progress Report for the Republic of Macedonia 2019 notes that this trend continues: "The Supreme Court has continued to work to improve the consistency of judgments and the harmonisation of case law."

However, despite the progress made in harmonizing case law which is the basis for quality of justice, there are a number of shortcomings and weaknesses that continuously impede the process. Namely, the case law harmonised by the Case Law Division is only disseminated to the justices of the Supreme Court, but not to the lower court judges. This means that there is only horizontal but not vertical dissemination of uniform case law of the Supreme Court. The Case Law Division conducts vertical dissemination only by posting legal opinions and sentences at the Supreme Court's website, which is both economical and efficient in the sense that the public increasingly uses internet tools and searches; on the other hand, given the lower courts' limited internet access such manner of dissemination cannot achieve the desired effect. Therefore, in the Case Law Division there is an idea for exchanging experiences of and cooperation with the Supreme Court of the Republic of Croatia. The Supreme Court of Croatia has a special intranet - SUPRANOVA, which is used to disseminate the Supreme Court case law to every judge in the country⁷².

⁶⁹ 17 and 18 April

⁷⁰ 20 and 21 June

⁷¹ 19 and 20 September

⁷² Case law study visit to the Supreme Court of the Republic of Croatia, 23-26 April 2018

According to the discussions with the justices of the Supreme Court for the purposes of this analysis, it was found that further strengthening of the capacities of the Case Law Division was necessary. Namely, the current shortage of justices in the Supreme Court significantly impedes the work of all divisions and consequently of the panels of justices in the court. The Supreme Court has a wide range of powers, and given that the current number of justices is significantly reduced compared to the number required with the Judicial Council decision, the court is unable to respond promptly to all requests for opinions on the legal issues that are submitted by the appellate courts. More justices, expert staff, technical staff involved in the technical processing of data, and contracting retired judges who have significant experience in certain legal areas will enable proper functioning of this division, as it represents one of the essential roles of the Supreme Court.

But despite all the efforts within the Case Law Division, an efficient, effective and economical system for disseminating uniform case law of the Supreme Court Divisions has not yet been established, primarily due to lack of capacity. The Case Law Division mainly lacks human resources, i.e. experts with special qualifications (excellent knowledge of foreign languages and excellent analytical capacities and experience). This is also evident from the fact that both the justice who is appointed as president of the Case Law Division and the secretary are in charge of cases from other divisions. In addition to human resources, there is also lack of technical facilities such as adequate computer equipment (computers, memory) and a separate intranet, as well as access to resource centers, both regional and international.

4.2. Indirect Monitoring of Case Law Quality

The Supreme Court, because of its limited jurisdiction in adjudicating civil and criminal court cases also monitors the quality of lower courts case law by participating at the meetings of the four appellate districts on harmonisation of case law.

The Academy for Judges and Public Prosecutors, in cooperation with the four appellate courts, has been convening, for more than ten years, regular meetings on harmonisation of the case law on legal issues and challenges faced by appellate courts and on the harmonisation of the legal opinions of the appellate courts on same or similar legal issues so as to ensure legal certainty and predictability for citizens and other persons in the Republic of North Macedonia. Even though the joint approach of the appellate courts and the Academy for Judges and Public Prosecutors was proactive, the process of harmonizing case law had a substantive flaw - the absence of the Supreme Court. This flaw could in fact risk minimizing the efforts of the four appellate courts and the Academy due to the fact that although the appellate courts are obliged to create consistent case law as assurance of legal certainty and predictability, under the Constitution solely responsible for the uniform application of the laws is the Supreme Court. After a certain period of absence, the Supreme Court rejoined them through the participation of justices from the Case Law Division.

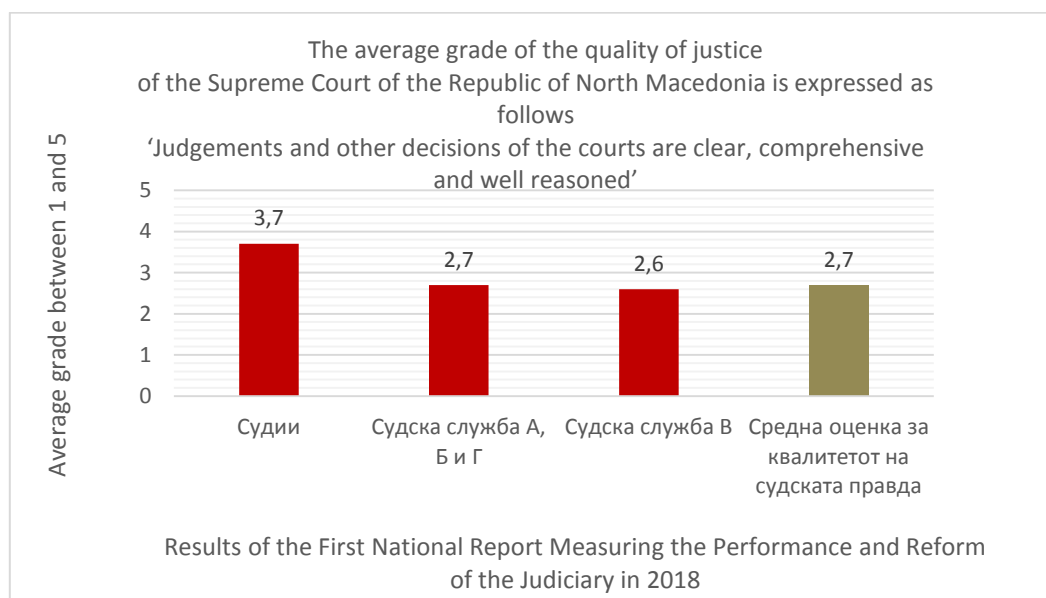
With the participation in the meetings of the four appellate courts, the Supreme Court began to indirectly monitor the quality of justice, i.e. to harmonise the case law of cases adjudicated by the appellate courts through the case law harmonised by the Case Law Division. Since March 2019, the Supreme Court has developed an informal methodology for harmonizing the application of the laws and the case law titled "Work and Compliance Concept". The initial meeting to establish this new manner of working and cooperating between the Supreme Court and the appellate courts took place on March 7, 2019, at the Supreme Court premises, and was attended by representatives of the four appellate courts, as well as by the President of the Supreme Court of the Republic of Croatia, justice

Djuro Sesa.⁷³ The purpose of this meeting and of this method of work in general is to strengthen the cooperation between the courts by conducting regular working meetings in order to draw conclusions on contested legal issues. Two working meetings are organised for each legal issue requiring a common position; one between the meetings of the four appellate courts in which the said legal issues are discussed and the legal views of the Supreme Court divisions are presented, after which the opinions on the legal issues in question are harmonised with the opinions of the SC divisions and through the prism of the Supreme Court's case law. However, the first meeting is the only one held to present due to the reduced number of justices in the Supreme Court. The Supreme Court of the Republic of North Macedonia thus monitors the quality of justice administered by the courts of North Macedonia. It is important to note here that the Supreme Court monitors only the justice of the regular courts that adjudicate criminal and civil cases, but not of the administrative courts - the Administrative Court and the Higher Administrative Court, thus calling into question the constitutional obligation of the Supreme Court provided for in Article 101 of the Constitution of the RNM, which obliges the Supreme Court to ensure uniformity in the application of the laws by the courts.

4.3. First National Report Measuring the Performance and Reform of the Judiciary

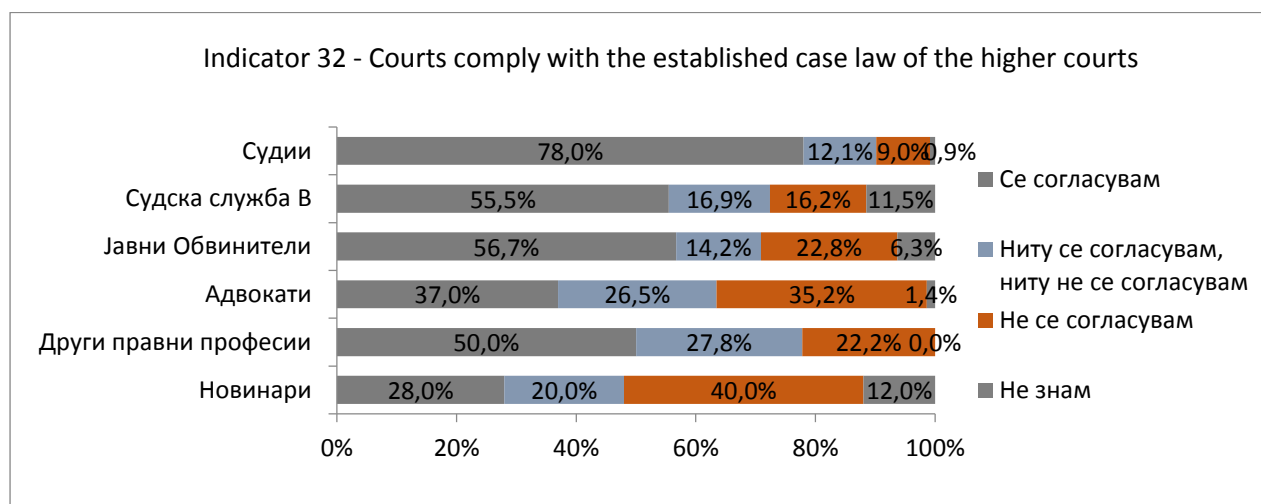
The quality of justice is subject to analysis in the Indicators Matrix for measuring the performance of the judiciary. According to the First National Report on the Indicator Matrix for measuring the performance and reform of the judiciary, the quality of case law at Supreme Court level was assessed with an average grade of 2.7. Namely, the justices in the Supreme Court assess that the quality of justice is better than good and gave an average grade of 3.7, while the court staff of the Supreme Court assess the quality of justice with a significantly lower mark of 2.7 (Court staff category A, B,G) and 2.6 (Court staff - expert associates, category B).

Chart 13 Presentation of the average grades of quality of justice at the SCRNM

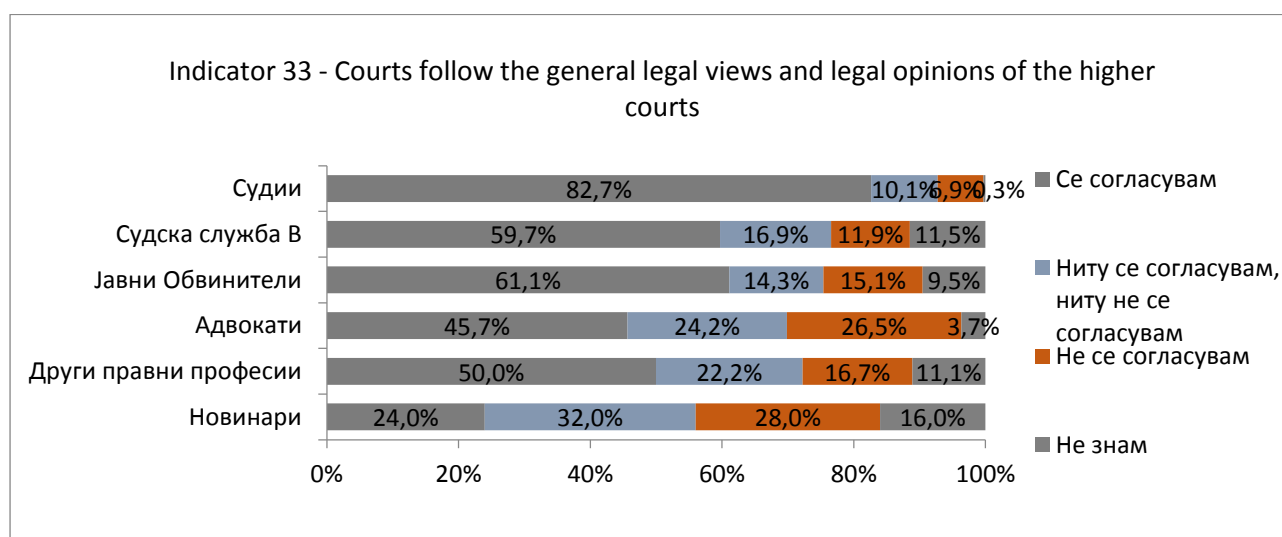


⁷³ Council of Europe's Horizontal Facility for Western Balkans

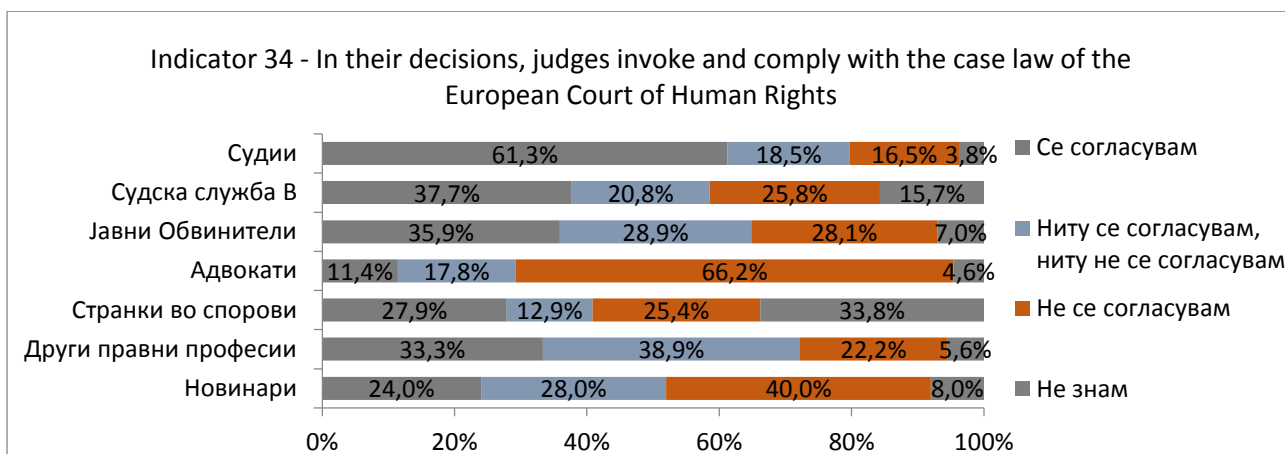
According to the Indicators Matrix for the performance and reform of the judiciary, the quality of justice was assessed through the application of law and the assurance of legal certainty. In this analysis we are presenting the indicators pertaining to the Supreme Court. With respect to the issue of whether the courts follow the case law of the higher courts and the ECtHR case law as applied by the higher courts in particular, there is an opinion that lower courts are following the case law due to fear of quashing of their judgements, but indicative is also the issue of non-compliance in the case law of the different appellate districts. With respect to the ECtHR case law, the opinion of the majority of the respondents is that there is an improvement and interest with the judges to apply it, but still the number of judges invoking ECtHR judgements is low.



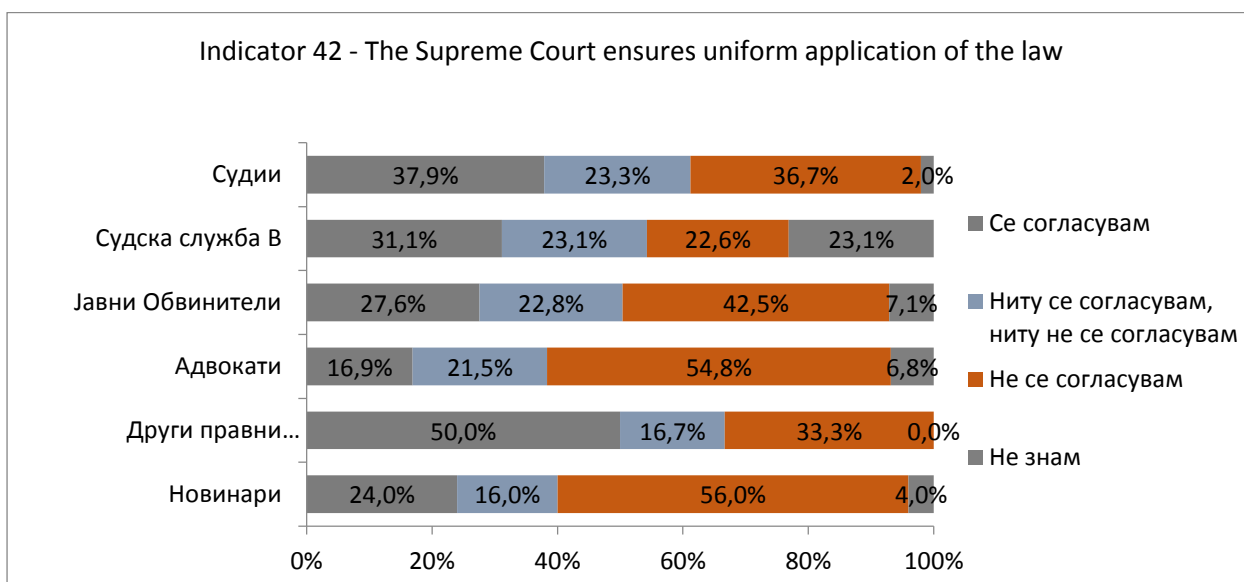
According to this question, which is one of the indicators on legal certainty, 78% of the judges think that they comply with the case law of the higher courts. However, almost one tenth, i.e. 9% of them do not agree with this statement. The majority of the judicial service (55%) agree that the higher courts case law is complied with, but it is interesting that the lawyers (attorneys a law) have divided opinions, i.e. 37% agree and 35% disagree.



According to the Indicator Matrix, the majority of judges (83%) and public prosecutors (61%) think that courts follow the general legal views and legal opinions of the higher courts. However, there is a certain percentage with the lawyers (27%) and the journalists (28%) who disagree.



In regard to this indicator, there is an evident discrepancy between the opinion of the judges (61%) who think that they comply with the decisions of ECtHR, and the lawyers (66%) who disagree with this statement. Respondents from the judicial service are divided in their opinions with the majority of the opinion that judges apply the ECtHR case law.



With respect to the question whether the Supreme Court ensures uniform application of the law, a similar percentage of judges agree and disagree (38% and 37%). On the other hand, 55% of the lawyers and 43% of the public prosecutors also feel that the SCRNM does not ensure uniform application of the law. Similar are answers received by the majority of the respondents from the court service.

4.4. Conclusions on the Quality of Justice of the Supreme Court

- Provide **free access to the Official Gazette of RNM for each justice and each expert associate in the Supreme Court of the RNM.**
- Provide access to relevant databases dealing with various legal issues at regional and international level (Oxford Law Journal, Cambridge Law Journal, European Court of Human Rights, European Court of Justice and others)
- Ensure the position of Judicial Adviser, analogous to the position Jurisconsult at the European Court of Human Rights, to be the secretary of the Supreme Court's Case Law Division.
- Ensuring uniformity of case law is a constitutional power of the SCRNM. At the same time, SCRNM, as the highest court in the country, needs to also be the highest judicial authority for both the citizens and the lower courts. All this leads to a strong recommendation for **convening regular and continuous meetings of the four appellate courts with the SCRNM so as to ensure harmonisation of the legal opinions of the appellate courts.** For effective realisation of this type of cooperation, it is necessary to develop **internal procedures that will provide for such meetings at annual level and will set deadlines for the appellate courts to submit their requests for legal opinions to the SCRNM** so as to allow sufficient time for the SCRNM to review them, prepare and formulate a legal opinion that it would report at the meetings. In this regard, it is necessary to establish identical cooperation with the Administrative and the Higher Administrative Court in order to ensure the uniform application of the laws by the administrative judiciary.
- The ECtHR's case law also contributes to improving the quality of justice, but the impression is that the citation of the ECtHR's jurisprudence by our judges is unsatisfactory. **Further training on the use of the ECtHR Case Law Citations Guide and revisions thereto so as to also include guidance on citation of the Supreme Court's case law** is recommended.
- It is recommended that **software solutions be upgraded in the appellate courts with a search function by keywords, when reviewing ECtHR judgements and SCRNM general legal opinions and views.**
- Organise meetings of Supreme Court justices with the justices of the supreme courts from the region and the European Union, as well as with judges of international courts, at the Academy for Judges and Public Prosecutors, so as to exchange experiences and discuss possible solutions to issues currently faced by the Supreme Court of the RNM.
- It is recommended to **develop a case law dissemination tool**, which can be modeled according to the system developed by AC Bitola, to be used by the Supreme Court of the RNM, and provide to each justice access to the case law of the four appellate courts, of the Higher Administrative Court and of the Supreme Court.

5. HUMAN RESOURCES

5.1. Organisational Setting of the Court

The Supreme Court has four judicial divisions (Criminal Division, Civil Division, Reasonable Time Division and Case Law Division).

The justices in the Criminal Division are responsible for trial and adjudication of criminal offences and other punishable offences.

The justices in the Civil Division are responsible for trial and adjudication of case dealing with personal and family relations, labour relations, and property and other civil and legal relations of natural and legal persons.

It is the responsibility of the justices of the Trial in a Reasonable Time Division (Reasonable Time Division) to hear and adjudicate petitions of the parties and other participants in the proceedings claiming violation of the right to a trial within a reasonable time in accordance with the rules and principles laid down in the European Convention on Human Rights and Fundamental Freedoms and in conformity with the case law of the European Court of Human Rights.

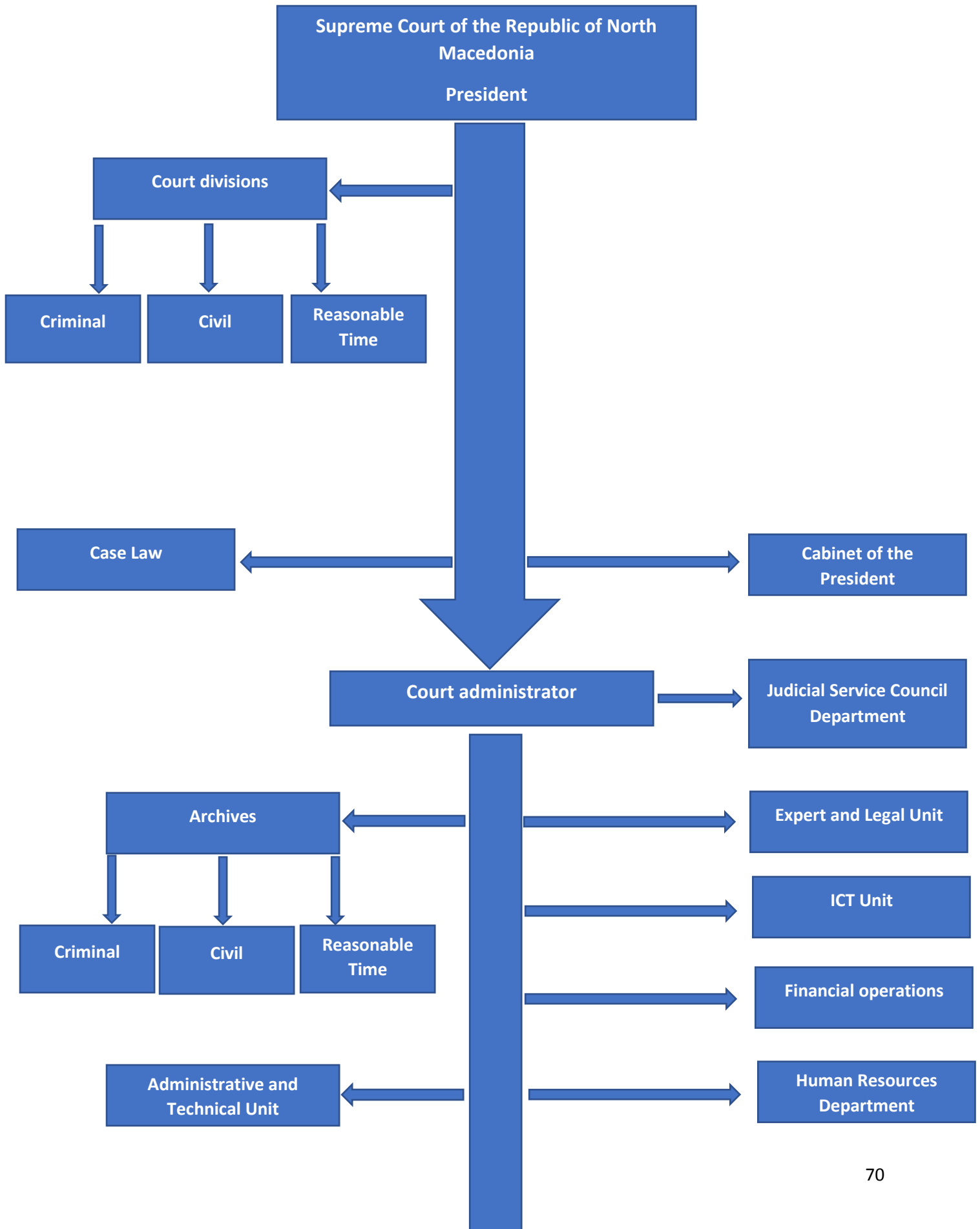
The Case Law Division decides for which decisions sentences will be prepared to represent the basis for developing the case law in the Republic of Macedonia. The Case Law Division has already been discussed in detail in this text.

Pursuant to the Law on Courts, the Law on Judicial Service, the Rulebook on Internal Organisation and Job Systematisation and the Annual Employment Plan, the internal organisational setting, the jobs and the number of employees required to perform the powers of the Supreme Court of the Republic of North Macedonia have been determined. The Rulebook on the Internal Organisation and Job Systematisation was adopted on 30 January 2015, whereas the last Annual Employment Plan published at the SCRNM website is the one for year 2016.

According to the Court Rules of Procedure⁷⁴ the annual work schedule for the court is adopted by the president of the court upon previously obtained opinion at the general session of the Supreme Court. The court's annual work schedule determines the vice president of the court, the number and type of court divisions and the specialised court department, the presidents of the court divisions and their deputies, the justices in the court divisions, the members and presidents of the second instance panels, the president and members who decide in panel out of court trial and hearings, the case law justice (in a court without a case law division), the public relations officer and the schedule and work of the judicial police. In the reporting years and the previous years, the Supreme Court was also adding to the work schedule the expert associates, divided by division and panels. This practice of the Supreme Court burdens the annual schedule; hence where an expert associate has to be replaced by another, the whole procedure for revising the court's annual work schedule needs to be conducted.

⁷⁴ Articles 112 and 113, Court Rules of Procedure, Official Gazette of RM No. 114/2014

Organigram1 Internal organisation of the SCRNM



5.2. Systematised and Occupied Job Positions at the Supreme Court in Accordance with the Jobs Systematisation Act

19 justices adjudicate in the Supreme Court of the Republic of North Macedonia.

The remaining court staff of 59 employees is allocated as follows: the court's expert unit employs 30 persons, all of whom have higher education. There are a total of 22 administrative workers in the court. 7 workers are technical staff.

According to the organisational setting, 46 assistant expert court servants are to be employed, 22 senior court servants (heads), 48 expert court servants and 6 members of the judicial police, or a total of 122 persons. The analysis of the number of court employees - 59 compared to 122 according to the job systematisation - shows that there are 63 vacancies in the court.

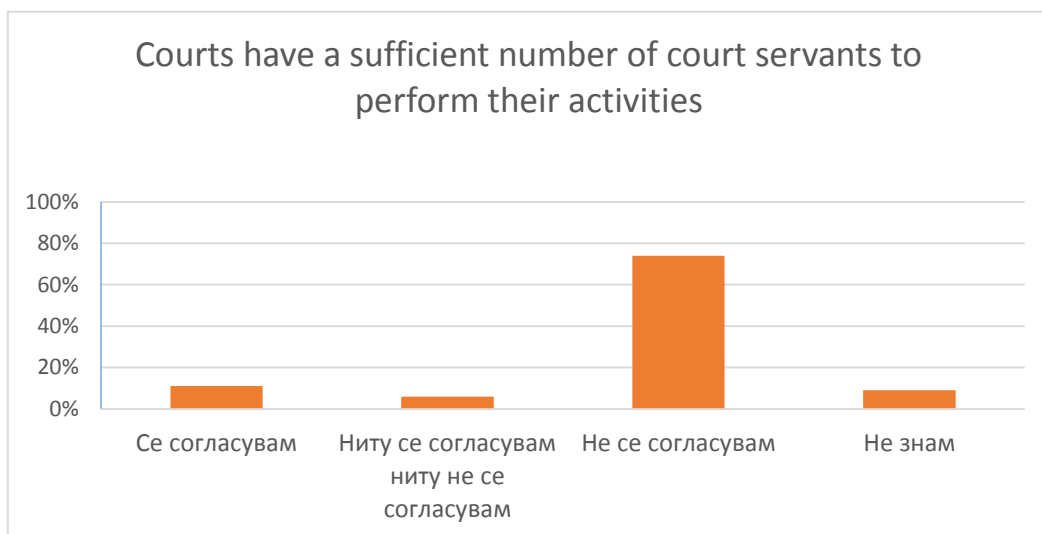
Such data is in line with the results of the First National Report on Measuring the Performance and Reform of the Judiciary, where 74 percent of the respondents from the Supreme Court (justices and the entire court service) think that the courts do not have at disposal a sufficient number of judicial servants and adequate staff.

Table 13 Graphic presentation of the job systematisation of the Supreme Court versus actual situation

POSITION	PLANNED NUMBER OF SERVANTS	ACTUAL NUMBER OF SERVANTS
COURT ADMINISTRATOR	1	1
INDEPENDENT COURT ADVISOR	8	2
INDEPENDENT COURT ADVISOR IN THE CABINET OF THE PRESIDING JUDGE	1	1
HEAD OF THE EXPERT AND LEGAL UNIT	1	0
HEAD OF THE SUPPORTING EXPERT UNIT	1	0
HEAD OF THE IT UNIT	1	1
HEAD OF THE CIVIL DIVISION	1	0
HEAD OF THE CRIMINAL DIVISION	1	0
HEAD OF THE TRIAL IN A REASONABLE TIME DIVISION	1	0
HEAD OF THE CASE LAW DIVISION	1	0
HEAD OF THE NETWORKS AND OPERATING SYSTEM DEPARTMENT	1	1
HEAD OF THE DEVELOPMENT AND MAINTAINANCE DEPARTMENT	1	0
HEAD OF THE HUMAN RESOURCES DEPARTMENT	1	0
HEAD OF THE ADMINISTRATIVE DEPARTMENT OF THE JUDICIAL SERVICE COUNCIL	1	0
HEAD OF THE FINANCE DEPARTMENT	1	0
SENIOR COURT ADVISOR	1	0
COURT ADVISOR	3	1
ADVISOR - IT EXPERT	3	2
ADVISOR – SPOKESPERSON	1	1

SENIOR COURT ASSOCIATE	25	18
SENIOR COURT ASSOCIATE - PROFESSIONAL LIBRARY MANAGER	1	0
COURT ASSOCIATE	4	1
ASSOCIATE – ANALYST	1	0
COURT ASSOCIATE – TRANSLATOR	2	1
COURT ASSOCIATE FOR PUBLIC RELATIONS	2	0
OCCUPATIONAL HEALTH AND SAFETY ASSOCIATE	1	0
JUNIOR COURT ASSOCIATE	3	2
JUNIOR IT ASSOCIATE	1	0
INDEPENDENT COURT SERVANT - MANAGER OF THE CIVIL DIVISION ARCHIVE	1	0
INDEPENDENT COURT SERVANT - MANAGER OF THE CRIMINAL DIVISION ARCHIVE	1	0
INDEPENDENT COURT SERVANT - MANAGER OF THE TRIAL IN REASONABLE TIME DIVISION ARCHIVE	1	1
INDEPENDENT COURT SERVANT FOR RECEIVING AND EXPEDITING MAIL	1	0
INDEPENDENT COURT SERVANT - CASE LAW WORKER	1	0
INDEPENDENT COURT SERVANT – ACCOUNTANT	1	1
INDEPENDENT COURT SERVANT TYPING SERVICE COORDINATOR	1	1
INDEPENDENT COURT SERVANT - TECHNICAL SECRETARY OF THE PRESIDENT OF THE COURT	1	1
INDEPENDENT COURT SERVANT - TECHNICAL SECRETARY OF THE COURT ADMINISTRATOR	1	0
INDEPENDENT SERVANT - COURT BUILDING MANAGER	1	1
HIGHER COURT SERVANT TYPIST	10	3
HIGHER COURT SERVANT - CIVIL ARCHIVE WORKER	2	2
HIGHER COURT SERVANT CRIMINAL ARCHIVE WORKER	2	2
HIGHER COURT SERVANT REASONABLE TIME ARCHIVE WORKER	2	1
HIGHER COURT SERVANT HOUSEKEEPER	1	1
HIGHER COURT SERVANT TREASURY	1	0
HIGHER COURT SERVANT - TECHNICAL SERVICE COORDINATOR	1	1
COURT SERVANT - DELIVERY, DRIVER	1	0
COURT SERVANT ARCHIVIST	1	0
JUNIOR COURT SERVANT - ARCHIVE WORKER	1	1
TELEPHONE OPERATOR	1	0

REPAIRS/MAINTENANCE WORKER	1	0
CLEANING PERSON	8	4
RESTURANT ASSISTANT	2	2
COURIER - DELIVERY WORKER	2	0
CHIEF OF POLICE - JUDICIAL POLICE	1	1
JUDICIAL POLICE COMMANDER	1	1
JUDICIAL POLICE DEPUTY COMMANDER	1	1
MEMBER OF JUDICIAL POLICE	3	2
TOTAL:	122	59



However, the number of staff in the court needs to be analyzed in the context of the European standards, i.e. the CEPEJ standard. When comparing data obtained from the Supreme Court and the European average, we come to the conclusion that the Supreme Court has an almost optimal number of staff. Namely, compared to the CEPEJ average, the ratio of the total staff per judge should be 3.9:1 (3.9 court servants on one judge). At present, the occupied 59 job positions of the total number of job positions in the job systematisation of the Supreme Court, compared to the current number of justices (16⁷⁵), come to a ratio of 3.7:1, which is an indication that the Supreme Court just about meets this standard. In the event of full occupancy of the planned jobs in the systematisation of the Supreme Court, when all seats for justices are also filled (28), the ratio of total staff to one judge will be 4.4:1 and would be above the CEPEJ standard and average. This calculation leads to the conclusion that the setting of job positions in the systematisation of the Supreme Court is not realistic and does not reflect the real needs of the court.

Still, it is important to note that in the recent period the court has noted a regular loss of high quality and expert staff. Number of court servants left to work in other institutions on higher managerial positions because the system of promotion of court servants in the Supreme Court is not functional. The court itself does not have a promotion system whereby one can apply for a higher or other job position via an internal call. In view of the above and due to vacant senior management positions,

⁷⁵ This number pertains to the total number of justices that are actively working in the divisions and are adjudicating cases.

the court notes that there is a problem with the correct application of the provisions of the Law on Judicial Service, especially as concerns the evaluation and employment of court servants. In the last few years, the Court has been employing only junior expert and lower instance court staff.

5.3. Professional Training of Justices and Court Staff in the Supreme Court of the Republic of North Macedonia

The Academy for Judges and Public Prosecutors (AJPP) provides continuous professional development and upgrading of the theoretical and practical knowledge and skills of judges for the professional and efficient performance of their function. In addition to judges, the Academy also provides continuous training for court presidents in order to develop their ability to manage matters within their powers.

Compulsory continuous training is expressed in days, and one training day is considered to be training of at least six teaching hours. Depending on the length of service each judge and public prosecutor has, the Academy sets a minimum number of training days that each judge and public prosecutor should attend in one calendar year.

Table 14 Presentation of the compulsory training in number of days in accordance with the judge's years of service

Years of service	0 - 1	1 – 3	3 – 8	8 - 15	> 15
Compulsory number of training days in one year	14	10	6	4	2

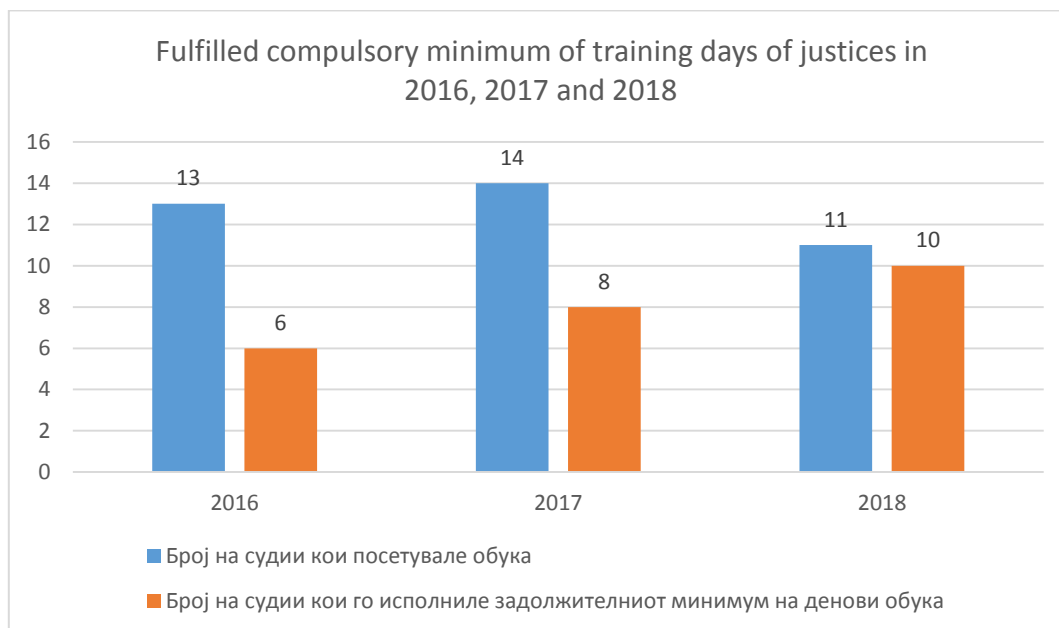
Newly elected judges with up to one year of service should have a minimum of 14 days of training during one calendar year, of which 5 days of intensive training immediately after the election of judge or public prosecutor and an additional 9 days of regular training. Judges with one to three years of service are required to attend a minimum of 10 days of training, while those with 3 to 8 years of service attend a minimum of 6 days of training. Judges with eight to fifteen years of service are required to complete 4 days of training, and judges with more than fifteen years of service are required to attend at least 2 days of continuous training.

Given that attendance of continuing development training is compulsory and depends on the seniority of the judges, it is evident from the data provided by the JCRNM that not all judges of the Supreme Court attended training. For example, in 2018, out of 19 judges only 11 attended training. In 2017, out of 19 judges, 14 judges attended the training. In 2016, the Supreme Court functioned with 18 judges, of whom only 13 attended training. In effect, this means that in the last three years the attendance of judges in this court has ranged from 68% in 2016 to the highest rate of 73% in 2017 and 57% in 2018. It is evident from the data that a number of Supreme Court justices fail to attend the compulsory training at AJPP and do not improve their judicial capacity. Of concern is the fact that almost half of the judges in 2018 have not attended a single day of training at the Academy.

However, if one analyses the legal obligation of each judge according to the compulsory minimum days of training a judge has to spend in one calendar year, one can observe that the justices who did attend the training did not always meet the compulsory minimum. Namely, in 2016, 7 out of 11 justices fulfilled the compulsory minimum; in 2017 the number was reduced to 5 out of 14 justices,

and in 2018 only one justice out of 13 who attended compulsory training did not meet the statutory minimum of days spent in training according to years of service.

Chart 14 Overview of the fulfilled compulsory minimum of training days (2016-2018)



There is a positive trend with the justices to continue their education and strengthen their judicial capacities; at the same time they point out that because of the specificity and the nature of the Supreme Court, the justices of this court need education in the form of exchange of experience with other justices from the neighboring countries, the countries in the region and the member-countries of the European Union, with special emphasis on the case law of the European Court of Human Rights.

Supreme Court justices regularly attend international seminars and conferences on various topics related to the rule of law, the work of the European Court of Human Rights, strengthening the fight against organised crime, terrorism and corruption and similar topics relevant to their daily work.

In the Supreme Court's current composition of justices, only one justice is on the Academy's list of lecturers.

5.4. Working Conditions, Technical Resources and ICT

5.4.1. Physical Access and Working Conditions in the Court

The building of the Supreme Court of the Republic of North Macedonia, built in 1988, located in the center of Skopje on "Krstе Misirkov No. 8" Boulevard, is registered with Deed No. 106130, Cadaster plot 8887, the Cadaster Municipality Centar 1.

The building which is in use by the Supreme Court has a ground floor, basement space and 9 floors. The first 3 floors are not at disposal of the Supreme Court because they are used by the First Instance Civil Court Skopje. The two courts do not have internal communication, but the costs of maintaining the building, as well as the costs of heating, water supply, and the like, are split evenly between the two courts.

The building has a separate entrance and exit for the employees, and a separate one for the visitors. The standards for access to the court for persons with disabilities are respected; it has one ramp and two elevators. However, in the last years the only functional entrance to the Court has been the side entrance, the reason being to prevent injuries to passersby due to damage to the facade of the building.

The court has a total of 76 rooms, 66 of which are offices. Each floor has two toilets, one for men and one for women. The court has two courtrooms, one criminal and one civil, and they are not equipped with functional audio equipment. The building does not have an energy efficiency certificate and does not have a separate evidence storage room.

The court owns 4 functional official vehicles, 2 of which were procured in 2019. This was the first procurement of official vehicles made in the past years. Previously, the court disposed of seized vehicles which, by a decision of the Agency for Management of Seized and Confiscated Property, were assigned for use to the Supreme Court. The court employs one driver to drive the president of the court. For all other transportation-related needs, due to the reduced staffing in the court, one junior servant is occasionally assigned.

5.4.2. Security

The Supreme Court employs a total of 5 (five) members of judicial police, all male and with average age of 40 years. Three of them have higher education and two have secondary education. There is video surveillance in the court managed by the Judicial Police Commander. There is video surveillance coverage of the entire building including the garage of the SC building.

In the Supreme Court, and at all courts in the country, the judicial police generally face similar problems and difficulties in their work. Namely, the judicial police do not have uniform equipment which includes clothes, shoes and weapons. Two years ago an attempt was made to procure complete equipment for all judicial police in all courts in the country, but it was not evaluated positively by the Public Procurement Council due to inadequate gram weight of the equipment. The fact that the judicial police have rarely tested firearms (a test only performed twice in the last 13 years) is worrying. The last training attended by the members of the judicial police was a training of trainers, four years ago. Upon completion of the ToT, only one judicial police officer trained his colleagues at the Skopje Appellate Court, upon request of the presiding judge.

There are no armored doors in the offices of the justices, nor are there judicial police officers on the floors of the building.

There are no special codes to operate the elevators. The judicial police works with security cards that they give to the parties to a case and to court visitors. Thus, they can only open certain doors on the last 3 floors of the court where the justices' offices are situated.

The justices, the judicial service and the parties enter the Supreme Court building via the same entrance, i.e. via one of two entrances. There is a direct access from the garage in the SCRNM building to the premises and offices of the SCRNM.

In the parking area of the garage located in the Supreme Court's building, there is ample parking space for all justices. Some of the other court staff also use the garage, and others don't.

5.4.3. Internal Communication at the Supreme Court of the Republic of North Macedonia

Justices, court servants and all other employees of the Supreme Court have their own official email address. However, email communication is not usual for court staff and is used in communication with outside institutions. Court staff most often communicate by telephone and provide the required documents manually in hard copy; the same manner of communication applies to the court's archive. The Supreme Court has an internal network for the justices and the expert associates; they have open folders on the computers via which they share documents, judgements and decisions that need to be accessible to all employees.

Concerning the operation of the court's archive, the Supreme Court has adopted a quality procedure⁷⁶ in accordance with the ISO standards for handling court records in the archive, starting with receipt of court writs to their expediting and filing. The procedure contains a detailed overview of the duties and responsibilities of the court servants, and also regulates various other issues, such as how to record initial documents received in a language other than Macedonian, recording a court case in the ACCMIS system, delivery, joining and separation of cases, case reassignment, archive's operation pursuant to a decision and other issues that are part of the archive's operation.

The Supreme Court also adopted a quality assurance procedure for keeping court registries and auxiliary books by the court's administration. The procedure is standardised according to ISO standards and prescribes the manner of handling initial acts recorded by the court administration into the ACCMIS Court Records and Auxiliary Books; such records are obtained from justices, parties to cases, lower courts, administrative bodies and the like.

5.4.4. Electronic Exchange of Data between the Supreme Court and Other Courts

There is no electronic data exchange of information between the courts within the ACCMIS system. Hence, communication takes place by email and telephone, and documents are delivered by mail or manually, observing all archive procedures.

5.4.5. Electronic Exchange of Data between the Supreme Court and Parties to Cases

As far as the Supreme Court's communication with the parties is concerned, it is largely by mail. Only in certain cases and at the request of the concerned party, the communication takes place by email.

5.4.6. Court Rules of Procedure and Rules of Procedure for the Supreme Court of the Republic of Macedonia

The operation of all courts in the Republic of North Macedonia, their internal organisational setting, how to keep records of cases, registers, record books, handling of documents, forms, working with international legal assistance, acting on petitions and requests, summoning and appointment of lay-judges, court translators, interpreters and forensic experts, keeping statistics and records, professional development of staff, manner and rules of public relations, use of symbols on court vehicles and all other important issues for the work of courts are regulated in the Court Rules of Procedure. The Court Rules of Procedure were adopted pursuant to the Law on Courts, by the Ministry of Justice, in April 2013, with a prior consent obtained at the general session of the Supreme Court.

⁷⁶ Adopted in 2015

Due to its specific position and role in the Macedonian courts and judiciary, in addition to the Court Rules of Procedure, the operation and the organisational setting of the Supreme Court are also regulated with the Rules of Procedure of the Supreme Court. The SC Rules of Procedure were adopted by the Supreme Court, pursuant to the Law on Courts, on 22 December 1997. The Rules of Procedure regulate the organisational setting of the Supreme Court, the manner of operation of the court and the manner of operation of the court panels and divisions, the divisions sessions and sessions of the justices, as well as the manner of organisation and work of the general session of the Supreme Court. In the past 22 years, the Supreme Court Rules of Procedure were amended only once, in 2009. These amendments established the Reasonable Time Division, the Case Law Division and the IT Center with a Court Information System database.

Still, despite these innovations, the SC Rules of Procedure have not been updated to comply with the current amendments to the laws governing the operation of the Macedonian judiciary, such as the Law on Courts and the Law on the Judicial Council. In accordance with the novelties in these laws, the Supreme Court is given new powers and tasks related to the functioning of the Macedonian judiciary, which need to be reflected in the SC Rules of Procedure that govern the operation of the court. To this end, the Supreme Court set up a working group to draft a proposal of the Rules of Procedure of the Supreme Court of the RNM. The working group decided that a new text of the Rules of Procedure of the Supreme Court was needed. The working group consists of 14 members, of which 9 justices, 3 senior court associates, the chief of the cabinet of the president of the SCRNM and the court administrator.

5.4.7. ICT Center

A court's ICT Center has been established within the IT unit of the Supreme Court. The ICT Center employs 4 persons with higher education (2 men and 2 women, all of them Macedonians).

The ICT Center houses all ICT hardware and software intended for smooth operation of the Supreme Court and part of the other Macedonian courts, including the Judicial Council of the Republic of North Macedonia. In addition, the IT Center houses certain centralised databases, centralised functionalities, centralised data exchange with external institutions, etc., which are intended for smooth operation of all courts of the Republic of North Macedonia. The main activities for smooth operation of the introduced ICT systems fall within the scope of work of the four IT engineers employed at the Center and include hardware and software maintenance of the equipment, the ACCMIS system, the IBM Lotus Domino platform, the web application for publishing court decisions and other similar systems that support the operation of the court. In doing so, the Center is responsible for procuring new equipment and planning investment funds and ICT maintenance for all courts including the Judicial Council. Furthermore, it is also the responsibility of the ICT Center to establish and maintain cooperation and coordination with the IT units of the other courts in RNM and in the JCRNM and to make recommendations for their maintenance. The ICT Center also controls and monitors the systems to eliminate problems that may arise during their operation and follows new developments and trends in IT sector.

The following applications are in use in the Supreme Court:

1. Court Case Management Application (ACCMIS),
2. Application for Material and Financial Operations (ABMS),

3. Application for publishing the Supreme Court case law and decisions of the appellate courts on the case law website,
4. Application for publishing court decisions, information, news, statistics and other data on the SC website,
5. Centralised hosting of the court web portal and the websites of all courts in the RNM,
6. e-mailing system for court staff and for notification of the users of the e-system for submission of court documents,
7. Application for electronic submission of court documents (first phase - delivery from courts to users) intended for all courts of the RNM, with a centralised database hosted in the Supreme Court,
8. Criminal Records Application intended for all courts of the RNM, with a centralised database hosted in the Supreme Court,
9. Centralised Service for Data Exchange on Bankruptcy Trustees with the Central Registry, intended for all courts in the RNM,
10. Centralised data exchange service between courts and prosecution offices.

The ICT Center of the Supreme Court is also responsible for maintaining and updating the web portal⁷⁷ of all courts in the country. The portal itself is intended for the judicial professional community and for the general public, but is mostly used by judges and expert associates, as detailed categories presentation makes it non-user friendly for the general public; hence, the portal needs to be optimised and improved.

All justices in the Supreme Court have official laptops, but they are not provided to the expert associates. However, focus groups with court staff indicated that a small number of justices actually use the laptops. The Supreme Court does not have a licensed MC Office suite so employees use similar free applications such as Office libre.

⁷⁷ www.sud.mk

6. SCRNM FINANCIAL OPERATION

6.1. Defining the Court Budget

Pursuant to the Law on the Judicial Budget, the court budget is an annual projection of the revenues and expenditures of the individual judicial users as determined by the Assembly of the Republic of North Macedonia so as to finance their operation. The Judicial Budgetary Council allocates funds to the Supreme Court, the Higher Administrative Court, the Administrative Court, the appellate courts and the first instance courts.

The judiciary budget is presented cumulatively in the Budget of the Republic of North Macedonia, with separate entry only for the Constitutional Court of the Republic of North Macedonia. The Supreme Court is included fully into the judiciary budget.

6.2. Procedures for Developing the Budgets of the Courts

Courts have their own internal procedures for planning their court budgets. The court budget is planned with the assistance of a special IT system for financial operations which is networked - the Automated Budget Management System (ABMS). The parameters used are applied pursuant to the analysis from the previous years of the funds spent and the needs of the court. Each court administers its financial operations in line with pertinent internal documents. Salaries and allowances, as well as points and coefficients are calculated in accordance with the Law on Salaries for Judges and the Law on the Judicial Service.

The Supreme Court's Financial Department has 2 employees, of whom one accountant and one in charge of material and financial operations. Additionally, there is 1 employee in charge of procurement.

Court budget expenditures include current payroll expenditures and allowances for the judges and the other staff in the court, expenditures for goods and services, expenditures incurred during the proceedings, overhead expenditures and capital expenditures for procurement and investment in maintenance of the court's capital assets. When developing the budget, the Supreme Court may give proposals only in respect to expenditures that do not include payroll and capital expenditures. Salaries are determined in accordance with the above mentioned laws. Forecasts of expenditures for the following year are based on the expenditures incurred in the previous year.

The court budget is developed on the basis of the fiscal policy and the internal criteria as well as on the budget circular instruction of the Government of the Republic of North Macedonia for the next year. The Judicial Budgetary Council prepares the circular instruction with guidelines to be followed by the courts when making their financial plans.

Not later than by 1 June of the current year, the Supreme Court and the other courts need to submit their financial plans to the Judicial Budgetary Council. The financial plans need to present the following information:

- Forecast of expenditures for the fiscal year, per item and line;
- Forecast of expenditures for the following two fiscal years, per item and line;

- Overview of the necessary expenditures for employment of workers to perform the functions of the budgetary user;
- Future liabilities, multi-annual expenditures and investment projects;
- Expenditures for each next year, presented separately.

Courts need to submit a corresponding explanation of the amounts for each line.

Once it has received the courts' financial plans, the Judicial Budgetary Council prepares the proposed judicial budget and submits it to the Ministry of Finance together with the narrative explanation. The Minister of Finance and the president of the Judicial Budgetary Council then need to come to an agreement about the funds in the judicial budget or otherwise the Ministry of Finance will prepare a report that it will submit to the Government of the Republic of North Macedonia.

The Judicial Budgetary Council monitors the implementation of the financial plan. Accordingly, not less than once a year the Judicial Budgetary Council needs to submit a report on the performance of the judiciary budget to the Ministry of Finance, the Government of the Republic of North Macedonia and the Assembly of the Republic of North Macedonia. The internal audit of the performance of the financial plans in the courts is conducted by an internal auditor appointed by the Judicial Budgetary Council.

6.3. Analysis of Existing Budgets and Their Implementation

6.3.1. *Proposed vs Approved vs Implemented Budget*

Based on the analysis of the Supreme Court final accounts for the years 2016, 2017 and 2018, the following types of expenditures have been identified:

Salaries and allowances

- Salaries and allowances, social security benefits

Goods and services

- Travel and daily expenses
- Utilities, heating, communication and transportation
- Materials and small inventory
- Repairs and ongoing maintenance
- Outsourced services
- Other current expenditures

Subsidies and transfers

- Various transfers

Capital expenditures

- Purchase of equipment and machinery
- Investments and non-financial assets

According to the analysis of incurred expenses, the highest percentage is related to salaries and allowances (57% in 2018, 71% in 2017), followed by investments in non-financial assets (10% in 2018, 12% in 2017), repairs and maintenance (17% in 2018, 8% in 2017), purchase of equipment and machinery (7% in 2018, zero in 2017), utilities, heating, communication and transportation (5% in 2018, 6% in 2017) and other (3% in 2018, zero in 2017).

V. CONCLUSIONS AND RECOMMENDATIONS

The functional analysis of the Supreme Court of the Republic of North Macedonia presents the factual situation in the Supreme Court by assessing its constitutional position, statutory powers and scope of work, as well as the circumstances in which the court operates and maintains its operations and the operation of its employees. Considering that the analysis has established findings which fully or partially concern the Supreme Court only, this Chapter presents general conclusions the effective implementation of which shall lead to a significant improvement in the performance of the Supreme Court of the RNM.

1. INDEPENDENCE AND IMPARTILITY

- Independence of judges in courts of all instances, as well as in the Supreme Court, is closely related to the financial independence of the judiciary. **Consistent implementation of the legal norm according to which the court budget should amount to 0.8% of GDP** is necessary.
- True independence of the judiciary from the executive power requires both **normative and actual independence of the financial resources of the courts** in such a way that public procurement and human resources in the judiciary will not be subject to approval by the Ministry of Finance.
- A mechanism of pressure on judges, even though they are guaranteed a permanent term of office, is the dismissal of judges and disciplinary proceedings against judges by the JCRNM. Political presence and influence have been felt in the work of the JCRNM both at present and in the past⁷⁸. Therefore, it is necessary that the JCRNM to show **resistance in its work to possible external influences primarily by reducing disciplinary proceedings against justices in the Supreme Court**, which have turned into common practice in the period 2016-2019. In undisputed cases of necessity to institute disciplinary and dismissal proceedings for judges of these courts, they must be carried out in a highly transparent and consistent manner so as to meet the new statutory requirements, and to be thoroughly and precisely reasoned in particular because the Supreme Court, through its justices, is a guarantor for the judiciary in the RNM.
- Elaborate a methodology for the **vertical evaluation of judges by higher courts** is a serious tool for strengthening the independence of each judge separately. Through this mechanism, the SCRNM as assessor of appellate court judges will be able to consistently exercise control over the application of legal opinions and general views in order to ensure legal certainty and predictability.
- **Strengthen the status of the court service** in the Supreme Court by restoring the office of Secretary General of the Supreme Court and allowing for promotion of expert staff in the court.

⁷⁸ The constitutional and statutory provisions on the composition of the Judicial Council of the RNM demand presence and work of politically elected persons, which in itself, as a legal norm, is not exclusive; in many countries of the world judges are elected and dismissed by politically appointed officers/bodies.

- Court service of the Supreme Court needs to be strengthened by the **establishment of two cabinets within the court - the Cabinet of the Court's President and the Cabinet of the Court's Secretary General**, which will function in accordance with their responsibilities under the Rules of Procedure of the Supreme Court.
- Proper implementation of the Rules of Procedure of the Supreme Court is necessary to **prepare two work schedules - the work schedule for justices adopted by the president of the court and the work schedule for the expert associates adopted by the court secretary general**.
- Minimise external and internal influences on justices, the Supreme Court needs to establish a system for **strengthening and constantly checking the personal integrity of judges**. To this end, much greater attention is needed to the Supreme Court's codes of ethics as well as to the development and delivery of ongoing training through the Academy on topics such as ethical conduct, conflict of interests, receiving gifts and services and building integrity of judges and the court service through practical examples, team exercises and workshops with professionals.
- Provide fully equipped and trained judicial police in order to make it fully operational through a separate entry in the court budget. Consistent application of the rulebooks on the organisational setting and job systematisation of the judicial police in order to meet the minimum standards that guarantee the safety of courts and judges during and outside their place of work.
- Independence and liability are inseparably intertwined. Hence, **in assessing the quality of the work of a Supreme Court justice, it is necessary that the liability for a decision be borne by every justice who participated in the decision of a panel**, not only by the justice-rapporteur; there are absurd situations when the rapporteur receives a negative score for a decision, even in cases when s/he had a different separate opinion. Such an unfair situation also arises when all members of the panel were unanimous about the decision, but the liability lies only with the president of the panel. The present situation leaves enough room for the other members of the panel not to study the case at all and the decision to be taken by one judge only. Responsibility of all panel members for the decisions of their panel shall promote serious interest and engagement on each panel case irrespective of whether or not the justices are rapporteurs in the particular case.
- True equality between the three powers of government (legislative, executive and judicial) requires the **introduction of equal privileges** for the holders of each of these powers. In particular, the justices of the Supreme Court need to be provided with additional mechanisms to safeguard their safety and their personal integrity commensurate to the privileges **available to ministers**.

2. EFFICIENCY

- The efficiency of the Supreme Court's work is primarily determined by the **human resources**. In other words, in courts in which inefficiency or lower efficiency has been found, the situation can be improved **firstly by new hires and secondly by better human resources management**:
 - As concerns the Supreme Court, in addition to the decision to increase the number of justices, it is necessary that the justices be elected by the Judicial Council as soon as possible.
 - Consistent publishing of the vacancy announcement for expert associates and other court servants in the Supreme Court as soon as possible, given the risk that some of the associates will take the initial training at the Academy or leave to work for other public authorities (the Ombudsman, the State Attorney and other).
 - The Supreme Court of the RNM has an alarming need for **advancement of the existing court servants**.
- The second factor for improving the efficiency of the Supreme Court is the **complete digitalisation of cases, delivery and communication among the Supreme Court, the appellate courts and the lower instance courts**. In particular, electronic interconnection or interoperability between courts will greatly enhance the efficiency of courts and speed up court proceedings. The analysis shows that each individual judge is highly effective and exceeds the set monthly norm.
- There is a normative and factual chaos regarding the level of salaries and allowances of the court service in the higher courts. All of this has an extremely demotivating and discouraging effect on the court servants, hence there is a serious danger that the extremely important and necessary staff will leave the judiciary. Therefore, it is recommended that the presidents and administrators of all four courts urgently convene together with representatives of the SCRNM, the Judicial Budgetary Council and MISA representatives, adopt common positions and **draft secondary legislation that would determine the salaries and allowances of the court service and harmonise them across the board**.
- The prescribed tentative norm of the Judicial Council is fulfilled and often significantly exceeded by the justices of the Supreme Court. But in addition to effectively resolving cases, it is necessary to refer justices to other judicial activities required by their office and powers.
- In addition to the lack of IT staff (all court staff working as IT professionals are burdened with a number of additional responsibilities under the Supreme Court's jurisdiction), existing IT specialists are not offered any specialised training in IT judiciary, e-case management and other topics specific to their work and necessary for their specialisation. It is recommended that the **Programming Council of the Academy for Judges and Public Prosecutors anticipate and offer a greater number and type of such training to court IT staff**.
- Organise meetings of Supreme Court justices with the justices of the supreme courts from the region and the European Union, as well as with judges of international courts, at the

Academy for Judges and Public Prosecutors, so as to exchange experiences and discuss possible solutions to issues currently faced by the Supreme Court of the RNM.

3. TRANSPARENCY AND ACCOUNTABILITY

- Establish the practice of regular meetings on a monthly basis **for the Supreme Court to present information** through public relations officers to a group of accredited journalists specializing in the judiciary.
- Establish **intensive cooperation with the Judiciary and Media Council** in order to present important aspects of the work of the judiciary to the general public.
- Optimise the Supreme Court web portal in order to simplify the **search system for both the expert public and the general public according to the principles of Open Judiciary**.
- Prepare **uniform statistical data processing methodology between the SCRNM and JCRNM and in the SC of the RNM, with respect to the preparation of monthly and annual reports**.
- Establish **regular publication of legal opinions and general legal views of the Supreme Court on the web portal**, as well as editing and publication thereof.

4. QUALITY OF JUSTICE

- Provide **free access to the Official Gazette of RNM for each justice and each expert associate in the Supreme Court of the RNM**.
- Provide access to relevant databases dealing with various legal issues at regional and international level (Oxford Law Journal, Cambridge Law Journal, European Court of Human Rights, European Court of Justice and other)
- Ensure the position of Judicial Adviser analogous to the position Jurisconsult at the European Court of Human Rights to be the secretary of the Supreme Court's Case Law Division.
- Ensuring uniformity of case law is a constitutional power of the SCRNM. At the same time, SCRNM, as the highest court in the country, needs to also be the highest judicial authority for both the citizens and the lower instance courts. All this leads to a strong recommendation for **convening regular and continuous meetings of the four appellate courts with the SCRNM so as to ensure harmonisation of the legal opinions of the appellate courts**. For effective realisation of this type of cooperation, it is necessary to develop **internal procedures that will provide for such meetings at annual level and will set deadlines for the appellate courts to submit their requests for legal opinions to the SCRNM** so as to allow sufficient time for the SCRNM to review them, prepare and formulate a legal opinion that it would report at the meetings.
- The ECtHR's case law also contributes to improving the quality of justice, but the impression is that the citation of the ECtHR's jurisprudence by our judges is unsatisfactory. **Further training on the use of the ECtHR Case Law Citations Guide** is recommended. In addition, it is recommended that **software solutions be upgraded in the appellate courts with a search**

function by keywords for the purpose of reviewing ECtHR judgments and general legal opinions and views of the SCRNM

- Organise meetings of Supreme Court justices with the justices of the supreme courts from the region and the European Union, as well as with judges of international courts, at the Academy for Judges and Public Prosecutors, so as to exchange experiences and discuss possible solutions to issues currently faced by the Supreme Court of the RNM.
- It is recommended to **develop a search e-tool for researching case law per keywords**, which can be modeled according to the system developed by AC Bitola, to be used by the Supreme Court of the RNM and provide to each justice access to the case law of the four appellate courts, of the Higher Administrative Court and of the Supreme Court.

ANNEX 1 - ANALYSIS OF GENDER EQUALITY IN SCRNM

The Constitution of the Republic of North Macedonia proclaims equality of all citizens in their freedoms and rights, regardless of sex, race, color, nationality and social origin, political and religious beliefs, property and social standing. This constitutional principle of equality is transposed into several individual laws that regulate certain spheres of social life. This constitutional guarantee is affirmed by an additional constitutional provision that provides for precisely specified cases in which the rights and freedoms of citizens may be restricted. The first body, or the first state institution, for the promotion of gender relations was established with a Government Decision in January 1997 under the name of Gender Equality Promotion Unit. This body laid the foundations of the future state machinery for gender equality. Following the establishment of this body, the first National Action Plan was adopted in 2000.

In 2006, the first Law on Equal Opportunities was adopted, followed by the adoption of the second National Action Plan on Gender Equality 2007 to 2012. In 2012, a new Law on Equal Opportunities for Men and Women (Official Gazette No.6/2012) was adopted; one amendment followed in 2014 (Official Gazette No. 166/2014). The purpose of this law is to establish equal opportunities for women and men in political, economic, social, educational, cultural, health, civic and other areas of social life. According to this law, the establishment of equal opportunities is the concern of the whole society, that is, of all entities in the public and private sectors and represents elimination of obstacles and creation of environment in which to achieve full equality between women and men.

Currently in effect are the Gender Equality Strategy for the period 2013 - 2020 and the National Action Plan for 2018 - 2020, which was preceded by the National Action Plan for 2013 - 2016.

Mechanisms and bodies responsible for introducing the gender perspective are set up at different levels of state regulation. The Sector for Equal Opportunities within the Ministry of Labour and Social Policy, the two state advisors on equal opportunities, as well as the legal representative for unequal gender-based treatment within the same ministry, are responsible for implementing gender equality activities at the national level. According to law, state administration bodies at the national level are obliged to promote and work on promoting equal opportunities. For this purpose, in these bodies a coordinator and a deputy coordinator for equal opportunities for men and women are appointed from the ranks of the civil servants. These persons are responsible for introducing the gender perspective, as well as for implementing strategic documents in their area of work. Such a coordinator has been appointed in the Ministry of Justice as well. There is an Inter-ministerial Advisory Group⁷⁹ in the Government whose work is of consultative nature and is coordinated by the Ministry of Labour and Social Policy. At the level of the local self-government units there are

⁷⁹ The role of this group is to: promote the concept of gender mainstreaming in all public institutions; monitor the integration of the concept into sectoral policies in collaboration with social partners and institutions in different areas; to monitor the progress national legislation harmonisation with the acquis and European standards in the field of gender issues; to participate in the preparation and guidance of the process of drafting the Gender Equality Strategy; and to monitor periodic reports from institutions.

Committees⁸⁰ for Equal Opportunities of Men and Women, They are established as a permanent body with a decision of the LSGU Council. Their composition, responsibilities, tasks and obligations are determined with the bylaws of the local self-government unit. According to the Law on Equal Opportunities, exercise of equal opportunities also falls within the statutory jurisdiction of the Ombudsman. In other words, the Ombudsman provides legal protection for the equal opportunities of women and men where one's rights are infringed or restricted by a public administration body or by other bodies or legal and natural persons entrusted with public powers. At the legislative level, a permanent working body has been set up as part of the national mechanism for gender equality at the Assembly, i.e. Commission for Equal Opportunities for Men and Women. The mandate of this committee is stipulated in Article 9 of the Law on Equal Opportunities. Its primary purpose is to incorporate the gender concept in draft laws and regulations, and the budget, adopted by the legislature.

About Effective Participation of Women in the Judiciary

The participation and representation of women in decision-making bodies is a right enshrined in all fundamental human rights instruments. They oblige the signatory countries to take concrete measures to address inequality in all public institutions, by identifying and removing the legal and practical barriers to equal participation by women, and taking proactive steps to encourage and promote equality between men and women. Consequently, effective inclusion of women in the judiciary is an essential aspect of their participation in public and political life and is a key component of good governance.

Thus, Article 7 of the Convention on the Elimination of All Forms of Discrimination against Women specifies that states-parties must "take all appropriate measures to eliminate discrimination against women in the political and public life of the country" and to that end they must ensure the right of women to "participate in the formulation and implementation of government policy, to take management positions and to perform all public functions at all levels of government". According to the Committee on the Elimination of All Forms of Discrimination against Women, political and public life refers to "exercising political power, in particular the exercise of legislative, judicial, executive and administrative powers". This means that states should also introduce special interim measures to accelerate *de facto* achievement of equality between men and women, and after achieving the objective and providing equal opportunities and treatment, such measures should be abolished. Such rights and obligations are enshrined by the Beijing Declaration and the Platform for Action adopted in 1995, as well as by the Commission on the Status of Women, which adopted its Conclusions (1997/2) at its forty-first session in 1997. These Conclusions emphasise that achieving the goal of equal participation of men and women in decision-making is important for strengthening democracy and achieving the goals of sustainable development. The Commission acknowledged the need to identify and implement measures to remedy the under-representation of women in decision-making, through elimination of discrimination and introduction of positive measures, among other.

⁸⁰ Their task is to incorporate the principle of equal opportunities for women and men within their strategic plans and budgets; monitor the effects and impacts of their programmes on women and men, report within their annual reports and participate in the preparation of the Gender Equality Strategy in the part devoted to local self-government units.

The importance of full and effective participation of women at all levels of governance has been recently acknowledged by the international community and through the United Nations Sustainable Development Goals, more specifically **Objective 5- Achieving Gender Equality and Empowering All Women and Girls and Goal 16 - Promoting Peaceful and inclusive societies for sustainable development**, providing justice for all and building effective, accountable and inclusive institutions at all levels. The inclusion of a specific indicator for monitoring gender equality in the judiciary demonstrates the importance that the international community attaches to women working in the judiciary and their contribution to strengthening the rule of law and achieving sustainable development. Namely, objective 16.7 obliges member-states to ensure responsible, inclusive, participatory and representative decision-making at all levels, i.e. to collect data and monitor the situation with respect to this indicator.

Many organisations collect and analyse data related to women in the judiciary. One of them is the Council of Europe, which addresses this issue through the work of CEPEJ. Thus, according to the CEPEJ Report 2018, in the section on gender balance in the judiciary our country is one of the countries that do not have separate strategic documents and programmes regarding women in the legal profession, but rather treats this issue with a general gender equality programme, as for any other profession. In this respect, gender machinery in general, as well as mechanisms for protection in cases of discrimination on grounds of sex, also take care or are responsible for the issue of equal opportunities, i.e. for the cases of discrimination in the judicial profession. Our country does not have a separate body that takes care of the parity of women in the judiciary, including the judiciary. Moreover, it is one of the countries where despite the so-called "feminisation" of the judiciary, no measures have been taken to adapt the way women work to their needs, such as the possibility of adapting to: work schedules, working hours, holding hearings / trials / sessions, distribution of work responsibilities, replacement of persons who use maternity leave, the opportunity to work from home with the help of various telecommunication means, etc.

To see how the issue of gender equality in the judiciary has been treated to present, we have analyzed the latest Strategy for Gender Equality 2013-2020. In particular, in the part of the situational analysis of the participation of women in the decision-making processes in public and political life, the issue of parity, i.e. the number of women judges, is discussed. Accordingly, under Strategic Goal 2, i.e. Specific Strategic Goal Increased gender responsive participation of women in decision-making processes in the legislative and executive branch 2.1. - Increased gender responsive participation of women in decision-making processes in the legislative and executive powers, in party politics and editorial broadcasting, achieving the following outcome "Enhanced capacity of judges and public prosecutors for a gender perspective in the judiciary" is envisaged. In the current National Plan for Action for Gender Equality 2018-2020, however, judges and public prosecutors are mentioned in the context of capacity building for dealing with cases of violence against women and gender-based violence.

[About the Approach Employed in This Analysis](#)

This part of the functional analysis examines the effective participation of women in the legal profession in light of the three key themes or issues arising from the literature and discussions on women in the justice sector, i.e. the structural barriers to women's entry into the profession; their retention in the profession; and the advancement of women to the higher echelons of the profession. Specifically, the structural barriers women face when entering the profession, which are

linked to gender stereotypes and prejudices about women as practitioners; lack of information and transparency regarding employment /choice and legal and social constraints on women's freedoms and rights. Barriers to women's continued presence in the profession include increased opposition to women as a result of the increasing number of women in the profession; the possibility of reconciling family and professional obligations; and sexual harassment, including other forms of discrimination. As they progress to the higher echelons of the profession, they are faced with barriers associated with the selection and appointment process; challenges in establishing a balance between family and professional life as a result of promoting and limiting opportunities for development and promotion.

Thus, in each of the separate chapters below in this section of the functional analysis there are explanations on what issues are covered in that chapter or part of the analysis and how they relate to the structural barriers women face in this profession.

1.1. Gender Aspects of Independence and Impartiality

1.1.1. *Election and Status of Justices in the SCRNM*

The representation of men and women in the ranks of judges nationally and at the level of the various judicial instances is directly related to the election of judges, i.e. to the existence of legal and social norms and beliefs that may limit the exercise of this profession by judges of both sexes. Thus, the representation of gender stereotypes and prejudices about women as judicial officers is one of the key obstacles that can affect the education, candidacy and election of women to judicial office as a professional determination. Gender, combined with other possible grounds for discrimination, such as ethnicity, political and religious beliefs, property and social status, etc. further influence this decision, i.e. whether women are seen as part of the judiciary.

The structural barriers that women face when entering the profession are gender stereotypes and prejudices, lack of information and transparency about recruitment / selection processes and legal and social constraints on women's freedoms and rights. Therefore, we considered these barriers in the analysis from the point of view of the selection of judges, i.e. the legally foreseen conditions and the publication of vacancies.

The general conditions for a person to be elected as a judge in our country are set out in Article 45 of the Law on Courts⁸¹, while the special requirements for the election of justices to the Supreme Court are set out in Article 46, paragraph 1, point 5. According to this provision, for a person to be elected as a justice of the Supreme Court they must have at least 6 years of experience as a judge in an appellate court by the time the election is announced and be positively assessed by the Judicial Council with a favorable rating.

In addition to the Law on Courts, the new Law on the Judicial Council⁸² Article 48, paragraph 2 also provides for a number of criteria for the election of judges to a higher court, in addition to the positive assessment and length of judicial service. These include: professional knowledge and specialisation in the profession and participation in continuing professional development training;

⁸¹ Law on Courts, consolidated text published in Official Gazette 96/19

⁸² Ibid

ability for oral and written expression, as evidenced by the decisions made and the judicial professional conduct; undertaking additional work in the exercise of judicial office by participating in the resolution of backlogs; and undertaking additional work in the exercise of judicial office through mentoring, education and the like. All of these conditions influence the selection decision and therefore, when defining them, the specifics of men and women should be taken into account, namely, to examine whether and how these seemingly equal criteria / conditions can influence the choice of women and men for judges. When discussing the selection of judges, the positive assessment of the Judicial Council should also be further analyzed, namely what it means and whether the terms and conditions of the evaluation may have a more adverse effect on women than men.

The transparency of the vacancy announcement, the information related to the vacancy announcement and the way in which appellate court judges are selected is an issue to be considered. The manner of publication is provided for in Article 46 of the Law on the Judicial Council⁸³. In practice, the Judicial Council, upon request of the court for filling in a vacant judicial seat, shall publish a notice in the Official Gazette and in at least two daily newspapers, one in a language other than the Macedonian language, with a deadline of 15 days. Whether and how will the manner in which the vacancy announcement is advertised and the selection process affect sending in applications by both sexes, and in particular by female candidates, and later their selection for judges, should also be subject to a separate analysis and should be considered when making plans.

The issue of candidacy and election of the president of the court should be considered from all aspects, just like the issue of election of judges, that is whether the conditions and manner of election take into account the specific characteristics of men and women. In other words, whether the conditions and the selection provided equal opportunities for men and women to be candidates and to be selected.

The average representation of both sexes in the composition of judges for 2016 according to the CEPEJ report⁸⁴ indicates a higher representation of women. This proportion changes in the different instances of the courts. In the first instance courts, 39% are male judges and 61% female judges. At the appellate level 45% are male judges and 55% are female judges, while in the Supreme Court 48% are male justices and 52% are female justices. As can be seen, the representation of women is beginning to decline at the level of appeals and even further in the Supreme Court. It is expected that the representation of women judges at higher levels will correspond to that of the first instance courts, that is, women will progress accordingly from lower to higher instances.

Table 1 Presentation of participation of male and female judges at national level and in different court instances, in percentages

	man	women
Average at national level	40%	60%
Courts of first instance	39%	61%
Appellate courts	45%	55%
Supreme Court	48%	52%

⁸³ Law on the Judicial Council, Official Gazette 102/19

⁸⁴ CEPEJ studies no.26, 2018 Edition (2016 data), pg. 180

We also looked at the participation of men and women in the Supreme Court in terms of which areas female judges work in, whether they have opportunities to work on different types of matters. Most studies point to the fact that women, although included, are often placed in family or juvenile courts and thus have limited opportunity for specialisation and professional development in certain legal areas or subjects.

The representation of both sexes in the composition of the justices in this court represents a deviation from the gender structure of the judges in 2016 as presented in the 2018⁸⁵ CEPEJ Report for this court. Compared to 2016, the current situation shows a decrease in the participation of female judges in this court. The Supreme Court employs 19 justices, of whom 10 are men (53%) and 9 are women (47%). Of the total number of justices, 13 are of Macedonian ethnicity, while six are of Albanian ethnicity. Of the nine female justices, eight are of Macedonian ethnicity and one is of Albanian ethnicity.

Table 2 Comparison of participation of male and female justices in the SC in 2016 and at present, in percentages

	man	women
Supreme Court according to CEPEJ	48%	52%
Supreme Court at present	53%	47%

In the last three years, namely in 2016, 2017 and 2018, there were four vacancies for election of justices in this court, two in 2016 and two in 2017. It is evident that the interest in applying for this court is five to six times greater than the number of justices elected. It is also noteworthy that the interest of the female candidates for justices in this court for both vacancies is up to two or more times higher than that of the male candidates. In 2016, the number of elected judges is proportional to the number of women and men candidates for the post. This is not the case in 2017, when despite the fact that women candidates represent 63% of the total number of candidates, they are still selected in smaller number. There is no indication of how many judicial posts were advertised, which could also clarify certain situations.

Table 3 Number of vacancy announcements and candidates divided by sex and year of publishing

Year	Number of vacancy announcements	Candidates			Selected		
		m	f	T	m	f	t
2016	2	7 (27%)	19 (73%)	26(100%)	1 (25%)	3(75%)	4 (100%)
2017	2	4(37%)	7(63%)	11(100%)	1(50%)	1(50%)	2(100%)
2018	0	0	0	0	0	0	0

In view of the special conditions for the election of justices to this court, it is worth noting that from the analysis of the information presented in the short professional biographies of the judges it can

⁸⁵ CEPEJ studies no.26, 2018 Edition (2016 data), pg. 180

be concluded that if they had to meet the special requirement at present, only a few would have been selected. This is quite understandable given that the criteria for the election of judges to the Supreme Court have in the past allowed non-judicial persons to be elected judges. This special requirement should not be an obstacle for women to apply, as there is a pool of female judges who sit in the appellate courts and can potentially fulfill the required seniority of a justice, but let's not forget that there are other factors as well that may influence a woman to apply for a higher court judge. In addition to the barriers associated with the selection and appointment process for higher positions, when advancing to the higher echelons of this profession women face barriers to establishing a balance between the family and the professional life due to the promotion, but also due to the limited opportunities for professional growth and development if required for the advancement.

With regard to the subject matter covered by the judges, i.e. the female judges, according to the internal organisational setting of the Supreme Court available on its website, this Court carries out its work via panels of three or five judges, division sessions, joint division sessions, sessions of judges and general sessions. The Supreme Court has four judicial divisions (Criminal Division, Civil Division, Reasonable Time Division and Case Law Division). The distribution of justices by division and panel is based on the annual work schedule of the court, which is adopted by the president upon prior opinion of the session of judges. According to the court's 2018 Operations Report, this court is dealing with criminal, civil and administrative matters, as well as a trial within a reasonable time, court administration cases and complaints. The answers to the questionnaire in the preparation of this functional analysis did not provide information on the gender composition of the panels, i.e. the distribution of men and women by division and subject matter under the jurisdiction of this court.

The acting president of the court is a man, like the one before him. The issue of the candidacy and election of presidents of this court should be considered from a gender perspective just like the issue of election of justices in this court.

1.1.2. *Safeguard Mechanisms against Transferring Judges without Their Consent*

Judges carry out the judicial function in the court in which they are elected, and as a rule they are elected to adjudicate in particular subject areas. Judges may not be transferred from one court to another against their will. The assignment of judges in accordance with the Law on Courts is done according to the annual schedule, taking into account the specialisation of the judges, i.e. the areas in which they work. Accordingly, judges may not be transferred from one division to another against their will. It is possible to move judges from one division to another upon their request. There are two exceptions to the impossibility of reassigning judges against their will, such as transfer from one division to another for a period not longer than one year and temporary transfer to a court of the same or lower instance, and the like, for a period not longer than one year, in accordance with the statutory requirements. The latest amendments to the 2019 Law on Courts provide for restrictions to these two exceptions, that is both types of transfer may be applied once in 5 years.

Except in the context of independence and impartiality, the issue of the transfer of judges, in particular female judges, is related to the barriers for retaining women in the profession. Namely, the temporary transfer of judges requires balance, i.e. harmony between the family and the professional life of a female judge, i.e. her family responsibilities, which may influence her decision

on whether to pursue this profession. In contrast, their male colleagues, especially in societies that are patriarchal and traditional, have no responsibilities related to home or family. On the other hand, reassignment of judges from one division to another is related to lack of specialisation opportunities, that is lack of professional development and opportunities for promotion, as one of the barriers to continuous professional development. Therefore, in the questionnaire for the development of the functional analysis we asked for data for transfer of judges, disaggregated by sex.

Two complaints were filed to the 2019 Annual Schedule by female judges, and according to the court’s response both were rejected.

There is no information on transfer of judges from one division to another upon request from judges, nor against their will, as there are no sex-disaggregated data as well.

1.1.3. Dismissal of Justices in the SCRNM

Conditions for termination of judicial office and dismissal of judges, such as grounds for determining liability, are considered in this analysis in the context of independence and impartiality of judges. Like all other statutory requirements, they are neutral and apply to all judges regardless of their gender. But it is worth noting that seemingly neutral conditions for dismissal and grounds for disciplinary action can adversely affect women and prevent them from pursuing their profession. That is, reduce the participation of women in this profession. The same applies to the manner in which dismissal procedures and disciplinary proceedings are conducted. In order for these statutory measures not to produce such an effect, before they are developed and implemented a gender analysis needs to be conducted to identify issues that may cause inequality. Following the adoption of the gender analysis, an analysis of the likely impact of the law on target groups of the gender analysis should be done to see, whether the needs and priorities of men and women previously identified as part of the initial analysis are covered by law. Based on previous analyses of the law in order to make it gender sensitive, it is necessary to integrate therein pertinent interventions, perspectives and issues, and afterwards to regularly evaluate and monitor them through a process of established gender-sensitive indicators.

To prepare this analysis, we requested data about the grounds for termination of judicial office, disaggregated by sex. Data for the past three years on termination of judicial office at the appellate courts and the Supreme Court indicate that retirement is the primary reason for the termination of judicial office, while the judicial office of two justices was terminated due to death (Table on termination of judicial office).

Table 4 Termination of judicial office of justices at the BC Supreme Court and the appellate courts in 2016, 2017 and 2018 (data received from the Judicial Council of RNM)

	2016			2017			2018		
	m	f	t	m	f	t	m	f	t
Retirement	1	3	4	3	3	6	3	4	7
Incompetent and negligent conduct	/	/	/	/	/	/	/	/	/

Upon own request	/	/	/	/	/	/	/	/	/
Upon own request and incompetence and negligence	/	/	/	/	/	/	/	/	/
Due to election to office	/	/	/	/	/	/	/	/	/
Death	1	/	1	/	1	1	/	/	/
Convicted with a final court decision	/	/	/	/	/	/	/	/	/

Data was also sought on incompetence and negligence procedures for the past three years for all appellate courts and the Supreme Court. Of the 16 proceedings, 10 were filed against male judges and six (6) against female judges (see table). The proceedings resulted in the dismissal of one male judge and one female judge. Both decisions are final.

Table 5 Termination of judicial office of justices at the BC Supreme Court and the appellate courts in 2016, 2017 and 2018 (data received from the Judicial Council of RNM)

	2016			2017			2018		
	m	f	t	m	f	t	m	f	t
Number of initiated procedures	/	/	/	10	3	13	/	3	3
Number of pronounced decisions	/	/	/	3	4	7	/	3	3
Number of dismisses justices	/	/	/	2	1	1	/	/	/

Data for the past three years on termination of judicial office of justices at the Supreme Court indicate that retirement is the primary reason for the termination of judicial office (Table on termination of judicial office of justices at the SC). The judicial office of two justices was terminated due to death.

Table 6 Termination of judicial office of justices at the Supreme Court in 2016, 2017 and 2018 (data received from the SC)

	2016			2017			2018		
	m	f	t	m	f	t	m	f	t
Retirement	1	3	4	3	3	6	3	4	7
Incompetent and negligent conduct									
Upon own request									
Upon own request and incompetence and negligence									
Due to election to office									
Death	1	0	1	0	1	1	/	/	/
Convicted with a final court decision									

Data from the Supreme Court also indicate that retirement and death are the reasons for the termination of the judicial office; the number of women is higher. Therefore, we consider that the selection of justices to fill vacancies should be carried out in accordance with a pre-established

strategy taking into account the gender parity of justices, as well as all other status issues concerning female justices in this court.

In this court there are two justices whose judicial office terminated with dismissal. Of them one is a man and one is a woman.

Supreme Court records of incompetence and negligence proceedings for the past three years show a higher prevalence of initiated incompetence and negligence proceedings with male judges. That is, 10 proceedings were initiated against male justices compared to six (6) cases initiated against female justices. As a result of these actions, one man and one woman were dismissed, but both decisions are still not final.

Table 7 Initiated incompetence and negligence procedures for justices at the Supreme Court in 2016, 2017 and 2018 (data received from the SC)

	2016			2017			2018		
	m	f	t	m	f	t	m	f	t
Number of initiated procedures	0	0	0	10	3	13	0	3	3
Number of pronounced decisions	0	0	0	3	4	7	0	3	3
Number of dismissed justices	0	0	0	2	1	1	0	0	0

There is no information on disciplinary measures taken due to a disciplinary violation in this court.

1.1.4. Promotion and Assessment of Judges

Monitoring and assessment of the work of judges and court presidents, i.e. regular and extraordinary assessment, including the assessment criteria provided with the Law on the Judicial Council of the RNM from May this year, are related to two key issues for the effective participation of women in the judiciary: women to stay in the profession and their numbers to increase and women to advance to the higher echelons of the profession. As with other statutory norms, a gender analysis is required before statutory provisions governing monitoring and assessment are adopted, followed by analysis of the likely impact and, if necessary, by integrating specific gender interventions, perspectives and issues. To achieve the desired effect, such interventions, perspectives and issues need to be evaluated and monitored via gender-sensitive indicators. There is no data on gender analysis, but there is however information about general disagreement of judges with the requirements and criteria established for assessment and promotion.

1.2. Gender Aspects of Efficiency

For the purposes of determining any differences in the efficiency of judges by sex, the efficiency, that is the clearance rate, the unresolved cases rate and the disposition time, should be analyzed at the level of each division, but primarily by type of case. Collection and analysis of the said data should represent the basis for determining the monthly norm per case type. Thus, it would be possible to realistically perceive the situation and identify the differences in the efficiency indicators

by sex and to accordingly plan possible gender interventions and measures in order to increase efficiency.

None of the divisions has provided sex-disaggregated statistics on any of the performance indicators in the answers to the questionnaire provided to this court. Therefore, it is not possible to analyze and determine whether and how men and women justices meet the efficiency criteria.

1.3. Gender Aspects of Transparency and Accountability

The inclusion of women in the judiciary is necessary and has a significant effect. Global studies show that women's involvement in this sector should not only focus on increasing the number of women without addressing the barriers they face in pursuing their profession, and in the opportunities for professional development and career advancement. There is evidence, though largely based on observation, that the path or the "pipeline" for judicial promotion is not gender neutral. This is why it is so important to collect and publish data at regular intervals, to compare trends over time at national, regional and international level, rather than just presenting them by gender in certain aggregate values. Collecting and publishing data will provide a better understanding of the situation and what they are doing in this sector, and what measures need to be taken to achieve the desired changes. We were able to determine whether and what kind of statistics courts keep, or whether they are disaggregated by sex through the answers to the questionnaire. We additionally reviewed the reports, with the data published by the courts or uploaded to the court portal, in order to determine whether they publish sex disaggregated statistics (court operation reports and short biographies of judges).

In the context of the question on women's participation, we also analyzed the issue of the participation of men and women in the public relations and communication unit. The participation of women in the judicial sector is particularly important because women have historically suffered discrimination and exclusion from public life. The presence of women in the role of a decision-maker confronts existing gender inequality, gender stereotypes and prejudices and the public perception that judicial institutions do not reflect the composition of the entire population. According to the Law on Equal Opportunities for Men and Women⁸⁶, **equal representation** is any percental representation of a particular gender which is not less than the percentage of representation of that gender in the total population. With their presence, women demonstrate to the public that justice, and especially the judiciary, is not closed to diversity and is made up of the different groups that make up society. In reality, the demonstration of the constitutionally proclaimed equality of all citizens, regardless of gender, race, color, nationality and social origin, political and religious beliefs, property and social standing, can be one of the many solutions to increasing the public image and lack of confidence that so often troubles judges.

In the Supreme Court there is a special unit/office dedicated exclusively to public relations. It employs one person, a spokesperson (woman, Macedonian). Supreme Court reports do not contain sex-disaggregated data (annual reports).

1.4. Gender Aspects of Quality of Justice

The overall organisation of the Supreme Court's operation, including its general sessions, should allow for equal participation of women and the opportunity to contribute to the work of the court.

⁸⁶ http://www.mtsp.gov.mk/content/pdf/zakoni/2017/precisten%20tekst%202015%20na%20ZEM_nov.pdf

All factors, that is to say real needs of the women in their profession, such as reconciling family and professional obligations, should be considered and taken into account in order for them to be able to administer justice fairly.

1.5. Gender Aspects of Human Resources

Despite the current lack of data that limits the situational analysis concerning the status of women in the justice sector, it must be noted that over the last decade the evidence and data on this issue have enlarged, thus providing rich empirical and theoretical data on how women entered the legal profession, as well as on the barriers they face at the outset and throughout their careers. Such research is the result of increased attention not only of law enforcement, but also of donor agencies, resulting in global and regional meetings and the exchange of information between female judges and other justice professionals. Three key themes or issues arise from the literature and discussions about women in the judicial sector and the structural barriers they face: barriers to women's entry into the profession; barriers to their staying in the profession; and barriers to women's advancement to the higher echelons of the profession.

The structural barriers that women face when entering the profession are gender stereotypes and prejudices, lack of information and transparency about recruitment/selection processes and legal and social constraints on women's freedoms and rights. We have therefore considered these barriers in the analysis in terms of representation of women in the staff and in particular representation of women among court associates, including representation of women of different ethnicities; security of employment, that is permanent employment for an indefinite period of time and part-time employment; representation of women in recruitment of persons on various grounds in court; and representation of women in management positions.

Barriers to retaining women in the profession include increased opposition to women as a result of the increasing number of women in the profession; finding balance between family and professional obligations; and sexual harassment, including other forms of discrimination. We have considered these barriers only in terms of the existence of sexual harassment procedures in the courts.

We considered the barriers to women's advancement to the higher echelons of the profession, such as the selection and appointment process for higher positions, the challenges of balancing family and professional life due to promotion and work and limiting opportunities for development and promotion, from the aspect of training of judges. Given that continuing professional development is compulsory, we did not consider the question of whether all judges attend training. However, where data allowed, we made a comparison of the extent of training that both male and female judges need to attend and how frequently they have attended training in reality. It is worth noting that some studies and analyzes point to the fact that male and female judges adjudicate differently in cases of discrimination and sexual harassment, as well as in other cases where the adjudicated issue has a particular gender characteristic. Therefore, the issue of training should carefully consider legal needs of citizens, needs of judges and compiling of a list of training issues to be prepared in cooperation with the Academy, expert and wider public and judges, as well as with civil society organisations that work on legal aid and citizen support. And of course part of the training should be dedicated to acquainting judges with the issue of gender equality so as to increasing the knowledge of judges on this issue.

The representation of women in the court staff cross all units, with the exception of female judges, is higher than that of men. According to data on ethnicity of court employees it can be concluded that the majority of women working in the court service are of Macedonian ethnicity.

Table 8 Employees in 2018 per type of service and sex

Type of employees	2018		
	m	f	t
Justices	10	9	19
Expert court staff	3	27	30
Administrative staff	6	14	20
Technical staff	1	6	7
Total	20	56	76

With respect to representation of women by job type, except for managerial positions, their numbers are higher, which is to be expected based on their representation in the total number of

Job position	Macedonians			Albanians			Turks			Roma			Serbs			Vlachs			Total employees		
	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total
Appointed	5	8	13	5	1	6	0	0	0	0	0	0	0	0	0	0	0	0	1	9	10
Managerial	4	4	8	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	4	5	9
Non-managerial	1	4	5	0	0	0	0	1	1	0	1	1	0	2	2	1	0	1	1	4	5
	1	1	2																2	5	7

employees. But while women represent the majority in the court service, women and man are equally represented in managerial positions.

Total	2 0	5 3	7 3	5	1	6	0	1	1	0	1	1	0	2	2	1	1	2	2	5 6	8 5
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Table 9 Job positions in 2018 divided by ethnicity and sex

The issue of the status of court servants, and of women and man respectively, is an issue that deserves separate analysis, especially in the context of the court's annual reports, where in the Human Resources section, and in particular in the 2018 report, it is stated that this court has a real problem with professional staff leaving due to lack of opportunities for promotion. All the questions that we legitimately asked in this analysis that concern female judges apply to professional staff as well. Therefore, it is necessary to devise a strategy for recruiting and retaining such staff in the court. Of course, gender and ethnicity, as well as working conditions and organisational setting that may adversely affect women's employment in this institution, should be taken into account. This analysis should cover the aspect of the barriers faced by women working in the judiciary, especially those related to their staying in the profession.

With respect to the type of engagement/ employment, three individuals in this court, two men and one woman, are engaged with a hire for work contract, or a volunteer contract. The issues we have raised concerning general employment policy and treatment of employees in this court also apply to all other forms of engagement such as part-time employment and volunteering.

Given that the continuing professional development is compulsory and depends on the seniority of the judges, it is evident from the data presented in the table that not all justices have attended training. For example, in 2018, out of 19 judges only 11 attended training. In 2017, out of 19 judges, 14 judges attended training. In 2016, the Supreme Court functioned with 18-20 justices, of whom only 13 attended training. In effect, this means that in the last three years the attendance of justices in this court has ranged from 57% in 2018 to 68% in 2016 (percentage calculated from 19 justices) and the highest 73% in 2017. The information about the total number of justices comes from the annual reports of the Supreme Court.

Table 10 Attended training per year and per sex pursuant to available data

	2016 (13 justices)		2017 (14 justices)		2018 (11 justices)	
	m	f	m	F	m	f
Days of training according to attendance	18	16	20	14	23	27

In the absence of complete data on the years of service of the judges of this court, no comparison can be made between the numbers of training days that they should attend according to their length of service. Therefore, it cannot be ascertained whether there are any differences in the attendance of training by male and female justices.

This court has special funds for the participation of judges at conferences, in the country and abroad, but the court did not provide any data on the attendance. Therefore, there is no data on whether women attend conferences and what conferences.

1.6. Gender Aspects of Working Conditions, Technical Resources and ICT

Details of the Supreme Court's working conditions that were submitted for the preparation of the functional analysis without having in-depth information from the men and women working in this court, cannot answer the question of whether and to what extent the existing conditions are in accordance with the different needs of men and women, respectively, enable normal performance of tasks and preserve the health of employees. Globally, women and men experience different realities at work, at home and in their communities, with women often at a disadvantage. According to the World Health Organisation, even when women and men perform exactly the same tasks, they can still be exposed to different risks. For men and women workers, their families and communities, measures and activities that are taken to address occupational health and safety can lead to better health and well-being. Namely, as special attention is paid globally to the epidemics of chronic diseases, the issue of occupational health is in the focus in terms of: (1) the relationship between employee health and the astronomical costs associated with it and (2) the double role of the workplace as a major source of health issues and as a central place for more effective implementation of health interventions. Work/workstations are known to be a major source of many health problems in the modern society, including a sedentary work style, lack of balance between family and professional life and increased demands from employees. People spend most of their time at work, or 2/3 of their time after waking up. Due to the dominant representation of the intellectually-intensive activities in the modern world, sedentary environment where people tend to sit for long periods of time has become the standard working environment. Such working conditions are associated with being overweight and obese. In addition to physical health issues, the workplace is also a major source of mental health problems. Stress, depression and anxiety are the number one cause of all absences from work and account for almost half of all reported work-related illnesses. Therefore, the World Health Organisation and other organisations working on the exercise of the right to health are increasing efforts to tackle this problem by designing work space that would allow physical movement of employees, use of stairs, adequate levels of indoor air quality, appropriate temperature, lighting and acoustics, proper use of toxic materials and construction materials, etc. In our country, this issue is governed by the Law on Occupational Health and Safety.

In terms of security, some studies show that female judges are more exposed to security risks and criticism than their male counterparts. Therefore, there is a need to assess whether and how the safety of men and women judges in appellate courts can be jeopardised and appropriate safeguards taken, in or out of court, accordingly.

There are a number of studies that examine the impact of gender on the use of ICT technologies and that have found that men and women have varying degrees of acceptance, and thus use, of these technologies. Hence, how men and women use in-house communication channels and whether there are differences, and their preferences, should be the subject of further analysis.

One of the structural barriers women face in the workplace, including those working in the judiciary, is sexual harassment. This court does not have a separate procedure for dealing with harassment cases in the workplace and to present such a case has not been reported.

1.7. CONCLUSIONS & RECOMMENDATIONS

INDEPENDENCE AND IMPARTILITY

The representation of female judges is declining in this court, but the interest in applying for the position of justice is still high among women. There is no data on how the general and specific conditions for the election of judges may affect men and women candidates for justices in the Supreme Court. There is also no data on whether and how the conditions and criteria for assessing incompetence and negligence affect men and women and how they affect their professional development opportunities. There is no data on the representation of male and female justices in the various divisions of the Supreme Court. There is no information on transfer of justices from one division to another upon request from the judges, nor against their will. We recommend: **(1) legal requirements for selection and assessment of judges and court presidents to be analyzed from a gender perspective and, if certain factors are found to have an adverse effect, to be improved; (2) to examine factors that may limit or prolong candidacy of women for the position of a justice of the Supreme Court, in particular taking into account their ethnicity and take appropriate measures after establishing the situation; (3) to prepare an analysis of how female judges deal with the balance between family and professional responsibilities and take appropriate measures; and (4) analyze the areas in which female judges work and examine whether they have equal opportunities for specialisation.**

EFFICIENCY

None of the divisions has provided sex-disaggregated statistics on any of the performance indicators in the answers to the questionnaire provided to this court. Therefore, it is not possible to analyze and determine whether and to which extent male and female justices meet the efficiency criteria. We recommend: **(1) The Supreme Court needs to introduce and compile sex-disaggregated statistics for all parameters of its work divided by type of cases, after which, if possible, based on the priorities and needs of men and women, appropriate gender interventions and measures should be taken.**

TRANSPARENCY AND ACCOUNTABILITY

The absence of such statistics and the failure to publish statistics is problematic as it can conceal problems and deficiencies and thereby disrupt the process of analyzing and gathering evidence to improve the situation. In our case, this may contribute towards preventing actual participation of women in the judiciary by holding judicial office or as an employee in the professional departments of the court, as well as towards disregarding the real needs of women in pursuing this profession. We recommend: **(1) to introduce regular collection of all sex-disaggregated data, including publication thereof, so that it would serve as a basis for preparing gender analysis and undertaking all necessary gender interventions and measures.**

QUALITY OF JUSTICE

There is no evidence that the organisation of the work of the courts in general, including the work of the Supreme Court, has been considered in terms of the barriers that women may face in pursuing their profession. Hence, we recommend: (1) the work of this court, that is the organisation of its operation, needs to be subject to a gender analysis in order to identify factors that may adversely affect the quality of justice and to take appropriate counter measures.

HUMAN RESOURCES

There are no gender-disaggregated statistics on all key issues that may concern women judges and professional court staff. Compared to 2016, the current situation shows a decrease in the participation of women judges in this court. Apart from the judges, the data show that women are generally more represented in this court, but this is not the case with women of certain ethnicities and with the representation of women in management positions and in the position of court president. There are no measures that indicate that the organisational setting and the work process are adjusted to the phenomenon of "feminisation" of the judiciary. There is no procedure for workplace harassment. There is no detailed data on continuous professional development for judges, except days of attendance. The issue of the status and training of professional staff, especially when it is consisted of women, deserves special attention in this court, especially because of the high incidence of court staff leaving the court. There is also no data on the professional development of justices by attending conferences, seminars and trainings in the country and abroad, although special funds are earmarked for this purpose. We recommend: **(1) regular keeping and analyzing of data and taking appropriate measures regarding the representation of women in the staff, and in particular the representation of women among court associates, including representation of women of different ethnicities; security of employment - part-time employment and permanent employment for an indefinite period of time; participation of women in recruitment of staff on various grounds; and women in managerial positions; (2) introduction of a procedure for sexual harassment in the workplace; (3) analysis of the professional training and specialisation of judges so as to enable their appropriate promotion.**

WORKING CONDITIONS, TECHNICAL RESOURCES AND ICT TECHNOLOGIES

There are no data available on whether existing working conditions, including technical and information technologies, are in line with the needs and preferences of men and women, including security risks. We recommend: **(1) pay special attention to all three issues in the future, analyze them and take into account the needs and priorities of men and women, take measures accordingly and prevent factors that may affect productivity and efficiency of operation to reduce.**

ANNEX 2 - MINUTES OF FOCUS GROUP HELD WITH THE JUSTICES OF THE SUPREME COURT OF RNM

Date: 18 November 2019

Focus group purpose: In the framework of the GGF MK 12 project "Improved efficiency and effectiveness in the delivery of justice in the Republic of North Macedonia by improving the performance of judicial institutions" funded by the United Kingdom of Great Britain and implemented by PwC/CLRA, a workshop of the focus group for the preparation of the Functional Analysis for the Supreme Court of the Republic of North Macedonia (SC of RNM) was held. The purpose of the workshop was to provide a comprehensive approach to the preparation of the Functional Analysis of the SCRNM by exchanging views and obtaining additional information on specific topics that are integral to the functional analysis (FA). This will allow for a full presentation of the factual situation at the SCRNM and for precise formulation of recommendations for improvement.

Attendees: The attendance list is given in Annex 1

Introductory addresses

The meeting was opened by CLRA Programme Manager and key project expert **Zarko Hadzi-Zafirov**, who presented the current GGF MK 12 programme "Improved Efficiency and Effectiveness of Delivery of Justice in the Republic of North Macedonia by Improving the Performance of Judicial Institutions", with special focus on Project Component 1 which provides support to the Supreme Court and the four appellate courts. Hadzi-Zafirov explained that the FA for the SCRSM aims to present the current situation in the court and make recommendations for its improvement. It was explained that the methodology of preparing the analysis was defined with the already completed analyses of the administrative courts and the Academy for Judges and Public Prosecutors. He further explained that the current project is a step forward as it assesses the situation and the capacity of the higher courts by preparing functional analyses and plans for improvement of the appellate courts, the Supreme Court, the Public Prosecutor's Office and the Council of Public Prosecutors of the Republic of North Macedonia. This deepens the process of assessing the factual situation of the judicial institutions. The aim is to assess the capacity of all courts by 2021 and to launch effective systemic solutions. Hadzi-Zafirov emphasised the importance of inclusiveness in the process, the involvement of judges in the evaluation processes through focus groups as the most affected and directly involved parties. He explained that focus groups had already been held with the four appellate courts which provided key insights and conclusions to be covered by the Functional Analysis.

Hadzi-Zaffrov also briefed on current efforts to reform the judiciary through UK Development Cooperation and PwC / CLRA joint activities. He also referred to previous assistance provided by the United Kingdom aimed at strengthening the rule of law in the country by supporting the reform processes implemented through the GGF MK03 programmes "Improving the Efficiency and Effectiveness of Administrative Justice in Macedonia" and GGF MK05 "Creating a Matrix for Monitoring the Performance of the Public Prosecutor's Office."

Ana Pavlovska - Daneva (Legal Expert for Component 1) referred to the importance of FA preparation. She explained that to present a functional analysis of the appellate courts and of the Supreme Court has not been conducted and that this was a great opportunity to identify challenges

from an organisational and functional point of view that could hinder the exercise of the courts' powers and to propose concrete measures to overcome the situation. Pavlovska - Daneva explained that through the positive examples of the actual situation in the judicial institutions it would become evident that one should not generalise the poor perception of the situation in the judiciary.

Pavlovska-Daneva presented the approach taken in the development of the functional analysis i.e. that the methodology for functional analysis of public sector institutions adopted by the Ministry of Information Society and Administration was used. She explained that functioning of courts will be assessed through 5 indicators - efficiency, transparency, quality, independence and training. The findings will be presented by way of the so-called "traffic light system" (red - marked in red are the sub criteria according to which the institution is rated as insufficiently ready; yellow - marked in yellow are the sub criteria according to which the institution is rated as partially ready; green - marked in green are the sub criteria according to which the institution is rated as solidly ready).

Pavlovska - Daneva emphasised that the courts are the bearers of the process, as the FA is prepared based on the information and opinions received from the courts and that the improvement of the situation depends not only on the policies of the government, but also on the efforts of the courts to improve the circumstances for which are their responsibility.

Topic discussions (a summary of views of the justices in the SCRNM)

- Regarding the statutory jurisdiction of the SCRNM for uniform application of the law and **harmonisation of the case law**, an issue was raised in relation to the views previously expressed by the four appellate courts: that they do not receive legal opinions from the SC or that they receive them with delay. In this context, Acting President Faik Arslani explained the current situation in the court. He explained that the Supreme Court has a wide range of powers, and given that the current number of justices is significantly reduced compared to the number required with the Judicial Council decision, the court is unable to respond promptly to all requests for opinions on the legal issues. The acting president also informed that justices are divided into several panels. The presence in the panels is required and if all justices are not present the panels' deliberations are postponed. In this context, justice Arslani expressed hope that the situation would improve given the fact that at present underway are a procedure for the election of three justices of the Supreme Court and an announcement for vacancies in the court service.
- With respect to the court's responsibility to ensure uniform case law and to cooperate with appellate courts on this matter, some of the SC justices explained that they regularly participate in workshops held between the four appellate courts. But they expressed dissatisfaction with the fact that they were receiving the questions of the appellate courts shortly before the meetings; hence, due to time constraints, they were unable to provide and present the legal opinions at the meetings.
- The justices explained the jurisdiction of the Case Law Division. It decides for which decisions sentences will be prepared as basis for developing the case law. They stressed that the **Functional Analysis must emphasise the court's need to strengthen this division's capacity** by employing at least three justices, increasing the number of expert associates, as well as administrative staff that would be involved in the technical processing of data. They mentioned that judges who are already retired but who have significant experience in certain legal areas could make a significant contribution to the work of this division.

- To overcome this situation, it was concluded that there was a **need to develop a concept of cooperation between the SCRNM and the appellate courts** so as to determine the modalities of cooperation for the sole purpose of the uniform application of the law and harmonisation of the case law. This concept would identify modalities of cooperation that can be further regulated by rulebooks, guidelines and other acts.
- The principles of independence and impartiality in the judiciary were mostly discussed from the financial management point of view. In this context it was emphasised that the **independence of the judiciary was largely conditioned by the financial dependence from the executive power**. The position of some judges is that the judiciary should have its own budget and treasury system wherein a quarterly tranche from the RNM Budget would be transferred; and that the Judicial Budgetary Council should be the sole institution responsible for financial operation of the courts. This would overcome the current administrative procedures for approving employments and procurements by the Ministry of Finance which significantly affect the effectiveness of the work of the court. This function would be performed by the Judicial Budgetary Council. The judges concluded that a key solution would be to consistently apply the statutory provisions governing the amount of the judicial budget (0.8% of GDP), as opposed to the current 0.3% that fail to satisfy the financial needs of the judiciary.
- With regard to the assessment of judges, the SCRNM shares the view of the four appellate courts that the assessment of judges should not be done by the RNM Judicial Council, but rather judges should be assessed by their peers, from higher to lower courts.
- All judges present were of the opinion that the **liability for decisions taken by the panels** should be born by all judges who are members of the panel, not just by the reporting judge.
- Regarding the provisions of the Law on Criminal Procedure that require hearings to be held in the event of a quashed or overturned decision (i.e. when the first-instance court erroneously established the factual situation), some justices of the Supreme Court argued that such statutory provisions should not be revised as in such case the law would not be in the interest of the parties. This view contradicts the views of the four appellate courts which maintain that the said statutory requirements pose a time constraint on the procedure.
- SCRNM Acting President noted that the Law on Criminal Procedure had serious legal gaps and collision of legal norms the result of which is incompliant approach to making court decisions.
- As concerns the **vetting, as announced reform process in the judiciary**, some judges stated that they did not support it in general and that it should not be viewed as the only measure that could guarantee quality of the judiciary. They explained that the entire justice system should be based on principles and standards that would guarantee quality and independence of the judiciary, as well as the individual liability for criminal offences by judges.
- Judges have emphasised the need for **continuous professional development through comparing experience with the supreme courts of the countries of in region and in the EU member-countries**, but mostly on issues related to the case law of the European Court of Human Rights.

SCRNM Acting President stressed that the **Functional Analysis should emphasise the overwhelming need of the SCRNM for an ICT solution** (system or database) that would allow easy search through the court cases by applying multiple criteria. This would facilitate access to court case law and would increase the efficiency of court.

ANNEX 3 - MINUTES OF FOCUS GROUP HELD WITH REPRESENTATIVES OF THE COURT SERVICE OF THE SUPREME COURT OF THE RNM

Date: 25 November 2019

Focus group purpose: In the framework of the GGF MK 12 project "Improved efficiency and effectiveness in the delivery of justice in the Republic of North Macedonia by improving the performance of judicial institutions" funded by the United Kingdom of Great Britain and implemented by PwC/CLRA, a workshop with the court service of the Supreme Court of the Republic of North Macedonia was held. The purpose of the workshop was to provide a comprehensive approach to the preparation of the Functional Analysis of the SCRNM by exchanging views and obtaining additional information on specific topics that are integral to the functional analysis (FA). This will allow for a full presentation of the factual situation at the SCRNM and for precise formulation of recommendations for improvement.

Attendees The attendance list is attached to the text, below

Introductory addresses

The meeting was opened by CLRA Programme Manager and key project expert Zarko Hadzi-Zafirov, who presented the current GGF MK 12 programme "Improved Efficiency and Effectiveness of Delivery of Justice in the Republic of North Macedonia by Improving the Performance of Judicial Institutions", with special focus on Project Component 1 which provides support to the Supreme Court and the four appellate courts. Hadzi-Zafirov explained that the FA for the SCRNM aims to present the current situation in the court and make recommendations for its improvement. It was explained that the methodology of preparing the analysis was defined with the already completed analyses of the administrative courts and the Academy for Judges and Public Prosecutors. He further explained that the current project is a step forward as it assesses the situation and the capacity of the higher courts by preparing functional analyses and plans for improvement of the appellate courts, the Supreme Court, the Public Prosecutor's Office and the Council of Public Prosecutors of the Republic of North Macedonia. This deepens the process of assessing the factual situation of the judicial institutions. The aim is to assess the capacity of all courts by 2021 and to launch effective systemic solutions. Hadzi-Zafirov emphasised the importance of inclusiveness in the process, the involvement of judges in the evaluation processes through focus groups as the most affected and directly involved parties. He explained that focus groups with the Supreme Court justices and with the four appellate courts were already held and provided key insights and conclusions to be covered by the Functional Analysis.

Hadzi-Zaffrov also briefed on current efforts to reform the judiciary through UK Development Cooperation and PwC / CLRA joint activities. He also referred to previous assistance provided by the United Kingdom aimed at strengthening the rule of law in the country by supporting the reform processes implemented through the GGF MK03 programmes "Improving the Efficiency and Effectiveness of Administrative Justice in Macedonia" and GGF MK05 "Creating a Matrix for Monitoring the Performance of the Public Prosecutor's Office."

Topic discussions (a summary of views of the employees in the SCRNM court service)

SCRNM Financial Operation

- At the beginning of the meeting it was agreed that representatives of the expert departments of the SCRNM would submit to the CLRA the 2016 final account as well as the budget circulars, the public procurement plan and the budget projections for 2019 and 2020, having in mind that the functional analysis would be followed by an Improvement Plan.
- The representatives of the court departments explained the manner of determining the annual budget of the Supreme Court. The budget is prepared in such a way that the Judicial Budgetary Council (JBC) prepares a circular document that sets out the instructions to be followed by the SCRNM when submitting the court circular documents to JBS by 1 June of the current year at the latest, which are then forwarded to the Ministry of Finance. When developing the budget, the Supreme Court may give proposals only in respect to expenditures that do not include payroll and capital expenditures. ICT expenditures for all courts are included in the SCRNM budget. The budget rebalance includes receivables that were not previously covered and the JBS usually accepts them. In this context it was stressed that the SCRNM does not have a representative in the Judicial Budgetary Council from the ranks of the court administration and that this inconsistency must be corrected.
- Representatives noted that when they were planning the budget they requested 9 million denars for facade renovations which were approved; however, they could not carry out this activity due to problems with the building's deed.
- The security infrastructure at the SCRNM is at a satisfactory level. Access to the premises is allowed with specialised cards. New video surveillance equipment has been procured, and metal detectors will be installed this year.

Judicial Police and Court Building Security

- A problem highlighted by the staff was the fact that security service does not have a standardised quality of weaponry and a standard police uniform. They also stated that there was a lack of judicial police officers and that they were unevenly deployed. To present, judicial police officers were recruited via transfers from other institutions, but the hired people were not adequate for these positions. The transfer procedure was carried out by the Ministry of Justice. It was concluded that such problems could be overcome by central procurement of uniforms for the entire judiciary while respecting the standards prescribed for the judicial police. It was further concluded that it was necessary to introduce personnel policies so as to proportionally deploy judicial police officers across the courts in the RSM.
- The staff reported that the judicial police had not attended specialised training for a long period of time and that planning a training for this category of court employees should be considered by the AJPP.

Human Resources

- The court currently employs 18 justices and 22 expert associates who are distributed among three panels together with the justices.
- Regarding the current job systematisation and allocation of jobs, it was mentioned that the position of Secretary General whose duties are now carried out by the Court Administrator should not have been removed from the SCRNM as that position had maintained the hierarchical level of horizontal communication with other secretaries general in other institutions.

- In terms of financial planning, it was emphasised that this should be done by the SCRNM as before, not by the JCRNM.
- Regarding the status of the court administration, staff explained that the court is particularly concerned with the current trend of professional staff leaving the court. Namely, the SCRNM as the highest court in the country must attract the highest quality staff as opposed to the current trend of losing them. At the moment, all managerial positions in the court are vacant.
- Regarding the status of expert associates, the position of the staff is that promotion and titles should follow the hierarchy of the judiciary as previously regulated by the Law on Courts of RNM. More precisely, the apprentices should be engaged in the first instance courts and the expert associates in the SCRNM should have the highest titles in their domain. This would prevent the expert associates from leaving the court and would increase their motivation. In this context, it was also mentioned that reassignment of expert associates should be conducted with internal calls and that this mechanism should become functional.
- The number of expert associates in the SCRNM is small and does not meet the needs for the day-to-day operation of the court. An example was given of an expert associate who works on case law but at the same time also attends time-consuming civil division trials, which restricts his productivity for working on cases in the case law division.

Ensuring uniform case law

- Concerning one of the fundamental powers of the SCRNM - harmonizing the case-law in RSM, the court staff stressed that the court must strengthen its role in this area. In this context, the need for strengthening of the Case Law Division with at least three expert associates was discussed. It was also concluded that it was necessary to go back to the practice of visiting lower courts and resolve open issues concerning harmonisation of case law on the spot.

ICT technologies in the SCRNM

- In this context, the challenge of disseminating each court sentence via intranet was mentioned. The sud.mk portal has been widely used by expert associates and was found to be of great help to the judicial professional community, but to ordinary citizens it is not so user-friendly as it is too specialised. Hence, the possibility of optimisation of these services was mentioned and it was concluded that the portal has the potential for updates.
- A new Strategy for Information and Communication Technology in the judiciary has been prepared and will be implemented first in the judiciary and then in the prosecution. The ICT Center at the SCRNM is the central hub for all courts (ACCMIS procurement, network equipment, data protection, firewalls) and needs to be upgraded. It was concluded that the ICT Center for the whole judiciary should be located at the SCRNM, but no final decision has been made on this yet.