Igor Spirovski
Judge
Constitutional Court of
the Republic of Macedonia

The Independence of the Constitutional Court of the Republic of Macedonia: Guarantees and Challenges

Introduction

A statement taken from Justice John Paul Stevens' dissent regarding the US Supreme Court's decision in the case Bush v. Gore (2000), seemed as suitable to start this address:

> *"It is confidence in the men and women who administer the judicial system that is the true backbone of the rule of law. Time will one day heal the wound to that confidence that will be inflicted by today's decision. One thing, however, is certain. Although we may never know with complete certainty the identity of the winner of this year's Presidential election, the identity of the loser is perfectly clear. It is the Nation's confidence in the judge as an impartial guardian of the rule of law."*

This is just one example of the eloquent utterance of the judges' ideal and the ideal about them, which is only an expression of notion of impartiality in order to maintain the legitimacy of the law as an institutional normative order that ensures the life of the people in the community. The periodical repetition of that ideal is more than useful, especially in times when it is necessary to explain that the guarantees for our independence as judges and of the constitutional courts is not something that we need for our unrestrained power, but to achieve the ideal of the rule of law that cannot be done without impartiality. The perception of the constitutional courts is significantly particular having in mind the fact that when they exercise some of their competences they find themselves in the "cross-section between the law and the politics". However, this does not exclude the possibility to reach the ideal of impartiality, only imposes a specific and complex system of guarantees for the independence that takes into consideration numerous factors and elements in order to exclude the possibility for a judge to be somebody else's agent.

In the Constitution of the Republic of Macedonia one could identify such a system of guarantees or solutions that are aimed at ensuring the independence

of the Constitutional Court. In the further text they are presented and analysed by organising them in three parts: 1. factors of independence of the Constitutional Court when electing the judges; 2. guarantees of the individual independence of the judges; and 3. guarantees of the independence of the Constitutional Court as an institution, along with their testing based on experience and the challenges. Before that one should say that the Constitutional Court is defined as a body of the Republic that protects the constitutionality and the legality without exclusively making a declaration that the Constitutional Court is independent and autonomous and that it decides strictly based on the Constitution and the laws similarly to some of the other constitutions. When such a declaration exists, it is not only formal but it is also a constitutional obligation for the Court's independence to be respected by all and especially by the holders of power, though even in its absence this obligation should not be disputable. Anyhow, its absence from the Constitution of the Republic of Macedonia as well as in some other constitutions does not lessen the value and the effectiveness of the system of independence guarantees.

Moreover, at the very beginning it is important to have in mind that the Constitutional Court of the Republic of Macedonia is regulated only by the Constitution and an act of the Court.

The manner and the conditions for election as a factor of independence

The Constitutional Court consists of nine judges that are elected from among the ranks of outstanding jurists.

The Constitution of the Republic of Macedonia envisages to a certain level balanced structure in the composition of the Constitutional Court from the aspect of the bodies that are involved in the process of electing judges and the multiethnic structure of the population. Even though the nine judges are elected by the Assembly of the Republic of Macedonia, the process of proposing candidates is diffusive, and the manner of voting for part of the candidates is different.

The President of the Republic and the Judicial Council propose two judges, each. The remaining five judges in the absence of special constitutional provisions and in compliance with the Rules of Procedure of the Assembly are proposed by the Committee on Election and Appointment Affairs.

The Assembly elects six judges with the majority votes of the total number of MPs, and three with the same majority, within which there must be a majority of the votes of the the total number of MPs who belong to the communities not in the majority in the Republic of Macedonia.

Finally, the judges are elected from among outstanding jurists. The candidates that are proposed by the Judicial Council have to be judges in the Republic of Macedonia.

These constitutional solutions deserve brief elaboration I divided in three points.

Firstly, the idea and the aim of involving the legislative, the judicial and partially the executive power in the process of electing judges undoubtedly, just like in the other countries with similar systems, is to achieve broader grounds for legitimacy and acceptance of the composition of the Court, which in principle should lead towards respect of its independence, especially by the political branches of power. Double-majority vote for three judges, also in principle enhances its legitimacy from the aspect of the multiethnic structure of the society, especially since this rule in practice results in appropriate and fair representation of the non-majority communities in the Constitutional Court. All this is within the framework of standards that the Venice Commission accepts.

Secondly, the position of the Assembly as the sole electoral body is not problematic from the aspect of the democratic principle, which is also fostered in the comparative constitutional law. This is not challenged by the fact that in some rare cases the proposed candidates by the President of the Republic and the Judicial Council were not accepted by the Assembly. The thing that probably should be re-examined is the prescribed absolute majority when electing the judges. Such a majority in the parliamentary practice, so far, could generally be ensured by the coalitions in power, without the MPs of one of the two bigger parties that at the given moment are in opposition. Consequently, the election of the Court at a time when the majority in the Assembly had a different political provenience, in practice proved to be suitable grounds for attacks, labelling and discrediting of the Constitutional Court and the judges when, based on legal reasons, they repeal some legal provisions that are considered to be important for certain policies. The first idea that comes to one's mind in this context, certainly, is to foresee a qualified majority that will ensure the obligatory participation of the votes of the MPs representing the main opposition parties in the Parliament when electing the judges, in order to eliminate this avenue for discrediting of the Constitutional Court. Still, in an utterly politicised society such as the Macedonian, the question is whether this solution would serve more as a broaden majority for adopting a decision or as a reduced minority for blocking the decision. In connection with this emphasize of the need to be cautious, one should point out the situation when in the period between November 2007 i.e. since February 2008 until July i.e. October 2008 the Court operated with only 7 i.e. 6 judges and the competent bodies needed almost a year to complete the Court's composition. Without going into speculating whether it was a subtle revenge and pressure on the Constitutional Court for a decision after which the President of the Court and another judge under strong public pressure by the political parties resigned and the bodies that were supposed the propose and

elect new ones could not agree on certain issues, it is a fact that a possible change of the existing solution should also contain certain guarantees about the stability of the Court's composition (for example, having judges in reserve, etc.) in case of failed attempts to elect judges.

Finally, the fair interpretation of the notion "outstanding jurist" as a condition that the candidates for judges of the Constitutional Court should fulfil, in my view, is the key element for accepting the judges as independent and impartial. Sometimes remarks are heard of apparent vagueness or imprecision of that term. Certainly that it could be specified or qualified for example by adding minimum working experience and establishing the areas where it should be acquired, etc. Still, it is clear to everyone that from the viewpoint of the demands of the constitutional trial, the reputation of an outstanding jurist in the jurist community of a country cannot be acquired without at least 15-20 years experience in law in areas that cover broader and more complex theoretical and practical legal context, and who manifested integrity of independent and impartial understanding and application of law.

Guarantees for the individual independence of the judges

a) The strongest guarantee of independence of the Constitutional Court's judges is certainly their **term of office and its guarantee**. The term of office of the judges of the Constitutional Court of the Republic of Macedonia is 9 years without a right for re-election, which both from the aspect of length and from the aspect of non-re-election coincides with the European standards that the Venice Commission supports.

The conditions for the termination of the term of office are utterly restrictive. The judge's term is terminated if s/he submits his/her letter of resignation; or s/he will be released from service if s/he is convicted for a crime with an unconditional sentence imprisonment of at least six months; or if s/he permanently loses his/her ability to perform his/her job that would be established by the Constitutional Court (Article 111 Paragraph 3 of the Constitution). Disciplinary accountability of a judge of the Constitutional Court does not exist.

According to the Rules of Procedure of the Constitutional Court (Article 67) the Court decides about this issue at a session. The permanent loss of an ability to perform the job by a judge is established based on acts, findings, expert and professional opinions of medical and other institutions and bodies that establish health or other disability in compliance with the law. The Court establishes a commission consisting of three judges that look into the facts and the circumstances that are important for making the decision.

b) The judges enjoy **immunity**. The Constitutional Court decides about their immunity (Article 111 Paragraph 2 from the Constitution).

In the Rules of Procedure it is established that the judges of the Constitutional Court enjoy immunity just like the MPs of Assembly of the Republic of Macedonia as regulated by the Constitution. The grounds for this provision is the fact that the Constitution indicates the content of immunity only for the MPs and no other holder of office which according to the Constitution enjoys immunity, which was the basis for understanding that in such a case the content of immunity cannot differ from what the Constitution established for one of the offices envisaged in the Constitution. In compliance with that, a judge of the Constitutional Court cannot be held criminally responsible or to be detained for an opinion s/he presented or for voting at the Court. S/he cannot be detained without the approval of the Court, unless caught red-handed committing a crime for which imprisonment of at least five years is envisaged. The Constitutional Court could decide to apply immunity for a judge, even when s/he has not invoked it, if it is necessary for performing the Court's function.

c) The next important guarantee of judges' independence is the provision in the Constitution that regulates the **incompatibility** of the judge's office of the Constitutional Court with performing another public functions or a profession or membership in a political party, thus eliminating the influence that the judges' interests in some other area may have impact on the impartial decision-making on his/her part.

d) **Voting in the absence of the public** is another such guarantee of individual independence. That was originally regulated with Articles 48-50 of the Rules of Procedure that also contain provisions for keeping evidences about the counselling and the voting with sealed envelopes that could be open only based on a decision by the Court. Disclose of the way the judges voted on a certain issue is not allowed and it is considered a serious violation of this guarantee of the independence of the judges and their exposure to pressure by the interested parties and groups. The Court's decisions, however, contain information whether the decision was adopted unanimously or with majority votes, but there is no information about the number of votes specifically. This is most directly related to the respect of the principle of **collegiality** that implies that decisions are adopted with majority votes, but it is always the Court that adopts the decision as a single body and it bears the same value and effect, regardless whether it was adopted with narrow majority or unanimously. The obligation to respect the decisions applies not only for the public and the legal entities but also for the judges that had a different opinion. In regard to this it is important to point out that the judges of the Constitutional Court of the Republic of Macedonia have a right to a written **dissenting or concurring opinion** that is published and submitted together with the decision of the Court. Even though there are different views that the dissent decreases the authority of the Court's decisions and contradicts the principle of collegiality, we should welcome the less and less hesitating acceptance of the value of this institute which is an important guarantee of the individual independence of the judges, not only from external influences but also in regard to the other judges. The dissent is definitely supported by the experience of

renowned courts such as the US Supreme Court and the European Court of Human Rights, as well as by the views that seem to becoming dominant in literature as well as within the Venice Commission that openly strives for its introduction in the practice of the Constitutional Courts. The dissent as an institute and especially the good dissents as a practice could only add value to the decisions of the Court. On one hand it shows that the court is not only about people voting on cases, but they also contemplate about serious and complex constitutional issues, oppose different interpretations and views in order to reach a decision, which serves the living Constitution in the best way. On the other hand the theoretical differences that can be found in the foundations of the majority and minority dissents stimulate constant contemplation and debate among the scientific, expert and general public on the fundamental issues of the constitutional order. The dissent is not an instrument that will satisfy the personal vanity of a judge, but it is an instrument that serves the professional integrity of a judge and even more an instrument of constitutional-legal reasoning as such. In the practice of the current composition of the Court (from 2003 until today) more dissents have been written (29) than in the period between the Court's foundation in 1964 until 2003 (6) which in my view is a very positive trend.

e) The Constitutional Court's judges have a right to **wages and allowances** established by a law (Law on Wages and Allowances for Officials Elected by the Assembly) which are also compatible to the salaries of the other senior officials. The salary of the President of the Court is equal to the salary of the Vice President of the Assembly of the Republic of Macedonia and the President of the Judicial Council, and the salary of the judges is equal to the salary of a minister in the Government or a member of the Judicial Council. These salaries are higher compared to the salaries of the president i.e. the judges of Supreme Court. Still the law that regulates these rights is adopted with simple majority and in that regard it is a weak guarantee against the possible irresponsible attempts to be reduced or for a light rebalancing according to the current needs. Lately, there have been some suggestions for rebalancing the wages rations of the officials by envisaging additional incomes for certain positions, such as jubilee awards for a certain level of working experience of the judges in the courts, but not for other officials. It is good that those provisions in the law were urgently withdrawn.

f) One of the guarantees of the individual independence of the judges that is worth mentioning is the rule in the Rules of Procedure that the cases at the Court based on the time of submission of the initiative are allocated to the judges according to the alphabet order of their surnames. The allocation is done by the Court's Secretary General who is responsible for the application of these rules. This decision excludes any kind of assessment about which case should go to which judge, which in some constitutional courts is in the hands of the President, that could lead to mild directing when making the decision.

The Rules of Procedure do not regulate in details the issue of excusing a judge, but there is a general provision that if a judge or the Constitutional Court believes that there are justified reasons for a given judge to be excepted from leading the preceding procedure, the case is awarded to another judge following the established order. However, in the Rules of Procedure there are no provisions for excepting a judge from the process of adopting a decision on a case when there is some kind of conflict of interests.

g) The judges, **after the expiration of their term** have a right to a salary from the day their term expires until their re-employment or until they fulfil the retirement conditions, but for no longer than one year.

The judges also have a right to go back to work for the employers in the public or private sector where they worked at the time when they were appointed, on a position that corresponds to their professional training. The judges elected from the ranks of the judges in the ordinary courts have a right to go back and to continue working as judges in that court.

The status of the judges after the end of their term is constantly in the focus of interest and a subject to re-examining. Certainly, the permanent term of office is a recipe for a strong guarantee of independence of the judges, even though it has certain weaknesses from another aspect. The right to go back to the same position that the judge had many years ago is a much better guarantee for their independence as a judge than the solution that in the Republic of Macedonia stipulates going back to any position working for the same employer. Certainly, going back to the same position that one had nine years ago may or may not be possible, if it is a position to which one is elected or appointed with a certain term of office (for example a judge cannot go back to the position of an Ombudsman which is elected), but returning to any position that corresponds to the professional training could also mean serious degradation even compared to the previous status (a judge could be employed and given a position in the Ombudsman's office, just to stick to the same example). In some countries such as Latvia they started regulating the right to “pension for the long service” of the judges, etc. Another possible way is to elect judges older than 55 so that after the end of their term they would anyhow reach the full retirement age according to the common regulations (64 years of age). The Venice Commission believes that even a minimum of 50 years of age is too much and leads towards unreasonable limitation of the circle of possible candidates. I would say that our solution to a certain degree ensures both the existential and the status aspect after the end of their term of office. It is still a factor of independence of the judges.

Guarantees of the institutional independence of the Constitutional Court

a) Probably the strongest guarantee of the independence of the Constitutional Court of the Republic of Macedonia as an institution is its

regulatory autonomy allocated to it by the Constitution. Unlike in the other countries, the legal sources of the position and the work of the Constitutional Court are the Constitution and the Rules of Procedure of the Constitutional Court. The Constitution regulates the issues related to the composition, the election, the term of office, the immunity of the judges, the competence and the type of decisions the Court adopts, while, in compliance with Article 113 of the Constitution, the way the Constitutional Court operates and the proceedings before it are regulated with an act by the Court. Hence, the overall procedure of decision-making within its competences, starting with the conditions for submitting an initiative or a motion, their form, up to the making of the decision public, the internal organisation and the organisation of the professional stuff, the status of the advisers and their appointing by the Court, are regulated with the Rules of Procedure of the Court adopted in 1992 which have not been amended since. The Rules of Procedure undoubtedly regulate issues that due to their nature require to be regulated by a law, such as for example the legal effect of repealing and annulling decisions or the right to submit initiatives to the Court, etc. However, the way in which those issues are regulated show either strong compliance with some fundamental theoretical premises or emphasised accessibility of the Court for the citizens and other entities, hence so far the application of the Rules of Procedure has not presented itself as some kind of serious deformation due to the absence of a law on the Constitutional Court. To the opposite, this constitutional solution proved to be a key guarantee of its independence in a time of strong pressures and clear desires and attempts to limit the power of the Court that would not have been possible if it would have depended on the Parliament within given circumstances. I offer more details about this further down.

The regulatory autonomy of the Court, namely, the autonomy in the organisation of the services, staffing the positions and appointing advisers and determining what their salary would be unfortunately is essentially disturbed i.e. taken away with laws that regulate the public service that the Court failed to avoid. All these issues used to be under complete control and competence of the Court. Today, without the consent of the Agency for Civil Servants the Court cannot adopt an act on the organisation and the systematisation of the positions, nor to staff the empty positions or to have a job announcement published. The status of the Court's advisors, which according to the salary coefficient used to correspond to a judge at a basic, appellate or the Supreme Court, now is brought down to the level of a civil servant at a ministry and they are valued according to criteria of the executive and administrative tasks. For the Court to regain its independent status in this area undoubtedly this is a priority that needs to be acted upon.

b) A significant guarantee for the institutional independence is the fact that according to the Constitution the **election of the Court's President** is done by the judges from among the judges' ranks. This solution strengthens the loyalty of the President to the Court's collective and the authentic interests of the Court as

well its position when representing the Court as an independent and autonomous body in the relations with the holders of the power in the Republic.

c) The **financial independence,** unfortunately, is the **weak** ring in the system of guarantees for the Constitutional Court. Basically, the weak position of the Constitutional Court in this regard stems from the strong constitutional position of the Government as the sole proposer of the budget. The Constitutional Court has no special position in the Law on the Budget and it has to, just like any other budget beneficiary, negotiate with the Ministry of Finance and the Government about the size of the funds that the Government will allocate in the draft budget. The data show that in that process the Constitutional Court every year, with the exception of one, has been receiving about 20% less funds than needed. The Government's proposal was changed only once with an amendment submitted by MPs at the Assembly and the amount was increased for 2%. The Constitutional Court, consequently has no possibility to officially submit the proposal for its own budget before the Parliament, nor the Government is obligated just to attach its budget to the draft of the state budget.

Another problem is the inability of the Court to staff the vacated positions, not only without the consent of the Civil Servants Agency, but also without a confirmation by the Ministry of Finance that funds have been provided for that purpose i.e. that funds will be transferred for that vacated position. This has caused series of difficulties for the Constitutional Court to complete the staffing of the Court with all the necessary personnel for a longer period of time.

d) The possibility for the constitutional courts to initiate procedures on **their own initiative** usually is pointed out as a factor that could undermine their institutional independence. However, that possibility is envisaged in the Rules of Procedure of the Constitutional Court of the Republic of Macedonia without any constraints. That could imply accepting a position of the Court as an institution that supervises the constitutionality and legality in the country. A normative basis for this kind of fear could be the provision in Article 9 of the Rules of Procedure that as part of the defining of the position of the judges it prescribes that the judges follow and study the laws, other regulations and general acts, and they can initiate a procedure for examining the constitutionality of a law, i.e. the constitutionality and the legality of another regulation. These provisions are definitely remnants from the regulations on the Constitutional Court before the adoption of the new democratic Constitution. Fortunately, their interpretation and application in the past period is utterly restrictive and brought down to an exception in case of utter necessity. Namely, I believe that among the judges there is no disagreement that the review of the constitutionality of laws upon their own initiative would represent violation of the judicial character of the Constitutional Court and an opportunity to undermine the perception about its independence and separateness from the political processes and legal policies. Since 1991 onwards the Court has initiated proceedings upon its own initiative only in several cases i.e. in situations when those adopting the act tried to evade

the rule for initiating a procedure or the decision by adopting a new act with the same content; or when with a law on a referendum the competences of the Constitutional Court were determined, so the Court intervened in order to protect its constitutional position; or when the Court was supposed to apply a law as a criterion for its decision, and it assessed that it was not in compliance with the Constitution. Undoubtedly in these cases the Court's own initiative could only serve the rule of law. Certainly, this experience in regard to the restrictiveness should be accompanied by a precise normative framework.

Independence challenges

The impression is that in the many decades of existence, the Constitutional Court has established itself as an institution that is generally accepted as the guardian of the Constitution, especially by the citizens who in their attempt to find constitutional justice, are the most common initiators of proceedings for assessing the constitutionality of laws and the constitutionality and legality of other regulations and general acts. Certainly, the outcome of the proceedings do not always satisfy the wishes and the interests of the applicants or the social groups and entities that are affected by the Court's decision, so consequently disagreeing with some decisions and their criticism is completely normal. Our society, however, is still rather far from an ideal state in which a court's decision, after the critical observation, would be accepted due to its rational power even by the party that does not benefit from it.

The position of the Constitutional Court in that context is utterly delicate when certain decisions do not satisfy the desires and the interests of the holders of the legislative and the executive power, and the political parties respectively. In the past 18 years the dissatisfaction with the Court's decisions created situations that went beyond the level of critical observation and debate concerning the Court's decisions, and turned into situations that tested the system of guarantees of the Constitutional Court's independence and the level of political culture in the country. During the mandate of the previous composition of the Court, the reactions of the Government at the time to some of the decisions, resulted in not paying the special lamp sum to the judges that at the time was paid out as an addition to their salary, as well as in a situation when the electricity and heating bills of the Court were not paid. This is only another proof of the weaknesses of the Court's position from the aspect of its financial independence.

Apart from the above mentioned problem when the empty judge seats were not filled, the Constitutional Court in the course of this term has also been faced with a worrying situation where the dissatisfaction with certain decisions of the Court have turned into a fierce and permanent attack on the Court by prominent governmental officials and MPs aimed at discrediting the Court by: 1. disqualifying and labelling the judges; 2. developing theses that question the legitimacy of the control of the constitutionality of laws; and 3. having initiatives

for adopting a law on the Constitutional Court in order to limit its transparency and power.

The disqualifications, as I mentioned at the beginning, are related to the parliamentary majority that elected the judges or which President of the Republic proposed them, or during which period they advanced in their professional career, in order to conclude that the Court adopts decisions under political influence. As the grounds for that claim they even point out the fact that the Court in many cases decided with majority votes!? That is afterwards used for public speculations that at least some of the judges in the Court are honest, etc.

The Court never had a problem with the public observation of its decisions, but with this type of "criticism" that emerges from the dissatisfaction with the effects of a certain decision, the independence of the Court is seriously threaten, because it objectively represents an attempt to pressure and to influence the Court to decide in compliance with the expectations of the governmental structures. Apart from that, with this kind of "criticisms" by senior officials, especially by the President of the Government, who enjoys significant trust and reputation among the public, objectively a serious and sad message is sent to the public that they, the citizens, do not have a Constitutional Court that they could trust because it is an institution that is controlled by one or another political party depending on the time when the judges were elected. By that they incite disrespect of the Court as an institution and its fundamental role in the constitutional democracy is undermined.

Furthermore, the thesis that the Constitutional Court due to the absence of direct democratic electoral legitimacy has no right to repeal as unconstitutional the laws via which the parliamentary majority implements the policies formulated in their electoral programme for which they won the term from the citizens at the elections, which is another sub-text for exerting pressure on the Court. From today's perspective this old dilemma about the legitimacy of the constitutional judiciary in a democracy is no longer interesting, not even in a purely theoretical context. This is also used for the purpose of discrediting the Court as politically dependent and consequently aimed at assessing the policies that are formulated in laws, rather than the constitutionality of the laws. The judges, certainly, respect the political parties and their irreplaceable role in a democratic society, but the criterion for assessing the laws will never be their electoral programmes, but the Constitution of the Republic of Macedonia. As long as in the Court seat men and women that consider the adherence to the Constitution as an issue of moral choice, the independence of the Court cannot be undermined.

Finally, the publicly promoted ideas by the representatives of the legislative power for creating conditions for adopting a law on the Constitutional Court, that only added up to this campaign against the Constitutional Court, clearly present the motive to limit the possibilities for performing its functions instead of strengthening the structural guarantees of its independence. Hence,

proposals are made to limit the accessibility of the Court for the citizens and the other entities, ideas for defining laws as political (regardless of the doctrine of the "political issue"), which would not be subject of the constitutional review, etc., and especially (and promptly) to ensure changing the way the judges are elected. Having in mind that all this is impossible without amending the Constitution, within the given circumstances the entire thing feels like an attempt to discipline and threaten the judges by pointing out the possibility of early termination of their term of office. We should especially point out the invitation by the Assembly to the President of the Constitutional Court to attend a parliamentary Q&A session at which one of the MPs wanted to ask him a question! Certainly, the invitation was immediately rejected as an unseen precedent and an attempt to impose a political control over the Court. If the motive for adopting the Law on the Constitutional Court is such, then it would be best to forget about the whole idea. When the current constitutional grounds for the legal sources of the position and the functioning of the Constitutional Court are assessed from such a perspective, and having in mind the great majority that could be ensured in the Parliament, it is clear that it is shown as a maximum effective guarantee of independence. We should have in mind that it is much easier to amend a law as a particular issue, even if it is done with a qualified majority, than to amend the Constitution with the same majority.

Conclusion

The system of guarantees and factors of the independence of the Constitutional Court of the Republic of Macedonia as well as anywhere cannot be perfect nor complete but in general it proves to be sufficiently thought trough and empirically relatively effective. Certainly, without the personal integrity of the judges no system of guarantees can achieve the ideal of impartial decision-making and trust in judiciary, but without such a system the personal integrity loses its value.

The uniqueness of this system in the Republic of Macedonia from a comparative perspective lies in regulating all the issues related to the Constitutional Court only with the Constitution and with an act of the Constitutional Court without a possibility for the Parliament to do that with a law. Even though one could consider it a certain shortcoming in the regulating structure, especially since a special law on the Constitutional Court could ensure stronger structural guarantees, such as its financial and organisational independence, still this solution proved to be the key guarantee for the status, individual and jurisdictional independence that prevents the parliamentary majority to adopt far-reaching decisions based on their current interests. In that sense the principle value is for the guarantees of the status and the term of office, the way the judges are elected and the competences of the Constitutional Court to continue being regulated solely by the Constitution.

Enhancing certain guarantees and factors of independence proved to be even necessary. For example the qualified majority for election of judges in principle is a stronger factor for accepting the Court as an independent institution by all branches of government as well as by the parliamentary opposition and that perspective should not be abandoned, accompanied by measures that would protect the stability of the Court's composition in cases of failure of the procedures for electing judges. On the other hand, the structural weakness of the financial independence of the Constitution is evident and demands urgent reaction in order to support the important guarantees of the individual independence of the judges with functional stability of the Court's working conditions.

Finally, the political culture that establishes the attitude towards the institutions in a democratic society based on the rule of law is nothing that could be regulated by a legal act. The concern of the political branches of government about the decisions of the constitutional courts is constant and occasionally they cause reactions, sometimes even improper that we have to face as well as pressures that we have to withstand. What we as judges could do is to accept the obligation to adhere to the Constitution as a moral choice. Only in such a way we will be able to expect "trust of the people in the judges as the impartial guardians of the rule of law".