

MONITOR:

IMPLEMENTATION OF URGENT REFORM PRIORITIES

Period: 20.11 - 15.12.2015

Implementation of the Political Agreement

The implementation dynamic of the Political Agreement was undermined by the breach of the deadlines, despite the insistence of the international community to reach an agreement "as soon as possible".¹ Media reforms, as major topic during negotiations for implementation of this Agreement, caused further stagnation of the process due to the disagreements between the political parties, but also requirements for inclusion of the media and journalists' organizations.

Upon few delays, an agreement on independent members of the State Election Commission was reached.

According to the statement by facilitator Vanhoutte, current items on the agenda are media laws, the Agency for Audio and Audio-Visual Media Services, public broadcaster MRTV and media penalties. Additionally, negotiations concerning the Ombudsman Office, the State Commission for Prevention of Corruption and issues pertaining to the Law on Defamation should be led.²

Rule of Law and Judiciary

Judiciary

Special Public Prosecution Office continues to respect the principle of transparency, and regularly notifies the public about activities on her personal Facebook profile and at press-conferences.³ In co-operation with the Ministry of Justice, the Special Public Prosecution Office drafted a Law on public prosecution service of this prosecution, which is necessary to complete the team with experts, investigators and administrative staff.. Nonetheless, the proposed law has not yet been tabled at a Government session; hence the Special Public Prosecution Office expressed concern as the process is lagging behind. Although the silence of institutions continued, as of December 13th all requested investigators from other institutions were assigned to this public prosecution, so that now the total number of investigators is 13. Since there was no response by the competent institutions, the following day the Special Public Prosecution Office submitted an initiative to the Government and all members of the Parliament on passing this law in urgent procedure.

The data submitted by the Public Prosecution Office were analyzed, and a plan on the pace of requests upon cases was drawn up. Initially, five cases⁴ among which the case "Puch", were requested. Public Prosecution Office

¹ Vanhoutte: Political parties may today reach an agreement on the experts at SEC. Telma. 9.12.2015. Available at: <http://www.telma.com.mk/vesti/politichkite-partii-deneska-mozhe-da-postignat-dogovor-za-ekspertite-vo-dik>.

Orav: The Agreement on SEC must be a priority of political parties. Telma. 10.12.2015. Available at: <http://www.telma.com.mk/vesti/oravpriorite-na-partiite-treba-da-bide-dogovorot-za-dik>.

² Vanhoutte: The selection of experts to SEC, an onset of a huge step forward in talks. MIA. 15.12.2015. Available at: <http://www.mia.mk/mk/Inside/RenderSingleNews/381/132945448>.

³ Article 8 of the Law on Public Prosecution Office for prosecuting criminal acts related to and arising from the content of the illegal interception of communication: "The Public Prosecutor shall regularly inform the public about his/her progress, by aligning ethical and procedural duties stipulated by law, and the public interest to be informed about the development of the investigation and prosecution".

⁴ The Basic Public Prosecution for organized crime and corruption received a request on submission of the case verified under reference number RO 90/15, and filed upon submitted criminal charge by SDUM against entity S.M. for criminal offence – Receiving bribe, pursuant to article 357, paragraph 5 with reference to line 1 of the Criminal Code, and a committed criminal act – Misuse of the official post and authorization, pursuant to article 353, paragraph 5 pertaining to paragraph 1 of the Criminal Code against S.K. for a committed criminal act – Receiving bribe, pursuant to article 357, paragraph 5 with reference to article 24 of the Criminal Code and a committed criminal act – Misuse of the official post and authorization, pursuant to article 253, paragraph 5 with reference to paragraph 1 and in relation to article 24 of the Criminal Code and H.H. for committed criminal act – Giving bribe, pursuant to article 358, paragraph 1 of the Criminal Code, including the case verified under KO No.25/15 (known as Puch). A request was submitted to the Basic Public Prosecution Skopje on submission of the case verified under RO No. 770/15, filed upon filed criminal charge by SDUM against N.G., G.J., and M.J., and against XX entities, employed in the Ministry of Interior for criminal act – Counterfeiting documents, pursuant to article 378, paragraph 3 in relation to article 1 of the Criminal Code and a committed criminal act – Violation of the Voter's Right, pursuant to article 159, paragraph 2 of the Criminal Code.

A request was submitted to the Basic Public Prosecution Office Bitola on submission of the case verified under KO No. 636/15 against V.T. and S.B. for committed criminal act – Misuse of official post and authorization, pursuant to article 353 of the Criminal Code. Request was also submitted

informed that besides requested cases, other cases filed for criminal acts related to and arising from the content of unauthorized interception of communications were also submitted.⁵ At the press-conference held on December 4th, Prosecutor Ristovska from the Special Public Prosecution Office stated that this prosecution would act upon cases on electoral irregularities, led by the principle that all citizens are equal before the law.⁶

On December 14th, respecting the legally prescribed deadline of eight days, the Special Public Prosecution Office⁷ brought a decision to establish jurisdiction over 34 cases, including the case known to the public as “Puch”.⁸ Regarding the jurisdiction over the cases “Monstrum”, “Divo Naselje” and “Rover”, supplementary decision will be reached once materials from illegally intercepted communication are obtained, heard and analyzed. On the same day, the leader of the political party SDUM was asked to submit the materials from illegally intercepted communication, for which they had expressed readiness to submit them upon request of this Prosecution Office.

A case for the event with allegedly counterfeit identity cards was filed before the **Basic Public Prosecution – Skopje**.⁹

The sixth hearing of “Puch” case, scheduled for December 2nd, was postponed because this day was proclaimed as the Tree Day, thus a non-working day. Hence, the apprehension of Zoran Zaev was also adjourned.¹⁰

The Judicial Council of the Republic of Macedonia on November 26th brought decisions on appointment of a President to the Appellate Court Skopje and presidents to the Basic Court Berovo and Basic Court Radovish.¹¹ At this session, a new systematization of judges posts was adopted, which reduces the number of judges from the current 740 to 636 judges. Moreover, the Judicial Council of RM adopted decisions on appointment of a total of eleven judges: six judges to the Appellate Court Skopje, one in each remaining appellate courts and two judges in basic courts.¹² Additionally, at the session held on December 9th, a decision on appointment of a president to the Basic Court Strumica was reached and a call for appointment of two judges to the High Administrative Court was published.¹³

At the round table held on November 27th, the President of the **Judicial Court** stated that the EC Progress Report comprises double standards in the area of Judiciary. Conclusions of the round table are published on the website of the Judicial Court.¹⁴

On December 14th, the Judicial Court reached a conclusion the election of a **Council member to determine the facts and initiate a procedure for determination of responsibility of a judge** among the retired university professors, to be made on December 28th, 2015.¹⁵ The only candidate is PhD. Prof. Simeon Gelevski, from the Faculty of Law “Iustinianus Primus”, Skopje.

Pertaining to the preparation of the Strategy on Reforms in the Judicial Sector¹⁶, the Ministry of Justice held a consultative meeting with stakeholders, including civil society representatives.¹⁷ The Draft-strategy is focused on

to the Public Prosecution Office Kumanovo on submission of the case verified under KO No. 353/15, filed upon criminal charge filed by a natural person against XX entity – in charge of communication by cell phone and against legal entity for committed criminal act – Unauthorized wiretapping and audio recording, pursuant to article 151, paragraph 1 and paragraph 6 of the Criminal Code.

⁵ Public announcement. Website of the Public Prosecution Office. 04.12.2015. Available at: <http://jorm.gov.mk/?p=2368>.

⁶ Special Prosecutor goes on with pre-investigation proceedings on electoral irregularities. MIA. 4.12.2015. Available at: <http://www.mia.mk/Mobile/mk/Home/RenderSingleNews/288?newsID=132929201>.

⁷ Article 11 (3) of the Law on Public Prosecution Office for prosecution of criminal acts related to and arising from the content of illegal interception of communication: “The Special Public Prosecutor decides within a deadline of eight days if the case falls under the Prosecution’s competency”.

⁸ Special Public Prosecution has filed a competence over 16 cases referring to electoral irregularities. However, no competence was filed over cases of the Basic Public Prosecution - Skopje under RO No.2362/15 and RO.No.501/15, so cases were returned for action to the competent basic public prosecution.

⁹ Public announcement: Basic Public Prosecution – Skopje acts upon the case of allegedly counterfeited identity cards. Website of BPP. 9.12.2015. Available at: <http://jorm.gov.mk/?p=2390>.

¹⁰ Monitoring activities of the Coalition of the Civil Association “All for Fair Trials”.

¹¹ Public announcement of the 208th session of Judicial Court of RM. Website of JCRM. 26.11.2015. Available at: <http://www.ssrn.mk/Novosti.aspx?novost=366>.

Liljana Ivanovska Shopova was appointed as President to the Appellate Court Skopje; Kostadin Petrov as President to the Basic Court Radovish, and Emilija Burikj as President to the Basic Court Berovo. The Institute of Human Rights regularly supervises the operations of the Judicial Council.

¹² Call for appointment of judges. Website of JCRM. 4.12.2015. Available at: <http://www.ssrn.mk/Novosti.aspx?novost=369> and <http://www.ssrn.mk/Novosti.aspx?novost=371>.

¹³ Communication of the 209th session of JCRM. 9.12.2015. Available at: <http://www.ssrn.mk/Novosti.aspx?novost=373>. Marina Abrasheva was appointed as President to the Basic Court Strumica.

¹⁴ Conclusions of round tables of the Judicial Council of RM. Website of JCRM. 27.11.2015. Available at: <http://www.ssrn.mk/Novosti.aspx?novost=367>.

¹⁵ Public announcement of the 210th session of JCRM. Website of JCRM. 14.12.2015. Available at: <http://www.ssrn.mk/Novosti.aspx?novost=374>.

¹⁶ The Draft-Strategy was prepared with expert and logistic support of the project on preparation of the Programme for support of the Judiciary sector and Project IPA 2010 “Future support to independent, accountable, professional and efficient judiciary and promotion of probation and promotion of probation and alternative measures”.

reform interventions in several areas: Judiciary; Criminal Justice System; Access to Justice and Transparency; Policy and Co-ordination; Administrative Judiciary; Information Systems and e-Justice. Some of the expressed opinions are in line that the Draft-strategy was written in vague language style that creates confusion; provided solutions which as such, essentially require constitutional amendments as well as fundamental modifications to laws adopted by a two-third majority; throughout the preparation of the Draft-Strategy the civil society was not consulted.

On the Announcement on admission into initial training at the **Academy for Judges and Public Prosecutors**, 82 candidates applied for a total of 30 posts. The Academy will organize a preparatory training for all the applicants, whereas the exam will be conducted via electronic examination in conformity with new legal amendments.

Within the **Research on the attorney's perception for the Academy of Judges and Public Prosecutors**, conducted by the Coalition "All for Fair Trials" in December 2015, 45 attorneys participated. Out of the total number of respondents: 67% assessed the contribution of the Academy to the judiciary quality as "insufficient"; 76% are not sufficiently familiar with the work of the Academy; 89% had considered that attorneys have insufficient access to trainings provided by the Academy since they have repeatedly been denied to attend a training; only 38% have participated in the trainings organized by the Academy, although 57% considered that the trainings would be useful; 62% were satisfied with the quality of the training, but stressed the need to hire more attorneys as trainers while topics and the methodology ought to be adapted to the needs of attorneys. Lawyers believe that the stacked members of the Bar Association should become members of the Management and Program Council of the Academy. Attorneys, on their part, deem that prominent members of the Attorneys' Chamber should become members of the Management and Programme Council of the Academy.

Interception of communication

After four failed attempts, the **Parliamentary committee of inquiry into the wiretap scandal** adopted its Rules of Procedure on December 1st.¹⁸ The problematic issue regarding the manner of decision-making in case of equality of votes was resolved in a way that in such case a new session to repeat the voting is scheduled and the result of this vote is final. There is an anticipated possibility for the session to be closed for the public if confidential information is contained. Each member of this Committee has a right to ask three questions, five minutes each, while the summoned witness has the same amount of time to respond. No sanction is provided if the witness fails to appear.

At the session held on December 3rd, the political parties were called upon to nominate three persons as first witnesses to be summoned.¹⁹ VMRO-DPMNE demanded its proposed witnesses to be heard at a session closed for the public. The Chairperson Petre Shilegov prepared public schedule for witness hearing, but none of the summoned witnesses appeared at the scheduled term. The Prime Minister Nikola Gruevski gave his statement at the session held on December 14th behind closed doors. Beside the non-appearance of summoned witnesses, the Parliamentary committee of inquiry into the wiretap scandal encountered difficulties while determining the agenda, which includes the decision whether the summoned witness will give a statement.

The Parliamentary committees responsible for monitoring interception of communications and intelligence agencies²⁰ did not hold a session in the reporting period.

Electoral Reforms

¹⁷ Network 23 members who are active in this area were invited on this consultation meeting. This strategy will be analyzed in details within the upcoming activities.

¹⁸ Session No.1 of the Parliamentary Committee of Inquiry Into the Wiretap Scandal. Website of the Assembly of the Republic of Macedonia. 1.12.2015. Available at: <http://www.sobranie.mk/sessiondetailsrabotni.nsp?sessionDetailsId=66516875-b315-490f-ba4e-6e9ed8ebe754&date=01.12.2015>.

¹⁹ As first witnesses before the Committee of Inquiry Into the Wiretapping Scandal, SDUM proposed: Sasho Mijalkov, Mile Janakieski and Martin Protugjer. VMRO-DPMNE, on their part, proposed: Nikola Gruevski, Zoran Stavreski and Gordana Jankulovska.

²⁰ Oversight Committee for Monitoring Interception of Communications by the Ministry of Interior, Administration of the Financial Police, Customs Administration and Ministry of Defence and Oversight Committee for Monitoring the Work of the Administration for Security and Counter Intelligence and the Intelligence Agency.

The Parliamentary Commission on Election and Appointment Issues on November, 27th determined the list of candidates who applied for members of the **State Election Commission (SEC)**.²¹ Fifty-two people applied for the Call published on November 16th, 12 of whom are candidates for members among the political parties, while 40 as independent members, whereby three of them applied for both grounds.²² Once the list was determined, the political parties in a period of three days submitted their proposals on members to the SEC.²³ In another deadline of three days, parties within the working group for implementation of Przhino Agreement had to reach consent on the names of independent members. After the given deadline was breached, on December 15th parties agreed for Redzep Prekopuca, Atanas Urumov and Aleksandar Chichakovski to become independent members of SEC.²⁴ On December 16th, the Assembly confirmed the aforementioned candidates as members to SEC, whereby Aleksandar Chichakovski was elected as Chairman and Redzep Prekopuca his Co-Chairman.

Depoliticisation of Public Administration

The additional Deputy Minister of Finance from SDUM, Kire Naumov used his legal right to veto on November 27th and did not agree with the newly-announced indebtedness from 100 million euro in the domestic market.²⁵ SEC, as a competent body to resolve this dispute, on November 30th decided that the emission of state securities and bills by the Ministry of Finance was not an act or a document that addresses legal, financial or staff issues related to the organization of elections.²⁶ SDUM filed a lawsuit against SEC before the Administrative Court, due to the lack of competency of the current composition of SEC whose mandate expired on November 8th.²⁷

The Minister of Interior from SDUM, Oliver Spasovski announced that the investigation over indications of identity cards' forgery is underway²⁸, based on an order by the Public Prosecution Office.²⁹ MOI informed that there were serious indications for abuse of by-laws provisions of the laws that regulate the manner of providing and using official vehicles of Mol.³⁰ On the grounds of the conducted investigation, it was found that several persons illegally used, or were under particular security protection by the Ministry, although they have not met any of normatively prescribed criteria.³¹ **The additional Deputy Minister of Agriculture, Forestry and Water Economy from SDUM, Ljupcho Nikolovski** announced that activities on revealing eventual wrongdoing are also being undertaken within this ministry³².

The Ministry of Labour and Social Policy conducted irregular supervision in all Centers for Social Work throughout the Republic of Macedonia, whereby **the Minister of Labour and Social Policy from SDUM, Frosina**

²¹ Determination of a List of applicants upon the Decision to publish a call for appointment of a president and members of the State Election Commission. Website of the Assembly of RM. 27.11.2015. Available at: <http://www.sobranie.mk/materialdetails.nspx?materialId=628c4b01-2c8c-4a71-90a8-ec4d70cc73f0>.

²² Kostadin Babunski, Snezana Hadzi Paunova and Abedin Bekjiri are the three candidates who have applied both - as party candidates and experts.

²³ Parties proposed candidates for members to SEC. MIA. 1.12.2015. Available at: <http://www.mia.mk/mk/Inside/RenderSingleNews/50/132921579#>. VMRO-DPMNE proposed Silvana Boneva and Sasho Srcevi; SDUM – Violeta Duma and Igor Milevi; DUI – Hisni Jakupi and DPA – Bedredin Ibraimi.

²⁴ Reached agreement on the overall composition of SEC. MIA. 15.12.2015. Available at: <http://www.mia.mk/mk/Inside/RenderSingleNews/380/132945461>.

²⁵ SDUM disapproved new indebtedness of 100 million EUR. Website of SDUM. 27.11.2015. Available at: <http://www.sdsm.org.mk/default.aspx?mId=55&agId=2&articleId=12925>.

²⁶ SEC approved the indebtedness. META News Agency. 30.11.2015. Available at: <http://meta.mk/dik-dade-zeleno-svetlo-za-zadolzhuvaneto/>.

²⁷ Lawsuit filed before the Administrative Court on unlawful decision of the former composition of SEC. Website of SDUM. 15.12.2015. Available at: <http://www.sdsm.org.mk/default.aspx?mId=55&agId=&articleId=13162>.

²⁸ Journalist Ljubisha Arsikj published a text in weekly newspaper "Fokus" in which he claims that during the last elections, over ten thousand forged identity cards have been produced in two secret locations in Shuto Orizari and Shtip. 30, 000 forged identity cards to win the elections. Fokus. 20.11.2015. Available at: <http://fokus.mk/fokus-express/30-000-lazhni-lichni-karti-za-pobeda-na-izbori/>.

²⁹ Spasovski: The investigation over indications of forged identity cards is underway. MIA. 30.1.2015. Available at: <http://www.mia.mk/mk/Inside/RenderSingleNews/50/132919932>.

³⁰ Minister Spasovski held press-conference and briefing with journalists. Website of Mol. 7.12.2015. Available at: <http://www.mvr.gov.mk/vest/1009>.

³¹ Press release. Website of Mol. 10.12.2015. Available at: <http://www.mvr.gov.mk/vest/1034>.

³² We have started revealing misuses. Website of SDUM. 4.12.2015. Available at: <http://www.sdsm.org.mk/default.aspx?mId=55&agId=5&articleId=13031>.

The Minister of Agriculture, Forestry and Water Economy, Milan Cvetkov and the additional Deputy-Minister of the same Ministry took part in TV Alsat debate on December 13th: <http://alsat-m.tv/episode/226246/subvencionet-perplasin-ministrin-dhe-zv-ministrin-e-bujqesie>.

Tashevsk **Remenski** announced that inspectors had detected numerous shortcomings in the operation of these institutions.³³

The additional Minister of Information Society and Administration from SDUM, Aleksandar Kiracovski requested that provisions of the Law on Administrative Servants regarding their appraisal to be put on hold.³⁴ As he stated: "There is a need for qualitative decisions that would motivate the administration to work, instead provisions on pressure and misuse for political goals". This issue caused a reaction by the **Ministry of Information Society and Administration (MISA)**. Through the statement published on the website of MISA it is explained that the performance appraisal cycle for 2015 was to begin in December 2014, when the Law on Administrative Servants had not entered into force yet, so the appraisal for 2015 was a pilot assessment by which no measures for excellent and poor performance would be imposed.³⁵

Media

No progress prevails in negotiations on media reforms and all deadlines for reaching an agreement have passed.³⁶ The Association of Journalists (AJM), the Independent Trade Union of Journalists and Media Workers (SSNM) and the Macedonian Institute for Media (MIM) expressed dissatisfaction that political parties negotiate behind closed doors, while journalists and media professionals are excluded. Hereby, on November 25th, they organized a protest in front of the Club of Members of Parliament.³⁷ The representatives of the working group of SDUM expressed their support to such demands, thus announcing that they would suggest the proposal to include the media and journalists' organizations to be discussed by the other participants in the negotiations.³⁸

The facilitator Vanhoutte on November 30th presented the draft-media law. This draft provides that Council members of the Agency for Audio and Audio-Visual Media Services (AAVM) be professionals and experts who should provide support by members of their field and by other media organizations; and to be elected by a two-thirds majority in the Assembly, on the basis of an open call. Elected members would be given a mandate of five years, with a re-election possibility. The Director of AAVM would be appointed by the Council and assigned with reduced competences. In case the rules are infringed by any media, the Council would begin a dialogue with the respective media, whereas the first measure should be a warning, yet the license might be withdrawn solely in case of rigid violations. The members to the Programme Council of MRTV would be likewise appointed. As for the funding of the public broadcaster, instead of the broadcasting fee, state funding in amount of 1% from the Budget is proposed.

On December 1st, VMRO-DPMNE left the negotiations, thus emphasizing that: "We won't allow citizens of the Republic of Macedonia, who have the freedom of information as well as all national media with the freedom of speech, to be victims of the totalitarian ideology of SDUM and fascist laws they strive to enact in Macedonia".³⁹ The political party returned to the negotiating table on December 3rd, and asked the journalists and media associations and other nongovernmental organizations to submit their proposals on media reforms. Proposals were submitted by AJM and MIM. As announced, negotiations will continue on December 16th, following the leaders' meeting upon which the composition of SEC was agreed.

The Basic Court Skopje 2 Skopje on December 9th, at a retrial on the lawsuit of defamation and insult filed by the former Minister of Interior, Gordana Jankulovska against Peter Shilegov from SDUM⁴⁰ ruled that Shilegov must pay a damage of 200.000 MKD to Jankulovska.⁴¹ Previously, the Appellate Court overturned the first instance judgement on damage in the amount of 500.000 MKD.

³³ Irregular inspection supervision at Centers for social affairs. Website of MTSP. 9.12.2015. Available at: http://www.mtsp.gov.mk/pocetnans_article-vonreden-inspekcijski-nadzor-vo-centrite-za-socijalni-raboti.nsp.

³⁴ I demand that Gruevski immediately ceases with fines in administration. Website of SDUM. 16.12.2015. Available at: <http://sds.org.mk/default.aspx?articleId=13173&mId=55&agId=6>.

³⁵ Reaction by MISA. Website of MISA. 16.12.2015. Available at: <http://www.mio.gov.mk/?q=node/4100>.

³⁶ According to monitoring activities of Foundation NGO Infocentar.

³⁷ The public should know what a deal parties make concerning the media. AJM. 26.11.2015. Available at: <http://www.znm.org.mk/drupal-7.7/mk/node/930>.

³⁸ We demand that media and non-governmental organizations join the negotiating process. Website of SDUM. 30.11.2015. Available at: <http://www.sds.org.mk/default.aspx?mId=55&agId=5&articleId=12960>.

³⁹ Zaev and SDUM demonstrated today an unprecedented indolence, destructiveness and absence of main democratic and pluralistic capacity. VMRO-DPMNE. 1.12.2015. Available at: <http://vmro-dpmne.org.mk/?p=28486>.

⁴⁰ Jankulovska filed a lawsuit on defamation and insult against Shilegov in September 2014 because the latter leaked false information in the public stating that once she has stepped into the post as minister of Mol, her property increased in apartments by 200, 000 euro.

⁴¹ Monitoring activities of Foundation NGO Infocentar.