



The project is funded
by the Foundation Open Society - Macedonia



Comments of the Blueprint Group for Judicial Reform on the Report of the European Commission 2022 in relation to the judiciary – How far have we come and what next?

The reforms in the judiciary, just like stated in the last year's report¹, have progressed to some extent, unlike the good progress noted in the reform processes in other areas, as stated in the European Commission (EC) reports for 2018², 2019³ and 2020⁴. This is also visible in the implementation of the recommendations given in the previous reports, primarily in the report from last year, which are in most part the same or slightly modified. However, the level of compliance remains unchanged from 2019, i.e. North Macedonia has achieved some level of preparation / is moderately prepared.

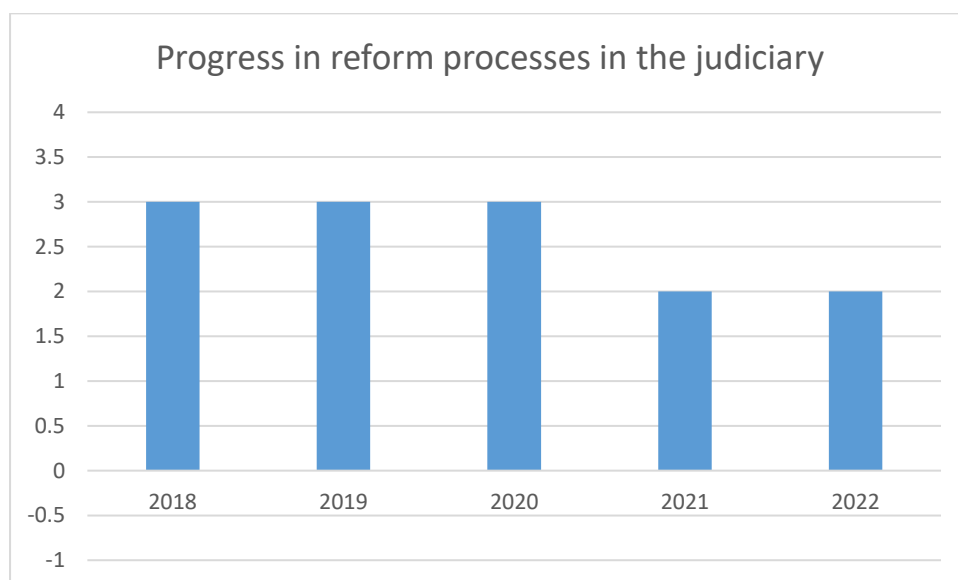


Table 1. The table was prepared as per the Methodology of the European Policy Institute. The progress in the reform processes is measured on a scale of 1 to 4

¹ EC, Republic of North Macedonia, 2021 Report (European Commission 2021) [EC, 'Republic of North Macedonia 2021 Report' (European Commission 2021)] < https://neighbourhood-enlargement.ec.europa.eu/north-macedonia-report-2021_en>.

² EC, Former Yugoslav Republic of Macedonia, 2018 report (European Commission 2018) [EC, 'The Former Yugoslav Republic of Macedonia 2018 Report' (European Commission 2018)]<<https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-the-former-yugoslav-republic-of-macedonia-report.pdf>>.

³ EC, Republic of North Macedonia, 2019 Report (European Commission 2019) [EC, 'Republic of North Macedonia 2019 Report' (European Commission 2019)] < <https://neighbourhood-enlargement.ec.europa.eu/system/files/2019-05/20190529-north-macedonia-report.pdf>>.

⁴ EC, Republic of North Macedonia, 2020 Report (European Commission 2020) [EC, 'Republic of North Macedonia 2020 Report' (European Commission 2020)] < https://neighbourhood-enlargement.ec.europa.eu/system/files/2020-10/north_macedonia_report_2020.pdf>.

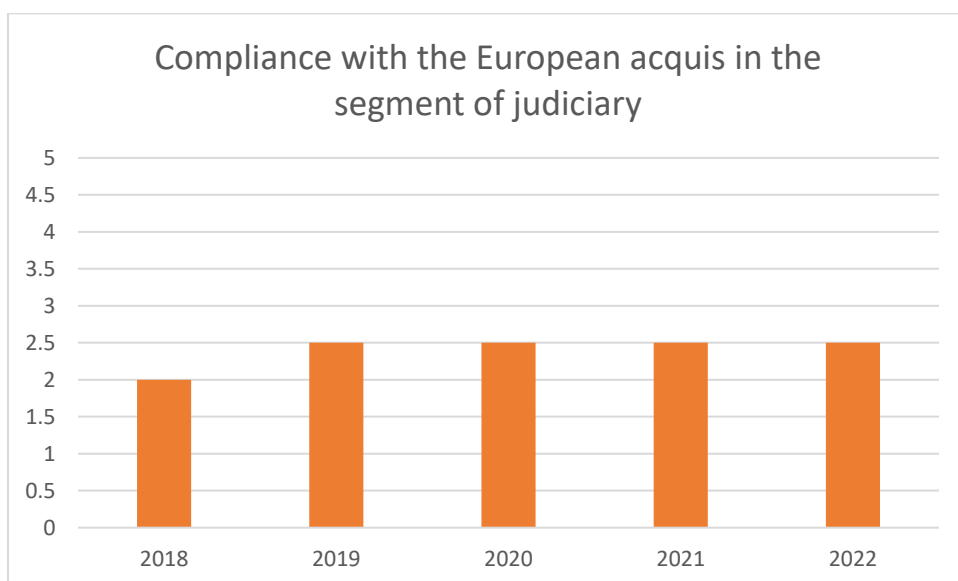


Table 2. The table was prepared as per the Methodology of the European Policy Institute. Compliance is measured on a scale of 1 to 5

This year's progress, just like stated in the reports from 2021, 2020 and 2019, is due to the implementation of the Judicial Reform Strategy 2017-2022 (the Strategy), which further addresses the recommendations made by the Venice Commission and the group of senior experts on systemic rule of law issues. With this, the EC underlines the importance of consistent implementation of European standards in the area of judiciary as well as of the recommendations made by the Venice Commission and the group of senior experts on systemic rule of law issues.

In this report it is significant that the European Commission welcomes the initiative for preparing a new Judicial Strategy, which preparation shall be inclusive and transparent and will consider lessons learned. The Commission notes that the amended Action Plan for the implementation of the existing Judicial Reform Strategy should continue to be implemented systematically. However, the EC again in its key recommendations emphasizes the importance of the adoption of the Draft Law on Civil Procedure as one of the legislative measures envisaged in the new Judicial Reform Strategy. The implementation of the Human Resources Strategies in the Judiciary and in the Public Prosecution Office, for which the EC notes that there is limited progress, is also of utmost importance. In this regard, the Commission emphasizes that there is less progress in this area compared with the progress detected generally for the entire area of judiciary. In order to have quality judicial system, the personnel needed must be planned in advance and the EC explicitly emphasizes that the implementation of the Human Resources Strategies in the judiciary and in the prosecution needs to be accelerated, considering that as of June there are 48 judges and 11 prosecutors less due to retirement.

The content of this document is sole responsibility of the authors and the grantee, and can in no way be considered to express the views and opinions of the Foundation Open Society - Macedonia.

As for the governing bodies, the EC is even more reserved about the Judicial Council which is supposed to be the guardian of independence of the judiciary. In the report for 2020⁵ the proactive role of the Judicial Council was praised, while in the report in 2021⁶ the need to maintain the role of the Judicial Council as guardian of the judiciary was emphasized. This year, the EC is more critical and notes that the Council needs to strengthen its role as guardian of independence and impartiality of the judiciary, as well as to improve transparency. Regarding the work of the Council of Public Prosecutors, it is stated that it is necessary the Council to reason publicly its decisions and to ensure regular access of the media to its sessions, which was not always possible due to the limited space and the restrictions in force due to Covid-19.

The obligations of both councils, the Judicial Council and the Council of Public Prosecutors, are of key importance in terms of promoting the independence of the judiciary and improving the perception of the citizens regarding the independence of the justice sector. In this regard, the report notes the signing of the Declaration on Open Judiciary, which is expected to improve transparency and increase public trust in the judiciary.

With regard to the upgrade of the ACMIS system, it is noted that it is necessary to provide acceptable statistical data, in accordance with the recommendations and the methodology of the European Commission for the Efficiency of Justice (CEPEJ), for the work of both the judiciary and the prosecution. Also, the ACMIS system should be fully functional and should accommodate the new methodology taking into consideration the complexity of cases and the methods used for evaluating judges and court presidents.

As of June 2020, the Judicial Council has dismissed six judges, and the Council of Public Prosecutors has confirmed the decision to dismiss one prosecutor.

The delay in the election of judges in higher courts and as court presidents in smaller cities is due to the use of the new evaluation methodology, as well as to the scheduled retirement of three members of the Judicial Council.

As in the previous year, the EC highlights that particular attention should be paid when adopting the new Law on the Academy for Judges and Public Prosecutors and the recommendations of the 2018 Evaluation Mission should be respected. This means that the AJPP should remain the only point of entry into the judiciary and the prosecution and should ensure a fair and transparent access to these professions. It is emphasized that the duration of the initial training for judges and public prosecutors should not be shortened.

A positive step forward has been made with the proactive role of the Supreme Court of the Republic of North Macedonia and the appellate courts working to promote consistency of judgments and harmonization of case law. Also, the Academy for Judges and Public Prosecutors should have an active role in recruiting new candidates and in developing cooperation with the European Judicial Training Network (EJTN) and the Academy of European Law (ERA).

⁵ EC, Republic of North Macedonia, 2020 Report (European Commission 2020) [EC, 'Republic of North Macedonia 2020 Report' (European Commission 2020)] < https://neighbourhood-enlargement.ec.europa.eu/system/files/2020-10/north_macedonia_report_2020.pdf >.

⁶ EC, Republic of North Macedonia, 2021 Report (European Commission 2021) [EC, 'Republic of North Macedonia 2021 Report' (European Commission 2021)] < https://neighbourhood-enlargement.ec.europa.eu/north-macedonia-report-2021_en >.

The content of this document is sole responsibility of the authors and the grantee, and can in no way be considered to express the views and opinions of the Foundation Open Society - Macedonia.

Disappointing is the fact that this year, just like in the previous years, the Commission expressed concern about the budget allocated to the judiciary and to the public prosecution offices. Unlike last year's report, this year the EC explicitly emphasized the need to urgently address low wages in the justice sector.

It is noted that the new Law on Mediation improved the quality of mediation and streamlined the application of the law by licensed mediators, yet continuous work is necessary to promote alternative dispute resolution, in cooperation with other key stakeholders, such as the Association of Judges and the Academy for Judges and Public Prosecutors.

[Recommendations to address the challenges identified in the report](#)

When analyzing the report, it is evident that many of the challenges and recommendations given in previous reports are still repeated in this one. Considering the findings and the recommendations given, as well as considering the results of the analyses prepared by the Blueprint Group and the civil society organizations - members of the group, in the following period it is necessary:

- To adopt the new Judicial Strategy and to work on its consistent implementation. It is also necessary to accelerate the implementation of the amended Action Plan to the existing Judicial Reform Strategy;
- To adopt the Law on Civil Procedure, which has been in parliamentary procedure for almost two years;
- With regard to the ACMIS system (Automated information System for Managing Court Cases), it is necessary to provide acceptable statistical data, in accordance with the recommendations and the methodology of the European Commission for the Efficiency of Justice (CEPEJ), for both the judiciary and the prosecution. Also, the ACMIS system should be fully functional and should accommodate the new methodology taking into consideration the complexity of cases and the methods used for evaluating judges and court presidents.
- A software for automated case management in the Public Prosecution Office should be developed and installed, which will enhance the efficiency in handling criminal charges, monitoring the investigation and prosecution process and will enable access to and processing of data;
- To adopt the Law on the Academy for Judges and Public Prosecutors that is at the Parliament procedure while implementing the recommendations of the 2018 Evaluation Mission. The AJPP should remain the only point of entry into the judiciary and the prosecution and should ensure a fair and transparent access to these professions.
- The Judicial Council should strengthen its role as guardian of the independence and impartiality of judges and should actively participate in all processes relevant to the judiciary;
- The Council of Public Prosecutors should permit the public to attend the sessions by allowing the presence of journalists, the professional public, civil society

The content of this document is sole responsibility of the authors and the grantee, and can in no way be considered to express the views and opinions of the Foundation Open Society - Macedonia.

organizations, as well as other interested citizens. The Council of Public Prosecutors should in particular increase its transparency and provide reasoning of its decisions;

- It is necessary to increase the budget and the funds available for the work of the Council of Public Prosecutors;
- The implementation of the Human Resources Strategies in the judiciary and in prosecution offices should be accelerated, especially with regard to new employments and employment planning;
- The budget of the judiciary and of the public prosecution office should be increased, as well as the budget for free legal aid. We expect that the next amendments to the Law on the Judicial Budget will fully respond to the need for funding of the judiciary and will be consistently applied in practice;
- The salaries in the justice sector should be increased;
- Mediation should be promoted by organizing promotional activities, in cooperation with other key stakeholders, such as the Association of Judges and the Academy for Judges and Public Prosecutors.

- Macedonian Young Lawyers Association (MYLA)
- European Policy Institute (EPI)
- Institute for Human Rights (IHR)
- Coalition “All for Fair Trials” (CAFT)
- Helsinki Committee for Human Rights (HCHR)
- Center for Legal Research and Analysis (CLRA)
- Foundation Open Society – Macedonia (FOSM)

The content of this document is sole responsibility of the authors and the grantee, and can in no way be considered to express the views and opinions of the Foundation Open Society - Macedonia.