

MONTHLY BRIEF

August 2016

Justice Governance for Growth Monitor (JuDGMeNT)

These monitoring reports are drafted within the framework of the project "Justice Governance for Growth Monitor by the SEE 2020 Strategy (JuDGMeNT)" implemented by the European Policy Institute with the financial support by the Regional Cooperation Council. The Project's objective is to establish structured civil society organisations mechanism for monitoring the implementation of the measures/instruments/priorities from the *Justice* dimension in compliance with the SEE 2020 Strategy.

These measures are the following:

P.1. Improve efficiency and competence: review the quality, efficiency and competence of judges and the courts

P.2. Improve judicial cooperation in free access to information, cross border enforcement and cross-border proceedings in bankruptcy and take-over and mergers

P.3. Support ADR: Introduce or improve the legislation on ADR and enable proper legal and institutional cooperation with the judiciary and the enforcement system

For more information see: http://www.epi.org.mk/newsDetail_mk.php?nwsid=131.

Quality, competence and efficiency of judges and judiciary

The Judicial Council of the Republic of Macedonia in August 2016 held only one meeting, adopting a decision to announce a call for the election of 28 judges in some of the basic and appeal courts in the country, the Administrative Court, the High Administrative Courts and the Supreme Court of the RM. ¹

The Academy for Judges and Prosecutors "Pavel Shatev" on 30 August 2016 announced a call for the admission of participants to the initial training to meet the required number of public prosecutors, pursuant to the legislative amendments and supplements from December 2015. ² Under modified terms of admission, eligible applicants were graduated lawyers, or with an average grade of at least 7, 0 with at least 5 years of work experience in legal affairs, who passed the jurisprudence exam, as a court clerk, public prosecution or public prosecution clerk or lawyer, and the training would be conducted in one phase, i.e. a two-month theoretic training. ³

In the mean time, no information is available on the selection procedure of the sixth generation of participants to the initial training, where the final ranking list has not yet been made public due to the appeals proceedings conducted before the Administrative and High Administrative Court.

¹ The press release on the session of the Judicial Council of the RM is available in the following link: <http://www.ssrn.mk/Novosti.aspx?novost=449>.

² Official Gazette of the RM no. 163 30.08.2016

³ Ibid.



In August, the plan of activities for voluntary continued training for court and public prosecution clerks, as well as the activity plan for the compulsory continued training for judges, public prosecutors, presidents of courts and public prosecutors⁴ started, both for the period September to December 2016

From May 2016 to September 2016, the court administration, dissatisfied with the Law on Court Service, went into strike by blocking the work of the courts. The revolt of the court administration intensified following the decision to increase the salaries of judges, prosecutors and public prosecution staff. During the strike, the courts operated with a minimum capacity, conducting only proceedings for interim measures and proceedings with foreign element, while due to the lack of necessary conditions and due to the intensity of the strike, charges or submissions were not being accepted. As of 15 July and in the course of August the Union put the strike on hold, although no agreement was reached.

Judicial cooperation in the area of free access to information, implementing cross-border enforcement and cross-border bankruptcy, take-over and merging procedures

As of June 2016 the case of the attempted takeover of Makpetrol by Balkan Petroleum Holding Limited became a topical issue. The Cypriot company through a newspaper add announced its intention to take over Makpetrol. The media actively covered the developments associated with this situation and reported that the company was founded only 12 days earlier in London, based in Cyprus. The media reported that this company had two employees and was founded with a capital of 1 000 euro. The company offered 25.908 denars for the Makpetrol shares which on the stock market are sold at the price of 17 000 denars. The Makpetrol board of directors reviewed the letter from Balkan Petroleum Limited and decided to reject it.

The reaction was similar from the Macedonian Stock Exchange, who said that they had received a letter with a similar content. Balkan Petroleum had not submitted an authorization to establish the legitimacy of the authorised person to act on behalf of the company, therefore the Macedonian Stock Exchange did not proceed on this case.

The accounting value of one share is 30.250 denars. According to the offered price of 25 908 denars, "Balkan Petroleum" will be required provide a guarantee of about 47 million.

Alternative dispute resolution

During August, no significant activities in the field of ADR – Mediation were noticed. In the summer months, starting from July 15 until August 15, and judges didn't schedule hearings, except the urgent one according to the Law on Courts, therefore the interest of the parties for mediation proceedings decreased.

The number of recorded cases of mediation in the Ministry of Justice during the month of August was six (6) cases of mediation according to the submitted reports by licensed mediators to the Ministry of Justice - the Department of notaries, bailiffs and mediators.

⁴ <http://www.jpacademy.gov.mk/upload/KATALOZI/1%20plan%20za%20obuki.pdf>



Out of the six cases of mediation recorded in August, two cases finished with a settlement. In the remaining four (4) cases the parties have not shown any interest in extrajudicial dispute resolution through mediation.⁵

The Ministry of Justice in the second half of August published on its website the list of licensed mediators who passed the exam for mediators and were issued a license to perform mediation work under the provisions of the new Law on Mediation, adopted in 2013. The list of licensed mediators was also published on the website of the Macedonian Bar Association, on the website of the Economic Chamber of Macedonia, as well as by some of the courts in the country on their bulletin boards. This is why, despite the low activity of that period, an increased interest of legal persons and lawyers was noticed concerning information on mediation as a method, on the manner of implementation of the procedure, how to select easily a mediator, how to initiate a proceeding, which documents are required for the mediator to act upon the request of an interested party etc.

In August, the new web site was launched in the Macedonian Mediation Centre: www.mcm.org.mk With the aim of publishing timely information about the mediation and the activities of the centre. The Macedonian Mediation Centre is a non-governmental organization whose main goal and mission is to promote and practice mediation in Macedonia, providing information to interested parties on the mediation proceeding, organizing trainings and workshops on mediation etc.

⁵ Official data from the Ministry of Justice

