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## SPECIAL PROSECUTION AND ITS IMPACT ON THE EUROPEAN INTEGRATION PROCESSES OF THE REPUBLIC OF NORTH MACEDONIA

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**Abstract:** Since the independence of the Republic of Macedonia, one of the most problematic issues, both at home and abroad, has been and remains the judiciary. The rigged victories in a series of presidential, parliamentary and local elections enabled the VMRO-DPMNE party to assert absolute decades of power in the presidency, parliament, municipalities and extend it to all other state institutions. With his project "Truth About Macedonia", SDSM leader Zoran Zaev on February 9, 2015 began publishing the so-called bombs, which were conversations recorded by the Directorate for Security and Counterintelligence (DSK). It was said that politicians, journalists and intellectuals had been tapped, but the conversations of people in power had also been recorded. What is worth noting is that many published conversations have heard politicians appoint and dismiss judges and prosecutors, how they interfere with litigation, and worse, how they handle cases, how they assemble processes, how impose sentences and in a word how openly instrumentalize all judicial instances. Outraged by the situation, the VMRO government sued the opposition SDSM leader for a coup. But in the face of constant international pressure, the government has slowly and necessarily abandoned its position. With the intervention of the international community, Przhino's agreement was reached between the four largest political parties: VMRO, SDSM, DUI and DPA. As a result, on September 15, 2015, the Assembly unanimously voted for the law on the Special Public Prosecutor's Office, headed by Katica Janjeva. This aroused the citizens' hopes that all the corrupt will finally be accountable to the law, that there will be no exception and that no one will be above the law. Ironically, the 'designated' one to prosecute cases of telephone interception fell into the trap itself. On August 8, 2019, the Italian newspaper 'La Verita' began publishing video and audio recordings implicated in the profane affair 'Racket', Chief Special Prosecutor Janeva himself came out. On August 21, she was taken to Shutka Prison. The storm caused so much fuss that EU ambassador Samuel Zbogor said it had all turned into a 'reality show'.

**Keywords:** RNM, Euro-Atlantic integrations, Special Public Prosecution, corruption

### 1. INTRODUCTION

“The Macedonian judicial system is in an extended transition process, beginning with the Constitution of 1991 and the first Law on Courts of 1995”. “The independence of the judiciary is seen as the basis of the rule of law”<sup>177</sup>. The PSP was formed after long talks between the parties and was a product of the przhino agreement between vmro-dpmne and sds. The main purpose of forming the psp was to find out who has been illegally bugging for almost a decade. At the end of december 2015, the opposition sds submitted all the wiretapped conversations, which should serve as evidence for indictment against former political officials who had abused their official position, who were suspected of having committing criminal acts, investigating and bringing to justice all those responsible for illegal wiretapping in the country<sup>178</sup>.

### 2. ESTABLISHMENT OF SPP

“For some time now, reports of domestic NGOs, human rights defenders, judicial analysts, and reports of international organizations can read and hear warnings about the political influence on the election of judges and public prosecutors, on the dismissal of judges. judges, as well as political pressure on judges for certain high-profile political cases. In addition, the objectivity of evaluating and promoting judges is often questioned. Confirmation of these criticisms came through the judgments of the European Court of Human Rights in the Republic of Macedonia.

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<sup>177</sup> OSCE. (2009). *Независност на судството: Правна анализа*. Organization for Security and Co-operation in Europe, Spillover Monitor Mission to Skopje, стр.9

<sup>178</sup> Сл. Весник на Р. Македонија, бр.159 (2015, септември, 15), превземено од [www.pravo.org.mk](http://www.pravo.org.mk). *Закон за Јавно Обвинителство за Гонење на Кривични Дела Поврзани и кои Произлегуваат од Содржината на Незаконското Следење на Комуникациите*. Retrieved from [https://www.jonsk.mk/wp-content/uploads/2017/09/Zakon\\_za\\_sjo.pdf](https://www.jonsk.mk/wp-content/uploads/2017/09/Zakon_za_sjo.pdf)

These rulings confirm that political interference, inefficiency, violations of the right to public hearing, clientelism and corruption are strongly present and characterize the Macedonian justice system.<sup>179</sup>

The Special Public Prosecutor's Office was established on September 15, 2015 by the Law, which was approved by the Assembly of the Republic of Macedonia. The same day the Assembly elected Katica Janeva as chief prosecutor. The next day she took solemn oath before the Council of Public Prosecutors. Janeva's backing was the country's four largest parties: the ruling VMRO-DUI and the SDSM and DPA in opposition.

On June 29, 2017, two days before the deadline, the PSP filed 17 charges in 18 cases against 94 natural persons and 7 legal entities.

### 3. THE 'IMPERIAL' CASE

While the whole debate was about whether former Prime Minister Nikola Gruevski would go to jail or flee the PSP on November 9, 2018, he had opened the 'Empire' case, suspected of criminal misconduct, abuse of power, fraud, money laundering and other offenses were 13 people: among them Orce Kamchev, Cvetan Pandelevski and Sasho Mijalkov. On the same day, five of the suspects were arrested, including Orce Kamchev. Kamchev is the owner of Orka Holding Company, Acibadem Sistina, Pelagonija and several other businesses.

Initially, the court and the PSP also rejected Jordan Kamchev's bail of around 14m euros to get out of prison under house arrest. Just two weeks later, on December 27, 2018, the PSP self-relent, and instead of serving a prison sentence, demanded house arrest for the suspects in the case.

Kamchev also emerged from house arrest. At the end of January 2019, Janeva explained on 'Itv' television that the decision was her own and that there were 'X causes' for it. On March 4, 2019, the Supreme Court stripped Kamchev of custody. A month later, on the proposal of the PSP, the Court also returned the passport<sup>180</sup>.

### 4. THE 'RECET' CASE

Thirty businessmen are on the list of those surveyed, according to media reports. The money-makers kept 1TV, whose editorial task was to support power politics. The rest of the money was distributed proportionally, in hand. In November 2018, developments began around the 'bracket' case. Bojan Jovanovski - Boki 13 sometimes with Lazar Janev, son of Special Prosecutor Katica Janeva and Zoran Milevski - Kicec went to businessmen, or to relatives and lawyers. They asked businessman Orce Kamchev for 8m euros to free him from the 'Empire' case or 5m euros to 'ease his circumstances'.

On May 2, 2019, the Prosecutor's Office for the Prosecution of Organized Crime and Corruption opened an investigation into the 'racketeering' case. When Jovanovski and Milevski were seized at the Bogorodica border crossing, on the same day on July 15, without any prior warning, Chief Prosecutor Janeva ruled that "it is time to deposit her resignation in the interest of Euro-Atlantic integration". On the same day Janeva received the phone to confirm the possible communication with Boki 13.

On July 23, Janeva stated at the press conference: "Neither consciously nor unconsciously, I did not abuse my office while still doing it. I encourage the institutions to fully carry out the whole investigation into the 'racketeering' case. I have been in this position under extremely difficult circumstances, though fully aware that I will always be the target of discrediting attacks. But I have no regrets, because the call to serve the state and be in charge of such an institution is a special honor. I have never felt involved in a "bracket" case. I never concealed that we met Boki 13 and that my son was employed on 1 TV. I expect a fair trial and it will all end. By submitting my resignation, I confirm that I have no way of influencing the "bracket" case. The PSP is bigger and more valuable than my function. This Prosecution will remain a symbol of the fight against organized crime and the involvement of the political elite in serious crimes and corruption", concluded Janeva<sup>181</sup>.

On August 8, Laris Gaiser, a journalist at La Verita, published audio and video recordings of the 'racketeering' case, showing how Boki 13 and Kicci with the 'Louis Vuitton' bag receive rackets from Orce Kamchev. The newspaper said the video was filmed at Orce

<sup>179</sup> Трајковска, Ј, М. (2018). *Можности и перспективи за подобрување на квалитетот на студството во Македонија, избор, оценување и разрешување на судии, анализа и препораки за јавни политики*. Центар за Правни Истражувања и анализи, Скопје, стр. 7

<sup>180</sup> БИРН, (2019, август 9). *Истрагата во лер, Janeva сè поблиску до „Рекет“*. Retrieved from <https://prizma.mk/istragata-vo-ler-janeva-s-poblisku-do-reket/>

<sup>181</sup> Беловска, (2019, јули, 23). *Janeva: Ниту свесно ниту несвесно сум ја злоупотребила службената положба*. Retrieved from <https://www.24.mk/details/janeva-nitu-svesno-nitu-nesvesno-sum-ja-zloupotrebila-sluzhbenata-polozhba>

Kamchev's home and shows cash payments. The next morning the newspaper published another recording where Boki 13 told Kamchev to "say hello to the ladies" (alluding to Katica Janeva) and then heard Janeva himself, providing Kamchev with the words: "Don't worry, everything will be good life" <sup>182</sup>. The Special Prosecutor in a statement confirmed the authenticity of the conversation, namely her voice, but clarified that communication was in function of the work she was doing. On August 10, Janeva read a statement explaining that she had talked with Orce Kamchev to become an associate in the investigation. He left the press conference, avoiding journalists' questions.

## 5. ARRESTING KATICA JANEVA

On August 20, accompanied by her lawyer Stevan Pavlevski, former state prosecutor, Chief Prosecutor Janeva gave four-hour testimony before Prosecutor Vilma Ruskovska. Pavleski is also a lawyer for the 'Empire' suspect in the Cvetan Pandeleski case.

On August 21, after several hours of raids and the seizure of some furniture and materials at her home in Kozle, Katica Janeva left her home. At Ruskovsky's arrest, police took Janeva from her Skopje apartment, where she obtained items related to the 'racketeering' case. Prior to the arrest of Special Prosecutor Katica Janeva, her mother died in her hometown of Gevgelija. Chief Prosecutor Lubomir Joveski and prosecutor for the prosecution of organized crime and corruption Vilma Ruskoska make Janeva's arrest public. Ruskovska stated that since the beginning of the investigation against Jovanovski and Milevski there were basic suspicions that Janeva was abusing her official position. Chief State Prosecutor Lubomir Jovevski stressed that Janeva has appropriated considerable wealth and fortune for herself and other persons to relieve Kamchev's status as a suspect in the 'Empire' case. "Katica is the victim of the accident", - her lawyer told the court. After questioning four hours in court, pre-trial judge Sead Rexhepagic imposed a 30-day detention on three grounds: risk of a repeat offense, possible witness impact and risk of escape. At trial, Janeva was transferred to Shutka Prison at around 11.30pm <sup>183</sup>. Early in the morning on August 22, Janeva, accompanied by Shutka Prison Police, went to bury her 83-year-old mother in Gevgelija. The Criminal Court rejected the appeal of the Special Public Prosecutor, Janeva, for a 30-day detention. She is in the Shutka detention unit, but not in the renovated ward of the so-called Hague chambers, but in common cells with another prisoner. The reason for this is to avoid contact with Bojan Jovanovski and Zoran Milevski - Kicec. Investigative Prison Director Esad Rahic for Radio Free Europe stated that the special prosecutor had made a profile security assessment and was in a separate room. It is not in the women's ward, because there are women with different profiles, even for murder, and it is improper for the prosecutor to identify with them. It is arranged in the best way <sup>184</sup>, - said Rahic.

## 6. PROCEEDING WITH SPP CASES

On September 5, the Committee on Issues and Appointments, unanimously, endorsed the proposal to the Assembly that Janeva be removed from the post of Special Public Prosecutor due to unconscious, unprofessional and illegal leadership of the Special Public Prosecutor institution. On September 14, the Assembly, with 102 votes, approved the proposal to dismiss Chief Special Prosecutor Katica Janeva. The PSP's mandate could be extended if Janeva's successor had been elected three months before her mandate expired. However, this did not happen, as it was planned that she would continue the mandate.

On September 4, Janeva from Shutka Prison wrote to her current PSP colleagues to hand over all documentation on all cases under investigation and pretrial proceedings within three days to Ljubomir Jovevski. The PSP confirmed the information. Yet, while still formally on duty and unmarried, yet arrested and in custody, it is absurd that Janeva, as a suspect in the "racketeering" case, has the right from detention to tell special prosecutors how to act with PSP subjects. Probably the case of 'sui generis' and 'unprecedented'. On September 6, the Public Prosecutor's Office confirmed that it would take the Special Prosecutor's cases and examine one of the Special Public Prosecutor's cases to determine the stage they had reached. On September 11, at the premises of the Special Public Prosecutor's Office,

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<sup>182</sup> М.В, (2019, август 9). *Објавени нови снимки за случајот „Рекет“*. Retrieved from <https://akademik.mk/objaveni-novi-snimki-za-sluchajot-reket/>

<sup>183</sup> МИА, (2019, август, 24). *Хронологија на настаните поврзани со случајот наречен „Рекет“*. Retrieved from <https://civilmedia.mk/hronologija-na-nastanite-povrzani-so-sluchajot-narechen-reket/>

<sup>184</sup> Радио слободна Европа, (2019, август, 24). *Рахик: Знаете ли колку е тешко да ѝ се најде цимерка на Јанева меѓу убијци и рекетари*. Retrieved from <https://republika.mk/vesti/makedonija/rahikj-znaete-li-kolku-e-teshko-da-se-najde-cimerka-na-janeva-megju-ubijci-i-reketari/>

a Public Prosecutor's Office letter signed by the Public Prosecutor, Lubomir Joveski, arrived to receive the cases. On September 12, the Special Public Prosecutor's Office posted on its website a notice expressing its readiness to respond to Joveski's letter and immediately forward the cases to the Public Prosecutor's Office.

## 7. IMPACT ON EURO-ATLANTIC INTEGRATION

For government officials, the 'racketeering' case shows that no one is inviolable and that non-selective fight against corruption is a condition without which there is no progress towards EU membership. EU Ambassador Samuel Zbogor has said that the 'racketeering' case has shown that the Public Prosecutor's Office is fighting high-level corruption and that it supports working on such cases.<sup>185</sup> Enlargement Commissioner Johannes Hahn urges Macedonian authorities to fully disclose 'bracket' case and perpetrators' responsibility. European People's Party President Doris Pack urges Europe to respond to criminal reality in Macedonia<sup>186</sup>.

## 8. CONCLUSION

Former PSP Chief Prosecutor Katica Janeva [Deligjakova], was born on February 9, 1965. In 1998 she was hired as a professional associate at the Gevgelija Court. She began her career in 2003, being elected assistant prosecutor. In 2009 he was appointed prosecutor, and in 2010 he was elected public prosecutor, as head of the Basic Public Prosecutor's Office in Gevgelija. She has been trained in organized crime and corruption in Italy. Prior to being elected Special Prosecutor to the PSP on September 15, 2015 he had been on study trips to the US and was a trainer of several Academy of Prosecutor Studies programs.

In a text entitled "Suspected heroin of the Laramian revolution" the German newspaper "Spiegel" wrote that the "racketeering" case has caused the biggest political quake in recent years in Northern Macedonia, which has shocked the public. According to them, the PSP as a symbol of the "tsarist revolution" has contributed to the fall of the former Prime Minister Nikola Gruevski's nationalist-authoritarian and mafia regime. "The demonstrations started in front of the PSP building in the Macedonian capital of Skopje. Many people wore t-shirts featuring Janeva, her deputy Fatime Fetaj and PSP spokeswoman Lance Ristoska. This myth of a heroine has now been destroyed. It was thought that they could not be corrupted. Their authority was a symbol of the rule of law in the country." In the text, Kamchev is described as the richest Macedonian, but at the same time as a personification of corruption and organized crime in the country. "Under Gruevski's rule, he got deals worth millions. One of his main partners was the formidable former chief of the intelligence service, Sasho Mijalkov, the director of the Gruevski regime", Alsat M quoted the German newspaper as saying. According to Spiegel, "the SDSM reformist government has reacted uncertainly and that the public has gained the impression that Prime Minister Zoran Zaev is trying to hide something." To the allegations, Zaev has responded that "it will not allow some criminal mobsters, a journalist and a sod to oust his government from power", which has caused a flurry of public outrage. What the PSP was formed for failed to achieve: for three years out of 90 accused in 18 mega-corruption cases only one prisoner. The special suffered a fiasco even in front of the regular courts. Only with the Special Prosecutor, without the Special Court, was the intention initially nullified. Politically unsupported, boycotted by the judiciary and finally raided by the police. The symbol of justice embodied in Janeva has faded, but the hope in the rule of law has not faded, for the first time in Macedonia a prosecutor has fallen, and this fact is a good sign to believe that no one will be on the law and that its offenders will at all times be accountable to justice.

„The constitution must be respected because it is the sole guardian of our freedoms, "said US President Abraham Lincoln. The meaning of these words is felt in every segment of life to this day<sup>187</sup>.

This case, as well as the proper functioning of the judiciary in general, are *conditio sine qua non* that the EU has imposed on the Republic of Northern Macedonia for the country's integration into Euro-Atlantic structures and "as well as the need to harmonize domestic law with European legal standards"<sup>188</sup>.

<sup>185</sup> Здравковска, Ж, (22 јули 2019), *На случајот рекет гледам позитивно, нема причина за политичка криза, вели ЕУ амбасадорот Жбогар*. Retrieved from <https://sdk.mk/index.php/dopisna-mrezha/na-sluchajot-reket-gledam-pozitivno-nema-prichina-za-politichka-kriza-veli-eu-ambasadorot-zhbogar/>

<sup>186</sup> Пешевска, Ј. (2019, август, 11) *ЕУ бара темелна истрага за случајот „Рекет“*. Retrieved from <https://telma.com.mk/eu-bara-temelna-istraga-za-sluchajot-reket/>

<sup>187</sup> ОБСЕ. (2014). *Современите предизвици на уставното судство, уставен суд на Република Македонија*. Програмата за владеење на правото во Југоисточна Европа на Фондацијата Конрад Аденауер, Скопје, стр.7

<sup>188</sup> OSCE. (2014). *Меѓународни документи за независно и ефикасно судство*. Академија за студии и јавни обвинители, Скопје, стр.20

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