



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

**RECOMMENDATIONS**

**11th Session of the Working Group – 3, Judiciary and Fundamental Rights (Chapter 23)**

***Topic: "REGULATION, PRAGMATIC CONTEXT AND EFFECTS VIS-À-VIS  
CHAPTER 23 AND THE RESPONSIBILITY OF RELEVANT ENTITIES IN THE  
ADMINISTRATION OF JUSTICE IN THE REPUBLIC OF NORTH MACEDONIA"***

**(Role of the Judicial Council and the Council of Public Prosecutors in attaining  
independence and integrity in the judiciary)**

1. When electing or dismissing a judge/president of a court, most often the public is not aware of the reasons for making such a decision by the Judicial Council. There is no good explanation that will state the arguments of the members of the Judicial Council, for or against, for making the final decision. In order to remove doubts about the independence of the work, it is necessary for the Judicial Council to increase transparency by publishing well-reasoned decisions on the reasons for the election or dismissal of a judge/president of a court.
2. Most procedures for the election of judges to a higher court last almost two years, which questions the independence and autonomy of the Judicial Council for the election, whether there are external influences that delay these procedures in order to elect certain judges. It is recommended that the Judicial Council speed up the procedures for electing judges to the higher courts.
3. Considering the competence of the Judicial Council to conduct regular and extraordinary evaluation of the work of judges, considering that it regularly receives monthly reports on the quantity and quality of the work of the courts as a whole, as well as for each judge in particular, the Judicial Council, in addition to reactively (on complaints from citizens, research from media or civil society organizations), should act proactively and take appropriate measures if it determines that a judge does not perform his function in accordance with the prescribed norm or has a number of backlog and unresolved court cases. With such a course of action, the Judicial Council can act preventively and react in a timely manner in preventing the obsolescence of cases, resolving old cases and increasing the efficiency of the handling of court cases.

4. It is recommended that the Judicial Council conduct extraordinary controls of the work of judges, and if it finds that a judge is unskilled or recklessly performing his function, has a large number of outstanding cases, obsolete cases, or without justifiable reason postpones the cases, to initiate disciplinary proceedings or dismissal of that judge.
5. It is recommended that the Judicial Council carefully review the reports on the operation of the ACMIS system, on a monthly basis, and determine whether there are any malfunctions or abuses of the system itself. Based on regular reports, complaints about abuses or other findings, the Council should request an extraordinary control of the ACMIS system.

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6. It is necessary to reform the functioning of the Council of Public Prosecutors so that it becomes an ad-hoc body that will work on the basis of real needs.
7. It is necessary to prescribe minimum conditions that should be met by the members of the Council of Public Prosecutors who do not come from among the public prosecutors, such as: years of service, specific type of professional experience, while it would be appropriate to prescribe a direct ban on the election of persons who performed public functions upon the proposal of the Government or the Parliament;
8. It is necessary to increase the transparency in the work of the Council of Public Prosecutors - to legally prescribe an obligation for the members of the Council to give an explanation for each decision they have made (first of all, on selection and promotion decisions, because the dismissal decision certainly contains an explanation) and to have the obligation to publish the minutes of the sessions in non-anonymized form;
9. The reports on the work of the Council of Public Prosecutors, among other things, should contain data on:
  - the action taken after each published vacancy advertisement, the duration of the entire procedure, with an explanation of the period during which preparatory activities such as interviews and the like were undertaken, the volume of work (number of registered candidates, number of interviews conducted and the like), how long it took to make a decision from the last interview until the decision, and why etc.;
  - the handling of disciplinary actions, with data on the type of violation, actions taken, decisions taken, etc. to be available after the final conclusion of the procedure;
  - the work of each of the Council members individually, such as statistics on the attendance at sessions, on the manner of voting at sessions, on additional activities they have had, etc.

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10. It is recommended to make an analysis of the actions of the Judicial Council and the Council of Public Prosecutors with regard to their “punitive” or sanctioning competence



for the period 2020 – 2023, in order to determine the number, nature and severity of violations committed by judges and public prosecutors, which the councils acted upon, as well as the type of disciplinary sanctions imposed.

11. The Judicial Council and the Council of Public Prosecutors should analyze the reflection of the new methodology/rulebook for evaluation in the judiciary, in terms of the selection of judges and public prosecutors and disciplinary responsibility - in terms of how much it is applied and whether it facilitates this process for the councils and other competent authorities and whether the procedures are faster and more efficient.
12. Based on the above analysis, but also on the basis of comparative experiences, it is recommended to consider the possibility of possible legal changes to the liability provisions of the members of the Judicial Council and the Council of Public Prosecutors - in terms of checking and evaluating their work or omitting to take action that directly affects the public's confidence in the judiciary and the general perception that "no one controls the controllers":
  - Namely, in view of the possibility that the Parliament may not adopt the annual report, the question arises as to how the possible collective liability will be achieved, because the current solutions seem to make it impossible.
  - Furthermore, the provisions of Art. 34 of the Law on the Judicial Council and Art. 35-b of the Law on the Council of Public Prosecutors, which govern the matter of the grounds for filing a request for disciplinary action against a member of the Council, as well as the articles that further govern this procedure, should be seriously reexamined in terms of their consistency, applicability and possibility for objective decision, as well as in terms of the question whether such provisions can achieve the expected results.