

**CONSTITUTIONAL COURT OF THE REPUBLIC OF MACEDONIA**

**Conference on the topic:  
“Modern constitutional justice: challenges and perspectives”  
(St. Petersburg, Russian Federation  
17–20 May 2016)**

**MODERN CONSTITUTIONAL JUSTICE:  
CHALLENGES AND PERSPECTIVES IN  
THE REPUBLIC OF MACEDONIA**

**Presentation of Elena Gosheva  
President of the Constitutional Court  
of the Republic of Macedonia**

Dear President of the Constitutional Court of the Russian Federation, Mr Valery Zorkin,

Dear Presidents and Judges at Constitutional Courts,

Ladies and gentlemen,

Allow me first of all to extend my appreciation for the invitation to participate in this ceremony marking the 25th anniversary of the Constitutional Court of the Russian Federation and to congratulate you and wish further development and successful work of the Constitutional Court of the Russian Federation.

The existence of a Constitutional Court in an independent state implies above all a great challenge and participation in the creation and implementation of a new legal system. Through its interpretations of constitutional norms the Constitutional Court as the only body being competent to interpret the Constitution has a significant role in consolidating democracy, establishing rule of law and providing legal certainty. Thus, this institution is becoming the most valuable stakeholder in the establishment of harmonious functioning of a real democracy, as it cares about the spirit and word of the Constitution, which specifies the rules of the game in a pluralistic democratic life, the rule of law and the respect and protection of human rights.

It is said that democracy is necessary but not sufficient precondition for preserving the rule of law. Therefore, there is the constitutional judiciary as a protective mechanism evaluating the contents and key areas of human rights and freedoms and the right to human dignity.

When talking about the position and role of the Constitutional Court, one cannot but mention the need for a constant battle for an autonomous and independent action. Very important is the constitutional guarantee of institutional independence of the Constitutional Court in organisational, financial and functional sense, and individual independence of judges.

Very important is also the willingness of judges to defend the independence of the Constitutional Court against any pressures and unfounded attacks. To this aim, the decisions of the Constitutional Court need to be qualitative, sustainable and professional.

The Constitutional Court of the Republic of Macedonia has been continuously maintaining cooperation with the constitutional courts in the region and wider with other constitutional courts, and this cooperation should be expanded and deepened since a number of similar social developments can be found in many countries, which necessarily requires introduction to constitutional law aspects of practice in these social situations.

It is known that after the fall of the socialist regime and the disintegration of the federal states, the new democratic systems in the countries from Southeast Europe have abandoned the constitutional principle of unity of powers and established the principle of separation of powers into legislative, executive and judicial. This constitutional legal process of democratic governance in the new political system has some problems in the intention of certain social subjects to recover and relapse the rule of old elements. The reason for that is that they cannot fully adapt to the modern democratic conditions of government where the free will of citizens to establish government through elections is seen as a major problem for their absolute and lasting rule as in the past. I am underlining this due to some problems in my country in recent years because the free and democratic elections as a constitutional guarantee for the rule of a government in the state, based on the will of the majority of citizens, should be finally seen as the only acceptable terms of parliamentary life, with no room for other, non-democratic alternatives to the rule that are automatically unsustainable and unconstitutional.

The very wish and need to achieve certain political goals, and the lack of democratic traditions, historical conditions, political culture, and sociological characteristics, have influenced that the division of state powers and guarantees of freedoms and rights be outlined in the Constitution of the Republic of Macedonia, as a foundation of the constitutional system in the Republic of Macedonia, and are the bases for the protection of constitutionality and legality by the Constitutional Court of the Republic of Macedonia.

Today the Constitutional Court of the Republic of Macedonia is facing major challenges in the functioning and performance of its competences as a reflection of social phenomena. However, the challenges of

establishing a modern constitutional justice in Europe and beyond are obviously big, given the development of new structural social phenomena. This certainly requires the existence of precise constitutional norms that will contain the proper mechanisms for efficient functioning of the system of separated, but a balanced and responsible state government, and constitutional legal protection of the norms determining the social and political system of a country.

Thus conceived constitutionally-legally positioned Constitutional Court in social reality is not easily accomplished. In a country with a multiparty system and pluralistic society, with a modern economy where capital dictates the market and entrepreneurial relationships, conflicting political relations are created that should function within the democratic methods of rule defined by the Constitution. Hence, external phenomena absolutely reflect on the constitutional judiciary in the exercise of powers of the Constitutional Court, which is not always easily accomplished. The constitutional state is reflected in the work of the Constitutional Court, in particular by its protection of the constitutionality and legality of regulations and protection of the freedoms and rights of citizens defined by the Constitution.

The constitutional and legal position of the Constitutional Court of the Republic of Macedonia is regulated by the Constitution of the Republic of Macedonia and the Rules for its work adopted by the Constitutional Court, which enables it to have institutional autonomy and independence from the branches of government (legislative, executive and judicial). That strengthens its security and stability, gives it constitutional force to resist, through its decisions, all the structures that put their interests above the Constitution and the law. In the practical work the Constitutional Court of the Republic of Macedonia is facing major challenges but has no alternative, everyone is obliged to respect the decisions of the Court, guaranteeing the constitutional state with the rule of law and legal certainty.

Thank you.