

Competences of the Ministry of Justice in Providing International Legal Assistance

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Abstract

International Legal Assistance is the assurance of efficiency in the form of procedural developments by the state authorities, respectively, the state that implements the procedural actions at the request of the other state pursuing civil proceedings with a foreign element.

By providing international legal assistance, states contribute to a stable, democratic area and sustainable development in the commitment to share achievements in conducting procedural actions across borders.

The *objective* of the paper is to reflect the progress of the state conducting the requesting state procedure as well as to try to improve and promote cross-border judicial cooperation in the beneficiary countries to investigate and prosecute cross-border crime.

Regarding to this paper will also reach the initial delays in cross-border cooperation with practical examples, the time element and the international element.

The main advantage of international legal assistance is the opportunity and ability to share information, the rules of use and exchange of information and evidence through formal requirements, and why not and an ongoing avant-garde communication between relevant institutions or bodies. (Using technology platforms, greater collaboration between countries takes place. Through different real-time communication

applications, information is obtained, which although may be in different countries, provides the same quality of service between organs. One thing such will undoubtedly increase confidence in institutions, procedure processes and parties wherever they are).

Keywords: Competences, bilateral agreements, international cooperation, developments.

1. Introduction

International legal assistance, in the broadest sense, is the legal assistance provided by the authorities of one country to the organs of another.¹ International treaties can also be singled out as a specific matter for legal assistance between states, such as reporting on regulations and changes to national laws or specific legal issues. International legal assistance in Civil and Criminal Matters includes: submission of acts, hearing of persons, receiving of inheritance statements, handling of alimony cases, legalization of documents - verifications, information of criminal data of foreign nationals to the competent judicial authorities in the respective country and vice versa, extradition proceedings of accused or convicted persons, transfer of convicted persons, reporting of criminal records of persons born in the Republic of Macedonia who have committed the offense abroad and vice versa, warning about detention, granting permission to visit foreign nationals, giving opinions on the existence of reciprocity, recognizing and executing foreign court decisions, giving opinions on bilateral and multilateral cooperation with other countries, termination of bilateral agreements in the field of Civil and Criminal Matters, and monitoring the implementation of multilateral agreements.²

The Ministry of Justice is assigned as the central competent authority to act in the field of international assistance under legal competencies and for most bilateral and multilateral agreements.

Thus, the large number of our citizens who are temporarily employed elsewhere have contributed to increase importance of international legal assistance issues. Given the complexity of issues with an international element and the various legal relationships that arise, there is a need for

¹ Bekim Kadriu, (2015), *International Private Law*, pg.331-332.

² Poliksena Gavroska., & Toni Deskoski, (2011), *International Private Law*, pg.407-408.

efficient and quality legal assistance and a good knowledge of international law - concise legal regulation and the need for a strong legal framework for their regulation, thus to resolve the disputed relations in which the foreign element is present. These relationships often lead to litigation (criminal and civil) and other procedures (administrative, misdemeanour, etc.). In our country or abroad, which require cooperation between our court and foreign judicial and other authorities, it impose the need for building mechanisms to enable the protection of citizens when abroad or when their rights and interests are endangered abroad, and the protection of the rights and interests of foreign citizens in the Republic of North Macedonia.

2. Purpose of the paper

“The legislative vacuum, the inefficiency of judicial corruption helps to spread the crime of criminal groups from one state to another”. Organized crime then appears less as a domestic problem in the *States* and increasingly a reality that threatens the security of countries in which crime invests. That is why a coordinated international fight against organized crime is required, i.e. the need for international legal assistance. If globalization has thus facilitated the movement of services, goods, and people by promoting new forms of crime are able to operate in a transnational dimension, the same cannot be said of the functions and activities of the *police* and *judiciary*, still far away from efficient harmonization in the international legal framework.

For quick investigation and for a quick response: To this problem, *the European Union*, at the beginning of the millennium, has set up and launched a series of coordination with the European Anti-Fraud Office in Brussels and other centralized structures for coordination between authorities in the place.

Therefore, analysing the circumstances in which this system of government has been and is going through and the possibilities for its more efficient functioning, in order to meet European standards, respect and rule of law.

It is increasingly becoming clear that without national political will and the necessary international political agreement, there is no sustainable rule of law and security.

Exploratory Opinion - Fighting requires very different forms of international cooperation. When international cooperation is lacking, the

underlying cause is often the reluctance of states to reassess national sovereignty in a way that best suits today's global society, where networks play a greater role. Cross-border crime is not about fighting effectively without sharing and exercising sovereignty in international relations with other countries and increasing the capacity to act. In many countries, the population is vulnerable to the erosion of national sovereignty through cooperation. It is awareness of the extent of cross-border crime and the costs to society is often not small. As awareness of the scale and impact of cross-border crime becomes greater, it would be the will of voters and politicians to exercise international cooperation together. This will contribute to the advancement of international legal assistance in the Republic of North Macedonia, from the moment of its introduction, development, including access challenges and prospects.

3. Why international legal assistance? Reasoning

This paper aims to emphasize the assessment of the effectiveness of international legal assistance, evaluation of national legislation and practice of the state in relation to international legal assistance standards. The quality of international legal assistance provided by the state is accompanied by relevant recommendations, based on relevant international standards. Empirical data will be made available to the authorities to prove the concrete needs it must address, not only reforming the existing international legal assistance scheme.

Domestic legislation and its practical implementation by the police, prosecution and courts guarantee international legal assistance in the criminal process, by all international standards, but the question there is about its efficiency, which makes the regular legal process vulnerable and followed by ineffective spending of public funds, to the detriment of the interests of *justice* and why not of *individuals*.

Relevant in the first place is the identification of standards deriving from international law in the field of international legal assistance, for the interests of *justice* and the *state*, with a focus on the standards set by the United Nations and the Council of Europe.

Secondly, domestic practices and legislation in this field were analyzed, with the aim of identifying potential shortcomings and problems along the

way in providing international legal assistance that needs to be addressed to bring the legal framework in line with the standards mentioned above.

Special emphasis will be given to the challenges of its functioning in the Republic of North Macedonia, presentation of the legal system in Macedonia and direct practical experience of how and in what concrete way our state has regulated and taken decisions.

And finally coming to official information from the authorities implementing the legislation regulating this area, in order to identify problems related to competencies, planning and administration of international legal assistance. These data help to orient the analysis more accurately that we tend to make visible throughout this paper.

Importance will be given mainly to the "most difficult" important instruments of international law that are also supported by the legislation of the Republic of North Macedonia (such as the case of the United Nations Convention on Civil and Political Rights and especially the European Convention).

International legal assistance must be *qualitative* and *available*, and the *Ministry of Justice* has an important role to play in the process of administering international legal assistance.

Courts, Prosecution and Judicial Police have a key role to play in providing international legal assistance, as they are actors who cooperate and have the practical ability to "monitor" on a case-by-case basis.

Quality assessment is generally not easy, but some procedural aspects are valuable indicators that demonstrate a lack of seriousness in dealing with the issue, which we will conclude below.

4. Legal framework

Competences and modes of communication in providing international legal assistance

The Ministry of Justice in the field of international legal assistance is competent to deal with requests from our courts sent abroad and vice versa, to draft international agreements and to monitor the situation and problems related to the implementation of international agreements, to legalize documents for their needs abroad and other points in this field.

Thus, the communication between the two countries during the request for international legal assistance can be accomplished in two ways, directly and indirectly³.

International legal assistance is provided in accordance with bilateral and multilateral international agreements and with domestic law in Civil and Criminal matters.⁴ Thus, communication between local foreign judicial authorities becomes indirect in several ways: through diplomatic-consular means and through certain authorities in the country. The diplomatic mode of communication is regulated by the Law on Civil Procedure, as well as bilateral international agreements. The Court submits the request for legal assistance with the appeals, which initiates the procedure through the Ministry of Justice to the Ministry of Foreign Affairs - which will then forward it to the diplomatic representation in the country concerned, and then to the competent authority of the foreign country. The diplomatic path of communication is longer and more complex and rarely used in practice (only with countries that are not signatories of multilateral international agreements, i.e. with countries with which the Republic of Macedonia has not concluded bilateral agreements).

The consular route of communication is set out in The Hague Convention on Civil Procedure (1954) and applies only to the States Members to the Hague Convention and to the countries with which bilateral agreements have been concluded. Therefore, the domestic court submits requests for legal assistance to the Ministry of Justice, which sends the request to its consular office, which then sends it to the requesting state authority has set. This Convention also contains a clause that any *Contracting Party* may require that requests to be made in its territory may also be submitted diplomatically.

Communication through specific authorities is predicted in many parties and bilateral agreements and is done directly between the Ministry of Justice of the Republic of North Macedonia and the relevant Ministry of Justice of the foreign country. This mode of communication is described by some states and is most often applied in practice.

One innovation in the provision of international legal assistance is judicial or direct communication, which is described in some bilateral agreements. Direct judicial communication means court-to-court communication, i.e. a

³ Bekim Kadriu, (2015), *International Private Law*, pg.333

⁴ Poliksena Gavroska., & Toni Deskoski, (2011), *International Private Law*, pg.413.

court of the requesting *State* addresses the competent court of the requested state directly without the mediation of the central authorities. Such agreements are described with the Republic of Serbia⁵, Bosnia and Herzegovina⁶ and Montenegro⁷

In the field of international legal assistance, the Sector for International Legal Assistance, other than the application of domestic law, multilateral agreements, depending on the state whose citizens are participants in the concrete case process, also applies the bilateral agreements that the Republic of North Macedonia has made since its independence with other countries and other agreements with the former SFRY, which the Republic of Macedonia has adopted as a national regulation pursuant to Article 5 in the implementation of the Constitution of the Republic of Macedonia.

5. International Legal Assistance in Civil Matters

International legal assistance in civil matters mainly concerns the submission of judicial acts, petitions seeking to take certain civil legal actions, (obtaining evidence, hearing, filing documents), and in legal matters (family, property, inheritance, etc.), giving opinions on reciprocity, reporting on national legislation and other civil matters.

Most of the claims relate to divorce, ascertainment and denial of paternity, alimony claims when the procedure is too long, inheritance statements, reciprocity and a number of claims refer to court recognition and rulings, decisions of foreign authorities by our courts and decisions made by a local court to be recognized and enforced in another state.

International legal assistance for the most part is regulated by international, bilateral and multilateral treaties, in part by domestic law. The law applies when no international agreement is reached, i.e. unless an issue is regulated by international agreement.

⁵ Agreement between the Republic of Macedonia and the Republic of Serbia on Legal Assistance in Civil and Criminal Matters (Official Gazette of the Republic of Macedonia No. 15/13) in force from 05.02.2013, Article 4.

⁶ Agreement between the Republic of Macedonia and Bosnia and Herzegovina on changes to the Agreement between the Republic of Macedonia and Bosnia and Herzegovina on Legal Assistance in Civil and Criminal Matters

⁷ Agreement on Mutual Legal Assistance with Montenegro in Civil and Criminal Matters

International legal assistance in Civil matters is provided in accordance with the provisions of national law⁸.

In addition to the national legislation on international legal assistance, bilateral agreements that the Republic of North Macedonia has concluded with several countries are also implemented⁹.

The most important of the multilateral agreements in the field of international legal assistance in Civil matters is the Hague Convention on Civil Procedure (dated 01.03.1954).

The Convention on the Delivery of Judgments and Courts Abroad on Civil or Commercial Matters¹⁰ (dated 15.11.1965) has gradually replaced the role of the Hague Convention (1954), where we can say that in practice it has assumed a predominant role as regards the Convention. This Convention provides for the possibility of sending registries of persons abroad through its diplomatic and consular representatives, with condition that the *State* of accession to not object. The Convention also does not preclude direct post or other authorized person delivering it to the *State* in which the letter is delivered, although the receiving *State* may object to such delivery.

The Convention on the Collection of Evidence Abroad in Civil or Commercial Matters¹¹ (dated 18.03 1970) aims to facilitate the submission and application of this process. Refers to the presentation of evidence and the performance of other judicial actions for the purposes of judicial proceedings before the competent courts of the *Contracting States*, without the submission of judicial acts and security or enforcement measures.

At the 14th Conference on Private International Law held in The Hague, the Convention on Facilitating International Access to Courts was adopted on 25.10.1980, adapting certain provisions of 1954. The Convention predicts for the national treatment of foreigners before the domestic courts with regard to the use of judicial assistance in Civil and Commercial matters. Reciprocity is established between *Contracting States* with the exception of cases subject to costs (*cautio iudicatum solvi*).

⁸ Law on Civil Procedure, Articles 170, 174.

⁹ Republic of Bulgaria, Republic of Turkey, Ukraine, Romania, Republic of Slovenia, Republic of Croatia, Bosnia and Herzegovina, Republic of Serbia, Montenegro and Republic of Kosovo.

¹⁰ (Official Gazette of RM no. 107 / 2008).

¹¹ (Official Gazette of Republic of Macedonia 140 / 2008).

Convention on the Civil Aspects of International Child Abduction dated 06.10.1980 ratified by several States providing for a specific type of legal assistance and cooperation between states with a purpose to the immediate return of children deprived of their parents or guardians. The forms that are an integral part of the Convention are mandatory for its implementation.

About legalization, the Sector of International Legal Assistance is acting in accordance with the Convention on the Elimination of the Need for the Legalization of Foreign Public Documents dated 05.10.1961, which abolishes the diplomatic or consular legalization of public documents between member states.

Regarding alimony, the New York Convention¹² (20.06.1956) - Convention on the Realization of Alimony Requirements Abroad has an important place in practice. Article 7 of this Convention provides for legal assistance between courts in the enforcement of alimony claims. Alimony claims are very sensitive issues where the fundamental rights of children are protected, so these cases are dealt treated as soon as possible. In practice, the problem is that most debtors evade payment obligations by turning a civil case into a criminal case that results in a lawsuit, a "no support" lawsuit.

6. International Legal Assistance in Criminal Matters

International Criminal Assistance is provided under the Law on International Cooperation in Criminal Matters ("Official Gazette of the Republic of Macedonia" no. 124 / 2010), which entered into force on 01.02.2013. This law is a *lex specialis* in the field of international criminal legal assistance as well as the provisions of the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia" no. 124 / 2010), the Law on Minor Offenses and the Law on Courts, the Law on Public Prosecution and other laws.

The Law on International Cooperation in Criminal Matters is a codification of all conventions of Council of Europe in the field of international legal assistance in criminal matters, which the Republic of North Macedonia has ratified. The adoption of this law is also a result of the determination of the Republic of North Macedonia to integrate into European flows, and in the European integration process, and guarantees

¹² Convention of NY, Article 7.

an appropriate level of international cooperation in criminal matters, creating conditions for an efficient war against crime.

The law incorporates the provisions of the European Convention on Legal Assistance in Criminal Matters (1957) with the two Additional Protocols, the European Convention on Extradition (1957) with Additional Protocols, the European Convention on the Transfer of Sentenced Persons (1983) with the Additional Protocol, the European Convention on Transfer of criminal proceedings since 1972 and other international treaties ratified by the Constitution of the Republic of North Macedonia.

International legal assistance in criminal matters is most often related to the issuance of calls, verdicts, test materials, the examination of individual witnesses, the trafficking of narcotics, the procedure for the transfer of convicted persons and the extradition of fugitives, accused and convicted persons in a foreign country and vice versa.

Submission of documents and taking of investigative actions is regulated in all bilateral agreements on legal assistance in criminal matters. The action required may also include reporting, the release of criminal records, press releases and similar. In all bilateral criminal-legal assistance agreements, the State in which the criminal procedure is instituted provides that the executing State shall provide the requesting State with the delivery of acts, written material or other objects, which in the requesting State may serve as evidence in criminal proceedings, and after their use, the requesting State shall return them to the executing State.

The question of when our citizens will commit a crime on the territory of another country is also important in this area¹³. The perpetrators of these crimes are prosecuted only after the prior approval of the competent public prosecutor, but to be able to legally convict the perpetrator, under domestic criminal law, requires the duality of the norm, meaning that the offense is punishable by foreign criminal law. It should be noted here that the domestic court will reach a final judgment in respect of the sanction imposed by a foreign court if provided by international agreement, and if the sanction is also imposed by a domestic court under our criminal law¹⁴.

In practice, bilateral agreements on mutual enforcement of judicial decisions in criminal matters with several countries are also implemented, so that convicted persons - citizens of the Republic of Macedonia who have

¹³ Poliksena Gavroska., & Toni Deskoski, (2011), *International Private Law*, pg.416-417.

¹⁴ Hajredin Kuçi., & Asllan Bilalli, (2012), *International Private Law*, pg. 134, also there 139.

committed the crime in the territory of another country, in order to serve the rest of his sentence in Republic of North Macedonia (Republic of Slovenia, Republic of Croatia, Bosnia and Herzegovina and Republic of Turkey).

As for the transfer of Macedonian citizens serving prison sentences abroad and wishing to serve the remainder of their sentences in their country, the issue of costs incurred as a result of the execution of the sentence is currently in place. Accordingly, according to Article 17, paragraph 5 of the European Convention¹⁵ on the Transfer of Sentenced Persons, the costs of transfer are borne by the executing state.

However, so far at the Ministry of Justice, the costs of transferring from abroad to the Idrizovo prison are borne by the family of the convicted person or convicts. This practice is established taking into account that the transfer procedure is initiated at the request of the convicted person or a member of his or her family, not at the request of a public authority in the RNM, according to the Council of Europe, which provides that "the executing State, however, is not prevented from removing all or part of the convict's transfer costs".

For the reasons mentioned above, the matters admitted to the Ministry of Justice relate to the transfer of sentenced persons, after the procedure has been conducted, until the funds are paid by the families of the sentenced persons and although the procedure has been completed, the transfer is not carried out because the convicted person does not want to bear the costs, i.e., he / she does not accept his / her transfer to his / her country, which has been subject to reaction from some countries in recent years due to the lack of carrying out their approved transfers.

In addition, it should be noted that in most cases convicts are unwilling to pay costs, as the European Convention on the Transfer of Convicted Persons does not provide for the costs to be borne by the applicants, namely the convicts or their families.

The Additional Protocol of the European Convention on the Transfer of Sentenced Persons provides for the possibility of proceedings being initiated by the sentencing State, which means that without the consent or against the will of the sentenced person, and in such cases the sentenced persons do not agree to bear the costs of the transfer. In practice, such cases have been more frequently reported to the Ministry, with Macedonian

¹⁵ European Convention, Article 17.

citizens serving prison sentences in Sweden, Hungary, Germany's FR and similar.

This practice has been implemented by the Ministry of Justice until the entry into force of the Law on International Criminal Cooperation ("Official Gazette of the Republic of Macedonia" No. 07 / 2010) which entered into force on 01.12.2013, Article 101 that the costs incurred in connection with the execution of foreign criminal trials are borne by the Republic of Macedonia, except those incurred only in the foreign state.

The Ministry of Justice is of the opinion that such practice should be abandoned.

In criminal matters, it should be noted the procedure for issuance of accused and convicted persons (extradition).

Namely, several cases of extradition of foreigners who committed the crime in another country and vice versa of citizens of the Republic of Macedonia who left the country after the crime was committed are abroad and the court is following them through Interpol with international arrest warrant. These cases are quite complex and treated with the utmost care and are implemented in the shortest possible time based on international agreements and domestic criminal law.

The complexity and importance of this procedure can be ascertained from most of the current issues that have been addressed recently, and the urgency of dealing with the acceptance of the record, which may be no longer than 40 days from the day of the arrest of the foreign citizen, which is in accordance with the provisions of Article 63 paragraph (1) of the Law on International Cooperation in Criminal Matters and the European Convention on Extradition.

Depending on who is seeking extradition, i.e. if the Republic of North Macedonia seeks the extradition of a person who has committed a crime on the territory of the Republic of North Macedonia or if extradition requires a foreign citizen deprived of liberty in the territory of the Republic of North Macedonia, procedures for extradition, Ministry of Justice deals with domestic law and the multilateral and bilateral agreements that regulate this issue.

The Law on International Criminal Cooperation ("Official Gazette of the Republic of Macedonia" No. 124 / 2010), which entered into force on 01.12.2013, provides for a shortened extradition procedure. The number of extraditions to the Republic of Macedonia out of 17 requests for extradition from foreign countries, 11 requests were made in accordance with the

provisions of the short procedure, which represents 65% of the total number of cases. The shortened procedure proved to be very fast and efficient.

In relation to extradition, it should be noted that the Republic of North Macedonia with the adoption of Amendment XXXII to the Constitution of the Republic of North Macedonia, which replaces paragraph 2 of Article 4 of the Constitution, according to which a citizen of the Republic of North Macedonia cannot be deprived of citizenship, and cannot be extradited to another state except under a ratified international agreement by a court order.

Republic of North Macedonia has concluded several bilateral extradition agreements with its citizens (citizens of the RNM) with the Republic of Croatia, Montenegro, Republic of Serbia and an Agreement on Amending the Extradition Agreement with Bosnia and Herzegovina.

These agreements lay down provisions for the release of their nationals in relation to the most serious criminal offenses in the field of organized crime, corruption and money laundering, for which probation depends on at least four years or persons sentenced to imprisonment, at least two years.

The conclusion of these agreements is of great importance not only for the Republic of Macedonia, but also for the region, and will contribute to enable a more efficient fight against organized crime, thereby narrowing the scope for criminal activity that will no longer be protected with national legislation. Also, the number of extraditions is increasing year by year due to the more efficient fight against crime and international instruments that the Republic of Macedonia has ratified, as well as increased training of those working in these cases.

Bilateral Agreements:

In 2014, two agreements entered into force:

- Agreement between the Republic of Macedonia and Bosnia and Herzegovina on changes to the Extradition Treaty (Official Gazette of the Republic of Macedonia no. 135 / 13) entered into force on 30 July 2014;
- Agreement between the Republic of Macedonia and Bosnia and Herzegovina amending and supplementing the Agreement on Mutual Execution of Judicial Judgments in Criminal Matters ("Official Gazette of the Republic of Macedonia" no. 135 / 13) entered into force on 30 July 2014;

- Agreement between the Republic of Macedonia and Bosnia and Herzegovina on Legal Assistance in Civil and Criminal Matters;
- Bilateral cooperation with the Republic of Italy.
- Bilateral agreement with the Republic of Kosovo;
- Agreement on Mutual Legal Assistance with Serbia and Montenegro;
- Agreement on Mutual Legal Assistance with Serbia;
- Agreement on Mutual Legal Assistance with Montenegro;
- Agreement on Mutual Legal Assistance with Croatia,
- Agreement on Mutual Legal Assistance with Albania.

STATISTICS from 2014

In the period from 01.01. - 31.12.2014 a total of 5108 new cases were registered, after which 11,005 cases were processed, of which:

- 3400 criminal cases and
- 7605 civil cases.

From the total number of 5108:

- 52 2252 cases received requests from foreign countries to the Republic of Macedonia,
- 5 2856 cases have been submitted requests from the Republic of Macedonia to foreign countries.

In relation to extraditions from 01.01 - 31.12.2014 a total of 120 extraditions were received, of which:

- 100 cases when extradition is requested from the Republic of Macedonia and
- 20 cases when extradition requires a foreign state.

Concerning the transfer of sentenced persons from 01.01. - 31.12.2014, 45 transfer requests were received in total:

- 23 requests by the Macedonian citizens for imprisonment in the Republic of Macedonia,
- 22 requests of foreign nationals to serve their sentences in the countries where they are citizens.

• Applying international police cooperation

We will highlight some points of interstate police cooperation:

International criminal legal assistance, such as locating witnesses and defendants and securing their presence in criminal proceedings, conducting investigations at the place where the criminal offense was committed, supervising on parole or released on bail, and other criminal

and legal assistance actions cannot be imagined without the involvement of the police.

The police engagement in the extradition procedure has an emphasis, because police cooperate with the judiciary, arrange for the discovery and deprivation of liberty of a person who is required by another state to extradite, collect evidence and submit it to the authorities conducting the extradition procedure.

In other situations, e.g. where there are no legal assistance agreements between two or more states, police cooperation can be presented as an accessory to formal legal assistance. In such situations, international police cooperation may assist in the exchange of data and information, with a purpose to prevent the commission of criminal offenses or to detect and handing down perpetrators.

An instrument of cooperation of states in providing international legal assistance would be the establishment of a collection and information system at the level of each state, on the one hand, as well as the formation of a state-level data and information bank at the level of regional countries and beyond.

Modern technology has changed the way of communicating and why not and a virtual way of working with each other, thereby facilitating coordination and efficiency in operating where countries relevant requirements and subjects are not left unattended.

Modern modes of communication (with networking of all communication resources and maximum usage of communication capacities) and fast travel opportunities make the world a "global state". Although this is an achievement of civilization, this process has a flaw that cannot be easily avoided. The ability of people to move freely from one country to another also includes the possibility that criminals can use this freedom to commit criminal offenses in many countries or try to avoid prosecution by crossing borders. While border barriers to people and goods have been removed, they still exist for jurisdiction and criminal procedure of states. In order to fight new "international" criminals and criminal groups, states had to adjust their criminal procedure and recognize the need for more international cooperation.

Under international law, all international agreements take precedence over national legislation and stand at the same level as national constitutions. Therefore, the provisions of international, bilateral and

multilateral conventions, treaties and agreements take precedence over national legislation¹⁶.

Joint Investigation Teams - North Macedonia's legal basis for a JIT is Article 38 read in conjunction with Article 15 of the Law on International Cooperation in Criminal Matters¹⁷, Article 15, paragraph 8 of Chapter II of this law regulates the term international legal assistance, which includes, among others, the establishment of joint investigation teams. Under Article 38 of the law in question, the national authorities responsible for detecting and prosecuting corruption and organized crime, together with the competent authorities, may be part of a joint investigation team. The JIT should be created for a specific purpose and for a specific period; with the consent of the JIT member states, the initial time period of a JIT may be extended.

Under Articles 39 and 40¹⁸ of the Code of Criminal Procedure and Article 36¹⁹ of the law applicable to the Prosecution, it is the national competent authority that may authorize or require the establishment of a JIT. Article 36 regulates that the Prosecutor of the Republic of Macedonia, in the framework of international agreements, establishes direct cooperation with the prosecution offices of other countries, especially for the prevention and prosecution of organized crime and other forms of crime through data exchange, direct cooperation, training, staff specialization and other methods of cooperation.

The following international legal basis can be used in the RNM for the creation of a JIT and has supremacy over national legislation on matters governing:

- Article 20 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, and
- Article 27 of the Police Cooperation Convention for South Eastern Europe (PCC SEE).

The following provisions may also be used as an international legal basis:

- Article 19 of the United Nations Convention against International Organized Crime,

¹⁶ Hajredin Kuçi, & Asllan Bilalli, (2012), *International Private Law*, pg.71.

¹⁷ Law on International Cooperation in Criminal Matters, Articles 15, 38 and 39.

¹⁸ Code of Criminal Procedure, based on Articles 39, 40.

¹⁹ Law on Prosecution, Article 36.

- Article 49 of the United Nations Convention against Corruption,
- Article 16 of the Convention on the Laundering, Search, Seizure, Confiscation of Crime Products, and
- Article 25 of the Cybercrime Convention.

The Republic of North Macedonia has experience of operating a JIT with EU Member States.

It is recommended that the RNM to regulate further the use of JIT at national level as there are aspects of this collaboration that are currently unclear, such as team composition (members and leaders), elements to be included in an JIT agreement, rules exchange of information and evidence etc.

7. Developments in the department of international legal assistance unit and problems in the Ministry of Justice

The innovation in the international legal assistance sector is the DMS Project (Electronic Case Management). The cases are registered electronically.

With the introduction of the DMS system into the Sector for International Legal Assistance, archive work is completely blocked and there is no technical possibility to register cases daily. Often when there are cases to be registered in the DMS, the connection to the Internet is very weak, and given the fact that we also have inadequate trained staff is one reason to conclude that filing is slow and of poor quality, which has a very negative impact on the performance of the sector itself.

Given that there is complete blockage in the archive, it is necessary to intervene and solve this problem in the Sector, as a large number of cases reach daily, and some of them require taking action within a very short time, often on the same day and especially by the visits of diplomatic representatives in Skopje, to visit their nationals (custody), and authorization to visit is given by a preliminary court.

Given that the Sector currently lacks technical equipment, it is another problem to fully implement the DMS project. The International Legal Assistance Sector lacks printing toners, i.e., a printer in which the toner is used up and in cases where fax deliveries are made to the institution where they are sent, they are not readable at all, so they often call and ask to be re-scanned in order to act urgently on the case at hand.

Another serious problem are the articles from the criminal record.

Accordingly, according to Article 22 of the European Convention on International Legal Cooperation in Criminal Matters, citizens of the Republic of North Macedonia who have committed a crime in the territory of another State - the signatory of this Convention and vice versa and bilateral agreements that the Republic of Macedonia has signed with the other countries since its independence, countries are required to register by criminal record in the courts in accordance with the new Regulation which entered into force on 01.01.2015.

One concern are criminal records obtained by the Federal Republic of Germany (requests, one from the end of 2014 and the other from 2015), in which there are more than 2,000 convictions to be translated and forwarded to the competent authorities.

In practice and current legislation, criminal records after the translation were submitted to the Ministry of Interior of the Republic of Macedonia, but with the signing of the Agreement between the Ministry of Interior and Ministry of Justice courts are responsible, which means that justice must be separated from cases according to the jurisdiction and forward them to the competent courts.

Here, too, is a problem because many sentences do not contain the name and surname, place of birth of parents and do not exactly know which court is competent and such penalties should be returned to the Ministry of the Republic of Macedonia Justice to the correct state.

A working meeting was held at the Ministry of Justice of the Republic of Macedonia with representatives of the Sector for International Legal Assistance and representatives of the Kingdom of the Netherlands regarding the creation of software for keeping records and statistics of cases in international legal assistance, it is about the *LURIS* software for registrations and statistics (2015). With the introduction of this program we can obtain statistics on various bases, statistics on the country, and other countries.

Department of International Legal Assistance, as the most current issue, highlights the problem with the translation of documents, as most of them are accepted by the Ministry in one of the foreign languages and in accordance with national regulations, it is necessary to translate them into Macedonian so that the competent judicial authorities can act.

Considering the fact that the number of cases in recent years has grown enormously and it is not possible to predict precisely the amount of funds to be allocated to international legal assistance matters, especially as the

number of extraditions has doubled compared to, and according to European standards, they are accepted in the Ministry in English or French.

In the current practice, the ministry employs court translators, but it is considered more appropriate to meet the vacancies with the systematization of the Ministry - Department for Translation, editing - translators, saving in this way.

The amounts paid by the Ministry of Justice are high, and are paid by the fee of the year 1993, which is very low and has not changed since then (220.00 denars in Macedonian and 270 denars from Macedonian to a foreign language), and for standard forms for Macedonian citizens who have committed crime abroad (4 forms 220.00 denars, which is below all European standards), given the new Law on Contributions, Works Contracts and other types of contracts, as tax rates rise, the growing number of certified court translators translating for the ministry so far refuse to cooperate because they have to translate for an even lower price than before.

Current practice shows that some countries (Turkey, Albania, Bulgaria, Greece and other countries) have employed translators. The Ministry of Justice estimates that saving at least three translators with more than one language will save money. The ministry currently employs three translators, one of whom speaks English, the other Albanian and German.

A serious problem that requires special attention is keeping statistics in the Ministry of Justice. Namely, the program that runs the statistics at the Ministry of Justice is more than 16 years old. The Ministry of Justice receives many questionnaires from World Institutions every day (Questionnaire by Prof Andre Clip - Mastich University through GIZ, Subcommittee on Justice, *MANIVAL* Questionnaire - for more detailed information on criminal cooperation), which requires accurate statistics on a specific crime. The current archive software does not allow such statistics to be maintained, so extraordinary efforts are made to answer such questionnaires and it takes a long time to submit data that we consider inaccurate. We note that neighbouring countries have programs that can follow European trends in statistics.

8. Conclusion

Our state, the political actors in the country together with the professional staff and experts of the country (and abroad) have demonstrated the

readiness for continued challenges, the common struggle for organized justice. And that the RNM continues ongoing activities with international bodies and organizations with (UN, EC, OSCE, OECD, GRECO) bodies and committees, activities to implement and monitor their recommendations.

However, whenever there are high expectations, frustration can be potentially as high as expectations. Citizens had the greatest confidence in the implementation of reforms, and the local political will, promoted their self as a reformer in economic, democratic and legal terms, that they will make quick reforms such as the development of the 3-6-9 plan.

Instead of reforms in RMV, there was a referendum, and not minor issue, instead of state institutions dealing with the reform of the institutional system, all the potential was focused on the referendum on the new name of the state.

Reform as a notion is a very sensitive and crucial issue in the foundations of the state and feels the need for changes due to the dynamics of time and developments of this century, but although this government was proclaimed with the stigma of "reformist government" unfortunately avoided institutional priority agenda.

Reforming the system in Macedonia and its adaptation by operation with EU countries has been put forward as an urgent demand before the Skopje authorities, in almost every visit to Skopje by senior representatives of Brussels. Macedonia has been repeatedly criticized by international representatives for obvious stagnation in reforms in general. Therefore, any delay in this regard will have negative consequences for the country's path towards EU membership, says Erwan Fouere, a former European diplomat.

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