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# THE CONSTITUTIONAL CHALLENGES OF JUDICIAL INDEPENDENCE - ENDLESS STORY IN MACEDONIA

**Abstract**

This article explores the standards for judicial independence built in Europe and Macedonian story on this issue. At the beginning the article analyzes European trends in establishing structural safeguards of the judicial independence, connected with the: appointment, promotion, transfer, dismissal, remuneration and immunity of judges. So, the article points different European constitutional solutions for obtaining the balance between the judicial independence and the accountability of the judiciary in order to avoid negative effects of corporatism within the judiciary. This shows that there is no overall best solution for that: all have advantages and disadvantages.

The also article analyzes constitutional story of independence of judiciary in the Republic of Macedonia. The constitutional provisions from 1991, constitutional amendments from 2005 and proposed changes from 2014 are analyzed.

***Key words:*** judicial independence, Judicial council, election of judges, dismissal of judges, judicial responsibility, Council of Europe, Venice commission, European Union

## 1. Introduction

Judicial independence is an issue in the focus of reforms in Macedonian legal system since 2005 till now. The public and expert opinion in Macedonia is permanently critical on the lack of independence of judiciary. The Macedonian Governments acted that they were solving with this problem, only through

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constitutional and legislative reforms. But more than legal changes is needed for establishment of judicial independence. What is most crucial is existence of will of the political elites to take their hands off judiciary and leave space for law instead of politics in the courtrooms.

It is easiest to proclaim judicial independence in the constitution. More difficult is to implement that constitutional proclamation. Judicial independence is a fundamental principle on which is (or better should be) based judicial system in every constitutional state.

"Judges shall be independent and subject only to the law" is proclaimed in the constitutions, but this is only a guiding principle with aim to prevent interference and domination by legislative and executive power over the judiciary. But, in practice, the separation and independence of judiciary from other branches is never fully established, because as Justice Huntley admitted when retiring from the New South Wales Court of Appeal: "the greater the power of executive, the greater the need for judicial independence and, correspondingly, the temptation for the executive to try and curb it."[2]

In performing their functions judges should be independent of: legislative power, executive power, formal social groups as are: political parties, associations, trade unions, media, court management etc.

Independence means that judges should be free from instructions, either general, or instructions for individual cases. While performing his/her functions, judge "should not be subject to pressure that would cause him to vary the meaning of the rules to suit the views of the persons affected by them", and "in ascertaining 'facts' he" should "not be influenced by considerations of expediency".[3]

The results of independence and impartiality of the judges are the similar, but they are not synonyms. Impartiality means that there must be no suspicion that judges might have any personal interest in the outcome of a case. Normally impartiality denotes absence of prejudices or bias.[4]

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[2] Quoted in Geoffrey de Q. Walker, "The Rule of Law - Foundation of Constitutional democracy", Melbourne University Press, Carlton, 1988, p. 30.

[3] M.J.C.Vile, "Constitutionalism and Separation of Powers", oxford, 1967, p. 329.

[4] In "Henry IV" (Act. V) Shakespeare observes that if the lack of bias and impartiality means "the total absence of preconceptions on the mind of the judge, then no one has ever had a fair trial and no one ever will". Exploring what he refers to as "the myth of judicial neutrality", J.A. Griffith in the "Politics and judiciary" explains it as the theory that a court order is product of the law and only marginally of

But, it does not always mean that independent judge always is impartial judge, because he/she can be partial either by his/her individual convictions (for example, in divorce case) or by his/her special attitude toward one of the parties of the dispute.

For better performance of judiciary function, substantive (decisional) and personal judicial independence should be guaranteed. Substantive independence of the judiciary means that judges must be bound by the law and by their conscious, while deciding in a concrete case. This independence also includes the freedom of the judges from any influence and pressure in performing their functions. That means that judges will be free of, as John Reitz calls it - "telephone law".[5]

Personal independence of the judges requires that the conditions and durations of their service be not under control of the other governmental branches. Personal independence is base for substantial independence.

There are more structural safeguards of the judicial independence. They are connected with the: appointment, promotion, transfer, dismissal, remuneration and immunity of judges. But, these safeguards are regulated differently in constitutional systems, because different constitutional systems balance the values of accountability and independence of judiciary in different ways and provide different degrees of checks and balances between the branches of power – legislative, executive and judicial.

## 2. Appointment or election of judges

There are different systems of appointment or election of judges. In some countries it is in the hands of the executive power. In one group of countries the appointing authority is the head of the state. In the systems where the judges are appointed by the head of the state there are differences in the extent to which the head of state is free in deciding on appointment. If the head of the state is bound to the proposals of some independent body, as is the judicial council, without the competence to appoint some candidate who is not proposed by this body, than the

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the judicial mind. But, judges are human beings subject to subjective influence due to their upbringing, temperament, social environment etc.

[5] See: John Reitz "Progress in Building Institutions for the Rule of Law in Russia and Poland" in Robert D. Grey (ed.), "Democratic Theory and Post-Communist Change", New Jersey: Prentice Hall, 1997, p. 146.

danger of his political influence over the process of appointment of the judiciary is reduced.

In some countries judges in all instances are elected by the Parliament, on the proposal of some other body. This method of election of judges was used in Macedonia till 2005, when new constitutional amendments were adopted. This system at first was seen as system that provides democratic legitimacy of the judiciary, but in practice it leaded to politisation of the process of selection of judges and political bargaining and campaign during it.

The newest trend in selection of judiciary is appointment of the judges by the special judicial council whose composition varies from country to country. The existence of so called Judicial Council, or Judicial Services Commission is important element for the independence of the judiciary, if these councils are also independent. The measures, which could be taken for their independence, should be directed toward their election and term of office.

There is no standard model of composition of this body, but the largest part of its membership should be consisted of representatives of the judiciary, elected by the judges themselves. In order to balance the principle of accountability with the principle of independence, the other branches of power are also involved in the process of appointment or prosing members of the judicial council. So, part of the members of this body is elected by the Parliament among persons with appropriate legal qualifications.

In some countries the minister of justice also participates in the work of the judicial council. Such presence does not seem, in itself, to impair the independence of the council, according to the opinion of the Venice Commission. However, according to its opinion, the minister of justice should not participate in all council's decisions, for example, the ones relating to disciplinary measures.[6] In Macedonia the presence of the minister of justice in the Judicial council lead to his dominant position in this body, which endangers its independence. That results from the authoritarian traditions in the country, the character of the political culture and huge politisation in all public spheres. So, Macedonia shows that what is not problem *per se* in countries with developed democracy, could lead to problems in countries without democratic traditions. The balance between the branches of power and the principle of

[6] "Judicial Appointments", Report adopted by the Venice Commission at its 70th Plenary Session, 16-17 March 2007.

accountability was easily achievable without participation of the minister of justice in the judicial council. With this solution the principle of independence of this body was endangered.

### 3. Removal of the judges

Another important element for the protection of the independence of the judiciary is establishment in the constitution of a clear grounds and procedure for *removal of the judges*. This does not encompass only the conditions for dismissal of the judges, but also the conditions of their suspension or transfer from one post to another.

Irremovability is a fundamental safeguard, which exist in many countries. Many contemporary constitutions establish permanent term of the judge's office. In the wording of the constitutions "the office of a judge shall be permanent" (the Constitution of Slovenia, Art. 120 of the Constitution of Croatia), or "judges shall be irremovable" (Art. 124 of the Constitution of Romania, Art. 60 of the Constitution of Poland, Art. 48, Para. 3 of the Constitution of Hungary) or a "judge is elected without restriction of his/her term of office" (Art. 99 of the Constitution of Macedonia), or "a judge cannot be recalled against his will" (Art. 82 of the Constitution of Czech Republic).

In some countries the judges are appointed for a probationary period and if they prove satisfactory they are appointed indefinitely. But, several international bodies have expressed their opinion that setting probationary periods can undermine the independence of judges, since they might feel under pressure to decide cases in a particular way.[7]

Differently from probationary period, all constitutions provide opportunity for the removal of the judges from their offices. The reasons for their dismissal must be clearly established, because only in that way the possibilities of political pressure on the judiciary could be avoided.

The reasons for dismissal of the judges are more less the similar: retirement; resignation; conviction to imprisonment for a premeditated crime committed; and

[7] See: European Charter on the statute for judges; The Universal Declaration on the Independence of Justice, adopted in Montreal in 1983; and "Judicial Appointments", Report adopted by the Venice Commission at its 70th Plenary Session, 16-17 March 2007.

durable actual impossibility of discharging their office duties for more than certain period or permanent lost of his ability to carry out his duty etc. Misbehavior, which is pointed out as a ground for dismissal in the many constitutions, is very imprecise reason for dismissal of the judges, which can be misused for political "executions" of judges. In order to minimize its misuse, precise criteria for determining existence of misbehavior should be set. In that regards it is important not to confound discipline with ethics. Discipline aims at implementing duties, while ethics provides a definition of general and moral rules of conduct.[8] As it is pointed out in the opinion of the Consultative Council of European Judges, "all judges should aim to develop and aspire to high professional standards. But it would discourage the future development of such standards and misunderstand their purpose to equate them with misconduct justifying disciplinary proceedings".

Except grounds for dismissal of the judges, procedure and bodies, which decide that, are also important features for guarding the independence of the judges.

In most of the constitutions the same body, which appoints, also dismisses the judges, as is for example in Slovenia, Italy, Albania, Macedonia, Bulgaria etc.

So, if countries accept the solution that Parliament decides on the dismissal of the judges, then 2/3 majority should be demanded for that decision, because it is the only way to protect the judges from becoming victims of the political pressures by the majority in the Parliament. By demanding the 2/3 majorities, the position of the judges is more secure from the aspect of political dependence, because some kind of consensus between government and opposition is demanded for the removal from the judge's office.

In some countries the courts decide for the dismissal of the judges ("no judges can be deprived of his post nor suspended except by court decision"). This solution gives a real chance for independence because the point where the judges are weakest - their dismissal is in the hands of their colleagues i.e. those who are authorized to implement the law in special cases are authorized in judicial procedure to decide the cases which affect some members of their branch. But, the problem of balance with the principle of accountability still exists and is accented in this case.

[8] Eric Alt, "Following European trends: challenges and choices to be made", on "Judicial independence in Europe – Models of self-government and self-responsibility", Conference, Frankfort/Main, November 7-8th, 2008.

## 4. Ancillary factors affecting the independence of the judiciary

Immunity of the judges is also important guarantee of the independence of the judiciary. A judge may not be held responsible, held in custody or punished for expressing an opinion or voting in the passage of a court decision. Also, a judge may not be held in custody nor may criminal proceedings be introduced against him without approval of the some specified body, which decides on the immunity of the judges. Usually the body, which decides on removal of the judges from their office, is the body, which decides on the immunity of the judges. In some countries as exception from the immunity of the judges is that they may be imprisoned when they are caught in an act of committing an offence punishably by the imprisonment of specified durations (for example, in Macedonia - 5 years).

Also, incompatibility of the judge's office is one of the characteristics of the judicial functions. In all countries judge's office is incompatible with other office or job. Some exclude teaching or scientific research from this rule of incompatibility.

But what is more important in the countries of Central and Eastern Europe membership of the political party is prohibited for the persons holding judge's office. That means that membership of a political part is generally prohibited in those countries where such membership was formerly compulsory. In countries with older democratic traditions membership of a political party is not prohibited, on condition that judge does not take part in public in a purely political debate, particularly an electoral debate. Even more the prohibition of membership of a political party in Western legal tradition is regarded as a restriction on the individual's right of association.

Discussing this point, Philippe Abravanel, Honorary President of the International Association of Judges believes that "it is better, where a superior court judge, particularly a constitutional judge, is a member of political party that this should be public knowledge rather than that he should support it clandestinely". He adds that "at least above a certain level of jurisdiction, a judicial decision is a political act…A criminal judge delivers a political judgment when he rules on an obscene publication or an abortion, as does a civil judge ruling in a divorce case. Neither can divest himself entirely of his personal view of the world or his religious convictions… No judge can be totally immune to influences. It is therefore preferable, before promoting a superior court judge, to discover to which political grouping he belongs,

to ensure a proportional distribution of the judges on the bench, limited of course, to those who belong to democratic groupings. On the other hand a judge should not intervene in a debate on a heated issue covered by the press. To do so would be to lend his authority to opinions which, although they only represent his own private views, would nonetheless be ascribed to the judiciary; or worse, he could find his words distorted and published alongside his photograph."[9]

Other ancillary factors affecting the independence of the judiciary are: creating the necessary organizational, technical and informational conditions for judges` activities, creating material and social conditions according to their status, freedom to form and join association of the judges, promotion of judges should be based on objective factors, in particular ability, integrity and experience; the assignment of the cases to judges within the court to which they belong should be internal matter of judicial administration, complaints made against a judge in his/her judicial and professional capacity should be processed expeditiously and fairly under an appropriate procedure etc.

## 5. European trends on judicial independence developed within the Council of Europe and EU

The international community is also interested in the guaranteeing independence of the judiciary. Several documents are adopted for this aim. One of them is a Recommendation on the independence, efficiency and role of judges adopted by the Committee of Ministers in Council of Europe in 1994. It is basic document of the Council of Europe on judicial independence. The most important aspects dealing with safeguard to judicial independence, elaborated in the explanatory memorandum attached to the Recommendation are the following:

1) The scope of judicial independence is not confined to judges themselves but encompasses the judicial system as a whole.

2) The independence of judges should be guaranteed pursuant to the provisions of the European Convention and constitutional principles. Depending on the legal system of each country, this guarantee may take form of a written or unwritten constitution, a treaty or convention incorporated into the national legal

[9] Philippe Abravanel "Duties, responsibilities and rights of the judge" in "Judicial systems in a period of transition", Strasbourg: Council of Europe Publishing, 1997, p. 138.

system, or even written or unwritten principles of superior status, such as general legal principles.

3) The law should lay down rules on how and when appeals may be made against judge's decisions in courts enjoying judicial independence. A revision of decisions outside the legal framework would clearly be inadmissible. The executive branch should not be able to take decisions obsolete, except in very special cases of amnesty, pardon, clemency and other similar situations.

4) The organs of the executive and legislative branches must refrain from adopting any measure, which could undermine the independence of judges. In addition, pressure groups and other interest groups should not be allowed to undermine this independence.

5) All decisions concerning the professional life of judges should be based on objective criteria. Even though each member state has its own method of recruitment, the selector of conditions for the judiciary and the career of judges must be based on merit.

6) The judge should have freedom to decide a case impartially, in accordance with his conscience and his interpretation of the facts and in pursuance of the prevailing rules of law. Attempts to corrupt judges should be punished under criminal law.

7) In some states, judges are obliged to report on any backlog of cases. Although this is held to be compatible with the concept of judicial independence, judges should not be obliged to report on the merits of cases with a view to justifying their decisions using official authority.

8) There are various possible systems for the distribution of the court workload. What matters is not so much the system chosen, but the fact that the actual distribution of cases should not be partisan.

9) The law should provide that a case should not be withdrawn from a judge by the appropriate body without valid reason.

10) Judicial tasks should remain within the exclusive purview of judges. The delegation of non-judicial tasks cannot be done in a manner as to endanger the judicial independence of judges.

11) States should provide adequate facilities to ensure the protection of judges whenever necessary.

12) Judges are to enjoy the right to take collective action to safeguard their professional independence and protect their interests.

13) The independency allotted tasks of judges is that of safeguarding the human rights of all persons within the scope of their duty to administer justice.[10]

In 2007, the Venice Commission issued Report on judicial appointments[11] stressing that choosing the appropriate system for judicial appointments is one of the primary challenges faced by the newly established democracies, where often concerns related to the independence and political impartiality of the judges persist… Also, in this Report it is pointed that, "international standards in this respect are more in favor of the extensive depolitisation of the process. However no single non-political "model" of appointment system exists, which could ideally comply with the principle of the separation of powers and secure full independence of the judiciary."

The Venice Commission recommends establishment of a judicial council as appropriate method for guaranteeing judicial independence, which should be endowed with constitutional guarantees for its composition, powers and autonomy. Such a Council should have a decisive influence on the appointment and promotion of judges and disciplinary measures against them. A substantial element or a majority of the members of the judicial councils should be elected by the judiciary itself. In order to provide for democratic legitimacy of the Judicial Council, other members should be elected by Parliament among persons with appropriate legal qualifications.

Within the EU, the Copenhagen criteria focus on stability and efficiency of the institutions guaranteeing the rule of law. They do not explicitly mention judicial independence as one of the conditions for EU accession, but it independent judiciary is one of the preconditions for proper protection of human rights and establishment of rule of law. Also, it should be noted that there is no specific *European* model of independent judiciary. Some, similar principles of judicial independence are followed at a very abstract level, which in practice result in plurality of models.

The European Commission issues Regular Reports on judicial independence. There are two interpretations on these reports. First is that Commission has made particularistic, contextual judgments in assessing the legal systems of the accession countries regarding the issue of judicial independence. So, according to this view the Commission synthesizes the conclusions of careful contextual interpretations, without

[10] Recommendation No. R (94) 12 of Committee of Ministers of the Council of Europe.
[11] CDL-AD (2007)028, Venice, 16-17 March, 2007.

ambition to construct a coherent pan-European theory of judicial independence. Second, reading is that reports rely on some consistent set of common standards concerning judicial independence.[12] This reading is challenged by some authors who point that it is Herculean task to elaborate at least rough outlines of a super-complex theory on the balance on independence and accountability of the judiciary.[13] In some researches it is pointed that the accession process has shown that the Union itself needs a more comprehensive approach to the judicial reform question and more precise standards that will encourage a uniformly high level of respect for the judicial independence across Europe.[14]

The lack of coherent theory of judicial independence and the variety of models in the established democracies on judicial independence led to occasional problems, when European Commission has sent mixed signals to candidate states.[15]

## 6. Constitutional changes on judiciary in the Republic of Macedonia

The issue of independence of judiciary in Macedonia has been problematic since 1991. The politics has been involved in the process of election of judges and a degree of political influence has not been ruled out. Since 1991 till 2005 the judges were elected by the Assembly on the proposal on the Republican Judicial Council. The election of the Republican Judicial Council was only in competence of the Assembly. The Council was consisted of seven members elected by the Assembly "from the ranks of outstanding members of the legal profession". Two of them were proposed by the President of the Republic and others are proposed by the Assembly itself. The qualification, which is demanded for electing a member of the Republican Judicial Council (outstanding member of the legal profession), was very subjective. There was no provision in the Constitution that the Council should be consisted at

[12] For these interpretations on Commission Regular Reports see: Daniel Smilov, "EU Enlargement and the Constitutional Principle of Judicial Independence", http://www.bili-bg.org/cdir/bili-bg.org/files/Outline-Smilov.doc

[13] Daniel Smilov, "EU Enlargement and the Constitutional Principle of Judicial Independence", http://www.bili-bg.org/cdir/bili-bg.org/files/Outline-Smilov.doc

[14] EUMAP, Judicial Independence, "Judicial Independence in the EU Accession Process", Open Society Institute, 2001, p. 26.

[15] EUMAP, Judicial Independence, "Judicial Independence in the EU Accession Process", Open Society Institute, 2001, p. 20-21.

least of certain number of judges. The Law on Republican Judicial Council contained a provision that four of the members should be elected among judges, and three can come from the other institutions and activities. But the Constitutional court repealed this provision from the Law as unconstitutional, because the Constitution does not specify the background of the members of the Republican Judicial Council (Decision of the Constitutional court, Official Gazette, No. 26/93).

So, it could easily happen no one of the members of the Republican Judicial Council to come from amongst judges holding permanent judicial office.

With these provisions for election of the members of the Judicial Council, they were dependent of the ruling political parties in the Parliament, and the judicial branch had no influence on the election of its members, despite of the fact that it was a body that was closest connected with it.

It was also noticeable that elections of the members of the Judicial Council, as well as of the Presidents of the courts, were based on the principle "one horse race", which meant that, as many posts were available, as many candidates were proposed.

Other curiosity in the constitutional system was that the members of the Republican Judicial Council, could be elected by the Assembly with a majority which is smaller than the absolute majority. The Constitution of Macedonia in Article 69 proclaims that the Assembly may work if its meeting is attended by a majority of the total number of MPs. The Assembly makes decisions by a majority vote of the MPs attending, but no less than one-third of the total number of the MPs, in so far as the Constitution does not provide special majority.

The Constitution did not provide special majority for election of the Republican Judicial Council, as well as for election of the judges, so Article 69 was applied.

The degree of partisation of the Republican Judicial Council influenced the partisation of the process of electing judges. Despite the clear legal procedures that were regulated in the Law on courts and the Law on Republican Judicial Council, the influence of politics was involved in the process of electing judges in RM. There was no conciseness and will to avoid partisan interference in the process of election of judges and Presidents of the courts.

In 2005 constitutional changes on the election of judges were introduced in the Republic of Macedonia. According to these changes the judges have been elected by the Judicial Council, which now is consisted of 15 members: eight elected by the

judges from their own ranks (three of them must belong to the national minorities[16]), three are elected by the Parliament by double majority (majority of all MPs and majority of MPs belonging to national minorities), two are elected by the Parliament on the proposal of the President of the Republic (one of them is from national minorities) and two *ex officio* members – Ministry of Justice and President of the Supreme Court.

The participation of the Ministry of Justice in the Judicial Council was criticized because of his influence on the work of this body. Because of these critics and because of recommendations of international institutions the Law on Judicial Council introduced provision that the Ministry of Justice is member of the Judicial Council without right to vote.

These constitutional changes did not solve the problem with judicial dependence. It continued to be one of the biggest problems in the country. It is noted in the latest Report of the European Commission on the progress of the Republic of Macedonia. It is said that there is a need for "not only structural but functional independence of judges, improving the quality of justice and standards of service to the citizens…One of the main challenges is the growing concern voiced about the selectivity of, and influence over, lea enforcement and the judiciary…Questions continue to be raised both inside and outside the country about political influence over certain court proceedings."[17]

In summer 2014, the Government initiated constitutional reform in Macedonia. One of the amendments proposes changes in the composition of the Judicial Council – Ministry of Justice and the President of the Supreme Court will not be longer members of the Council. Instead of them, judges will elect ten members. Proposed changes were analyzed by the Venice Commission, which issued its opinion stating that the proportion of judicial vs. lay members in the Judicial Council is 10 to 5 that makes judges not only a "substantial element" or a "majority" in the Judicial Council, but they represent a qualified majority (2/3) and thus "wield decisive

[16] The Constitution, instead the term "national minorities" uses the term "communities that are not majority in the Republic of Macedonia".

[17] 2014 Progress Report, Accompanying The Document Communication From The Commission To The European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, Enlargement Strategy and Main Challenges 2014-2015, {Com(2014) 700 Final}, pp. 10-11.

influence". The Venice Commission warns that this "situation creates a risk of corporatism; although the Judicial Council should be depoliticized and the judges should represent a "substantial element or a majority" of its members, it should not completely insulate the Judicial Council from any external oversight."[18]

The proposals by the Venice Commission are acceptable because the number of judges is notably increased. The changes could be done with excluding *ex officio* members, but without replacing them with new members. Also, one of the problems which is acute in Macedonia – transparency of the work of the Judicial Council is not tackled with the changes.

The constitutional changes were still in procedure, while this paper was submitted for publishing.

## 7.Conclusion

The public opinion in Macedonia about the independence of judges is predominantly negative. The judges themselves did not make much to gain real power. The executive and legislative power did not do much to give courts a chance for that. A "collective memory of the communist regime" and the role of the courts in that time is still present in the countries. The consequences of the period when law was essentially subordinate to politics are still apparent today, especially within the legal administration and judiciary, whose role within the legal order and society is still underestimated.[19]

As, Louis E. Wolcher writes, it is more or less clear that, "the consensus about the basic institutions of the rule of law is still predominantly based on the abstract level and not in the sphere of the interpretation and implementation of these institutions."[20]

In everyday practice in Macedonia the independence of judges is in crisis. The pressures of the executive power on the judges are open. Hearing the critics, the

[18] Opinion on the seven amendments to the Constitution, Adopted by the Venice Commission at its 100th Plenary Session, Rome, 10-11 October 2014, p. 16.

[19] Miro Cerar, "The Rule of Law ("Rechsstaat"): The Case of Slovenia" 16-17 (November, 21, 1995), unpublished manuscript on the file with Washington Law Review). Quoted in Louis E. Wolcher, "Pavcnik`s Theory of Legal Decisionsmaking: An Introduction", *Washington Law Review,* April 1997, p. 478.

[20] Louis E. Wolcher, "Pavcnik`s Theory of Legal Decisionsmaking: An Introduction", *Washington Law Review,* April 1997, p. 478.

Government has been making only legal changes in the sphere of judicial system, without showing real willingness to take its hands off judiciary.

But also, neither judiciary is “innocent” in this endless story. The judiciary did not prove itself as effective check on the legality of the exercise of the power by the executive bodies. Neither raised its voice against political pressures. That resulted in the widespread public mistrust of the legal system.