



Институт за човекови права



FOURTH MONITORING REPORT FOR THE STATE ATTORNEY'S PERFORMANCE

**(Short summary of detected challenges and problems
with which the State Attorney's Office is facing)**

(PERIOD: JANUARY - JUNE 2020)

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Project "Together for combating corruption" is being implemented by SCOOP as a lead organization together with Institute for Human Rights (IHR) and MEDIUM as partners with an aim to improve the capacities of the CSOs in achieving their role as "watchdogs" or controller of the work of state institutions with a purpose to prevent any risks of corruption and abuse of state duty.

Within the framework of this third year of project implementation, IHR is continuously monitoring the work of the State Attorney's Office (SAO) performance. However, due to the situation with the pandemic caused by COVID-19 and the state of emergency, Primary Civil and Criminal Court in Skopje were closed from 17th March till 18th May (The Primary Criminal Court started with hearings from 01 June). In this period all court hearings were delayed and the courts were closed. Having in mind the above mentioned, the project team of IHR monitored only 30 cases, some of them in the Primary Criminal Court Skopje which refer to adhesion procedures where the SAO has a claim arising from accused in criminal proceedings due to abuse of official position and etc. In the Primary Civil Court, the IHR project team monitored property cases where the role of SAO is crucial in protecting state's assets and interests.

Furthermore, IHR followed investigations initiated by the Primary Prosecution in Skopje where several state attorneys were suspected in abuse of state powers and officials by giving opinion for land alienation which is contrary to the law provisions. Investigation in one of these cases with the code name "Spanish stairs" was finished with prosecution act and the case had its first hearing at the beginning of June. IHR will also monitor this case.

In the past six months, the IHR project team detected some problems and challenges with which the SAO is facing and some of them have been noted in the previous monitoring reports.

- Conducted monitoring by IHR has shown that the SAO has not improved the visibility of the institution.

- SAO did not participate on the three workshops organized by the State Commission for Prevention of Corruption in order to draft the National strategy for prevention of corruption and conflict of interests. Project coordinator from IHR participated on all three workshops and due to her insistence, the problems and challenges with which the SAO is facing were incorporated in the Action Plan for 2020-2024*.
- There is a need for greater transparency and accountability by SAO because they need to publish on their website the positive and/or negative opinions for land alienation in state property or to express concern/interest in some important cases that tackled the public interest. It is extremely hard to detect any corruptive practices if the public or journalists do not have easy access to these information's on the official website of SAO. This have been noted in the previous monitoring report, but the situation is not changed.
- SAO is facing with lack of human resources. This was also noted in the previous monitoring report and supported by the report from the State Audit Office where it is stated that the SAO is working only with 62% of its capacities.
- There is a need for electronic regulation and monitoring of cases in the State Attorney's Office, with introducing a system which is similar to the ACCMIS system that functions in the courts. In this way, there would be detailed statistics and it will be possible to make an insight into the cases, in order to find in what stage currently the case is, and also the system could record all the actions that are undertaken by the SAO in litigation and administrative proceedings SAO has requested money for acquiring this system with the budget for 2020, but they were not approved even with the Budget Rebalance (Official Gazette of RNM no.126/20-147).
- Administrative and the Higher Administrative Court still have denationalization cases which last for many years, although in the Administrative Court for the last six months were resolved 393 cases and in the Higher Administrative Court 159 cases.

*According to the received response from the SAO upon submitted Fourth monitoring report, the SAO have not received invitation for participation on the three mentioned workshops.

- None of the 15 areas of SAO for the last six months did not conclude out-of-court settlements in property cases nor in labour cases which indicates that this instrument is not being used at all. Due to this reason, it should be considered for an option in those cases where there is clear evidence which can support the plaintiff's claim in eventual court procedure, these cases to be solved with an out-of-court settlement. On this way, funds will be saved in the budget and the state bodies will respect and apply the principle of economy of the procedure. Contrary, the state budget will be loaded with unnecessary litigation costs on behalf of representation.
- The State Attorney's Office does not have information regarding the costs for representation when the other party will win the case, nor the exact number of costs when the other party will lose the case i.e. how much money will be transferred in the State Budget for representation costs by the State Attorney's Office. It is not enough that the Ministry of Finance and the Public Revenue Office have these information's, also the State Attorney should have its own system for tracking these costs, after all is acting as a lawyer of the State.
- The Audit report for the SAO performance prepared by the State Audit Office and published in April 2020 has shown that the SAO did not take all necessary measures in protecting state assets and interests in a manner that should be for a state institution that has responsibilities determined by the law.[1]

[1] Audit report for the work of SAO, available at: https://dzt.mk/sites/default/files/2020-05/50_RU_Intstucionalni_kapaciteti_drzavno_pravobranitelstvo_2018_KOMPLET_REDUCE.pdf