

Analysis of NATIONAL DOCUMENTS RELEVANT FOR COMBATING CORRUPTION



Institute for Human Rights



TITLE:

Analysis of national documents relevant for combatting corruption

PUBLISHER:

Institute for Human Rights

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Skopje, August 2022

The analysis was prepared within the project "Monitoring of national activities in combatting corruption". This project was funded through a U.S. Embassy grant. The opinions, findings, and conclusions or recommendations expressed herein are those of the implementers/authors and do not necessarily reflect those of the U.S. Government.

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ЛИСТА НА КРАТЕНКИ

Action 21	Anti-corruption plan
AJPP	Academy for Judges and Public Prosecutors
AFAI	Agency for protection of the right to free access to public information
RNM	Republic of North Macedonia
SCPC	State Commission for Prevention of Corruption
IHR	Institute form Human Rights
LGU	local government units
PP	public procurements
UIN	unique identification number
JV	joint venture
EU	European Union
PC	public company
ENER	Single national electronic register of regulations
PPO	Public Prosecutor's Office of the Republic of North Macedonia
LPCCI	Law on Prevention of Corruption and Conflict of Interest
SMI	State Market Inspectorate
SLI	State Labor Inspectorate
SAI	State Administrative Inspectorate
LPE	Law on Public Enterprises
RECA	Real Estate Cadaster Agency
LCC	Law on Commercial Companies
BPP	Bureau for Public Procurements
MISA	Ministry of Information Society and Administration
MIA	Ministry of Internal Affairs
CCICT	Chamber of Commerce for Information and Communication Technologies
TD	tender documentation
CPC	Commission for the Protection of Competition
MASA	Macedonian Academy of Science and Arts
ME	Ministry of Economy
MESP	Ministry of Environment and Spatial Planning
MAFWM	Ministry of Agriculture, Forestry and Water Management
FITD	Fund for Innovation and Technological Development
SB	supervisory board
MB	management board
OMR	Office for Management of Registers

INTRODUCTION

Corruption is perceived as the greatest social evil and a threat to the rule of law. The phenomenon of corruption is considered not only morally harmful, but it also blocks the institutions of the system and causes serious economic and political problems (*la fraude erigee en systeme*). Corruption is also an added cost to the economy, because it brings uncertainty in doing business and causes immeasurable damage to the effectiveness of economic measures.

Corruption erodes the rule of law and seriously damages human rights, because it redirects public funds for corrupt activities and for illicit enrichment of individuals or groups (political parties, businessmen and other centers of power) rather than addressing the basic needs of citizens. Fighting corruption means protecting basic human rights, which are guaranteed by the Universal Declaration of Human Rights, such as the right to education, health care, social protection, clean environment, good infrastructure, security, etc.

The Institute for Human Rights has so far implemented several projects aimed at fighting corruption and promoting the rule of law, as an effective tool supporting the operation of the rule of law.

Starting from its core vision for protection of fundamental rights of citizens, the Institute for Human Rights (IHR) has been implementing the project “Monitoring of National Activities for Combating Corruption”, whose aim is to evaluate the effectiveness of the implementation of the activities planned in the anti-corruption documents of the Government of the Republic of North Macedonia, namely: in the Anti-Corruption Plan “Action 21” (“Action 21”) and the National Strategy for Prevention of Corruption and Conflict of Interest (National Strategy) of the State Commission for Prevention of Corruption (SCPC).

The main objectives of the project are aimed at the monitoring of the implementation of the measures proposed in these documents (“Action 21” and the National Strategy Action Plan), specifically if the activities under the measures are successfully implemented by the responsible entities and if the implementation problems they face are solved. The goal is also to increase the capacities of the institutions to address corruption, resolve open issues, legal gaps, shortcomings and determine indicators in the implementation of the activities planned to be implemented 2021. The project also focuses on increasing public awareness and knowledge on the importance of taking measures to reduce the room for corrupt practices, through an on-line course published on the Academy of the Institute for Human Rights. In order to determine the activities undertaken to implement “Action 21” and obtain necessary data and information, the Institute for Human Rights approached the Deputy President of the Government in charge of policies for good governance. She (and her predecessor) provided active support, as well as the SCPC (IHR concluded a Memorandum of Cooperation with the Commission).

In order to obtain accurate and precise data and information relevant for the implementation of the project, the Institute participated in several round tables organized by the SCPC on the evaluation of activities foreseen in the National Strategy, monitored the websites of the competent institutions and held direct meetings with several institutions.

In this context, it is necessary to highlight the excellent cooperation from all institutions (government, ministries, agencies, etc.) that IHR approached, the mutual understanding and continuous communication, through which all necessary data and information were obtained. This confirmed the institutions’ readiness for successful cooperation with the civil sector.

1.

RESULTS OF THE MONITORING CARRIED OUT UNDER THE PROJECT OF THE ACTIVITIES PLANNED AND IMPLEMENTED

The project monitors the implementation of measures and actions aimed at combatting corruption, stipulated in the Government's Plan "Action 21" and in the National Strategy. The activities contained in these two anti-corruption documents cover a period of five years, with a specified schedule for implementation.

In addition, although the National Strategy¹ covers 13 sectors susceptible to corruption, due to the limited implementation period of the project, this document covers only five areas, which are found also in "Action 21". These areas are: public procurement; employment; judiciary; economy and business; and public enterprises and joint-stock companies owned by the state and local self-governments, including the additional measures and activities from the Government's plan "Action 21".²

Besides these five areas which are covered by the project, this document will partially elaborate on the activities proposed in the new Government Plan for Good Governance, which contains three basic pillars: legislative changes; digitization of administrative processes, technical operability and increasing transparency; and effectiveness of institutions and anti-corruption policies during 2021.

Digitization, which is foreseen in the Government's plan "Action 21" (but is not foreseen in the National Strategy), aims to contribute towards more efficient public administration, greater transparency and reduction of corruption by limiting the direct contact with the officials from the institutions.

The implementation of this measure requires the amendment of several laws. According to the available information, a working group was formed in the government for the implementation of this activity on 20.04.2021 (which has held 8 meetings during the reporting period), and by 15.10.2021, it had submitted 122 draft laws for amendments out of a total of 221 mapped out. Out of the prepared texts for the amendment of the laws, only six were passed at a government session. However, **none of the mapped-out laws have been adopted by the Assembly of the Republic of North Macedonia**, which is why, according to the implementation indicator of this measure, it is still in its initial phase. The transparency of the government regarding this measure has been assessed as proactive.

Digitization is of great importance for increasing the efficiency of the public administration in the performance of its functions and for narrowing the opportunities for corruption, by avoiding the direct contact of citizens and legal entities with officials. Developed countries, through the digitalization process, have reduced the possibilities for direct contact to a minimum, thus significantly reducing the space for influence and bribery to obtain a certain service or document, as well as the waiting time. Digitization also contributes to reducing the number of workers in the public administration (which is overcrowded in the country).

A successful example in this direction is the realization of the measure foreseen in the Government's Plan "Action 21" for the digitization of the services provided by the Office for Management of Registers (OMR). According to the data received, 550,000 entries have been added to the digital platform and 300,000 entries from the registers of births, marriages and deaths have been scanned. In the budget for 2022, additional funds are provided for the digitization of the registry books. Electron-

1 National Strategy for Prevention of Corruption and Conflict of Interests with an Action Plan 2021-2025, available at: <https://dksk.mk/wp-content/uploads/2021/01/Nacionalna-strategija-DKSK-KONECNA.pdf>

2 Anti-Corruption Plan "Action 21", available at: <https://vlada.mk/akcija21>

ic statements are available at www.uslugi.gov.mk in the section registers for births, marriages and deaths. These documents have been available this way for a longer period. The Institute checked the indicated website and noted that the web services of this institution have been already integrated in the Central Population Register, which was seen through the "Confirmation of personal data contained in the Central Population Register" service on the portal. The specified service enables the issuance of a confirmation as to whether the personal data is contained in the Central Registry.

Interoperability, which as an activity is foreseen in the Government's plan, aims to provide the institutions with easier direct access to the data in the system, which will strengthen the efficiency and effectiveness of their operation, and avoid having to obtain necessary data by request from the competent institutions that own them, which usually takes a long time.

According to the information received from the Government, in terms of conducting a detailed analysis of the needs of the institutions for the increased use of the National Platform for Interoperability, 4 institutions were included: The Customs Administration, the Ministry of Justice, the Financial Police Office and the Ministry of Internal Affairs. Out of these, the Customs Administration and the Ministry of the Interior have ensured the conditions necessary for accessing the data in the system and use the platform for interoperability, while the Ministry of Justice and the Financial Police Office need additional financial resources to strengthen their capacities for access and use of the platform. The Ministry of Justice will provide part of the necessary financial resources through the IPA III instrument. In order to obtain a more accurate picture of the use of the platform and the degree of involvement of the institutions, IHR checked the website of the Ministry of Information Society and Administration (MISA). According to the available data, as of 29.11.2021, 39 institutions and companies, which have 438 web services/methods for data exchange available, have joined the interoperability platform. Also, in the next period it is planned to include 11 new institutions, which are part of the IPA 2017 project.

2.

ADOPTING A NEW REGULATION, AS WELL AS AMENDING AND SUPPLEMENTING THE EXISTING ONE

A significant and essential part of the creation of anti-corruption policies is the adjustment of the legal regulations through amendments, to specify certain legal solutions, as well as to remove legal gaps or vagueness in the regulations, in the direction of increasing efficiency.

2.1. LAW ON THE EXAMINATION OF THE ORIGIN OF PROPERTY

This activity is foreseen in the Government plan "Action 21", within the framework of the Strategy for strengthening the capacities for conducting financial investigations and confiscation of property, for the period 2021-2023.³ The adoption of such a law is not foreseen in the National Strategy.

Although this regulation is not included in the areas being monitored by this project, the activities for the adoption of such a law were nevertheless monitored due to its importance for strengthening efficient mechanisms in the fight against corruption and for further prevention of corrupt practices.

One of the effective tools in combating corruption is the prevention of illegal enrichment through the abuse of power resulting from the performance of a certain function or from business. This measure can be carried out by examining the origin of the property of a certain person (regardless of his function or status), if there are suspicions that it was acquired illegally. The Law on the Prevention of Corruption and Conflict of Interests⁴ (LPCCI) regulates in detail the procedure and the scope of the persons who are subject to examination by the SCPC of the origin of their property, if it exceeds their regular income and the income of their family members. The legal gap in this law is the fact that examination of the origin of the property of former officials, who, after the end of their mandate, have significantly increased their property and are no longer under public scrutiny, is not conducted. This law also does not cover other persons such as businessmen and people from other professions.

The drafting of such a law by the Government is being announced for a long time, although there is still no draft version. According to the information, the activities of this plan are aimed at the preparation of a feasibility study for the need of its adoption, together with the Program Office of the Council of Europe, and a working group has been formed to prepare the text of the Law on the examination of the origin of the property. According to the announcements, it is planned for the law to be subject of wider consultations. However, the delay in passing such a law which would include all persons who have illegally enriched themselves by abusing their power, **creates doubts about the seriousness and real political will for its adoption.**

The implementation of this activity **is still at the beginning**, while the transparency of the government, regarding this issue, can be evaluated as satisfactory, considering the fact that all the information related to the procedure for the adoption of the law are available.

3 Strategy for strengthening the capacities for conducting financial investigations and confiscation of property, for the period - 2021-2023 with an Action Plan, available at: https://vlada.mk/sites/default/files/dokumenti/strategii/strategija_zaknenje_na_kapacitetite_zavodenjea_finansiski_istragi_i_konfiskacija_na_imot_zaperiodot_2021-2023_godina_so_akciski_plan.pdf

4 Law on prevention of corruption and conflict of interests, Official Gazette of the Republic of North Macedonia no.12/2019 from 19.01.2019.

2.2. DRAFT LAW ON AMENDMENTS TO THE LAW ON PREVENTION OF CORRUPTION AND CONFLICT OF INTEREST

The need for amendments to the Law on Prevention of Corruption and Conflict of Interest is stated in "Action 21" of the Government. For the implementation of this measure, the Ministry of Justice, as the competent authority, has formed a working group to work on the text of the law, and, according to the available information, several meetings have already been held. The deadline for submitting the proposed amendments to the Government was 28.02.2022. The amendment of this law is also foreseen in the National Strategy, and the deadline for its implementation was until the first half of 2022.

The main purpose of the amendments to this law is to facilitate the application of the control mechanisms in order to precisely define the terms: public office, appointed person, elected person, official, managing person, managing body, authorized person, responsible person, in the same way as when determining the conflict of interests. According to the fulfillment indicator, the realization of this activity is at the beginning.

2.3. DRAFT LAW ON AMENDMENTS TO THE LAW ON PUBLIC PROCUREMENT

Public procurements belong to the field of economy and business, but due to the specificity of the field and the high exposure to corruption, they will be elaborated on. Public procurement is an area most vulnerable to corruption, due to the large volume of public funds involved in procurement, hence the risk of corruption, which imposes the need to prevent opportunities for abuse in this field through the creation of effective protective mechanisms.

The need for amendments to the Law on Public Procurement in the direction of professionalization of the public procurements and modernization of the education process is stated in the two documents. This should be done in accordance with the Government plan "Action 21" and the measure contained in the Action Plan of the National Strategy - strengthening the capacities of the persons who prepare the tender documentation (TD), increasing institutional integrity and transparency in public procurement. The amendment of the law should enable the mandatory signing of a declaration of confidentiality by the persons who participate in the preparation of the technical specifications, and it is proposed to combine the declaration of conflict of interest with the declaration of impartiality. The changes should also include trainers from the Bureau of Public Procurement (BPP) for creating and conducting trainings for the application of the standards in the preparation of technical specifications and criteria for determining capacity.

A problem in the public procurement procedures, highlighted in the Report of the SCPC on the implementation of measures from the National Strategy, is the insufficient number of persons with appropriate qualifications and knowledge of the standards for defining the technical specifications as well as the criteria for determining the capacity of economic operators. Hence the proposed measure to strengthen the capacities of the persons who prepare the tender documentation (TD), and to create and conduct trainings for the application of the standards in the preparation of the technical specifications (TS) and the criteria for determining capacity, with the participation of the Institute for Standardization. The deadline in the Action Plan for implementation of these measures and activates was the second half of 2021, **and this measure, according to the fulfillment indicator, is assessed as unrealized.**

Another problem is the insufficient transparency of the institutions and the low degree of integrity of the persons involved in the implementation of public procurement procedures.

The BPP has stated that there it is not possible to implementing the measure regarding the participation of the Institute for Standardization in the trainings due to a legal obstacle. Namely, the Law on Public Procurement provides that public procurement trainings can be held only by persons who hold a public procurement trainer certificate. The deadline for the implementation of this meas-

ure has not yet passed, but it is necessary to find solutions for continuous training of the persons involved in the PP, for the purpose of professional and efficient procurement implementation. According to information from the BPP, the training is planned to be conducted in October 2022. A memorandum of cooperation was concluded between the Bureau of Public Procurement and the Institute for Standardization for the creation and implementation of trainings for the application of standards during the preparation of technical specifications and criteria for determining ability, with the participation of the Institute for Standardization.

The measures foreseen for this area, and in the direction of prevention of corruption, also include the obligation to list the authorized persons for receiving applications for protected internal and external reporting by whistleblowers in the models of the tender documents prepared by BPP. **This measure has been fully implemented.**

In this direction is also the measure, in the Action Plan, that the Agency for Free Access to Public Information (AFAPI) has the obligation to supervise the published information regarding public procurement, on the websites of the information holders. According to the current solution, the Agency supervises only the annual public procurement plans, public procurement announcements and notices of concluded contracts, without going into their content.

Pursuant to Article 10 of the Law on Free Access to Public Information, institutions have the obligation to publish 22 types of documents, including tender documentation. According to the current legal framework, there is no institution that monitors this process, which is why the obligation for enhanced supervision over the application of Article 10 of the Law, in the area of public procurement, which is one of the key competences, **has not been implemented.** According to the information received from the Agency, the law does not provide for sanctions for non-disclosure of the above-stated data.

Hence, in order to strengthen supervision in relation to the publication of information, **it is necessary to provide sanctions for violations.** As an additional measure, the possibility of expanding the competences of the Agency for Free Access to Public Information should be considered, which would also include monitoring of the publication of documentation for public procurement.

According to the information received, the Public Procurement Bureau is working on the text of the Law on Amendments and Additions to the Law on Public Procurement, in order to implement the measures foreseen in the two anti-corruption documents, and it should have been adopted by June 2022 at the latest. The aim of the amendments is to make the administrative control of the BPP comprehensive, including control over the conditions for participation, technical specifications and other issues, as well as shortening the deadline for implementing the administrative control, i.e., to provide in the Law a deadline in which the BPP will start its administrative control.

In the activities, which have been fully implemented in accordance with the stipulated deadline, the model of the tender documentation for purchases of low value and the model of the tender documentation for a simplified open procedure have been supplemented. In relation to the models of the tender documentation, an obligation for the contracting authorities to specify the person who, in accordance with the Law on the Protection of Whistleblowers, is authorized to receive applications for protected internal and external reporting by whistleblowers is foreseen. The other activity is aimed at strengthening supervision, in relation to the publication of information on public procurement, in accordance with Article 10 of the Law on Free Access to Public Information.

From the inspection carried out in 222 institutions, it was found that only 82 have adopted and published internal procedures for public procurement, which means that the **degree of realization is very low** and that a large part of the institutions do not act according to the procedures for fulfilling the obligation, in accordance with the plan. **The absence of responsibility for non-fulfillment of legal obligations contributes to this irresponsible behavior of the responsible persons in these institutions.**

The increased competences of the Bureau for Public Procurement, introduced by the proposed amendments to the Law, necessarily impose the need for adequate staffing and spatial accommodation of this authority. The information submitted by BPP to the Government contains an analysis

of the number of staff needed for the implementation of the Law, where it is noted that the Control Sector, which houses the department that performs administrative control, needs to be strengthened, with a minimum of 5 employees. During 2020, with the existing capacities, BPP has performed a total of 205 administrative controls on public procurement procedures.

It is necessary to note that BPP, in cooperation with the Chamber of Commerce of North Macedonia, the Union of Chambers of Commerce, CCICT and the Chamber of Commerce of North-West Macedonia, have prepared draft models of technical specifications for the procurement of vehicles, desktop computers, laptop computers, maintenance, and fuel. Regarding the obligation to conduct dedicated training, the competent authority is the Ministry of Finance and the BPP for all contracting authorities, which will include:

- procurement planning, methods and methods for market research, preparation of technical specifications for goods, services and works, correct and proportionate determination of the conditions for participation and the criteria for selecting the most favorable offer and other contents in the direction of removing all weaknesses which may lead to inconsistent implementation of public procurement principles.
- The deadline for preparing the trainings was 31.12.2021, and according to the information received, the procedure is ongoing and the trainings will be carried out within the framework of the twinning project "Strengthening the functions for budget planning, execution and internal control."

3.

PUBLIC SECTOR EMPLOYMENT

Control, criteria and procedure are essential for public sector employment, both because of the large volume of public funds that are used for this purpose but also because the public sector has an important role in serving the citizens. The problems generally present in the public sector are: inefficient management, governance and supervision in some administrative bodies, agencies and in state-owned public enterprises, but also lack of knowledge concerning the realistic number of employees and expertise needed. Additional problem is the overemployment.

In "Action 21", the Government has stipulated a measure to amend the Law on Employment in the Public Sector and to adopt a new law that would regulate the senior management service. According to the National Strategy, an important problem in relation to employment are the differences in various laws regulating employment, which allows for various types of influence - political influence, nepotism, cronyism and clientelism.

The Government has translated this measure into a bill amending the Law on Public Enterprises and into the draft Law on Institutions.⁵ The main goal of both laws is to optimize the number of members in the governing bodies and to establish clear criteria regarding their election. Although this measure has caused great interest in the public, it is still not implemented, because the laws have not been passed by the Assembly of the Republic of North Macedonia.

The Draft-Law on Administrative Servants and The Draft Law on Senior Management Service were published on the Single national electronic register of regulations ENER on 17.9.2021 and are available to the public.⁶

The purpose of the measure is to limit frequent changes in the rulebooks and to introduce mandatory functional analysis before changing the rulebook on systematization; to standardize the rulebooks for internal organization and systematization of positions and to amend the procedures for hiring and employment, promotion and mobility. This is to be achieved through the following actions:

- Redefining the term "work experience";
- Publishing accurate and transparent job advertisements;
- Checking the credibility of the evidence in the first phase;
- Giving a possibility to improve the application already submitted and
- Reducing discretion rights and determining clear criteria for internal calls (preparing a template with measurable criteria); and planning employments in annual plans and hiring without the consent of the Ministry of Finance, thus shortening the employment procedure.

These changes have still not been implemented in practice because the Assembly of the Republic of North Macedonia is not fully operational, due to the continuing blockades and the lack of a sense of responsibility between the MPs who disregard the public benefit related to the adoption of these laws. Due to this, this measure **has not yet been implemented** and cannot be carried out in practice.

5 Draft Law amending the Law on Public Enterprises published on ENER https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=64745 and Draft Law amending the Law on Institutions published on ENER https://ener.gov.mk/default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=66096

6 Draft Law on Administrative servants published on ENER https://ener.gov.mk/default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=60140 and Draft Law on Senior Managements Service published on ENER https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=74070

The National Strategy Action Plan contains a measure for amending the Law on Public Sector Employees in order to eliminate the possibility of hiring employees through temporary employment agencies and later to transform the employment contract, in order to avoid the regular employment procedure. The deadline for the implementation of this measure is the second half of 2021, and the reason for the delay lies with the Assembly of Republic of North Macedonia.

In practice the regular employment procedure and the legal criteria stipulated were very often avoided and this employment method was used, leading to employment of relatives and friends. According to information received by IHR, this measure was also stipulated in the amendments to the Law on Public Sector Employees which was published on ENER on 17.9.2021.⁷

The MIOA shared information that they are currently working on improving the legal provisions of this law, based on the recommendations collected, and they expect the draft law to enter into a government procedure in the third quarter of 2022. The amendments will require an assessment of the realistic needs of the number and expertise of employees in the public sector entities, which is to be carried out through the preparation and publication of a functional analysis.

The MIOA is also responsible for preparing an analysis on the need to introduce an annual assessment of the workload in public sector entities. (This measure is stipulated in the National Strategy, **and the deadline for implementation is the second half of 2021, but it has not yet been implemented**).

As per the Law on Public Sector Employees, the institutions in the public sector as of 2015, have the obligation to prepare the act for internal organization and the act for systematization of positions, based on a previously made functional analysis. To this end, according to the information IHR received from the Ministry of Education and Science, this Ministry, in 2015, has adopted a Methodology for Preparation of a Functional Analysis, and in 2018, it was additionally changed and improved. Subsequently 15 training sessions were organized for the representatives of the competent institutions on the implementation of this Methodology.

As of 2018 the MIOA maintains a database of functional analyses developed by public sector entities and it is available on the MIOA website. Some institutions publish their functional analyses on their websites (Agency for Administration, Academy for Judges and Public Prosecutors, the Ministry of Information Society and Administration, etc.).

The National Strategy also stipulates a measure related to employment. Namely it is the preparation of an analysis on the need to introduce an annual assessment of the workload of public sector entities, and the implementation period is in the second half of 2021. According to the SCPC Report, this activity has not been carried out.

According to the information received from MIOA, the amendment to the Law on Public Sector Employees, which will be submitted for adoption to the Government in the third quarter of 2022, provides the basis for amending the Rulebook on the Content and Manner of Preparing Acts for Internal Organization and Systematization of Positions, as well as on the Content of the Functional Analysis of Public Sector Institutions, in order to determine the type of higher education through areas of research.

Another measure in the National Strategy related to employment, is strengthening the supervision regarding the publication of acts for organization, systematization and employment, in accordance with Article 10 of the Law on Free Access to Public Information. The deadline for the implementation of this activity is the second half of 2021 and according to the SCPC Report, this activity is considered to be **unimplemented**. The competent authority for its implementation is the Agency for Free Access to Public Information (ASPI).

In their response to the IHR, the Agency for Free Access to Public Information stated that the indicators given in the Action Plan of the National Strategy, **cannot give valid parameters** because the indicators are not measurable, and it is proposed that they be amended. At the same time, it is pointed out that the indicators listed are determined under the old Law on Free Access to Public Information

⁷ Draft Law on Public Sector Employees published on ENER, https://ener.gov.mk/Default.aspx?item=pub_regulation&sub-item=view_reg_detail&itemid=60142

from 2006, as well as the amendments thereto from 2010, and given that a new law was adopted in 2019, it is necessary to determine new indicators. It is also indicated that, in accordance with its legal competences, the Agency monitors if the acts for internal organization and systematization are published, without analyzing their content. It is noted that out of 251 monitored institutions, 196 have published documents for internal organization and systematization. It is also pointed out that information on public procurement, on a daily basis, are published only on the website of Public Procurement Bureau, although they contain data submitted by the institutions.

Another measure in this area of the National Strategy Action Plan is to determine criteria (competencies, income/expenditures, number of employees) for optimizing the number of members of management bodies (supervisory and management board - SB and MB) in the Law on Public Enterprises and in the Law on Companies,

The current practice shows that the selection of persons in the management bodies of public enterprises and of institutions is made exclusively upon agreement between the government coalition parties, not observing the criteria related to expertise, integrity and education, which negatively impacts the work of these bodies. To overcome this situation, the National Strategy, envisages introducing criteria for the type of education and competences in the selection of directors and in the appointment of members of the management and supervisory boards.

In order to implement this measure, it is necessary to amend the Law on Public Enterprises and the Law on Companies, where a legal obligation will be prescribed the Statute of the enterprise or institution to stipulate criteria for managers and for the members of the management bodies. These should relate to relevant education, but also to prescribe a procedure for timely appointment of the members in the supervisory and management boards and to introduce penalties for the founder for defaulting the procedure, for untimely appointment of members or for unlawful election of a manager. Due to the blockade of the Assembly, the deadline for implementation of these significant changes, which should contribute to limiting the risks of corruption in this area, is extended to the first half of 2022. The measure also entails harmonization of the statutes of PE and JSC, in accordance with the changes in these laws, which can be done once these laws are adopted by the Assembly of RNM.

Another measure to be taken in this sector is **the establishment of objective criteria** in the by-laws; establishment of an evaluation procedure for employment and promotion depending on the specific needs of each sector separately, as well as analyzing the legislation allowing a discretionary right of the responsible person in employment.

The MIOA reported to the IHR that the implementation of these activities (prescribing objective criteria and evaluation for employment and promotion in the bylaws) depend on the adoption of the Draft Law on Public Sector Employees.

The provisions of the Draft Law, which relate to employment and mobility, give the grounds for determining objective criteria and an objective evaluation process, while each institution has to prescribe them separately in a bylaw. The deadline for the implementation of this activity has not yet elapsed.

The limitation of the discretionary right of the person responsible for hiring is also planned as a measure in the Strategy. In order to implement it, it is planned to analyze the legislation stipulating discretionary rights of the person responsible for hiring, and the deadline for its implementation is the first half of 2021. Discretionary hiring rights give wide room for abuse. This is usually done by circumventing the criteria of competence, equal access of all persons to a particular job and giving priority to close persons, based on party membership, kinship or ethnicity. Hence it is necessary to limit discretionary rights, which has been suggested on numerous occasions by international organizations, especially by the Council of Europe.

Regarding the discretionary powers, according to the information the IHR received from the MIOA, **this activity was fully completed**, namely under an IPA project reports on the discretionary powers in the public sector, as well as in education, culture and health sectors were elaborated.

It should be noted that there are some Government's activities, which were not previously contained in the Action 21 Plan. Such an activity is the revision of the Law of Administrative Servants, in order to improve the integrity of administrative servants. This action is under the competence of the MIOA.

As per Action 21, the text of the new Code of Ethics has been prepared and it is publicly available on ENER. However, the Law on Administrative Servants has not yet been adopted by MIOA, and the reason is that the Law is still under preparation. The interventions in the law should significantly improve the legal provisions thus overcoming the weaknesses determined previously.

Although initially, the Action 21 Plan did not contain it, with the changes adopted in July 2021, now there is a measure to amend the Code of Ethics for members of Government and for holders of public functions appointed by the Government. The amendments expand the list of persons subject to the Code and introduce two new positions - an integrity officer who is to give advice on ethical issues and a member of the Government appointed to monitor the implementation of the Code.

4.

JUDICIARY

An efficient, impartial and transparent judicial system is a guarantee of the rule of law and is vital for improving public trust in the judiciary, which according to public surveys is on a very low level. This system should ensure protection of fundamental human rights, hence the IHR interest in the degree and effects of the implementation of the measures contained in Government's Plan "Action 21" and in the National Strategy.

According to the report of the SCPC, the measures planned in this document for 2021 are fully implemented.

The Government's Plan "Action 21" in this area focuses on the need to digitize 23 investigative centers in the Public Prosecution Office of the Republic of North Macedonia, (staffing and digitization of the PPO and of the investigative centers within the basic PPOs). However, the lack of material and personnel resources was identified as a problem.

According to information obtained from the Government, the situation with regard to spatial conditions, human resources, equipment and financial implications of the PPO of RNM was analyzed as part of the activities related to the implementation of this measure.

A budget for capital expenditures has been ensured, which is by 24.4% higher than in 2021, and it shall be used for IT equipment, installing network infrastructure and audio-visual equipment for the hearings. Additional 25% have also been ensured for replacing the existing equipment. Additionally, the budget was increased in order to enable 71 new employments, 17 promotions and a 15% salary increase. The Government, on May 18, 2021 adopted a Decision granting permanent use of 3,515m² of business premises to the Prosecution Office for Prosecuting Organized Crime and Corruption, thus improving the spatial conditions of this prosecution office. According to the information obtained, out of 23 PPOs in the country, only four have investigative centers. As part of the monitoring activities, IHR representatives held a meeting with the State Public Prosecutor Miodrag Joveski, and obtained data on the number of staff in the investigative centers. They currently employ 16 members of the judicial police, nine public prosecutor's associates and 13 investigators from the former Special Public Prosecutor's Office (SPO). The IPA-twinning project "Building the Institutional Capacity of the Investigation Centers" is also being implemented. There is an obligation to establish the rest of the investigative centers and to ensure appropriate personnel.

The establishment of investigative centers in the PPO, as well as the provision of budgetary resources for them, is a measure presented in the National Strategy, and the deadline for its **implementation is 2021**. It is also listed as an ongoing activity of the Public Prosecution Office of Republic of North Macedonia.

The SCPC, in the National Strategy, underlines that the ineffective system for strengthening integrity in the judiciary and among the public prosecutors is a problem in the judiciary, followed by insufficient material resources and personnel, lack of an automated system for allocation and monitoring of cases in the Public Prosecution Office and insufficient transparency in the work of the Council of Public Prosecutors.

This document stipulates the establishment of an automated system for allocation and monitoring of cases in the Public Prosecution Office, which entails an initial analysis of the case management process in the PPO of RNM followed by the implementation of the system in the second half of 2021. This measure **was implemented by PPO of the RNM, within the stipulated deadline.**

The Government's Plan "Action 21" does not contain a measure related to establishing an automated system for allocation and monitoring of cases in the Public Prosecutor's Office.

In order to implement this measure, a draft Rulebook was developed in November 2021, namely a Rulebook on the Manner of Allocating Cases in Public Prosecution Offices through the System for Electronic Allocation of Cases. The Rulebook regulates the electronic allocation of cases through the information system in the PPO of the RNM. This system should be part of the unique information center, which shall also contain a database on the judicial authorities in the country. The draft Rulebook is currently under review and is being adopted.

The procurement of an automated system for allocation and monitoring of cases in the PPO is envisaged to be carried out in the first half of 2022. In order to implement this measure, the staff also needs to be trained on the use of the automated system, and this should be delivered in the second half of 2022.

The National Strategy also provides for the adoption of a Code of Public Prosecutors, containing explanations and examples, as well as training programs for mandatory professional conduct training for judges and prosecutors which should be delivered by the Academy for Judges and Prosecutors (AJPP). This measure was **fully implemented in May 2021 by the Council of Public Prosecutors**, with the adoption of the new Code of Ethics for Public Prosecutors.

With regard to the measure stipulated in the National Strategy, namely the Code to contain explanations and examples, it was concluded that this activity cannot be implemented, because the Code cannot contain such elements. It was suggested this activity to be carried out by the Association of Public Prosecutors (for example by preparing guidebooks or similar documents).

According to the information received from the Academy for Judges and Prosecutors, the training for new prosecutors was planned for 2021 and **it has been fully implemented**. Namely, the public prosecutors elected in 2019 and 2020 were trained in civil, criminal and administrative matter. The PPOs have an insufficient number of prosecutors, and the candidates from the Academy are not enough to make up for the shortage.

The Academy for Judges and Public Prosecutors (AJPP) reported that they are preparing a General Program for Continuous Training of Judges, Public Prosecutors and other Representatives from Judiciary Related Institutions, which shall cover a period of 2 years. It will include a section on organized crime and corruption and a section on general topics such as ethics and integrity.

The information submitted by the AJPP, do not specifically tell if the professional conduct trainings for judges and prosecutors were delivered as part of the training package that AJPP delivered in 2021. However, it is noted that a new training program is currently being developed, in which courses on professional conduct of judges and prosecutors can be integrated. Also, regular training courses on ethics and integrity of judges and public prosecutors are conducted within the general training program. Training courses planned for **the second half of 2021 have been fully delivered**.

In order to effectively implement the envisaged measures and activities, the National Strategy determines that it is necessary to increase the budget resources of the Public Prosecution Office for new employment and to organize training for new public prosecutors, as well as to establish investigative centers within all Public Prosecution Offices.

With regard to the measure stipulated in the National Strategy, namely to assess the risks of corruption in the judiciary, it requires the establishment of an expert working group. The deadline for implementation is the first half of 2022, and the institution responsible for the implementation of this activity is the SCPC. As a measure to overcome this situation, staffing of public prosecutors' offices is envisaged, in accordance with the existing systematization of jobs together with an increase in budget for new employment.

Regarding the allocation of funds for this sector, it is noted that **additional funds for new employments in 2022** were ensured in the budget (435.140.000 denars). These are earmarked for salaries

in the PPO of RNM and it will constitute an increase of about 10.3%, compared to 2021. With the funds planned for 2022, the salaries in PPORNM shall be increased by 15% and the rest of the funds shall be used for employing 60 persons for whom consent for employment is pending as of 2021 and 11 persons for whom consent is pending as of 2020.

Regarding the staffing of the Public Prosecution Office, the problem in this sector is that there are no candidates for many of the vacancies. One of the reasons are the strict legal conditions the candidates have to meet, including the requirement for an international certificate for foreign language proficiency, even for the lowest positions. A particular problem is the lack of employees with IT education and background.

Although the measure for increasing funding (mostly for increased salaries) **has been implemented**, other problems remain. These are the lack of investigative centers in all PPOs, staffing of existing investigative centers, especially with IT staff, as well as ensuring additional resources for full implementation of their competencies. The competent institutions in this area have still not decided whether to upgrade the existing system or to create a completely new automated system for monitoring and allocation of cases. An obstacle is that the Public Prosecution Office does not have a specific position on how to implement the activity, so they have not yet started the procurement of the system.

According to the National Strategy Action Plan, **most of the activities in this sector were planned for 2021** (a total of 9, of which 7 were fully implemented and 2 activities are still ongoing). Hence, we can conclude that **most activities planned for judiciary were implemented** (78%), which is deemed as very positive by the Institute for Human Rights.

5.

BUSINESS AND ECONOMY

This area is broadly elaborated in the National Strategy and encompasses several segments. Due to the limited period for project implementation, the project focuses on those areas that are most vulnerable to the risk of corruption, due to legal gaps in regulation, broad discretionary decision-making rights and insufficient transparency in decision-making.

According to the National Strategy, the risks of corruption in the economy are mainly related to the issuance of various decisions, permits, concession contracts and other documents, which, for the most part, are under the responsibility of the Ministry of Economy or other institutions. The legislation regulating activity of companies and of natural persons who independently carry out a certain economic activity, requires the provision and possession of documents issued by a competent state authority. Additional risk identified in the business and economy sector, are public procurements, and especially inspection supervision and employment in public institutions are identified as corruption risks. These are specifically elaborated in the analysis.

The Government's Plan for Fighting Corruption "Action 21" stipulates measures for preventing corruption, among which is the establishment of a vehicle register which shall ensure cost-effective and purposeful use of public funds. This activity should be implemented by amending the law.

The two anti-corruption documents, in order to improve the situation in relation to business and economy propose to amend and supplement the existing regulations in this area. Namely:

a) To amend the Law on Use and Disposal of Property Owned by the State and LSGUs.

The National Strategy detects another problem in this area, namely the lack of registers for the property owned by the Republic of North Macedonia and the local self-government units (LSGUs), hence the proposed measure for establishing a single record of such real estate in the country. This measure should be implemented by first updating the electronic records of real estate used by the state authorities and by legal entities established by the state and the LSGUs. The deadline for the implementation of this activity is **the first half of 2021 and this should be done in continuation**. Competent authority for its implementation is the Agency for Real Estate Cadaster.

In relation to this, the Government of the Republic of North Macedonia adopted the proposal of the Agency for Real Estate Cadaster on the manner of assigning a unique identification number for state bodies and legal entities established by the state. Based on the data submitted by the Ministry of Information Society and Administration (MIOA), the state bodies and legal entities established by the state, have been connected through this unique identifier with the real estate recorded in the Real Estate Cadaster, i.e., with the data existing in cadastral records. Now these institutions or LSGUs are registered as users of this estate. It is planned as of 2022, to maintain only one record, based on this unique identifier and also to improve the quality of the data in the cadastral records. This is necessary in order to have a clear overview of property owned by the state, as well as which state authorities and legal entities established by the state use what property.

It is proposed to increase transparency in this matter by incorporating an option for open search of the state-owned property through the portal of the Agency for Real Estate Cadaster (by unique identifier, name of the state authority, type of real estate and other criteria). This activity was planned **for the first half of 2021, but it has not been implemented** due to lack of complete and publicly available data on the state-owned property. In order to implement this measure, the legislation in this area has to be amended, because currently there is no register for property owned by the state and

local self-government, and currently there is no clear picture what the state actually owns in term of property, and if there is possible misuse, or even expropriation.

From the information received, we can conclude that there were attempts to update the Real Estate Register in the past, by introducing a Book of Records to the Cadaster Register, where all state institutions were required to submit data on the property at their disposal. However, this activity was not successful because only a few ministries submitted data, which shows highly irresponsible attitude of the institutions and absence of sanctions for such behavior.

In accordance with Article 57 of the Law on the Use and Disposal of State-owned and Municipal-owned Assets,⁸ two years ago, the Agency for Real Estate Cadaster (AREC) began establishing a single record of state-owned real estate based on the Unique Identification Number (EIB) of institutions, as well as of state-owned real estate used by state authorities and legal entities incorporated by the state. To this end, a list of state authorities (1342 state authorities) was provided by Ministry of Information Society and Administration. The Agency in accordance with the data made available by the MIOA, created the register, **which is still not complete**. The activity is ongoing, and will continue in 2022.

In order to overcome the problems with updating the electronic records of real estate, the National Strategy proposes to establish an inter-agency commission comprising representatives of SCPC, AREC, the State Audit Office, the Government, the MIOA, the General and Joint Affairs Service, the State Ombudsman Office and the Association of the Local Government Units. The responsible institution and coordinator of this action would be the Agency for Real Estate Cadaster, and the deadline for implementation would be the second half of 2022. The primary aim of the activity is to make an inventory of the real estate, which would begin in the first half of 2023.

Additionally, according to the plan, this should be completed by the end of 2022 with the recording of land and buildings that are 100% owned by the Republic of North Macedonia and which owners have not been recorded. The activity is **not implemented**, because there are no complete and publicly available data on state-owned property; thus, the option for establishing an open searchable database of state-owned property on the Agency for Real Estate Cadaster web site is not possible.

b) Register of motor vehicles

The state and the LSGUs can also possess movable property, namely motor vehicles. The two anti-corruption documents - the Government Plan "Action 21" and the National Strategy of the SCPC prescribe measures for recording and using this property, for establishing a publicly available register for motor vehicles property of central government institutions and LSGUs (except for special purpose vehicles). The aim of this is also to prevent motor vehicles rather than for official purposes, to be used for private purposes.

The measure proposed entails an upgrade of the existing motor vehicle register, which is kept with the Interior Ministry, with the possibility of making it publicly available and searchable per institution. This activity was foreseen to be implemented in **the second half of 2021; however, it has not been implemented yet**. The reason is that the Ministry of Interior disagrees to keep the register, although they are the competent institution listed in the National Strategy, due to which a change has been made in the regulation and in the register, and this obligation will pass to the Ministry of Finance. The implementation deadline was extended to **the second half of 2022**.

According to the information obtained, the Ministry of Finance prepared the text of the draft law amending the Law on Use and Disposal of State-Owned and Municipal-Owned Assets and submitted it to the Government, which adopted the text of the draft law at its 103rd Session.⁹

⁸ The Law on the Use and Disposal of State-owned and Municipal-owned Assets, Official Gazette of the Republic of North Macedonia No. 78/2015, 106/2015, 153/2015, 190/2016, 21/2018, 101/2019, 275/2019 and 122/2021.

⁹ Government of the RNM, 103rd session held on 31.08.2021, <https://vlada.mk/2021-103>

In order to solve this problem until the Parliament of the Republic of North Macedonia adopts this law (which, like other laws, is stuck in the parliamentary procedure), the Government adopted a decision regulating the use and maintenance of official vehicles.

c) Draft Law on Public Enterprises and Draft Law on Institutions

The amendments to these laws (which the Government submitted to the Assembly of the Republic of North Macedonia for adoption) mainly focus on optimizing the number of members of governing bodies, as well as on establishing clear selection criteria for their members. Such a solution should allow for saving public funds, promoting professionalism, expertise and efficiency in the management of public enterprises and of institutions. The reason that these changes have not yet entered into force, as for other laws, is the Assembly of the Republic of North Macedonia, i.e., the irresponsible and nonconstructive attitude of the MPs who do not perform their duties. In parallel with the amendments to these two laws, the National Strategy stipulates the amendment of the Law on Commercial Companies, but so far no amendments have been made to this law.

d) Establishment of a State Aid Register

It is necessary to establish a State Aid Register because state aid is provided from public funds and it is very much necessary in order to increase transparency. The aim of this measure is for the public to be aware of which entities and under which criteria received such aid and whether it was properly used or misused.

The Government Plan "Action 21" determines that not registering state aid granted to domestic but also foreign economic operators - companies is a problem, hence they propose this measure, namely to establish such a Register as soon as possible.

The lack of such a register of state aid granted to economic operators owned by domestic and foreign legal entities has been pointed out as a concern in the National Strategy as well, specifically under economy and business sector, together with additional 3 problems identified (for which 8 measures and 13 activities are planned). This document also proposes establishing such a Register, as well as its publication and regular updates.

The State Aid Register is planned to be under the Competition Protection Commission (CPC), and the deadline for its establishment is **the second half of 2022**. According to information the IHR received from the Government, this State Aid Register will be the single place where all state aid information will be kept, which will contribute to streamlining the planning and budgeting of state aid. With the single State Aid Register, integrating data from 11 institutions, citizens and companies in the Republic of North Macedonia will have a transparent and accountable system for planning, budgeting, as well as for monitoring the effects and impact of state aid provided.

The informative document also indicates activities undertaken in this regard. In order to establish the State Aid Register, and to determine the current situation with regard to state aid as well as to define the details of the intervention needed, **in the first half of 2021** comprehensive technical and functional specifications for the State Aid Management Information System have been developed with the support of the IBRD/World Bank team and its State Aid Registry, Trade Competitiveness Diagnostic and State Aid Analysis Technical Assistance.

According to the National Strategy, the problem of managing state-owned and municipality-owned property exists in several sectors, and is particularly pronounced in sports, agriculture, economy and business, labor and social policy. The possibility for abuse and corruption in these areas is due to the vague criteria and the absence of precise legal regulation. The SCPC report found that the institutions responsible for these activities **have neither capacity nor sufficient legal competences** to be able to solve these problems. Due to this, it is estimated that this should be also addressed in the Strategy as a separate area and approached systematically.

According to the data obtained, the Register has not yet been established and this activity has not been completed. From the information obtained, this is due to the lack of financial resources in the budget, so it is not known if the register will be established even in 2022. In this respect, it is noted that for developing the State Aid Register, data from the Fund for Innovation and Technological Development could be used.

e) Use of natural resources, concessions

The National Strategy, under economics and business, highlights the high risk of corruption related to issuing approvals, decisions, licenses and permits issued by central and local authorities as a serious problem. Such a risk is also present in awarding grants, subsidies and state aid at central and local level, which imposes the need to take effective measures to suppress such corrupt practices.

The National Strategy detects problems in granting excessive concession rights, insufficient transparency of concession agreements and underdeveloped mechanisms for determining realistically the concession fee for exploiting raw materials, which creates a wide space for corruption and abuse.

The measure proposed in this document is optimizing the use of natural resources in order to protect the environment, and the activity stipulates preparing feasibility studies to determine the state of affairs with regard to the use of natural resources by area.

The Ministry of Economy (ME) sent information regarding the degree of implementation of this activity. They provide a comment that feasibility studies like those required of investors are not necessary in this case, but that it is the Macedonian Academy of Science and Art which should make an analysis. They should commission a geologist (member of the Academy) to prepare a strategy for the next 20 years, with respective action plans. The Government is expected to approve the Strategy Development Agreement soon, and the development of this document should take two years. Funds have been ensured for the first year of development. The deadline for implementing this measure was **the second half of 2021**, however, due to the delay in the development of feasibility studies for 2024, **this measure has not been implemented**.

The amount of concession fee, as well as its collection is not transparent, which creates serious public concerns about abuse and damage caused to the state budget, but also points to corrupt practices. That is why the National Strategy proposes to develop mechanisms for determining the amount and level of collection of realistic concession fees for raw materials exploited, and the proposed activity comprises preparing an analysis and auditing the amount of concession fees and the level of their collection. The deadline for the implementation of this measure was **in the first half of 2021**.

According to information received from the Ministry of Economy, this **measure was implemented** with the adoption of the new Tariff Book for Determining the Fees for Issuing Permits and Concessions for Performing Detailed Geological Surveys and Concessions for Exploitation of Mineral Resources, published on the website of the Ministry of Economy (ME). Before the new tariff was adopted, a proper analysis was prepared by the Ministry of Economy. It is stated that the Tariff Book was adopted in 2020¹⁰, and began to apply **in 2021**, and this activity was implemented before the "National Strategy for Preventing Corruption and Conflict of Interest" was adopted.

On the other hand, the activity for the development of Methodology and mechanisms for determining realistic concession fees which is to be implemented by this Ministry, scheduled for **the second half of 2021**, has not been implemented, which is why the deadline for this activity will be extended.

Transparency in exercising competences of institutions is an effective barrier to illegal behavior and corrupt practices. There is another measure stipulated in the National Strategy for increasing transparency when awarding concessions, namely publication of concession agreements for the exploitation of raw materials. **The deadline for this activity is 2022**.

10 Tariff Book for Determining the Fees for Issuing Permits and Concessions for Performing Detailed Geological Surveys and Concessions for Exploitation of Mineral Resources, Official Gazette of the Republic of North Macedonia No. 24/2020.

In order to implement this measure, concession agreements for exploitation of raw materials should be published. However, from the information shared by the Ministry of Economy and from the E-concession portal, it can be determined that concession agreements are still not being published. The Institute for Human Rights has been informed that there is a general information system in the Ministry which contains scans of all concession agreements and decisions. However, the system is used internally by the ministry and contracts are not publicly available, which implies that **this measure is still not fully implemented**. In the coming period, according to information from the Ministry, all agreements will be published on the website and on the portal. Also, the Ministry of Economy's website contains a list (an excel table) of concessions awarded for the exploitation of mineral raw materials.

Extremely important is effectively and timely to control the exploitation of raw materials, after awarding concessions. This is necessary in order to prevent abuse and damage to the state. The National Strategy proposes better control in this area by increasing the number of inspectors (geological inspectors, state mining inspectors, electrical inspectors in mining and others) which as an activity was to be carried out in **the first half of 2021**. In order to implement this activity, it is proposed that the directors of the inspection services provide data on additional staff and equipment needed as well as on other needs.

In relation to transparency, it should be noted that only a few names of legal entities that have concluded water concession agreements and concessions for small hydropower plants have been published on the Ministry of Environment and Physical Planning website. The Ministry of Agriculture, Forestry and Water Economy should be included in the activities related to water management concessions, related to concessions for small hydropower plants.

According to information shared by the Ministry of Agriculture, Forestry and Water Economy and the information published on their website, it can be determined that the **contracts for the lease of agricultural land have not been publicly announced**, and only the Register of lessees of state-owned agricultural land has been published. According to the information available, in the past the lease agreements were publicly available, hence the need for greater transparency, which in practice means publishing all data concerning the agreements – price, location, land area, etc. The deadline for implementing this measure is **by the second half of 2022**.

f) Amendment to the Law on Public Enterprises

The amendment of the Law on Public Enterprises and the Law on Institutions is a measure stipulated in the Government Plan "Action 21" and in the National Strategy of the SCPC, which detects an inadequate legal framework for operation of enterprises owned by the state and LSGUs. To overcome such a situation, the plan and the Strategy propose to establish a single legal framework for the operation of the dominantly state-owned and of public enterprises incorporated by the Government and local self-governments, and to prepare a comparative analysis of the legislation in the other countries in the region and in EU member states, in order to harmonize our legislation with the respective EU regulations.

The deadline for the implementation of this activity is the second half of 2022.

According to information received from the Ministry of Economy, the Draft Law Amending the Law on Public Enterprises has been submitted to the Parliament for adoption, and according to the SCPC Report, no action has been taken to amend the Law on Commercial Companies.

The primary goal of the amendments to the Law on Public Enterprises, is to optimize the number of members in supervisory and management boards in public enterprises and in joint-stock companies and to determine the criteria for their appointment.

Once the amendments to these laws are adopted, it will be necessary to harmonize the statutes of PE and of JSC with the changes made in the laws. The deadline for the implementation of this activity is the second half of 2022.

Another problem detected in the National Strategy which is related to the Law on Public Enterprises is the absence of misdemeanor provisions on liability for the managers of the PE, especially in relation to servicing the debts of the public company.

In order to solve this problem, the Strategy proposes to establish a single legal framework for the operation of the dominantly state-owned and municipality-owned public enterprises, enterprises established by the government and local self-governments, while a comparative analysis of the legislation of the countries of the region and in the EU member states has already been prepared. This information was shared by the Ministry of Economy, although there is no plan for the adoption of the Law (following such an example from the Republic of Croatia). The adoption of a single law that will regulate the operation of these categories of legal entities is envisaged for **the second half of 2022**.

Also, the Ministry of Economy, at the moment, is not preparing the analysis, nor it is amending the Law on Commercial Companies and on the one-stop shop system, due to lack of staff in the relevant departments. This opens a dilemma whether the problem with lack of staff is really caused by lack of sufficient staff (which is strange because there is overemployment in the public administration), or it is due to lack of adequately trained professional staff, which is a result of party influence on institutions, and general disregard for expertise, competence, education and work experience necessary for a specific position. This ultimately negatively affects the effective operation of institutions and blocks their functioning.

As a result of all this, individual departments in the Ministry do not function, and according to some recent information it is being considered to transfer this process under the competence of the Cabinet of the Deputy Prime Minister in Charge of Economic Affairs, Coordination of Economic Sectors and Investments. This imposes a serious dilemma if the Cabinet of the Deputy President, with a lot smaller staff can really carry out this activity and if maybe the reason for this situation is not only the lack of staff.

6.

ANTI-CORRUPTION PROGRAMS

In order to reduce the risk of corruption, the National Strategy proposes another measure. The measure entails the public enterprises established and dominantly owned by the state and by the LSGUs to prepare and adopt anti-corruption program and to effectively monitor the application of such a program. The deadline for the implementation of this activity is 2024, and given that the IHR project covers monitoring of measures and activities only for 2021 and 2022, this activity will not be covered, although, it is very important for reducing the risks for corruption.

7.

INSPECTION SERVICES

The inspection services are not being monitored by the IHR project, because the duration of the project is limited, although this area contains a high risk of corruption and there is a lot of criticism due to inefficiency, insufficient functionality and non-transparency in the implementation of competences, and the public confidence in the inspection services, especially at the local level is very low. In addition to their inefficiency, inspection services also have staff with inadequate education, lack of staff for some positions and lack of material, spatial and financial resources. They also lack continuous training.

However, a brief overview of the activities undertaken in this sector will be presented because there were some novelties introduced in the Government's Plan "Action 21". One positive thing in this sector is the establishment of the electronic inspection system named **E-Inspector**. The establishment of the E-Inspector Platform will greatly increase the efficiency of these services and limit the room for corruption, since it limits the opportunities for direct contacts and inspection services have to be delivered through this system.

In order to implement this measure, a pilot-software for automation of inspection procedure and inspection operation has been prepared and appropriate hardware has been procured. The software was developed for three inspectorates and on 15.9.2021 it was handed over to the Inspection Council, together with the information on the status of the software and the plan for its maintenance, and on 22.11.2021 the E-Inspector Platform was officially put into operation.

The Inspection Council submitted a specification for procurement of appropriate hardware, with an estimate of the required financial resources. The Ministry of Finance has provided the complete equipment for digital inspection to the following three inspectorates:

- State Market Inspectorate (SMI);
- State Labor Inspectorate (SLI) and
- State Administrative Inspectorate (SAI).

Under this activity 400 laptops were purchased, 10 for the Inspection Council, 190 for the SMI, 152 for the SLI and 48 computers for the SAI. By the end of 2021 only the extraordinary inspections, performed by the three inspection services, were conducted through the "E-inspector" platform, and as of January 2022, after the annual work plans for 2022 and the monthly work plans for January 2022 are adopted, inspectors will begin to conduct regular inspections through this system. This measure is completed as planned.



CONCLUSIONS

- The activities and deadlines stipulated in the National Strategy Action Plan in each of the risk prone areas covered by this document are aligned with the competent institution - as an institution responsible for the respective activity and are based on the information and data received from them. Because of this, there is no justification for the extension of the deadlines or for lack of implementation. This is also due to the fact that the objective or subjective obstacles for the implementation of the activities were known to the responsible institutions when they prepared the Action Plan and the National Strategy itself; they actively participated and they gave proposals and deadlines for their implementation;
- The delays in the implementation of measures and activities vis-a-vis the scheduled deadlines, in addition to the determined objective reasons, is due to subjective weaknesses, lack of coordination between institutions, but is also due to the absence of liability for non-fulfilling work obligations, which is on the other hand due to party influence, nepotism and clientelism in employment, and the absence of the merit-based system;
- Obligations stemming from the Government's Plan for Fighting Corruption have been largely implemented, including the new anti-corruption policies and the process of digitization. There is a low level of implementation of some of the measures referring to specific institutions, primarily related to preparation of the anti-corruption programs, appointment of persons to receive reports by whistleblowers and preparation of internal procedures for the implementation of public procurement;
- Beyond the Anti-Corruption Plan, a decision has been made to limit the cost of catering services and to regulate the use of officials' official vehicles, but it is necessary to put this decision into practice.
- Also, a new National Register of Beneficial Owners of Companies has been established - showing the ownership structure of legal entities, which has so far been successfully concealed in many cases;
- A bigger problem for the implementation of the activities and for their continuation are individual institutions that have not implemented any measure at all or have implemented only a small part of the activities planned to be implemented within the determined deadline.
- Much of the responsibility for the lack of implementation of the measures stipulated in the amendments and changes to the laws proposed by the government, aimed at reducing the room for corruption and increasing transparency, efficiency, effectiveness and accountability of institutions, is found with the Assembly of the Republic of North Macedonia, which should enact those laws, as well as the irresponsible and unproductive attitude of the MPs, who are blocking the Assembly and do not perform their duties;
- According to the data presented in "Action 21" and in the National Strategy, the area with the highest level of implementation of the activities planned is the judiciary - 78% (which is an area of particular interest to the Institute for Human Rights). Another area which ranks fairly well is public procurement, where 33% of the activities have been implemented. Some positive examples of institutions who have implemented all activities planned for 2021 are: the Public Prosecution Office of the Republic of North Macedonia, the Academy for Judges and Public Prosecutors, the State Administrative Inspectorate and the Association of Public Prosecutors. According to the SCPC report the Ministry of Information Society and Administration has the lowest degree of implementation of activities assigned to them, namely out of 10 activities only one activity under their competence is under implementation.



RECOMMENDATIONS

- The declarations about fighting corruption, should be translated into real action and each institution should be held responsible for failing to perform in accordance with its legal competences;
- The Assembly of the Republic of North Macedonia, competent for adopting legislation necessary for the implementation of the anti-corruption policies proposed in the National Strategy and in the Government's Anti-Corruption Plan "Action 21", has so far proved to be the biggest obstacle for achieving these goals. The MPs should show responsibility, transparency and accountability towards the citizens and enact the proposed laws as soon as possible. The MPs have an obligation and should be accountable towards the citizens to conscientiously perform the function for which they have been elected and have an obligation to commit to fighting corruption, by responsibly performing their function;
- The process of digitizing the Administration for the Civil Registry should be completed, thus allowing documents to be electronically delivered to citizens (as in other countries), instead of forcing them to go to the institution and further face bureaucratic obstacles and the disrespect of officials;
- SCPC, in accordance with its legal competences, should initiate the procedure for determining responsibility and accountability of all managing and responsible persons from the institutions that have not implemented measures and activities assigned to them stipulated in the National Strategy, especially of institutions which have not completed any of the activities within the given deadline, or have unduly postponed the deadline for subsequent years. Such initiatives should also include a request for dismissing the managers of these institutions;
- The activities related to the establishment and staffing of investigative centers in all Public Prosecution Offices should be accelerated, which would significantly increase the efficiency of these bodies and positively affect the entire justice system;
- Awareness of citizens and of legal entities regarding the harmful consequences of corruption and on combating corrupt practices should be raised, through public awareness campaigns implemented by the government, SCPC or the civil society;
- The civil society should continue to monitor the implementation of measures and activities contained in the National Strategy and in the Government Plan "Action 21". CSOs are the "watchdog" which should control the work of the authorities during the implementation of these two anti-corruption documents.

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