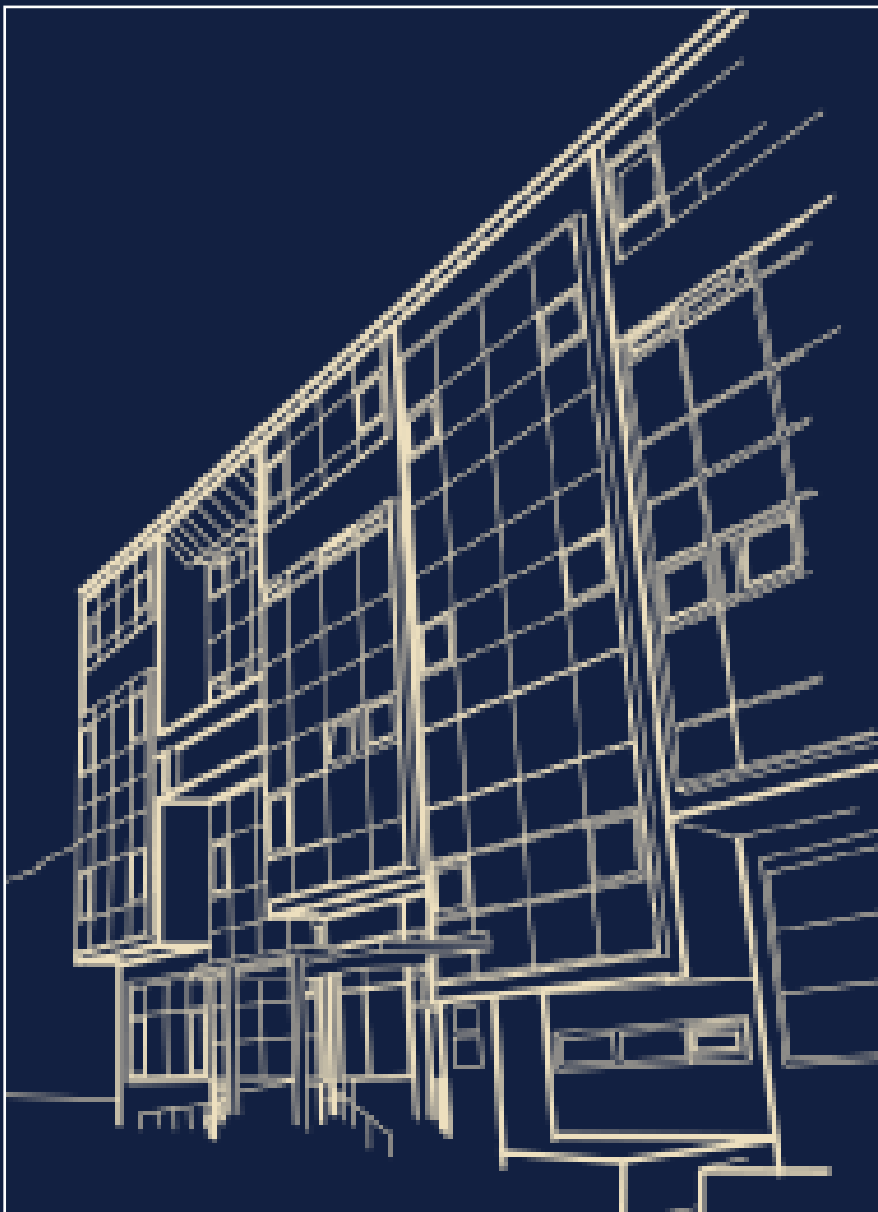


MONITORING REPORT ON

# THE WORK OF THE JUDICIAL COUNCIL

January - July 2023



Funded by  
the European Union



Institute for Human Rights



Title:

**MONITORING REPORT ON THE WORK OF THE JUDICIAL COUNCIL**  
**January - July 2023**

Publisher:

**Citizen Association Institute for Human Rights, Skopje**

**Skopje, August 2023**

---

This publication is created with the financial support of the European Union. The content of the publication does not necessarily reflect the official views of the European Union.

# СОДРЖИНА

---

<b>INTRODUCTION</b> .....	<b>4</b>
<b>TRANSPARENCY OF THE JUDICIAL COUNCIL</b> .....	<b>4</b>
Voting and sound recording system .....	5
Public sessions of the JCRNM .....	5
Annual Reports on the Work of the Judicial Council.....	6
Analysis of the content of the Judicial Council announcements and media statements.....	7
Openness to the public and the media .....	7
<b>EFFECTIVENESS AND EFFICIENCY OF THE JUDICIAL COUNCIL</b> .....	<b>9</b>
Dismissal and election of the president of the Judicial Council.....	9
Election of members of the Judicial Council from the ranks of the judges .....	11
Election of judges and court presidents .....	13
Dismissal of judges and court presidents .....	16
Monitoring the work of the courts .....	17
Decision-making on petitions from citizens and legal entities.....	18
<b>CONCLUSIONS</b> .....	<b>19</b>
<b>RECOMMENDATIONS</b> .....	<b>21</b>

# INTRODUCTION

---



January - July  
2023

The Human Rights Institute regularly monitors the work of the Judicial Council by attending all open sessions. The purpose of this activity is for the Institute of Human Rights to note the challenges and the progress in the work of the Judicial Council through objective monitoring of its work and to contribute, with evidence-based conclusions and recommendations, towards the improvement of the situation in the judiciary. This activity is implemented under the "Access to Justice for All" Program funded by the European Union, as part of the IPA III Civil Society Facility and Media Programme 2021.

This report is divided into three main parts presenting on the issues of **transparency**, **effectiveness** and **efficiency** of the Judicial Council.



For the purposes of this report, the following sources of information were used: attendance at all open sessions of the Judicial Council, minutes and reports of the Judicial Council, announcements and documents published on the website of the Judicial Council, media reports, etc.

## TRANSPARENCY OF THE JUDICIAL COUNCIL

---



одржани  
26 седници

During the reporting period, the Judicial Council **held 26 sessions, 4 of which with two continuations.**

The period during which the work of the Judicial Council was monitored can be divided into two parts: (1) from January to mid-April 2023 and (2) from mid-April to end of July 2023.

During the first few months, until mid-April 2023, continuous and timely publication of **announcements of sessions and announcements of adopted decisions and conclusions, immediately after the end of each session, can be noted.** The legal obligation to publish the minutes of the JCRNM meetings is respected, and the minutes, which are detailed, are published after their adoption. **The dynamics of their adoption and publication has improved, compared to the same period last year (reporting period January-July 2022).** At each session where minutes were adopted, the members made comments on certain parts of the minutes, thus clarifying their statements in the discussions on the items of the agenda and producing a more detailed interpretation of the discussions.

**During the first three months of 2023, there was an increased public presence of the former president of the Judicial Council - Vesna Dameva, through participation in public events, giving statements and interviews to the media, taking part in shows or informing the public about her meetings with ambassadors and representatives of international**

organizations and of the non-governmental sector, that were a result of the intensive co-operation with them in this period.

**After 26 April 2023**, when the former JCRNM president - Vesna Dameva was dismissed in an unprescribed procedure, **a clear violation of the transparency in the operation of the Judicial Council can be observed**, even in procedures for which the law clearly provides that should be public and transparent.

Although media were largely present at each session, and also recorded the sessions, following the dismissal of the former president Vesna Dameva and the inappropriate behavior of the JCRNM members towards the public, **it became a practice that JCRNM sessions were broadcasted live by MIA**. This practice was established due to the fact that after the session in which the former president Vesna Dameva was dismissed, the members held sessions that were not previously announced, so the public, due to lack of information, did not have the opportunity to attend them. Several actions were taken at these sessions, which, according to the law, should have been public, especially the decisions that were made at these sessions.

The election of a new president took place under great pressure from the public and the non-governmental organizations. Despite the attempt of the new president Sashko Georgiev to make direct and transparent contact with the public and the non-governmental sector, his treatment of the journalists and especially of the cameramen at the first session after his election resulted in every session being broadcasted live by the MIA.



## VOTING AND SOUND RECORDING SYSTEM

---

During a certain period after the dismissal of the former president Vesna Dameva, it was again evident that the electronic sound recording system and the voting system were not in operation, which was not the case before. Hence, the members did not vote via the voting system. According to the JCRNM Rules of Procedure this is the regular manner of voting, and should any member(s) doubt the voting results, they can ask for a vote by raising hands. However, neither the former vice-president Selim Ademi, who presided over the sessions until a new president was elected, nor the new president Sashko Georgiev explained why the system was not in operation during that period.



## PUBLIC SESSIONS OF THE JCRNM

---

Concerning the dynamics of holding sessions on monthly basis, **there are no notable changes compared to the previous report**. It can be noted though that after the new president Sashko Georgiev was elected, **urgent sessions are scheduled on topics that do not require urgency and are most often agenda items that should be considered and decided at regular sessions**. A possible reason for this could be the lack of internal coordination between the president and the JCRNM professional service or avoiding the presence of the public at the sessions. One session a month is always dedicated to deciding on petitions of citizens and legal entities, which is also a statutory requirement.

It is usual for the members of the Judicial Council to hold staff meetings, but in the period following the dismissal of the former president these meetings were often held immediately before the public sessions. It was particularly inappropriate that following the session in which the former president Vesna Dameva was dismissed, the staff meetings turned into sessions where the Judicial Council brought important decisions. The public was informed of this after the fact, as evident from the order in which the announcements were published on the Judicial Council's website. As these meetings were held before the actual sessions, the public sessions started with a delay.

**The work of the JCRNM members at the JCRNM sessions can be described as quite dynamic, with all members taking part in the discussions and debates on the items of the agenda, practicing the right to reply, arguing, reasoning, having different interpretation of certain situations that have already been debated previously and for which conclusions have already been reached or by specifying in more detail certain procedures that are not sufficiently explained in the laws or in the secondary legislation. But, sometimes more intense discussions develop that, in some cases, end with certain members leaving the session. The situation was intense in the period immediately preceding the dismissal of the former president, as well as in the period following the election of the new president. The tensions among the members lessened after the resignation of the two Judicial Council members from the ranks of the judges and the criticism of the Judicial Council coming from the non-governmental organizations.**



## ANNUAL REPORTS ON THE WORK OF THE JUDICIAL COUNCIL

---

**The annual report on the work of the Judicial Council for 2021 was adopted on 20 March 2023<sup>1</sup>, without any comments, although it was subject to discussion in the Political System and Relations between Communities Commission, as well as at the plenary session of the Assembly of the RNM.**

**The annual report on the work of the Judicial Council for 2022 was submitted to the Assembly within the statutory time limit<sup>2</sup>, but it has not yet been reviewed by the Assembly of the RNM.**

Attendance of the ex-officio members at the sessions of the Judicial Council

**The Minister of Justice and the President of the Supreme Court of the RNM (SCRNM) are ex-officio members of the Judicial Council, but do not attend the sessions at all, despite the fact that the new Minister of Justice - Krenar Loga has shown considerable interest in resolving the situation surrounding the illegal dismissal of the former president Vesna Dameva. He also proposed a series of measures, but for now there are no specific activities on his part.**

Although the Minister of Justice has not attended the sessions for years, his participation in certain sessions would be of particular importance. This practice of non-attendance was established after the criticism by the international community that the minister exerted influence in the work of the Judicial Council. However, given that the minister is an ex-officio

---

1 <https://www.sobranie.mk/detali-na-materijal.nsp?param=09071688-ecc3-4dd7-88a4-6b2642967dc4>

2 <https://www.sobranie.mk/detali-na-materijal.nsp?param=39a30df8-b2ac-4133-a706-915071aa5a7c>

member, his cohabitation with the Judicial Council is necessary for the smooth cooperation in the implementation of the judicial reforms, all the more so as the preparation of the Justice Reform Strategy 2023-2027 is underway and the Minister of Justice proposes important laws in the field of justice. **The president of SCRNM justified her absence by being too busy, but during the period when she attended the sessions** (before the dismissal of the previous president Vesna Dameva), **she contributed to the work of the Judicial Council.** According to the laws and regulations, the president of Supreme Court of the Republic of North Macedonia does not have the right to vote at the sessions; still, her presence provides an opportunity to discuss important issues and exchange experiences that affect the work of the Judicial Council and the Supreme Court, as well as the judiciary in general. It is for this reason that the intention of the legislator was to create a link between these two important judicial institutions and the current situation in the judiciary, by respecting the principles of independence, impartiality, publicity, and transparency.



## ANALYSIS OF THE CONTENT OF THE JUDICIAL COUNCIL ANNOUNCEMENTS AND MEDIA STATEMENTS

---

With the election of the new president, Sashko Georgiev, the Judicial Council hired a new spokesperson as well, a journalist with many years of journalistic experience and of monitoring the judiciary. It can be ascertained, by monitoring the website of the Judicial Council, that in this period also the announcements of and from the sessions were regularly published, except for the announcements for the few sessions with agendas published on the day of the session, for which it was argued that they were urgently convened. **Notices about meetings and events attended by the president or the members of the Judicial Council** are still published. **Furthermore, the new JCRNM spokeswoman started the practice of organizing briefings for journalists, thus improving the communication of the Judicial Council with the public.**



## OPENNESS TO THE PUBLIC AND THE MEDIA

---

During the period in which the work of the Judicial Council was monitored, several significant developments were observed, and hence the greater presence of the public in this period. Namely, since the beginning of the year many interesting issues were discussed in the Judicial Council, in which journalists were also interested; so, apart from the constant presence of representatives from the civil society sector, **the sessions were very often attended by journalists who followed them and reported on the work of the Judicial Council.** After the dismissal of the former president Vesna Dameva, special interest was shown in the election of judges to the higher courts, the election of the new president, the election of new members of the Judicial Council, and the like.

During the reporting period, an increased presence of journalists at the JCRNM sessions and of the Judicial Council in the media was noticed, which had a significant impact on the work of the JCRNM members. **The need for higher transparency, however, should not**

**affect or distract the members of the Judicial Council when discussing the items on the agenda.** This is particularly true concerning the fact that, especially during the sessions, journalists should abide by certain ethical principles and standards and not interfere directly in the session and ask questions that, according to law, should not be accessible to the public or have already been previously presented to the public. In certain situations, the unfamiliarity of certain journalists with the current work of the Judicial Council and its powers affects the quality and the course of the JCRNM sessions.

This turbulent period of the Judicial Council was subject to criticism from the expert public and the non-governmental organizations who expressed their concern about the inappropriate and non-transparent way of working of the members of the Judicial Council, condemning their actions<sup>3</sup> and decisions and calling on the members to resign due to losing their legitimacy in the eyes of the general public and before the judicial authorities. The demand for resignations of the members of the Judicial Council was particularly emphasized by non-governmental organizations.<sup>4</sup> Although submitting a resignation is a personal act, in order to preserve the credibility of the Judicial Council as a body that should protect the independence and the impartiality of the judiciary, it is necessary that members show in their work unequivocal resistance to political influences and corrupt actions.

---

3 Jordanovska, Meri. Reactions to the dismissal of Vesna Dameva do not subside, the confidence in the judiciary is further shaken. Meta, 28 April 2023, available at: <https://meta.mk/ne-stivnuvat-reakciite-za-razreshuvanje-na-dameva-dopolnitelno-se-rasklatuva-doverbata-vo-sudstvoto/>. For more on this topic see: Markovski, Hristo. Reactions to the dismissal of Vesna Dameva do not subside, the confidence in the judiciary is further shaken. 24 MK, 27 April 2023, available at: <https://24.mk/details/ne-stivnuvat-reakciite-po-razreshuvanje-na-pretседателката-na-sudskiot-sovet-vesna-dameva>. Dimovska, Michaela. Reactions from the expert public after the events in the Judicial Council. Channel 5 TV, 27 April 2023, available at: <https://kanal5.com.mk/reakcii-od-ekspertskata-javnost-za-sluchuvanjata-vo-sudskiot-sovet/a579418>. Veljanovska- Najdeska, Elizabeta. Reactions of the MPs to the dismissal of the president of the Judicial Council, Dameva. MIA, 27 April 2023, available at: [MPs' reactions to the dismissal of the president of the Judicial Council Dameva \(mia.mk\)](https://mia.mk). Kostadinovska, Paula. Reactions after the dismissal of Dameva: New systemic solution for the selection of judges and prosecutors. ALFA TV, 27 April 2023, available at: <https://alfa.mk/61585-2/>. Mirceski, Vladimir. Reactions to the manner of electing the new president of the Judicial Council. VOA, 5 May 2023, available at: <https://mk.voanews.com/a/7080164.html>

4 Justice Reform Blueprint Group. Reaction to the events in the Judicial Council of the RNM, available at: <http://blueprint.org.mk/%d0%b0nouncements/>. In addition, see Anti-corruption platform of civil society organizations. Nomination of members in the Commission for conducting elections for Judicial Council members, available at: <https://www.antikorupcija.mk/%D0%B0%D1%80%D1%85%D0%B8%D0%B2%D0%B8/1585>



# EFFECTIVENESS AND EFFICIENCY OF THE JUDICIAL COUNCIL

---



## DISMISSAL AND ELECTION OF THE PRESIDENT OF THE JUDICIAL COUNCIL

---

On 26 April 2023, the former president of the Judicial Council, Vesna Dameva, was dismissed. At the session, the disagreements started when the former vice-president Selim Ademi requested, after the adoption of the agenda and contrary to the JCRNM Rules of Procedure, to include in the agenda the item on the dismissal of the president of the Judicial Council. The president presented arguments against the proposal and did not accept to put the proposal to voting. The disagreements culminated at the moment when her deputy Selim Ademi took over the management and the presiding over the session and called for a vote for her dismissal, supported by 6 other members, after which he declared that Dameva was dismissed and in her presence took over the further management of the session. One of the reasons for which the members showed will to dismiss her are the disrupted interpersonal relations in the JCRNM, and more specifically, because the former president Vesna Dameva did not include timely in the agenda the review of the letter addressed to them by the American ambassador Angela Ageler, to which she replied with explanation and argued reasons in defense of her action. Other allegations that led to broken relations were also pointed out, but without the concrete evidence that the president insisted be presented to her.

**This procedure is an exception in the work of the Judicial Council to present, from its establishment until now.** What is particularly surprising is the behavior of certain JCRNM members who insisted on including and discussing the item of dismissing the president of the Judicial Council in the agenda and voting on it, without paying due attention to the legal aspects. Even more so as the legislator, in the Law on the Judicial Council of the Republic of North Macedonia<sup>5</sup> (LJCRNM), has not prescribed a procedure for dismissing the President of the Judicial Council. Determining responsibility of a Judicial Council member is foreseen under the LJCRNM, in the provisions governing disciplinary responsibility of member(s) of the Judicial Council, where the grounds for submitting a request for initiating a procedure for disciplinary responsibility of a member of the Council are specified. Furthermore, a procedure for deciding on a request to initiate a disciplinary procedure for a JCRNM member is also foreseen. However, no provision of the Law foresees a procedure for dismissing the president of the Judicial Council or for dismissing a member of the Judicial Council on any other grounds, except determining disciplinary responsibility. JCRNM Rules of Procedure as well do not contain provisions that govern the procedure or reasons for dismissing the president of the Judicial Council. The insufficient regulation in certain legal provisions does not mean that inappropriate behavior is allowed, but it does provide an opportunity for arbitrary interpretation of the existing provisions, which in effect happened. If the intention of the Judicial Council was to dismiss the former president Vesna Dameva by using an analogue procedure to that of dismissing a judge, the very act of dismissal is disputable, as the statutory requirement under the LJCRNM is that out of the present members with the right

---

<sup>5</sup> Law on the Judicial Council of the Republic of North Macedonia, Official Gazette of the RNM no.102/2019

to vote 8 members must vote in favor. In this particular case 7 members voted including the initiator - the former vice president Selim Ademi, who should have exempted himself from the vote - without having a prior discussion and not observing the procedure for dismissing a judge. In the work to present of the Judicial Council, in public sessions, there have been disagreements between the members concerning certain statutory provisions, especially when they are not clearly and concisely provided for in a law or in a secondary legislation, but the Judicial Council has never before made a decision that was not provided for by law or for which the procedure was not governed by law.

In the days after the dismissal of the former president Vesna Dameva, the members of the Judicial Council found a way to "legitimize" their illegal actions by violating again provisions of the LJCRNM that govern the transparency of their work. With a unanimous decision of the present members to hold two sessions, after having had staff meetings that were closed for the public and at which they abrogated the previous decision to dismiss the former president Vesna Dameva, they agreed to re-initiate the procedure for her dismissal and thus resolve the situation in which they found themselves, but this time providing two more votes in favor. **For the second time, former president Vesna Dameva was dismissed from her position in an irregular procedure, on 4 May 2023.**

**At the same session, on 4 May 2023, the president of the Judicial Council was elected with 8 votes "in favor" and 4 votes "against".** The session at which the new president Sashko Georgiev was elected was convened by the former JCRNM deputy president Selim Ademi, in an unusual manner, after the working hours of the Judicial Council, approximately fifteen minutes before the start of the session. This represents a direct disregard of the legal provisions that apply to transparency in the work of the Judicial Council. In accordance with the provisions of the Law on the Judicial Council of the Republic of North Macedonia (Article 39), JCRNM sessions are public, and the public can only be excluded by a decision of the Judicial Council which should be made at a public session, for the purpose of protecting the reputation and the integrity of a judge or a candidate for judge. The Judicial Council decides on the exclusion of the public with a two-thirds majority of the total number of JCRNM members with a voting right. In the event when the Judicial Council has decided to exclude the public, the JCRNM president is obliged to inform the public about the reasons for the exclusion and should a decision be made by voting at such session, the voting of the decision needs to be public. Pursuant to Article 38 of the LJCRNM and Article 11 of the JCRNM Rules of Procedure, the date when a session of the Judicial Council is to be held is published on the JCRNM website as soon as the session is scheduled, at the same time with the delivery of the invitation to the JCRNM members. The invitation is delivered at least 7 days prior to the date of the meeting. There is, however, a possibility the meeting to be scheduled within a shorter period due to urgent matters.

The media and the public found out about the two sessions which were closed to the public and of the election of the new president when one of the JCRNM members shared the information. It must be noted that the announcements for the closed sessions were published on the JCRNM website after the completion of the public session at which the president of the JCRNM was elected and after the stormy reactions of the public present at the session about the "secret operation of JCRNM members".<sup>6</sup>

---

<sup>6</sup> See more on transparency in the "Transparency" chapter of this report (pg. 3).



## ELECTION OF MEMBERS OF THE JUDICIAL COUNCIL FROM THE RANKS OF THE JUDGES

---

The election of the new JCRNM president did not improve the situation in the Council due to the fact that on 8 June 2023, two JCRNM members submitted irrevocable resignations. **Judicial Council members justice Mirjana Radevska Stefkova from the SCRNM and judge Zoran Gerasimovski from the Court of Appeal in Skopje explained the reasons for their resignations in writing as well as at a session in the presence of the public, underlining that their decision is such due to the disagreements regarding the manner of work and the decision-making of the Judicial Council.**

After the resignations were conformed, a decision was made to advertise for the election of new members. **Following the resignations of the two members of the Judicial Council from the ranks of the judges, a procedure was started for the selection of new members from the ranks of the judges,** namely one member from the Supreme Court and one member from the Appellate District of Skopje with the administrative courts.

As regards the candidacies, it can be noted that **only one candidate was listed from the Supreme Court, justice Naqe Georgiev, whereas for the Skopje appellate district and the administrative courts the only the candidate was Antoaneta Dimovska, judge in a first instance civil court.** There was an objection from judge Lazar Nanev, president of the First Instance Court of Kavadarci, who submitted his response to the announcement for the election of JCRNM members that was not accepted by the Committee for the preparation of candidate lists for the election of Council members. When confirming the candidacies of the registered candidates, the Judicial Council discussed the documents that were submitted by every candidate responding to the published advertisement for the election of a Judicial Council member, as described in the advertisement itself, and in accordance with the Law on the Judicial Council of the Republic of North Macedonia.

The candidate Lazar Nanev did not submit within the prescribed time period the original documents for the years of service nor the original certificate of completed hours of training at the Academy for Judges and Public Prosecutors, but copies. He filed an objection accompanied with the original evidence, explanation and e-mail communication about the reasons for including the copies when submitting the documents. At the session held for this purpose, JCRNM members did not act consistently with their "formalism" concerning the fulfilment of the requirements pertaining to the enumerated list of documents that are to be sent with the candidacy for JCRNM member, since a few months ago the Judicial Council accepted candidates who did not submit original documents.

Some of the members remained of the opinion that even though the law defines which documents the candidate should submit, this was not necessary since the Judicial Council has the information for each judge as concerns years of service. Such information is known to the Commission and is an integral part of the file of each judge, and thus should not be required to be submitted. On the other hand, other members believe that even though the Judicial Council is familiar with the information required to be submitted when applying to a specific advertisement, every candidate is still obliged to submit it as it is a statutory requirement.

**Upon acceptance of judge Lazar Nanev's objection, the candidate lists were confirmed with a majority vote. Candidates for JCRNM members for the Skopje Appellate District and the administrative courts were Antoaneta Dimovska and Lazar Nanev.**

As for the candidate - justice Naqe Georgiev, the media published more information about the procedure that was initiated before the JCRNM pertaining to his unprofessional and negligent work, as well as about the procedure before the prosecutor's office for corruptive activities while performing the office of a judge in the first instance court in Strumica and in the Court of Appeal in Shtip. The candidacy of Naqe Georgiev was followed with special interest by the public and the media. One of the reasons was that after publishing the candidate list on the JCRNM website on which Naqe Georgiev was listed, and before the final adoption of the list, a JCRNM session was held at which one of the items on the agenda was the review of the report on the ascertained situation. As review and decision-making on such items is closed to the public, information was published in the media that precisely that item on the agenda referred to stopping the procedure for determining responsibility for justice Naqe Georgiev, who is actually the only Supreme Court candidate for JCRNM membership, before the Judicial Council.

**At the elections held on 13 July 2023 two new members of the Judicial Council were elected from the ranks of judges, namely Naqe Georgiev, judge from the Supreme Court of the RNM, and Antoaneta Dimovska, judge from the Skopje First Instance Civil Court, a representative of the Skopje Court of Appeal and the administrative courts.** The election procedure was carried out in accordance with the statutory provisions and in conformity with the provision for announcing the results of the election. The whole procedure was made public, with a live broadcast from MIA. However, it must be noted that these elections were of particular media importance due to the fact that the **candidate Naqe Georgiev was elected with only 6 votes out of a total of 16 votes in the SCRNM.** Namely, it is evident from the report of the Commission for conducting the elections, that 16 justices with a right to vote were recorded in the judicial electoral roll, of whom 6 justices voted by selecting the candidate, 3 justices did not vote at all, and 7 ballots were invalid. We note that there is no option to vote "in favor" or "against" on the ballot. In the Law on JCRNM, there are no provisions governing the census concerning the number of judges who will vote or the required number of votes for a candidate to be considered elected. But the lack of support from the colleagues also raises the question of the legitimate representativeness that this candidate should have as a member of the Judicial Council.

**On 25 July 2023, the newly elected members were to have their first session after taking the oath in the RNM Assembly.** However, the member of the Judicial Council from among the ranks of justices of the Supreme Court of the RNM, Naqe Georgiev, submitted his **resignation** and withdrew from the post of Judicial Council member before the beginning of the session. **The reason for the resignation was the election of his son as a judge in a first instance court from among the candidates of the AJPP,** that was put on the agenda the same day. The Law on Courts is very clear in determining the conditions when someone cannot be elected as a judge and thus, in Article 43, paragraph 4, it provides that: "A person who is related in vertical or horizontal line up to third degree or is a spouse of a member of the Judicial Council of the Republic of Macedonia cannot be elected judge or lay judge."

Considering the fact that the son of justice Naqe Georgiev is a AJPP graduate and that AJPP graduates, according to law, must be elected as judges in first instance courts, it was necessary for Naqe Georgiev to submit his resignation and have it confirmed so as to avoid the Judicial Council to commit a criminal offence.



## ELECTION OF JUDGES AND COURT PRESIDENTS

---

In this reporting period, after a long time, election of judges for a higher court was carried out. The session at which judges were elected and promoted in the Supreme Court of RNM and the Gostivar Court of Appeal raised a great interest with the public and the media because **after a long period of time judges were elected and promoted according to the new method of evaluation, under the LJCRNM from 2019**. The expectations from the Judicial Council for the promotions of the judges were high, but it can be concluded that the expectations were not fully met.

More precisely, at the session for the election of judges to a higher court held on 29 March 2023 the entire election procedure was presented, and special emphasis was put on the important fact that **after more than 2 years the procedure for the election of judges to the Supreme Court of RNM and the Gostivar Court of Appeal was completed**. It was emphasized that this delay was due to objective reasons, as pending was the adoption of all the regulations and methodologies<sup>7</sup> that were necessary for the implementation of the assessment, as a condition for the promotion of judges to higher courts. The procedure, in accordance with the statutory provisions, is long and complex and takes a lot of time to implement.

In the announcement for the election of judges in the Supreme Court, five candidates were registered for the criminal and for the civil areas respectively. At the session, the points of each candidate were reported from both the qualitative and the quantitative evaluation as per each criterion prescribed by the law. A ranking list was compiled according to the points obtained from the entire evaluation procedure, and voted on, starting with the first candidate with most points on the ranking list. According to the law, **elected is the judge who has received 8 votes from the JCRNM members with voting right. When the number of candidates advertised in the announcement are voted for, further voting is stopped, and no opportunity is given to vote for the remaining candidates and exhaust the entire ranking list**.

Same was the practice of the Judicial Council even before the adoption of the new law and it was subject to criticism because the other candidates from the ranking list do not get the opportunity to be voted. In such circumstances the question arises as to whether any other candidate from the ranking list could receive the same or even more votes from the members of the Judicial Council.

**At the session, the candidates for justices in the SCRNM, for the civil department, who were ranked the highest on the ranking list, i.e., who received the highest number of points, Anita Boshkovska and Katerina Georgievska, judges from the Skopje Court of Appeal, were elected.**

---

<sup>7</sup> Rulebook on the method of ranking candidates for judges from the Academy of Judges and Public Prosecutors, Rulebook on the method of ranking candidates for the election of a judge in a higher court, Methodology for evaluating the work of a judge based on the fulfillment of the qualitative criteria for judicial work and Form for evaluating and scoring the fulfillment of the qualitative criteria for the work of the judge, Methodology for qualitative evaluation of the presidents of the courts and Form for qualitative evaluation of the presidents of the courts, Instruction on the method of calculating effective working hours, Methodology with indicators for determining the complexity of the cases, Rulebook on the method of forming committees for evaluating the work of judges and court presidents, Rulebook on the formation and operation of the JCRNM committees for regular and extraordinary evaluation, available on the website of the Judicial Council of the RNM.

At the same session a different situation also happened. Namely, the **Judicial Council did not elect justices for the Supreme Court in the criminal department, even though the evaluation procedure was properly completed and the ranking list with points for the candidates was compiled. The members who voted against did not provide any clarification as to why they did not vote for the proposed candidates with the maximum number of points.** It is beyond comprehension as to what reasons could there be not to vote for a particular candidate for a judge in a higher court when there is clear need for judges in that court and the announcement was made for that very reason. The full evaluation procedure was carried out, which is, as already mentioned, complex and long and tests and interviews were conducted with the candidates, only to arrive in a situation when, without saying a word, the majority of the members did not elect justices to the criminal department of the Supreme Court.

The question is: What is the justification for such conduct of the members of the Judicial Council? It is unclear whether there are reasons that are not known to the public but are known to the Judicial Council, which could be why the candidates for justices were not elected. Or maybe there are other reasons for their actions that the Judicial Council does not inform the public and first and foremost the judges of?!

**The election of judges for the Gostivar Court of Appeal took a different course. From the ranking list prepared in accordance with the statutory procedure for promotion of judges, the first ranked judges were not elected, i.e., the members voted for the judges ranked at the fifth and sixth place.** Aleksandar Milosevski, judge at the Skopje First Instance Criminal Court and Daut Rustemi, judge at the Gostivar First Instance Court were elected judges at the Gostivar Court of Appeal.

It can be concluded that the JCRNM members have the right to vote for the candidate whom they think will best perform the judicial function in a higher court. But on the other hand, this bypasses and calls into question the essence of the entire evaluation procedure. Namely, it is a comprehensive evaluation in which the candidates for judges are evaluated according to strictly defined indicators and receive specific marks. The purpose of such evaluation is to avoid subjectivity on the part of the JCRNM members, to ensure full application of the merits system, colleagues from higher courts to do the evaluation of the quality of the judges' work and to thus guarantee independent and impartial election of judges to the higher courts.

There is no doubt that JCRNM members have the right to elect judges from the ranking list or not to make an election. However, this undermines the judges' confidence in the independence of the Judicial Council and discourages them from responding to the announcements of vacant posts or doing their best to achieve excellent marks, as when they do they find themselves in a situation not to be voted, without any explanation from the JCRNM members. The question now is if this is one of the methods for the Judicial Council to elect candidates who are "desirable" to be promoted to the higher courts? In addition, there is no provision for determining specific responsibility of the members when they do not perform their primary obligation, which is to elect and promote judges. **Such irresponsible conduct of the Judicial Council affects the trust of the citizens, calls into question the access to justice, and more importantly, leaves the higher courts without sufficient capacity to perform their duties in a timely manner.**

**In accordance with the law, JCRNM members are obliged to provide an explanation only for the candidates they have elected as judges or have promoted them.** Their explanations consist of repeating the statements of the president of the Commission in charge of summarizing the marks and preparing the ranking list. When one of the members knows a particular judge because they come from the same court or from the same appellate jurisdiction, other qualities are pointed out in the form of general platitudes, such as integrity, moral and ethical values, conscientiousness, and professionalism.

**During the election of the first-ranked candidate, special emphasis is placed on the many points obtained during the evaluation.** For the members of the Judicial Council this is an indicator of quality candidate, one that is proven in the performance of his/her office. **But when a candidate who is not among the first-ranked is chosen, then other attributes** are pointed out that were already mentioned in the text above; it is even indicated that no petitions have been filed against that candidate by citizens or legal entities.

When a candidate is not elected unanimously, judges who did not vote for that candidate usually refrain from commenting or simply state that they are of the opinion that the said candidate should not be elected, without going into details and presenting specific reasons.

In addition to the promotion of judges to the higher courts, during this six-month period, elected were also the acting presidents of the Skopje Court of Appeal, Prilep First Instance Court, Berovo First Instance Court and the president of the Tetovo First Instance Court.

**The situation with the election of candidates for judges from the Academy of Judges and Public Prosecutors is alarming.** Namely, the Judicial Council published an announcement for the election of judges in the first instance courts, primarily for the smaller courts. The purpose of this decision of the Judicial Council was to fill the vacancies in the courts with most vacant seats and where no one has responded to the announcements for years. For these reasons, the **Judicial Council decided to first publish advertisements in the smaller courts in order to motivate the candidates from AJPP to respond to these advertisements**, whereas the advertisements for the larger courts, for which it is certain that there is great interest, were left for later. When the deadline for applications in the smaller courts expired, **due to the lack of interest on the part of the candidates from AJPP a new advertisement was published, but this time for filling the judicial seats in the larger courts as well.**

**The fact that no candidates showed interest in the two advertisements for the smaller courts is worrying.** Greatest interest was shown for the Skopje First Instance Criminal Court, Skopje First Instance Civil Court, and the first instance courts in Bitola, Tetovo, Strumica and Sveti Nikole. There are no candidates for the smaller first instance courts, not even for the First Instance Court in Prilep, which is not a small court, and in which only 4 judges are currently serving.

**The other problem is related to the selection of judges and the lack of an accredited agency that conducts the psychological test and the integrity test which are part of the election process for judges.** The Judicial Council received a notification from the Accreditation Institute that no institution in RNM is accredited to do these tests in accordance with the law, and that the contracts with the previous company Vista Group and the Institute for Political and Sociological Research, which carried out these tests, have expired. Despite the several attempts through the Government and the Ministry of Justice to call attention to the fact that without an accredited firm judges cannot be elected, and after several months of correspondence, the Government, at one of its sessions, reached a conclusion to recommend to the Judicial Council to continue to work with the current company un-

til new companies are accredited to perform this activity. After a long argument among the JCRNM members whether to suspend the election of judges until a new company is accredited or to work "contrary to law" upon recommendation of the Government, the members adopted the proposal to continue the cooperation with the current company by signing an annex to the contract for performing these services. The main purpose of this decision is not to stall the process for electing judges, not only for the new candidates for judges in the first instance courts, but also for the judges to be promoted to higher courts. With respect to this decision, one JCRNM member had a separate opinion, and it is published on the JCRNM website.<sup>8</sup>

**On 25 July 2023, election was held for judges in the first instance courts, for the Bitola First Instance Court, Sveti Nikole First Instance Court, Strumica First Instance Court and Tetovo First Instance Court.** The election was conducted pursuant to an announcement published on 6 April 2023,<sup>9</sup> whereas the election of judges for the Bitola First Instance Court, Skopje First Instance Civil Court, Skopje First Instance Criminal Court and Strumica First Instance Court was conducted pursuant to an announcement published on 30 May 2023.<sup>10</sup> Upon completion of the full procedure provided for by law and the secondary legislation, the Judicial Council compiled a ranking list of candidates for judges for each court separately. Candidates were ranked according to the points received from the AJPP and the points received from the interview conducted by the members of the JCRNM Commission. It was emphasized that the points from the ranking list of AJPP candidates and the final JCRNM ranking list did not differ much, which means that the candidates proved their achievement before the Commission that conducted the interviews.

**Of a total of 32 AJPP candidates for judges, 25 judges were elected.** A new announcement was published for the remaining candidates in the courts with urgent need for new judges, as explained above.



## DISMISSAL OF JUDGES AND COURT PRESIDENTS

---

**In the period until June 2023, the Judicial Council found that 29 judges had terminated their office due to retirement, one judge due to death and one judge at his own request,** which resulted in an increased number of vacant judicial seats in the first instance and in the appellate courts. The Judicial Council has discussed this huge problem that appeared in the judiciary on a number of occasions during their sessions for the purpose of finding a solution to fill vacancies in all courts throughout the country, but apart from filling the vacancies by way of election of AJPP candidates and by way of transfer from one to another court, at present there is no other way to solve this problem that affects not only the efficiency of the courts, but also the access to justice for all citizens.

---

8 Separate opinion of a member of the Judicial Council of RNM, Vesna Dameva, June 2023, available at: <http://sud.mk/wps/wcm/connect/ssrm/624d50b2-2f63-453d-a4f4-8ba5d31da6dc/%D0%98%D0%B7%D0%B4%D0%B2%D0%BE%D0%B5%D0%BD%D0%BE+%D0%BC%D0%B8%D1%81%D0%BB%D0%B5%D1%9A%D0%B5.pdf?MOD=AJPERES&CVID=>

9 Official Gazette of RNM no.73/2023

10 Official Gazette of RNM no.112/2023;





## MONITORING THE WORK OF THE COURTS

---

The monitoring of the work of the courts is carried out by the Judicial Council through the review and evaluation of the quarterly and annual reports, but also through visits to the courts by commissions composed of JCRNM members, which is provided for in the Internal Plan for monitoring and evaluating the work of the courts, the judges and the court presidents for the year 2023.

**It can be concluded from the quarterly reports on the work of the courts that the trend of inefficient courts continues, and the reasons for this situation are the insufficient number of judges, the insufficient number of court administration staff, and the increased number of cases.**

After the visits to the courts, it is a common practice of the members of the commission that carried out the visit to present the report from the visit at a session, highlighting the most significant findings and proposing conclusions for further action where deficiencies were found in the operation of the courts or in the work of some judges or court presidents. Where there is a need for an extraordinary visit to a court and the reasons for this are court cases of interest to the public or petitions from citizens or legal entities about certain inappropriate circumstances in the court, a special conclusion is drawn stating the reasons for an extraordinary visit to a specific court. Consequently, **during this reporting period, several visits to courts were made, and the reports from these visits were presented at the sessions.** This positive practice was established by the former president Vesna Dameva.

**The reports from extraordinary visits are characteristic as the reasons for these visits are certain circumstances in the courts or cases that are of great interest to the public. Such are the reports from the visit<sup>11</sup> to the Kumanovo First Instance Court, Kavadarci First Instance Court, Veles First Instance Court, Shtip First Instance Court and Tetovo First Instance Court. Several issues have been identified in these reports that are related to the distribution of cases through the ACCMIS system, dismissal of judges, delivery of writs, untimely preparation of decisions and even disturbed interpersonal relations. JCRNM members, in their reports, propose conclusions and necessary steps to remedy the ascertained circumstances in the courts and act on the conclusions.** It is necessary to monitor the implementation of these conclusions, especially because the conclusions in the report from the visit to the Skopje Court of Appeal that were adopted last year have not yet been implemented. They refer to initiating procedures for determining responsibility of judges who have not, for a longer period of time, decided on the cases of great interest to the public which in turn led to applying the statute of limitations to these cases. This was presented to the public as one of the reasons for the dismissal of the former president Vesna Dameva.

Some reports do not fully examine the circumstances in the specific court for which the decision was made to conduct an extraordinary visit. Such is the example with the Kavadarci First Instance Court. But there are other examples as well, such as the visit to the Veles First Instance Court during which an inspection was carried out of the work of an unnamed judge against whom there were several complaints. In the course of the visit the reason for holding the judge responsible for unprofessional and negligent work was determined and

---

11 Reports from visits of courts conducted by the Judicial Council of RNM, available at: [http://sud.mk/wps/portal/ssrm/sud/izvestai/ostanati-dokumenti!/ut/p/z1/pVTLUqNAFP0VXbBsupt-zy7lmMSMTmJFRukNhaQhIAIplKHKr7dxHo5JJEnZG7jNfZxz7-VADR-gLqJNikZNVhbRs7UDzUM-ohTJH-h6hKcSDfypz9V46M1GAt73Ofg-gfr\\_z3LyXdnPIAxvZ3eYCgp\\_QQ11XDSrZgmDutyYJsyfHFSvFw5albFpishBG1M3mYMki9FCKQq](http://sud.mk/wps/portal/ssrm/sud/izvestai/ostanati-dokumenti!/ut/p/z1/pVTLUqNAFP0VXbBsupt-zy7lmMSMTmJFRukNhaQhIAIplKHKr7dxHo5JJEnZG7jNfZxz7-VADR-gLqJNikZNVhbRs7UDzUM-ohTJH-h6hKcSDfypz9V46M1GAt73Ofg-gfr_z3LyXdnPIAxvZ3eYCgp_QQ11XDSrZgmDutyYJsyfHFSvFw5albFpishBG1M3mYMki9FCKQq)

this case later resulted in dismissal. We also underline that in the report for the Tetovo First Instance Court omissions were found in the exemption procedures that are responsibility of the court president. Later, without any indication as to whether the omissions were remedied, the same president of the Tetovo First Instance Court was elected.



## DECISION-MAKING ON PETITIONS FROM CITIZENS AND LEGAL ENTITIES

---

Petitions from citizens and legal entities that are submitted to the Judicial Council and refer to the work of judges and court presidents are regularly reviewed and resolved in compliance with the statutory deadlines.

**In the first half of 2023, around 256 petitions submitted by citizens and legal entities were reviewed.**

**The Judicial Council rejects the larger number of petitions as unfounded, taking into account that with the petitions, citizens and legal entities seek to change a court decision because they are not satisfied with it.** In most cases the Judicial Council finds that the proceedings in the case are appellate proceedings before a second-instance court. The second-instance court will assess the allegations in the petition as appeal allegations in the decision-making process and therefore the Judicial Council **has no authority to intervene in the court decisions, nor to change them, thus not finding any grounds to act on the filled petitions.**

In addition, there are rejected petitions, the main reason for the rejection being lack of new facts concerning the filed petition, the petition has already been reviewed at one of the previous sessions or the petition does not contain all the information necessary for it to be reviewed.

**During this period an increased number of well-founded petitions is noticeable, which is commendable.** This means that the petitions contain more evidence wherefrom the JCRNM members can, during the review, determine indications of negligent or unprofessional work of a judge. What is important in these petitions is that when the petition is about a judge who has exceeded the deadlines to act, or to announce a decision, or to prepare a decision, the JCRNM members confirm this. One of the reasons for this is that such behavior is part of the criteria for evaluation of judges, in line with the Methodology for evaluation of judges. Thus, where the grounds presented in the petitions are not sufficient to initiate a disciplinary responsibility procedure for the judge in question, such well founded petitions will become part of the judge's evaluation.

# CONCLUSIONS

---



In the period from January to July 2023 the Judicial Council faced several challenges which showed the weaknesses not only of the solutions provided for in the LJCRNM, but also in the work of the individual JCRNM members. Although this recent period was marked by the irregular procedure for the dismissal of the former president of the Judicial Council, Vesna Dameva, certain open issues and inconsistencies were observed also in the other work under the jurisdiction of the Judicial Council, all of which had influence on the parameters for monitoring its work.



The dismissal of the former president and the resignations of the two members of the Judicial Council point out to irregularities, as well as to worsened interpersonal relations. The LJCRNM needs to undergo amendments so as to regulate the procedures for dismissing the president and for determining responsibility of the members and the president of the Judicial Council. At the same time, the justification and correctness of using analogy for issues and procedures that are not regulated by law should be carefully evaluated, as well as its consistent application.



The Judicial Council should fully respect the standards for transparent operation. Although in the past years the Judicial Council showed good results in terms of transparent operation, during this reporting period practices were established that contradict this principle. Staff meetings at which decisions are made and are scheduled immediately prior to a session, scheduling emergency sessions with no urgent issues in their agenda, scheduling a session for election of president outside of working hours, holding sessions that have not been previously announced, failure of the electronic sound recording system and the voting system at the time when the former president was dismissed - all these are part of the practices that adversely affected the transparency in the work of the Judicial Council and the reputation of the Judicial Council with the public. Furthermore, questions remain open as to why this is so, is the reason for this situation the insufficient internal coordination or the avoidance of the presence of the public at the sessions?



The Judicial Council carried out its work timely with respect to acting on petitions, election of judges, visits to the courts. However, it did not make an analysis of whether the time dedicated to the events surrounding the dismissal of the former president and the election of the new president influenced the work of the Judicial Council in relation to this power.



Several issues remain open with respect to the effectiveness and efficiency of the Judicial Council, but also with respect to the reputation and the trust between the judges and the public, as well as with respect to the inconsistent conduct of the JCRNM members including in all cases concerning the requirements for submitting the documents enumerated in the law together with the candidacy for a JCRNM member.



It is necessary to further specify and address the specific situations in the reports, as some reports from the extraordinary visits to the courts do not contain information on whether the situations that were the reason for the visit were fully investigated. For these reasons, appropriate conclusions and proposals could not be made to overcome the situations that influenced the effectiveness and efficiency of the work of the Judicial Council and the courts.



The determination of a larger number of petitions from citizens as well founded is positive because the Judicial Council can consider them when determining indications for negligent and unprofessional work of a particular judge.



The Judicial Council is not consistently applying the new rulebooks nor the evaluation results in the procedure for electing judges to higher courts, that it started applying in 2023 in order to apply the merit system. Namely, from the ranking list prepared in accordance with the procedure for promotion of judges, elected are not the first ranked judges but the fifth and the sixth ranked judges (the case in the Gostivar Court of Appeal), or no judges are elected at all with no reason provided (non-election of criminal justices in the SCRNM). Although the LJCRNM provides for such a possibility it is necessary to carry out the full evaluation procedure so as to avoid criticisms and apply the merit system. This undermines judges' confidence in the independence of the Judicial Council, discourages judges from achieving excellent marks and from responding to the announcements, and forces courts to work with an insufficient number of judges. All this affects the efficiency and the effectiveness of the operation of the courts and leads to inadequate access to justice for the citizens.



When electing the judges, suspending further voting after as many candidates as advertised in the announcement have been elected remains an open issue, as the remaining candidates on the ranking list are not given the opportunity to be voted and to receive a higher number of votes. The fact that candidates do not respond to the announcements for the lower courts, that has been happening for long time, affects the work of these courts and is an issue that should be taken into consideration when adopting strategic documents and amending the laws.



The confidence in the Judicial Council, which is obviously at a low level, as evident from the low interest of the judges to apply for Judicial Council membership, should be increased among the judges as well. The lack of census about the number of judges that will vote, as well as about the number of votes necessary for a candidate to be considered elected a JCRNM member brings doubt about the legitimate representation of judges and the trust in the judiciary.



These situations call into question not only the transparency, the effectiveness and the efficiency of the operation of the Judicial Council, but also the reputation of the Judicial Council as an institution, and the performance of its regular responsibilities, the concern for the reputation of judges and the trust of citizens in the judiciary.

# RECOMMENDATIONS

---

Based on the monitoring of the open sessions and reports of the Judicial Council, the Judicial Council's announcements and documents published on their website and the media reports, the following recommendations can be made:



Legal amendments are needed to govern the procedure for determining responsibility of the members and the president of the JCRNM.



It is necessary to revise the Law on the Judicial Council of the Republic of North Macedonia with provisions that will govern the procedure for the dismissal of the JCRNM president so as not have the previous practice of dismissal based on non-existent provisions repeated.



Amendments are needed to the Law on the Judicial Council of the Republic of North Macedonia for the purpose of determining the census, i.e. the number of present judges during the election of JCRNM members and determining the majority by which the candidate shall be considered elected.



JCRNM members should apply the provisions of the Law on the Judicial Council of the Republic of North Macedonia consistently when electing judges and/or court presidents, especially when the full procedure has been carried out; also, the JCRNM members that did not vote should explain the reasons for not voting for any of the candidates.



In the period to come, the Judicial Council should devote its resources to increasing the trust of the citizens in the judiciary by taking a proactive role and measures to remedy the perception of corruption in the judiciary by strengthening the cooperation with all institutions working in this area and by addressing the general public more often.



The Judicial Council should consistently apply the results of the evaluation and the ranking list when electing judges to the higher courts.



The Judicial Council should work to increase the trust of the judges by consistent application of the statutory provisions.

