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Establishment of the Macedonian Judicial System in the Aftermath of World War II

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Introduction

The research on communism in Europe after the fall of the Berlin wall has demonstrated that, by definition, the uniformed communism had its own peculiarities in different countries. In that sense, the Yugoslav/Macedonian model had its own characteristics which originated from several factors: the victory of the partisan movement during World War II, the new concept of the postwar Yugoslav federation and the redefined role of the Communist Party, as well as the differences emerging from the Yugoslav break-up with the Soviet Union in 1948. These factors have resulted in a creation of a unique Yugoslav model of communism.

At the same time, the success of the national liberation movement in Macedonia represents a turning point in the 20th century Macedonian history. The First session of the Antifascist Assembly of the People's Liberation of Macedonia (Antifasisticko sobranie na narodnoto osloboduvanje na Makedonija - ASNOM), held on August 2, 1944 established for the first time in history Macedonian state, as a federal republic of Yugoslavia. ASNOM was actually the first free parliament of the people of Macedonia during the war and it was authorized to pass the constitutional enactments on which the state structure of Macedonia was founded, i.e. to decide on the legal status of Macedonia within the Yugoslav federation.

As a result of the new constitutional status of Macedonia, the main task of the authorities was the establishing of a new political system and institutions which would be able to address the emerging issues of the postwar reconstruction and state – building.

Having that in mind, this paper will attempt to analyze the main events, processes and legislation related to the establishment of the Macedonian judiciary after World War II. The paper will put a special emphasis on the first decade following the liberation of the country. In that direction, it will focus on the main sources of relevant law, as well as on key statistical data concerning the establishment of the Macedonian judicial system.

From national liberation committees to regular courts

At the beginning, it should be emphasized that the foundations for the development of the judiciary in Macedonia after World War II were drafted during the antifascist liberation war. In the

period 1944 – 1946 several legal acts which created the general framework for the development of the judiciary in postwar Macedonia were adopted, both by the federal and the national authorities. It is important to emphasize that on May 19, 1944 the National Committee for Liberation of Yugoslavia has adopted the Instruction on the establishment of people's courts which has recommended that the national assemblies of the republics set up special people's courts. The judicial function was supposed to be exercised by a jury council, elected directly by the people.¹

Immediately after the First session of ASNOM, on August 6, 1944 the Decision on the organization of commissions (poverenstva) of the Presidium of ASNOM and the appointment of their executives was adopted. This decision established the Commission on judiciary and appointed Petre Piruze as its first executive.² Later, on September 2, 1944, the Presidium of ASNOM reached a general conclusion that the authorities should proceed with the development of judiciary on the basis of the principle of people's courts, as well as with the establishment of a special office for lawsuits and appeals. We should also mention in this historical overview the establishment of the postwar judiciary in Macedonia, as well as the adoption of the Directive on the organization and work of national liberation committees as state government authorities of federal Macedonia in Democratic Federative Yugoslavia (DFY) by the Presidium of ASNOM. According to this act, until the final regulation of the Macedonian judiciary, the judicial function was supposed to be executed by the national liberation committees which have established separate judicial departments. The organization and functioning of the judicial departments within the national liberation committees was regulated in Article 19 of the Directive.³

During the final months of the war, the establishment of so-called Courts of national honor was one of the main features of the justice system in the liberated territories of Yugoslavia. In the period between the end of 1944 and the beginning of 1945, in all of the republics of DFY the presidencies of the antifascist assemblies of the people's liberation have adopted decisions to establish courts of national honor. These courts were in charge of prosecuting individuals who committed crimes against the national honor during the occupation and the national-liberation war. The Court for prosecuting crimes against the Macedonian national honor was founded with the Decision of ASNOM's Presidium, reached on December 30, 1944.⁴

¹ Gorgi Caca, *Thirty-Five Years of Judiciary in the Socialist Republic of Macedonia*, Skopje: Secretariat on Judiciary, 1982, p. 42.

² 'Decision on the organization of commissions of the Presidium of ASNOM and the appointment of their executives', Institute of National History, *Collection of ASNOM Documents*, Skopje, p. 331.

³ ASNOM Directive on organization and work of national liberation committees as state government authorities of Federal Macedonia in Democratic Federative Yugoslavia, Institute of National History, *Collection of ASNOM Documents*, Skopje, p. 404 - 439.

⁴ ASNOM Decision on the establishment of a court for prosecuting crimes against the Macedonian national honor, December 30, 1944.

The war crimes, as well as the crimes of the people's enemies were not within the jurisdiction of this court.⁵ The criminal offences against the Macedonian national honor were divided in two categories: crimes and offences. The Decision envisaged the following sanctions: permanent or temporary loss of the Macedonian national honor, forced labor in a period up to 10 years, as well as property confiscation.⁶ The judicial proceedings in the court were executed by a council of five members, elected on a territorial basis. As far as the profile of the members is concerned, a wide majority of the council's members lacked any legal education.⁷

On April 16, 1945, the People's Assembly of Macedonia (Parliament) passed the Law amending and supplementing the decision for the establishment of the court. Later, in July 1945, a special law on the abrogation of all acts establishing the Court for prosecuting crimes against the Macedonian national honor was passed by the Parliament. In this way, the jurisdiction in these issues was delegated to the regular and military courts. Also, it should be emphasized that on July 24, 1947, the Presidium of the People's Assembly of Macedonia adopted the Decree for pardoning the individuals convicted for crimes against the Macedonian national honor. According to Article 2 of the Decree, all individuals sentenced to forced labor or imprisonment were pardoned. However, all other sanctions, including property confiscation remained.⁸ During its short existence, the practice of the court was characterized by a number of arbitrary and ungrounded verdicts, both against the enemies of the people and the opponents of the new "social order".

In the aftermath of World War II, one of the most important acts on the organization of the judiciary was the Charter on the organization of the regular people's courts in Federal Macedonia, adopted by ASNOM's Presidium in March 1945. The Charter included provisions concerning both the judicial organization and procedural justice.⁹ Consequently, this document incorporated provisions on territorial and subject matter jurisdiction, second-instance procedure, court jury, transparency, language of the proceedings etc.¹⁰ Furthermore, the Charter envisaged the

⁵ According to the Regulation on the military courts, these crimes were in the jurisdiction of the military courts.

⁶ Franjo Bačić, *Yugoslav Criminal Law – Book I*, Skopje, University of Skopje, 1961, p. 123.

⁷ Gorgi Caca, *Thirty-Five Years of Judiciary in the Socialist Republic of Macedonia*, Skopje, Secretariat on Judiciary, 1982, p. 43.

⁸ Decree for pardoning individuals convicted for crimes against the Macedonian national honor. *Official Gazette of People's Republic of Macedonia* (No. 26/1947).

⁹ Charter on the organization of people's courts in federal Macedonia. *Official Gazette of the Federal Unit Macedonia in Democratic Federative Yugoslavia* (No. 4/1945).

¹⁰ Panta Marina, 'The Role of ASNOM in the establishment of judiciary in the Socialist Republic of Macedonia', *Yearbook of the Law School in Skopje*, 1975, vol. XIX.

establishment of municipal courts, 25 district courts, 3 regional courts and a Supreme Court with headquarters in Skopje.¹¹

The Charter on the organization of people's courts was amended and supplemented on May 28, 1945. According to the amendments and supplements of the Charter, the district courts were transformed in courts of first instance. They were in charge of civil and criminal cases, except for cases under the jurisdiction of the regional (appellate) courts or the Supreme Court of Macedonia. The first instance jurisdiction of regional courts was more clearly defined. The regional courts were responsible for prosecuting crimes against the integrity and security of the state, as well as for the crimes against state property or other types of severe crimes in the first instance for which, due to the cruelty of the offender or the incurred damage of a great extent, a death penalty was foreseen. On the other hand, the first instance jurisdiction of the regional courts for civil matters was expanded, albeit only for civil cases in which the state was the defendant. Finally, it should be underlined that the Charter on the organization of people's courts envisaged the criteria for election of judges. According to Article 7 of the Charter, any literate citizen of legal age could have been elected for a judge. In other words, legal education was not a compulsory requirement for the election of judges.

The provisions of the Charter on the organization of people's courts included almost all issues which were later regulated by the Law on the organization of people's courts (adopted on August 26, 1945)¹², the Constitution of the Federal People's Republic of Yugoslavia, Constitution of the People's Republic of Macedonia and the Law amending and supplementing the law on the organization of people's courts (adopted on June 17, 1946).¹³

Article 2 of the 1945 Law on the organization of people's courts defined three main tasks of the courts: (1) conservation of the democratic achievements of the national liberation struggle, protection of the rights and interests of institutions, companies and organizations, as well as protection of the individual and property rights and interests of the citizens of Yugoslavia; (2) proper implementation of the legislation by the institutions, companies, organizations, officials and citizens and (3) education of citizens in the spirit of loyalty to the homeland. This provision leads us to the conclusion that strong ideological elements, such as "conservation of the achievements of the national liberation struggle" or "the loyalty to the homeland" existed in the early phases of the establishment of the postwar judicial system in Yugoslavia and Macedonia. On the other hand, the protection of the individual rights of citizens was positioned as the last task on the court's list. This approach toward the individual citizens' rights was

¹¹ Archive of Macedonia, *Documents on the Establishment of People's Authority and State and Legal Development of the Socialist Republic of Macedonia*, Vol. 1, book III, Skopje, 1987, pp. 295-201.

¹² Law on the organization of people's courts, *Official Gazette of the Democratic Federative Yugoslavia* (No. 67/1945).

¹³ Law amending and supplementing the law on the organization of people's courts. *Official Gazette of the Federal People's Republic of Yugoslavia* (No. 51/1946).

also implemented in the other laws and regulations. During the postwar period, giving priority to the protection of the achievements of the national liberation struggle, the state and its institutions, companies and organizations was a widely accepted practice.

The Law on the organization of people's courts had a specific approach toward the independence of the courts. In that sense, the official commentary of the law has underlined that "the independence in the delivery of justice means that the courts are independent in making decisions in specific cases... However, it would be wrong to perceive the independence of the judges as a separation of the judicial function from the general people's authority, as the cohesion and cooperation of the courts with the other people's authorities represent a condition for the proper functioning of the people's authority in general".¹⁴ In other words, as this comment reveals, no separation of powers existed in the country in the postwar period.

The adoption of the Constitution of the Federal People's Republic of Yugoslavia¹⁵ and the Constitution of the People's Republic of Macedonia¹⁶ created a general framework for the judicial development in the country in the first decade after the end of the war. Chapter XIII of the Constitution of Yugoslavia focused on the issues related to people's courts. In that sense, Article 115 of the Constitution envisaged the following courts within the judicial organization of the federation: the Supreme Court of Yugoslavia, supreme courts of the republics and autonomous provinces, regional and district courts. Also, according to the 1946 Yugoslav Constitution, military and special courts were included in the judicial organization.

In addition, the Constitution reaffirmed several main judicial principles, already mentioned in the previous regulations, including: the principle of independence of courts (in particular the separation between the courts and the administration), transparency, use of the jury in the decision – making, use of the official languages of the republics in the proceedings. Furthermore, the Constitution guaranteed the right to defense of the convicted in court. As far as the election of judges is concerned, the Yugoslav Supreme Court judges were elected by the People's Assembly (Parliament) of Yugoslavia on a joint session of both houses; the judges of the supreme courts' of the republics/autonomous provinces – by the people's assembly of the republic/autonomous province; the judges and jury members of the regional courts – by the people's committees¹⁷ in the region or city and the district court judges and jury members – by the people's committee of the district/town.

The Constitution of the People's Republic of Macedonia from 1946 incorporated provisions regarding the judiciary which were identical with those envisaged by the federal Constitution. Besides

¹⁴ Adam Lazarević, 'On the problem of judicial independence', *Yearbook of the Law School in Skopje*, 1960, p.124.

¹⁵ Constitution of the Federative People's Republic of Yugoslavia, *Official Gazette of FPR Yugoslavia No. 10/1946*.

¹⁶ Association on Constitutional Law of Macedonia, *Fifty Years of the Constitution of the People's Republic of Macedonia*. Skopje, 1996.

¹⁷ People's committees were successors of the national liberation committees that existed during the war.

that, Article 112 of the Macedonian Constitution determined the Macedonian language as the official language of the proceedings in the courts of the republic. Additionally, several provisions of the Constitution specified the composition and the jurisdiction of the Supreme Court of Macedonia. The Supreme Court was the highest judicial body in the republic in charge of the evaluation of the legality of the decisions of all courts in the territory of the republic that came into effect, except for the cases under the jurisdiction of the federal Supreme Court. The People's Assembly of Macedonia was responsible for the election of the president, vice – president and judges of the Supreme court of the republic.¹⁸ As far as the election of judges is concerned, it should be emphasized that the same provisions of the federal Constitution were applied - the judges and jury members of the regional courts were elected by the people's committees of the region/city and the district court judges and jury members – by the people's committee of the district/town. According to a leading legal expert from that period, this approach concerning the election of judges and jury members represented “an illustration of the sovereignty of the people and the democratic capacities of the authorities”.¹⁹

Given the fact that the federal and the national constitutions established a new constitutional framework, there was an evident need to harmonize the legislation with the provisions of the constitutions. As a result of that, the 1946 Law on amending and supplementing the Law on the organization of people's courts has harmonized the provisions of the Law on the organization of people's courts with the federal Constitution.

The Law on the organization of people's courts has also regulated the subject matter jurisdiction. Thus, the district courts were authorized to prosecute crimes for which a punishment of up to 10 years of imprisonment with forced labor was envisaged. Furthermore, the district courts in civil cases were responsible for the protection of the rights and interests in value of up to 50,000 dinars. Consequently, the regional courts were in charge of prosecuting crimes for which punishment of more than 10 years of imprisonment with forced labor or a death penalty was foreseen, as well as in civil cases which involved a value above 50,000 dinars. The Supreme Court of Macedonia had jurisdiction in the entire territory of the republic. This court acted as a first instance court in criminal and civil cases only if these cases were delegated to its jurisdiction by a special law. Furthermore, the Supreme Court could decide to transfer the competence of a lower court. Finally, the Supreme Court was

¹⁸The first President of the Supreme Court of Macedonia was Vasil Kalajdzievski. Supreme Court of the Republic of Macedonia, History – Previous judges (1945 - 2006). [online], [Available from <http://www.vrhoven.sud.mk/VSUD/WWWVSud.nsf?OpenDatabase>]. Accessed on 29 April 2010]; Decision on the appointment of a President of the Supreme Court of PR Macedonia, *Official Gazette of PR Macedonia No. 15/1946*.

¹⁹ Ferdo Čulinović, *Judiciary in Yugoslavia, Zagreb*, 1950, p. 18.

responsible for making decisions on the appeals of the regional courts' verdicts, as well as the requests for protection of legality.²⁰

Significant changes in the political system of Yugoslavia and Macedonia occurred in 1953. However, the Constitutional Law on the foundations of the social and political organization of the Federative People's Republic of Yugoslavia and federal bodies of power²¹ did not make any significant changes in the organization, jurisdiction and the structure of the judiciary. Moreover, it should be mentioned that a huge breakthrough has been achieved in 1952 with the adoption of the Law on administrative courts²². This law provided a framework for the protection of the citizens' rights, as well as for legality in the work of the state administration.

Key challenges in the establishment of the judiciary

The consequences of World War II affected the development of Macedonia for a long period of time. Thus, the establishment of its judicial system faced numerous challenges. Apart from the infrastructural problems, the greatest challenge for the judiciary was the lack of appropriate and qualified staff in the judicial posts in the republic. According to Article 16 of the Law on the organization of people's courts, any citizen who had a voting right could have been elected to serve as a judge or jury member.²³ In order to illustrate the lack of qualified judicial staff that existed in postwar Macedonia, we will use some statistical data from this period. Thus, it should be underlined that in the period immediately after the liberation of the country 26 out of 63 elected judges did not have legal education, while some of them had primary education only. Similar tendency was evident in the composition of the Supreme Court of Macedonia where 3 out of 6 members of the court did not have legal education.²⁴

Apart of the lack of qualified staff, another problem existed for a long period of time; it should be underlined that the number of judges and jury members in Macedonia in the first decade after the liberation has constantly oscillated. Thus, according to the 1947 Decision on the determination of the number of judges and jury members in the People's Republic of Macedonia, the following number of judges and jury members has been foreseen: in the Supreme Court – 6 judges; in the regional courts – Bitola, 6 judges and 110 jury members; Skopje – 7 judges and 140 jury members and

²⁰ Ljupco Arnaudovski, 'Judiciary in the Socialist Republic of Macedonia', *State and Legal History of the Socialist Republic of Macedonia (1944-1974)*, Skopje, Institute for Social, Political and Legal Research, pp. 80-81.

²¹ Constitutional Law on the foundations of the social and political organization of the FPR Yugoslavia and the federal bodies of power, *Official Gazette of FPR Yugoslavia* No. 3/1953.

²² Law on administrative disputes, *Official Gazette of FPR Yugoslavia* No. 23/1952.

²³ Law on the organization of people's courts, *Official Gazette of DF Yugoslavia* No. 67/1945.

²⁴ In this period there was a total of 213 individuals in Macedonia with a completed legal education: 31 judges, 80 attorneys, 65 interns, as well as 37 lawyers working in other fields. More information in: Vlado Popovski, Misho Dokmanovich, *School of Law "Iustinianus Primus"- Historical Development – 1951- 2006*, Skopje, School of Law, 2007, pp. 49-50.

Shtip, 4 judges and 80 jury members; in the district courts – on the territory of the regional court in Bitola, 20 judges and 520 jury members; on the territory of the regional court in Skopje, 20 judges and 510 jury members and on the territory of the regional court in Štip, 21 judges and 540 jury members.²⁵

Table No. 1

Courts, judges and jury members on the territory of Macedonia (1952-1953)								
Court and judge	Total		Supreme court		Regional courts		District courts	
	1952	1953	1952	1953	1952	1953	1952	1953
Number of courts	23	23	1	1	4	4	18	18
Judges	78	84	9	10	24	27	45	47
Lawyers	59	67	9	10	19	21	31	36
Male	59	67	9	10	19	21	31	36
Female	...	...	...	...	...	...	...	...
Non lawyers	19	17	...	...	5	6	14	11
Male	19	17	...	...	5	6	14	11
Female	...	...	...	...	...	...	...	...
Jury members	3367	3389	...	...	848	928	2519	2461
Male	3181	3198	...	...	798	882	2383	2316
Female	186	191	...	...	50	46	136	145

Source: State Statistical Office of the Republic of Macedonia

On the other hand, according to the 1950 Decision on the number of judges and jury members²⁶, the following number of judges and jury members has been defined: in the Supreme Court – 7 judges; in the regional courts – Bitola, 5 judges and 180 jury members; Skopje, 6 judges and 200 jury members and Shtip, 5 judges and 150 jury members; in the district courts – on the territory of the regional court in Bitola, 16 judges and 850 jury members; on the territory of the regional court in Skopje, 19 judges and 950 jury members and on the territory of the regional court in Shtip, 15 judges and 790 jury members.²⁷ Later in 1951, the Regulation on the number and territorial jurisdiction of the regional and district courts in the territory of Macedonia established a new regional court in Gostivar, thus increasing the number of regional courts in the republic from 3 to 4.²⁸

In 1952, according to the data of the State statistical office of Macedonia, 5 out of 24 judges of the regional courts and 11 out of 47 judges in the district courts in the republic did not have legal

²⁵ Decision on the determination of the number of judges and jury members in the people's courts in PR Macedonia, *Official Gazette* No. 35/947.

²⁶ In 1950 there was a total of 28 regional and 395 district courts in Yugoslavia. V. Kalember, 'The Organization of Justice in FPR of Yugoslavia', *New Yugoslav Law*, No. 4. Belgrade: Association of Jurists of FPRY, 1950.

²⁷ Decision on the number of judges and jury members in the people's courts, *Official Gazette of PR Macedonia* No. 4/1950.

²⁸ Regulation on the number and territorial jurisdiction of the regional and district courts in the territory of the People's Republic of Macedonia, *Official Gazette of PR Macedonia* No. 24/1951.

education. A similar situation existed in 1953 (6 out of 27 judges of the regional courts and 11 out of 47 judges of the district courts did not have legal education). Moreover, the gender balance in the judiciary represented a serious challenge. In that sense, there was no single woman elected as a judge of district, regional or the Supreme Court in the republic. On Yugoslav federal level in 1950 only 3,4% of the judges were women (45 out of 1326 judges).²⁹ As far as the participation of women as jury members is concerned, in 1952 only 5,84% of the jury members in Macedonia were women. This percentage decreased to 5,64% in 1953.

Having in mind the aforementioned problems in the functioning of the judicial system at both national and federal levels, in the beginning of the 1950's an urgent need for reform of the judicial system began to emerge. The issue of the reform was raised for the first time during the 4th Plenum of the Central Committee of the Communist Party of Yugoslavia. As a result of the crucial issues discussed, this plenum has been known in history as the "Legality Plenum". The major event of the plenum was the address of Aleksandar Rankovich, the federal Minister of Interior, who pointed out several problems and shortfalls of the judicial system of the federation and the republics. In that direction, he underlined a number of negative tendencies, including: the existing practice of judicial qualification of common crimes as political³⁰, huge discrepancy in the crime prevention policy of different courts for same or similar crimes, dominant role of the public prosecutor in the criminal procedure, especially during the investigation, frequent practice of influencing the court by the public prosecutor or the local organizations of the party, general arbitrariness in courts' work, acceptance of the arguments of the prosecution act as facts without the evidence presented by the prosecutor, violation of the principle *auditor et altera pars*, shallow management of court proceedings,³¹ common practice of denial of witness hearings etc. Minister Rankovich has also criticized the miscarriage of justice in civil cases, in particular the common practice of application of prewar regulations, the treatment of marriage as civil contract, application of prewar legislation concerning divorce³² and unbalanced protection of the cooperatives vis-à-vis their members.

²⁹ V. Kalember, 'The Organization of Justice in FPR of Yugoslavia', *New Yugoslav Law*, No. 4. Belgrade: Association of Jurists of FPRY, 1950.

³⁰ In that sense, only a brief analysis of the statistical data from this period may lead us to the conclusion that there was a high number of individuals convicted for crimes against the social order and security of Yugoslavia. The number of individuals convicted for these crimes on federal level was 11426 in 1948. In the subsequent years, it began to decrease significantly, reaching 878 convicted individuals in 1954. More in: Misho Dokmanovich, 'The System of Penal Sanctions and Crime Prevention Policy in Macedonia after World War II', Faculty of Law. *Yearbook in Honour of Professor Nikola Matovski*, Skopje, 2010, pp. 905-925.

³¹ For instance, an individual has been convicted for collaboration with the enemy in a period while he was detained in a concentration camp.

³² In one case the court refused to divorce a marriage, although the marital relationship has not existed for more than 20 years.

Besides that, Rankovich focused on the work of the State Security Administration (Uprava drzhavne bezbednosti – UDBA) and concluded that “many weaknesses and shortcomings” existed in the legality of UDBA activities. In relation to that, Rankovich presented stunning information from the Public Prosecution Office that 47% of the arrests carried out by the Ministry of Interior on the federal level in 1949 were unjustifiable. The percentage of unjustifiable arrests in Macedonia in 1949 was 36%.

Furthermore, the necessity of qualified staff for judicial posts was raised during the session. The tendency to elect the judges on the basis of political or social criteria, as well as the election of candidates without legal education was underlined. Moreover, this trend was typical for all republics in Yugoslavia, although with different proportions. In the beginning of 1951, 5,8% of the district judges in Croatia did not have legal education, in Slovenia – 15,02% and in Macedonia this percentage was among the highest in the federation – 42% of the elected district judges did not have a legal background.³³

The “Legality Plenum” represented the first public event where the existing problems in the postwar judiciary were discussed. The speech of Rankovich initiated a process of intensive judicial reforms which lasted until 1954. Several among the above mentioned issues have been addressed, including the criteria for election for judges. As a result of that, legal education became a compulsory criterion for election of judges. Besides that, the conclusions of the plenum were later discussed by all party organizations in the republics, including Macedonia. In that sense, on January 10, 1952, a joint meeting of the Central Committee of the Communist Party of Macedonia, the political secretaries of the regional committees of the Communist Party, the judges of the supreme courts, the presidents of the regional courts, as well as the public prosecutor was held. The main topic of the meeting was the strengthening of the judicial system and the advancement of legality in its functioning.

The functioning of the judicial system in the country was also criticized by the foreign institutions. In its Critical Study of the Yugoslav Communism, the Committee on the Judiciary of the U.S. Senate underlined that in the period since 1945 – 1946 the only existing laws in force in the country were “the achievements of the national liberation struggle”. Moreover, this study criticized the election of judges and their qualifications, the treatment of the political opposition, as well as the law-making procedure. In other words, in this country there were as many opinions as there were judges (tot iustitiae, quot iudices).³⁴

Conclusion

The establishment of the judicial system in postwar Macedonia turned out to be a very complex process, due to several

³³ Aleksandar Rankovich, ‘On the Further Consolidation of the Judiciary and Legality’, *New Yugoslav Law*, No. 4. Belgrade, Association of Jurists of FPRY, 1951.

³⁴ Committee on the Judiciary, United States Senate, *Yugoslav Communism: A Critical Study*, Washington, US Government Printing Office, 1961, pp. 121–122.

factors. The postwar conditions in Yugoslavia and Macedonia were difficult – legal dualism in a form of parallel implementation of prewar regulations and postwar legislation existed for a long period of time and the institutions were in the early phases of establishment – a circumstance which made them more vulnerable to the influences from the other institutions and organizations. As a result of that, the position of the courts was delicate – they had to implement the law in the spirit of the new legal order, based to a large extent on the “achievements of the national liberation struggle” and the will of the Communist Party at all levels. This position opened the potential for the possibility of making mistakes, the misuse of the judicial position or even the participation in setting up trials, especially against individuals or groups that opposed the authorities.³⁵ Thus, these shortfalls in the organization and performance of judiciary in the first years after the liberation of the country led to a massive violation of the provisions stipulated in the legislation in a considerable number of cases.

Furthermore, the rising role of the Communist Party, as well as the lack of qualified staff represented a serious challenge for the establishment of the judicial system. Under these circumstances the independence of the judiciary and the legality of the court proceedings were extremely difficult to achieve. It should be emphasized that although there was in Macedonia a substantial number of individuals with legal education after World War II, these human resources were not optimally utilized. Consequently, in the first years after the liberation Macedonia was among the Yugoslav republics with a highest percentage of judges without legal education, a fact that affected the overall process of justice delivery.³⁶

On the other hand, it should be acknowledged that the authorities began to address the issue of establishment of judicial system relatively early during the war. As a result of that, the established organization and structure of the courts provided the necessary preconditions for the implementation of their justice delivery function. Although the postwar political establishment in the country had an increasingly authoritative approach concerning the organization of the political system, the evaluation of the performance of the judiciary carried out at the beginning of 1950's provided the needed input for the transformation of the judicial system. Consequently, a series of reforms have been implemented in the 1950's which have further advanced the system. One of the key issues addressed was the adoption of the rule that only individuals with legal education could be elected to judicial posts in the country.

Abstract

The new constitutional status of Macedonia, defined at the First Session of ASNOM, posed in front of the postwar authorities the

³⁵ Fidanco Stoev, 'Foundations of the Development of the Judiciary in the Republic of Macedonia', *Yearbook 'Independent judiciary'*, Skopje: School of Law, 1997, p. 333.

³⁶ Misho Dokmanovich, *Law and Politics in Macedonia (1946-1953)*. Skopje, ISIE, pp. .

challenge to work on the establishing of a new political system and institutions which would be able to address the emerging issues of the postwar reconstruction and state – building.

Having this in mind, this paper makes an attempt to analyze the main events, processes and legislation related to the establishment of the Macedonian judiciary after World War II. The paper is focused on the transformation of the bodies in delivering justice, from the people's committees to the regular courts. A special emphasis is put on the first decade after the liberation of the country. In that sense, the paper examines the main sources of relevant law, as well as key statistical data on the establishment of the Macedonian judicial system. As a result of that, the paper defines the main challenges for the development of the judiciary in Macedonia in the World War II aftermath.

According to one of the main conclusions of the paper, although the postwar political establishment in the country had an increasingly authoritative approach concerning the organization of the political system, the evaluation of the performance of the judiciary carried out at the beginning of 1950's provided the needed input for the transformation and the advancement of the judicial system.

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