

## CHAPTER 7

### THE PRE-TRIAL PROCEDURE IN REPUBLIC OF NORTH MACEDONIA

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DOI: 10.26650/B/SS26.2020.014.07

#### ABSTRACT

The chapter is focused on different aspects of the concept of pre-trial procedure that encompasses pre-investigative and investigative procedure in North Macedonia. The previous concept of the criminal procedure was based on inquisitorial elements, hence the investigative judge has been part of the investigative procedure. However, research indicates that the investigative judge in practice almost never found new evidence. His role was simply to formally record evidence collected by the police and proposed by the prosecutor. This had a negative impact on the main hearing, as in practice it became a simple duplication of the investigation, instead of being a proper testing phase for the examination of the previously collected evidence. Moreover, the investigative judge accepted almost all of the requests for investigation filed by the public prosecutors, without critically assessing them. Due to these conclusions, as well as having in mind comparative trends and experiences, a new Law on Criminal Procedure was enacted in 2010. The Law delivered a totally new concept of the criminal procedure in North Macedonia, with special emphasis on pre-trial procedure. Namely, the investigative judge was abolished, while the public prosecutor is stipulated as dominus litis of the pre-trial procedure, with the help of the judicial police. Accordingly, the judge of pre-trial procedure was introduced, as guarantor of the rights and freedoms of the suspect. It is important to underline that the judge of pre-trial procedure is not merely a substitute to the investigative judge, but it is a completely new figure of pre-trial procedure, with distinctive duties. The authors will elaborate on the limits and the aim of the

investigation stage of pre-trial procedure, together with the most important issues regarding defence rights. As a basic standard to be achieved, the authors use the latest EU directives which regulates the rights of the suspect, as well as the ECtHR standards, and the best practices in the law and practice of the states used as a model for the reform. Specifically, the chapter focuses on the evidentiary value of the statements made during the investigative stage in the further procedure.

**Keywords:** Pre-trial procedure, investigation, public prosecutor, suspect, evidence, defense, detention, injured party, Republic of North Macedonia

## 1. Historical and Cultural Related Aspects that Influenced Republic of North Macedonia's Provisions of Law on Criminal Procedure

Criminal justice tradition in the Western Balkans has been historically neo-inquisitorial—that is, a mixed-system.<sup>1</sup> Criminal proceedings were defined by strong judicial paternalism—a lengthy official investigation by the court, which bore the main responsibility for the entire procedure. The judge played the primary role in gathering and presenting the evidence and had the right to put forward evidence the parties failed to suggest and to examine suspects, witnesses, and expert witnesses. In the 1990s, the first reforms were put into effect, inspired by newly adopted constitutions and international human rights law. Therefore, all western Balkan countries duly incorporated fair trial standards from the European Convention on Human Rights, thus adding additional adversarial components to an already mixed model of criminal procedure. Together with the change of the political system, the entire ideology of criminal procedure shifted. Minimum guarantees, set by the European Court of Human Rights, require that all criminal proceedings include safeguards to protect individuals against procedural mistakes and abuses, specifically, against miscarriages of justice.<sup>2</sup>

In this time period, *due process* tendencies were common for most European countries. However, new ideas and solutions for protection of rights and freedoms of citizens had barely been established in the region, when, abruptly, priorities and the world at large changed. Combating organized crime and terrorism became global priority. A shift in orientation to strengthening the state brought with it confusion about the priorities and principles of criminal justice. Improving procedural efficiency suddenly came at the apparent cost of human rights. Hence, the human rights and due process model was replaced over night by a crime control model.<sup>3</sup> Ten years later, the second wave of reforms began. These were more radical and part

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1 On the influence of the system of political organization model on the criminal procedure model, see: Mirjan Damaška, *The Faces of Justice and State Authority* (New Haven, CT: Yale University Press 1986).

2 John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press 1971).

3 Gordan Kalajdziev, *On Fight against Organized Crime and the Rule of Law* (FIOOM, Skopje 2012).

of a trend to abandon certain inquisitorial traits and put a European adversarial model in place. The Italian criminal procedure code of 1988 had most influence on the western Balkans. In Republic of North Macedonia, the legislator opted for complete abandonment of judicial paternalism and introduction of adversarial proceedings. Criminal reforms aimed to accelerate proceedings and contribute to greater fairness, by fulfilling standards on fair trial and human rights protection. Hence, the new Law on Criminal Procedure (LCP) was adopted in 2010.

## **2. Concept of the Pre-Trial Procedure and the Role of the Public Prosecutor**

### **2.1. Concept of the Pre-Trial Procedure**

Republic of North Macedonia in the 2010 LCP, opted for complete abandonment of formal investigations. This concept is based on the idea that court trials are the only place for presentation and reconsideration of evidence, i.e. evidence collected in the course of investigations is presented and tested at public hearings.<sup>4</sup> In this sense, the LCP stipulates that statements made during interrogation of suspects and witnesses have limited use in court trials. Reasons for abandoning court-led investigations are straightforward. Not only did investigative judges, as active investigators, failed to perform their function of unbiased protectors of human rights and freedoms, due to the incompatibility of their roles as protectors and investigators, but they have been proved unable investigators because evidence already gathered by the police and the prosecution were re-introduced and reconsidered during court-led investigations. On the other hand, court led investigations unnecessarily delayed criminal proceedings, rendering them expressly inquisitorial and implying formal presentation of the most important evidence that were later used as grounds for delivering court rulings.

Reducing the role of judges to controllers of legality and guarantors of rights and freedoms, instead of active investigators, allows them to make unbiased decisions on detention orders, special investigative measures, searches, etc. Unburdened of duties for active investigation, judges of pre-trial procedure are in much better position to fulfil their role of protectors, unlike investigative judges that were bound by the principles of investigation and the duty to clarify all factual matters in the case. On the other hand, it must be acknowledged that with the introduction of the new model of criminal proceedings, the defense is losing an important assistant in gathering evidence in its favor. Public prosecutors have become active and operational

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4 On the other hand, it seems that the concept of formal prosecution-led investigation relies on fears that suspects and witnesses might change their previously deposited statements due to various reasons. See: Zlata Đurđević, 'Osvrt na rezultate rada radne skupine Ministarstva pravosuđa za usklađivanje Zakona o kaznenom postupku s Ustavom Republike Hrvatske' [2013] 1 HLJKPP 3.

participants in investigation. The police retains considerable autonomy with regard to their activities, but from now on they are obligated to provide prompt information to prosecutors and follow their instructions and orders as part of their cooperation. The establishment of new relationships between the police and public prosecution service aims at overcoming the well-known problem of “dual hierarchy” in criminal police governed more by the politics through the officials of the Ministry of Interior than by the public prosecution service.<sup>5</sup>

## 2.2. Course of Pre-Trial Procedure and the Role of the Public Prosecution

Pre-trial procedure as a phase of the Macedonian criminal procedure is divided into two parts: pre-investigative procedure and investigative procedure.

**Pre-investigative procedure:** Reasons for initiating criminal procedure are: direct observation by the police or public prosecutor, rumors or submitted criminal notion that a crime has been committed. After receiving the criminal notion or after learning about the grounds for suspicion that a crime has been committed, which is being prosecuted *ex officio*, without any delay, the police shall inform the public prosecutor thereof. If there are grounds for suspicion for a criminal offense that entails a prison sentence of at least 4 years or if there are any reasons for urgency, the police, i.e. the judicial police shall immediately inform the public prosecutor thereof. Any verbal notification have to be followed, without any delays with a written notification.<sup>6</sup>

Following the receipt of the criminal notion or after the receipt of the notification by the police, the public prosecutor will start to manage the procedure. The judicial police is obliged to proceed according to the orders and instructions provided by the public prosecutor. Also, the judicial police continues with further actions even when it has not received specific orders or instructions by the public prosecutor, but they must inform the public prosecutor about the conducted measures and activities accordingly.<sup>7</sup>

**Investigative procedure:** *Dominus litis* of the investigative procedure is the public prosecutor. The investigative procedure is initiated with written order by the public prosecutor,

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5 Gordan Kalajdziev, Divna Ilikj, ‘Formiranje, organizacija i funkcioniranje na pravosudnata policija i istraznite centri na javnoto obvinitelstvo’ [2009] 2 MRKPK 121.

6 Article 272 – 275, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

7 Article 276 – 290, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

against a certain person when there is a grounded suspicion that the person committed a crime that is prosecuted *ex-officio* or upon a proposal for criminal prosecution. The investigative procedure shall be conducted by the competent public prosecutor, with judicial police at his/her disposal.<sup>8</sup> The goal of investigative procedure is to collect any evidence and data in order public prosecutor to be able to decide whether to file an indictment or waive the right of criminal prosecution. Furthermore, in this phase, any evidence that might not be presented during the main hearing or evidence whose presentation would cause certain difficulties can be presented at the evidentiary hearing. During the investigative procedure, the public prosecutor is obliged to collect both incriminating and exculpatory evidence.<sup>9</sup>

Hence, the public prosecutor may file to the pre-trial procedure judge an elaborated motion for: detention or other measures to ensure the presence of the suspect; search warrants for residencies, other premises and persons, as well as special investigative measures. The pre-trial procedure judge shall be obliged, without any delays, to consider such a motion and rule on it immediately.<sup>10</sup> During the investigation, the public prosecutor may undertake the following investigative actions: search; temporary safeguarding and seizure of objects or property; examination of the suspect; examination of witnesses; commissioning expert's reports; crime scene investigation and reconstruction; and special investigative measures. If there is a danger of procrastination then investigative actions may be undertaken even before the initiation of the investigative procedure.<sup>11</sup>

The public prosecutor shall recess the investigative procedure with an order: if the suspect is in flight or unavailable for the state entities; when after the crime committed, the suspect got mentally ill, he/she suffered a breakdown or another serious illness due to which he/she can no longer participate in the procedure; or if there are other circumstances that temporarily

8 Article 292, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

9 Article 291, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

10 Article 294, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

11 Article 295, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

prevent any further criminal prosecution. When the reasons that caused the recess cease to exist, the public prosecutor shall continue the investigation procedure.<sup>12</sup> The public prosecutor shall terminate the investigative procedure when he/she believes that the case has been sufficiently clarified so as to file an indictment or terminate the investigation procedure. If the investigative procedure is not completed within 6 months from the day of enactment of the order to initiate an investigative procedure, the public prosecutor must inform the higher public prosecutor thereof, who, in the event of complex cases, may extend this deadline for another 6 months. In exceptional cases, this deadline may be extended for an additional 3 months by the Chief Public Prosecutor of the Republic of North Macedonia. For criminal offenses in the area of organized crime, the deadline may be extended for additional 6 months by the Chief Public Prosecutor of the Republic of North Macedonia.<sup>13</sup>

Prior to the expiry of the deadline for completion of the investigation, the public prosecutor is obliged to deliver a notification of completion of the investigation procedure to the suspect and his/her counsel. At this point, if it hasn't been done earlier, the public prosecutor must interrogate the suspect. The notification for completion of the investigation shall contain a short description of the criminal offense that was the subject of the proceedings, the legal qualification. In the notification it must be indicated that all files from the investigation procedure have been handed over to the records office at the Public Prosecution Office for safekeeping and that the suspect and his/her counsel have the right to review the files and evidence and copy them respectively. The notification shall contain a legal advice that within a period of 15 days from the receipt of the notification, the suspect has the right to file any documents, or other evidence and defense action files, or to request from the public prosecutor to collect certain evidence. The public prosecutor must disclose to the suspect all the evidence that were collected during the investigation procedure against him or her, as well as any exculpatory evidence that might be useful to the defense. In the event when, upon request by the suspect or his or her defense counsel, the public prosecutor is collecting certain evidence, this is to be done within a period of 30 days from the day of submission of the request.<sup>14</sup>

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12 Article 300, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

13 Article 301, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

14 Article 302, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20)

### 2.3. Evidentiary Hearing

An evidentiary hearing may be held during the investigative procedure upon a motion by the suspect or the public prosecutor. The pre-trial procedure judge, within 3 days, with a decision, shall rule on such a motion by the parties. An evidentiary hearing may be held in the following situations: if it is likely that due to an illness or death, it shall not be possible to hear the witness at the main hearing; if an expert's report is required, and the evidence pertains to a person, object or location whose condition is susceptible to unavoidable changes; or when there are specific circumstances that indicate that the witness is exposed of violence, threats, promises for financial reward or other benefit, in order not to testify or to give a false testimony.<sup>15</sup>

The evidentiary hearing is conducted by the pre-trial procedure judge. The suspect and his or her defense counsel, the public prosecutor and the injured party are notified about the hearing. Any non-appearance by any of the parties who has been properly summoned, and did not justify the absence does not prevent the evidentiary hearing to be held. The representative, i.e. the proxy of the injured party may also attend the hearing. If the suspect's defense counsel does not appear, the judge shall assign another counsel. The evidence on the evidentiary hearing are presented pursuant to the rules for presentation of evidence during the main hearing. The presentation of evidence may not be extended to facts that pertain to a suspect whose defense counsel is not present at the evidentiary hearing.<sup>16</sup>

Any evidence presented during the evidentiary hearing may be used at the main hearing only against the suspect whose defense counsel was present during the presentation of evidence at the evidentiary hearing, unless he or she explicitly waived his or her right to a defense counsel.<sup>17</sup>

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The%20right%20to%20an%20interpreter%20or%20translator, accessed on 6.07.2020.

- 15 Article 312, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.
- 16 Article 313 – 316, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.
- 17 Article 318, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

### 3. The Position and the Rights of the Suspect in the Investigation

#### 3.1. Right to Information

The title of LCP's Chapter VI explicitly refers to the suspect as subject in criminal proceedings, followed by a catalogue of defense rights in criminal proceedings. The catalogue of defense rights includes the right of persons summoned, detained or deprived of liberty to be immediately informed, in a language they understand, of legal grounds for being summoned, detained or deprived of liberty under suspicion of having committed criminal offence and to be informed about their rights. At the same time, suspects must be clearly advised of their right to remain silent, the right to consult with attorney in private and the right to have defense attorney of their choice present at the interrogation. Moreover, legal provisions on suspect interrogation include solutions according to which prior to any interrogation suspects must be advised of charges raised against them and the legal grounds thereof, including the catalogue of rights guaranteed under LCP<sup>18</sup>: they are not obliged to present their defense; they are entitled to defense attorney of their choice, with whom they can consult in private and who can be present at the interrogation; they are allowed to make statement about the criminal offence they are charged with and to present all facts and evidence in their favor; they are entitled to insight in records and examination of items seized; they are entitled to free assistance provided by translator/interpreter if they do not understand the language of interrogation; they have the right to be examined by medical doctors when in need of medical treatment or for the purpose of establishing possible abuse of police powers.<sup>19</sup>

Furthermore, those suspected of having committed criminal offence are entitled to be immediately informed, in a language they understand and in detail, about the criminal offences they are charged with and the evidence against them. In essence, this guarantee should ensure provision of sufficient information they need to prepare their defense.<sup>20</sup> LCP has transposed majority of international standards on information about charges and has attempted to adjust them to the new concept of accusatory proceedings. Indisputable is that suspects will learn about the criminal investigation led against them if they are strip searched, have their items

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18 Article 206, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

19 Suspects can voluntarily waive a particular defense right, but the interrogation cannot start without written statement on waiver of particular right signed by them.

20 According to practices of ECHR bodies, this guarantee is interpreted as suspect's request to be familiarized with factual and legal grounds for charges raised against him. See: *Offner v. Austria*, Coll. 5, app. no. 524/59, 1 135 See: Stefan Trechsel, *Human Rights in Criminal Proceedings* (OUP 2005) 222.

seized, are interrogated, deprived of liberty, etc. In these cases, LCP stipulates that suspects should be informed about criminal offences they are charged with, evidence against them, and their rights. Hence, persons summoned, detained or deprived of liberty must be immediately informed, in a language they understand, about the reasons for being summoned, detained or deprived of liberty and possible criminal charges raised, as well as about their rights, including that they cannot be asked to make a statement. Information provided to suspects is particularly limited in regard to application of special investigative measures. Namely, these measures are most often applied in the early stages of proceedings.<sup>21</sup> On the other hand, they become useless if suspects learn that they are subject of particular investigations.

The legal solutions stipulate that suspects are not notified of investigation order. Also, the public prosecutor is not obliged to interrogate them before adopting this order. First obligation for notification of suspects is in effect upon investigation's completion, as the public prosecutor is obliged to notify suspects and their defense attorney about the completed investigation. Same is applicable in terms of suspect interrogation. Namely, the public prosecutor is obliged to interrogate suspects before the end of the investigation, unless this has been done earlier. This notification includes brief description of the criminal offence for which investigation activities have been taken, the legal grounds, including an indication that all investigation-related records have been deposited to the archive at the public prosecution and suspects and their defense attorney are entitled to insight in and make notes of these records and evidence. The notification also includes a legal notice that the suspects, within a deadline of 15 days, is entitled to submit documents or other evidence, records of defense activities or request the public prosecutor to collect particular evidence.<sup>22</sup>

### **3.2. Adequate Time and Facilities for Preparation of the Defense**

Right of suspects to adequate time for preparation of the defense is guaranteed throughout the duration of criminal proceedings, but particular attention is paid to preparations for court hearings. Namely, suspects must be presented with subpoenas in due time, allowing adequate time period for preparation of their defense, which should not be shorter than 8 days. Guarantees on adequate time for preparation of the defense do not apply to suspects' interrogation in pre-trial procedure, as there should be no time distance from suspects' notification about criminal charges and legal grounds thereof and the actual interrogation.

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21 Gordan Kalajdziev, Maja Konevska, *Application of Special Investigative Measures and Use of Evidence Collected in this Manner in Trial in the Republic of Macedonia* (OSCE Skopje, 2013).

22 Divna Ilikj, 'Pravoto na obvinetiot da bide izvesten za obvinenijata protiv nego i noviot model na istrazhna postapka', *Zbrnik vo chest na prof. d-r Nikola Matovski* (PF Skopje 2011), 505-521.

Prior to the first interrogation, suspects are allowed 24 hours to contract a defense attorney if they wish to, but in this period they are not informed of the criminal offence and circumstances they are accused of. Therefore, suspects prepare their defense in the period from being summoned until the first interrogation, but only on the grounds of scarce information provided in the invitation.

Right to insight in case records and the right to propose and present evidence are cornerstones of criminal defense, i.e. exercise of these rights contributes to assessment whether criminal proceedings provide adequate facilities for preparation of the defense. Insight in records allows suspects to learn about criminal charges raised against them, evidence that has been gathered, and other information. Without guarantees for insight in case records, the right to defense is *nudum ius*. Actually, exercise of this right allows suspects to have active role and transform from being object of to being subject in criminal proceedings. Based on ECtHR jurisprudence, defense rights guaranteed under Article 70 of LCP for the first time include the right to insight in records and the right to present evidence in favour of the defense, allowing them adequate time and facilities to prepare the defense. It should be noted, that the relevant legal provision does not include details about when and how this right can be exercised. Moreover, suspects must be advised of their right to insight in case records and right to examine items seized prior to their first interrogation. However, LCP does not clarify whether suspects can review case records prior to being interrogated (or later) and whether the interrogation will be postponed for the time needed for insight in case records and examination of items seized, in cases when suspects have expressed such request. According to Article 79, paragraph 1 of LCP, defense attorneys are entitled to review records and evidence in the course of proceedings.

It should be underlined that the public prosecutor's notification submitted to suspects prior to completion of criminal proceedings should include information on evidence against them gathered in the course of investigation activities, as well as evidence in favour of the defense.

### **3.3. Right to Remain Silent**

The Right to remain silent is a key aspect of criminal defense rights. In criminal proceedings, it is considered to be a fundamental right and implies that suspects are not obliged to admit the criminal offence or give statement to acknowledge existence and credibility of facts presented in the course of relevant proceedings, as well as answer questions raised by the police, the public prosecution or the court. Therefore, suspects are not obliged to give any statement that would contribute to clarification of facts in the case, be it in the

course of pre-trial procedure or at court hearings.<sup>23</sup> In this sense, legal provisions stipulate that suspects enjoy this right from the moment of their first interrogation. This is further confirmed by rules governing suspect interrogation, according to which prior to being interrogated, persons summoned for interrogation must be informed *expressis verbis*, i.e. in clear manner, about their right to remain silent, while minimum defense rights include the right not to be coerced to make incriminating statements for themselves or their relatives or to admit guilt, in compliance with the principle *nemo tenetur se ipsum*, whereby failure to provide such advice results in withdrawal of such statements. Hence, LCP does not leave possibility to prove that suspects, although not being advised, are aware of this right.

Another guarantee for the right to remain silent is the fact that persons responding to police invitation or forcefully apprehended by the police, who have refused to make a statement, cannot be re-summoned on the same grounds. According to legal solutions in effect, suspects are advised that any statements they give can be used in criminal proceedings led against them. Additional guarantees are secured by the fact that, although suspects might have waived these rights voluntarily, their interrogation cannot start without written statement on waiver of particular right signed by them. Action taken contrary to these principles might result in withdrawal of such statements from court trials. One of the most controversial issues related to the right to remain silent is the (in)ability to make unfavorable conclusions on the grounds of suspects' exercise of the right to remain silent. Macedonian law does not include a legal solution according to which relevant authorities are allowed to make unfavorable conclusions on this ground, but on the other hand, it does not contain provisions according to which above indicated authorities are not allowed to inquire about suspect's reasons for being silent and even treat their complete silence as evidence. Hence, although this means that the court should not take into consideration suspect's silence by inferring his/her guilt, there are no guarantees that this does not happen, especially having in mind that many believe that an innocent person would use the opportunity to offer explanation.

Although in normative terms it can be concluded that criteria and guarantees on the right to silence are in place, certain is that when suspects decide to exercise this right they are subjected to psychological pressure to speak, which is often practiced, especially by the police.

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23 Dilemmas are raised by the legal provision from Article 12 of the Constitution of the Republic of North Macedonia according to which, persons summoned, apprehended or deprived of liberty cannot be requested to make a statement are matter of the past with the interpretation that the legal provision in question expressly allows the right to remain silent, i.e. prohibits coercion of persons to make or sign a statement, which does not mean that the person cannot be interviewed. Indeed, this is not a completely restrictive interpretation of the constitutional provisions and should be assumed as principled approach in terms of fundamental rights and freedoms, but it is more realistic and ultimately adequate to legal solutions and practices identified in comparative and international law. See: Gordan Kalajdziev, Pravichna postapka, PhD dissertation defendand at the Faculty of Law in Skopje, 2004) 268.

### 3.4. Investigation by the Defense

Following the example of criminal proceedings in Italy, the LCP stipulates that the defense is entitled to initiate and lead own investigations for the purpose of gathering evidence to its benefit that would allow efficient defense, which ultimately grants them certain “equality of arms” in this early stage of criminal proceedings.<sup>24</sup> In that regard, defense attorneys can take certain activities aimed at finding and collecting evidence in favor of the defense. These activities can be undertaken by defense attorneys, their proxies or by contracted chartered private detectives and technical/forensic advisers, when needed. First, in order to collect necessary notifications, defense attorneys or private investigators they have contracted are allowed to interview persons who might present circumstances useful for investigation activities.<sup>25</sup> Should defense attorneys decide to request written statements or notifications from persons they have interviewed, they need to make notes of these statements in compliance with LCP provisions governing minutes- and record-taking.<sup>26</sup> According to the LCP, defense attorneys are entitled to request access to private premises or areas that are closed for public access, within homes or other amenities. Should persons in possession of such premises deny access thereto, defense attorneys can address the court with a request for access, which the court approves by means of orders that are reasonably justified and clearly indicate manner in which such access should be granted. Defense attorneys are entitled to request data and notifications from State administration bodies, local self-government bodies, legal and natural persons tasked with public services and other legal entities, as well as disclosure of documents, records and notifications. Entities addressed with such requests are obliged to respond within a deadline of 30 days

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24 Professor Damaška, quite righteously, argues that “if the public prosecution is entrusted with leading investigations, the logic underlying adversary proceedings requires the defense to be allowed to conduct independent evidence gathering, instead of being limited to raising motions and other forms of participation in investigations led by the opposing party”. See, Mirjan Damaška, ‘O nekim učincima stranački oblikovanog pripremnog postupka’ [2007] 14(1) HLJKPP 3-14.

25 Articles 307 and 308 of LCP provide detailed description of actions which defense attorneys can take for the purpose of gathering notifications from persons believed to be able to present circumstances in favour of the defense and the manner in which they should be performed. Available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator,](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator,) accessed on 6.07.2020.

26 If a person can provide information useful for the defense, but refuses to, defense attorneys can request the public prosecutor to summon and interview this person. Attorneys are present at these questionings and have primacy in asking questions. However, this right is limited in cases of suspects involved in the same proceeding, which is understandable. Namely, suspects enjoy certain rights in proceedings led against them; however, when they are summoned to make a statement before the public prosecutor in capacity of witnesses, their rights might be violated.

from the request's receipt and within a deadline of 7 days from the request's receipt in cases when suspects have been detained.<sup>27</sup> Defense attorneys are authorized to directly present to the public prosecutor and to the judge of pre-trial procedure information and evidence in favor of suspects. This legal provision allows suspect's defense attorney to present the competent body with knowledge or evidence concerning the criminal offence and in favor of the suspect, at any stage of criminal proceedings, for the purpose of familiarizing and enabling them to make a correct decision about the course of future proceedings against the suspect or to decide upon specific motions made by the parties involved. In addition to defense attorneys, suspects can also be assisted by private investigators or other experts contracted as technical/ forensic advisors.

#### **4. The Procedural Value of Evidence (Statements) Gathered During Investigation**

According to LCP provisions, the statements given during the investigation are gathered and not presented. In this sense, the court shall base its verdict only on the facts and evidence presented during the main hearing. Exception to this rule is the evidentiary hearing, where the given statements are treated as presented ones, having in mind that on the evidentiary hearing the same rules for presenting evidence as on the main hearing apply. LCP however, determines several exceptions from direct presentation of evidence. First exception regulates that any statements given by witnesses during the investigation procedure and statements obtained through the actions of the defense during the investigation may be used during the cross-examination or to disprove any of the findings presented or in reply to the disproof, in order to evaluate the validity of the testimonies during the main hearing. The second one, refers to the cases where after the start of main hearing specific evidences emerge upon which one can conclude that the witness was exposed to violence, threats, promises of financial rewards or other benefits in order not to testify or to give a false testimony during the main hearing. In these cases, any statements given in front of the public prosecutor during the pre-trial procedure, with a judge's decision can be presented as evidence. The third exception appears in cases when the person who gave the statement has died in the meantime, became mentally ill, or remains unavailable to the court irrespective of all the means applied in order to find the person. In such case, presentation or reproduction of any records on given statements before

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27 In case entities addressed with information request fail to comply with the law-stipulated deadline, defense attorneys can request the judge of pre-trial procedure to order disclosure of requested information. In the course of court trials and hearings, this request is addressed to the court. Fines can be imposed in cases when addressed entities fail to comply with the court order.

a public prosecutor is allowed with a decision by the court. The LCP forbids that a verdict is based solely on a statement presented in accordance with these exceptions.<sup>28</sup>

Legality of evidence: Extorting a confession or any other statement from the suspect or any other person who participates in the procedure as regulated in LCP is prohibited. Furthermore, any evidence collected in an unlawful manner or by violation of the rights and freedoms established in the Constitution of the Republic of North Macedonia, the laws and international agreements, as well as any evidence resulting thereof, may not be used and may not be ground for a judicial verdict.<sup>29</sup>

## **5. Thresholds for Implementing Criminal Coercive Measures in Pre-Trial Procedure**

Macedonian LCP stipulates different threshold for different procedural coercive measures that can be imposed during the criminal proceeding.

### **5.1. Search Warrant**

Orders for all types of searches can be issued by the court upon request of public prosecutor. The threshold requires the existence of a suspicion that a crime has been committed and a certain degree of probability in terms of what is going to be found by the search warrant. *A search of a home and other premises* can be ordered when there is a probability that the suspect wanted for apprehension or detention will be found; traces regarding the criminal offence will be found; or items relevant to the criminal procedure will be found. *A search of a person* can be ordered when there is a probability that traces or objects important to the criminal procedure, which are in the possession of the person is going to be found. There is also a possibility for search warrant regarding search of a computer system and computer data.

### **5.2. Special Investigative Measures**

During the pre-investigative phase of pre-trial procedure, there is a possibility for undertaking special investigative measures. The necessary threshold for ordering those measures is grounds for suspicion. This is due to the fact that those measures can be ordered

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28 Article 388, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

29 Article 12, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

when it is likely to obtain data and evidence necessary for successful criminal procedure, which cannot be obtained by other means. A part of special investigative measures can be ordered only by the court (judge of pre-trial procedure),<sup>30</sup> and other part of them by the order of the public prosecutor.<sup>31</sup>

### 5.3. Measures for Providing Presence of the Suspects

Regarding the measures for providing presence of the suspect during the procedure, a necessary pre-condition is existence of a reasonable suspicion that a crime has been committed. Measures that can be taken against the suspect are: precautionary measures, bail, apprehension, short-term detention, house arrest and detention.<sup>32</sup> These measures can be divided into several types in accordance with their different nature and conditions under which they may be determined:

- measures taken immediately after getting knowledge that a particular person committed a crime (such as arrest as a kind of deprivation of liberty without court order, apprehension);
- measures that can be determined only before issuing the order for conducting an investigative procedure (short-term detention);
- measures that can be determined only when there is a reasonable suspicion (house arrest, bail or detention).

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30 Article 252 para. (1) of LCP - 1) Monitoring and recording of the telephone and other electronic communications under a procedure as stipulated with a separate law; 2) Surveillance and recording in homes, closed up or fenced space that belongs to the home or office space designated as private or in a vehicle and the entrance of such facilities in order to create the required conditions for monitoring of communications; 3) Secret monitoring and recording of conversations with technical devices outside the residence or the office space designated as private; 4) Secret access and search of computer systems; and 5) Automatic or in other way searching and comparing personal data of citizens. Available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

31 Article 252 para. (1) of LCP - 6) Inspection of telephone or other electronic communications; 7) Simulated purchase of items; 8) Simulated offering and receiving bribes; 9) Controlled delivery and transport of persons and objects; 10) Use of undercover agents for surveillance and gathering information or data; 11) Opening a simulated bank account; and 12) Simulated incorporation of legal persons or using existing legal persons for the purpose of collecting data. Available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

32 Article 144, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

Different threshold for different measures is due to the level of limitation of freedom and rights of the suspect. Namely, in accordance with Article 12 para. 2 of the Constitution of the Republic of North Macedonia, the freedom can be restricted only by a court decision, in cases and within the procedure established by law. The suspect is also under protection of the presumption of innocence guarantee as regulated within the Article 13 para. 1 of the Constitution of the Republic of North Macedonia and Article 2 para. 1 of the LCP. International instruments and domestic legislation provide protection of a person against unnecessary and unjustified restriction of his freedom.<sup>33</sup> In line with mentioned international instruments, Macedonian legislator accept the principle of proportionality, so that when deciding which measure shall be imposed, the competent authority must comply with the conditions laid down for the imposition of certain measures, taking consideration not to impose more severe measure if the same purpose can be achieved with less severe measure. There is a possibility for simultaneous implementation of different measures in order to avoid detention as most severe measure.<sup>34</sup> The precautionary measures could be imposed either when there are grounds for suspicion or when there is a reasonable suspicion.<sup>35</sup> During the investigative procedure, the measures are ordered by the judge of pre-trial procedure upon public prosecutor's request. On the other hand, after the indictment has entered into legal force or after the indictment initiating abbreviated procedure has been submitted, or until declaring the verdict, the competent authority for imposing those measures is the competent court. Bail can be imposed only when there is a reasonable suspicion that the suspect has committed a criminal offence. The initial act is proposal from the parties after the public prosecutor has issued an order for initiating investigative procedure. The bail can be ordered as independent measure, not as a replacement of detention. There are two conditions that need to be fulfilled for ordering the bail: 1) circumstances which indicate that the suspect

33 The rights and freedom of a person are provided for in Article 5 and 6 of the ECHR, as well as in Article 9 of the ICCPR.

34 Article 144 para. 2, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

35 In accordance with the Article 146 para. 1 of LCP, there are seven *precautionary* measures: 1) prohibition to leave the temporary or permanent place of residence; 2) an obligation for the suspect to report occasionally to a certain official person or to the competent state authority; 3) temporary seizure of a passport or another document for crossing of the state border, i.e. prohibition of their issuance; 4) temporary seizure of a driver's license or a prohibition for issuing one; 5) prohibition to visit a certain location or area; 6) prohibition to approach, establish or maintain contacts or relations with certain persons; and 7) prohibition to undertake certain working activities that are linked to the criminal offense. Available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

might flee; or 2) circumstances that justify the fear that the suspect may repeat or complete the criminal offence or commit the crime that he has been threatening with.<sup>36</sup>

Apprehension is the arrest of a suspect with a court order in cases when there are: grounds for detention; the detention order has already been issued; or when a duly summoned suspect is absent without justification for his absence or if the summon could not have been properly delivered because the suspect obviously avoids receiving it.<sup>37</sup> Short-term detention is a measure that can be ordered by the judge of pre-trial procedure when there is a reasonable suspicion that the person is a perpetrator of a criminal offense and that there are grounds for determining the detention, but the public prosecutor does not issue order for initiating pre-trial procedure yet. It is called short-term detention since it can last up to 48 hours from the moment when the arrested person was brought before the judge of pre-trial procedure. Only in multiple suspect cases and other especially complex cases, upon an elaborated request by the public prosecutor, the judge of pre-trial procedure may extend the duration of short-term detention for not longer than additional 48 hours. Otherwise, if the public prosecutor does not submit order for initiating pre-trial procedure, the suspect shall be released.<sup>38</sup>

If there is a reasonable suspicion that a particular person has committed a crime and there are circumstances for ordering detention, the court may order the measure of *house arrest* that prohibits the person to leave the premises of home or any other specified location for a fixed period of time<sup>39</sup>. Besides the prohibition to leave the home or any other specified location, the court may also prohibit communication of detained person with other individuals or prohibition for use of communication devices as well as an obligation to obey the measures of video and electronic surveillance or other precautionary measures. Upon exception, the court may allow the suspect to leave the home only if that is necessary for his medical treatment;

36 Article 150, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

37 Article 157, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

38 Article 170, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

39 Article 163, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

or if that is required by the special circumstances, which may result in harmful consequences for the life, health or property of that person or his close relatives.

The detention is an ultimate and most severe measure for providing presence of the suspect during the criminal procedure. Upon elaborated proposal of the public prosecutor, the court may impose detention only if there is a reasonable suspicion that the suspect has committed the criminal offence. There are several grounds for determining detention: 1) if the person is hiding, if his identity cannot be established, or if there are other circumstances indicating danger that the person might escape; 2) if there is a reasonable fear that the person will hide, falsify or destroy any traces of the criminal offense, or if there are special circumstances that would indicate that he or she shall impede the criminal procedure by influencing witnesses, expert witnesses, accomplices or concealers; 3) if special circumstances justify the fear of repeating the crime, or complete the attempted crime or commit the crime that he or she has been threatening with; or 4) if the suspect who has been duly summoned obviously tries to avoid appearing during the main hearing, or if the court on two occasions has tried to duly summons the suspect, but all the circumstances indicate that the suspect obviously avoids to receive the summon<sup>40</sup>. The court is obliged to consider the proportionality between the severity of the committed criminal offence and the expected sentence. In order to avoid unreasonable detention, the decision for imposing detention in its reasoning must include: 1) all facts and evidence which give rise to a reasonable suspicion that the suspect has committed a crime; 2) the grounds on which detention is determined; and 3) the reasons why the court considers that the purpose of detention cannot be attained by any other measure for providing presence of the suspect<sup>41</sup>. Detention shall be ordered by the court upon a written and reasoned proposal by the public prosecutor. The court must not order detention on ground not proposed by the prosecutor, but can consider some proposed grounds as not justified enough. The duration of detention must be reduced to the shortest necessary time depending of the circumstances of the case and throughout the procedure, the detention shall be revoked as soon as the reasons for its imposing have ceased to exist<sup>42</sup>. Duration

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40 Article 165, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

41 Article 167, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

42 Article 164 para. 2 and 4, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

of detention differs depending of the type of criminal procedure and severity of criminal offence: in cases trialed in shortened procedure detention must not exceed eight days before submitting the indictment, 120 days until first instance verdict is pronounced in shortened procedure<sup>43</sup>; not more than 90 days during the pre-trial proceeding for criminal offences punishable with imprisonment less than 4 years<sup>44</sup>; not more than 180 days during the pre-trial proceeding for offences punishable with at least 4 years of imprisonment<sup>45</sup>; after the indictment enters into legal force the duration of the detention might be not longer than one year - for criminal offences for which imprisonment of up to 15 years may be imposed, or two years - for criminal offences for which life imprisonment may be imposed.<sup>46</sup>

## 6. Procedural Guarantees of the Injured Party during the Pre-Trial Procedure

The legislator has safeguarded interests of the injured party by stipulating different procedural possibilities during the pre-trial procedure: a) *giving suggestions* to the public prosecutor for taking certain actions that will enable him exercising his rights;<sup>47</sup> b) *legal remedies against prosecutors' decisions* - an appeal against decision for rejecting the criminal charge within eight days and the higher public prosecutor, as a competent authority to decide upon an appeal within 30 days and can confirm the appealed decision or may decide that the basic public prosecutor have to continue with proceeding,<sup>48</sup> or an objection against the

43 Article 470, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

44 Article 171, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

45 Article 171, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

46 Article 171, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

47 Article 293, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

48 Article 288, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

order for termination of the investigation procedure within eight days and the higher public prosecutor, as a competent authority to decide upon an objection within 30 days and can confirm the order or may decide that the basic public prosecutor have to continue with proceeding;<sup>49</sup> c) a *complaint* for irregularities or delay of the investigative procedure and the higher public prosecutor shall investigate the allegations of the complaint and, if the complaint is grounded shall take appropriate measures for completing the investigation or for removing irregularities.<sup>50</sup>

## 7. Conclusion

In the 1990s, the first reforms were put into effect, inspired by newly adopted constitutions and international human rights law. All western Balkan countries incorporated fair trial standards from the European Convention on Human Rights, thus adding additional adversarial components to an already mixed model of criminal procedure. Due to these comparative trends and experiences, in the Republic of North Macedonia a new Law on Criminal Procedure was enacted in 2010, which delivered a different concept of criminal procedure. This concept is based on the idea that court trials are the only place for presentation and reconsideration of evidence, i.e. evidence collected in the course of investigations is presented and tested at public hearings. Reasons for abandoning court-led investigations are straightforward. Not only did investigative judges, as active investigators, failed to perform their function of unbiased protectors of human rights and freedoms, due to the incompatibility of their roles as protectors and investigators, but they have been proved unable investigators because evidence already gathered by the police and the prosecution were re-introduced and reconsidered during court-led investigations. On the other hand, court led investigations unnecessarily delayed criminal proceedings, rendering them expressly inquisitorial and implying formal presentation of the most important evidence that were later used as grounds for delivering court rulings.

Pre-trial procedure as a phase of the Macedonian criminal procedure is now divided into two parts: pre-investigative procedure and investigative procedure. *Dominus litis* of the investigative procedure is the public prosecutor. The investigative procedure is initiated with written order by the public prosecutor, against a certain person when there is a grounded

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49 Article 304, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

50 Article 301, LCP, available at [https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010\\_html/FYROM\\_Criminal\\_procedure\\_code\\_as\\_of\\_2010\\_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator](https://sherloc.unodc.org/res/cld/document/mkd/1996/criminal-procedure-code-of-the-republic-of-macedonia-as-of-2010_html/FYROM_Criminal_procedure_code_as_of_2010_English.pdf#:~:text=%281%29%20The%20official%20language%20in%20the%20criminal%20procedure,9%20The%20right%20to%20an%20interpreter%20or%20translator), accessed on 6.07.2020.

suspicion that the person committed a crime that is prosecuted *ex-officio* or upon a proposal for criminal prosecution. The investigative procedure is conducted by the competent public prosecutor, with judicial police at his/her disposal. An evidentiary hearing may be held during the investigative procedure upon a motion by the suspect or the public prosecutor and conducted by the pre-trial judge. LCP has transposed majority of international standards on the rights of the suspects and has attempted to adjust them to the new concept of accusatory proceedings. Regarding the right to remain silent, legal provisions stipulate that suspects enjoy this right from the moment of their first interrogation. This is further confirmed by rules governing suspect interrogation, according to which prior to being interrogated, persons summoned for interrogation must be informed *expressis verbis* about their right to remain silent, while minimum defense rights include the right not to be coerced to make incriminating statements for themselves or their relatives or to admit guilt, in compliance with the principle *nemo tenetur se ipsum*, whereby failure to provide such advice results in withdrawal of such statements. Hence, LCP does not leave possibility to prove that suspects, although not being advised, are aware of this right. Another guarantee for the right to remain silent is the fact that persons responding to police invitation or forcefully apprehended by the police, who have refused to make a statement, cannot be re-summoned on the same grounds. One of the most controversial issues related to the right to remain silent is the (in)ability to make unfavorable conclusions on the grounds of suspects' exercise of the right to remain silent. Macedonian law does not include a legal solution according to which relevant authorities are allowed to make unfavorable conclusions on this ground, but on the other hand, it does not contain provisions according to which above indicated authorities are not allowed to inquire about suspect's reasons for being silent and even treat their complete silence as evidence. Hence, although this means that the court should not take into consideration suspect's silence by inferring his/her guilt, there are no guarantees that this does not happen, especially having in mind that many believe that an innocent person would use the opportunity to offer explanation. Although in normative terms it can be concluded that criteria and guarantees on the right to silence are in place, certain is that when suspects decide to exercise this right they are subjected to psychological pressure to speak, which is often practiced, especially by the police. The defense is entitled to initiate and lead own investigations for the purpose of gathering evidence to its benefit that would allow efficient defense, which ultimately grants them certain "equality of arms" in this early stage of criminal proceedings.

According to LCP provisions, the statements given during the investigation are gathered and not presented. In this sense, the court shall base its verdict only on the facts and evidence

presented during the main hearing. Exception to this rule is the evidentiary hearing, where the given statements are treated as presented ones, having in mind that on the evidentiary hearing the same rules for presenting evidence as on the main hearing apply. LCP however, determines several exceptions from direct presentation of evidence, but at the same time LCP forbids that a verdict is based solely on a statement presented in accordance with these exceptions.

## References

- Berisav Pavišić, 'Europski sustavi kaznene istrage na početku trećeg milenija' in *Zbornik na trudovi na Pravnite fakulteti vo Skopje i Zagreb* (PF Zagreb/ PF Skopje 2007).
- Berisav Pavišić, 'Pogled na prethodni postupak u europskom kaznenom pravu' in *Suzbijanje kriminaliteta* (2004).
- Božidarka Dodik, Prosecutorial Investigation – the Experiences of Bosnia and Herzegovina, *New Trends in Serbia's Criminal Procedure in a Regional Context (Normative and Practical Aspects)* (OSCE Mission to Serbia, Belgrade, 2012).
- Davor Krapac, 'Suvremeni prethodni krivični postupak – nastanak i glavne značajke' [1989] 2-3 NZ 287.
- Dragan Novosel, 'Prijedlozi i predložena rješenja o istrazi i posebnim istražnim radnjama u nacrtu Zakona o kaznenom postupku Republike Hrvatske i tekstu prednacrtu Zakona o kaznenom postupku Republike Makedonije' [2008] 15(2-3) MPKPIK.
- Drago Radulović, 'The concept of investigation in criminal proceedings in the light of the new criminal procedure legislation' in *New Trends in Serbia's Criminal Procedure in a Regional Context (Normative and Practical Aspects)* (OSCE Mission to Serbia 2012).
- Ed Cape, Zaza Namoradze (eds.), *Effective Criminal Defense in Eastern Europe* (2012).
- Ed Cape, Zaza Namoradze, Robert Smith, Taru Spronken, *Effective Criminal Defense in Europe* (Antwerp: Intersentia, 2010).
- Elizabeta Ivičević Karas, 'Dokazna snaga rezultata istrage prema Prijedlogu novele Zakona o kaznenom postupku' [2013] 2 HLJKPP 691.
- Gordan Kalajdziev, 'Bitnije dileme i razlike u reformi istrage u državama bivše Jugoslavije' in *Zborniku radova: Kriminalističko-krivično procesne karakteristike istrage prema Zakonu o krivičnom postupku u prošloj deceniji* 5 (1) (2012).
- Gordan Kalajdziev, 'Pravo na siromashnite na branitel' in *Zbornik na Pravniot fakultet „Justinijan Prvi“ Skopje*, PF 2013).
- Gordan Kalajdziev, Maja Konevska, *Application of Special Investigative Measures and Use of Evidence Collected in this Manner in Trial in the Republic of Macedonia* (OSCE Skopje, 2013).
- Gordan Kalajdziev, *On Fight against Organized Crime and the Rule of Law* (FIOOM, Skopje 2012).
- Gordan Kalajdziev, 'Poznachajni koncepciski razliki vo reformata na istragata vo Hrvatska i Makedonija' in *Zbornik na trudovi na Pravnite fakulteti vo Skopje i Zagreb* (PF Skopje/PF Zagreb 2010).
- Gordan Kalajdziev, Gordana Lazhetikj, Lidija Nedelkova, Maja Denkovska, Meri Trombeva, Todor Vitlarov, Pavlina Jankulovska, Deljo Kadiev, *Komentar na Zakonot za krivichnata postapka* (OSCE, 2018)
- Gordan Kalajdziev, Divna Ilikj, 'Formiranje, organizacija i funkcioniranje na pravosudnata policija i istrazhnite centri na javnoto obvinitelstvo' [2009] 2 MRKPK 121.
- Gordan Kalajdziev, *Pravichna postapka*, PhD dissertation defended at the Faculty of Law in Skopje, (2004).
- Gordan Kalajdziev, Trpe Stojanovski, Sande Zikov, 'Novite odnosi megju policijata, javnoto obvinitelstvoto i sudot vo prethodnata postapka' [2008] 1 MRKPK.

- Gordan Kalajdziev, 'Zamki i zabludi na reformata na istragata' in *Zbornik na trudovi na Pravnite fakulteti vo Skopje i Zagreb* (PF Skopje/PF Zagreb 2009).
- Gordana Lazhetikj – Buzharovska, Gordan Kalajdziev, Boban Misoski, Divna Ilikj Dimoski, *Kazneno procesno pravo*, (2014).
- Gordana Lazhetikj – Buzharovska, Gordan Kalajdziev, Boban Misoski, Divna Ilikj Dimoski, *Kazneno procesno pravo – uchebno pomagalo* (Praven fakultet „Justinijan Prvi“ – Skopje, 2015).
- Gordana Lazhetikj – Buzharovska., Margarita Caca Nikolovska, Agim Miftari, Jani Nicha *Priracnik za primena na merkata pritvor*; (Zdruzenie na sudii i OBSE 2009).
- Gordana Lazhetikj – Buzharovska, Slavica Andreevska, Aleksandar Tumanovski, *Primena na merkata pritvor spored ZKP od 2010 godina – pravna analiza*, (Zdruzenie za krivicno pravo i kriminologija i OBSE, 2015).
- Davor Krapac, 'Reforma mješovitog kaznenog postupka: potpuna zamjena procesnog modela ili preinaka prethodnog postupka u stranački oblikovano postupanje?' in *Zbornik na trudovi na Pravniot fakultet „Justinijan Prvi“ Skopje i Pravniot fakultet vo Zagreb vo chest na prof. d-r Franjo Bachikj* (PF Zagreb/ PF Skopje 2007).
- Davor Krapac, Vlado Kambovski, Gordana Buzharovska, Gordan Kalajdziev, *Strategija za reforma na kaznenoto pravo na R. Makedonija* (Ministerstvo za pravda, 2007).
- Divna Ilikj, 'Pravoto na obvinetiot da bide izvesten za obvinenijata protiv nego i noviot model na istražna postapka', *Zbornik vo chest na prof. d-r Nikola Matovski* (PF, Skopje 2011).
- Joachim Herrmann, 'Models for the reform of Criminal Procedure in Eastern Europe' in E. Wise (ed.), *Essays in Honor of G. Müller* (1994).
- Joachim Herrmann, 'Reforma na prethodnata postapka vo sporedbenoto pravo' [2008] 1 MRKPK.
- John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press 1971).
- Jörg-Martin Jehle, Marianne Wade, (eds.), *Coping with Overloaded Criminal Justice Systems- The Rise of Prosecutorial Power across Europe* (Göttingen 2005).
- Josip Pavliček, 'Uloga istražitelja u kaznenom postupku' [2009] 16(2) HLjKPP 895.
- Laura Valković, 'Procesna prava odbrane prema V. Noveli Zakona o kaznenom postupku' [2013] 2 HLjKPP 521.
- Mirjan Damaška, 'O miješanju inkvizitornih i akuzatornih procesnih formi' [1997] 2 HLjKPP 381.
- Mirjan Damaška, 'O nekim učincima stranački oblikovanog pripremnog postupka' [2007] 14(1) HLjKPP 3.
- Mirjan Damaška, *The Faces of Justice and State Authority* (New Haven, CT: Yale University Press 1986).
- Momčilo Grubač, 'Kritika predloga "novog" Zakonika o krivičnom postupku' in Dobrivoje Radovanović (ed), *Novo kazneno zakonodavstvo–dileme i problemi u teoriji i praksi* (IKSI VŠUP 2006).
- Muirelle Delmas-Marty, John Spencer (eds.), *European Criminal Procedures* (Cambridge University Press, 2002).
- Momchilo Grubach, 'Treba li sudsku istragu zameniti nesudskom' in *Zbornik trudovi na Pravniot fakultet „Justinijan Prvi“* (PF 2007).
- Nikola Matovski, Gordan Kalajdziev, 'Efficiency of Prosecutorial Investigation in Contrast to Efficiency of the Defense in Reformed Criminal Procedure (with a particular view of the new Macedonian CPC)' in Ivan Jovanović and Ana Petrović-Jovanović (eds), *Prosecutorial investigation regional criminal procedure legislation and experiences in application* (OSCE 2014).
- Nikola Matovski, Gordana Buzharovska, Gordan Kalajdziev, *Kazneno procesno pravo* (Akademik 2011).
- Stanko Bejatović, 'Novi zakonik o krivičnom postupku i uspešnost borbe protiv kriminaliteta' (2007) 7(8) PI <<http://www.informator.rs/sadr%C5%BEaj-jul-avgust-2007.html>> accessed 10 January 2020.
- Stefan Trechsel, *Human Rights in Criminal Proceedings* (OUP 2005).

Tadija Bubalović, *The Principle of Equality of Arms in the Context of the Right to Defense (Regional Comparative review) in New Trends in Serbia's Criminal Procedure in a Regional Context (Normative and Practical Aspects)* (OSCE Mission to Serbia, Belgrade, 2012).

Višnja Drenški Lasan, Jasna Novak, Laura Valković, 'Pravni i praktični problemi dobre obrane okrivljenika' [2009] 2 HLjKPP 521.

Zlata Đurđević, 'Osvrt na rezultate rada radne skupine Ministarstva pravosuđa za usklađivanje Zakona o kaznenom postupku s Ustavom Republike Hrvatske' [2013] 1 HLjKPP 3.

Zlata Đurđević, 'Rekonstrukcija, judicizacija, konstitucionalizacija, europeizacija hrvatskog kaznenog postupka V. Novelom ZKP/08: prvi dio?' [2013] 2 HLjKPP 313.

Zlata Đurđević, 'Sudska kontrola državnoodvjetničkog kaznenog progona i istrage: poredbenopravni i ustavni aspekt' [2010] 17(1) HLjKPP 7.

Zlata Đurđević, 'Suvremeni razvoj hrvatskoga kaznenog procesnog prava, s posebnim osvrtom na Novelu iz 2011' [2011] 2 HLjKPP 311.