

***Contract Enforcement and Judicial Systems  
in Central and Eastern Europe***  
Warsaw, Poland, June 2005.

**Republic of Macedonia**

- 1. What have been your country's (or territories) 2-4 most successful achievements in the area of judicial reform in recent years, and what were the main factors contributing to that success?**

The process of transition of Macedonia towards an economically developed, modern, democratic and legal state and civil society encountered certain weaknesses, hence, the need to intensify the reforms in all of the segments of societal life. To that end, the Government of the Republic of Macedonia has identified the need to reform its judicial system as a strategic priority. In addition, the reform of the judicial and legal system of the Republic of Macedonia also stems from the ratification of the Stabilization and Association Agreement with the EU.

The reform of the judicial system needs to be seen as a part of a well-synchronized complementary reform project that encompasses: the reform of the executive power and the public administration, as well as the reform of local self-government in line with the economic reform.

The reform of the judiciary in the Republic of Macedonia is based on the Strategy for the reform of the judicial system adopted by the Government of the Republic of Macedonia in November 2004. All activities in the framework of the reform are realized according to the Action plan for the implementation of the Strategy. Also the significant steps were made before the adoption of the Strategy for the reform of the judiciary. Namely, a lot of laws in the field of judiciary were adopted or amended in the period before the Strategy was adopted (The law on the court budget, the Law on the Public prosecution office, the law on the Criminal Code etc.).

As main achievements in the previous period it is important to mention the adoption of the Law on Enforcement, the Law on the amending the Law on the Criminal Procedure and also the Law on the Civil Procedure which is in the final stage of the adoption (second reading before the Parliament).

With the new Law on Enforcement the process of enforcement of the final court judgments is completely excluded from the courts and the private bailiffs licensed by the Minister of Justice shall perform it. This concept will abandon the favourable position of the debtor and will also considerably reduce the bases for revoking the institutes of appeal and objection.

With the Law on the amending the Law on the Criminal Procedure the special investigative measures for heavy criminal acts connected with the organized crime were introduced, as well as witness protection program and liability for legal persons.

The new Law on Civil Procedure will determine clear positions of the court and the parties in a proceeding; will introduce more order and discipline in proceeding; and will ensure clear, precise

submissions to the courts within a certain timeframe to enable a given court to properly apply the law and reach a decision. The novelties will also include: reviewing the notion of "substantive truth", i.e., investigation and hearing principle, and shifting the burden of proof to the parties; preventing the introduction of new facts and evidence in appeal procedures; introducing fines for abuse of authority by parties in a procedure; specifying a new way of summoning; abandoning the institute of adjournment of trial; and redefining some extraordinary legal remedies.

The Government of the Republic of Macedonia also initiated the procedure for amending the Constitution. In that sense, in May 2005 the Parliament adopted the Proposal for initiating the Constitution's amending and the main goal of those changes is to increase the independence of the judiciary

## **2. What major problems do you currently face with regard to:**

- **judicial independence**
- **judicial efficiency**
- **judicial accountability**

The analyses on the functioning of the judiciary in the Republic of Macedonia up to date identify a significant number of weaknesses in the system which addresses all three areas. The biggest problem seems to be the judicial inefficiency that reflects on:

- slow procedures and inaccessibility of justice;
- difficult and prolonged enforcement of final decisions in the civil cases;
- overburdened judicial institutions with minor cases;
- unorganised case management;
  - obsolete IT equipment and insufficient use of IT;
  - insufficient coordination between the Supreme Court, State Judicial Council and the Ministry of Justice;
  - insufficiently skilled human resources, in professional and ethical terms;
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The problem with the judicial independence seems to be connected with

- the actual Constitutional and legal solutions for selection of judges and appointment of Public Prosecutors enable political influences;
- absence of detailed criteria for financing courts and the Public Prosecution;
- poor economic situation of the judges and court's employees;

The problem with the judicial accountability seems to be connected with:

- the lack of continuous education system of judges, public prosecutors and other staff of the judiciary and the Public Prosecution;
- instances of unprofessional and unconscientiously behaviour and corruption;
- underdeveloped public relations

## **3. What is your top priority in the coming year for improving the judicial system? How do you plan to address this priority?**

According to the Strategy for the reform of the Judiciary adopted by the Government of the Republic of Macedonia and the Action plan for its implementation all the reform's activities are directed in the following areas: reform of the court system, reform of the public prosecution office, reform of the penitentiary system, reform of the public attorney, reform of the bar and reform of the Notary.

The judicial system reform encompasses: substantive law reform, procedural law reform, and structural reform. Structural reform, on the other hand, covers the relations between the specific institutions within the judicial system, including their internal organization and competencies.

The substantive law reform, which directly is related to the contents of the functions of the judicial system, aims at setting up a new legal framework in line with European and international standards, a new system of legally recognized and protected values based on human freedoms and rights and other principles of democratic society and legal State.

The procedural law reform, which contains the basic tools for performing the functions of the judicial institutions, aims at prompt access to justice, prompt and easy exercise of the rights and interests of citizens and legal entities, litigation guarantees for protecting human rights through the mechanisms of the justice system. One of the direct effects of the reform should increase the efficiency of the judicial institutions and decrease the number of pending cases.

The structural reform, which covers the institutions of the judicial system, aims at redefining the position and competencies of specific bodies for the purpose of setting up efficient, stable, impartial, independent and accountable institutions, including the relations within the institutions based on professional, competent, ethical output and protection from abuse and corruption. As part of this goal, special attention is given to the strengthening of independence of the judiciary and the Public Prosecution, especially from political influence of the other two powers, by means of re-defining the status of the judges and public prosecutors, including the procedures for their selection and election, the system for dismissals and promotions, and the salary system.

In the framework of the reform activities, special attention is paid to the reform of the public prosecution organization in all of its segments, stressing the need to expand the constitutional and legal framework to provide for a new way of electing public prosecutors, and raising the level of efficiency of its basic function.

In the field of penitentiary institutions the Strategy contains measures to improve the system of executing penal and misdemeanor sanctions, with a special emphasis on alternative sentencing as a new type of sanctions.

The aim of the reform in the public attorney, the bar and the notary is to strengthen the capacity of these institutions and to increase their efficiency.