

NATIONAL INTEGRITY SYSTEM ASSESSMENT NORTH MACEDONIA



Funded by
the European Union

THIS PROJECT IS FUNDED
BY THE EUROPEAN UNION AND THE GOVERNMENT OF SWITZERLAND



Schweizerische Eidgenossenschaft
Confédération suisse
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Swiss Agency for Development
and Cooperation SDC

**NATIONAL
INTEGRITY
SYSTEM
ASSESSMENT
NORTH
MACEDONIA**

CIP - Каталогизација во публикација

Национална и универзитетска библиотека „Св. Климент Охридски“, Скопје

35.075:343.352(497.7)“2022/2023“(047)

342.5:343.352(497.7)“2022/2023“(047)

NATIONAL Integrity system assessment North Macedonia / [author Slagjana Taseva ... и др.].
- Skopje : Transparency International Macedonia, 2024. - 276 стр. : граф. прикази ; 29 см

Фусноти кон текстот. - Други автори: Marija Suncevska, Ivana Shumanovska-Spasovska, Zoran Sapuric, Alex Holmes. - Содржи и: Annex 1.

- Финансиер: European Union and the Government of Switzerland, “EU4 Rule of Law: Citizen Engagement for Public Integrity (CEPI) in the Western Balkans and Turkey”

ISBN 978-608-67110-0-9

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а) Државни институции -- Спречување корупција -- Македонија -- 2022-2023

-- Извештаи

COBISS.MK-ID 62827525

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Skopje, 2024

This Assessment of the National Integrity System has been prepared by Transparency International - Macedonia in cooperation with the Secretariat of Transparency International in Berlin.

This publication was developed within the project: "EU4 Rule of Law: Citizen Engagement for Public Integrity (CEPI) in the Western Balkans and Turkey" financed by the European Union and the Government of Switzerland. Its contents are the sole responsibility of Transparency International – Macedonia and do not necessarily reflect the views of the European Union and the Government of Switzerland.

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All information was believed to be correct as of:	17 November 2023
Print:	Datapons Skopje
Copies:	150

Transparency International Macedonia was established in 2006 and is a member of Transparency International, the global coalition against corruption, which has national chapters in more than 100 countries. The vision of Transparency International Macedonia is the elimination of corruption from Macedonian society and the establishment of a system of rule of law and a society in which the citizens and institutions fight corruption and the unlawful policies. The mission of Transparency International Macedonia is oriented towards the analysis of national legislation, comparative analysis and recommendations for improvements to the legal framework, detecting vulnerabilities in the laws and the legal framework that enable corruption, analysis of the national integrity system of the Republic of North Macedonia through analysis of the anti-corruption pillars and cooperation with key stakeholders (public institutions, civil society, business community, media and citizens).

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LIST OF ABBREVIATIONS

- (AA)
AGENCY FOR ADMINISTRATION
- (AAVMS)
AGENCY FOR AUDIO AND AUDIOVISUAL MEDIA SERVICES
- (ACA)
ANTI-CORRUPTION AGENCIES
- (ADI)
ASSOCIATION FOR DEMOCRATIC INITIATIVES
- (AG)
ADVISORY GROUP
- (AIPCE)
ALLIANCE OF INDEPENDENT PRESS COUNCILS OF EUROPE
- (AJM)
ASSOCIATION OF JOURNALISTS OF MACEDONIA
- (AJP)
ACADEMY FOR JUDGES AND PROSECUTORS
- (ALAC)
ADVOCACY AND LEGAL ADVICE CENTRE
- (AMAN)
MOVEMENT AGAINST PRICE INCREASES IN ELECTRICITY PROVISION
- (APRFAI)
AGENCY FOR THE PROTECTION OF THE RIGHT TO FREE ACCESS TO PUBLIC INFORMATION
- (AWP)
ANNUAL WORKING PROGRAMME
- (BC)
BUDGETARY COUNCIL
- (BIRN)
BALKAN INVESTIGATIVE REPORTING NETWORK
- (BPS)
BUREAU FOR PUBLIC SECURITY
- (BPPO)
BASIC PUBLIC PROSECUTOR'S OFFICES
- (BPPOOCC)
BASIC PUBLIC PROSECUTOR'S OFFICE FOR ORGANISED CRIME AND CORRUPTION
- (CAF)
COMMON FRAMEWORK FOR ASSESSMENT
- (CEAS)
CODE OF ETHICS FOR ADMINISTRATIVE SERVANTS
- (CMEM)
COUNCIL OF MEDIA ETHICS OF MACEDONIA
- (CoE)
COUNCIL OF EUROPE
- (CPC)
CRIMINAL PROCEEDINGS CODE
- (CPT)
COMMITTEE FOR THE PREVENTION OF TORTURE
- (CR/CRNM)
CENTRAL REGISTRY OF NORTH MACEDONIA
- (CSO)
CIVIL SOCIETY ORGANISATION

- (CSRD)
CENTER FOR STRATEGIC RESEARCH AND DOCUMENTATION
- (CUP)
CENTER FOR CHANGE MANAGEMENT
- (DPA)
DEMOCRATIC PARTY OF ALBANIANS
- (DUI)
DEMOCRATIC UNION FOR INTEGRATION
- (EBs)
ELECTORAL BODIES
- (EC)
EUROPEAN COMMISSION
- (ECCS)
ELECTORAL COMMISSION OF THE CITY OF SKOPJE
- (ECHR)
EUROPEAN CONVENTION ON HUMAN RIGHTS
- (EIDHR)
EUROPEAN INSTRUMENT FOR DEMOCRACY AND HUMAN RIGHTS
- (ENER)
NATIONAL ELECTRONIC REGULATIONS REGISTRY
- (EOM)
ELECTION OBSERVATION MISSION
- (ESPP)
ELECTRONIC SYSTEM FOR PUBLIC PROCUREMENT
- (EU)
EUROPEAN UNION
- (Eurojust)
EUROPEAN UNION AGENCY FOR CRIMINAL JUSTICE COOPERATION
- (EUROPOL)
EUROPEAN UNION AGENCY FOR LAW ENFORCEMENT COOPERATION
- (EUROSAI)
EUROPEAN ORGANISATION OF SUPREME AUDIT INSTITUTIONS
- (GAWP)
GOVERNMENT ANNUAL WORK PLAN
- (GDP)
GROSS DOMESTIC PRODUCT
- (GRB)
GENDER-RESPONSIVE BUDGETING
- (GRECO)
GROUP OF STATES AGAINST CORRUPTION
- (GRNM)
GOVERNMENT OF THE REPUBLIC OF NORTH MACEDONIA
- (GS)
GENERAL SECRETARIAT
- (HPO's)
HIGHER PUBLIC PROSECUTOR'S OFFICES
- (ICC)
INTERNATIONAL COORDINATION COMMITTEE ON NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS
- (ICT)
INFORMATION AND COMMUNICATION TECHNOLOGY
- (IDSCS)
INSTITUTE FOR DEMOCRACY "SOCIETAS CIVILIS" – SKOPJE
- (IFAC)
INTERNATIONAL STANDARD FOR FINANCIAL INFORMATION

- (ILECU)
INTERNATIONAL LAW ENFORCEMENT COORDINATION UNIT
- (INTERPOL)
INTERNATIONAL CRIMINAL POLICE ORGANIZATION
- (INTOSAI)
INTERNATIONAL ORGANIZATION OF SUPREME AUDIT INSTITUTIONS
- (IPU)
INTER-PARLIAMENTARY UNION
- (IRECEE)
INTERNATIONAL RESEARCH EXPERIENCES IN CIVIL, CONSTRUCTION, AND ENVIRONMENTAL ENGINEERING
- (IRI)
INTERNATIONAL REPUBLICAN INSTITUTE
- (IRL)
INVESTIGATIVE REPORTING LAB
- (ISSAI)
INTERNATIONAL STANDARDS OF SUPREME AUDIT INSTITUTIONS
- (IT)
INFORMATION TECHNOLOGY
- (JBC)
JUDICIAL BUDGETARY COUNCIL
- (JC/JCRNM)
JUDICIAL COUNCIL/JUDICIAL COUNCIL OF THE REPUBLIC OF NORTH MACEDONIA
- (LAS)
LAW ON ADMINISTRATIVE SERVANTS
- (LCS)
LAW ON CIVIL SERVANTS
- (LEA)
LAW ENFORCEMENT AGENCY
- (LFPP)
LAW ON FINANCING OF POLITICAL PARTIES
- (LFAPI/LFAIPC)
LAW ON FREE ACCESS TO PUBLIC INFORMATION/LAW ON FREE ACCESS TO INFORMATION OF A PUBLIC CHARACTER
- (LGBTQ)
LESBIAN, GAY, BISEXUAL, AND TRANSGENDER
- (LLC)
LIMITED LIABILITY COMPANIES
- (LLP)
LAW ON PUBLIC PROCUREMENTS
- (LOOSAB)
LAW ON THE ORGANISATION AND OPERATION OF STATE ADMINISTRATION BODIES
- (LP)
LAW ON POLICE
- (LPC)
LAW ON THE PREVENTION OF CORRUPTION
- (LPCCI)
LAW ON PREVENTION OF CORRUPTION AND CONFLICT OF INTEREST
- (LPP)
LAW ON PUBLIC PROCUREMENTS
- (LPSE)
LAW ON PUBLIC SECTOR EMPLOYEES
- (LPW)
LAW ON THE PROTECTION OF WHISTLEBLOWERS
- (MAJ)
MACEDONIAN ASSOCIATION OF JOURNALISTS
- (MAN)
MACEDONIAN JOURNALISTS ASSOCIATION

- (MCIC/MCMS)
MACEDONIAN CENTER FOR INTERNATIONAL COOPERATION
- (MECs)
MUNICIPAL ELECTORAL COMMISSIONS
- (MF)
MINISTRY OF FINANCE
- (MIOA)
MINISTRY OF INFORMATION SOCIETY AND ADMINISTRATION
- (MISA)
MINISTRY OF INFORMATION SOCIETY AND ADMINISTRATION
- (MLA)
MUTUAL LEGAL ASSISTANCE
- (MoC)
MEMORANDUM FOR COOPERATION
- (MoI)
MINISTRY OF INTERIOR
- (MoJ)
MINISTRY OF JUSTICE
- (MoU)
MEMORANDUM OF UNDERSTANDING
- (MP)
MEMBER OF PARLIAMENT
- (MRT)
MACEDONIAN RADIO TELEVISION
- (MTV)
MACEDONIAN NATIONAL TV
- (NBRM)
NATIONAL BANK OF THE REPUBLIC OF MACEDONIA
- (NDI)
NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS
- (NGO)
NON-GOVERNMENTAL ORGANISATION
- (NHRI)
NATIONAL HUMAN RIGHTS INSTITUTIONS
- (NIS)
NATIONAL INTEGRITY SYSTEM
- (NPAA)
NATIONAL PROGRAM FOR ADOPTION OF THE ACQUIS
- (NPM)
NATIONAL PREVENTIVE MECHANISM
- (OBS)
OPEN BUDGET SURVEY
- (OCCRP)
ORGANIZED CRIME AND CORRUPTION REPORTING PROJECT
- (ODIHR)
OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS
- (OECD)
ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT
- (OGP)
OPEN GOVERNMENT PARTNERSHIP
- (OSF)
OPEN SOCIETY FOUNDATION
- (OSCE)
ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE
- (PAR)
PUBLIC ADMINISTRATION REFORM

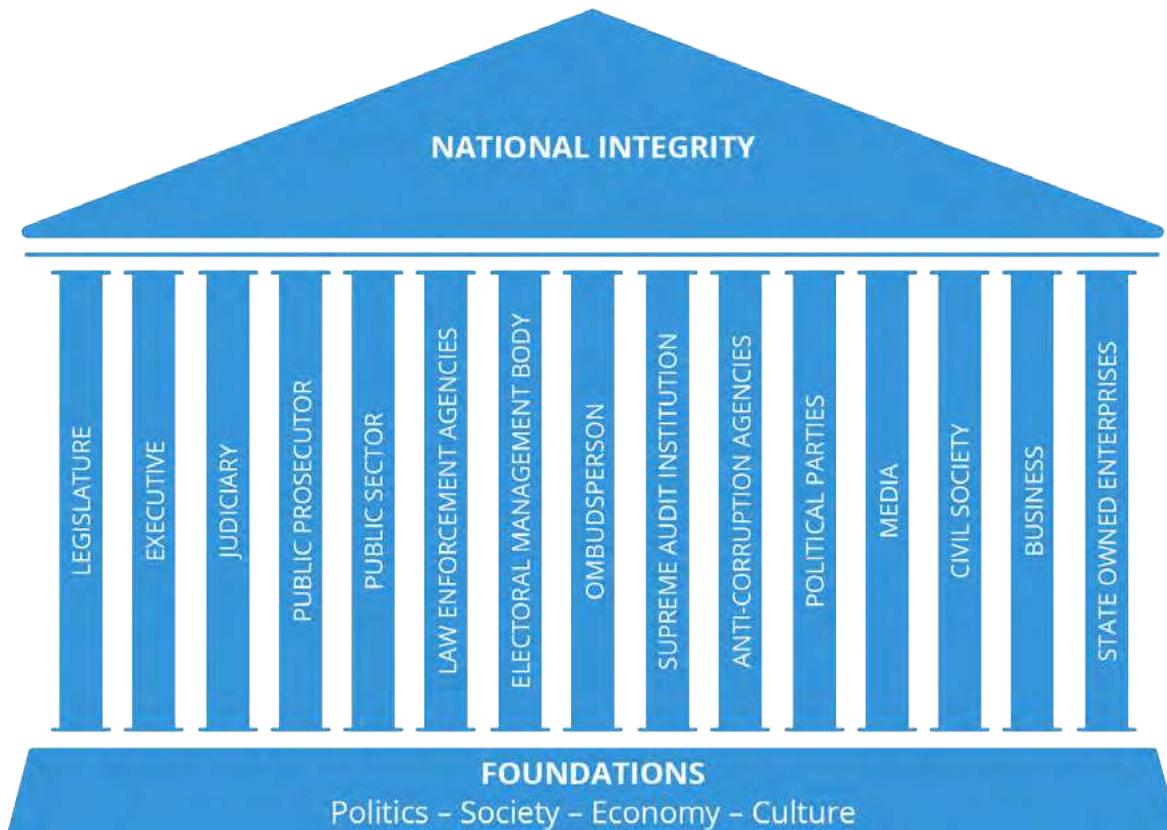
- (PCC)
POLICE COOPERATION CONVENTION
- (PIFC)
PUBLIC INTERNAL FINANCIAL CONTROL
- (POE)
PUBLICLY-OWNED ENTERPRISE
- (PP)
PUBLIC PROSECUTOR
- (PPO)
PUBLIC PROSECUTOR'S OFFICE
- (PRO)
PUBLIC REVENUE OFFICE
- (PSP)
PARLIAMENTARY SUPPORT PROGRAM
- (RCC)
REGIONAL COOPERATION COUNCIL
- (RIA)
REGULATORY IMPACT ASSESSMENTS
- (RNM)
REPUBLIC OF NORTH MACEDONIA
- (SAI)
STATE AUDIT INSTITUTION
- (SAL)
STATE AUDIT LAW
- (SAO)
STATE AUDIT OFFICE
- (SCFAPI)
COMMISSION FOR FREE ACCESS TO
PUBLIC INFORMATION
- (SCOOP)
SUPPORTING INVESTIGATIVE JOURNALISM
- (SCPC)
STATE COMMISSION FOR THE PREVENTION OF
CORRUPTION
- (SDSM)
SOCIJALDEMOKRATSKI
SOJUZ NA MAKEDONIJA
- (SEEPAG)
SOUTHEAST EUROPEAN PROSECUTORS
ADVISORY GROUP
- (SEC)
STATE ELECTORAL COMMISSION
- (TI)
TRANSPARENCY INTERNATIONAL

INTRODUCTION

The National Integrity System (NIS) comprises the principal governance institutions in a country responsible for the fight against corruption. When these governance institutions function correctly, they constitute a healthy and robust national integrity system, effective in combating corruption as part of the larger struggle against the abuse of power, misconduct and misappropriation in all its forms. However, when these institutions are characterised by a lack of appropriate regulations and by unaccountable behaviour, corruption is likely to thrive, with adverse ripple effects on the societal goals of equitable growth, sustainable development and social cohesion. Therefore, strengthening the NIS promotes better governance in a country and contributes to a more just society overall.

Transparency International developed the NIS as part of its holistic approach to combating corruption. While there is no absolute blueprint for an effective anti-corruption system, there is a growing international consensus on the salient aspects that work best to prevent corruption and promote integrity. The NIS assessment evaluates the legal basis and the actual performance of institutions relevant to the overall anti-corruption system. The NIS comprises the institutions or “pillars” depicted in Figure 1, which are based on a number of foundations in terms of political, social, economic and cultural conditions.

Figure 1: Pillars of a National Integrity System



The NIS is based on a holistic approach to preventing corruption since it looks at the entire range of relevant institutions and focuses on the relationships among them. Thus, the NIS presupposes that a lack of integrity in a single institution would lead to severe flaws in the entire integrity system. Consequently, the NIS assessment

does not seek to offer an in-depth evaluation of each pillar but rather puts an emphasis on covering all relevant pillars and assessing their inter-linkages.

Transparency International believes that such a holistic “system analysis” is necessary to appropriately diagnose corruption risks and develop effective strategies to counter those risks. This analysis is embedded in a participatory approach, involving the key anti-corruption agents in government, civil society, the business community and other relevant sectors to build momentum, political will and civic pressure for relevant reform initiatives.

The NIS assessment creates a sound empirical basis that adds to our understanding of strong or weak performers at a cross-country level. In addition, from a regional perspective, the results can create a sense of peer pressure for reform and an opportunity for learning from those countries in similar stages of development.

In this most recent NIS assessment, Transparency International Macedonia introduced an additional step and to look at the cost and benefits of international funding and technical assistance and their effect on improved scores in the NIS assessment between 2016 and 2023. This assessment is then based on the existing analysis from the 2016¹ and this one from 2023 plus additional publicly available data for international technical assistance.² The data included a sample of completed and ongoing projects, financed by international donors that have been implemented in the Republic of North Macedonia. The sample has been restricted to projects starting in or after 2016 to allow for a direct comparison between total funding and NIS score progress since the previous report in 2016 (see Annex 1).

¹ National Integrity System Assessment Macedonia, May 2016 nis_eng.pdf (transparency.mk)

² Such as https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/overview-instrument-pre-accession-assistance/north-macedonia-financial-assistance-under-ipa_en

EXECUTIVE SUMMARY

This report constitutes the third national integrity system (NIS) assessment for the Republic of North Macedonia, following previous evaluations in 2002,³ and 2016.⁴ At the time of the latter report, North Macedonia was at a critical juncture. A series of scandals alleging that the executive had illegally wiretapped more than 20,000 telephone numbers⁵ of political and state actors across North Macedonia revealed, according to EU Commissioner Johannes Hahn, “serious concerns about political interference and high-level corruption” and tipped the country into a crisis in 2015. The 2015 EC progress report noted that “no progress has been achieved in the past year on the outstanding issues identified. Corruption remains widespread”.⁶ The report also stated that a lack of political will, together with political interference in the work of the relevant bodies, undermined the capacity to effectively address corruption and hampered the ability of institutions to act proactively and non-selectively, especially in high-level cases.⁷ After the 2015 scandal, the European Commission (DG Neighbourhood Policy and Enlargement Negotiations) recruited a group of independent, senior rule of law experts to conduct a rapid analysis of the situation and provide recommendations to address these issues.⁸ As a result, a political agreement was signed,⁹ and the special prosecutor’s office was established.¹⁰ However, after the change of the government, the conclusion of the Second Priebe Report (Second SGE’s Report)¹¹ two years later indicated “the failure to implement most of the recommendations is a cause for serious concern”.¹² In 2017, the reports indicated state capture by analysing the specifics of the state¹³ and corruption related cases.¹⁴ This third NIS assessment had a challenge to establish if there had been any progress five years after the change of government.

³ Transparency International Macedonia. 2002. “National Integrity System of Republic of Macedonia: Country Study Report”, September 2002

⁴ National integrity system assessment Macedonia. May 2016 nis_eng.pdf (transparency.mk)

⁵ In February 2015, the opposition leader Zoran Zaev released a series of audio excerpts – which he called “bombs” – from 670,000 secretly recorded conversations of more than 20,000 telephone numbers

⁶ EC. 2015. Progress Report of the Republic of Macedonia. p.15,

http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_the_former_yugoslav_republic_of_macedonia.pdf

⁷ Ibid

⁸ The Former Yugoslav Republic of Macedonia: Recommendations of the senior experts’ group on systemic rule of law issues relating to the communications interception revealed in Spring 2015

⁹ Following the Priebe Report, May 2015, the three largest political parties signed the Pržino Agreement

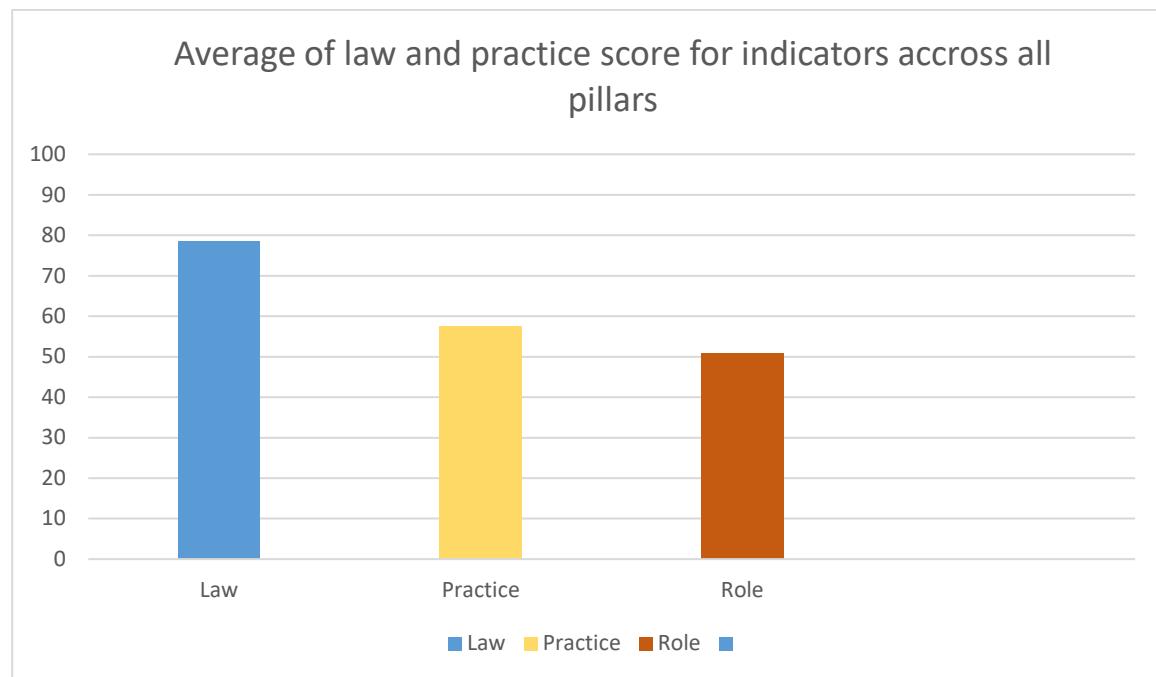
¹⁰ Parliament established the Special Public Prosecutor’s Office (SPO) in September 2015 with a special Law, 3 Law on Public Prosecutor’s Office for Prosecuting Cases Related to and Arising from the Content of the Unauthorized Interception of Communications. Official Gazette of the RM, No 159/15 No.196/2015

¹¹ Brussels, 14 September 2017 The Former Yugoslav Republic of Macedonia: Assessment and recommendations of the senior experts’ group on systemic rule of law issues 2017 (Second Priebe Report) 2017.09.14_seg_report_on_systemic_rol_issues_for_publication.pdf (europa.eu)

¹² Ibid

¹³ Katerina Kolozova. 2017. Short Policy Essay the Specificity of the Macedonian Example of “State Capture”: Ruminations following the Second Priebe Report 27. Institute of Social Sciences and Humanities – Skopje September 2017, (13) the Specificity of the Macedonian Example of “State Capture”: Ruminations Following the Second Priebe Report | Katerina Kolozova - Academia.Edu

¹⁴ Dr. Slagjana Taseva. Examining State Capture: Undue Influence on Law-Making and the Judiciary in the Western Balkans and Turkey examining_state_capture.pdf (transparency.mk)



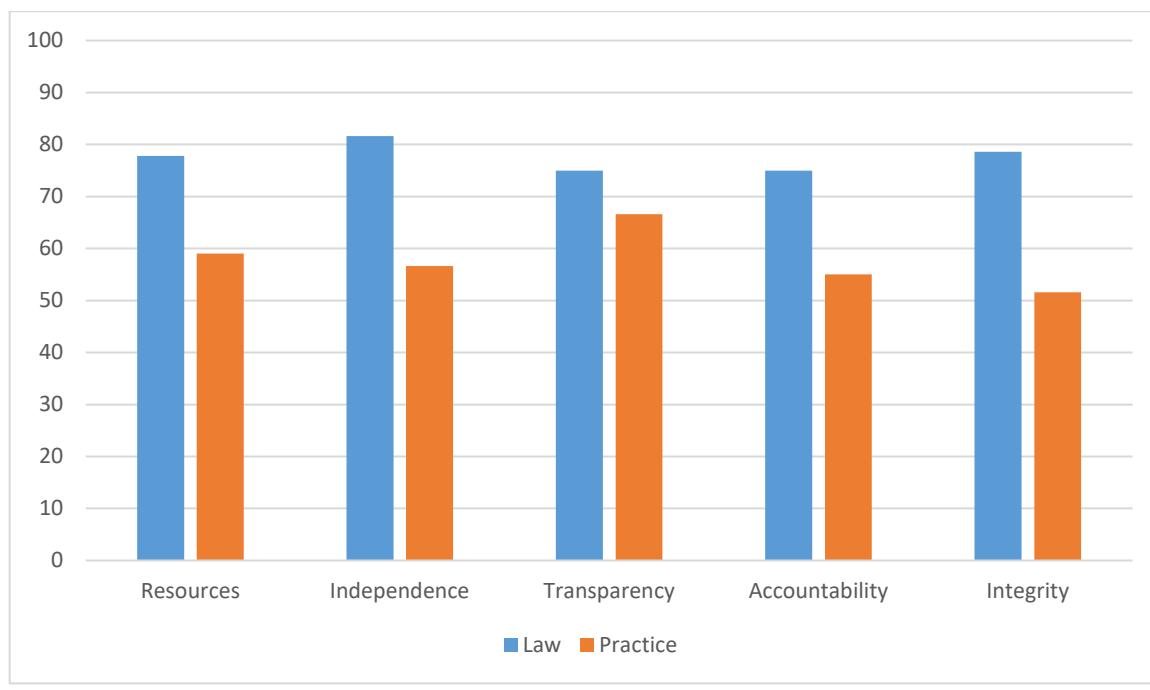
The assessment was conducted between January 2022 and December 2023. In general, there was no significant change. The Macedonian national integrity system continues to be characterised by the dominance of the executive branch and the weakness of other key institutions. The executive and the legislature are particularly strong in terms of their capacity but weak on anti-corruption and the need to improve their internal governance. The State Audit Office is the stand out institution, with a very high overall score of 86, a score of 92 for governance and 83 in the fight against corruption. This is followed by other two independent institutions, the State Commission for the Prevention of Corruption (SCPC), with an overall score of 72.9, which is mainly based on a high score of 83.3 for governance. The newly selected commissioners and president of the SCPC managed to obtain additional resources for the institution, but there could have been better cooperation from other government bodies that, in the majority of the cases, were not responsive to SCPC initiatives and who did not address the activities indicated in the national strategy for the prevention of corruption that remains at only 10 per cent implementation. The third high-scoring pillar is the ombudsman office, with an average score of 70.84.

The executive continues to be highly independent, although indicators demonstrate that the executive's internal governance structures, which ought to promote transparency, accountability and integrity, are very weak. The executive has been dominant in legislating as the majority of the adopted laws have been sent to the Assembly by the government, half of the laws were passed in fast-track procedures, avoiding public debates and discussion in the Assembly. Also, the Assembly has been exposed to blocks due to the opposition's refusal to participate in discussions to amend the constitution to change of the name of the country and for accession to the EU. The political parties have the same average score (60.42) as the Assembly. Political parties are weakest in anti-corruption and in their accountability when it comes to political financing. The assessment found the need for to strengthen the legal framework related to the financing political parties and the role of the oversight bodies.

The weakest pillars in the Macedonian integrity system are the ones that are expected to be the leading institutions. The role of the public prosecutor's office (PPO) in the fight against corruption was assessed with a score of 25. It remains the bottleneck in the whole anti-corruption system, which is coupled with the very low score for the law enforcement representative, the Ministry of Interior, which has score of 25 for its role but 75 for capacity and governance. This is because, in the Macedonian criminal law system, the PPO leads pre-investigation and investigation, and decides on the cases that will be indicted.

Another very important pillar is the judiciary. Its average score is lower than the other two branches of power (legislature and executive), with only 50.68, and the second lowest score (after the PPO) with only 33.3 for its role

in the fight against corruption. Both the judiciary and the PPO have weak governance scores (50 and 41.7). The difference of 11 points in the average scores of the judiciary and the PPO is mainly due to better capacity in the judiciary. However, the fact that only 4 per cent of citizens have stated they trust the judiciary, and the fact that a significant amount of international funding has been directed to strengthen capacity in PPO has again demonstrated that personal integrity is much more important than resources.



The business sector has no role in anti-corruption despite its solid governance structure and capacity. Two other sectors assessed that are not branches of power are the media, with an average score of 58.98 and civil society organisations (CSOs) with an average score of 62.5. The capacity of the CSOs is 75, while the capacity of the media scored 56.25. In addition, international funding for the media has been very limited compared to CSOs, a sector that has received similar support to that of the PPO, which is the pillar third-most supported by international funds. This may be why the media scores significantly lower in the fight against corruption (41.6) than CSOs (62.5), while the latter have a significantly lower score of 50 for governance while the media scores 79.1. In general, the role and independence of the media is dependant on financing.

Both the Corruption Perception Index published by Transparency International¹⁵ and the 2023 European Commission progress report for North Macedonia¹⁶ indicate that additional efforts are needed to fight corruption and that the institutions are still insufficiently prepared to respond effectively to the challenges that this fight brings.

The newly introduced gender indicators in this NIS assessment have shown that, in spite of the legal framework that guarantees gender equality in the country¹⁷ (such as the national strategy that defines the strategic priorities of the state in terms of gender equality plus the establishment of equal opportunities and other laws and

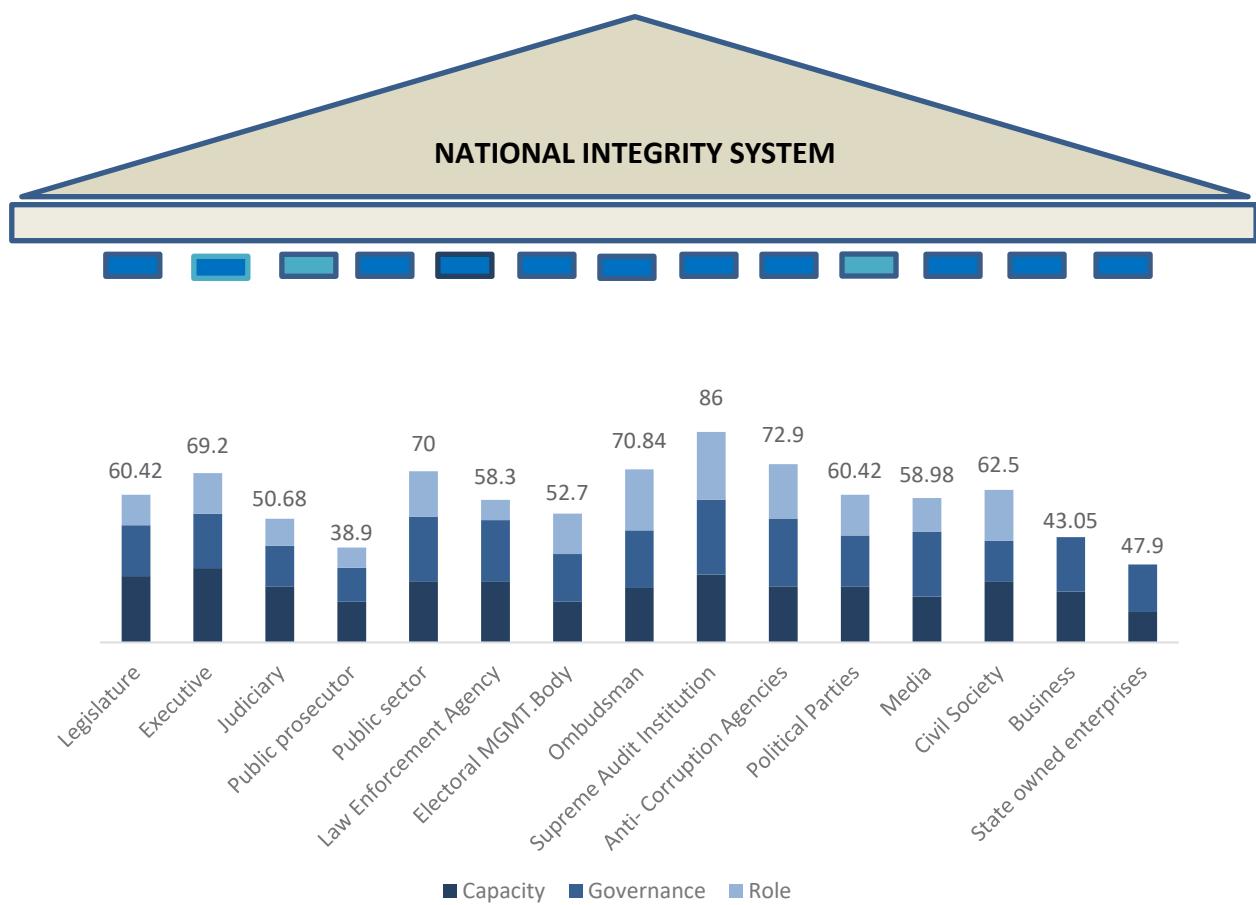
¹⁵ Corruption Perception Index North Macedonia. 2022. <https://www.transparency.org/en/countries/north-macedonia> and <https://transparency.mk/?s=%D0%B8%D0%BF%D0%BA&lang=mk>

¹⁶ European Commission. 2023. Progress Report of North Macedonia 2023 https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf

¹⁷ After the first national strategy for gender equality 2013-2020 Official V. of R.M. no: 27/2013 of 22 February 2013. In 2022, the Assembly of the RSM adopted the second national strategy for gender equality 2022-2027, Official Gazette of RM no. 170/2020

regulations^{18, 19}), complaint mechanisms in the public sector and informing mechanisms in independent oversight bodies and law enforcement are not gender-sensitive, meaning that this area needs addressing and improvement.

National Integrity System - North Macedonia



* Scores of the Pillars of the National Integrity System

¹⁸ Law on Equal Opportunities for Women and Men. Official Gazette of RM, No. 6/12, 30/13, 166/14 and 150/15 and Official Gazette of RM No. 53/21

¹⁹ Law on Prevention and Protection from Discrimination, Official Gazette of RSM No. 258/2020, Law on Labour Relations, the Law on Budgets

COUNTRY PROFILE

FOUNDATIONS OF THE NATIONAL INTEGRITY SYSTEM

1. GOVERNANCE & POLITICS

North Macedonia is a parliamentary representative democratic republic, as established by the constitution,²⁰ which is the highest piece of legislation in the country. The country operates on a multi-party system, with the prime minister serving as the head of government. The system is composed of executive, legislative, and judicial powers. The country's executive body is the government, composed of the Prime Minister, four deputy prime ministers and 16 ministers. A majority vote of all Assembly members elects the government. Ministers cannot be representatives in the Assembly. The president represents the republic and is the commander in chief of its armed forces. The president is elected at general and free elections using a modified two-round system for a term of five years. The president appoints the prime minister, whose appointment is subject to approval by the Assembly. Legislative power is vested in the Assembly, composed of 120 MPs elected in general and free elections with a mandate of four years. According to the Law of Courts,²¹ the judiciary's power is distributed among several courts, including the basic courts, the courts of appeal, the administrative court, the higher administrative court and the Supreme Court. Additionally, the constitutional court protects the constitutionality and legality of the republic.²²

The current government is composed of SDSM (Social Democratic Union of Macedonia), DUI (Democratic Union for Integration) and the Alliance for Albanians and is supported by several smaller political parties. This ruling coalition was supported by 65 MPs out of 120 in March 2023.²³

The parliament is composed of 120 MPs from 23 political parties.²⁴

The constitution separates the three branches of power to uphold the rule of law. However, the rule of law is still to be achieved as it is a fundamental for the EU integration process. Recently, the 2023 WJP Rule of Law Index placed North Macedonia 67 out of 142 countries, reflecting no change in score but four positions lower in rank compared to the previous year.²⁵ The legislative and policy framework is satisfactory, but its implementation requires improvement. Moreover, amendments to the criminal code²⁶ have increased impunity for officials, hampering the fight against corruption and the rule of law.

The Office for Democratic Institutions and Human Rights (OIDHR) report for the 2019 presidential recommended²⁷ a comprehensive review of legislation on the electoral process to address existing inconsistencies and further align the system with European and international standards.²⁸ The current electoral system with six constituencies favours larger political parties, and there is an ongoing debate about having a single constituency, but no solution

²⁰ Constitution of the Republic of North Macedonia,

https://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia-ns_article-constitution-of-the-republic-of-north-macedonia.nspx

²¹ Law on Courts, Official Gazette of the RM, Nos. 58/2006, 62/2006, 35/2008, 150/2010, 83/2018 and 198/2018.

https://vlada.mk/sites/default/files/dokumenti/zakoni/law_on_courts.pdf

²² Constitution of the Republic of North Macedonia, Article 108.

https://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia-ns_article-constitution-of-the-republic-of-north-macedonia.nspx

²³ EC. 2023. Progress Report for North Macedonia for 2023: https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf, p. 12

²⁴ Parliamentary composition 2020 - 2024: <https://www.sobranie.mk/politicki-partii.nspx>

²⁵ World Justice Project. 2023. WJP Rule of Law Index, <https://worldjusticeproject.org/rule-of-law-index/country/2023/North%20Macedonia>

²⁶ 360 Degrees, ""Official Gazette" published the changes in the Criminal Code", <https://360stepeni.mk/sluzhben-vesnik-gi-objavi-izmenite-vo-krivichniot-zakonik/>, Accessed November 2023

²⁷ Republic of North Macedonia Presidential Election, 21 April and 5 May 2019 ODIHR Election Observation Mission Final Report PDF p. 6 428369_1.pdf (osce.org)

²⁸ Commission Staff Working Document, North Macedonia 2023 Report PDF, p.10 https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf

has been reached.²⁹ In general, the law-making process is inefficient due to a lack of coordination between the ruling coalition and the opposition. From January 2022 to 15 June 2023, out of 165 laws adopted, 51 were adopted by regular procedure, 86 under shortened procedure and 28 concerned ratification.³⁰ Coalition governments are weak, and government offices are distributed among coalition partners. Therefore, the efforts to combat nepotism and politicisation in the public sector have yet to progress.³¹ There is an ongoing blockade of the government in discussions to adopt necessary legislative framework such as the Law on Administrative Servants, the Law on Public Sector Employees and amended provisions in the Law on Top-Level Management that should improve human resource management across the administration and help ensure merit-based recruitment, promotion and dismissals at all levels, including at senior management.³²

With regards to the rule of law, no progress was made in strengthening judicial independence, protecting fundamental rights or fighting corruption. High-level corruption trials have been delayed and many have expired due to the statute of limitations. An amendment to the criminal code, conducted under the fast procedure and by using the EU flag (which is the irregular procedure without the public debate, reduced penalties for corruption and halted high-profile cases, including those under that were under investigation by the special prosecutor's office (SPO) jurisdiction. Consequently, the authorities' capacity to investigate and prosecute high-level corruption and organised crime has been significantly hampered.³³

2. Society & Culture

The human and civil rights framework aligns with international and European standards. Citizens can file cases in various courts, depending on the type of case, and if all legal options are exhausted, they can appeal to the European Court of Human Rights. The legal framework is well-established and needs effective implementation. Efforts have been made to prevent violence against women and promote gender equality. Although, more work is needed to enforce legislation on hate speech and the national action plan for the Istanbul Convention's provisions.³⁴ The ombuds office remains the primary body for promoting and enforcing human rights. The rights of minority groups have been upheld, although the Roma community is still marginalised. The advisory committee of the Council of Europe's Framework Convention for the Protection of National Minorities reports progress in aligning policies for national minority rights. Practical implementation needs improvement.³⁵

The institutions are effectively cooperating with CSOs and the media. However, there is still room for improvement as, in the last two years, the collaboration between CSOs and the government has not been at its highest level.³⁶ Existing legal and financial frameworks do not provide consistent mechanisms for awarding public funding to CSOs, and the council for cooperation between the government and civil society has not been operational.³⁷ The media is often influenced by politics and business, but online independent outlets still exist. However, journalists face attacks and threats.³⁸

²⁹ May 10, 2023 Vladimir Kalinski, <https://www.slobodnaevropa.mk/a/реформа-на-изборниот-модел---реалност-или-празни-ветувања-32404563.html>

³⁰ Commission Staff Working Document, North Macedonia 2023 Report PDF, p.11 https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf

³¹ Commission Staff Working Document, North Macedonia 2023 Report PDF, p.4 https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf

³² Ibid p.4

³³ EC. 2023. Progress Report of North Macedonia 2023 https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf

³⁴ EC. 2023. Progress Report of North Macedonia 2022, pp.6-7. <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022.pdf>

³⁵ Council of Europe, MEDIA RELEASE, Communications, Ref. DC 176(2022)

https://search.coe.int/directorate_of_communications/Pages/result_details.aspx?ObjectId=090001680a828f6#globalcontainer [accessed 22 September 2023].

³⁶ Radio Free Europe, октомври 23, 2023, Михаило Донев <https://www.slobodnaevropa.mk/a/vladata-i-nevladinite-vo-klinch---sorabotka-na-stakleni-noze-/32638283.html>

³⁷ Commission Staff Working Document, North Macedonia 2023 Report PDF, p.5, https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf

³⁸ Ibid p.7

Trust in institutions is very low. Over 70 per cent of citizens distrust the public prosecution, courts/judiciary, SCPC, parliament and the government.³⁹ In addition, the number of citizens who believe that the rule of law does not exist in the country continually increases, and the percentage of those who believe that democracy is the best possible form of government for the country decreases.⁴⁰

3. Economy

Despite COVID-19, the country's economy largely recovered in 2021 due to fiscal support measures and increased tax revenue. The fiscal deficit has fallen to 5.4 per cent of GDP and debt levels have stabilised. Early 2022 saw a rise in food and energy prices, prompting the government to take new fiscal measures to mitigate the negative economic impact. However, the measures could have been better targeted.⁴¹

With this inflation, the country's poverty level also increased. According to recent surveys, the three major issues that Macedonian citizens face are high prices, poverty/low standard of living and the economic situation. Unfortunately, there is a general lack of trust that these problems will improve in the next two years. Over 90 per cent of the population is dissatisfied with their quality of life.⁴²

Several sectors with a high risk for corruption are crucial to the economy, such as construction and energy. Construction stimulates the national economy through job creation, income and output across various sectors, contributing to around a 5 per cent increase in GDP. The energy crises highlighted the need for a coherent and coordinated energy policy. The government should increase administrative capacity for energy policy, planning and investment.⁴³

CORRUPTION & ANTI-CORRUPTION

Main Corruption Issues

Citizens distrust institutions and are often reluctant to report illegal or corrupt activity. The 2022 Transparency International Corruption Perception Index,⁴⁴ ranks the country at 85th position, scoring 40. However, there has been a slight improvement in the ranking compared to previous years, such as in 2020 when the country was ranked 111th with a score of 35.⁴⁵ The Corruption Perceptions Index for 2022 indicates that, among the countries in the region, Albania has made the greatest progress in the ranking, and Serbia has had the highest drop of points and ranking. Kosovo and North Macedonia are the best ranked with 41 and 40 points respectively, and are in 84th and 85th places.⁴⁶

³⁹ National Poll Of North Macedonia. September – October 2022 PDF <https://www.iri.org/resources/national-poll-of-north-macedonia-september-october-2022/>, p.24

⁴⁰ International Republican Institute, <https://www.iri.org/resources/national-poll-of-north-macedonia-september-october-2022/>

⁴¹ EC. 2022. Progress Report of North Macedonia 2022, p.7. <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022.pdf>

⁴² IRI North Macedonia Poll Finds Dissatisfaction with Country's Direction, Support for EU Membership, Increase in Positive Perceptions of Turkey and China, December 19, 2022: <https://www.iri.org/news/iri-north-macedonia-poll-finds-dissatisfaction-with-countrys-direction-support-for-eu-membership-increase-in-positive-perceptions-of-turkey-and-china/>

⁴³ EC. 2023. Progress Report of North Macedonia 2023, p.104. https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf

⁴⁴ Transparency International. 2022. Corruption Perceptions Index 2022 (Berlin: Transparency International, 2022) <https://www.transparency.org/en/cpi/2022/index/mkd>

⁴⁵ Transparency International. 2022. Corruption Perceptions Index 2022 (Berlin: Transparency International, 2022) <https://www.transparency.org/en/cpi/2022/index/mkd>

⁴⁶ Transparency International. 2022. Corruption Perceptions Index 2022 (Berlin: Transparency International, 2022) <https://www.transparency.org/en/cpi/2022/index/mkd>

Non-compliance with employment laws is one of the main problems in the public sector as it enables various forms of influence, such as political party influence, nepotism, cronyism and clientelism.⁴⁷ Party and family connections often influence appointments in the judiciary; for example, the daughter-in-law and wife of the head of the public prosecution for organised crime were recently hired.⁴⁸ Also, in 2023, the president of the Assembly's son acquired a diploma under questionable circumstances, only to be employed as a prosecutor immediately after completing training at the academy for judges and prosecutors.⁴⁹

Several areas in the social system pose a high risk of corruption, with public procurement and public sector employment being particularly risky. Public procurement is one of the areas most vulnerable to corruption. The state generally spends approximately 32 per cent of the state budget on public procurement.⁵⁰ Almost half of the companies believe there is corruption in public procurement. According to a study by the Center for Citizens Communication the most common corruption scheme is favoring of companies due to political, party and personal relationships and the second is bribery.⁵¹

Public sector employment is linked to government spending, affecting public services, integrity, policies and society. It has been noted repeatedly that politics strongly influence employment in state administration and the public sector. Fixed-term and temporary service contracts are often used with lower criteria, avoiding the Law on Administrative Servants. The legislation allows for longer term employment in the public sector through temporary service contracts, copyright agencies or agencies for temporary employment. This enables political party influence on employment, nepotism and other forms of corrupt behaviour.⁵²

There are vague regulations and institutional settings in the public system that become sources of corruption and the implementation of these regulations needs to be more effective. For example, the SCPC's planned activities for the past two years have mainly remained unfulfilled, with an 80 per cent failure rate in 2021 and an anticipated 90 per cent failure rate in 2022.⁵³ International reports highlight the need to strengthen and increase support for the SCPC to implement the national strategy for the prevention of corruption.⁵⁴

Anti-Corruption Legal Framework

The country has ratified all relevant anti-corruption conventions, including the United Nations Convention against Corruption (UNCAC), the Council of Europe's criminal and civil law conventions on corruption, the United Nations Convention against Transnational Organized Crime and the Protocols.

Various legal acts formulate a domestic anti-corruption framework. The constitution, the highest legal act of the state, serves as the starting point,⁵⁵ followed by legal regulations and ethical codes. Additionally, strategic and action documents prevent corruption and conflict of interest.⁵⁶ These measures provide effective ways to tackle corruption and promote transparency. These acts define prohibited conduct, principles, guidelines and recommendations for transparency, legality and impartiality in official duties.

⁴⁷ SCPC. 2020. National Strategy for the Prevention of Corruption and Conflict of Interests 2021 - 2025: p.11 https://dksk.mk/wp-content/uploads/2021/09/NACS-2021_25-and-Action-Plan-EN-final.pdf

⁴⁸ Fokus, "Stoilkovski: The daughter-in-law of Islam Abazi, employed by Artan Grubi, is now in AEK", <https://fokus.mk/stoilkovski-snaata-na-islam-abazi-vrabotena-kaj-artan-grubi-sega-e-vo-aeik/>, Accessed November 2023

⁴⁹ Fokus, "Talat Xhaferi's passed the bar exam during the time of DUI's Minister Jashari- the documents are missing", <https://fokus.mk/sinot-na-talat-dhaferi-polozhil-pravosuden-vo-vreme-na-ministerot-jashari-od-dui-dokumentite-gi-nema/>, Accessed November 2023

⁵⁰ Annual report of the Public Procurement Bureau PDF, page 64 https://www.bjn.gov.mk/wp-content/uploads/2023/05/Godisen-izvestaj-2021_final.pdf <https://www.bjn.gov.mk/category/godishni-izveshtai>

⁵¹ Center for Citizens Communication. 2023: Monitoring of Public Procurements for the Period from January until December 2022, p.39: <https://www.ccc.org.mk/images/stories/38mk.pdf>

⁵² SCPC. 2020. National Strategy for Prevention of Corruption and Conflict of Interests 2021- 2025: p.22 <https://dksk.mk/wp-content/uploads/2021/01/Nacionalna-strategija-DKSK-KONECNA.pdf>

⁵³ EC. 2023. Progress Report of North Macedonia 2023, p.26, https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf

⁵⁴ Ibid p.21

⁵⁵ Constitution of Republic of North Macedonia: <https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>

⁵⁶ Law on the Prevention of Corruption and Conflict of Interests, Office Gazette of RM, number 12/2019: <https://dksk.mk/wp-content/uploads/2020/12/Закон-за-спречување-на-корупцијата-и-судирот-на-интереси.pdf>

The Law on the Prevention of Corruption and Conflict of Interest⁵⁷ is the most notable act that defines corruption and outlines measures to prevent it. The law addresses the prevention of conflicts of interest and corruption in the performance of public works by legal entities related to the realisation of public powers. The SCPC is an independent institution whose functioning is regulated by the Law for the Prevention of Corruption and Conflict of Interest and it is the institution responsible for the implementation of the law. The SCPC has seven members, with one serving as president. The commission is supported by the secretariat, led by the general secretary.

The Law on the Protection of Whistleblowers⁵⁸ outlines the system and procedures for the whistleblower reporting. As one of the first such laws in the region, adopted in 2016, it covers the internal and external reporting of any reasonable suspicion or knowledge of criminal, illegal or impermissible conduct that endangers the public interest. Thus, after the adoption of the EU whistleblowing directive⁵⁹ and some experience with implementation, the 2023 EC progress report on North Macedonia reiterates the need for the law to be aligned with the EU acquis. This includes providing for civil, criminal and administrative liability of an official who recommended or participated in retaliation and reversing the burden of proof.⁶⁰

The Law on Financing of Political Parties⁶¹ focuses on how financial means can be provided to political parties, how these should be spent, reported, controlled and be published.

Meanwhile, the Law on Free Access to Public Information allows citizens to access information on the public financing of political parties.⁶² In June 2021, the new Law on Lobbying⁶³ was enacted, which expanded the competencies of the SCPC. This includes keeping a register of lobbyists and lobbying organisations, and became operational in June 2022.⁶⁴

The 2021 – 2025 national strategy for prevention of corruption and conflict of interests⁶⁵ is a detailed document created by SCPC and adopted by the Assembly that lays out the fundamental principles of a reform plan to eradicate corruption and outlines specific obligations that various institutions must fulfil. However, despite the fact that the strategy was adopted by the Assembly, the main problem is its implementation.

Cooperation is one of the prerogatives for an effective fight against corruption. Therefore, in 2022, to establish better cooperation with other agencies, the SCPC initiated and signed memoranda of understanding with the Ministry of the Interior⁶⁶ the State Audit Office and other institutions.⁶⁷ A similar memorandum was signed in

⁵⁷ Law on Prevention of Corruption and Conflict of Interest <https://dksk.mk/wp-content/uploads/2021/04/LAW-ON-PREVENTION-OF-CORRUPTION-AND-CONFLICT-OF-INTERESTS.pdf>

⁵⁸ Law on the Protection of Whistleblowers, Official Gazette of RM, no.196/2015 <https://dksk.mk/wp-content/uploads/2020/11/Закон-за-заштита-на-укајувачите-2016-година.pdf>

⁵⁹ EU. 2019. Directive 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32019L1937>

⁶⁰ EC. 2023. Progress Report of North Macedonia 2023, p.25. https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf

⁶¹ The Law on Financing of Political Parties Official Gazette of RM, No. 74/04, 86/08, 161/08, 96/09, 148/11, 142/12, 23/13 and 140/18) and Official Gazette of RM No. 294/20

⁶² Law on Free Access to Public Information

<https://aspi.mk/wp-content/uploads/2021/02/Law-on-free-access-to-public-information.pdf>

⁶³ Law on Lobbying https://dksk.mk/wp-content/uploads/2022/02/Adopted-Law-on-Lobbying_en.pdf

⁶⁴ EC. 2023. Progress Report of North Macedonia 2022, p.24. <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022.pdf>

⁶⁵ SCPC. 2022. 2021 Annual Report for the Implementation of the National Strategy for Prevention of Corruption and Conflict of Interests 2021 - 2025: <https://dksk.mk/wp-content/uploads/2022/03/Godisen-izvestaj-za-sproveduvanje-na-NS-vo-2021.pdf>

⁶⁶ The president of the SCPC, Biljana Ivanovska, and the minister of internal affairs, Oliver Spasovski, signed an agreement on cooperation and exchange of data in electronic form and a memorandum for the improvement of the whistleblower protection system as an effective tool in the fight against corruption: <https://dksk.mk/mk/претседателката-на-дкск-билијана-иван/?hlite=внатрешни>

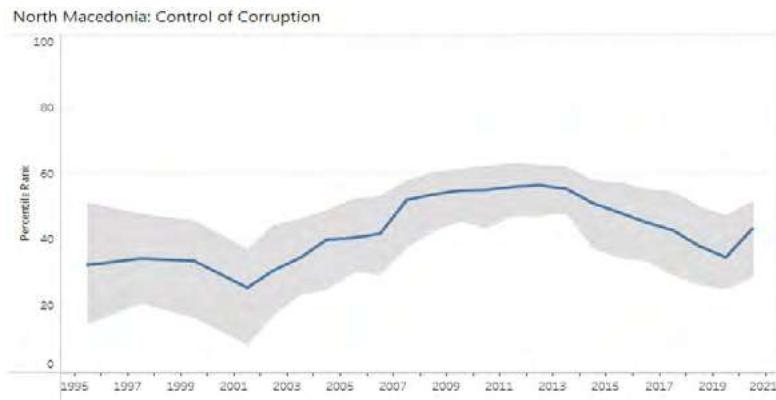
⁶⁷ SAO. 2021. SAO, SCPC and KIBS signed a memorandum of cooperation: <https://dzc.mk/mk/210923-dzc-dksk-i-kibs-potpisahamemorandum-za-sorabotka>; SAO, SCPC and SEC signed a memorandum of cooperation (2019): https://www.youtube.com/watch?v=KkzK1K_-2u4

February 2023 with the Public Prosecutor Office,⁶⁸ with the Ministry of the Interior⁶⁹ in 2022 and the State Audit Office and other institutions.⁷⁰

Anti-Corruption Work in the Country

The government has taken some notable steps to fight corruption, but more efforts are needed. The 2023 EC progress report concluded that: “The country is in between some and moderate level of preparation in the prevention and fight against corruption. No progress was made. Corruption remains prevalent in many areas and is an issue of concern”.⁷¹

The progress made in anti-corruption has been constantly hindered by inefficient follow-ups on ongoing cases and a lack of integrity in the appointment of key figures in the judiciary. To demonstrate a genuine commitment to fighting corruption and ensuring accountability, the government must allocate adequate resources and grant independence to the SCPC and other institutions responsible for investigating corruption and organised crime.



*The solid blue line shows the selected country's percentile rank on each of the six aggregate indicators. The grey-shaded region indicates the margin of error.

It is not uncommon for government officials to misuse their power for personal interest. Following the World Bank's Worldwide Governance Indicators,⁷² the country's percentile rank for Control of Corruption is 43.27. Control of corruption measures the extent to which public power is used for private gain, including petty and grand corruption and "capture" of the state by elites and private interests.

⁶⁸ The State Commission for the Prevention of Corruption and the Public Prosecutor's Office of the Republic of North Macedonia signed a memorandum of cooperation. <https://dksk.mk/потпишан-меморандум-за-соработка-со-и/>

⁶⁹ The President of the SCPC, Ms. Biljana Ivanovska, and the Minister of Internal Affairs, Mr. Oliver Spasovski, signed an Agreement on cooperation and exchange of data in electronic form and a Memorandum for the improvement of the whistleblower protection system, as an effective tool in the fight against corruption:

effective tool in the fight against corruption: <https://dksk.mk/mk/%d0%bf%d1%80%d0%b5%d1%82%d1%81%d0%b5%d0%b4%d0%b0%d1%82%d0%b5%d0%bb%d0%ba%d0%b0%d1%82%d0%b0-%d0%bd%d0%b0-%d0%b0-%d0%ba%d1%81%d0%ba-%d0%b1%d0%b8%d0%bb%d1%98%d0%b0%d0%bd%d0%b0-%d0%b8%d0%b2%d0%b0%d0%bd/?hilite=%D0%B2%D0%BD%D0%B0%D1%82%D1%80%D0%B5%D1%88%D0%BD%D0%B8> The president of the SCPC, Biljana Ivanovska, and the minister of internal affairs, Oliver Spasovski, signed an agreement on cooperation and exchange of data in electronic form and a memorandum for the improvement of the whistleblower protection system as an effective tool in the fight against corruption: <https://dksk.mk/претседателката-на-дкск-билјана-иван/?hilite=внатрешни>

⁷⁰ SAO (2021): SAO, SCPC and KIBS signed Memorandum for Cooperation: <https://dzh.mz/mk/210923-dzr-dksk-i-kibs-potpischaamemorandum-za-sorabotka>; SAO, SCPC and SEC signed Memorandum for cooperation (2019):

https://www.youtube.com/watch?v=KkzK1K_-2u4 SAO. 2021. SAO, SCPC and KIBS signed a memorandum of cooperation:

<https://dzhk.mk/mk/210923-dzr-dksk-i-kibs-potpissha-memorandum-za-sorabotka>; SAO, SCPC and SEC signed a memorandum of cooperation (2019): https://www.youtube.com/watch?v=KkzK1K_-2u4

⁷¹ EC. 2023. Progress Report of North Macedonia 2023, p.22. https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf

⁷² World Bank's Worldwide Governance Indicators: <https://www.worldbank.org/en/publication/worldwide-governance-indicators>

The SCPC has the legal authority to create the national strategy for preventing of corruption and conflict of interests. The strategy for 2020-2024 was developed in a consultative process with the private sector, civil society and the media. The national strategy was adopted by the Assembly and is a comprehensive document that outlines 12 main objectives, prioritises high-risk corruption issues and proposes solutions to overcome them. The strategy was updated for 2021-2025 and highlights the risk factors for corruption, especially in public procurement, institutional transparency, political influences, personal integrity, ethical behaviour, judiciary and inspectorates, and legislation. Among other things, the updated strategy aims to address the weaknesses and indeterminacy in legislation that have hampered the fight against corruption.⁷³

The SCPC produces yearly reports on the progress of planned activities in strategy. The implementation of activities for 2022 10 per cent⁷⁴, which is lesser than the implementation in 2021. The 2022 European Commission progress report emphasises that, to ensure the effectiveness of the national strategy, it is crucial to implement it at all levels of administration and not just limit it to the line ministries. The report also stresses that the strategy requires commitment and a sense of ownership from all involved institutions.⁷⁵ The SCPC continued to fulfil its role in providing policy advice to public institutions proactively. It developed an integrity policy model, and promotes and monitors the institutions' integrity and assess the effectiveness of policies and procedures that ensure the consistent application of integrity standards. The Law on the Prevention of Corruption and Conflict of Interest, among others, grants the SCPC with powers to verify the legality of political parties' funding and take action if illegal financing is suspected.

Numerous international donors in the past few years have helped in the fight against corruption. The European Union constantly provides its support through special programmes, grants for civil society and through monitoring the corruption situation and providing recommendations for future improvements. From 2014 to 2020, the EU allocated €667 million, of which €22 million went to corruption related projects. USAID finances a variety of projects aimed at combating corruption. One of the most significant activities is that they help prepare the national anti-corruption strategy and other related projects in cooperation with institutions and civil society organisations. One of the key aspects in the fight against corruption is getting representatives through fair, democratic and credible elections that facilitate political participation and social integration, enabling voters to choose their representatives and hold them accountable. The International Foundation for Electoral Systems (IFES) continuously implements a project that aims to contribute to this, funded by USAID and the Swiss Agency for Development and Cooperation (SDC).

Through the 20 years of the State Commission for the Prevention of Corruption, and five anti-corruption strategies, the budget should have been presented in the general context, not specifically in the clear budget needs for its implementation. Many institutions in the Republic of North Macedonia have capacity issues – meaning they simply lack the human and technological capital/resources needed to operate effectively. Both the previous (2016)⁷⁶ and latest (2023) NIS reports repeatedly mention inadequate budgets, leading to resource gaps, as a hindrance to the operation of key institutions in the integrity system.

To dig deeper into this issue, Transparency International Macedonia conducted a study based on already existing data provided in the NIS analysis and using additional publicly available data for the international technical assistance to show international funding may or may not have contributed to NIS progress (see Annex 1).

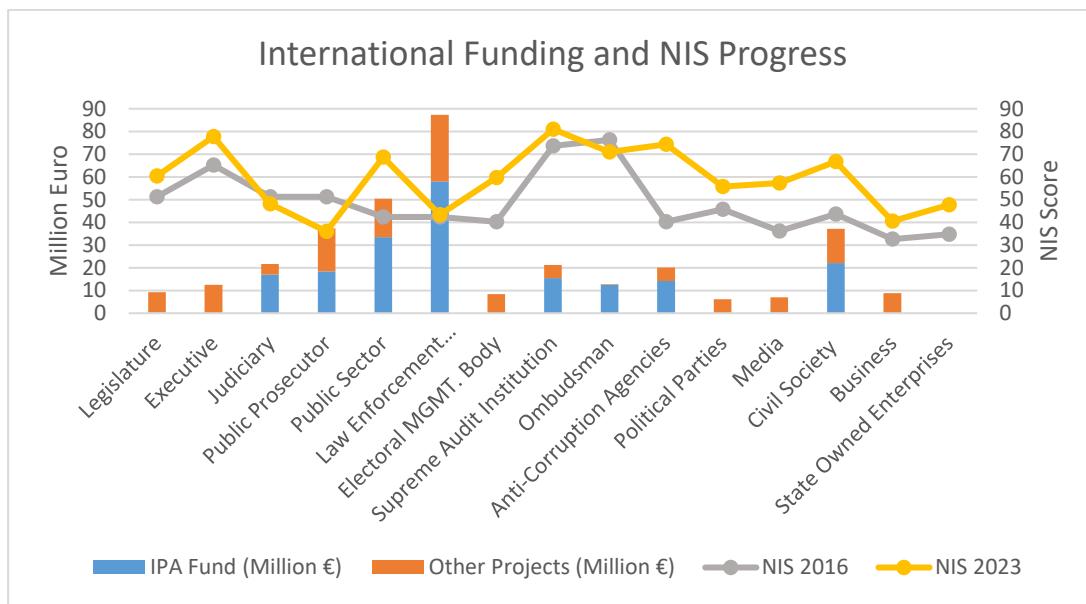
⁷³ SCPC. 2022. 2021 Annual Report for the Implementation of the National Strategy for Prevention of Corruption and Conflict of Interests 2021- 2025: <https://dksk.mk/wp-content/uploads/2022/03/Godisen-izvestaj-za-sproveduvanje-na-NS-vo-2021.pdf>

⁷⁴ SCPC, Annual report on the implementation of the National Strategy for Prevention of Corruption and Conflict of Interests 2021- 2025, for the period: 01.01.2022-31.12.2022, Published in March 2023. p.9, <https://dksk.mk/wp-content/uploads/2022/03/SCPC-izvestaj-za-primenuvanje-na-NS-vo-2022-r.pdf>

%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98-
%D0%9D%D0%A1%D0%A1%D0%9A%D0%A1%D0%98_%D1%84%D0%B8%D0%BD%D0%B0%D0%BB%D0%B5%D0%BD.pdf

⁷⁵ EC. 2023. Progress Report of North Macedonia 2023, p.23. https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf

⁷⁶ National Integrity System Assessment Macedonia, 2016 nis_eng.pdf (transparency.mk)



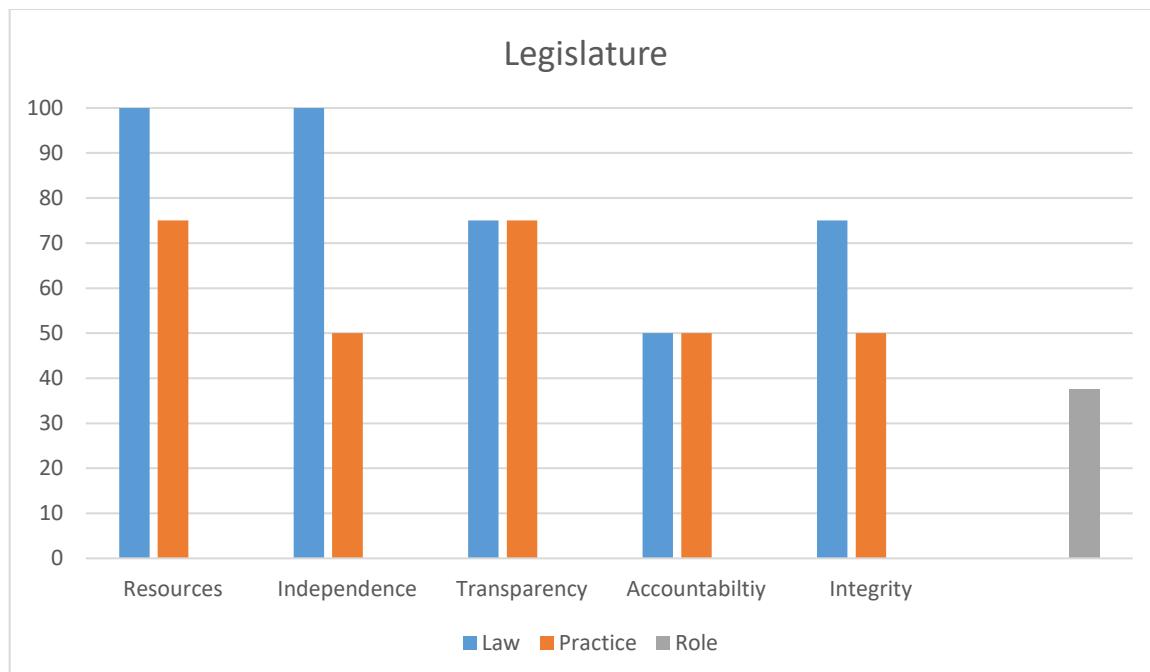
The NIS assessment and the results that show how the budget and international technical assistance have been used and how it is reflected in the integrity scores, and can be used to further develop Macedonian institutions and open the possibility for a more realistic, value-for-money approach in policy-making to build institutional integrity, which are prerequisites for anti-corruption and good governance.

1. LEGISLATURE

SUMMARY



Indicators scores: law and practice



The Assembly of North Macedonia is the country's legislative body, composed of 120 MPs elected at general elections. Its work is supported by a professional civil service and is regulated by a specific law for the Assembly.⁷⁷

The Assembly has sufficient financial resources. However, there is a lack of human resources, with almost half of the professional staff positions not being filled and a dependency on international donor programmes for building staff capacity.

The Assembly has a regularly updated website where the agenda for the Assembly and its committees' sessions are regularly published, and transparency is further supported by the Assembly TV channel, which is broadcast on national TV. With regards to lobbying, there is no information recorded in the lobby register; this action still has to be implemented.

⁷⁷ Law on the Assembly of Republic of Macedonia, Official Gazette, Consolidated version (Official Gazette of Republic of Macedonia no. 104/2009, 14/2020, 174/2021, 298/2021, 67/2022 and 65/2023), <https://www.sobranie.mk/content/Zakon%20za%20Sobranie/ZAKON%20ZA%20SOBRANIETO%20NA%20RM.pdf>

As for MPs compliance with the integrity and ethical principles and regulations, there have been issues with their travel and accommodation allowances,⁷⁸ undue influence on voting,⁷⁹ not respecting the Assembly's rules of procedure⁸⁰ and others.

One of the biggest issues for the legislature is to ensure the separation of legislative and executive powers. This is evidenced by the fact that the executive proposes the majority of laws while the Assembly is ineffective in its oversight role.

There is also a lack of qualitative discussion on the implementation of anti-corruption laws and policies. Reviews of reports submitted by the State Commission for the Prevention of Corruption (SCPC) are often delayed. This late review of SCPC reports and a lack of implementation of its anti-corruption recommendations contributes significantly to the inefficiency in the implementation of anti-corruption laws.⁸¹ Further, the SCPC reported that only 10 per cent of the national anti-corruption strategy has been implemented.⁸²

CAPACITY

INDICATOR 1.1.1 RESOURCES (LAW)

To what extent are there provisions to provide the legislature with adequate financial, human and infrastructure resources to effectively carry out its duties?

Score: 100/100

The law covering the Assembly⁸³ provides it with legal grounds for adequate financial, human and infrastructure resources to effectively carry out its duties.

The Assembly is financed from the state budget. It can also be financed from other resources, such as international donors, including the Swiss Parliament Support Programme implemented by National Democratic Institute, the Center for Change Management and the Institute for Democracy Socitas Civilis Skopje.⁸⁴ The Budgetary Council of the Assembly adopts a strategic plan with priorities for a period of five years that are reflected in the Assembly's proposal for the annual budget. The council also determines the Assembly's draft budget for the following year, and decides on the method for determining salaries of the professional service employees who perform auxiliary-technical work.⁸⁵ Members of the professional service are entitled to additional compensation if the specific character of their work allows it.⁸⁶ The budget proposal for the Assembly is prepared by the speaker (president of the Assembly) and the general secretary.⁸⁷ The Assembly thus independently determines the resources for its work in accordance with its strategic priorities.

⁷⁸ Srgjan Stojancov, Slobodna Evropa: "On my way, asking for travel expenses". www.slobodnaevropa.mk/a/по-пат-одам-за-патни-трошоци-прашам/32274301.html. Accessed: 15 June 2023

⁷⁹ Transparency International Macedonia. 2021. Grand corruption and tailor-made laws in Republic of Macedonia: The case of the 2019 and 2020 budget law. <https://www.transparency.org/country-reports/grand-corruption-and-tailor-made-laws-republic-macedonia-case-2019-and-2020>

<https://transparency.mk/wp-content/uploads/2021/04/grand-corruption-and-tailor-made-laws-in-republic-of-north-macedonia.pdf>

⁸⁰ 360 Degree: VMRO-DPMNE left the Assembly session. <https://360steperi.mk/vmro-dpmne-ja-napushti-sednitsata-za-interpelatsija-nasposovski-a-mu-najavi-interpelatsija-na-dhaferi/>. Accessed: 15 June 2023.

⁸¹ SPCC (2021) Annual report on the work of the State Commission for the Prevention of Corruption for 2020, [spasovski-a-mu-lajavaj-interoperatsija-na-dinarev/](http://spcc.gov.rs/stranice/akcije-i-aktivnosti/akcije-za-2020-putem-kojih-je-spcc-aktivno-uvlazio-u-aktivnosti-organizacija-za-razvoj-i-razlikovanje-za-2020-godinu), Accessed: 15 June 2023

SCPC (2021), Annual report on the work of the State Commission for the Prevention of Corruption
<https://www.sobranie.mk/detalii-na-materijal-npsv?param=72e6ec55-7583-40c4-ae20-bc1a54bb501a>

%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98-

%D0%9D%D0%A1%D0%A1%D0%9A%D0%A1%D0%98_%D1%84%D0%B8%D0%BD%D0%B0%D0%

⁸³ Law on Assembly of RM, Official Gazette, number 104 from 20.08.2009: <https://www.sobranie.mk/za/>

⁸⁴ NDI Programme: <https://www.sobranie.mk/programi-na-ndi-vo-sobranie-na-republika-makedonija.nspx>

⁸⁵ Law on Amending the Law on Assembly of RM, Official Gazette, number 174, 30.07.2021, Article 27

After changes to the law in 2021, the Assembly improved its financial independence. Specifically, it gained more independence in creating its own budget, increasing salaries and creating new positions.⁸⁸

INDICATOR 1.1.2 RESOURCES (PRACTICE)

To what extent does the legislature have adequate resources to carry out its duties in practice?

Score: 75/100

The Assembly has sufficient financial resources for its operation with limited human resources. Capacity building activities are based on international donor programmes, and there is insufficient professional staff due to a lack of interest in being employed in the Assembly service, which is why almost half of the systematised (planned) positions are not filled.

The Assembly functions on the resources it receives from the regular budget, which comes from the state budget and resources from international donor support programmes. The parliament has its own parliamentary budget office.⁸⁹

In the last five years, the amount from international support programmes providing resources for increasing human capacity and investment in equipment has increased significantly. However, there is still a lack of professional staff to fill systematised positions.

Table 1.1 Budget allocation and human capacities in the Assembly 2019- 2023⁹⁰

Year	Budget	International donor support programmes	Systematised positions	Number of employees
2023	MKD 628,990,000 (€10,194,327)	MKD 54,990,000 (€891,247)	470	268
2022	MKD 572,800,000 (€9,283,630)	MKD 41,500,000 (€672,609)	470	252
2021	MKD 573,936,000 (€9,302,042)	MKD 61,336,000 (€994,100)	470	258
2020	MKD 475,821,000 (€7,711,847)	MKD 50,785,000 (€823,095)	442	255
2019	MKD 520,699,000 (€8,439,206)	MKD 7,500,000 (€121.556)	442	275

The Assembly ensures continuous education for the professional service based on a specifically tailored training programme.⁹¹ Annual training plans for the Assembly Office were carried out to strengthen the general competence of administrative officers.⁹²

⁸⁸ Law on Amending of the Law on Assembly of Republic of North Macedonia, Official Gazette, number 174/2021: <https://www.sobranie.mk/zakon-za-sobranieto-na-rm.nspx>

⁸⁹ Parliamentary Budget Office. <https://pbk.sobranie.mk/pocetna/za-kancelarijata.nspx>

⁹⁰ Information received on 6 April 2023 through access to information request.

⁹¹ Annual report of the work of the Assembly for 2021, Official Gazette, page 324. <https://www.sobranie.mk/content/izvestai/IZVESTAJ%202021.pdf>

⁹² Annual report of the work of the Assembly for 2021, Official Gazette, page 324. <https://www.sobranie.mk/content/izvestai/IZVESTAJ%202021.pdf>

Programmes developed by international partners and donors contribute towards strengthening human resources. One of the biggest of these international projects is the Parliamentary Support Programme (PSP), a 10-year project that supports strengthening the independence of the Assembly through building consensus, structural reforms and strengthening the capacities of MPs and professional staff.⁹³

The deputy general secretary confirmed the importance of international donor support programmes for strengthening human resources and for providing essential equipment. However, he expressed concern about the future employment of professionals within the Assembly, since few people apply for open positions within the Assembly. In 2021, a department for human resource management was established which, in his view, should contribute to the professionalisation of the Assembly's professional service.⁹⁴

INDICATOR 1.1.3 INDEPENDENCE (LAW)

To what extent is the legislature independent and free from subordination to external actors by law?

Score: 100/100

A comprehensive legal framework protects the independence of the Assembly from interference from external actors.

In accordance with the Constitution of North Macedonia, the Assembly can only be dismissed if a majority of members of parliament (MPs) vote for it.⁹⁵

The Assembly controls its agenda. The professional service prepares the agenda for the plenary sessions ahead of time. Proposals for the Assembly's agenda can be submitted by the government too.⁹⁶ The Assembly also regulates the conduct of parliamentary sessions. In the Rulebook of the Assembly there is a section dedicated to the sessions held by the Assembly, including sessions outside the normal practice (Section V).⁹⁷

The Assembly elects its president and vice-presidents, out of the list of MPs. The Committee on Elections and Appointment Issues and at least 20 MPs can propose a candidate for president. The president is elected by a majority of votes.⁹⁸ The Assembly also appoints its own technical staff. The internal organisation of the technical staff is regulated in the Law on Assembly.⁹⁹

The police require special permission to enter to the Assembly.¹⁰⁰ Furthermore, MPs enjoy immunity throughout their mandate.¹⁰¹ An MP's mandate can be dissolved or withdrawn only in the specific cases set out in the constitution, the law or the rulebook.¹⁰²

⁹³ NDI Project. "Support to the establishment and development of the Parliamentarian institute", <https://www.ndi.org/macedonia/parliamentary-institute/project-description>

⁹⁴ Interview with the Deputy General Secretary of the Assembly, Mr. Bojan Vasilevski conducted on 31 March 2023

⁹⁵ Constitution of North Macedonia, Official Gazette, Article 63, Consolidated version. <https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>

⁹⁶ Constitution of North Macedonia, Official Gazette, Article 63, Consolidated version. <https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>

⁹⁷ Rulebook of the Assembly, Consolidated version. Section V. <https://www.sobranie.mk/content/Delovnik%20na%20RM/DelovniknaSRMPrecistentekestAvgust13.pdf>

⁹⁸ Rulebook of the Assembly, consolidated version. Section V, Articles 21, 22 and 26. <https://www.sobranie.mk/content/Delovnik%20na%20RM/DelovniknaSRMPrecistentekestAvgust13.pdf>

⁹⁹ Law on Amending the Law on Assembly of RM, Official Gazette, number 14, 20.01.2020, Article 43

¹⁰⁰ Law on Assembly of RM, Official Gazette, number 104 from 20.08.2009. <https://www.sobranie.mk/zakon-za-sobranieto-na-rm.nspx>

¹⁰¹ Rulebook of the Assembly, Consolidated version: Article 53

<https://www.sobranie.mk/content/Delovnik%20na%20RM/DelovniknaSRMPrecistentekestAvgust13.pdf>

¹⁰² Rulebook of the Assembly, Consolidated version: Article 56

<https://www.sobranie.mk/content/Delovnik%20na%20RM/DelovniknaSRMPrecistentekestAvgust13.pdf>

INDICATOR 1.1.4 INDEPENDENCE (PRACTICE)

To what extent is the legislature free from subordination to external actors in practice?

Score: 50/100

There have been cases of external influence on the Assembly, most recently in the form of pressure from the executive to adopt the so-called French Proposal related to EU accession. Furthermore, the majority of laws and ratifications are proposed by the executive rather than the legislature.

The 2022 EC progress report for North Macedonia points out that political polarisation within the Assembly has delayed the adoption of many pieces of legislation and other processes. For example, a lack of political consensus delayed the important appointments of four new judges to the constitutional court, five deputy ombudspersons, two members of the Council of Public Prosecutors, members of the programme council of the public service broadcaster and the Council of the Agency for Audio and Audiovisual Media Services, and a member of the Commission for Protection and Prevention from Discrimination. Appointments to these positions by the Assembly must be based on merit and not on political grounds.¹⁰³

In 2021, the Assembly adopted 194 laws (113 under the regular legislative procedure and 81 under shortened procedure) and 19 ratifications.¹⁰⁴ The government proposed 172 laws and MPs only 17. In 2022, from 99 adopted laws, the government proposed 88. This demonstrates that the government plays a more proactive role in proposing new legal acts than the legislature.

Influence of the external factors are mainly related to implementation of international and bilateral agreements. One example was the approval of the European Commission new methodology for the EU accession process, known as the French Proposal.

The discussions and voting for the so-called French Proposal,¹⁰⁵ which aims to start the screening process for acquiring EU membership, were tense. The opposition alleged a breach of the Rulebook of the Assembly,¹⁰⁶ pointing to pressure on MPs from the executive to vote in favour of the proposal. The Assembly's adoption of the proposal in July 2022 was accompanied by protests supported from the opposition and citizens.¹⁰⁷

GOVERNANCE

INDICATOR 1.2.1 TRANSPARENCY (LAW)

To what extent are there provisions to ensure the public can obtain relevant and timely information on the activities and decision-making processes of the legislature?

Score: 75/100

¹⁰³ European Commission. 2022. EC Progress Report for North Macedonia, page 9: https://neighbourhood-enlargement.ec.europa.eu/north-macedonia-report-2022_en

¹⁰⁴ Annual Report of the Assembly for 2021, page 22. <https://www.sobranie.mk/content/izvestai/IZVESTAJ%202021.pdf>

¹⁰⁵ Aleksandar Vidinovski, Kanal 5 TV, "What does the French proposal contain". <https://kanal5.com.mk/shto-sodrzhi-francuskiot-predlog/a536736>. Accessed: 15 June 2023

¹⁰⁶ DW, "Tensions before the start of the Assembly session for the French proposal": <https://www.dw.com/mk/расте-тензијата-пред-седницата-за-францускиот-предлог-трајанов-нуди-листа-на-заклучоци-за-компромис-меѓу-партиите/a-62443025>; Accessed: 15 June 2023

¹⁰⁷ DW, "Protests against the French proposal in Skopje". <https://www.dw.com/mk/протести-и-марш-против-францускиот-предлог-во-скопје/a-62373508>. Accessed: 15 June 2023

The Law on Assembly and the Rules of Procedure of the Assembly provide comprehensive provisions regarding the access of the media and the public to the work of the Assembly, although there are some exceptions to full transparency.

The rules of procedure (RoP) of the Assembly provides that the proceedings of the Assembly and other Assembly committees should be open to the public and to the media and that they also have access to the documents prepared by the Assembly. The Assembly has to provide information on its own and that of its working bodies and how they cooperate with international organisations.¹⁰⁸ Citizens and the media need to be able to follow the sessions of the Assembly in accordance with the principles of the internal order of the Assembly.¹⁰⁹ The media should receive information on what will be discussed at the sessions and the legal acts that will be reviewed; however, the Assembly has discretion to make some of the sessions closed to the public and the media.¹¹⁰ Also, there are no defined deadlines for the media to receive the materials regarding the planned sessions. There is no public access for citizens to the Assembly during the sessions. The sessions can be followed by the media with prior approval and via the Assembly TV channel.¹¹¹

The Assembly has its own website on which it shares information on the work of the Assembly and its bodies.¹¹² A special Assembly TV channel is available on the national TV service, MTV. The channel broadcasts the sessions held by the Assembly and its bodies and has an informative character on the work of the Assembly. Furthermore, the law requires verbatim records of floor sessions to be recorded and publicly available. All documents of each session are published and archived.¹¹³ With Parliamentary Support Programme support, there are ongoing efforts all committee sessions to be broadcasted live on the new website.

There is no legal obligation for the Assembly to produce and publicise reports; however its bodies must prepare reports that are submitted to the Assembly.¹¹⁴

MPs are obliged to make their asset disclosures publicly available immediately in accordance with the Law on Assembly and the Law on the Prevention of Corruption and Conflict of Interest.¹¹⁵ The State Commission for the Prevention of Corruption (SCPC) has legal authority to verify the asset declarations. However, the SCPC has no resources to verify each of the declarations.

INDICATOR 1.2.2 TRANSPARENCY (PRACTICE)

To what extent can the public obtain relevant and timely information on the activities and decision-making processes of the legislature in practice?

Score: 75/100

In practice, the public can readily obtain relevant information on the Assembly's activities and decisions. However, small gaps exist with the lobbying register being available on the website but empty.

¹⁰⁸ Rules of Procedures of the Assembly, Consolidated version, Article 225.

<https://www.sobranie.mk/content/Delovnik%20na%20RM/DelovniknaSRMPrecistenteckstAvgust13.pdf>

¹⁰⁹ Rules of Procedures of the Assembly, Consolidated version, Article 226 and 227.

<https://www.sobranie.mk/content/Delovnik%20na%20RM/DelovniknaSRMPrecistenteckstAvgust13.pdf>

¹¹⁰ Rules of Procedures of the Assembly, Consolidated version, Article 228.

<https://www.sobranie.mk/content/Delovnik%20na%20RM/DelovniknaSRMPrecistenteckstAvgust13.pdf>

¹¹¹ Assembly TV Channel: https://www.predavatel.com/mk/play/tv_mrt-sobraniski_live

¹¹² Rules of Procedures of the Assembly, Consolidated version, Article 233.

<https://www.sobranie.mk/content/Delovnik%20na%20RM/DelovniknaSRMPrecistenteckstAvgust13.pdf>

¹¹³ Law on Assembly of Republic of Macedonia, Official Gazette, number 104 from 20.08.2009: <https://www.sobranie.mk/zakon-za-sobranioto-na-rm.nspx>; Section IX; Law on Amending the Law on Assembly of RM, Official Gazette, 104/09 and 14/09, number 174, 30.07.2021

¹¹⁴ Rules of procedures of the Assembly, Consolidated version, Article 225

<https://www.sobranie.mk/content/Delovnik%20na%20RM/DelovniknaSRMPrecistenteckstAvgust13.pdf>

¹¹⁵ Law on the Prevention of Corruption and Conflict of Interest, Official Gazette of RM, no. 12/ 2009, Article 87

The Assembly has its own webpage which presents important information on the legal framework,¹¹⁶ internal acts of the Assembly,¹¹⁷ and information on the sessions and other activities of the Assembly. Annual reports,¹¹⁸ financial reports¹¹⁹ and other relevant information are also published, including voting records. There are different types of journals related to the work of the Assembly; however, these are not all updated regularly.¹²⁰ The register of accredited lobbyists is not available on the parliamentary website but on the SCPC website.¹²¹ However, the register is empty and the practice of recording and entering this information still needs to be implemented.¹²²

With the support¹²³ of the National Democratic Institute (NDI), a special e-Assembly section of the website has been developed.¹²⁴ The bills and other documents reviewed by the Assembly are published, and there is information about their status from the related discussions in the bodies of the Assembly until they reach the plenary sessions.

Citizens are not allowed to attend plenary sessions; however, the sessions of the Assembly, its bodies and other events organised by the Assembly are broadcast on the Assembly TV channel.¹²⁵ Accredited journalists can report on the work of the Assembly as well. The Assembly also has established a Parliamentary Institute¹²⁶ to communicate with the public and make the Assembly more transparent.¹²⁷ The Assembly has established offices for communication with citizens where MPs can meet citizens, present information on their work and exchange ideas.¹²⁸ Citizens can also send requests for information in accordance with the Law on Access to Information of Public Character (freedom of information).

MPs' asset declarations are mostly comprehensive and up-to-date, with 116 out of 120 available on the website of the SCPC.¹²⁹ Not all declarations are verified in practice due to the lack of resources in the SCPC (see 10.1.2).

The professional service, with support from the NDI, is preparing a registry for organisations (including CSOs, chambers, unions, associations, etc) that want to participate in the work of the Assembly through debates and developing proposals within the committees and other working bodies (for example, the body for EU integration). According to the deputy general secretary of the Assembly, there is no exact date when this will be available, although he expressed the commitment of the Assembly to be as transparent as possible.¹³⁰

INDICATOR 1.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions in place to ensure that the legislature has to report on and be answerable for its actions?

Score: 50/100

¹¹⁶ Legal acts: <https://www.sobranie.mk/zakon-za-sobranieto-na-rm.nspx>

¹¹⁷ Rulebook on the Procedures of the Assembly:

<https://www.sobranie.mk/content/Delovnik%20na%20RM/DelovniknaSRMPrecistenteKstAvgust13.pdf>; Strategic plan of the Assembly: <https://www.sobranie.mk/strateshki-plan.nspx>

¹¹⁸ Annual reports: <https://www.sobranie.mk/godishen-izveshtaj.nsp>

¹¹⁹ Financial statements: <https://www.sobranie.mk/zavrshni-smetki.npx>

¹²⁰ Publications: <https://www.sobranie.mk/publikacii.nspx>

¹²¹ Inter-Parliamentary Union, North Macedonia, Assembly of the Republic, https://data.ipu.org/node/171/working-methods/openness-and-transparency?chamber_id=13391

¹²² SCPC, Lobbyist Register <https://lobisti.dksk.mk/all-lobbyists>

¹²³ Interview with the Deputy General Secretary of the Assembly, Mr. Bojan Vasilevski conducted on 31 March 2023

¹²⁵ Assembly TV channel: <https://webtv.a1.mk/sobraniski>

¹²⁶ The Parliamentary Institute was established to provide research and analysis for members of parliament and perform functions related to education and communication, research library and legislative archive. The education and communication department organises tours of parliament for the public and prepares various education programmes and activities for children, and students on parliamentary democracy.

¹²⁷ Parliamentary Institute of the Assembly: <https://www.facebook.com/PIMakedonija>

¹²⁸ Map of the offices for contact with the citizens: <https://www.sobranie.mk/kancelarii-za-kontakt-so-graganite-map.npx>

¹²⁹ Assets declarations: http://www.dksk.org.mk/imoti_2/

¹³⁰ Interview with the deputy general secretary of the Assembly, Mr. Bojan Vasilevski conducted on 31 March 2023

There are provisions regarding the accountability of the Assembly and the manner in which the body has to report and be answerable for its actions and finances. However, there is no precise legislation to hold the Assembly accountable for breaching the rules of the Assembly or for not performing sessions.

Laws enter into force with promulgation signed by both the president of the Assembly and the president of the country. The country president has the option not to sign the law and return it to the Assembly for review. If the law is once again adopted with a majority of votes within the Assembly, the president must sign the law.¹³¹ Furthermore, in accordance with the constitution, the constitutional court has the authority to repeal or invalidate a law if it is not in accordance with the constitution.¹³²

Citizens and legal persons can report on irregularities in the legislature or concerning individual MPs through the Law on the Protection of Whistleblowers, and also to report non-compliance of an MP with the Law on the Prevention of Corruption.¹³³

The Rules of Procedure of the Assembly ensures that the Assembly holds public consultations on laws. In some cases, the Assembly appoints a working body to organise the public consultation, but it is not a rule. There are no published criteria to determine which laws are of public interest and should be open to public consultation.¹³⁴ However, there is a criteria of EU flagged laws that go in a fast-track Assembly procedure, without public consultation.¹³⁵

MPs enjoy immunity for the actions and decisions taken during their mandate, from the day of verification until the end of their mandate.¹³⁶

INDICATOR 1.2.4 ACCOUNTABILITY (PRACTICE)

To what extent do the legislature and its members report on and answer for their actions in practice?

Score: 50/100

While the Assembly reports on its actions in practice, the response to the events of 2017 regarding the storming of parliament has brought into question the extent to which MPs can be held accountable for breaches of the law.

The Assembly publishes annual reports on its activities,¹³⁷ which are publicly available along with financial reports, audit reports and other documents that are relevant for the financing of the Assembly.¹³⁸ Annual reports are quite extensive, containing information on the Assembly composition, work of the accompanying bodies, adoption of legal acts, international cooperation, etc.

The Assembly also holds regular plenary sessions and information on them are also publicly available. The Assembly publishes information about the agenda of its sessions, the legal acts that are discussed, minutes of

¹³¹ Interview with the deputy general secretary of the Assembly, Mr. Bojan Vasilevski conducted on 31 March 2023

¹³² Constitution of Republic of North Macedonia, Consolidated version: <https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>, Article 112

¹³³ Law on the Prevention of Corruption and Conflict of Interest, Official Gazette of RM, no. 12/ 2009, Article 76

¹³⁴ Rules of procedures of the Assembly, Consolidated version, Articles 145, 146 and 147

<https://www.sobranie.mk/content/Delovnik%20na%20RM/DelovniknaSRMPrecistenteckstAvgust13.pdf>

¹³⁵ Rules of procedures of the Assembly, Consolidated version, Article 135.

<https://www.sobranie.mk/content/Delovnik%20na%20RM/DelovniknaSRMPrecistenteckstAvgust13.pdf>

¹³⁶ Rules of procedures of the Assembly, Consolidated version, Article 53

¹³⁷ Annual reports of the Assembly: <https://www.sobranie.mk/godishen-izveshtaj.nspx>

¹³⁸ Financial reports: <https://www.sobranie.mk/finansiska-transparentnost.nspx>

discussions, voting records, etc.¹³⁹ The same is applicable for the sessions and work of the bodies within the Assembly.¹⁴⁰

In 2017, three MPs were taken into custody related to the investigation of the forcible entry into the Assembly that same year, although they had immunity. However, the ombudsperson found that, with this intervention, the MPs immunity and the principle of presumption of innocence had been breached.¹⁴¹

The president of the criminal court, the judge Ivan Djolev, stated that the court had decided that the MPs should not be privileged and that they should be detained as the other defendants. The measure of detention was imposed on them only after all the procedures in the Assembly for removing their immunity were completed".¹⁴² In accordance with the rulebook on procedures of the Assembly, the competent authority submits requests for the detention of an MP to the president of the Assembly. The president of the Assembly forwards the request to the commission for mandate-immunity questions, which reviews the request and submits report to the president of the Assembly.¹⁴³

INDICATOR 1.2.5 INTEGRITY MECHANISMS (LAW)

To what extent are there mechanisms in place to ensure the integrity of members of the legislature?

Score: 75/100

There are legal provisions to ensure the integrity of the legislature; however, there is a need for more precise regulations and sanctions for breaches of ethical principles.

The Assembly has its own ethical code.¹⁴⁴ The code contains general provisions on the ethical principles that should be followed by MPs relating to conflicts of interest and the prevention of corruption. Additionally, the Law on the Prevention of Corruption and Conflict of Interest contains provisions for regulating asset declarations, conflict of interest, receiving of gifts, post-employment restrictions and prevention of corruption, and the SCPC is authorised to impose a fine for non-compliance.¹⁴⁵ The SCPC has the authority to open a case if there is suspicion of a conflict of interest or corrupt behaviour. However, there is no independent body that oversees the ethical behaviour of the Assembly.

The SCPC developed a policy of integrity that should be followed and implemented by state bodies and institutions.¹⁴⁶ This should contribute to the improvement of the political integrity in the Assembly as well.

MPs are obliged to fill out and publish asset declarations on the website of the SCPC. However, this obligation does not apply to technical staff of the Assembly.¹⁴⁷

In 2021, a new law on lobbying was adopted. The law regulates the conditions for acquiring the status of lobbyist, the registration and obligations of lobbyists, as well as the obligations of the lobbied persons and bodies.¹⁴⁸

¹³⁹ Assembly sessions: <https://www.sobranie.mk/plenarni-sednici-parlament.nspx>

¹⁴⁰ Committee sessions: <https://www.sobranie.mk/komisiski-sednici.nspx>

¹⁴¹ Faktor. "Djolev claims that the detention of MPs is in accordance with the law"<https://faktor.mk/dzolev-tvrdi-deka-priveduvanje-pratenici-e-soglasno-zakon>, Accessed: 15 June 2023

¹⁴² Ibid

¹⁴³ Rulebook on Procedures of the Assembly, Consolidated version, Articles 53, 54 and 55.

<https://www.sobranie.mk/content/Delovnik%20na%20RM/DelovniknaSRMPrecistentekstAvgust13.pdf>

¹⁴⁴ Ethical Code of the Assembly: <https://www.sobranie.mk/content/Кодекс за етичко однесување на пратениците во Собранието на Република Македонија.pdf>

¹⁴⁵ Law on the Prevention of Corruption and Conflict of Interest, Official Gazette of Macedonia number 12/2019, Head IX: <https://dksk.mk/wp-content/uploads/2020/12/Закон-за-спречување-на-корупцијата-и-судирот-на-интереси.pdf>

¹⁴⁶ System of integrity: <https://dksk.mk/mk/имплементација-на-систем-на-интегрит/>

¹⁴⁷ Law on the Prevention of Corruption and Conflict of Interest, Official Gazette of RM, no. 12/ 2009, Article 87

¹⁴⁸ Law on Lobbying: <https://dksk.mk/wp-content/uploads/2021/06/Zakon-za-lobiranje.pdf>

INDICATOR 1.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is the integrity of legislators ensured in practice?

Score: 50/100

Overall, there is a piecemeal approach to ensuring the integrity of legislators. The following elements are still missing: accountability for not participating in sessions; wrongly declared travel expenses; assets not declared; the lack of reporting gifts and lobbyists.

The 2022 Group of States Against Corruption (GRECO) evaluation pointed out that the code of ethics of the Assembly is a solid base for strengthening the integrity and ethical behaviour of MPs but that there is a need to ensure greater clarity and consistency in implementation, thus awareness raising and training of MPs in this regard needs further development. Furthermore, GRECO reports that the Assembly is currently preparing a new draft code of ethics for MPs which cover more areas.¹⁴⁹ GRECO has also recommended that sanctions are provided in the relevant laws for all infringements they contain and that appropriate enforcement action is taken in all cases of misconduct by MPs. It has been found that sanctions have not been applied for some infringements (e.g. engaging in lobbying when in office and one year after entitlement to public remuneration ceases).¹⁵⁰ Thus sanctions do not systematically act as a deterrent. PSP supported the Assembly to improve rules and practices on ethics and integrity. Lawmakers and parliamentary staff were involved in several peer exchanges with the US Congress and the parliaments of Albania and Georgia on their ethics structures, which along with additional research into the best national and international practices in ethics, shaped the development of North Macedonia's own code of ethics and a detailed manual for its implementation, as well as the development of a training curriculum on ethics and integrity. In February 2022, all documents were finalised and agreed among a relevant group of MPs. As a result of PSP's technical assistance, the Assembly's draft ethical framework meets the vast majority of recommendations and requirements outlined by the Office for Democratic Institutions and Human Rights (ODIHR) and the Group of States against Corruption (GRECO). Unfortunately, the documents have not yet been adopted.¹⁵¹

The remuneration that the MPs receive for travel costs is often a matter of public debate as it is seen as a misuse of public funds. Although many of the MPs that live outside of Skopje have a property in the capital, they still receive remuneration for travel costs for their attendance at Assembly sessions.¹⁵²

The Law on Lobbying came into force in June 2022, the register of lobbyists is public but does not contain any information. Therefore, its implementation in practice and whether the legislature complies with its provisions should be closely monitored.

The asset declarations of 116 out of 120 MPs are publicly available.¹⁵³

INDICATOR 1.2.7 GENDER REPRESENTATION

To what extent are women represented in the legislature?

¹⁴⁹ GRECO.2022. Fourth Evaluation Round: Corruption prevention in respect of members of parliament, judges and prosecutors, p.3: <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a711cd>

¹⁵⁰ GRECO. 2022. Fourth Evaluation Round: Corruption prevention in respect of members of parliament, judges and prosecutors, p.5: <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a711cd>

¹⁵¹ Statement given by representative of NDO on 20 October 2023

¹⁵² Kanal 5, Jana Josifovska, "The problem with MPs' travel expenses is being brought up again", <https://kanal5.com.mk/povtorno-se-aktuelizira-problemot-so-patnite-troshoci-na-pratnicite/a569829>, Accessed in April 2023

¹⁵³ Asset declarations: http://www.dksk.org.mk/imoti_2/

There is a solid gender representation in the Assembly with around 40 per cent of current MP's being women. The law provides the number of female candidates at the voting ballots; however, the number of the female MPs is dependent on the votes. In practice, there have been cases of a female vice speaker of the Assembly and current general secretary is a woman.

Score: 75/100

The electoral code requires women to have a fair opportunity to be represented in the legislature.¹⁵⁴ In the 2020 parliamentarian elections, a total of 12 political parties and 3 coalitions fielded 1,598 candidates on 78 lists. These included 675 women candidates (42 per cent), and women headed 19 of 78 lists.¹⁵⁵ This is in line with the legal provision of the electoral code which requires that there is at least one candidate of each gender in every third place on the list, with an additional candidate of the lesser represented gender in every 10 (40 per cent of the candidates should be women).

In the current composition of the Assembly, 47 of the 120 representatives are women or around 40 per cent. The president and vice-presidents of the Assembly are men, while the general secretary is a woman. An analysis developed by the OSCE found continuous improvement of women's representation in the Assembly in the past 20 years.¹⁵⁶

A group of women parliamentarians was established in 2003 to promote the active participation of women in the decision-making process and in society in general.¹⁵⁷ The Assembly also has a Committee on Equal Opportunities for Women and Men. This committee developed a draft proposal in 2020-2021 for enhancing the gender sensitivity of the Assembly

ROLE

INDICATOR 1.3.1 EXECUTIVE OVERSIGHT

To what extent does the legislature provide effective oversight of the executive?

Score: 25/100

Although there are legal mechanisms for oversight of the executive by the legislature, there is no effective oversight in practice as the impeachment mechanism is rarely used and has not proven its effectiveness as a controlling mechanism. There are no special committees with a closer oversight function. Also there is a lack of qualitative debate of issues that are of great importance to the accountability of the executive and of MPs.

The constitution, the Law on the Assembly, the Law on the Government and the Rules of Procedure of the Assembly contain legal provisions which establish the legal framework that should ensure effective oversight of the executive.¹⁵⁸ The Assembly elects the government and carries out political monitoring and supervision of the

¹⁵⁴ Electoral Code, Official Gazette of RM, number 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19 and Official Gazette of RM, number 98/19, 42/20, 74/21 и 215/21, Article 64, Paragraph 5

¹⁵⁵ ODIHR. Final Report on the Early Parliamentarian Elections held on 15 July 2020, page 2
https://www.osce.org/files/f/documents/b/e/465648_0.pdf

¹⁵⁶ OSCE. Gender equality is important!, , page 35: <https://www.osce.org/files/f/documents/d/3/500995.pdf>

¹⁵⁷ Club of Women MPs: <https://www.sobranie.mk/detali-na-klub.nspx?groupId=c547f202-efee-4bd8-a01b-46e04c3849e0>

¹⁵⁸ According to Article 49 paragraph 1 of the Rule Book, the search after interpellation lasts one working day, until the list of registered MPs is exhausted, and is decided by 24:00 at the latest

government.¹⁵⁹ It can initiate a no-confidence procedure in the government¹⁶⁰ and interpellation of any of its members.¹⁶¹

There have been no successful interpellations of officials by the executive. In 2018, there was an interpellation of the prime minister, Zoran Zaev, and the whole government.¹⁶² In 2021 there was an interpellation of the Vice Prime Minister Nikola Dimitrov.¹⁶³ In June 2022, there was a proposal for the interpellation of the speaker of the Assembly, Talat Xaferi.¹⁶⁴ Sessions for parliamentary questions are held every last Thursday in the month when MPs can pose questions to the members of the government or any other holder of public office.¹⁶⁵ However, the 2022 EU progress report states that parliamentary questions to ministers are not conducted regularly enough and responses need to be more comprehensive.¹⁶⁶

Since the government is composed of the parties that have the majority of MPs in the Assembly, and the prime minister is appointed by the majority in the parliament, it is difficult to establish effective and independent oversight.

There is no information on setup committees for inquiries or other special committees. According to the Inter-Parliamentary Union (IPU) there were no parliamentary inquiries in 2021 (the last year for which data is available).¹⁶⁷ There were seven sessions of parliamentary questions in 2021. Such sessions were halted prior to the October 2021 local elections and resumed only in April 2022, more than three months after the new government took office.¹⁶⁸ In 2020, in cooperation with the European Parliament, the Assembly started the Jean Monnet Dialogue, a technical assistance project to establish intra-assembly dialogue to solve the issue where dialogue takes place more in closed rounds between political party leaders outside of the parliament than in the parliament. However, there is a need to implement the proposals for internal reform without further delay, such as the adoption of a new rulebook of procedures for the Assembly agreed upon during the third round of this dialogue¹⁶⁹

The Assembly is involved in debating all the stages of the adoption of the state budget in the Assembly.¹⁷⁰ However, there are no debates on public contracting, which is an important gap. For example, the Assembly did not discuss the case of the direct award to Bechtel & Enka for the contract to build the corridor 8 motorway.¹⁷¹

¹⁵⁹ Constitution of Republic of North Macedonia, Consolidated version, Article 68.

<https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>

¹⁶⁰ Constitution of Republic of North Macedonia, Consolidated version, Head XII, Point 1

<https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>

¹⁶¹ Constitution of Republic of North Macedonia, Consolidated version, Article 72

<https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>

¹⁶² Maxfax: "On Wednesday the MPs will vote for trust of the Government": <https://makfax.com.mk/makedonija/в-среда-пратениците-ке-гласаат-за-недо/>, Accessed: 15 June 2023

¹⁶³ Express: "Interpellation of the vice-premier Nikola Dimitrov": <https://www.expres.mk/interpalacija-za-vicepremierot-nikola-dimitrov/>, Accessed: 15 June 2023

¹⁶⁴ Vladimir Kalinski, Slobodna Evropa: "Dhaferi stays on the function, the Assembly did not adopt the interpellation":

<https://www.slobodnaevropa.mk/а/интерпелација---чафери-и-огледалото-на-опозицијата/31922972.html>, Accessed: 15 June 2023

¹⁶⁵ Rules of procedures of the Assembly, Consolidated version, Head III, point 4:

<https://www.sobranie.mk/content/Delovnik%20na%20RM/DelovniknaSRMPrecistenteckstAvgust13.pdf>

¹⁶⁶ EC Progress report for North Macedonia for 2022, p.9

¹⁶⁷ Inter-Parliamentary Union. Republic of North Macedonia: Data on parliament's oversight role and activities.

https://data.ipu.org/node/171/law-making-oversight-budget/oversight?chamber_id=13391

¹⁶⁸ EC Progress report for North Macedonia for 2022, p.10

¹⁶⁹ On 12 May 2021, an online meeting was held between the leadership of the Assembly of the Republic of North Macedonia, led by President Talat Xaferi, and the lead members of the European Parliament, Ilhan Kyuchuk (Renew, BG), Andreas Schieder (S&D, AT) and Marion Walsmann (EPP, DE). Both the European Parliament and the Assembly of the Republic of North Macedonia remain committed partners in this process, and all interlocutors underlined the importance of the Jean Monnet Dialogue in building confidence, strengthening democratic culture and enhancing parliamentary capacities.

¹⁷⁰ Rules of Procedures of the Assembly, Consolidated version, Head III, point 4 and Head IX, Point 15:

<https://www.sobranie.mk/content/Delovnik%20na%20RM/DelovniknaSRMPrecistenteckstAvgust13.pdf>

¹⁷¹ Ognen Cancarevki, Telma TV: "The contract of Bechtel and Enka is included with law amendments":

<https://telma.com.mk/2023/04/12/dogovorot-so-bechtel-i-enka-e-so-vklucheni-zakonski-izmeni/>, Accessed: 15 June 2023

The Law for the Prevention of Corruption and Conflict of Interest was adopted in 2019¹⁷² and, for the first time, the Assembly organised a transparent procedure to select the seven new SCPC commissioners, which could serve as a model for other agencies.¹⁷³ As well as the SCPC commissioners, the Assembly elects and appoints the ombudsman, the general state auditor, the constitutional court judges and judicial council members. The Assembly has failed to debate responses to the state auditor's reports and often has long delays before discussing reports from the SCPC, PPO and other bodies that report to the Assembly. A successful oversight hearing was held by the Committee on Political System and Relations among the communities in 2023 covering "The application of the legal provisions of the law on unregistered persons in the birth register".¹⁷⁴

INDICATOR 1.3.2 LEGAL REFORMS

To what extent does the legislature prioritise anti-corruption and governance as a concern in the country?

Score: 50/100

Anti-corruption is not high on the agenda of the Assembly. SCPC reports are not reviewed on time, neither are the State Audit Office (SAO) reports. In additional appointment of the main figures in the judiciary is also delayed and institutions are not functional.

The Assembly adopted the national strategy for prevention of corruption (2021-2025) and reviews the annual report submitted by the State Commission for the Prevention of Corruption (SCPC) and the SAO. However, there is a lack of qualitative discussion on the fight against corruption in the country, and the reports are only formally adopted with no in-depth assessment of the findings. In 2023, a new interparty group on anti-corruption was established with support from NDI. In total, 64 MPs expressed interest in participating in the new anti-corruption caucus.¹⁷⁵

The process of reviewing annual reports is often delayed. For example, the Assembly adopted the 2020 SCPC annual report in April 2022,¹⁷⁶ a delay of one year after its submission to the Assembly. The 2021 report is still pending while the new report for 2022 has already been submitted. Delays to the adoption of the reports is also causing delays to the adoption of necessary changes to the national strategy for prevention of corruption and conflict of interest 2021-2025, which has seen very limited (only 10 per cent) implementation to date.¹⁷⁷

INTERACTIONS

The Assembly's relationship with the government is regulated by the constitution¹⁷⁸ which provides the possibility for political control over the government. The government can propose items for the agenda of plenary sessions in the Assembly. The government's cooperation is important for anti-corruption since the policies created in this area are adopted by the Assembly and are discussed by the Assembly's working groups¹⁷⁹ and in sessions within the Assembly, while the government is the executive body that should implement these policies. The Assembly

¹⁷² Law on the Prevention of Corruption and Conflict of Interest. Закон-за-спречување-на-корупцијата-и-судирот-на-интереси.pdf (dksk.mk)

¹⁷³ Republika: "Grkovska in working position of SCPC: The procedure for selection and appointment of the SCPC's members should be an example for the election of the members of the other institutions", <https://republika.mk/vesti/makedonija/grkovska-vo-rabotna-poseta-na-dksk-nachinot-na-izbor-na-dksk-treba-da-bide-primer-za-izbor-i-na-chlenovi-na-drugi-institucii/>, Accessed: 15 June 2023

¹⁷⁴ Statement given by representative of NDI on 20 October 2023

¹⁷⁵ Statement given by representative of NDI on 20 October 2023

¹⁷⁶ Information provided by the Assembly about the adoption of the 2020 SCPC's annual report in April 2022: <https://www.sobranie.mk/detali-na-materijal.aspx?param=72e6ec55-7583-40c4-ae20-bc1a54bb501a>

¹⁷⁷ Shared at the annual conferences to assess the implementation of the national strategy for prevention of corruption and conflict of interest 2021-2025, attended by representatives of TI Macedonia.

¹⁷⁸ Constitution of Republic of north Macedonia: UstavSRSM.pdf (sobranie.mk)

¹⁷⁹ The working groups are at the disposal of MPs, the Commission on Political System and Community Relations (CPSoS) and the entire assembly, who can call on institutions throughout the year to explain their positions on current cases and to report what they are doing in this regard.

and the government should have more proactive role in the fight against corruption by having qualitative discussions on anti-corruption issues and timely reviews of documents and acts in this area.

To strengthen the oversight of the institutions, a memorandum with the SAO was signed. The purpose of this memorandum is to establish professionally sustainable and efficient cooperation and improve the efficiency and transparency of public finance oversight.¹⁸⁰

The political parties are represented within the Assembly by MPs. This relationship is regulated by law¹⁸¹ and their cooperation is of great importance in the preparation and adoption of effective anti-corruption policies.

The relationship between the Assembly and the SCPC is also regulated by law.¹⁸² The Assembly elects and appoints the members of the commission, adopts the national strategy for prevention of corruption and conflict of interest and reviews and adopts the annual reports prepared by the SCPC. Regular communication and the exchange of information is of huge importance for the adoption and implementation of anti-corruption policies at state level.

PILLAR RECOMMENDATIONS

- The Assembly should conduct debates on and scrutinise public expenditure through public contracting at least once a year.
- The Assembly should review and debate the findings and recommendations of the State Commission for the Prevention of Corruption, state auditor and other specialised agencies' reports.
- The Assembly should establish deadlines for adopting the annual reports submitted by the institutions that are accountable to the Assembly, such as the SCPC, PPO, and SAO (for example, within three months of the submission of the report).
- The Assembly should implement all GRECO recommendations¹⁸³ regarding integrity as well as the integrity policy developed by the SCPC, such as the adoption of new code of ethics for MPs and of related new guidelines.

¹⁸⁰ SAO. 2023. Annual Report of SAO for 2022, p.45: https://dzh.mk/sites/default/files/2023-06/DZR_Godisen_izvestaj_2022_mkd_0.pdf?fbclid=IwAR30rvzBT_a2I33jq06ag7XvGpSkeuDne_rrKtiko_dEqNdc836mlV_AqvU

¹⁸¹ Law for the Assembly, Official Gazette: <https://www.sobranie.mk/zakon-za-sobranieto-na-rm.nspx>

¹⁸² Law on the Prevention of Corruption and Conflict of Interest <https://dksk.mk/wp-content/uploads/2020/12/Закон-за-спречување-на-корупцијата-и-судирот-на-интереси.pdf>

¹⁸³ GRECO. 2022. Addendum to the Second Compliance Report: North Macedonia. GRECO (coe.int) pg.12 item 64: "Regarding MPs, a number of promising initiatives, such as the elaboration of the new code of ethics for MPs and of related new guidelines are underway. Overall, these represent a suitable framework for promoting the integrity and guiding the ethical behaviour of MPs e.g. with respect to conflicts of interest, engagement with lobbyists, gifts, etc. However, both documents would need further refinement and streamlining so as to render them more user-friendly, eliminate redundant content, ensure greater clarity and coherence and more clearly separate applicable rules from explanations and examples. Moreover, compliance and counselling mechanisms are yet to be designated. As concerns, the Assembly's Committee on Procedure and Mandate-Immunity Issues, responsible for the implementation of the currently effective code, it does not appear to have carried out any of its related functions yet."

2. EXECUTIVE

SUMMARY



Indicators scores: law and practice



The government is composed of the president, four deputy presidents¹⁸⁴ and 16 ministers.¹⁸⁵ The current government of the Republic of North Macedonia (GRNM) was voted into the Assembly on 16 January 2022. The new ruling coalition is composed of SDSM (Social Democratic Union of Macedonia) together with coalition partners from smaller parties: DUI (Democratic Union for Integration), Alternativa and DPA (Democratic Party of Albanians).¹⁸⁶ There were changes in 2023, according to which the current composition includes representatives of SDSM, DUI, AA (Alliance for Albanians, LDP (Liberal Democratic Party).¹⁸⁷

¹⁸⁴ First deputy prime minister and minister for political system and inter-community relations, deputy prime minister in charge of economic issues, coordination of economic departments and investments, deputy prime minister for european affairs, deputy prime minister in charge of policies for good governance, <https://vlada.mk/sostav-na-vladata>

¹⁸⁵ Composition of the government: <https://vlada.mk/sostav-na-vladata>

¹⁸⁶ EC Progress Report on North Macedonia. 2022. p.1, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022.pdf>

¹⁸⁷ EC Progress Report on North Macedonia. 2022. p.12, https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf

The president establishes an office to assist in exercising the rights and duties stated in the constitution, the law and the rules of procedure.¹⁸⁸ The general secretariat is the government's expert service.¹⁸⁹ The government also has two secretariats to provide professional support and coordinate the work of the state administration and other bodies and institutions. These are the Secretariat for European Affairs¹⁹⁰ and the Secretariat for Legislation.¹⁹¹ The General and Common Affairs Service performs duties of general affairs and services for the president, the government, the ministries and other bodies, secretariats and other professional services of the government and constitutional court of RNM.¹⁹² In addition to ministries, there are organs of state administration according to the Law on Organisation and Operation of State Administration Bodies (LOOSAB) that are independent organs of the state administration¹⁹³ and other government bodies,¹⁹⁴ as well as three administrative organisations¹⁹⁵.

The government determines the economic and development policy of the state, determines measures for its implementation and proposes measures to the Assembly for the implementation of the policy that are within its competence; it determines the policy of execution of laws and other regulations of the Assembly, monitors their execution and performs other tasks established by law.¹⁹⁶ Within the framework of their rights and duties determined by the constitution and by law, the government and each of its members are accountable to the Assembly for their work.¹⁹⁷

The government of RNM has sufficient capacity to carry out its responsibilities, there is a good legal framework that regulates responsibility and transparency in its operations, but still more transparency is needed in the decisions it makes, as well as in carrying out its responsibilities. In particular, there should be a more transparent way of choosing government functionaries chosen.

At the same time, in practice there are no examples of specific political responsibility of a holder of a public function, for example, a voted interpellation or distrust of the government, which is primarily due to the fact that, in the Assembly, the ruling majority decides.¹⁹⁸ Hence, greater moral responsibility of functionaries (holders of a

¹⁸⁸ Law on the Government of the Republic of Macedonia, Official Gazette of RM Article 11, no. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and Official Gazette of RM No. 98/19

¹⁸⁹ Law on the Government of the Republic of Macedonia, Official Gazette of RM. Article 40- a and Article 39 no. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and "Official Gazette of RM No. 98/19

¹⁹⁰ Law on the Government of the Republic of Macedonia, Official Gazette of RM. Article 40b no. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and "Official Gazette of RM No. 98/19

¹⁹¹ Law on the Government of the Republic of Macedonia, Official Gazette of RM. Article 40 no. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and "Official Gazette of RM No. 98/19

¹⁹² Service for general and common works, <https://vlada.mk/vlada-ministerstva>; <https://vlada.mk/sozr>.

¹⁹³ Law on the Organisation and Operation of State Administration Bodies Official Gazette of RM Article 12, paragraph 1, no. 58/00, 44/02, 82/08, 167/10, 51/11 and Official Gazette of RM no. 96/19 and 110/19, Commission for relations with religious communities and religious groups; Youth and Sports Agency; Agency for Emigration and Agency for Food and Veterinary of the Republic of Macedonia.

¹⁹⁴ Law on the Organization and Operation of State Administration Bodies Official Gazette of RM Article 5 paragraph 3 and 4, no. 58/00, 44/02, 82/08, 167/10, 51/11 and "Official Gazette of the Republic of North Macedonia" no. 96/19 and 110/19), bodies within the ministries (administration, bureau, service, inspectorate and captaincy). Also see: Organs in the composition of the Government of the Republic of North Macedonia, a total of 40, <http://vlada.mk/organi-vo-sostav>

¹⁹⁵ Article 12, paragraph 2, of the Law on the Organization and Work of State Administration Bodies Official Gazette of RM no. 58/00, 44/02, 82/08, 167/10, 51/11 and Official Gazette of RM no. 96/19 and 110/19), State Archive of the Republic of Macedonia, State Office for Geodetic Works and State Office for Statistics.

¹⁹⁶ Article 91 from the constitution, <https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>. The responsibilities of the government is also determined in Article 4 and Article 8 of the Law on the Government of the Republic of Macedonia Official Gazette of RM no. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and Official Gazette of RM No. 98/19)

¹⁹⁷ Article 4 of the Law on the Government of the Republic of Macedonia, Official Gazette of RM no. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and Official Gazette of RM No. 98/19)

¹⁹⁸ Report for our work Assembly of the Republic of North Macedonia for the period 1.1.2022 - 31.12.2022,

<https://www.sobranie.mk/content/izvestai/IZVESTAJ%202022.pdf>, p.14-16; Report on the work of the Assembly of North Macedonia for the period 1.1.2021 - 31.12.2021, <https://www.sobranie.mk/content/izvestai/IZVESTAJ%202021.pdf>, p.16, accessed on 10.11.2023

public function) is needed, along with greater interoperability between institutions in terms of cooperation and communication between authorities.

CAPACITY

INDICATOR 2.1.1 RESOURCES (PRACTICE)

To what extent does the executive have adequate resources to effectively carry out its duties?

Score: 100/100

The executive has appropriate human, technical and financial resources at its disposal to effectively carry out its duties.

A total of 3.96 per cent of the state budget was set aside for the government 2022.¹⁹⁹ This is a significant increase in approved funds for 2022, with the approved budget being 2.5 times higher than the planned maximum amounts. This is the result of the expansion of the P1 measures for dealing with the COVID-19 crisis and other anti-crisis measures, which were not planned in the preparation of the budget, when the maximum amounts of expenditures were determined at a lower level, by about 50 per cent, compared to 2021.²⁰⁰

There is no publicly available data on whether the technical capacities available to the government are sufficient or not for the execution of work, but it is evident from the budget that the government has sufficient funds.²⁰¹ The general and common affairs service, Secretariat which performs general affairs and services for the president, the GRNM, the ministries and other bodies, secretariats and other professional services and the constitutional court, but from its final accounts, it is not clear for which institution certain funds were spent.²⁰²

These secretariats and services had a total of 749 employees for 2022.²⁰³ However, the total number of the employees in the 16 ministries is 4,735, and there are 4,284 employees in the organs within the wider composition of the ministries, and 3,360 employees in the independent bodies of state administration.²⁰⁴

The number of employees over the years analysed has changed much, which indicates that the bodies of executive power have sufficient human resources.

¹⁹⁹ Budget of the Republic of North Macedonia for the year 2022, <https://finance.gov.mk/wp-content/uploads/2021/12/BUDZET-2022-konecen-za-objavuvanje-16.12.2021-mk.pdf>, p.212-213, p.1, 55, 57.

²⁰⁰ Final report for the performed audit of financial statements and compliance audit for 2021 on GRNM basic budget account (637), Skopje, May 2023, https://dzh.mk/sites/default/files/2023-06/4_Vlada_RSM_KOMPLET_2022.pdf; The SAO audited the basic budget of the RSM for 2022, State Audit Office. 2023. Media release- Skopje. <https://dzh.mk/mk/230721-dzh-izvrshi-reviziya-na-osnoven-budjet-na-rsm-za-2022-godina>. The auditors point out that, taking into account the scope of competences, the size of the budget, the organisational structure, the staffing of the government, the placement of internal controls, as well as the obligation for continuous monitoring and control over the legal use of the allocated funds based on government programmes, it is necessary for this way of "budgeting" to be re-examined, where with the planning, the realisation of these funds is mostly carried out through the government department and to allocate funds in the budgets of individual institutions according to the legal competences that each exercise separately. From the analysis of the structure of capital expenditures, we found that the biggest increase is in Investments and non-financial assets with over 47 per cent, which are mostly realised through the government sub-programme P1.

²⁰¹ Budget of the Republic of North Macedonia for the year 2022, <https://finance.gov.mk/wp-content/uploads/2021/12/BUDZET-2022-konecen-za-objavuvanje-16.12.2021-mk.pdf>, p.212-213

²⁰² Final account of the Office for General and Common Works of the Government of the RNM, https://vlada.mk/sites/default/files/dokumenti/sozr/zavrshna_smetka_na_sozr_za_2022_godina_-_del_1.pdf

²⁰³ The general secretariat has 272 employees, government secretariats have 123 (Secretariat for Legislature, 25, and Secretariat for European affairs, 98), the Office for General and Common Works in the Government of the Republic of North Macedonia has 354 employees. Report from the Register of Public Sector Employees for 2022, p.23,

https://mioa.gov.mk/sites/default/files/pbl_files/documents/reports/finalen_izveshtaj_za_2022_godina_30.03.2022_godina.pdf, accessed on 6 November 2023

²⁰⁴ Report from the Register of Public Sector Employees for 2022,

https://mioa.gov.mk/sites/default/files/pbl_files/documents/reports/finalen_izveshtaj_za_2022_godina_30.03.2022_godina.pdf, p.23, accessed on 6 November 2023.

Table 2.1: Number of employees²⁰⁵

	2019	2020	2021	2022
Number of employees in the government, government secretariats and services	849	828	808	749
employees in the ministries	6,266	6,010	5,037	4,735
employees in organs in the composition of government	4,386	4,309	4,523	4,284
employees in the independent bodies of state administration	3,468	3,306	3,479	3,360

Table 2.2: Budget and number of employees in the government of the RNM²⁰⁶

	Budget	
2018	MKD 1,974,768,000	€32,110,049
2019	MKD 6,055,317,000	€98,460,439
2020	MKD 18,473,371,000	€299,406,337
2021	MKD 14,289,348,000	€232,347,122
2022	MKD 9,736,179,000	€158,311,854

Table 2.3: Budget and number of employees in the General and Common Affairs Service²⁰⁷

	Budget	
2018	MKD 909,136,000	€1,478,260
2019	MKD 887,124,000	€14,378,022
2020	MKD 1,459,166,000	€23,726,276
2021	MKD 1,078,020,000	€17,471,961
2022	MKD 1,044,854,000	€16,989,496

²⁰⁵ Registry for employees in public sector for 2022, 2021, 2020 and 2019, finalen_izveshtaj_za_2022_godina_30.03.2022_godina.pdf (mioa.gov.mk), p.23; https://mioa.gov.mk/sites/default/files/pbl_files/documents/reports/finalen_izveshtaj_2021_rabotna_30.03.2022.pdf, p.24; <https://mioa.gov.mk/mk-MK/news/izveshtaj-od-registarot-na-vrabotenite-vo-javniot-sektor-za-2020-godina-3287.npx>, p. 23-24; https://mioa.gov.mk/sites/default/files/pbl_files/documents/reports/izvestajreg2019.pdf, p.29.

²⁰⁶ Budget of the Republic of North Macedonia for the year 2022, <https://finance.gov.mk/wp-content/uploads/2021/12/BUDZET-2022-Konecen-za-objavuvanje-16.12.2021-mk.pdf>, p.55; and <https://pbk.sobranie.mk/content/Analiza-na-rebalans-2020.pdf>

²⁰⁷ Budget of the Republic of North Macedonia for the year 2022, <https://finance.gov.mk/wp-content/uploads/2021/12/BUDZET-2022-Konecen-za-objavuvanje-16.12.2021-mk.pdf>, pg.57

Table 2.4: Budget and number of employees in the Legislative Secretariat²⁰⁸

	Budget	
2018	MKD 14,823,000	€240,243
2019	MKD 16,639,000	€269,675
2020	MKD 16,374,000	€265,381
2021	MKD 19,251,000	€312,009
2022	MKD 22,532,000	€365,186

INDICATOR 2.1.2 INDEPENDENCE (LAW)

To what extent is the executive independent by law?

Score: 100/100

There are comprehensive laws to ensure the independence of the executive. There are no provisions which restrict the independence of the executive in its decision-making and allow encroachment of other branches of government.

The government is independent in its operations from other branches of government and is subject only to parliamentary control from the Assembly and judicial control for the legality of the acts it passes. While the president enjoys immunity, parliament decides on this immunity. The function of the prime minister and minister is incompatible with performing other public functions or professions. The organisation and way of working of the government is regulated by law²⁰⁹.

The president represents the republic, determines the mandate for the composition of the government²¹⁰ and is the supreme commander of the armed forces of North Macedonia. The presidential powers are exercised based on and within the framework of the constitution and laws,²¹¹ but does not interfere in the work of the government.

The government performs its tasks independently within the framework of the constitution, laws, and ratified international agreements, and based on the principles of transparency, efficiency and protection of human rights and freedoms.²¹² The ministers independently manage their ministry, monitor it and are responsible for the implementation of laws and other regulations.²¹³ The bodies of the state administration perform their tasks

²⁰⁸ Budget of the Republic of North Macedonia for the year 2022, <https://finance.gov.mk/wp-content/uploads/2021/12/BUDZET-2022-konecen-za-objavuvanje-16.12.2021-mk.pdf>, pg. 58.

²⁰⁹ Article 89 of the Constitution, and Amendment XXIII, <https://www.slvesnik.com.mk/content/Ustav%20na%20RM%20-%20makedonski%20-%20FINALEN%202011.pdf>

²¹⁰ Article 84 of the Constitution, <https://www.slvesnik.com.mk/content/Ustav%20na%20RM%20-%20makedonski%20-%20FINALEN%202011.pdf>

²¹¹ Article 79 of the Constitution of the Republic of North Macedonia, <https://www.slvesnik.com.mk/content/Ustav%20na%20RM%20-%20makedonski%20-%20FINALEN%202011.pdf>. Pursuant to Article 84, the president of the Republic of North Macedonia: determines the mandate for the composition of the government; appoints and dismisses by decree the ambassadors and deputies; receives the credentials and letters of revocation of foreign diplomatic representatives; proposes two judges to the constitutional court; proposes two members to the judicial council; appoints three members to the security council; appoints and dismisses other holders of state and public functions determined by the constitution and by law; awards decorations and recognitions in accordance with the law; grants pardons in accordance with the law; and performs other functions determined by the constitution.

²¹² Article 2 of the Law on the Government of the Republic of Macedonia, Official Gazette of RM no. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and Official Gazette of RM No. 98/19

²¹³ Article 13 of the Law on the Government of the Republic of Macedonia, Official Gazette of RM no. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and Official Gazette of RM No. 98/19

independently based on and within the framework of the constitution and laws and are responsible to the government.²¹⁴

According to the constitution, parliament exercises political control and supervision over the government.²¹⁵ Political control is achieved through several mechanisms, such as parliamentary questions, interpellation, vote of no confidence in the government and other mechanisms.²¹⁶ The government and each of its members are accountable to the parliament,²¹⁷ and the government relates to the Assembly and the president within the framework of the rights and duties determined by the constitution and laws.²¹⁸

There are no provisions that limit the independence of the executive power in its decision-making and allow intrusion into other branches of the government, but still there are control mechanisms for the legality of its operation.

INDICATOR 2.1.3 INDEPENDENCE (PRACTICE)

To what extent is the executive independent in practice?

Score: 75/100

The executive operates mostly freely from any interference by other actors. There are no examples of other actors (for example, the legislature) unduly interfering with the activities and decisions of the executive. However, the executive is a coalition influenced by party politics.

The government is independent and has no influence from other authorities; for example, from the holders of legislative or judicial power, except for their powers to perform a control function over its operation in terms of the legal performance of its powers. Namely, parliament performs political control, and the courts control the legality of the decisions and the legal actions of the officials/ functionaries and employees.

However, in practice, it can be said that there is influence from political parties.²¹⁹ For example, in the past three years, the government had to reorganise as new, smaller coalition partners stepped in. The changes in political composition of the government led to changes of ministers. For example, the ministers for informatic society and administration,²²⁰ and the minister of justice have been changed three times.²²¹ There was also change in the cabinet at the Ministry of Health, Ministry of Education and others. Until one year ago, there was a cabinet in the vice prime minister for anti-corruption,²²² while from, February 2023, there is now a deputy prime minister in charge

²¹⁴ Article 96 of the Constitution, <https://www.slvesnik.com.mk/content/Ustav%20na%20RM%20-%20makedonski%20-%20FINALEN%202011.pdf>

²¹⁵ Article 68 of the Constitution, <https://www.slvesnik.com.mk/content/Ustav%20na%20RM%20-%20makedonski%20-%20FINALEN%202011.pdf>

²¹⁶ Regulated by the constitution of the RNM and the rules of procedure of the Assembly, Official Gazette: 130/2010, <https://www.sobranie.mk/delovnik-na-sobranieto-na-republika-makedonija-precisten-tekst.nspx>

²¹⁷ Article 92 of the constitution, <https://www.slvesnik.com.mk/content/Ustav%20na%20RM%20-%20makedonski%20-%20FINALEN%202011.pdf>

²¹⁸ Article 25 and Article 26 of the Law on the Government of the Republic of Macedonia, Official Gazette of RM no. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82 /08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and Official Gazette of RM No. 98/19)

²¹⁹ "The law was delayed for years and was not adopted because political parties refused to support a law that would "tie their hands" in the selection and appointment of high-ranking officials. See: <https://meta.mk/vladata-vo-akcija-za-legaliziranje-na-partiskite-imenuvanja-preku-skandalozniot-zakon-za-direktori-i-struchni-rakovoditeli/>

²²⁰ Sitel, "Zaev's coalition partners are dissatisfied with the agreement for new ministers without a portfolio and revision of court rulings", Коалиционите партнери на Заев незадоволни од договорот за нови министри без ресор и ревизија на судски пресуди | Сител Телевизија (sitel.com.mk), Accessed in October 2023

²²¹ Prof Tupancevski become minister of justice in January 2022, Професорот Тупанчески предложен за нов министер за правда - Академик (akademik.mk) Krenar Lega become minister in February 2023 И официјално, Кренар Лега е кандидат за нов министер за правда, а Фатмир Меџити за здравство (a1on.mk), Accessed in October 2023

²²² Government of RM website, Info section for the members of the Government: Љупчо Николовски | Влада на Република Северна Македонија (vlada.mk)

of good governance policies.²²³ These frequent changes in the cabinets bring changes to government policy priorities due to political party interests. This can also be seen in the legislative procedure, if we take into account the times when draft laws were withdrawn from parliamentary procedure, not only due to pressure from certain political parties but also due to pressure from the public²²⁴ during the submission of numerous amendments to draft laws,²²⁵ and during the implementation of political control mechanisms.

GOVERNANCE

INDICATOR 2.2.1 TRANSPARENCY (LAW)

To what extent are there regulations in place to ensure transparency in relevant activities of the executive?

Score: 75/100

Comprehensive regulations are in place to allow the public to obtain relevant information on the organisation and functioning of the executive, but not how it makes decisions.

The government is obliged to inform the public about its work and about the implementation of its annual work programme.²²⁶ In accordance with the rules of procedure, the president informs the public and gives details on the realisation of the annual programme. The government informs the public by: issuing announcements and bulletins about the most important issues from government sessions and about its the views and conclusions; organising conferences for the media. Decrees, decisions and government instructions have to be published in the Official Gazette of the Republic of North Macedonia.²²⁷

The Law on Free Access to Public Information requires information holders (including the government and state administration bodies) to publicly disclose a wide range of information. This includes details on their competencies, contact information, responsible persons, organisational documents, strategic plans, financial reports, service offerings, procurement documentation, programme proposals, and various other information relevant to their work and responsibilities. Citizens can use the Law on Free Access to Public Information to get relevant information on government activities.²²⁸

There was a government transparency strategy (2019-2021),²²⁹ but on 1 August 2023 the government published a draft transparency strategy with an action plan for 2023-2026,²³⁰ an open data strategy (2018-2020)²³¹ and a

²²³ Government of RM website, Info section for the members of the Government: Slavica Grkovska | Влада на Република Северна Македонија (vlada.mk)

²²⁴ Lider, under public pressure: The draft law on textbooks was withdrawn from parliamentary procedure, <https://lider.mk/pod-pritisokot-na-javnosta-povlechen-predlog-zakonot-za-uchebnici-od-sobraniska-procedural/>; Accessed in October 2023

²²⁵ Meta, More than 40 amendments have been submitted for the proposed law on public prosecution, <https://meta.mk/podneseni-nad-40-amanmani-za-predlog-zakonot-za-%D1%98avno-obvinitelstvo/>; Accessed in October 2023 <https://www.slobodnaevropa.mk/a/29004652.html>; <https://www.dw.com/mk/co-30000-amanmdani-ne-se-korigira-zakon-tuku-se-blokiira-parlamentot/a-42347172>, Accessed in October 2023

²²⁶ Law on the Government of the Republic of Macedonia, Article 7, Official Gazette of RM no. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and Official Gazette of RM No. 98/19.

²²⁷ Article 120 to Article 124, Rules of Procedure of the Government of the Republic of North Macedonia. Official Gazette of RM no. 38/01, 98/02, 9/03, 47/03, 64/03, 67/03, 51/06, 5/07, 15/07, 26/07, 30/07, 58/07, 105/07, 116/07, 129/07, 157/07, 29/08, 51/08, 86/08, 114/08, 42/09, 62/09, 141/09, 162/09, 40/10, 83/10, 166/10, 172/10, 95/11, 151/11, 170/11, 67/13, 145/14, 62/15, 41/16, 153/16 and 113/17 and Official Gazette of RM no. 228/19, 72/20, 215/20, 309/20, 41/21, 56/21 and 70/22.

²²⁸ Law on Free Access to Public Information, Official Gazette of RM No. 101/2019.

²²⁹ Transparency strategy of the government of the Republic of North Macedonia (2019-2021), https://vlada.mk/sites/default/files/dokumenti/strategii/strategija_za_transparentnost_mk.pdf

²³⁰ Draft government transparency strategy with an action plan, Single National Electronic Register of Regulations – ENER <https://ener.gov.mk/Default.aspx?item=newdocumentdetails&detalisId=64>

²³¹ Open data strategy (2018-2020) government of the Republic of Macedonia, Ministry of Information Society and Administration https://vlada.mk/sites/default/files/dokumenti/strategii/MIOSA/strategija_za_otvoreni_podatoci.pdf

national partnership action plan for open government 2021-2023.²³² There is also an open data portal and a special open government tab on the government's website. The transparency of the institutions is also included in the national strategy for the prevention of corruption and conflict of interest 2021-2025²³³ and draft text of the strategy for public administration reform 2023-2030.²³⁴

The state budget is public information and should be publicly published on the government's website²³⁵ and on the Ministry of Finance website. Pursuant to the Law on Budgets,²³⁶ the Assembly adopts the state budget for the following year, and after its adoption, the Ministry of Finance publishes it on its website with all accompanying documents.

The Ministry of Finance also publishes: a monthly report on the execution of the state budget; quarterly report on the execution of municipal budgets; consolidated quarterly report on the execution of the state and municipal budgets. The minister of finance submits reports to the government on the execution of the budget, and the government is obliged to submit the report to the fiscal council and parliament. The final account of the budget is published in the Official Gazette of the Republic of North Macedonia, and the financial report on the execution of the budget on the website of the Ministry of Finance within one month of its adoption at the latest.²³⁷

The Law on Prevention of Corruption and Conflict of Interests regulates that the assets of officials in the executive should be disclosed.²³⁸ The public disclosure is carried out by the SCPC.²³⁹

INDICATOR 2.2.2 TRANSPARENCY (PRACTICE)

To what extent is there transparency in relevant activities of the executive in practice?

Score: 50/100

The public is able to readily obtain relevant information on the organisation and functioning of the executive, but not for how decisions of government are made. The government proactively disseminates key information on its activities to the entire citizenry and particularly to those groups, which are most affected by the respective activities.

²³² Open Government Partnership, https://vlada.mk/sites/default/files/dokumenti/final_mkd_nap5_pov_2021-2023_compressed.pdf; <https://ovp.gov.mk/>; National open government partnership action plan 2021-2023, Skopje, October 2021, <https://www.opengovpartnership.org/wp-content/uploads/2021/11/North-Macedonia-AP-2021-2023-MK.pdf>

²³³ National strategy for the prevention of corruption and conflict of interest 2021-2025, <https://dksk.mk/wp-content/uploads/2021/01/Nacionalna-strategija-DKSK-KONECNA.pdf>

²³⁴ Strategy for PAR, 2023-2030, https://www.mioa.gov.mk/content/Strategija%20RJA_MK%2003.pdf

²³⁵ Article 10 of the Law on Free Access to Public Information, Official Gazette of RM no. 101/20219

²³⁶ Article 37 of the Law on Budgets, Official Gazette of RM No. 203/2022

²³⁷ Article 91, Article 92 and Article 94 of the Law on Budgets, Official Gazette of RM No. 203/2022

²³⁸ Article 82 Law on the Prevention of Corruption and Conflict of Interest, Official Gazette: 12/2019

(1) An elected or appointed person, a responsible person in a public enterprise, a public institution or another legal entity that has state capital, a notary, an executor, an administrative servant of category A established by law or a person employed in the offices of the president of the Republic of North Macedonia, the president of the Assembly, the vice-presidents of the Assembly, the president of the government, the deputies of the president of the government, the ministers and the general secretary, for the purpose of performing the tasks of a special adviser during the election, submits a statement of property status and interests.no later than within 30 days from the day of the election.

²³⁹ Article 87 Law on the Prevention of Corruption and Conflict of Interest, Official Gazette: 12/2019

(1) The data from the statement of property status and interests and the application for change in property status and interests represent information of a public nature, except for data protected by law.

(2) The data from the statement of property status and interests and reports on changes in property status and interests, submitted to the state commission, except for data protected by law, are published on the website of the state commission.

The government publishes data on its activities on its website (<https://vlada.mk/otvorena-vlada>)²⁴⁰. Minutes of government sessions are published there,²⁴¹ and there is a tool for accounting for the expenses of holders of a public function,²⁴² the salaries of the president of the government, the deputy presidents and the ministers.²⁴³ Survey sheets are also published,²⁴⁴ along with the state budget,²⁴⁵ and other information in accordance with the Law on Free Access to Public Information. The government website is in both Macedonian and Albanian languages.

The government submits an annual report on requests for free access to public information to the Agency for Free Access to Public Information. According to data from this 2022 annual report, the government received 58 requests, of which it responded positively to 57 requests, and only one request was rejected. There were only five appeals filed against first-instance decisions. Three appeals were accepted by the Agency for Free Access.²⁴⁶ The government has published data for two years of government (2017-2019)²⁴⁷ but has not published an annual report on its operations; it has published the 2022-2024 work programme,²⁴⁸ and the programmes for 2018 to 2022 have also been published²⁴⁹, but there are no reports on what has been achieved. While the report on the implementation of the annual work plan of the general secretariat for 2021 has been published,²⁵⁰ not all reports prepared by the government and other bodies of the executive power have been published in one place.

The 2021 ENER (National Electronic Regulations Registry) monitoring annual report notes that “ministries do not publish more than half of ENER draft laws. Although the ministries are obliged to publish on ENER all draft laws that are passed by regular or abbreviated procedure, they did not fully respect the rules of procedure of the government. Namely, in 2021, a total of 117 draft laws were submitted by the government to parliament for which there was an obligation to be submitted to ENER, and for only 48 of them (41.03%) was published. Consequently, the public was denied the opportunity to be informed about the content of draft laws in more than 50% of cases”²⁵¹.

²⁴⁰ On the government website, there is a special folder on open government, which contains data on accountability (government sessions, minutes and agendas, an accountability tool for the expenses of public office holders, salaries of government members, mandate letters, survey sheets, 100 days of government (2017), 100 days with citizens (2020), one year of government (2018), two years of government (2019), budget 2021, action 21 - for European standards at home, data on finances (government budget, plan for public procurement, public procurement, budget implementation, audit reports); service information (public announcements, internal announcements, categorisation of catering facilities, completed urban plans, decisions on strategic investments); anti-corruption (protection of whistleblowers, protection of personal data, code of ethical conduct, access to public information, youth officer, proposals and petitions); organization and systematization (organization rules, list of employees, external associates of the prime minister, organogram, office of the prime minister of the Republic of North Macedonia); communications (communication strategy - 2019/2020, graphic standards of the government and ministries, proposal for decisive action against the spread of disinformation, final agreement to resolve the Macedonian-Greek name dispute and strategic partnership; FAQs; regulation (laws, by-laws, strategic planning, national strategies, code); open data (open data, open government partnership, annual gender equality reports).

²⁴¹ Minutes of Government session, <https://vlada.mk/vladini-sednici>

²⁴² Tool for accountability of public office holders, <https://vlada.mk/otchetnost-troshoci>

²⁴³ Salaries of the president and ministers, <https://vlada.mk/plati>

²⁴⁴ Survey sheets, <https://vlada.mk/anketni-listovi>

²⁴⁵ Government budget, https://vlada.mk/sites/default/files/dokumenti/budzeti-na-vlada-2022_0.pdf

²⁴⁶ Annual report on handling requests for free access to public information,

https://vlada.mk/sites/default/files/dokumenti/izvestaj_za_info_javen_karakterb_2022_redacted.pdf

²⁴⁷ Accountable to citizens, <https://vlada.mk/2GodiniOdgovorno>

²⁴⁸ Government work programme for 2022-2024, https://vlada.mk/sites/default/files/programa/2022-2024/programa_na_vladata_2022-2024.pdf

²⁴⁹ Government work programme for 2022,

https://vlada.mk/sites/default/files/dokumenti/programa_na_vlada_na_republika_severna_makedonija_za_2022_godina_compressed.pdf

²⁵⁰ Report on the implementation of the annual work plan

of the general secretariat for 2021, https://vlada.mk/sites/default/files/dokumenti/-izveshtaj_za_sproveduvanje_na_godishniot_plan_za_rabota_na_gs_za_2021_godina_fevruari_2021.pdf

²⁵¹ Mirror of the Government: public participation in the processes of preparation of laws annual report from the monitoring of ENER in 2021, April, 2022, p.5, <https://rcgo.mk/wp-content/uploads/2022/05/ogledalo-na-vladata-2021.pdf>, p.9

In 2020, the Council for Coordination and Monitoring of the Open Government Partnership process and the National Action Plan for Open Government Partnership 2018-2020 were established.²⁵²

On the government website, as well as on other state administration bodies, the decisions they make are not published in one place, nor the decisions for or against when legal protection was requested; that is, how many of the decisions were contested, how the procedure was completed, and, for example, when a judicial decision goes against a government decision.

The government publishes a list of public information on its website, as well as annual reports on requests for free access to public information.²⁵³

Since the rules of procedure of the government stipulate that basic and temporary, as well as a collegium of state secretaries are formed in the government, more transparent publication of information from the operation of these bodies is needed in the future.

INDICATOR 2.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions in place to ensure that members of the executive have to report and be answerable for their actions?

Score: 75/100

There are provisions to ensure that members of the executive have to report and be answerable for their actions. Regular reporting on relevant executive activities to other state bodies is required. However, the government does not have to submit an annual report on operations, but only a report on the implementation of the annual work plan of the general secretariat.

Ministries submit a report on the implementation of the annual work plan to the secretariat of the government²⁵⁴ in accordance with the obligation of the methodology for strategic planning and preparation of the annual work programme of the government of the RNM²⁵⁵ and the guidelines for the way ministries and other state administration bodies act in the process of monitoring, evaluating and reporting on such plans,²⁵⁶ and one is prepared by the general secretariat.²⁵⁷

The constitution of the RNM regulates that the government and each of its members are accountable to the Assembly for their work. Parliament can have a vote of no confidence in the government.²⁵⁸ The constitution also provides that the Assembly conducts elections; appointments and dismissals of other holders of public and other functions; exercises political control and supervision of the government and over other holders of a public

²⁵² National Action Plan for Open Government Partnership 2021-2023 Skopje, October 2021, p.6, https://vlada.mk/sites/default/files/dokumenti/final_mkd_nap5_pov_2021-2023_compressed.pdf; (<https://ovp.gov.mk/%d1%81%d0%be%d0%b2%d0%b5%d1%82-%d0%b7%d0%b0-%d0%be%d0%b2%d0%bf/> 7 OVP)

²⁵³ Access to public information, <https://vlada.mk/InfoJavenKarakter>

²⁵⁴ Example, Report on the implementation of the Annual Work Plan for 2022 of MIOA,

https://portal.mioa.gov.mk/sites/default/files/pbl_files/documents/strategies/20_4675_1_20221031.pdf

https://mioa.gov.mk/sites/default/files/pbl_files/documents/reports/izveshtaj2.pdf, Report on the Implementation of the Annual

²⁵⁵ Methodology for strategic planning and preparation of the annual work program of the government of the Republic of North Macedonia, <https://vlada.mk/sites/default/files/dokumenti/zakoni/Методологија за стратешко планирање и подготовка на ГПРВРМ.pdf>

²⁵⁶ Guidelines for the way ministries and other state administration bodies act in the process of monitoring, evaluating and reporting on the implementation of the strategic plan and the annual work plan,

https://vlada.mk/sites/default/files/dokumenti/zakoni/upatstvo_za_nacin_na_postapuvanje_na_ministerstvata_i_organite_vo_procesot_na_sledenjeocenuvanje_i_izvestuvanje_za_sproveduvanje_na_strateski_plan_i_godisen_plan_za_rabota.pdf

²⁵⁷ Report on the implementation of the annual work plan

of the general secretariat for 2021, https://vlada.mk/sites/default/files/dokumenti/-izveshtaj_za_sproveduvanje_na_godishniot_plan_za_rabota_na_gs_za_2021_fevruari_2021.pdf

²⁵⁸ Article 92 of the Constitution,

<https://www.sobranie.mk/content/Odluki%20USTAV/Odluka%20za%20proglasuvanje%20na%20Ustavot%20na%20RM.pdf>

function.²⁵⁹ The constitution and the Rules of Procedure of the Assembly establish the mechanisms for political control such as interpellation, parliamentary questions, votes of confidence, legislative procedure and other mechanisms. Since the government appears as the most frequent proposer of laws, it should publicly announce them, especially to ENER, such as the report on the assessment of the impact of the regulation, as well as draft laws, except laws that are adopted as a matter of urgency, where there is an absence of public debate.

The Law on the Government of the RNM provides that the government and each of its members are responsible for their work before the Assembly,²⁶⁰ and that the government supervises the work of the ministries and other state and administrative organisations.²⁶¹

According to the Law on the Organization and Operation of State Administration Bodies (LOOSAB), the director who manages the independent body of the state administration – the administrative organisation – is personally responsible to the government and the organisation they manage, as well as for the situation in the appropriate area within the competence established by law. The director of the body within the ministry is personally responsible for the work of the body before the government and the minister.²⁶²

Regarding the control of the legality of the decisions in the Law on the Government, it is provided that the government can withhold the execution of a regulation adopted by a minister if it considers that it is not in accordance with the constitution, law and other regulation and proposes to the minister within a certain period to modify or withdraw the regulation.²⁶³

The State Audit Office audits the government budget.²⁶⁴ The SCPC is empowered to conduct anti-corruption reviews of laws and regulations, act upon reports from individuals and legal entities about suspicions of corruption and conflict of interest, instigate initiatives before the competent authorities for determining the liability of officials, instigate initiatives before the competent authorities on the basis of reports from the State Audit Office, act in cases of conflict of interest, record and monitor the assets and interests, checks the data from the declarations of assets and interests, keeps a register of elected and appointed persons, and performs other activities as determined by law.²⁶⁵

Every citizen has the right to engage in public functions and submit petitions to state authorities and other public services, with the expectation of receiving responses.²⁶⁶ According to the Law on the Government, directors of state administration bodies, administrative organisations, public enterprises, citizen associations, foundations and other legal entities can attend government sessions upon the president of the government's invitation. They are invited to provide input, opinions and proposals on specific matters but do not have decision-making authority during these sessions.²⁶⁷ According to the LOOSAB, government entities are required to engage citizens in the legislative process by: i) publicly announcing details, content and deadlines for the development of laws and regulations; ii) hosting public forums; iii) seeking input and opinions from relevant citizen associations and legal entities.²⁶⁸ Also, a series of by-laws regulate this issue, such as: the rules of procedure of the government of RNM,

²⁵⁹ Article 68 of the Constitution, <https://www.sobranie.mk/content/Odluki%20USTAV/Odluka%20za%20proglasuvanje%20na%20Ustavot%20na%20RM.pdf>

²⁶⁰ Article 4 of the Law on the Government of the Republic of Macedonia, Official Gazette of RM no. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and Official Gazette of RM No. 98/19)

²⁶¹ Article 30 of the Law on the Government of the Republic of Macedonia, Official Gazette of RM no. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and Official Gazette of RM No. 98/19)

²⁶² Article 50 of the Law on the Organization and Operation of State Administration Bodies Official Gazette of RM no. 58/00, 44/02, 82/08, 167/10, 51/11 and Official Gazette of RM No. 96/19 and 110/19

²⁶³ Article 29 and Article 30 of the Law on the Government Official Gazette of RM No. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and Official Gazette of RM No. 98/19)

²⁶⁴ Article 22 of the State Audit Law Official Gazette of RM no. 66/10, 145/10, 12/14, 43/14, 154/15, 192/15, 27/16 and 83/18 and Official Gazette of RM No. 122/21)

²⁶⁵ Article 17 of the Law on Prevention of Corruption and Conflict of Interest, Official Gazette of RM no. 12/2019)

²⁶⁶ Article 23 & 24 from the constitution

²⁶⁷ Article 22 of the Law on the Government, Official Gazette of RM No. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and Official Gazette of RM No. 98/19)

²⁶⁸ Article 10 of the Law on the Organization and Operation of State Administration Bodies. Official Gazette of RM no. 58/00, 44/02, 82/08, 167/10, 51/11 and Official Gazette of RM no. 96/19 and 110/19

the strategy of the government for cooperation with and development of the civil sector,²⁶⁹ the code of good practices for the participation of the civil sector in the policy-making process,²⁷⁰ the methodology for the assessment of the impact of the regulation,²⁷¹ guidelines for the way ministries and other state administration bodies act in the process of monitor, evaluate and report on the implementation of the strategic plan and the annual work plan,²⁷² and the rulebook for the organisation of public consultations when starting a legislative process.²⁷³

INDICATOR 2.2.4 ACCOUNTABILITY (PRACTICE)

To what extent is there effective oversight of executive activities in practice?

Score: 50/100

Mechanisms for the responsibility of the executive branch are mostly applied, but not effectively, in that the public is not transparently informed about the effects of the application of certain control mechanisms, especially on court disputes by areas, acts and court decisions, as well as the execution of decisions.

The government regularly reports on its activities, in accordance with the legal regulations.²⁷⁴

Mechanisms for political control are rarely used by members of parliament; sessions are held on parliamentary questions, and questions of confidence are asked, although very rarely, but in practice, there are only a few examples of a vote for no confidence in the government, none of which were successful. Also, there has been no replacement of an official as a result of the application of some mechanism for political control. This is because the opposition has fewer votes than the ruling coalition, which has the parliamentary majority in the Assembly. Hence, a lot depends on the moral responsibility of officials.

Some of the government's decisions contain an explanation, although it is quite short and insufficient.²⁷⁵ The constitutional court decides on the compliance of other regulations and collective agreements with the constitution and laws.²⁷⁶

The State Audit Office regularly submits its audit reports to the Assembly²⁷⁷ and they are published on the Assembly website.²⁷⁸ The government publishes the audit reports on the revision of the government on its website, but the last one published was in 2012.²⁷⁹

It has not been noted if there has been any interference while the auditor general's office is completing the audit.

²⁶⁹ Strategy of the RNM Government for cooperation with and development with the civil sector (208-2020), <https://www.nvosorabotka.gov.mk/sites/default/files/dokumenti/Strategija2018-2020usvoena9102018.pdf>

²⁷⁰ Code of good practices for the participation of the civil sector in the policy-making process, Official Gazette of RM. no: 99/2011 from 22.07.2011 <https://rm.coe.int/16802eedd2>

²⁷¹ Methodology for assessing the impact of the regulation, Official Gazette of RM. No. 107/2013 of 30.07.2013

²⁷² Guidelines for the way ministries and other state administration bodies act in the process of monitoring, evaluating and reporting on the implementation of the strategic plan and the annual work plan, https://vlada.mk/sites/default/files/dokumenti/zakoni/upatstvo_za_nacin_na_postupuvanje_na_ministerstvata_i_organite_vo_procesot_na_sledenjeocenuvanje_i_izvestuvanje_za_sproveduvanje_na_strateski_plan_i_godisen_plan_za_rabota.pdf

²⁷³ Rulebook for the organisation of public consultation when starting a legislative process, https://vlada.mk/sites/default/files/dokumenti/zakoni/pravilnik_za_organizacija_na_javna_konsultacija_pri_zapochnuvanje_na_legislativen_poces.pdf

²⁷⁴ Media center, <https://vlada.mk/media-centar?page=1>

²⁷⁵ Decision on the appointment of the Director of the Service for General and Common Affairs of the GRNM, <https://vlada.mk/node/3217> Official Gazzette. of RM no: 255/2020, <https://dejure.mk/zakon/reshenie-za-imenuvanje-direktor-na-sluzhbata-za-opshti-i-zaednichki-rabotini-vladata-republika-severna-makedonija>, https://aa.mk/content/pdf/Decisions_02_2020/Decision on selection 478_2019 - Government of the Republic of North Macedonia - Service for general and common affairs.pdf

²⁷⁶ Article 110 from the constitution, <https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>

²⁷⁷ Annual report on the performed audits and the work of the State Audit Office, <https://www.sobranie.mk/detalni-namaterijal.nspx?param=60fbfcf-4ebf-4805-9888-2f4ea71e8781>

²⁷⁸ Audit reports, <https://dzh.mk/mk/revizorski-izvestai>; Во 2002 година изготвен е и Конечен извештај за извршена ревизија на успешност „Реформа на јавната администрација“, https://dzh.mk/sites/default/files/2023-03/176_RU_Reforma_javna_administracija_KOMPLET_2022.pdf

²⁷⁹ Audit reports, <https://vlada.mk/revizija>

The executive power is audited on an annual basis, but from different aspects and different bodies that are part of the executive power.²⁸⁰

In practice, the requests for public consultations are respected and, in particular, laws that are proposed for adoption are published on ENER, with the exception of laws that are adopted after an abbreviated procedure.²⁸¹

In the 2021 annual report on the work of the public prosecutor's offices, an increased number of reports on crimes related to the abuse of an official position and authority is recorded, but according to the data published in this report, it is not possible to determine how many of those reports refer to public office holders.²⁸² It also emphasises that the public prosecutor's office acts indiscriminately and does not succumb to political influences.²⁸³

The 2022 EC progress report states that the council for cooperation between government and civil society continues to be the main structural channel for consultation and involvement of civil society in political dialogue and decision-making. The report highlighted that the council faced challenges and that civil society representatives boycotted the activities from March 2022 due to the redistribution of the finances that were dedicated for the work of the CSOs.²⁸⁴

Additionally, standard state funding for the annual cooperation programme with civil society was not reinstated in the 2022 state budget supplement.²⁸⁵ Despite adopting the 2022-2024 strategy for enhancing civil society,²⁸⁶ which aims to improve the legal and financial support for civil society organisations, there is a need for an effective monitoring framework for strategy implementation. The report encourages local authorities to engage civil society organisations in decision-making processes.²⁸⁷

Civil organisations that are part of the council, as elected representatives of the civil sector, expressed dissatisfaction with the attitude of the government towards the council and towards civil society in general.²⁸⁸ The 2021 SIGMA report notes that North Macedonia has one of the highest rates of processing and enactment of laws in abbreviated or urgent procedures, which remains a major concern (60 per cent in 2020).²⁸⁹ It is also stated that monitoring and reporting on the government work is only partially regulated, and the implementation is weak. The government does not prepare regular reports on the implementation of major planning documents, such as government annual work plan (GAWP) and national programme for the adoption of the *acquis* (NPAA). There is no formal requirement for monitoring and reporting on the implementation of sector strategies. The quality of reports on sector strategies is poor. There is no legal requirement for reports on planning documents to be publicly available, and with the exception of the budget report, no other report is published.²⁹⁰

²⁸⁰ Audit reports, <https://dzh.mk/mk/revizorski-izvestai>

²⁸¹ Proposed regulations, https://ener.gov.mk/Default.aspx?item=top_regulation&subitem=view_last,

²⁸² The efficiency in the actions of the prosecutor's offices in the criminal acts in the field of corruption and its suppression and prevention is also observed in the proceedings conducted during 2021 for the criminal act, abuse of official position and authority from Article 353 of Chapter XXX, and criminal acts against official duty. It is evident the increase in the number of persons against whom proceedings were initiated in 2021, with a total of 1,728, in contrast to 2020, when there were 1,298 people prosecuted for this crime. In 2021, criminal charges were filed for these crimes against a total of 4,009 people, of which 1,728 people are newly registered and for 2,281 people who remained in work from the previous period. In 2021, the public prosecutor's offices filed charges against 263 people, and the courts passed verdicts against 207 people, and for 49 people, verdicts were passed on the basis of guilty pleas. <https://jorm.gov.mk/wp-content/uploads/2022/08/izveshta%C4%8D1%98-finalen-2021-1.pdf>, p.51

²⁸³ MIA, Joveski for MIA: The prosecution does not act selectively and does not succumb to political influences, <https://mia.mk/story/јовески-за-миа-обвинителството-не-постапува-селективно-и-не-подлегнува-на-политички-влијанија>

²⁸⁴ Prizma, "The governmental cooperation with the CSOs on thin ice", <https://prizma.mk/vladinata-sorabotka-so-nevladinite-na-tenok-mraz/>, Accessed on 18 October 2023 and EC Report on North Macedonia for 2022, p.12, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022.pdf>

²⁸⁵ EC. 2023. North Macedonia 2023 Report, p.13, https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf

²⁸⁶ Strategy of the government of the Republic of North Macedonia for cooperation with and development of civil society with Action Plan 2022–2024, <https://www.nvosorabotka.gov.mk/sites/default/files/Strategija%20usvoena%202028%202012%202021.pdf>

²⁸⁷ EC. 2023. Report on North Macedonia for 2022, p.12, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022.pdf>

²⁸⁸ EPI. The civil sector is alarmed about the government's relationship to civil society, <https://epi.org.mk/post/23983>, Accessed on 13 November 2023

²⁸⁹ Monitoring report the principles of public administration Republic Of North Macedonia, November 2021 <https://www.sigmapublications.org/publications/Monitoring-Report-2021-Republic-of-North-Macedonia.pdf>

²⁹⁰ A medium-term government planning system was established, but it has gaps, particularly in the area of sector strategy development and monitoring, and the quality of the planning documents is still weak. Despite recent efforts of the GS, the preparatory process of the new

INDICATOR 2.2.5 INTEGRITY (LAW)

To what extent are there mechanisms in place to ensure the integrity of members of the executive?

Score: 100/100

There are comprehensive regulations to ensure the integrity of members of the executive. Examples are a code of conduct, rules regarding conflicts of interest, rules on gifts and hospitality and post-employment restrictions.

The mechanisms for integrity and the fight against corruption for the state administration are formally defined in the Law on the Prevention of Corruption and Conflict of Interest²⁹¹ (LPCCI), and in the Law on the Protection of Whistleblowers (LPW),²⁹² as well as in the Law on Administrative Servants²⁹³ (LAS), the code for administrative servants,²⁹⁴ the code of ethical conduct for members of the government and holders of public offices (function) appointed by the government²⁹⁵ in which there are also anti-corruption provisions,²⁹⁶ and in the criminal code.²⁹⁷ One of the deputy prime ministers is in charge of good governance policies.²⁹⁸

According to code of ethical conduct for members of the government and holders of public offices (function) appointed by the government, the holders of executive functions cannot receive gifts while performing their functions and duties, except in the cases limited in the amount and in the manner determined by the Law on the Use and Disposal of State-Owned and Municipal-Owned Items,²⁹⁹ on the basis of which a decree was adopted proscribing the criteria of giving and receiving gifts, the reporting of gifts, the method of evaluating gifts, the method of additional payment for a personal gift, as well as the use, storage and records of things that became state property by way of a gift³⁰⁰ and according to the provisions in the Law on the Prevention of Corruption and Conflict of Interest.³⁰¹

regulatory basis for sector strategy development is slow, and the whole area remains unregulated. Alignment and coherence between government plans is not ensured, and a high number of GAWP measures are carried forward from one year to another (58 per cent from 2020 to 2021). Central oversight, monitoring and quality control on sector strategy development is not institutionalised. Sectoral strategies of ministries are prepared using differing methodological approaches and standards and often lack action plans to help plan and monitor implementation to achieve the ultimate policy goals. There is no practice of preparing and publishing regular monitoring reports on the implementation of key government planning documents, with the exception of the report on the state budget.,

²⁹¹ Law on Prevention of Corruption and Conflict of Interest, Official Gazette of RM no. 12/2019

²⁹² Law on Protection of Whistleblowers Official Gazette of RM no. 196/15 and 35/18 and Official Gazette of RM no. 257/20

²⁹³ Law on Administrative Servants, Official Gazette of RM no. 27/14, 199/14, 48/15, 154/15, 5/16, 142/16 and 11/18 and Official Gazette of RM No. 275/19, 14/20, 215/21 and 99/22).

²⁹⁴ Code for administrative servants, Official Gazette of RM, no. 183 of 12.12.2014.

²⁹⁵ Code of ethical conduct for members of the government and holders of public offices (function) appointed by the government, Official V. of R.M. no: 232/2020 from 27.09.2020

²⁹⁶ Avoidance of conflict of public and private interests Article 12 from code of ethical conduct for members of the government and holders of public offices (function) appointed by the government, Official V. of R.M. no: 232/2020 from 27.09.2020, Holders of executive functions, in the performance of their powers and duties, avoid any conflict between public and private interests, that is, bringing about a state of doubt about the existence of a conflict of interests. Holders of executive functions, in the performance of their powers and duties, take particular care to respect the constitution, the Law on the Prevention of Corruption and Conflict of Interest and the Law on the Protection of Whistleblowers and other regulations and provide mechanisms for their respect by all employees of the institution which they manage. Holders of executive functions perform the function as a basic and unique duty, i.e. they must not perform any other activity that may affect the impartial exercise of their powers and duties and consistently comply with the provisions of the Law on the Prevention of Corruption and Conflict of Interests for the ban on carrying out other activities, restrictions on carrying out activities during the performance of the position, restrictions on carrying out supervision, restrictions on carrying out activities after the termination of the position, the ban on membership in administrative and supervisory bodies, the ban on misuse of official data, restrictions on cooperation with legal entities, ban on using loans and other types of support from the state, disposal of state property, economical use of state funds, ban on acquiring shareholder rights, ban of influence on employment of close relatives and the prohibition of influence on public procurement procedures.

²⁹⁷ Criminal Code Official Gazette of RM no. 37/96, 80/99, 4/02, 43/03, 19/04, 81/05, 60/06, 73/06, 7/08, 139/08, 114/09, 51/11, 135/11, 185/11, 142/12, 166/12, 55/13, 82/13, 14/14, 27/14, 28/14, 41/14, 115/14, 132/14, 160/14, 199/14, 196/15, 226/15, 97/17 and 248/18 and Official Gazette of RM No. 36/23

²⁹⁸ Deputy prime minister in charge of policies for good governance, <https://vlada.mk/minister/SlavicaGrkovska>

²⁹⁹ The Law on the Use and Disposal of State-Owned and Municipal-Owned Items. Official Gazette of RM no. 78/15, 106/15, 153/15, 190/16, 21/18 and Official Gazette of RM no. 101/19, 275/19 and 122/21

³⁰⁰ Decree proscribing the criteria, the method of giving and receiving gifts, the reporting of gifts, the method of evaluating gifts, the method of additional payment for a personal gift, as well as the use, storage and records of things that became state property by way of gift, Official Gazette of RM no. 180/2015

³⁰¹ Article 17 of the code of ethical conduct for members of the government and holders of public offices appointed by the government, Official V. of R.M. No: 232/2020 of 27.09.2020 and Article 58 of the Law on Prevention of Corruption and Conflict of Interest.

The code stipulates that the holders of executive functions perform the function as a basic and unique duty, in that they must not perform any other activity that may affect the impartial exercise of their powers and duties and must consistently comply with the provisions of the Law on the Prevention of Corruption and the Conflict of Interests, which prohibits performing other activities, restricts activities during the performance of the office, supervision and performing activities after the termination of the office.³⁰²

This code regulates the manner of conduct and work of the president of the government, ministers, deputy ministers and other holders of executive functions appointed by the government to ensure respect for constitutionality, legality, professional integrity, efficiency, loyalty, responsibility, transparency and the protection of human rights and freedoms when performing their functions or duties within the framework of the constitution, laws and ratified international agreements. The code determines that the holders of executive positions may not use their position to gain personal benefit or the benefit of close persons, as well as the benefit of a political party and another entity. This code contains a provision on avoiding conflict of public and private interests and for receiving gifts.³⁰³

The Law on the Protection of Whistleblowers regulates protected reporting, that is disclosure, which, in accordance with this law, conveys a reasonable suspicion or knowledge that a punishable, unethical or other illegal or impermissible act has been committed, is being committed or is likely to be committed which injures or threatens the public interest. This law regulates protection of whistleblowers, as well as the actions and duties of institutions (legal entities reporting in the public and private sectors), for the purpose of protecting the public interest and ensuring the protection of whistleblowers.³⁰⁴

The Law on Lobbying³⁰⁵ regulates the conditions for acquiring the status of a lobbyist and a lobby organisation, the registration of lobbyists and lobby organisations, the obligations of lobbyists and lobby organisations and the obligations of the persons and bodies that are lobbied, with the aim of transparency of the processes of preparation, adoption and modification of public policies: programmes, laws, by-laws or other general acts.

INDICATOR 2.2.6 INTEGRITY (PRACTICE)

To what extent is the integrity of members of the executive ensured in practice?

Score: 50/100

In practice, there is a dearth of published information about the enforcement of integrity provisions for public officials, with limited data available on only conflict-of-interest rules and whistleblower protection, but this insufficiency in information regarding the consequences of violations and reports erodes public confidence in governmental institutions.

The SCPC received the most reports in 2021 on corruption: 583³⁰⁶ and 44 related to the Law on Whistleblowers, and received 9 reports from whistleblowers for external reporting.³⁰⁷

There is no data on disciplinary procedures for administrative servants conducted due to violation of provisions of the code for administrative servants, no information on the responsibility of officials due to violation of provisions

³⁰² See also Article 46-47 of the Law on Prevention of Corruption and Conflict of Interest

³⁰³ See Article 12 and Article 17 of the code of ethical conduct for members of the government and holders of public offices appointed by the government, Official V. of R.M. No: 232/2020 of 27.09.2020 and Article 58 of the Law on Prevention of Corruption and Conflict of Interest.

³⁰⁴ Article 1 and Article 2 of the Law on Protection of Whistleblowers. Official Gazette of RM no. 196/15 and 35/18 and Official Gazette of RM no. 257/20)

³⁰⁵ Law on Lobbying, Official Gazette of RM no. 122/2021

³⁰⁶ Annual report on the work of the DSKS for 2021, <https://dksk.mk/wp-content/uploads/2022/03/%D0%93%D0%98-2021-final.pdf>, p.10

³⁰⁷ Annual report on the work of the DSKS for 2021, <https://dksk.mk/wp-content/uploads/2022/03/%D0%93%D0%98-2021-final.pdf>, pp.9 and 45

in the code of ethical conduct for members of the government and holders of public offices, and there is no information on the completion of the procedure following a report by a whistleblower.

INDICATOR 2.2.7 GENDER REPRESENTATION

To what extent are women represented in the different levels of the executive (Cabinet and other presidential appointments or equivalent)?

Score: 75/100

Legal provisions exist and in practice are routinely followed. A strategy to promote equal participation of women is in place and but only around one-third of the members of the executive are women.

The legal framework that guarantees gender equality in the RNM is regulated by the Law on Equal Opportunities for Women and Men,³⁰⁸ and gender equality is provided for in numerous other regulations such as the Law on Prevention and Protection from Discrimination, the Law on Labour Relations, the Law on Budgets, and national strategies for gender equality are adopted. In 2020, a new Law on Prevention and Protection from Discrimination was adopted.³⁰⁹

In 2022, according to the administrative servants from the government, out of a total of 272 employees, 168 (61.76 per cent) are women and 104 (38.24 per cent) are men.³¹⁰ In ministries, there are 2,214 women and 2,521 men. The government prepares an annual report on the activities undertaken and the progress achieved for the establishment of equal opportunities for women and men in the general secretariat.³¹¹ However, in total, there are four women ministers, compared to 12 men who are ministers. In the government (2022), 19 per cent of ministers, 12 per cent of deputy ministers and 36 per cent of state secretaries are women.³¹² In 2023, this was 25 per cent of ministers, 31 per cent of deputy ministers, and 29 per cent of state secretaries were women. Women held 15 per cent of the executive positions in different government bodies and agencies. Women represented 56.29 per cent of all public service employees, according to the register of public sector employees.³¹³

The department for equal opportunities was established in 2007 under the Ministry of Labor and Social Policy,³¹⁴ and is responsible for initiating and implementing policies and activities related to gender equality and non-discrimination, as well as the implementation of the Law on Equal Opportunities for Women and Men and promoting gender equality at the central and local levels. The role of the department is to ensure a full approach of the government in providing better economic and social benefits for women. Coordinators and deputy coordinators for equal opportunities for women and men have been appointed in all ministries and municipalities.

³⁰⁸ The first National Strategy for Gender Equality 2013-2020 Official V. of RM. no: 27/2013 of 22.02.2013. In 2022, the Assembly adopted the second national strategy for gender equality 2022-2027, Official Gazette of the RSM no. 170/2020, which defines the strategic priorities of the state in terms of gender equality and the establishment of equal opportunities. It is significant to mention that for the first time this strategy defines a strategic goal and activities related to gender equality and climate change in particular, with notes related to the environment and pollution as well as help and support to women from rural areas, especially women farmers.

³⁰⁹ Law on Prevention and Protection from Discrimination, Official Gazette of RM No. 258/2020

³¹⁰ Report from the Register of Public Sector Employees for 2022,

https://mioa.gov.mk/sites/default/files/pbl_files/documents/reports/finalen_izveshtaj_za_2022_godina_30.03.2022_godina.pdf, p.33.

³¹¹ Annual report on activities undertaken and progress achieved for the establishment of equal opportunities for women and men in the field of gender equality in 2021. https://vlada.mk/sites/default/files/dokumenti/godishen_izveshtaj_za_rodova_ednakvost_1_01-31_12_2021_6_06_2022.pdf

³¹² Report on North Macedonia for 2022

³¹³ EC. 2023. Report on North Macedonia for 2023, p.13 and p.17, https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf

314 Government website: [https://www.mstps.gov.mk/WBStorage/Files/Sektor za Ednakvi moznosti MKD.pdf](https://www.mstps.gov.mk/WBStorage/Files/Sektor%20za%20Ednakvi%20moznosti%20MKD.pdf)

They are civil servants, with obligations and responsibilities prescribed by the Law on Equal Opportunities for Women and Men, and in the Assembly, a commission for equal opportunities for women and men was formed, consisting of MPs.³¹⁵

ROLE

INDICATOR 2.3.1 PUBLIC SECTOR MANAGEMENT (LAW AND PRACTICE)

To what extent is the executive committed to and engaged in developing a well-governed public sector?

Score: 50/100

The executive is somewhat active, but rather unsuccessful in developing a public sector which is governed by high levels of transparency, accountability, integrity and inclusiveness. This is due to the fact that in practice the control mechanisms are ineffective, and not all stakeholders are involved jointly in creating certain decisions.

According to the Law on Government³¹⁶, the president is responsible for leading and overseeing the government's work, collaborating with various authorities, public entities and institutions. They guide the actions of the government and its members based on programme objectives, sign government regulations and acts, and ensure their enforcement. The prime minister can establish an office for assistance and cooperate with commercial companies, citizen associations and other legal entities in the fulfilment of their constitutional and legal responsibilities.³¹⁷ Also, according to this law, members of the government have the right and responsibility to actively engage in the government's activities. They can propose laws, regulations and acts within the government's authority, suggest decisions, and participate in various governmental functions based on government resolutions and established procedures.³¹⁸

Ministers have autonomous management of their respective ministries, ensuring the enforcement of laws and regulations. The Law on Government also allows directors of government bodies, representatives from public entities, citizen associations and other legal entities to attend government sessions at the invitation of the prime minister. They can participate in discussions, offer opinions and proposals but do not have decision-making authority in these sessions.³¹⁹

The government's interaction with the Assembly, as defined by the constitution and the law, involves the government providing its opinions on matters within its jurisdiction. Additionally, when the Assembly receives law proposals from other authorised sources, the government must deliver its opinion within 15 days of receiving these proposals.³²⁰

The government's interaction with the president is based on constitutional and legal provisions. The government keeps the president informed about its activities and can also seek the president's input on specific matters related to their respective executive powers.

In order to monitor the goals set in the 2018-2022 public administration reform (PAR) strategy, as well as for the coordination of the overall PAR process, at the political level, a public administration reform council is being

³¹⁵ Information on the progress on gender issues in the last two decades in the Republic of North Macedonia, p.7, <https://www.sobranie.mk/detali-na-materijal.nspx?param=a12475a8-0574-4184-b8e8-019316766402>; <https://www.sobranie.mk/materijali-parlament.nspx>

³¹⁶ Law on the Government of the Republic of Macedonia. Official Gazette of RM No. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and Official Gazette of RM No. 98/19

³¹⁷ Article 11 of the Law on the Government of the Republic of Macedonia. Official Gazette of RM No. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and Official Gazette of RM No. 98/19

³¹⁸ Article 12 of the Law on the Government of the Republic of Macedonia. Official Gazette of RM no. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and Official Gazette of RM No. 98/19

³¹⁹ Article 22 of the Law on the Government of the Republic of Macedonia. Official Gazette of RM No. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and Official Gazette of RM No. 98/19

³²⁰ Article 25 of the Law on the Government of the Republic of Macedonia. Official Gazette of RM No. 59/00, 26/01, 13/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14, 196/15, 142/16, 140/18 and Official Gazette of RM No. 98/19

established, chaired by the president of the government and composed of deputy presidents, ministers and other managers from institutions - bearers and participants in the activities determined in the action plan of the strategy for PAR 2018-2022³²¹. This council is also foreseen in the strategy for PAR 2023-2030.³²²

The government's 2017-2020 work programme prioritised establishing a professional, efficient, accountable and transparent public administration that delivers high-quality services to citizens and businesses while safeguarding their rights. This would be achieved by emphasising fairness and expertise in staff selection, objectivity in promotions and rewards, and ensuring a non-partisan administration dedicated to addressing citizen and business issues while upholding legality and impartiality in its duties.

The prime minister presides over the council for public administration reform which has PAR secretariat for administrative support.

The Ministry of Informatic Society and Administration (MISA) is preparing a national plan for quality management in the public sector.

There is an agency for administration as a separate independent state body that takes care of publishing announcements for the employment of administrative officers, organising procedures for the selection of administrative officers, dealing with complaints and objections of administrative officers in the second degree, and other matters established by law.³²³

An interoperability framework for Macedonian services was developed, which was adopted in 2016.³²⁴ The framework covers all levels of interoperability - technical, semantic, organisational and legal. Pursuant to the Law on Electronic Management, a functional interoperability platform was established in which 53 institutions currently have the opportunity to securely exchange data through developed web services.³²⁵

There is no publicly available data that the executive provides incentives for the public sector to carry out its activities in a transparent, accountable and inclusive manner, for example, through transparency awards, financial incentives, monitoring systems/scorecards.

INDICATOR 2.3.2 LEGAL SYSTEM

Score: 50/100

While there are a number of reforms, initiated and promoted by the executive, to counter corruption and promote integrity, it is necessary to work on a more effective application of the legal solutions.

The Law on Prevention of Corruption and Conflict of Interest is a relatively new law passed in 2019. Since then, there have been no legal changes in this regulation. In 2021 on a Unique National Electronic Register of Regulations of the RNM (ENER) attached a notice on the start of the process for the preparation of a proposal to

³²¹ Monitoring and reporting on the PAR process is carried out by the Ministry of Information Society, which submits a report on the implementation of the action plan of the PAR strategy 2018-2022 to the council for PAR every six months, and once a year to the government of the Republic of North Macedonia. The reports are published on the website of the ministry of Information Society and the government of the Republic of North Macedonia. After the publication of the reports on the web page, and before their consideration at the sessions of the council for PAR, consultations will be conducted with representatives from civil society organizations. The evaluation will be done by independent experts in the medium term (every two years), as well as after the expiration of the 2018-2022 council for PAR strategy timeframe. Based on the reports on the degree of implementation and the findings of the evaluation, an audit will be undertaken, which will be . of the Action Plan of the Strategy for PAR 2018-2022, that is, defining the basis for the next strategy. https://mioa.gov.mk/sites/default/files/pbl_files/documents/strategies/srja_2018-2022_20022018_mk.pdf

³²² Strategy for PAR 2023-2030, https://www.mioa.gov.mk/content/Strategija%20RJA_MK%2003.pdf

³²³ Agency for Administration, <https://aa.mk/za-nas.npx>

³²⁴ Interoperability framework for Macedonian services,

https://portal.mioa.gov.mk/sites/default/files/pbl_files/documents/Macedonian_Interoperability_Framework%20MIF_v2.0_mk.pdf

³²⁵ Strategy for PAR 2018-2022, p.52. https://mioa.gov.mk/sites/default/files/pbl_files/documents/strategies/srja_2018-2022_20022018_mk.pdf

and <https://mioa.gov.mk/?q=mk/node/1320>

amend and supplement the law, but no amendments have been made.³²⁶ As for the Law on Protection of Whistleblowers, in 2022, notice was given for the start of the process for the preparation of a draft Law for the Protection of Whistleblowers³²⁷ and a working group was formed in 2023 to prepare the draft.³²⁸

In July 2023, the government adopted a decision on the establishment of an interdepartmental body for the coordination of anti-corruption activities. The body is established for the purpose of strengthening inter-institutional cooperation and coordination of activities for: creating policies to promote the prevention and fight against corruption, including providing technical support; implementation of measures or activities foreseen by national or international strategic or programme documents in the area of anti-corruption; coordinated collection and processing of data for monitoring corruption situations and providing contributions for the preparation of reports and other materials for reporting to international organisations and bodies regarding the implementation of recommendations and standards in the area of anti-corruption.³²⁹

In 2020, the government prepared ACTION 21: A Plan to Fight against Corruption,³³⁰ and there was a deputy prime minister for the fight against corruption and crime. But by 2022, the plan had not been realised. However, in January 2022, a new position of deputy prime minister in charge of good governance policies was established. The government has adopted the plan for good governance policies 2022³³¹. In the government's work programme for 2022-2024³³², the government commits to following fundamental principles of good governance, such as responsibility, efficiency, accountability, honesty, inclusivity and accessibility. The government places anti-corruption, order, discipline and the rule of law at the core of its policies. It aims to enhance its fight against corruption through an updated anti-corruption plan structured around four pillars: digitisation, an independent and efficient judiciary, professionalisation of institutions and preventive measures.³³³

The state programme for the prevention and repression of corruption and reducing the occurrence of conflicts of interest with the action plan 2016-2019,³³⁴ the SCPC prepared a methodology for assessing the risk of institutional corruption in November 2021.³³⁵

The office of the deputy prime minister in charge of policies for good governance, in cooperation with USAID, implemented a process of training trainers who will be able to independently provide training on the code of ethics and integrity, which is in line with the policy of the cabinet to create sustainable systemic solutions.³³⁶

INTERACTIONS

³²⁶ Notification of the start of the process for the preparation of the draft Law for Amendments and Supplements to the Law on the Prevention of Corruption and Conflict of Interest.

https://ener.gov.mv/Default.aspx?item=pub regulation&subitem=view_req_detail&itemid=66368

³²⁷ Notice for start of the process for the preparation of a draft Law for the Protection of Whistleblowers, https://ener.gov.mk/Default.aspx?item=pub_re regulation&subitem=view reg detail&itemid=74474

³²⁸ Transparency International Macedonia. Meeting of the working group for the preparation of the draft Law for the Protection of Whistleblowers, <https://transparency.mk/2023/05/10/sostanok-na-rabotnata-grupa-za-podgotovka-na-predlog-na-zakon-za-zashtita-na-ukazhuvachi/>

³²⁹ Article 2, Decision on the establishment of an interdepartmental body for the coordination of anti-corruption activities, Official Gazette of RM, no. 145/2023. Otherwise, it is noted that the body was established in 2006 and that the interdepartmental body for the coordination of anti-corruption activities has not done anything since 2013 and has not once given a report to the government, <https://www.mkd.mk/node/520613>.

³³⁰ Action 21: Fight Against Corruption Plan, https://vlada.mk/sites/default/files/img/plan_za_borba_so_korupcija_-akcija_21.pdf

³³¹ Good governance policy plan 2022, https://vlada.mk/sites/default/files/dokumenti/ggpp2022_final_mk.pdf

³³² Programme for the work of the government of the Republic of North Macedonia

for 2022–2024, https://vlada.mk/sites/default/files/programa/2022-2024/programa_na_vladata_2022-2024.pdf

³³³ Ibid., https://vlada.mk/sites/default/files/programa/2022-2024/programa_na_vladata_2022-2024.pdf, pp.46-48

³³⁴ The state programme for the prevention and repression of corruption and reducing the occurrence of conflicts of interest with the action plan 2016-2019, <https://dksk.mk/mk/%D0%BA%D1%80%D0%B6%D0%B0%D0%B2%D0%BD%D0%B8-%D0%BF%D1%80%D0%BE%D0%B3%D1%80%D0%B0%D0%BC%D0%B8/>, <https://dksk.mk/wp-content/uploads/2016/10/Programma-prepreca-2016-2019.pdf>.

content/uploads/2021/12/Drzavna_programa_2016-2019.pdf
335 Methodology for assessing the risk of institutional corruption in November 2021

335 Methodology for assessing the risk of institutional corruption in November 2021, https://dkpk.mk/fileadmin/user_upload/2019/Metodologija_za_procenka_na_rizicite_od_korupci_ a_02.10.2019.mk.pdf

³³⁶ Kanal 5. The Cabinet of Greece conducted a training of trainers on the code of ethics and on integrity, <https://kanal5.com.mk/kabinetot-na-grkovska-sprovede-obuka-na-obuchuvachi-za-etichkiot-kodeks-i-za-integritet/a542197>. Accessed in October 2023

The executive cooperates with all pillars, but it is closest to the public sector, the legislature and the judiciary.

Cooperation with the public sector is reflected in the fact that the members of the government are the ministers who head a certain department. They inform the government about the situation in a certain area and appropriate decisions are made at government sessions. Cooperation with the legislature is usually realised during the legislative procedure, that is, when passing laws, because the government proposes most laws. Also, cooperation with this pillar is reflected in the implementation of parliamentary control. The cooperation with the judiciary primarily appears in the role of the court as a controller of the legality of the operations and decisions made by the government. All these relationships are regulated by appropriate legal regulations.

In the future, cooperation between the government and other pillars should be strengthened, primarily in the field of effective implementation of legal provisions in practice; in other words, visibility should be strengthened in relation to the practical application of mechanisms for integrity, accountability and transparency. At the same time, the role of the non-governmental sector should not be neglected, which should especially be strengthened during the implementation of certain projects, preparation of anti-corruption programmes and the preparation of strategies, and so on.

PILLAR RECOMMENDATIONS

The government should strengthen its transparency by publishing on its website:

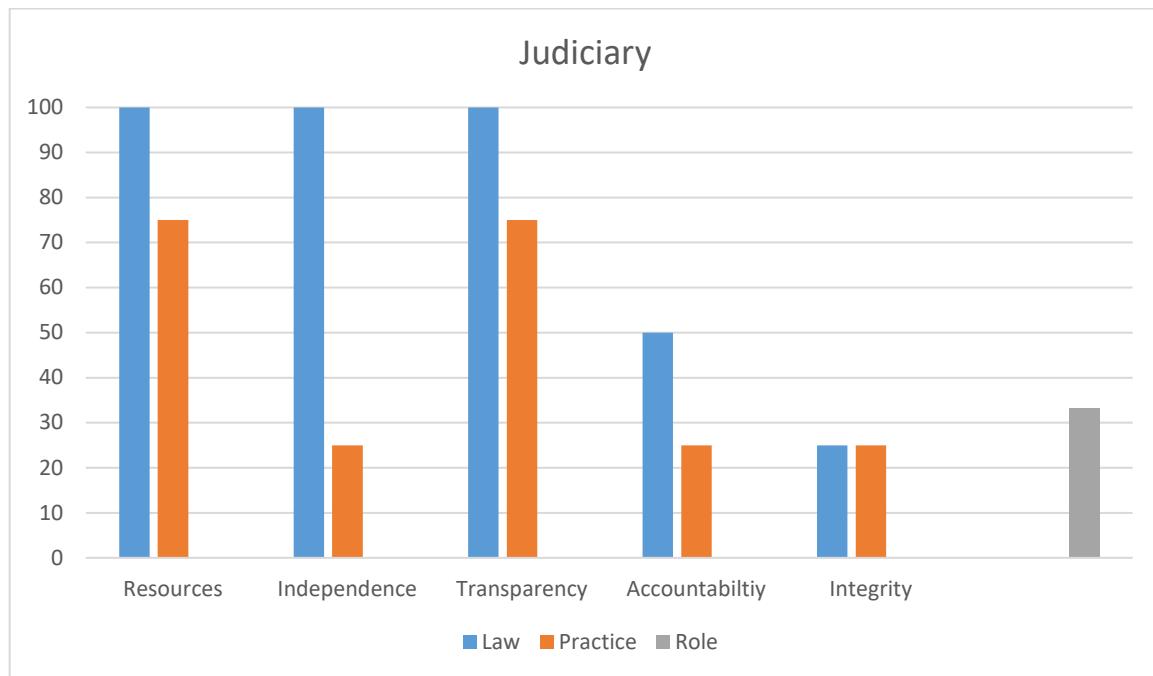
- government decisions in a separate tab, divided by different areas, and reasons for decisions should be given
- the reports for which the government is responsible in one place and in a timely manner, and update the reports submitted by SAO and information on acting on audit reports and to state the consequences of not acting on the reports. This obligation should be foreseen for both the government and the State Audit Office.
- all reports on the work of the ministries in one place
- state data (including measures, decisions, training, cooperation with institutions, adopted plans and programmes, sanctioned irregularities, implementation of activities) on the measures that have been taken to prevent corruption and strengthen the integrity of the government and the effects that have been achieved.
- information on court decisions, in relation to disputed government decisions.
- information on the execution of government projects published regularly.

3. JUDICIARY

SUMMARY



Indicators scores: law and practice



The judicial system in North Macedonia is composed of 25 basic courts of general jurisdiction; 3 specialised courts: the administrative court, basic court Skopje 1 (criminal law court), basic courts Skopje 2 (civil law court); 4 Appellate level courts, 1 higher administrative court, Supreme Court and the constitutional court. Several separate laws regulate the work of the judiciary, such as the Law for the Courts, Law for the Salaries of Judges³³⁷ Law for the Judicial Budget³³⁸ and the Law for the Judicial Council.

The judiciary's budget is insufficient for its needs, not even reaching the legally prescribed minimum allocation. Also, the human and infrastructural capacity is insufficient and underdeveloped.

³³⁷ Law for the Salaries of the Judges, Official Gazette of the RM No. 110/2007, 103/2008, 161/2008, 153/2009, 67/10, 97/10, 135/11 и 231/15 and 248/18 Закон за платите на судиите.pdf (pravda.gov.mk)

³³⁸ Law for the Judicial Budget, cleared version, contains the basic text of the law for the judicial budget published in the Official Gazette No. 60/03, and laws for amending the Law No 37/06, No 103/08 and No.145/10

The judiciary's commitment to combating corruption can be questioned due to the low number of successfully completed cases. Reports suggest systemic problems within the judiciary and prosecution services, where there is influence from the ruling parties and a lack of proper accountability and integrity mechanisms.

Even though North Macedonia's constitution and laws emphasise a high level of judiciary independence, surveys indicate judges' scepticism about transparent promotion processes, and tensions within the judicial council have led to illegitimate dismissals.

While the judiciary maintains active and transparent websites, consolidated information about the judicial budget is challenging to obtain, and key information as well as consolidated data and case statistics are missing from the MoJ website.

The practice of holding members of the judiciary accountable is deemed insufficient and ineffective due to mistrust, a high number of complaints and low number of cases reviewed.

Mechanisms to ensure the integrity of judiciary members exist but are also considered insufficient and lack provisions for post-judiciary employment restrictions. Advisory bodies provide advice on integrity/ethical issues upon judges' request but receive few inquiries. The SCPC lacks the capacity to fully validate asset declarations.

The judiciary's mechanisms also lack gender sensitivity. While data is collected on gender equality within the judiciary, gender-sensitive protocols and guidelines are absent. Training and awareness raising for gender-sensitive mechanisms are also lacking.

CAPACITY

INDICATOR 3.1.1 RESOURCES (LAW)

To what extent are there laws to ensure appropriate salaries and working conditions in the judiciary?

Score: 100/100

The laws provide for appropriate salaries and budget for the working conditions of the judiciary. The judiciary budget is determined to be at least 8 per cent of GDP, and the judiciary is actively involved in determining the needs and the criteria for the creation of the budgetary amount for the year.

The Law for the Salaries of the Judges³³⁹ is the main regulation that governs the judicial salaries. Judges' salaries cannot be reduced by law or decision of a state authority. It may only be reduced in the event of an established disciplinary liability in accordance with the law.³⁴⁰ The basis for calculating judges' salaries is the same as that for prosecutors and other selected and appointed persons.³⁴¹ A judge's salary is calculated by multiplying the basis with the salary determination coefficient with the coefficient from 2.8. up to 3.7. The law³⁴² regulates the system of salaries, salary allowances, other compensation and admissions of judges, but does not contain a mechanism for securing adjustment in line with inflation. A 2018 legal amendment³⁴³ enabled an increase in the salaries up

³³⁹ Law for the salaries of the judges, Official Gazette of the RM No. 110/2007, 103/2008, 161/2008, 153/2009, 67/10, 97/10, 135/11 и 231/15 and 248/18 Закон за платите на судиите.pdf (pravda.gov.mk)

³⁴⁰ Law for the salaries of the judges, Official Gazette of the RM No. 110/2007, 103/2008, 161/2008, 153/2009, 67/10, 97/10, 135/11 и 231/15 and 248/18 Закон за платите на судиите.pdf (pravda.gov.mk)

Ibid Article 2

³⁴¹ Law for the Salaries and Other Benefits of the Elected and Appointed Officials in the Republic of Macedonia, Official Gazette RM: no 36/1990, and No. 38/1991, 23/1997, 37/2005, 84/2005, 121/2007, 161/2008, 92/2009, 42/10, 97/10, 162/10, 11/12, 145/12, 170/13 и 139/14, 233/18

³⁴² Law for the Salaries of the Judges, Official Gazette of the RM No. 110/2007, 103/2008, 161/2008, 153/2009, 67/10, 97/10, 135/11 и 231/15 and 248/18 Закон за платите на судиите.pdf (pravda.gov.mk)

³⁴³ Law for the Salaries of the Judges, Official Gazette of the RM No. 110/2007, 103/2008, 161/2008, 153/2009, 67/10, 97/10, 135/11 и 231/15 and 248/18 Закон за платите на судиите.pdf (pravda.gov.mk) article 7-a PDF

to 35 per cent for extended working hours and work on holidays. The constitutional courts decision from 23 March 2023³⁴⁴ re-established the mechanism for securing salary adjustment in line with inflation.

Judiciary has the right to be appointed no less than 0.8 per cent of GDP³⁴⁵ and the amount cannot be lowered by rebalancing the budget. The judiciary budget council, composed of 10 members (including the minister of justice, president of the supreme court, president of the judicial council, director of the academy for judges and prosecutors), was established to deal with issues in the judicial budget.³⁴⁶

The Law for the Judiciary Budget is a separate law that regulates the procedure for the preparation, determination and execution of the judiciary budget. The Judicial Budget Council (JBC) has to prepare the judicial budget proposal and deliver it to the Finance Ministry³⁴⁷ which consults the chair of the JBC before sending the proposal to the government.³⁴⁸

INDICATOR 3.1.2 RESOURCES (PRACTICE)

To what extent does the judiciary have adequate levels of financial resources, staffing and infrastructure to operate effectively in practice?

Score: 50/100

The judiciary is lacking both budget and human resources needed for its effective operations. The judicial budget has been constantly reduced and has not reached the 0.8 per cent of the GDP.³⁴⁹ The number of judges is insufficient, with only 65 per cent of positions filled, supported by 45 per cent of the required judiciary staff (clerks).

In the past three years, the judicial council has reported insufficient funding.

Table 3.1: Judiciary budget for 2023, 2022,³⁵⁰ 2021 and 2020

Year	Requested	Total received for the year after the rebalance	Remaining debts at the end of the year*	% of GDP
2023		2,578,376,000 MKD		0.30**
2022	3,362,500,000 MKD	2,342,277,000 MKD	43,697,799 MKD	0.31**
2021		2,070,444,000 MKD	33,322,111 MKD	0.27
2020			37,537, 111 MKD	

*Remaining debts are for the experts' opinions, judicial medicine expertise provided upon the court request

**Calculation based on GDP forecast as latest data 2021.

³⁴⁴ У.бр.113/2022-1 21 March 2023 Decision: Annulling Article 4 from the Law for Amending the Law for the Salaries and Other Subsidies for the Elected and Appointed Persons in the Republic of North Macedonia („Службен весник на Република Македонија“ бр.97/2010) и („Службен весник на Република Македонија“ бр.139/2014). У.бр.113/2022-1 – UstavenSudMK

³⁴⁵ Law for Amendments and Competition of the Law for the Judicial Budget, Official Gazette No 145 from 05. 11. 2010

³⁴⁶ Law for the Judicial Budget, Official Gazette of the RM, No 145 from 05. 11. 2010

³⁴⁷ Ibid Art 15.

³⁴⁸ Law for the Judicial Budget, Edit purified text, containing the basic text of the law, Official Gazette 60/03; Law for Amending of the Law for the Judicial Budget Official Gazette бр.37/06; Law for Amending of the Law for the Judicial Budget Official Gazette 103/08 and Law for Amending of the Law for the Judicial Budget Official Gazette 145/10

³⁴⁹ Annual Report. 2022. Judicial Council of the Republic of North Macedonia, p.3: sud.mk/wps/wcm/connect/ssrm/e78742bc-83e7-440f-879a-46f7e29e5d2b/Извештај+2022+година.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE.Z18_L8CC1J41L0B520APQFKICD0CR4-e78742bc-83e7-440f-879a-46f7e29e5d2b-k-Ym5Wm

³⁵⁰ Annual Report. 2022. Judicial Council of the Republic of North Macedonia, p.33: sud.mk/wps/wcm/connect/ssrm/e78742bc-83e7-440f-879a-46f7e29e5d2b/Извештај+2022+година.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE.Z18_L8CC1J41L0B520APQFKICD0CR4-e78742bc-83e7-440f-879a-46f7e29e5d2b-k-Ym5Wm

A judge's average salary is MKD 1,271,212 (€21,000) per year,³⁵¹ which is adequate for the Macedonian economic situation and roughly commensurate with salaries for practicing lawyers. However, according to survey results, 82 per cent of judges believe that a salary increase for judges will reduce corruption,³⁵² considering that judges in North Macedonia currently receive the lowest salaries in the region.³⁵³ However, due to the constitutional court decision no. 113 from March 2023,³⁵⁴ which increased salaries, the Judicial Budgetary Council published a decision³⁵⁵ and described the inability to ensure April and May payments of the subsidies as provided in the Article 7-b of the Law.³⁵⁶

The academy for judges and prosecutors provides a library, which acts as an e-academy³⁵⁷ and is accessible online. It contains legislation, explanatory documents, judgements from European Court on Human Rights and other relevant information.³⁵⁸

The judicial council reported expenditures for improving the IT system.³⁵⁹ While the majority (62 per cent)³⁶⁰ of judges expressed satisfaction with the technical resources (computer equipment, e-mail, telephone) at their disposal, evaluations of the national judicial digitalisation process revealed that some judges use obsolete equipment, experience inadequate internet connectivity, and lack adequate technical and ICT support.³⁶¹ The academy for judges and prosecutors (AJP) provides sufficient training for judges and prosecutors,³⁶² including court and case management, judgement writing and conflicts of interest. The law provides for the right and obligation for training a judicial officer.³⁶³ The AJP reported that in 2022 it had organised 21 training and 1014 judicial (and prosecutorial officials).³⁶⁴

The 2022 judicial council annual report states that there is an insufficient number of clerks, with only 46.26 percent of the positions filled at the end of the year.³⁶⁵

The number of judges is also insufficient as only 409 out of 639 positions are filled, which is only 64 per cent of the required judges.

³⁵² Corruption Risk Assessment of the Judiciary in North Macedonia p. 23, June 2023, OSCE Mission to Skopje supported the State Commission for Prevention of Corruption in partnership with Association of Judges in the Republic of North Macedonia and Association of Public Prosecutors of the Republic of North Macedonia, ISBN: 978-92-9271-236-5

³⁵³ 2022-2024 Strategy for Improving the Material Status of the Judges, National Association of Judges, 2022, p.7

³⁵⁴ У.бр.113/2022-1 21 March 2023 Decision: Annulling Article 4 of the Law for Amending the Law for the Salaries and Other Subsidies for the Elected and Appointed Persons in the Republic of Macedonia Official Gazette RM 139/14. У.бр.113/2022-1 – UstavenSudMK

355 Decision of the Judiciary Budget Council 02-488/8 from 5 May 2023: http://sud.mk/wps/wcm/connect/ssrm/76f386c4-4560-43b3-9b01-b2ec081749d3/odeluka+za+aprili+neob.sredstva.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE.Z18_L8CC1J41L0B520APQFKICD0CR4-76f386c4-4560-43b3-9b01-b2ec081749d3-m8F-fTg

³⁵⁶ Law for the Judicial Budget, Official Gazette of the RM, No 145 from 05. 11. 2010

³⁵⁷ е-Академија – Akademija za Sudii i Javni Obviniteli (jpacademy.gov.mk)

³⁵⁹ European Summit for the Digitalisation in the Judiciary, 12 June 2022, Европски самит за дигитализација во судството – Фокус (fokus.mk) Source focus.mk, accessed 15 August 2023

³⁶⁰ Corruption Risk Assessment of the Judiciary in North Macedonia p. 23, June 2023, OSCE Mission to Skopje supported the State Commission for Prevention of Corruption in partnership with Association of Judges in the Republic of North Macedonia and Association of Public Prosecutors of the Republic of North Macedonia. ISBN: 978-92-9271-236-5 545929_0.pdf (osce.org)

³⁶¹ Assessment of Use of Electronic Opportunities in Judiciary, Association for Criminal Law and Criminology and OSCE Mission to Skopje, December 2020, pp.38–40

³⁶² In 2022 the AJP was reported to have provided 227 training courses, for 5,574 participants, among which 1,441 were judges, 651 prosecutors and 2,529 associate collaborators.

³⁶³ Law for the Judicial Service, Article

Law for the Judicial Service, Official Gazette 98/08

³⁶⁴ Izvestaj ASJO 2022 print.pdf p. 20
³⁶⁵ Annual Report 2022 p.13 sud.mk/wps/wcm/connect/ssrm/e78742bc-83e7-440f-879a-46f7e29e5d2b/Извештај+2022+година.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE.Z18 L8CC1J41L0B520APQFKICD0CR4-

INDICATOR 3.1.3 INDEPENDENCE (LAW)

To what extent is the judiciary independent by law?

Score: 100/100

The constitution and law provides for high level of independence of the judiciary in the Republic of North Macedonia. The legal framework generally contains international standards for an independent and impartial judiciary and the proper functioning of the justice system. The new Law on the Judicial Council³⁶⁶ as well as the Law on Amendments to the Law on Courts,³⁶⁷ provided for additional legal interventions to ensure greater independence, efficiency and impartiality in the work of the judicial council and the judiciary.

The role of the judiciary is anchored in the constitution,³⁶⁸ which provides that courts are independent, the organisation of the judiciary is unified and emergency courts are banned. The constitution also guarantees the independence of the judges who are appointed without limitation of term and without the right to be transferred to other courts unless it is personally requested.³⁶⁹

Amending the constitution is a complex and comprehensive procedure of three stages. In the first stage, the Assembly has to decide by a two-thirds majority (at least 80 votes to accede to amending the constitution). The second phase establishes draft amendments, and a simple majority of MPs votes, 61, is enough. The third phase is the adoption of the amendments, which again requires a two-thirds majority.

Judges are appointed by the judicial council which provides constitutional protection for the appointment and removal of judges.³⁷⁰ The judicial council is an independent body of the judiciary that provides and guarantees the independence of the judiciary.³⁷¹ The judicial council is composed of 15 members, including the minister of justice and the president of the supreme court who do not have the right to vote. Eight council members are elected by the judiciary in a general vote, three are elected by the Assembly and two by the president of the republic.³⁷² Elected members of the judicial council have a six-year term with the right to another term, but only after at least six years from the termination of the previous term of office. Council members elected by the Assembly have a six-year term with the right to another term.³⁷³ The Law for the Judicial Council proscribes the criteria and the procedure for the selection, appointment and dismissal of judges.³⁷⁴ Participation of civil society in the appointment of judges is not envisaged.

A judge can be dismissed from a judicial post due to a serious disciplinary grievance proscribed by the law, unworthy of the performance of the judicial function or for incompetent and unconscionable performance of the judicial function, as determined by law.³⁷⁵ The proceedings in this regard are urgent and confidential.

The legal foundation for the highest courts is stable, and the latest amendments to the Law on Courts³⁷⁶ has not affected the independence of the judiciary. However, the 2021 amendment of the Law on Labour Relations³⁷⁷

³⁶⁶ Law on the Judicial Council of the Republic of North Macedonia Official Gazette No. 102/2019

³⁶⁷ Law on Courts Official Gazette of the RSM No. 96/2019

³⁶⁸ Constitution of the Republic of Macedonia (Official Gazette of the RM No. 52/1991) and Amendment XXIV, XXX of the Constitution of the Republic of Macedonia of 07 December 2005 (Official Gazette of the RM No. 107/2005) Article 98

³⁶⁹ Amendment XXIV, XXX of the Constitution of the Republic of Macedonia of 07 December 2005 (Official Gazette of the RM No. 107/2005) Article 99

³⁷⁰ Election, termination and dismissal of a judge and a lay judge is regulated with Chapter V of the Law for the Judicial Council, Articles 45–100.

³⁷¹ Law for the Judicial Council of the RM Official Gazette, No. 102/19 Article 2

³⁷² Law for the Judicial Council of the RM, Official Gazette, No. 102/19 Article 6

³⁷³ Ibid Article 7

³⁷⁴ Election, termination and dismissal of a judge and a lay judge is regulated with Chapter V of the Law for the Judicial Council, Articles 45–100.

³⁷⁵ Election, termination and dismissal of a judge and a lay judge is regulated with Chapter V of the Law for the Judicial Council, Ibid Article 60

³⁷⁶ Law on Amendments to the Law on Courts published in the Official Gazette of the RSM No. 96/2019

³⁷⁷ Law on Amending and Supplementing the Law on Labour Relations, Official Gazette 151/2021

created a distortion in human resources in the judiciary, retiring a large number of judges and public prosecutors, which affected the efficient operation of judicial institutions.³⁷⁸

The Law on Courts establishes gross influence and interference in the exercise of the judicial post of another judge as a gross disciplinary violation.³⁷⁹

INDICATOR 3.1.4 INDEPENDENCE (PRACTICE)

To what extent does the judiciary operate without interference from the government or other actors?

Score: 25/100

Despite the comprehensive legal framework and the introduction of new criteria, methodologies and rules to ensure the independence and impartiality of the judiciary and proper functioning of the justice system, the latest surveys and practice have shown extensive influence in the judiciary, mainly by parties that have access to the certain positions in the judiciary, such as the lawyers' and judges' relatives and networks.

For the implementation of the new Law on the Judicial Council, on 4 February 2020, the council adopted rules to rank candidates for higher court, and on 18 December 2020, the council adopted a methodology for the qualitative evaluation of judges and presidents of the courts.³⁸⁰ However, a 2022 survey³⁸¹ indicates that a significant proportion of judges (73 per cent) disagree with the notion that the promotion of judges is carried out in a manner that adheres to objective, measurable and equitable criteria.³⁸² According to the survey, a majority of judges (59 per cent) do not believe that the current mechanisms are effective in safeguarding the judicial function from external pressures or attempts to influence³⁸³

On 31 March 2023, the judicial council established a working group with the president of the supreme court, presidents of the four courts of appeal and the president of the association of judges. The group's primary objective is to safeguard the autonomy and independence of judges, particularly in protecting their integrity and addressing any challenges that arise within the judicial system.³⁸⁴ However, recent activities that presented a clear example of undue interference in the work of the judicial council have raised questions about the credibility and independence of the council among international representatives who presented their opinion without "the gloves of diplomacy"³⁸⁵ and announced the withdrawal of ongoing technical assistance.³⁸⁶ The president of the republic also raised concerns saying the "judicial council had embraced itself".³⁸⁷

³⁷⁸ European Policy Institute, Skopje; Shadow Report for Chapter 23 for the period between October 2021 and September 2022 Shadow_report_eng.pdf (epi.org.mk)

³⁷⁹ Article 75, Law for the Courts 2006; Law for Amending of the Law for the Courts Official Gazette 35/08; Law for Amending of the Law for the Courts Official Gazette 58/2006150/10; Law for Amending of the Law for the Courts Official Gazette 83/18; Law for Amending of the Law for the Courts Official Gazette 198/18; Law for Amending of the Law for the Courts Official Gazette 96/19); as well as the two annulling decisions of the constitutional court No. 256/2007 (16.IV.2008) and 74/2008 (10.IX.2008), published in the official gazette 61/08 и 118/08 - 13.XI.2019-.pdf -13.XI.2019-.pdf

³⁸⁰ Annual Report 2020 Judicial Council, p. 25 Судскиот совет на Република Македонија, согласно со член 64 од Законот за Судски совет, на седницата одржана на -----годи (sud.mk)

³⁸¹ Survey conducted in October 2022, 427 questionnaires for judges for the Corruption Risk Assessment of the Judiciary in North Macedonia, p.9

³⁸² Corruption Risk Assessment of the Judiciary in North Macedonia p.19, June 2023, OSCE Mission to Skopje supported the State Commission for Prevention of Corruption in partnership with Association of Judges in the Republic of North Macedonia and Association of Public Prosecutors of the Republic of North Macedonia. ISBN: 978-92-9271-236-5

³⁸³ Corruption Risk Assessment of the Judiciary in North Macedonia p.17

³⁸⁴ Извештај во сенка за Поглавје 23 за периодот октомври 2021 - септември 2022 - ЕПИ Извештај во сенка за Поглавје 23 (October 2021, September 2022), EPI Shadow Report for chapter 23, Shadow_report.pdf p.15

³⁸⁵ US Ambassador Angela Ageler addressed a letter to the Judicial Council and the Appeal Court: "Every day I am increasingly concerned and disappointed by the large number of cases (of high profile) that the Court of Appeal has returned to the first-instance retrial. The obvious inability of the courts to quickly prosecute cases through the court proceedings and their shift back and forth between the Court of Appeal and the Basic Court further reduces the low confidence the public has in the courts."

³⁸⁶ Netherlands puts on hold a big project for the Judicial Council Заврши времето на пораки во дипломатски ракавици – DW – 29.05.2023

³⁸⁷ DW. 2023a. Пендаровски: Судскиот совет се посрамоти – DW – 29.05.2023

Tensions within the judicial council occurred precisely in the run-up to the initiative to determine the responsibility of appeal judge Enver Bexheti, who was found to have been holding in his drawer the Target-Fortress mass wiretapping case for nine months. Some of the heads of the judicial council allegedly demanded that the initiative to assess the accountability of the judge be put to a session and other judicial Council members were keen to prevent it.³⁸⁸ The controversy resulted in the illegitimate³⁸⁹ dismissal of the judicial council president Vesna Damevska.³⁹⁰ In this case, the judicial council decided to exclude the publicity from the decision process. .

A 2022 Survey³⁹¹ showed that 72 per cent of judges believe the judicial council has failed in safeguarding judicial independence. This is an increase from 2009 when 66 per cent of judges expressed the same opinion.³⁹² The following year, the 2010 EU progress report criticised the role of the minister of justice in the judicial council, stating that it caused “serious concerns about the interference of the executive in the work of the judiciary” (EC, 2010: 12).³⁹³

The latest survey data from 2022 found an increase in attempts to influence judges from colleague judges, judges of higher rank, and judicial council members compared to the 2009 survey included in the OSCE legal analysis of independence of the judiciary; meanwhile, there was a slight decrease (-7 per cent) in influence attempts from representatives of the executive branch,³⁹⁴ indicating some progress in upholding the constitutional division between the executive and judicial branches of power.³⁹⁵

Independence and impartiality is the lowest rated area of evaluation in the matrix of indicators³⁹⁶ with a common average score of 2.2. in all categories of respondents.

GOVERNANCE

INDICATOR 3.2.1 TRANSPARENCY (LAW)

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the judiciary?

Score: 100/100

The laws relevant to the work of the judiciary contain comprehensive provisions to ensure that the public can obtain relevant information on the activities and decision-making process.

All judges, as appointed persons, are obliged to submit asset and interests declarations to the State Commission for the Prevention of Corruption, who has to publish all asset declarations on the SCPC website.³⁹⁷

³⁸⁸ DW. 2023b. Заврши времето на пораки во дипломатски ракавици – DW – 29.05.2023

³⁸⁹ Milka Ristova former judge in the supreme court

³⁹⁰ DW. 2023c. Весна Дамева: На јавноста и е јасно зошто сум разрешена – DW – 5.05.2023

³⁹¹ Survey conducted in October, 2022, 427 questionnaires for judges for the Corruption Risk Assessment of the Judiciary in North Macedonia, p. 21 pdf

³⁹² Survey conducted in October, 2022, 427 questionnaires for judges for the Corruption Risk Assessment of the Judiciary in North Macedonia p.21

³⁹³ Survey conducted in October, 2022, 427 questionnaires for judges for the Corruption Risk Assessment of the Judiciary in North Macedonia

³⁹⁴ Corruption risk assessment of the judiciary in North Macedonia p. 23, June 2023, OSCE Mission to Skopje supported the State Commission for Prevention of Corruption in partnership with Association of Judges in the Republic of North Macedonia and Association of Public Prosecutors of the Republic of North Macedonia. ISBN: 978-92-9271-236-5

Assessment of Use of Electronic Opportunities in Judiciary, Association for Criminal Law and Criminology and OSCE Mission to Skopje, December 2020 p. 7 545929_0.pdf (osce.org)

³⁹⁵ Corruption Risk Assessment of the Judiciary in North Macedonia, p. 17

³⁹⁶ Лидија Стојкова Зафировска, Жарко Алексов, Александар Гоцо, „Прв национален извештај од матрицата на индикатори за мерење на перформансите и реформите во правосудството“, Центар за правни истражувања и анализи, Скопје 2019 г. Втора презентација на Извештајот од Матрицата на индикатори за мерење на перформансите и реформите во правосудството – Центар за правни истражувања и анализи (cpia.mk) 151951-First-National-Report-from-the-Judicial-Indicator-Matrix-for-measuring-the-performances-and-reform-in-the-judiciary.pdf (cpia.mk)

³⁹⁷ Article 87 Law for the Prevention of Corruption and Conflict of Interest, Official Gazette No. 12/2019

The judiciary is required to provide information on judgements, judicial statistics, court hearing records/transcripts, membership of relevant organisations and other relevant activities to the public in a timely manner.

One example of control in the work of the judiciary is from the supreme court, which reports on the quality and timeliness of its own work and of the work of other courts.³⁹⁸ The supreme court has to submit an annual report to the judicial council by the end of the February for the previous year.³⁹⁹ The judicial council is obliged to submit an annual report to the Assembly by 30 April at the latest, covering the previous year.⁴⁰⁰

Public hearings are required by the Law on Courts.⁴⁰¹ In the courts, it is mandatory to have a public relations office,⁴⁰² and every court has to inform the public about the results of the judges' work at least once in a year.⁴⁰³ The Law on Criminal Procedure mandates the audio or audio-video recording of court hearings.⁴⁰⁴

Judicial council sessions also have to be public⁴⁰⁵ and the public may only be excluded from a council decision if it is to protect the reputation and integrity of the judge or candidate for judge. The decision to exclude the public from sessions has to be adopted by two-thirds majority vote of the total number of members of the council with the right to vote.⁴⁰⁶ The council will dismiss a judge by decision for a serious disciplinary injury committed under Article 76 of the Law on Courts. Such a decision is adopted by the council by a two-thirds majority of the total number of members of the council. Notes from the council meetings,⁴⁰⁷ voting and all decisions for appointment, moving and removal of judges are public.⁴⁰⁸

INDICATOR 3.2.2 TRANSPARENCY (PRACTICE)

To what extent does the public have access to judicial information and activities in practice?

Score: 75/100

The judiciary, to a large extent, gives public access to judicial activities and information. There are active and transparent websites where all information is presented in a timely manner. However, it has been difficult to obtain

³⁹⁸ Law for the Courts, Article 37

³⁹⁹ Article 37 Law for the Courts 2006; Law for Amending of the Law for the Courts Official Gazette 35/08, Law for Amending of the Law for the Courts Official Gazette 58/2006150/10; Law for Amending of the Law for the Courts Official Gazette 83/18; Law for Amending of the Law for the Courts Official Gazette 198/18); Law for Amending of the Law for the Courts Official Gazette 96/19); as well as the two annulling Decisions of the Constitutional Court No. 256/2007 (16.IV.2008) and 74/2008 (10.IX.2008), published in the official gazette 61/08 и 118/08 - 13.XI.2019-.pdf

⁴⁰⁰ Article 100, Law on the Judicial Council of the Republic of North Macedonia Official Gazette No. 102/2019

⁴⁰¹ Article 6 - Law for the Courts 2006; Law for Amending of the Law for the Courts Official Gazette 35/08, Law for Amending of the Law for the Courts Official Gazette 58/2006150/10; Law for Amending of the Law for the Courts Official Gazette 83/18; Law for Amending of the Law for the Courts Official Gazette 198/18) и Law for Amending of the Law for the Courts Official Gazette 96/19); as well as the two annulling Decisions of the Constitutional Court No. 256/2007 (16.IV.2008) and 74/2008 (10.IX.2008), published in the official gazette 61/08 и 118/08 - 13.XI.2019-.pdf

⁴⁰² Article 99 Law for the Courts 2006; Law for Amending of the Law for the Courts Official Gazette 35/08, Law for Amending of the Law for the Courts Official Gazette 58/2006150/10; Law for Amending of the Law for the Courts Official Gazette 83/18; Law for Amending of the Law for the Courts Official Gazette 198/18) и Law for Amending of the Law for the Courts Official Gazette 96/19); as well as the two annulling Decisions of the Constitutional Court No. 256/2007 (16.IV.2008) and 74/2008 (10.IX.2008), published in the official gazette 61/08 и 118/08 - 13.XI.2019-.pdf

⁴⁰³ Article 97 Law for the Courts 2006; Law for Amending of the Law for the Courts Official Gazette 35/08, Law for Amending of the Law for the Courts Official Gazette 58/2006150/10; Law for Amending of the Law for the Courts Official Gazette 83/18; Law for Amending of the Law for the Courts Official Gazette 198/18) и Law for Amending of the Law for the Courts Official Gazette 96/19); as well as the two annulling Decisions of the Constitutional Court No. 256/2007 (16.IV.2008) and 74/2008 (10.IX.2008), published in the official gazette 61/08 и 118/08 - 13.XI.2019-.pdf

⁴⁰⁴ Article 37, Law for the Courts 2006; Law for Amending of the Law for the Courts Official Gazette 35/08, Law for Amending of the Law for the Courts Official Gazette 58/2006150/10; Law for Amending of the Law for the Courts Official Gazette 83/18; Law for Amending of the Law for the Courts Official Gazette 198/18); Law for Amending of the Law for the Courts Official Gazette 96/19); as well as the two annulling Decisions of the Constitutional Court No. 256/2007 (16.IV.2008) and 74/2008 (10.IX.2008), published in the official gazette 61/08 и 118/08 - 13.XI.2019-.pdf

⁴⁰⁵ Article 39 Law on the Judicial Council of the Republic of North Macedonia Official Gazette No. 102/2019

⁴⁰⁶ Article 39 Law on the Judicial Council of the Republic of North Macedonia Official Gazette No. 102/2019

⁴⁰⁷ Article 39 Law on the Judicial Council of the Republic of North Macedonia Official Gazette No. 102/2019

⁴⁰⁸ Article 39 Law on the Judicial Council of the Republic of North Macedonia Official Gazette No. 102/2019+ example Decision for appointment of a Judge Y2023-SDN-(GD)0723.pdf (sud.mk)

consolidated information on the judicial budget, and the information (decisions and annual reports) published on the judicial council website are not in a user-friendly format.

The judiciary regularly publishes reports on its activities, spending and governance.⁴⁰⁹ The reports are comprehensive, containing detailed information about the activities of the courts, academy for judges and prosecutors, the employees and the budget. However, the reports are not in a user-friendly format, and it has been difficult to obtain information about the judicial budget. The reports are published on the websites of each of the institutions.⁴¹⁰ The public is entitled to information on the number of cases disposed of annually, and it is easy to obtain this information from these websites. There is also the judicial portal where citizens can obtain information about the court's decisions.⁴¹¹ In each court, data on the number of the case, judge, date, time and courtroom where the hearing is being held should be displayed in a public and prominent place.⁴¹² At least once a year, each court informs the public about the results of the work of the court and judges and publishes daily information about cases of public interest.⁴¹³

In its session held of 21 December 2022, the supreme court determined that "Courts, decisions (judgements and decisions) that are not final (legal) and relating to cases of public interest shall be published on the court's website.⁴¹⁴

Even though the law requires audio or audio-video recording of court hearings,⁴¹⁵ this possibility has not been provided,⁴¹⁶ even though 64 per cent of judges believe that audio or audio-video recordings can enhance transparency and impartiality in court proceedings.

Asset and interests declarations of all judges, as appointed persons, are published on the SCPC website.⁴¹⁷

INDICATOR 3.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions in place to ensure that the judiciary has to report and be answerable for its actions?

Score: 50/100

While a number of provisions exist, they do not cover the accountability of the judiciary in an effective and efficient manner. The system is rather dispersed with the involvement of the Ministry of Justice, supreme court and the judicial council, with different authorities to review different aspects of the work of the judiciary.

⁴⁰⁹ All reports can be found at the Judicial Council website Извештаи (месечен, квартален, полугодишен, годишен) (sud.mk)

⁴¹⁰ Supreme Court Статистика (sud.mk), Оценки+и+заключоци++2021+година+.pdf (sud.mk)

⁴¹¹ Одлуки на судови (vsrm.mk)

⁴¹² Article 97 Law on Courts

⁴¹³ Основен кривичен суд Скопје Почетна (sud.mk)

⁴¹⁴ based on Article 101 of the Constitution of the Republic of North Macedonia, Article 37 paragraph 1(1) and (3) of the Law on Courts, Official Gazette, No. 58/06... 198/18 and No. 96/19), Articles 63, 65 and 66 of the Clerk of the Supreme Court of the Republic of North Macedonia, at the General Session held on 21.12.2022

⁴¹⁵ Article 37 - Law for the Courts 2006; Law for Amending of the Law for the Courts Official Gazette 35/08, Law for Amending of the Law for the Courts Official Gazette 58/2006150/10; Law for Amending of the Law for the Courts Official Gazette 83/18; Law for Amending of the Law for the Courts Official Gazette 198/18); Law for Amending of the Law for the Courts Official Gazette 96/19); as well as the two annulling Decisions of the Constitutional Court No. 256/2007 (16.IV.2008) and 74/2008 (10.IX.2008), published in the official gazette 61/08 и 118/08 - 13.XI.2019-.pdf

⁴¹⁶ Law for the Courts 2006; Law for Amending of the Law for the Courts Official Gazette 35/08, Law for Amending of the Law for the Courts Official Gazette 58/2006150/10; Law for Amending of the Law for the Courts Official Gazette 83/18; Law for Amending of the Law for the Courts Official Gazette 198/18) и Law for Amending of the Law for the Courts Official Gazette 96/19); as well as the two annulling Decisions of the Constitutional Court No. 256/2007 (16.IV.2008) and 74/2008 (10.IX.2008), published in the official gazette 61/08 и 118/08 - 13.XI.2019-.pdf p. 24

⁴¹⁷ State Commission for Prevention of Corruption, Declaration Assets:

www.dksk.org.mk/imoti_2/detail.php?detail=19234&search=&ime=максим&prezime=&funkcija=&institucija;
www.dksk.org.mk/imoti_2/detail.php?detail=19501&search=&ime=орхан&prezime=&funkcija=&institucija;

An explanation of a verdict is an important element of a judgement, according to the Law on Criminal Procedure (CPC)⁴¹⁸ and the Litigation Law (LLP).⁴¹⁹ Without an explanation, or an insufficient or vague explanation, makes the verdict illegal and is a core violation of the proceedings.⁴²⁰

The minister of justice can create a separate commission, composed of two representatives from the MoJ and one from the supreme court, to examine the work of the courts, particularly in long-lasting proceedings and in delays and to provide a detailed report in 30 days.⁴²¹

Also, any citizen has the right to file a complaint with the judicial council for inappropriate behaviour of a judge in official communication with the participants in the proceedings, and to receive a response for it.⁴²² The Law on the Prevention of Corruption provides protection for the complainants but has not been proven to be effective in practice (see 3.2.4).

The Code of Judicial Ethics⁴²³ determines the role of the association of judges as the body to advise judges on issues related to ethical behaviour.⁴²⁴ It is established as an ad hoc advisory body, which publishes its advisory opinions on the websites of the association of judges and the Supreme Court.

In March 2022, the judicial council adopted the procedure for the whistleblower reporting,⁴²⁵ and immunity does not apply to corruption and other criminal offences.⁴²⁶

There are different type of formal complaints and disciplinary procedures for different categories of judges.: the supreme court at the general session decides to submit a request for starting a disciplinary procedure;⁴²⁷ the 2019 Law on Judicial Council provides the opportunity to directly submit a request to initiate a procedure for disciplinary responsibility of a member of the judicial council if there are 20 signatures.⁴²⁸ The procedure for deciding on a proposal for disciplinary decisions is determined by the law.⁴²⁹ Among other authorities, the judicial council can decide on the disciplinary responsibility of a member of the council, determine the responsibility of a judge and the president of the court and can strip a judge of immunity.⁴³⁰

A judge can be dismissed from a judicial post for a serious disciplinary injury committed under law, for unworthy performance in a judicial function and for incompetent and unconscionable performance in a judicial function, as determined by law.⁴³¹

⁴¹⁸ Law for Criminal Procedure Article 16, Official Gazette 150/10

⁴¹⁹ Edited text of the Law on Litigation Article 327, Official Gazette 79/05, 110/08, 83/09, 116/10, 124/15

⁴²⁰ Edited text of the Law on Litigation Article 355

⁴²¹ Article 83 - Law for the Courts 2006; Law for Amending of the Law for the Courts Official Gazette 35/08, Law for Amending of the Law for the Courts Official Gazette 58/2006150/10; Law for Amending of the Law for the Courts Official Gazette 83/18; Law for Amending of the Law for the Courts Official Gazette 198/18); Law for Amending of the Law for the Courts Official Gazette 96/19); as well as the two annulling Decisions of the Constitutional Court No. 256/2007 (16.IV.2008) and 74/2008 (10.IX.2008), published in the official gazette 61/08 и 118/08 - 13.XI.2019-.pdf

⁴²² Article 68 - Law for the Courts 2006; Law for Amending of the Law for the Courts Official Gazette 35/08, Law for Amending of the Law for the Courts Official Gazette 58/2006150/10; Law for Amending of the Law for the Courts Official Gazette 83/18; Law for Amending of the Law for the Courts Official Gazette 198/18); Law for Amending of the Law for the Courts Official Gazette 96/19); as well as the two annulling Decisions of the Constitutional Court No. 256/2007 (16.IV.2008) and 74/2008 (10.IX.2008), published in the official gazette 61/08 и 118/08 - 13.XI.2019-.pdf

⁴²³ Code of Judicial Ethics, Кодекс+зат+етика+на+судиите+и+судиите+поротници.pdf (sud.mk)

⁴²⁴ Ibid

⁴²⁵ Procedure for accepting and recording the reports from the whistleblowers Y2022-SDN-(GD)0407.pdf (sud.mk)

⁴²⁶ Dimitar Aspasiev. Article 9, Law for the Courts. Consolidated text containing the Law for the Courts. Official Gazette 58/2006; Correction from the Assembly Commission 2006; Law for Amending of the Law for the Courts Official Gazette 35/08, Law for Amending of the Law for the Courts Official Gazette 58/2006150/10; Law for Amending of the Law for the Courts Official Gazette 83/18; Law for Amending of the Law for the Courts Official Gazette 198/18); Law for Amending of the Law for the Courts Official Gazette 96/19); as well as the two annulling Decisions of the Constitutional Court No. 256/2007 (16.IV.2008) and 74/2008 (10.IX.2008), published in the Official Gazette 61/08 и 118/08

⁴²⁷ Ibid Art 37

⁴²⁸ Law for the Judicial Council of the Republic of Macedonia, Official Gazette, No. 102/19 Article 69

⁴²⁹ Ibid Article 69

⁴³⁰ Ibid Article 36

⁴³¹ Ibid Article 60

INDICATOR 3.2.4 ACCOUNTABILITY (PRACTICE)

To what extent do members of the judiciary have to report and be answerable for their actions in practice?

Score: 25/100

The practice of holding members of the judiciary accountable and to be answerable to their actions is insufficient and ineffective due to the high level of distrust in the judiciary, high number of citizen complaints and the very small number of reviewed cases and dismissals.

To a significant extent (42.4 per cent), judges consider the quality of court decisions to be good, 27.6% say it is very good, while many lawyers (44.7%) consider the quality insufficient.⁴³² Usually, there are no sanctions imposed if the judges fail to provide reasons for their decisions. However, failure to provide reasons for their decisions⁴³³ can be considered in law as incompetent and unconscionable performance of the judicial function.⁴³⁴

In 2022, the judicial council dismissed six judges and imposed four measures for a more serious disciplinary violation.⁴³⁵

Complainants are not effectively protected in practice or provided with acceptable remedies in the court's procedures. However, the Law for the Prevention of Corruption provides protection to complainants, but that has not been proven to be effective.

Following the legal amendments, in the reporting period September 2021 to October 2022, three decisions were adopted to dismiss judges and presidents of courts. Out of adopted decisions on dismissal, two decisions refer to acting presidents of courts, and one decision refers to a judge.⁴³⁶ The grounds for dismissal in two of the decisions are unprofessional and negligent performance and one for a more serious disciplinary violation.⁴³⁷

In the same reporting period, the Judicial Council (JCRNM) acted upon 570 applications from citizens and legal entities about the work of courts, court presidents and judges. An analysis of allegations show that most of the submitted applications discussed by the judicial council relate to the manner of conducting proceedings by judges, the time period of conducting the proceedings, and unprofessional and negligent actions.⁴³⁸ However, only 2.5% of them were accepted as having grounds.

INDICATOR 3.2.5 INTEGRITY MECHANISM (LAW)

To what extent are there mechanisms in place to ensure the integrity of members of the judiciary?

Score: 25/100

There are some but still insufficient mechanisms to ensure the integrity of members of the judiciary. The law does not provide a clear procedure for reporting and taking measures against a judge who has a conflict of interest, and there is no restriction for post-judiciary employment.

⁴³² Lydia Stojkova Zafirovska, Zarko Aleksov, Aleksandar Gojo, "First National Report of the Matrix of Performance Measurement indicators and reforms in the judiciary", Centre for Legal Research and Analysis, Skopje 2019 151951-First-National-Report-from-the-Judicial-Indicator-Matrix-for-measuring-the-performances-and-reform-in-the-judiciary.pdf (cpia.mk)

⁴³³ The Judicial Council declared one judge from Ohrid Basic Court incompetent and unconscionable due to failing for more than a year to complete judgements for a case.

⁴³⁴ Law for the Judicial Council of the RM, Official Gazette, No. 102/19 Article 60

⁴³⁵ Annual Report 2020 Judicial Council, p. 8 Судскиот совет на Република Македонија, согласно со член 64 од Законот за Судски совет, на седницата одржана на -----годи (sud.mk)

⁴³⁶ Shadow Report for Chapter 23 for the period between October 2021 and September 2022 Shadow_report_eng.pdf (epi.org.mk)

⁴³⁷ Ibid p. 28

⁴³⁸ Ibid p. 29

In September 2019, the supreme court adopted the code of judicial ethics for judges at the general session and at the proposal of the association of judges.⁴³⁹ The code⁴⁴⁰ is comprehensive and regulates judges, their families and connected persons from receiving reimbursements, compensation and honoraria in connection with the profession, it regulates gifts and hospitality for the judiciary but does not mention privately sponsored trips.⁴⁴¹ The code also contains regulations governing conflicts of interest for the judiciary and lay judges.⁴⁴²

Citizens can challenge the impartiality of judges by filing a report to the judicial council.⁴⁴³

There is no restriction on judges entering the private or public sector after leaving the judiciary. However, selected or appointed persons are obliged to report to the SCPC within 30 days if, within three years from the cessation of their exercise of public powers or duties, they establish a trading company or are engaged in a profit-making activity in the area in which the person worked as an official.,⁴⁴⁴

As with other elected and appointed officials, judges are obliged to declare their assets to the State Commission for the Prevention of Corruption.⁴⁴⁵

INDICATOR 3.2.6 INTEGRITY MECHANISM (PRACTICE)

To what extent is the integrity of members of the judiciary ensured in practice?

Score: 25/100

The integrity of the members of the judiciary is not scrutinised in practice. The judicial ethics advisory body acts only upon the request of judges, and in four years, has issued only two opinions. The State Commission for the Prevention of Corruption has no capacity to validate the asset declarations, and there are no post-employment restrictions. Moreover, citizens are not able to challenge judges if they do not step down from a case.

The judicial ethics advisory body was established by the governing board of the association of judges, with a mandate of two years and tasked with the consistent application of the principles of the code of judicial ethics, but it does not scrutinise whether existing codes of conduct, gift and hospitality regulations, post-employment restrictions, conflict of interest policies, integrity bodies, and so on are enforced or ensure the ethical behaviour of judges in practice.⁴⁴⁶

Judges are subject to review and advice from the judicial ethics advisory body, which provides advisory opinions on their request.⁴⁴⁷ The advisory opinions are published on the website of the association of judges and the supreme court along with the facts and circumstances on which they are based, appropriate anonymisation of persons, places and other data that could lead to the identification. The advisory body provides an annual report

⁴³⁹ Dimitar Aspasiev. Article 37, Law for the Courts. Consolidated text containing the Law for the Courts. Official Gazette 58/2006; Correction from the Assembly Commission 2006; Law for Amending of the Law for the Courts Official Gazette 35/08, Law for Amending of the Law for the Courts Official Gazette 58/2006150/10; Law for Amending of the Law for the Courts Official Gazette 83/18; Law for Amending of the Law for the Courts Official Gazette 198/18; Law for Amending of the Law for the Courts Official Gazette 96/19); as well as the two annulling Decisions of the Constitutional Court No. 256/2007 (16.IV.2008) and 74/2008 (10.IX.2008), published in the Official Gazette 61/08 и 118/08

⁴⁴⁰ Code of Judicial Ethics, Adopted by the Supreme Court, Кодекс+за+етика+на+судиите+и+судиите+поротници.pdf (sud.mk)

⁴⁴¹ Code of Judicial Ethics, Adopted by the Supreme Court, Кодекс+за+етика+на+судиите+и+судиите+поротници.pdf (sud.mk) p.7

⁴⁴² Code of Judicial Ethics, Adopted by the Supreme Court, Кодекс+за+етика+на+судиите+и+судиите+поротници.pdf (sud.mk) p.11

⁴⁴³ Law for the Judicial Council of the Republic of Macedonia, Official Gazette, No. 102/19 Article 34 p.1

⁴⁴⁴ Law for the Prevention of Corruption and Conflict of Interest, Article 45

⁴⁴⁵ Law on the Prevention of Corruption and Conflict of Interest Article 82 Закон-за-спречување-на-корупцијата-и-судирот-на-интереси.pdf (dksk.mk). In accordance with the articles 84 and 85, statements are to be submitted within 30 days of appointment, within 30 days of leaving the position or dismissal. The same timeline of 30 days applies to report any increase in property in a value exceeding 20 average net salaries in the last three months.

⁴⁴⁶ TV 24, Aleksandar Todevski, 22 February 2022, Телевизија 24: Советодавното тело за судска етика спровело само две постапки за судии

⁴⁴⁷ Code of Judicial Ethics, Supreme Court p.13 Кодекс+за+етика+на+судиите+и+судиите+поротници.pdf (sud.mk)

on its activities to the management board of the association of judges and the general session of the supreme court.⁴⁴⁸

From its establishment in 2018 until February 2022, only two judges reached out to the judicial ethics advisory body to ask if it is ethical to have social media accounts and be members of a rotary club.⁴⁴⁹

Judges regularly disclose their assets and the State Commission for the Prevention of Corruption (SCPC) is responsible for scrutinising and validating these asset declarations⁴⁵⁰ only when acting upon a specific case or as part of an annual plan. The annual plan for 2022 envisages scrutinising the asset declarations of 10 judges selected at random.⁴⁵¹

INDICATOR 3.2.7 GENDER

To what extent are the judiciary's mechanisms gender-sensitive?

Score: 00/100

Judiciary mechanisms are not gender-sensitive.

The judicial council produces gender-disaggregated data on gender equality within the judiciary on aspects such as the number of appointed judges and number of appointed presidents of the courts,⁴⁵² but not whether their mechanisms, such as complaints mechanisms, are gender-sensitive. There are, in fact, no gender-sensitive protocols and guidelines for complaints and investigation mechanisms where they have to include front-facing female staff or produce gender-disaggregated data on, for example, complaints filed by gender women or men, processing times of complaints filed by women or men, complaints solved or disregarded by women or men. There is also no training or awareness-raising material for officials and staff for the optimal implementation of gender-sensitive mechanisms.

In November 2022, the OSCE organised a study visit entitled Women in Justice in North Macedonia and Uzbekistan in Skopje to exchange experiences.⁴⁵³

ROLE

INDICATOR 3.3.1 EXECUTIVE OVERSIGHT

To what extent does the judiciary provide effective oversight of the executive?

Score: 50/100

The constitutional court has a wide range of competencies to control legal acts; however, the law does not provide the opportunity for preventive controls. While the judiciary is somewhat active in overseeing the actions of the executive, the effectiveness of its actions is limited due to insufficient financial and administrative independence, which is imperative for greater functional efficacy.

According to the constitution, the constitutional court is responsible for reviewing and deciding on the compliance of new laws, collective agreements and other regulations are within the constitution and existing laws.⁴⁵⁴ Control

⁴⁴⁸ Code of Judicial Ethics, Supreme Court, Кодекс+за+етика+на+судиите+и+судиите+поротници.pdf (sud.mk)

⁴⁴⁹ TV 24, Aleksandar Todeski, "The Advisory Body on Judicial Ethics has conducted only two proceedings for judges", Телевизија 24: Советодавното тело за судска етика спровело само две постапки за судии, Accessed in December 2023

⁴⁵⁰ Law for the Prevention of Corruption and Conflict of Interest, Article 92

⁴⁵¹ Annual Plan for Scrutinizing Declaration of Assets and Interests for 2022 02-7454-2.pdf (dksk.mk)

⁴⁵² Annual Report p6, Scanned Image (sud.mk) viewed 22 June 2023

⁴⁵³ Annual Report Academy for Judges and Prosecutors Izvestaj ASJO 2022 print (1).pdf п. 22

⁴⁵⁴ Constitution of Republic of North Macedonia, Article 108, Устав на Република Северна Македонија (mfa.gov.mk)

of the constitutionality and legality of regulations is achieved as abstract and aposterior, i.e. it is possible only on valid acts. The Constitution does not provide possibility for a preventive control, , even for international treaties.

Anyone can submit an initiative to initiate a procedure for assessing the constitutionality of the law or the constitutionality and legality of by-laws and general acts (actio popularis). Acting on the initiative, the constitutional court may decide on the introduction or non-confession of the procedure. The constitutional court is also responsible for deciding on conflicts of jurisdiction between the holders of legislative, executive and judicial powers, as well as conflicts of jurisdiction between the authorities of the republic and local self-government units.⁴⁵⁵

Further, the constitutional court decides on the responsibility of the president of the republic in cases of violating the constitution and laws in the exercise of their rights and duties, if proposed by the Assembly. The constitutional court can also evaluate constitutional compliance on its own initiative..⁴⁵⁶

Judgements that overturn decisions by the executive are regularly implemented.⁴⁵⁷

In the five-year period, from 1 January 2015 until 31 December 2019, the court had a total of 1,298 cases in operation, or an average of 260 cases annually, out of which is gave decisions on an average of 154 cases per annum.⁴⁵⁸ This indicates the slowness of its operations and the delays in procedures for resolving cases and the inefficiency of the court.⁴⁵⁹

The administrative court is competent to decide upon the legality of individual acts adopted in the election procedure and on individual acts referring to elections, appointments and dismissals of holders of public offices, as defined by law, as well as on acts on appointment, designation and dismissal of managerial civil servants, unless otherwise defined by law.⁴⁶⁰ It is also competent to act in cases against individual acts of state administrative bodies, the government, other state bodies, municipalities and the City of Skopje, organisations established by law, and legal entities and other entities in the exercise of public powers (holders of public powers), when another legal protection does not provide for resolution in the second instance of such an act. There is only one first-instance administrative court and one second instance administrative court competent to preside over all administrative disputes.⁴⁶¹

Administrative courts show an increase in the number of judges with rising workloads. However, a rise in the number of staff does not appear to significantly follow an increase in clearance rates. Disposition times and backlog show a tendency to increase even as the number of staff increases.⁴⁶² A functional analysis of the constitutional court showed concerns about the high number of decisions for non-implementation of proceedings and decisions to reject the initiative/demand in relation to the number of abolishing and annulment decisions.⁴⁶³ This is mainly a result of the insufficient financial and administrative independence, which is essential for greater functional efficacy.⁴⁶⁴

⁴⁵⁵ Ibid

⁴⁵⁶ Constitution of Republic of North Macedonia: <https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>, Article 87

⁴⁵⁷ 4th Congress of the World Conference on Constitutional Justice. 2017). National Report: Constitutional Court of the Republic of Macedonia, pp.12 and 13 <https://lrkt.lt/data/public/uploads/2021/10/macedonia-constitutional-court-en.pdf>

⁴⁵⁸ Functional Analysis Constitutional Court, p.41 Funkcionalna analiza_Ustaven sud_2020.pdf (ihr.org.mk)

⁴⁵⁹ Ibid p.42

⁴⁶⁰ Article 34 Law for the Courts

⁴⁶¹ Second Instance Administrative Commissions and the Administrative Courts Efficiency in the Republic of North Macedonia.

[accessed 2 Sep 2023]. Journal of Liberty and International Affairs | Vol. 6, No. 2, 2020 | eISSN 1857-9760 Published online by the Institute for Research and European Studies at www.e-jlia.com

⁴⁶² Second Instance Administrative Commissions and the Administrative Courts Efficiency in the Republic of North Macedonia.

[accessed 2 Sep 2023].

⁴⁶³ Functional Analysis of the Constitutional Court, p. 41 Funkcionalna analiza_Ustaven sud_2020.pdf (ihr.org.mk)

Not to proceed: 290 cases and to reject the initiative: 338 cases. Decided: 84 cases

⁴⁶⁴ Ibid p. 45

INDICATOR 3.3.2 CORRUPTION PROSECUTION

To what extent is the judiciary committed to fighting corruption through prosecution and other activities?

Score: 25/100

The commitment of the judiciary to fight corruption is very low, evidenced by the low number of successfully completed cases.

It is difficult to confirm the judiciary's commitment to effectively fight corruption. A major scandal with illegally intercepted communications and conversations⁴⁶⁵ of more than 20,000 telephone numbers, revealed systemic problems, initiating European Commission support for the recruitment of a group of independent senior rule-of-law experts to carry out a rapid analysis of the situation and provide recommendations to address these issues.⁴⁶⁶ The group, led by retired commission director, Reinhard Priebe, has identified significant shortcomings in the judiciary and prosecution services.⁴⁶⁷ Following the Priebe Report in May 2015 and the Pržino Agreement,⁴⁶⁸ the special public prosecutor's office was established.⁴⁶⁹

However, the conclusion of the issued second Priebe report (Second SGE's Report)⁴⁷⁰ two years later indicated that "the failure to implement most of the recommendations is a cause for serious concern".⁴⁷¹ The main problem in the system is that it is a captured state.⁴⁷²

Transparency International's report on state capture,⁴⁷³ illustrates how patronage and clientelist networks and schemes operate both at country and local levels to abuse public office. The cases demonstrate that the power of political parties and the loyalty they command are key ingredients in the success of such networks. The effectiveness of prosecuting these cases is determined by the political influence of ruling parties over the judiciary. Their power often results in biased judges and prosecutors, weak investigations, long delays and acquittal or lighter sentences for defendants.⁴⁷⁴

The most explicit demonstration of state capture in North Macedonia is the Skopje 2014 case, which is still pending prosecution.⁴⁷⁵ This case involved the estimated expenditure of €685 million of public money on grand monuments in the capital Skopje for the Skopje 2014 project.⁴⁷⁶ The Ministry of Culture transferred funds to municipalities for projects initiated by local councils. The government chose to work through local municipal councils to exclude parliament, which required a majority the ruling coalition could not secure.⁴⁷⁷

⁴⁶⁵ In February 2015, the opposition leader Zoran Zaev released a series of audio excerpts – what he called "bombs" – from 670,000 secretly recorded conversations of more than 20,000 telephone numbers.

⁴⁶⁶ The Former Yugoslav Republic of Macedonia: Recommendations of the Senior Experts' Group on Systemic Rule of Law Issues Relating to the Communications Interception Revealed in Spring 2015

⁴⁶⁷ Ibid p. 2

⁴⁶⁸ Text of the Przino Agreement Przino_Agreement.pdf (europa.eu) PDF

⁴⁶⁹ Parliament established the Special Public prosecutor's office (SPO) in September 2015 with Law on Public Prosecutor's Office for Prosecuting Cases Related to and Arising from the Content of the Unauthorized Interception of Communications, Official Gazette of the RM, No 159/15 No.196/2015

⁴⁷⁰ Brussels, 14 September 2017. The Former Yugoslav Republic of Macedonia: Assessment and recommendations of the Senior Experts' Group on Systemic Rule of Law issues 2017 (Second Priebe Report) 2017.09.14_seg_report_on_systemic_rol_issues_for_publication.pdf (europa.eu)

⁴⁷¹ Ibid p. 1

⁴⁷² Institute of Social Sciences and Humanities - Skopje. 2017. Short Policy Essay on the Specificity of the Macedonian Example of "State Capture": Ruminations following the Second Priebe Report

⁴⁷³ Nieves Zúñiga. 2020. Examining State Capture: Undue Influence on Law-Making and the Judiciary in the Western Balkans and Turkey examining_state_capture.pdf (transparency.mk). This Transparency International report examines two key enabling factors of state capture in the Western Balkans and Turkey: impunity for high-level corruption and tailor-made laws. The report provides insight into how the judiciary ineffectively handles grand corruption and other corruption by high-level officials. It also shows how this problem and undue influence on law-making in the service of private interests help to achieve and maintain state capture.

⁴⁷⁴ Ibid

⁴⁷⁵ Dona Dimov, Slagjana Taseva, State capture - illustration through „Skopje 2014“ project, (Skopje: Transparency international Macedonia, 2018) state_capture.pdf (transparency.mk)

⁴⁷⁶ The "Skopje 2014 project", an umbrella term covering the 137 memorial objects erected in North Macedonia's capital city of Skopje

⁴⁷⁷ Slagjana Taseva and Dragan Malinovski. 2014. Second Report on the Factual Condition for Realisation of the Skopje 2014 Project through Municipality Center, ИЗВЕШТАЈ ЗА ВКЛУЧЕНОСТА НА ОПШТИНА ЦЕНТАР ВО ПРОЕКТОТ "СКОПЈЕ 2014" – Eurisk.biz

In situations where first-instance courts complete proceedings related to corrupt acts within a reasonable timeframe, time obstacles and inundated by secondary courts and their actions lead to prolongation and very often the ageing of cases.⁴⁷⁸

On account of the statistics of high corruption cases that were led by the Special Public Prosecution (SPP) , which, after 17 charges were filed in 2017 against 94 people, out of which only 10 indictees are now serving, and several of whom are in asylum.⁴⁷⁹

Unlike the public prosecution, the courts keep a more organised set of statistics about their work, although it is not enough for extensive analysis as the reports mainly present number of cases and not data related to hearings, number of appeals and convictions. For example, data for 2021 from the basic criminal court in Skopje in the specialised department for organised crime and corruption show the current state of the cases (how active they are, how many have been completed, how many have continued from the previous year).⁴⁸⁰ The data show that the degree of success in conducting corruption cases is very low.

INDICATOR 3.3.3 MUTUAL LEGAL ASSISTANCE

To what extent do judicial authorities cooperate with foreign law enforcement agencies to provide and receive mutual legal assistance?

Score: 25/100

There is a comprehensive legal framework and institutional networking for providing and receiving mutual legal assistance. However, there is no consolidated data and no statistics of cases published on the Ministry of Justice website (which is the central authority), and it is difficult to establish the effectiveness of the mutual legal assistance. The 2021 semi-annual report on the functioning of the liaison office of the Republic of North Macedonia in Eurojust shows a lack of resources and effectiveness in mutual legal assistance.⁴⁸¹

The Law on International Cooperation in Criminal Matters⁴⁸² and the Law on Criminal Procedure⁴⁸³ are the cornerstones of the national legal framework for mutual legal assistance (MLA) in criminal matters. North Macedonia has ratified all the required international treaties and regional treaties of the Council of Europe related to international legal assistance.⁴⁸⁴ Moreover, although not a member of the EU, it has aligned most parts its legislation to the EU's relevant directives ruling on the matter.

At a regional level, there is a broad spectrum of signed bilateral agreements that specifically target issues of international legal cooperation in criminal matters.⁴⁸⁵ North Macedonia has two contact points for Eurojust: one from the Ministry of Justice (MoJ) and one from the prosecution service. There is a signed cooperation agreement with Europol,⁴⁸⁶ and the country is a member of Interpol,⁴⁸⁷ International Legal Cooperation Unit (ILECU),⁴⁸⁸ Southeast European Law Enforcement CenteSELEC/SEEPAG⁴⁸⁹ and other regional networks and bodies like the Prosecutors Network of the Western Balkans, the PCC convention and the related regional body, the RCC.

⁴⁷⁸ ОТКАКО НИКОЈ НЕ ОДГОВАРАШЕ ЗА ПРЕДМЕТИТЕ ВО ФИОКА, НОВА ТУРА ПРВОСТЕПЕНИ ПРЕСУДИ ЗА ВИСОКА КОРУПЦИЈА ДРЕМЕ ВО АПЕЛАЦИЈА СКОПЈЕ - Сакам Да Кажам (sdk.mk)

⁴⁷⁹ (АНАЛИЗА) Две и пол години подоцна - до каде се истрагите на СЈО - 360 степени (360stopeni.mk) Viewed 15 August 2023

⁴⁸⁰ Оценки+и+заклучоци+2021+година+.pdf (vsrm.mk) page 12–13

⁴⁸¹ Biannual report on the work of the Liaison Office of the Republic of North Macedonia in Eurojust 20 Sep 2022; Biannual report on the functioning of the Liaison Office of the Republic of North Macedonia in Eurojust 2021. <https://jorm.gov.mk/polugodishen-izveshtaj-za-rabotata-na-kanczelarijata-za-vrski-na-republika-severna-makedonija-vo-evropravda/>

⁴⁸² Law on International Co-Operation in Criminal Matter April 2021

⁴⁸³ Law for the Criminal Procedure, Official Gazette 150/10

⁴⁸⁴ IPA 2014 project “International Cooperation in Criminal Justice: Prosecutors’ Network of The Western Balkans”. International Judicial Cooperation in Criminal Matters FYR Macedonia (prosecutorsnetwork.org)

⁴⁸⁵ At the end of 2008, a cooperation agreement with Eurojust was signed

⁴⁸⁶ North Macedonia | Eurojust | European Union Agency for Criminal Justice Cooperation (europa.eu)

⁴⁸⁷ North Macedonia (interpol.int)

⁴⁸⁸ Preview (migrationpartnershipfacility.eu)

⁴⁸⁹ About SEEPAG - Southeast European Law Enforcement Center (selec.org)

The national MLA structure resembles the structures of all the countries whose framework is based on the related internationally ratified treaties. The Ministry of Justice is the central authority for the transmission of outgoing and incoming MLA requests and the decision-making body in specifically indicated cases; the public prosecution service, the courts and the relevant law enforcement agencies are referred to as national authorities.

The Ministry of Justice does not publish statistics on MLA cases. In the 2021 and 2022 annual reports from the prosecutor Lence Ristoska, as the representative and person responsible for the cooperation with Eurojust,⁴⁹⁰ the lack of a proactive relationship between domestic authorities using the mechanisms offered by Eurojust is seen in the decreased number of cases in which the competent authorities of North Macedonia have asked for assistance compared to the previous year. It should be noted that no assistance has been sought for any subject of international cooperation in a criminal matter from the unit for international cooperation in the public prosecutor's office.⁴⁹¹

Based on these reports, the number of cases in 2022 decreased to 61 from 71 in 2021. Of these 61 ongoing cases, 13 were requests from North Macedonia and 48 from the foreign countries.⁴⁹² According to these reports, the timely responses and the quality of the responses are key issues for resolving the cases that involve collecting information and evidence based on international cooperation. The public prosecutor's office does not share information about where the requests have been sent. This makes it difficult to trace requests, which affects the quality of the information provided and any international legal assistance received.

The biggest challenge for the Eurojust office in 2022 was to carry out their work efficiently since the offices used by the public liaison prosecutor did not have an internet connection.⁴⁹³

INTERACTIONS

Interaction between the judiciary and other agencies responsible for the prevention and fight against corruption is mainly at the policy level.⁴⁹⁴

The judiciary has most of its interactions with the prosecution service when processing corruption related cases. The proceedings are regulated by the criminal procedure law. These interactions are to determine the facts and evidence for the conviction of a defendant in a criminal case.⁴⁹⁵

The judiciary also cooperates with the SCPC when discussing the risk of corruption in the judiciary and cooperating at the policy level to increase the capacity of the judiciary for the fight against corruption.

Further the judiciary also cooperates at the policy level with the Ministry of Justice, which is responsible for drafting and implementing the judicial reform strategy.

Cooperation with all three pillars have a positive influence on the work of the judiciary in anti-corruption cases.⁴⁹⁶ Cooperation with the SCPC has increased at the level of judicial integrity and ethics, with training provided for the judges at the academy for judges and prosecutors, and there is cooperation in conducting corruption risk assessments in judiciary,⁴⁹⁷ which aims to increase citizen trust in the accountability of the judiciary.

⁴⁹⁰ Biannual report on the work of the Liaison Office of the Republic of North Macedonia in Eurojust 20 Sep 2022; Biannual report on the functioning of the Liaison Office of the Republic of North Macedonia in Eurojust 2021. <https://jorm.gov.mk/polugodishen-izveshtaj-za-rabotata-na-kancelarijata-za-vrski-na-republika-severna-makedonija-vo-evropapravda/>

⁴⁹¹ Ibid p.6

⁴⁹² Ibid p.7

⁴⁹³ Ibid p.3

⁴⁹⁴ Соработка помеѓу институциите во борбата против корупцијата – Државна комисија за спречување на корупцијата (dksk.mk)

⁴⁹⁵ Ibid p.6

⁴⁹⁶ Соработка помеѓу институциите во борбата против корупцијата - YouTube

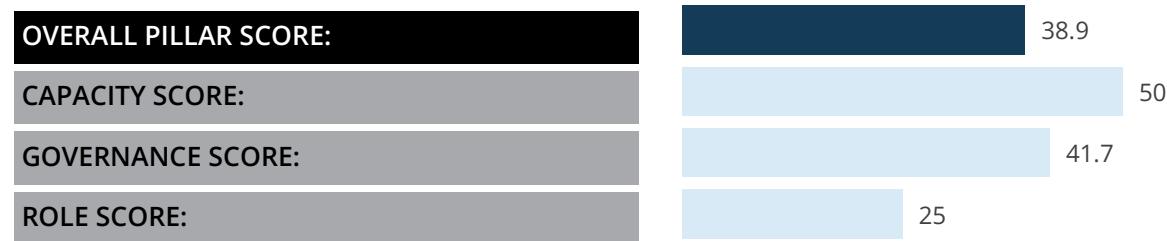
⁴⁹⁷ Corruption Risk Assessment of the Judiciary in the Republic of North Macedonia. June 2023. 545932.pdf (dksk.mk),

PILLAR RECOMMENDATIONS

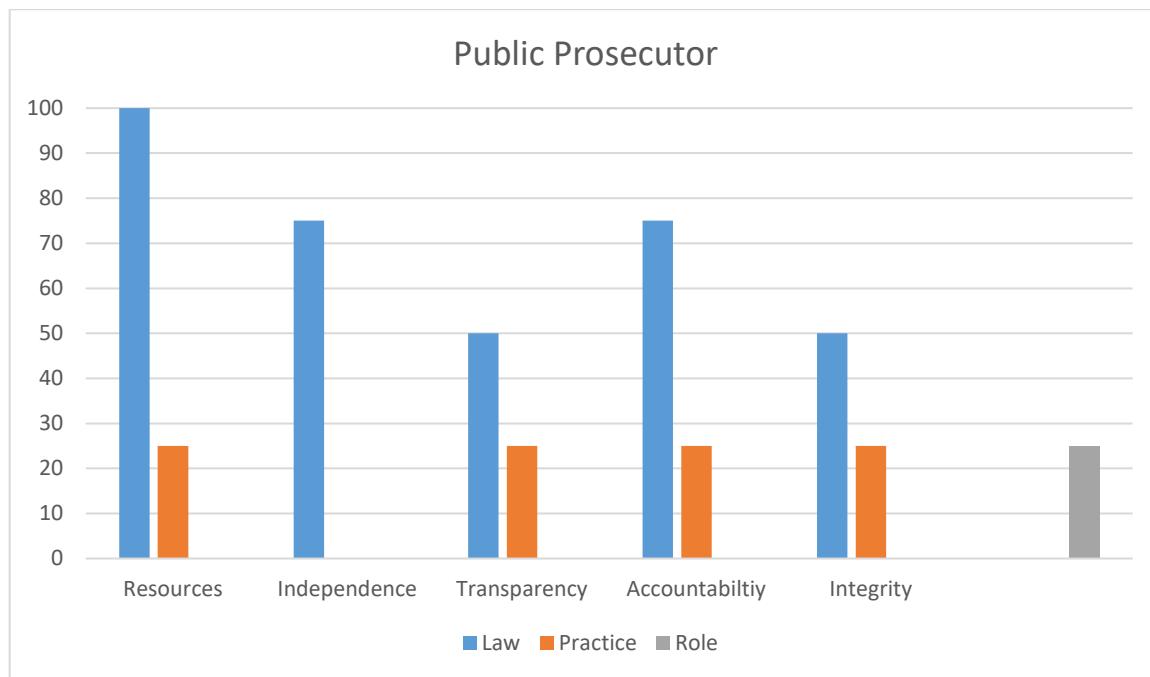
- The supreme court needs to
 - revise the code of ethics to include a sustainable and permanent body for its implementation
 - strengthen the mechanism for its implementation and accountability, and more effective monitoring of the implementation of the code of ethics
- The judicial council needs to
 - adopt new procedures for receiving citizen reports related to conflicts of interest and other inappropriate and unethical behaviour in judges
 - establish a whistleblower's protection and reporting channel to enable judges with integrity or other interested parties to report on cases of influence over the judges and their decisions
- The government needs to ensure sufficient financial and human resources for the judiciary
- The supreme court and judicial council need to
 - publish consolidated information on the judicial budget
 - ensure that decisions and annual reports published on the judicial council's website are in a user-friendly format

4. PUBLIC PROSECUTOR

SUMMARY



Indicators scores: law and practice



The public prosecutor's office (PPO) is the core institution in the criminal justice system in the Republic of North Macedonia.

The PPO is defined as a unique and independent state institution that prosecutes perpetrators of crimes and other punishable acts sanctioned by law and performs other duties as stipulated by law. It is organised in accordance with the principles of hierarchy and subordination, and was established and can be abolished by law. The PPO can act before the Supreme Court. The head of the office is the Public Prosecutor's of the Republic of North Macedonia. There are four higher public prosecutor's offices (HPPO'S) that act before the four appellate courts.

The Basic Public Prosecutor's Office for Organised Crime and Corruption (BPPOOCC) is responsible for the investigation of corruption and organised crime cases and is part of the judicial system that represents the state in criminal courts. The BPPOOCC acts in the whole territory of the Republic of North Macedonia with its headquarters in Skopje. The head is the chief prosecutor of the BPPOOCC. There are 22 basic public prosecutor's offices (BPPOs), of which 10 have basic competence (acting on criminal cases punishable with imprisonment of

up to five years as a main sentence) and 12 with expanded competence (acting on criminal acts punishable with imprisonment of over five years as a main sentence). Specialised departments with a professional service can be set up in the BPPOOCC and in any public prosecutor's office for a court with expanded jurisdiction.

The legal framework provides appropriate salaries. However, there are significant resource gaps in the prosecution, with the budget not meeting the legally required minimum percentage. There is also a shortage of human resources, with many positions remaining unfilled.

There are comprehensive laws to ensure the independence of the prosecution. However, the public prosecutor is appointed by the Assembly, potentially subjecting that person to political influence. The prosecutorial council is an independent body to appoint and dismiss public prosecutors. In practice, prosecutors are often removed from their positions before their term ends, and appointments have been criticised for non-transparency and political influence. Citizen trust in the public prosecution is exceptionally low, with only 3 per cent of citizens trusting the institution "a great deal".

The legal framework for the governance mechanisms needs improvement as the prosecutorial council is dependent on the decisions of the public prosecutor. The law and the code of ethics for public prosecutors, in combination with the Law for the Prevention of Corruption, provide mechanisms to ensure integrity. However, they do not cover hospitality or reimbursements for privately sponsored trips, and the ethics council's activities are not transparent or well-documented. There is no public information about the initiatives and opinions of the ethics council and no information on whether the State Commission for the Prevention of Corruption (SCPC) receives reports on post-government private sector employment from prosecutors. The PPO is not transparent as it does not provide information and statistics about cases. It does not respond to requests from other institutions and does not provide timely information about the reports sent from other agencies.

The achievements of the prosecution in corruption cases are limited, and convictions in high-profile corruption cases are rare. The special prosecutor's office (SPO), established in 2015 to investigate corruption cases, did not preserve its integrity and was dissolved in 2020. The return of cases to the public prosecutor's office has not resulted in significant progress. Corruption cases often face obsolescence due to lengthy legal processes. Investigations and charges related to corruption are ongoing, but few high-value assets have been seized.

CAPACITY

INDICATOR 4.1.1 RESOURCES (LAW)

To what extent are there laws to ensure appropriate salaries and working conditions of prosecutors?

Score: 100/100

The legal framework provides ground for the appropriate budget and salaries of the public prosecutors, prosecutorial professional administrative staff and the performance of their role in investigations and prosecution.

According to the Law for the Public Prosecution, the budget for the PPO has to be at least 0.4 per cent of the state budget for the current year if this does not affect the funds planned for all budget expenditure rates.⁴⁹⁸ The public prosecutor is entitled to propose the PPO budget to the Ministry of Finance.⁴⁹⁹ In addition, the chief

⁴⁹⁸ Law for the Public Prosecution, Official Gazette of the RNM 42 from 16.2.2020 Article 101 p. 1

⁴⁹⁹ Law for the Public Prosecution, Official Gazette of the RNM 42 from 16.2.2020 Article 101 p.2. According to this article, the proposal on the amount of funds for the work of the public prosecutors contains an assessment of the regular and extraordinary matters carried out by the public prosecutor's office, the required number of public prosecutors and prosecutorial officials, and other indicators relevant to determine the amount of funds necessary for the work of the public prosecutor's office in that year.

prosecutor of the BPPOCC can propose the budget for that office, submitted to the public prosecutor in the process of preparation of the budget for the PPO.⁵⁰⁰

The basis for calculating the salary of public prosecutors is the same as for other appointed public officials, in accordance with the Law on Salary and Other Allowances of Elected and Appointed Persons.⁵⁰¹ The public prosecutor's salary is calculated in a way that multiplies the basic salary with a salary determination coefficient. Public prosecutors' salaries are divided into five groups, with a coefficient of 2.8. up to 3.7. In May 2022, the government adopted a package of laws for increasing the salaries in the judiciary and prosecution.⁵⁰²

The Law for the Salaries of the Public Prosecutors⁵⁰³ regulates the system of salaries, salary allowances, other compensation and admissions of public prosecutors, but up until 2023, it did not contain a mechanism for securing adjustment in line with inflation. Article 4 determined the public prosecutor's salary depending on the type of public prosecutor's office, the department and type of cases on which it acts, internal duties in the public prosecutor's office, years of service, scientific and professional titles and specialisation and the results achieved in the performance of the function of public prosecutor.⁵⁰⁴ A constitutional court decision from March 2023 abolished Article 4 of the salaries law and enabled the salaries to be determined according to the average salary from 2022.⁵⁰⁵ This will enable adjusting salaries to inflation rates.

The public prosecutor's salary may only be reduced in the event of a disciplinary responsibility (see 4.2.5).⁵⁰⁶

INDICATOR 4.1.2 RESOURCES (PRACTICE)

To what extent does the public prosecutor have adequate levels of financial resources, staffing and infrastructure to operate effectively in practice?

Score: 25/100

The prosecution has significant resource gaps, with the budget not meeting the legally required minimum percentage and over half of the public prosecutor positions not being filled. This leads to ineffectiveness in carrying out prosecutorial duties.

Even though the budget has increased since 2020, it is still below the amount of 2019 and does not meet the legally defined threshold of 0.4% of the state budget and thereby actively breaking the law (see 4.1).

⁵⁰⁰ According to Art. 100 st. (3) and Art. 102 paragraph (1) of The Law on the Public Prosecutor's Office, the Basic Public Prosecutor's Office for Prosecution of organized crime and corruption (BPPOCC) is a single beneficiary within the budget of the Public Prosecutor's Office of the North Republic Macedonia PPORNM). It participates in the total budget with a special subprogram - 22, and the amount proposed by the BPPOCC. Source: Annual Report, Skopje, July 2023, About the Work of the Public Prosecutors of the Republic of North Macedonia in the Year 2022, page 14. Source: Annual Report, Skopje, July 2023, About the Work of the Public Prosecutors of the Republic of North Macedonia in the Year 2022, page 14 https://jorm.gov.mk/wp-content/uploads/2023/09/izveshtaj-za-rabotata-na-javnite-obvinitelsta_2022_2_mail-2-3.pdf

⁵⁰¹ Law for the Salaries and Other Benefits of the Elected and Appointed Officials in the Republic of Macedonia, Official Gazette RM: no 36/1990, and No. 38/1991, 23/1997, 37/2005, 84/2005, 121/2007, 161/2008, 92/2009, 42/10, 97/10, 162/10, 11/12, 145/12, 170/13 и 139/14, 233/18

⁵⁰² The government adopted the package of legal amendments for higher salaries in the justice and prosecution system, <https://vlada.mk/node/28948>

⁵⁰³ Law for the Salaries of the Public Prosecutors, Official Gazette RM no 153/09; Laws for Amending Law for the Salaries of the Public Prosecutor's Official Gazette RM: no 67/10; no .97/10, no. 231/15 and 11/16

⁵⁰⁴ Article 4, Law for the Salaries of the Public Prosecutors, Official Gazette RM no 153/09; Laws for Amending Law for the Salaries of the Public Prosecutors, Official Gazette RM: no 67/10; no .97/10, no. 231/15 and 11/16.

⁵⁰⁵ I want to Say, Article from 30 March 2023, Constitutional Court defrosts officials' salaries, with last week's decision to grow along with average salary, <https://sdk.mk/index.php/makedonija/ustavniot-sud-gi-odmrzna-platite-na-funktsionerite-so-odluka-od-minatata-nedela-ke-rastat-zaedno-so-prosechnata-plata/>

<https://360stopeni.mk/pendarovski-nevkusno-e-vo-vreme-na-ekonomска-kriza-da-se-pokachuvaat-funktsionerskite-plati-vladata-da-najde-reshenie-za-namaluvane-na-bodovite/>

⁵⁰⁶ IArticle 2 Law for the Salaries of the Public Prosecutors, Official Gazette RM no 153/09; Laws for Amending Law for the Salaries of the Public Prosecutors, Official Gazette RM: no 67/10; no .97/10, no. 231/15 and 11/16.

Table 4.1: Budget of the PPO, 2019 - 2023⁵⁰⁷

Year	Amount in MKD	Amount in EUR	% increase/decrease compared to the previous year	% of the total revenues of the state budget
2023	675,446,000	10,982,862	5.07	0.24
2022	642,832,000	10,452,557	11.92	0.27
2021	574,361,000	9,339,203	6.73	0.25
2020	538,164,000	8,750,634	-27.08	0.24
2019	738,018,000	12,000,292		0.35

The salaries of public prosecutors are adequate compared to other appointed officials.

Public prosecution has a constant shortage of human resources (see Table 4.2). As per the 2020 annual report, the public prosecutor's office should have 1,126 working positions, but only about 354 are filled. For example, of the 197 public prosecutor's office managers envisaged, only 11 are filled, which makes it particularly difficult for public prosecutors to work.⁵⁰⁸

Table 4.2 Human resources of the public prosecution, 2019-2023⁵⁰⁹

Year	Number of systematised staff positions	Number of filled staff positions	% of unfilled staff positions
2022	1,126	385	66%
2021	1,126	354	69%
2020	1,180	345	71%
2019	1,165	338	0.29%

According to the prosecutorial council, the staff shortage is due to the legal requirement⁵¹⁰ that a public prosecutor position in a basic public prosecutor's office should only employ a person who has completed training at the academy for judges and prosecutors.⁵¹¹

As well as training from the academy for judges and prosecutors, public prosecutors also receive training through international cooperation.⁵¹² However, in spite of the diversified training provided,⁵¹³ the 2022 prosecutorial council annual report notes that there is a need for additional funding for training on legal skills, including court and case management, and conflicts of interest.⁵¹⁴

⁵⁰⁷ Public prosecutor's office budget for 2023, Published in the Official Gazette on 27 December 2022 bujet-2023.pdf (jorm.gov.mk)

⁵⁰⁸ Annual Report PPORNM p.11 izveshtaj-finalen-2021-1.pdf (jorm.gov.mk) viewed 1 April 2023

⁵⁰⁹ Based on the annual reports published by the public prosecution: <https://jorm.gov.mk/category/dokumenti/izvestai/>

⁵¹⁰ the Law for the Public Prosecution, Article 61 p. 1 line 8 Zakon-za-javnoto-obvinitelstvo-16-02-2020.pdf (pravdiko.mk)

⁵¹¹ Interview with the prosecutor of the Republic of North Macedonia, Ljubomir Joveski, 2 January 2022

⁵¹² Annual Report, Prosecutorial Council Годишен извештај 2022– CJOPM (sjorm.gov.mk) p.11, Ibid p.12

⁵¹³ Ibid, p.16 List of training

⁵¹⁴ Ibid p.16

INDICATOR 4.1.3 INDEPENDENCE (LAW)

To what extent is the public prosecutor independent by law?

Score: 75/100

There are comprehensive laws to ensure the independence of the prosecution. However, the public prosecutor is appointed by the Assembly instead of a purely professional body, and there is no room for the participation of civil society in this process.

The constitution defines the PPO as a single and independent state body.⁵¹⁵ Amending the constitution is a complex and comprehensive procedure in three stages,⁵¹⁶ which further secures the prosecutor's independence.

The public prosecutor is appointed by the Assembly on the proposal of the government for six years, with the right to reappoint. The government has to ask the prosecutorial council for an opinion on all candidates⁵¹⁷ and then propose an approved candidate to the Assembly.⁵¹⁸ This process often gets criticised for making the public prosecutor subject to political influence in practice (see 4.1.3). There is also no room for the participation of civil society in appointment proceedings.

Other public prosecutors are appointed by the prosecutorial council, such as higher public prosecutors and heads of the basic public prosecutor's office, who are selected for a term of four years, after a general vote by all public prosecutors with the right to re-election.⁵¹⁹

The prosecutorial council is composed of 11 members: the public prosecutor; one member elected by the office of the public prosecutor from its members; four members elected by the prosecutors in the four higher public offices (Skopje, Gostivar, Bitola and Stip); one member of a community that is not in the majority in the country and selected by all public prosecutors in the republic; and four are appointed by the Assembly from the university law professors, lawyers, former constitutional court judges, international judges, and other prominent lawyers.⁵²⁰

The law provides security of tenure and prevents prosecutors from being threatened with arbitrary termination of their position. Conditions for termination of the prosecutor's position are provided by the Law on Public Prosecutor's Office; for example, if a prosecutor is sentenced by a final court decision to a prison term of at least six months.⁵²¹ In the cases referred to the public prosecutor, the termination of that office is determined by the Assembly. However, a public prosecutor may be removed for the duration of criminal proceedings against them or when a disciplinary procedure is initiated.⁵²²

A disciplinary procedure for removal is clearly defined by law in cases of more severe disciplinary grievances. Article 91 of the Law on Public Prosecutor's Office defines 12 serious disciplinary grievances, such as: violations of public order; not submitting an asset declaration; failure to apply rules for exemption from a case; if convicted with a sentence shorter than six months for the case related to revealing classified information; if a major

⁵¹⁵ Constitution of the Republic of Macedonia, Article 106 , Official Gazette, No. 52/1991) and Amendment XXIV, XXX of the Constitution of the RM of 07 December 2005, Official Gazette, No. 107/2005

⁵¹⁶ In the first stage, the Assembly, by a two-thirds majority (at least 80 votes), decides to accede to amending the constitution. The second is a phase of establishment of draft amendments when a majority of MPs, 61 votes, is enough. The third final phase is the adoption of amendments and again requires a two-thirds majority or at least 80 votes.

⁵¹⁷ If the Council will not give a positive opinion of any of the candidates, the Assembly has to repeat the call

⁵¹⁸ Article 63 & 64, Law for the Public Prosecution, Official Gazette of the RNM 42/20 from 16.2.2020.

⁵¹⁹ Ibid Article 65

⁵²⁰ Law on the Council of Public Prosecutors of the Republic of Macedonia, Official Gazette of the RNM Nos. 150/2007 and 100/11, and Law for Amending the Law on the Council of Public Prosecutors of the Republic of Macedonia, Official Gazette of the RNM No. 42/20

⁵²¹ Law on Public Prosecutor's Office, Official Gazette of the Republic of Macedonia Articles 86-89: 80/92, 19/93, 9/94 and 9/96, 38/04, 150/07 and Law for the Public Prosecution, Official Gazette of the RNM 42/20

⁵²² Ibid, Article 81

professional mistake is committed with intention and without justification. Also, before the disciplinary procedure starts, a five-member commission will ask the accused public prosecutor to provide a written statement on the allegations.⁵²³

Public prosecutors are not allowed to exercise any public or private, paid or unpaid duties, which are contrary to the function.⁵²⁴ However, there is no requirement for public prosecutors to report their interests, membership in relevant organisations and other relevant activities.

INDICATOR 4.1.4 INDEPENDENCE (PRACTICE)

To what extent does the public prosecutor operate without interference from the government or other actors?

Score: 0/100

It is common for prosecutors to be removed from their position before the end of their term, and appointments have been criticised for non-transparent procedures and influence by personal networks within the prosecution, as was indicated in the appointment of the chief prosecutor of the BPPOOCC. The trust in the public prosecution by citizens is exceptionally low.

The selection and appointment process for the chief prosecutor of the BPPOOCC in November 2022 has raised controversy. Most of the 163 votes from prosecutors were given to the only candidate who had not presented any programme or made any statement before the elections, Islam Abazi. In an official statement, the US Embassy considers his selection “confusing”, and notes a non-transparent procedure and political influence.⁵²⁵ There were other cases where the prosecutorial council’s decision for dismissing and appointing prosecutors have been alleged to be related to proceedings on certain cases, such as: the case of a prosecutorial council member voting to dismiss the prosecutor leading the case against her husband;⁵²⁶ head of the council participating in appointing his relative,⁵²⁷ which had been criticised by the public prosecutor who said that the head should have excluded himself. The public prosecutor in this instance also led the case against the biggest bank and its management, who was then dismissed for speaking out in public,⁵²⁸ and her case was given to the newly selected prosecutor. The two cases are related to high banking officials, and banks that finance political activities.⁵²⁹ The appointments have been under scrutiny of the State Commission for the Prevention of Corruption.⁵³⁰

In August 2022, the chief prosecutor of the BPPOOCC, Vilma Ruskoska, was suspended when the administration of the financial police announced it was filing criminal charges against her,⁵³¹ and prosecutors Ivana Trajcheva and Elizabeta Josifovska were filed for abuse of their official duty to conduct a search of the administration for financial police. The case against Ruskoska is ongoing. In September 2022, the public prosecutor submitted a proposal to initiate disciplinary proceedings against all three public prosecutors.⁵³² The prosecutor's disciplinary

⁵²³ Law on Public Prosecutor's Office, Official Gazette of the RM, Articles 90 - 95 80/92, 19/93, 9/94 and 9/96, 38/04, 150/07 and Law for the Public Prosecution, Official Gazette of the RNM 42/20.

⁵²⁴ Code of Ethics of Public Prosecutors, etichki-kodeks-na-javnite-obviniteli-2021.pdf (jorm.gov.mk)

⁵²⁵ 360 Stepeni. Ambassador Angela Ageler said on 360 Degrees: The citizens of North Macedonia deserve an independent judicial sector in which positions are filled by merit and quality, through transparent processes, regardless of whether they are in the prosecution, judiciary or any other public institution. There is no place for political interference in these proceedings <https://360stepeni.mk/sad-se-zbuneti-od-izborot-na-islam-abazi-osobeno-po-potrosheni-milioni-dolari-za-obuka-na-obviniteli/>

⁵²⁶ Обвинителка одлучувала дали ќе биде реизбрана колешката што го гони нејзиниот сопруг за перење пари (makfax.com.mk)

⁵²⁷ по Ниеден Закон Не Требаше Да Се Изземам При Изборот На Внука Ми, Вели Коле Штериев, Претседател На Советот На Обвинители - Сакам Да Кажам (sakam.mk)

⁵²⁸ Истрагата за случајот „Банки“ и понатаму ја води Обвинителството за организиран криминал – Фокус (fokus.mk)

⁵²⁹ (АРХИВА) „Фокус“ истражува – Колку партиските каси се празнат за плати и за кредитни рати? – Фокус (fokus.mk)

⁵³⁰ ДКСК на седница ќе одлучува дали има судир на интереси во изборот на внуката на Штериев - Локално (lokalno.mk)

⁵³¹ 360 Stepeni. The Financial police filed a complaint against the prosecutors from the Prosecutor's Office for the Prosecution of Organized Crime: <https://360stepeni.mk/upravata-za-finansiska-politsija-podnese-krivichna-prijava-protiv-obvinitelite-od-obvinitelstvoto-za-gonene-organiziran-kriminal-za-pretresot-od-18-juli/>

⁵³² Idol (online). Vilma Ruskoska suspended from work: <https://idol.mk/archives/22684>, viewed 2 April 2023

committee decided to seek the dismissal of Vilma Ruskovska from her post. The commission claims to have identified a serious professional error and thus a serious disciplinary violation in its operation.⁵³³

In June 2020, the former special prosecutor Katica Janeva was convicted for the abuse of office and sentenced to seven years in prison.⁵³⁴ The court of appeal has confirmed the sentence and she started her time in prison in July 2021.⁵³⁵

Even though there are no clear examples of undue external interference in the work of prosecutors, according to a 2022 survey by Brima market research, citizens' trust in the prosecutorial office has decreased significantly to only 3 per cent of citizens trusting the public prosecution service "a great deal".⁵³⁶

GOVERNANCE

INDICATOR 4.2.1 TRANSPARENCY (LAW)

To what extent are there provisions to ensure that the public can obtain relevant information on the activities and decision-making processes of the public prosecutor?

Score: 50/100

A number of legal provisions allow the public to obtain relevant information on the organisation and functioning of the public prosecutor. The law also determines how the cases are to be distributed electronically. However, the law does not determine the length of the pre-investigating procedure, and status of a case in this stage cannot be revealed. There is also no legal provision that will allow publishing information after the legal term of three months for pre-investigation ends.

The prosecutorial council must submit an annual report to the Assembly.⁵³⁷ However, there is no legal obligation to publish the annual report on the website of the council.

The law determines the content of the report. The report has to contain data on the number of public prosecutors, the number of disciplinary proceedings conducted and completed, the staff of the PPO, material and financial situation of the public prosecution service, data on acting on representations and proposals from citizens and legal entities, and other data from the prosecutorial council's work. The new law on public prosecution determines that a system for electronic distribution will be used for the distribution of cases,⁵³⁸ and the public prosecutor has adopted a rulebook to do that.⁵³⁹ Also, the law does not determine the status of a case if it is in the pre-criminal

⁵³³ Miomir Serafinovic, Telma TV. 2023. "Dismissal of Vilma Ruskovska demands the disciplinary commission of the prosecutor's office due to omissions in the investigation of abuses in the financial police." <https://telma.com.mk/2023/03/30/razreshuvanje-na-vilma-ruskovska-bara-disciplinskata-komisija-na-obvinitelstvoto-poradi-propusti-vo-istragata-za-zloupotrebito-vo-finansiska-policija/> viewed 2 April 2023

⁵³⁴ Meta. 2020. "Former Special Prosecutor Katica Janeva sentenced to seven years in prison, Bojan Jovanovski to nine". <https://meta.mk/en/former-special-prosecutor-katica-janeva-sentenced-to-seven-years-in-prison-while-bojan-jovanovski-to-nine/> viewed 2 April 2023

⁵³⁵ TXT Report (online). 2021. "Katica Janeva is sent to prison." <https://www.txtreport.com/news/2021-07-23-katica-janeva-is-sent-to-prison.r15fnYdAu.html> viewed 2 April 2023

⁵³⁶ National Pool of North Macedonia, September-October 2022 International Republic Institute (IRI) PDF p. 24 National Pool of North Macedonia, September-October 2022 International Republic Institute (IRI) PDF; The survey was conducted on behalf of the Center for Insights in Survey Research by the Brima market research firm (member of Taylor Nelson Sofres and Gallup International). A nationally representative sample of 1,207 respondents aged 18 and over was surveyed between 23 September and 13 October 2022. The margin of error was ± 2.8 points at a 95 per cent confidence level. The response rate was 69 per cent. The national sample was prepared according to 2021 census data from the state statistical office for the population aged 18 and older.

⁵³⁷ Article 13 Law on the Council of Public Prosecutors of the RM. Official Gazette. Nos. 150/2007 and 100/11; Law for amending the Law on the Council of Public Prosecutors of the Republic of Macedonia. Official Gazette. No. 42/20

⁵³⁸ Article 107 Law on the Public Prosecution. Official Gazette. No. 42/20 sluzhben-vesnik-na-rsm-br.-42-od-16.2.2020-godina-1.pdf (jorm.gov.mk)

⁵³⁹ Rulebook for the distribution of cases in the PPO pravilnik-za-raspredelba-na-predmetite.pdf (jorm.gov.mk)

investigation procedure and it does not determine what will happen to the case if the pre-criminal procedure is not completed in three months, therefore hindering transparency of these cases.⁵⁴⁰

According to the latest amendments to the law, the prosecutorial council's decisions on appointing, moving and removal of prosecutors must be reasoned, and they must be published on the council's website.⁵⁴¹

INDICATOR 4.2.2 TRANSPARENCY (PRACTICE)

To what extent does the public have access to information on the activities and decision-making processes of the public prosecutor in practice?

Score: 25/100

Even though annual reports are regularly published, the public cannot obtain relevant information on spending, governance and case management. Also, the non-publication of the council's meeting minutes limits the public ability to receive information on decisions that concern them and how these decisions were made. Digitalised distribution of the cases has not been implemented, and there is no practice of informing the public after the legal length of three months for the pre-investigating procedure ends.

The prosecutorial council published annual reports on the work of public prosecutions from 2009 to 2021 and reports on the application of special investigative measures from 2019 to 2021 on its website.⁵⁴² However, due to the lack of a legal deadline for publishing such reports, the annual report for 2021 was only published in June 2022⁵⁴³ and the annual report for 2022 has been published in July 2023.⁵⁴⁴

In terms of content, annual reports do not contain information on spending, governance (such as information on disciplinary proceedings) and case management. The latest data on the prosecutorial council's financial operations are from 2017.⁵⁴⁵ The reports also do not contain information on case management, only statistics on cases and prosecutorial activities.⁵⁴⁶

Based on daily insights from the prosecutorial council's website, it can be seen that there is a need for greater continuity in the publication of appointment announcements. During the appointment process for the chief prosecutor of the BPPOOCC in December 2022, relevant information on the candidates was not published in a timely manner to be reviewed by public.⁵⁴⁷ The prosecutorial council further publishes data for its sessions on its website in a timely manner. However, announcements for the day and time of the sessions are often on the same day of the session or after it.⁵⁴⁸ The same refers to the publication of the minutes of the sessions held. The minutes are not published regularly, and it has been determined that sometimes a record has been published from a later session, while the record of the previous session has not been made public.⁵⁴⁹

⁵⁴⁰ Law on the Criminal Procedure Article 275 p.1 Zakon-za-krivichnata-postapka-18-11-2010.pdf (pravdiko.mk)

⁵⁴¹ Law for Amending the Law on the Council of Public Prosecutors of the Republic of Macedonia. Official Gazette. Article 5 No. 42/20,

⁵⁴² Public Prosecutor's Office of the Republic of North Macedonia, Reports. <https://jorm.gov.mk/category/dokumenti/izvestai/>

⁵⁴³ Годишен извештај за работата на јавните обвинителства во 2021 година – Јавно Обвинителство На Република Северна Македонија (jorm.gov.mk)

⁵⁴⁴ Report on the Work of the Public prosecutor's office. 2023. izveshtaj-za-rabotata-na-javnite-obvinitelsta_2022_2_mail-2-3.pdf (jorm.gov.mk)

⁵⁴⁵ Source: Website of the CPPORM <http://sjorm.gov.mk/wp-content/uploads/2018/11/BILANS-NA-SOSTOJBA-2017.pdf>

⁵⁴⁶ Prosecutorial Council. Annual report. pp.49 and 50.

⁵⁴⁷ Institute for Human Rights, Policy paper. p.13. Транспарентност, отчетност и ефективност на советот на јавни обвинители на Република Северна Македонија dokumentjavnipolitikijo-1.pdf (ihr.org.mk)

⁵⁴⁸ Institute for Human Rights. Policy paper. p.11. Транспарентност, отчетност и ефективност на советот на јавни обвинители на Република Северна Македонија dokumentjavnipolitikijo-1.pdf (ihr.org.mk)

⁵⁴⁹ Institute for Human Rights. Policy paper. p.11. Транспарентност, отчетност и ефективност на советот на јавни обвинители на Република Северна Македонија dokumentjavnipolitikijo-1.pdf (ihr.org.mk)

INDICATOR 4.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions to ensure that the public prosecutor service has to report and be answerable for its actions?

Score: 75/100

The legal framework contains comprehensive provisions which enable the accountability of individual public prosecutors. However, there is no independent body to investigate complaints, and there are no provisions to protect the complainant. The regulation on the oversight of public prosecutors between the prosecutorial council and the public prosecutor of the republic is unclear and partly overlapping. Moreover, the role and the mandate of the prosecutorial council in disciplinary cases is not clear and does not determine if it will act in all cases or only at their discretion.

The prosecutorial council has a legal obligation to address citizen complaints. However, based on the law,⁵⁵⁰ the public prosecutor of the republic is the only body responsible for reviewing the work of prosecutors.⁵⁵¹

There is a separate by-law to regulate the procedure for determining the liability of the public prosecutor.⁵⁵² The by-law determines the composition of the disciplinary commission as a five-member commission established by the public prosecutor from the elected public prosecutors with a term of four years.⁵⁵³ The commission makes its decisions by a majority, and the decision can be appealed to the prosecutorial council within eight days,

Neither the law or the by-law do not contain provisions for protecting the complainants.

The disciplinary commission is responsible for deciding disciplinary responsibility.⁵⁵⁴ However, the law determines the composition of the commission (five members: one from each of the four higher prosecutorial offices and one from the public prosecutor's office), but it does not use the term "disciplinary commission" and does not determine the length of the mandate of the members.⁵⁵⁵ The selection and mandate of the commission is determined by the by-law.⁵⁵⁶ Its decisions are not final as the prosecutorial council can change and annul the decision even if there is no appeal of the decision.⁵⁵⁷ The prosecutorial council holds the responsibility of deciding when to terminate the position of a public prosecutor. It then determines the course of action following the establishment of disciplinary responsibility with a proposal for a dismissal, which includes deciding whether the public prosecutor's performance is deemed incompetent or unethical. Therefore, the prosecutorial council has no real role in the oversight of public prosecutors. The council is also responsible for monitoring the work of public prosecutors on the basis work assessments in accordance with the Law on Public Prosecutors.⁵⁵⁸

Public prosecutors have immunity, but this is not applicable in cases where they have committed criminal offences.⁵⁵⁹ A public prosecutor cannot be detained or called to account for action taken, opinions expressed or

⁵⁵⁰ Law on Public Prosecution. Article 28.

⁵⁵¹ Charter for the Work of the Prosecutorial Council. Article 17. Деловник-за-работка-на-СЈОРМ-1 Деловник-за-работка-на-СЈОРМ-1.docx (live.com). According to this, if the majority of prosecutorial council members consider that there are grounds to suspect that a disciplinary injury has been committed or that the public prosecutor is incompetent or unconscionably performed the function, the complaint, together with all files and findings is delivered to the public prosecutor for further action.

⁵⁵² By-law to regulate the procedure for determining the liability of the public prosecutor Pravilnik-za-odgovornost-na-JO-1.doc (live.com)

⁵⁵³ By-law to regulate the procedure for determining the liability of the public prosecutor Pravilnik-za-odgovornost-na-JO-1.doc (live.com) Article 5

⁵⁵⁴ Law on Public Prosecution. Article 93 sluzhben-vesnik-na-rsm-br.-42-od-16.2.2020-godina-1.pdf (jorm.gov.mk)

⁵⁵⁵ Ibid

⁵⁵⁶ By-law for performing the proceedings to determine the accountability of a public prosecutor for a disciplinary violation. pravilnik-za-nachinot-na-sproveduvaње-на-postupka-za-utvrduвање-на-odgovornost-na-javen-obvinitel-za-storena-discziplinska-povreda-.pdf (jorm.gov.mk)

⁵⁵⁷ Law on Public Prosecution. Article 93, p.11 sluzhben-vesnik-na-rsm-br.-42-od-16.2.2020-godina-1.pdf (jorm.gov.mk)

⁵⁵⁸ Law on the Council of Public Prosecutors in RM, Article 9

⁵⁵⁹ Law on Public Prosecution, Article 70

decisions made, unless they have committed a crime.⁵⁶⁰ The Law on Public Prosecution precisely defines the disciplinary infringements and the disciplinary procedure under which the public prosecutors are responsible for their actions.⁵⁶¹ Disciplinary measures can include suspension, dismissal or salary reduction.⁵⁶² The Law on Public Prosecution determines that public prosecutors can only be suspended and removed from their position due to serious infringements or if they are a member of a political party.⁵⁶³

INDICATOR 4.2.4 ACCOUNTABILITY (PRACTICE)

To what extent do prosecutors report and answer for their actions in practice?

Score: 25/100

There is a low level of effectiveness in accountability mechanisms for the prosecutorial office in practice, partly due to the insufficient role of prosecutorial council in reviewing the work of public prosecutors.

There is no known case of the effective protection of a complainant in practice. Also, there is no data on the number of citizen complaints or related decisions published in any reports by the public prosecutor.

This is partly due to the complexity of the legal provisions regarding the mandate of the prosecutorial council when it comes to reviewing the work of a public prosecutor (see 4.2.3). The laws contain comprehensive provisions on the accountability of public prosecutors; however their application in practice is not visible and at a low level.⁵⁶⁴

The chief prosecutor of the BPPOOCC is rarely be seen in public or in the media, even when there the public has concerns about the work of public prosecution. The low level of accountability and reporting by the public prosecutor is also recognised by the public, and in the latest analysis, only 3 per cent of citizens trust the public prosecution “a great deal”.⁵⁶⁵

There are not many cases of public prosecutors’ dismissal due to misconduct or misuse of their position. In the most recent case from 2022, the disciplinary commission asked for the dismissal of the former chief prosecutor of the BPPOOCC on the basis of serious disciplinary grievances. Article 86 of the Law for the Public Prosecution⁵⁶⁶ determines that the public prosecutor can be dismissed if they are sentenced to more than six months in prison. However, Article 89 determines the possibility for a dismissal due to serious disciplinary misconduct, and according to Article 91 that can happen if they intentionally and unjustifiably make a major professional mistake, whereby the different interpretation of the law and the facts cannot be a basis to determine the responsibility of the public prosecutor (see 4.1.4). Chief prosecutor of the BPPOOCC was convicted and sent to jail for misuse of official position.⁵⁶⁷

Such disciplinary measures were sought for only one other public prosecutor.⁵⁶⁸ Also, in 2020, the special public prosecutor’s office, established in 2015, ceased to exist.

⁵⁶⁰ Ibid

⁵⁶¹ Law on Public Prosecution, Article 95

⁵⁶² Law on Public Prosecution, Articles 69 to 75

⁵⁶³ Law on Public Prosecution, Article 87

⁵⁶⁴ Ibid

⁵⁶⁵ National Poll September-October 2022, conducted on behalf of the Center for Insights in Survey Research (a project of the International Republican Institute) by Brima, p.24:<https://www.iri.org/resources/national-poll-of-north-macedonia-september-october-2022/> the question is: To what extent do you trust or distrust each of the following.

⁵⁶⁶ Law for the Public Prosecution, Official Gazette, No 42/20

⁵⁶⁷ Meta.mk. 2020. Former Special Prosecutor Katica Janeva sentenced to seven years in prison, Bojan Jovanovski to nine | Meta.mk viewed 2 April 2023

⁵⁶⁸ MakFax. 2020. Обвинителката Трајчева за казната: Не знам како е донесена таква одлука, јас во предметот немам постапувано. <https://makfax.com.mk/makedonija/обвинителката-трајчева-за-казната-не/>

INDICATOR 4.2.5 INTEGRITY MECHANISM (LAW)

To what extent are there mechanisms to ensure the integrity of prosecutors?

Score: 50/100

The law and code of ethics for public prosecutors, in combination with the Law on the Prevention of Corruption, provide mechanisms to ensure the integrity of prosecutors. However, some of the integrity measures are not embedded in the existing integrity regulations.

The prosecutorial council adopted the code of ethics for public prosecutors⁵⁶⁹ in 2021 after adopting the new Law on Public Prosecution.

For supervision of compliance and interpretation of the code of ethics, the ethics council of public prosecutors was established.⁵⁷⁰ Members of the ethics council serve for four years, with the right to another re-election. Members enjoy immunity and cannot be held accountable for voting, expressing an opinion or acting as a member of the council.⁵⁷¹

The law and the code of ethics regulate conflicts of interest and gifts⁵⁷² but do not contain provisions for hospitality and for preventing prosecutors from receiving reimbursements, compensation and honoraria in connection with privately sponsored trips. Also, there is no possibility for citizens to challenge the impartiality of a prosecutor if they fails to step down from a case, and there is no restriction for prosecutors entering the private or public sector after leaving the prosecution service. However, if a prosecutor, as an appointed official, plans to establish a trading company or engage in a profit-making activity in the area they worked in within three years after the end of their appointment, they are obliged to report to the SCPC within 30 days.⁵⁷³

As with other appointed officials, public prosecutors are obliged to declare their assets to the SCPC.⁵⁷⁴ There is no legal requirement for disclosing assets to a prosecutorial body.

INDICATOR 4.2.6 INTEGRITY MECHANISM (PRACTICE)

To what extent is the integrity of members of the prosecution ensured in practice?

Score: 25/100

In practice, the integrity of members of the prosecution has only been checked to a very small extent.

The existing regulations have loopholes (see 4.2.5) and are therefore not effective in ensuring ethical behaviour by prosecutors. For example, the prosecutorial council decided in a closed session to reject the appeal of the

⁵⁶⁹ Code of Ethics for the Public Prosecutors. етички-Кодекс-Пречистен-Текст.Doc (Live.Com). Article 26 of this code establishes standards of ethical behaviour by presenting guidelines and creating a framework for regulating behaviour that is to be applied in addition to the existing legal regulations. It contains basic ethical principles on independence, impartiality, integrity, preventing conflicts of interest, efficiency and professional treatment, professionalism, dignity and restraint. Based on the code of ethics, the public prosecutor appoints the "person for integrity" who holds an advisory role on ethical dilemmas among public prosecutor's employees.

⁵⁷⁰ Ibid, Article 27. The ethics council consists of the president, deputy president and four members of the public prosecutor's office.

⁵⁷¹ Ibid

⁵⁷² Ibid, Article 7

⁵⁷³ Law for the Prevention of Corruption and Conflict of Interest. Article 45.

⁵⁷⁴ Law on the Prevention of Corruption and Conflict of Interest. Article 82. Закон-за-спречување-на-корупцијата-и-судирот-на-интереси.pdf (dksk.mk). In accordance with Articles 84 and 85, the statements are to be submitted within 30 days of the day of appointment, within 30 days of the day of leaving the position or dismissal. The same time deadline of 30 days applies to reporting any increase in property of a value exceeding 20 average net salaries in the last three months.

chief prosecutor of the BPPOOCC and did not allow an external review of the decision by the public prosecutor to suspend the chief.⁵⁷⁵

The ethics council gives its own opinion on the compliance of a particular public prosecutor's behaviour with the principles of the code of ethics. However, there is no information about the ethic council's operation in the annual reports nor on the prosecutor's website, which lack information on governance (see 4.2.2).⁵⁷⁶

There is no public information about the initiatives of the ethics council and its opinions as the relevant office in which the public prosecutor holds the post. Also, there is no information on whether the SCPC receives any reports on prosecutors' post-government private sector employment.⁵⁷⁷

The public prosecutors' website does not contain any information or guidance that would encourage citizens to challenge the impartiality of a prosecutor or to report any other breach of the code of ethics or law. Citizens can file a complaint to the prosecutorial council that will be checked by the ethical council. Such cases have not been indicated in the public prosecution reports.

Prosecutors regularly disclose their assets in practice. However, the SCPC is responsible for scrutinising and validating asset declarations⁵⁷⁸ only when a case against the public prosecutor is indicated or reported,⁵⁷⁹ or when there is an annual plan. The annual plan for 2022 envisages scrutinising the assets of 10 public prosecutors randomly chosen.⁵⁸⁰ The annual plan for 2021 did not envisage scrutinising the assets of any public prosecutors,⁵⁸¹ while the annual plan for 2023 will cover five public prosecutors. However, the effectiveness is questionable as, in the SCPC's annual report for 2022, it is stated that proceedings on the cases for selected officials are ongoing due to the time needed to provide the necessary documentation from different institutions and the analysis.⁵⁸² If established, breaches of asset disclosure are sanctioned,⁵⁸³ but there is no specific data on sanctioned prosecutors.

INDICATOR 4.2.7 GENDER

To what extent are the prosecution's mechanisms gender-sensitive?

Score: 25/100

Prosecution mechanisms are not gender-sensitive, but there is some training on gender sensitivity.

The prosecution service's complaint and investigation mechanisms have no explicit gender-sensitive protocols or guidelines. There is also no procedure for collecting gender-disaggregated data on complaints filed, processing times of complaints, complaints solved or disregarded, and so on.

The number of female prosecutors in the prosecutorial council is five of nine members, and the public prosecutor's office has only three women out of nine prosecutors.⁵⁸⁴

⁵⁷⁵ TV 24, Council of Public Prosecutors Rejects Prosecutor Vilma Ruskovska's Appeal, 24 August 2022, <https://24.mk/details/sovetot-na-javni-obviniteli-ja-otfrli-zhalbata-na-obvinitelkata-vilma-ruskovska>

⁵⁷⁶ Initiative of TI M for an interview has been diverted to sending a request for the FIOI.

⁵⁷⁷ Law for the Prevention of Corruption and Conflict of Interest, Article 45

⁵⁷⁸ Law for the Prevention of Corruption and Conflict of Interest, Article 92

⁵⁷⁹ Article 92 of the Law for the Prevention of Corruption and Conflict of Interest. Official Gazette. No 12/19

⁵⁸⁰ Annual plan for scrutinising declaration of assets and interests for 2022 02-7454-2.pdf (dksk.mk)

⁵⁸¹ SCPC (2021): Годишен-план-за-следење-на-имотната-состојба-и-интересите-за-2021.pdf (dksk.mk)

⁵⁸² Annual report on the work of the SCPC in 2022, p.31 GI-2022-конечен.pdf (dksk.mk)

⁵⁸³ Ibid p.33, paragraph 3.8.

⁵⁸⁴ Public Prosecution of the Republic of North Macedonia, official website, <https://jorm.gov.mk/javni-obviniteli-na-republika-severna-makedonija/>

The prosecution service provides prosecutors and staff with training and awareness-raising material for optimal implementation of gender-sensitive prosecution. The 2021 public prosecution annual report contains information on training provided on: the role of women and the importance of implementing UN Resolution 13/25⁵⁸⁵; the application of the Law on Free Legal Assistance and the Law on Monetary Compensation of Victims of Crimes of Violence and the practical application of the provisions of the Istanbul Convention.⁵⁸⁶

ROLE

INDICATOR 4.3.1 CORRUPTION PROSECUTION

To what extent does the public prosecutor investigate and prosecute corruption cases in the country?

Score: 25/100

Achievements of the Basic Public Prosecution Office for Organised Crime and Corruption in investigating and prosecuting corruption related cases are insignificant considering the number of cases presented in public based on official reports of independent institutions and investigative media.

As a response to the inefficiency of the PPO in 2015, a special prosecutor's office (SPO)⁵⁸⁷ was established to investigate corrupt officials and restore trust in the law and judicial system. However, the SPO did not preserve its integrity, with its head prosecutor receiving a seven-year prison sentence for abusing his official position in a case related to the office's work (see 4.1.4).⁵⁸⁸ The SPO was dissolved on 30 June 2020,⁵⁸⁹ and its cases were formally returned to the already dysfunctional PPO.⁵⁹⁰ According to the text in the law, the prosecutors from the SPO will return to their home prosecutor's offices or the BPPOOCC. The intercepted conversations will no longer serve as evidence and thus as a basis for new charges, but will only serve as circumstantial evidence. The SPO cases that were brought before June 2017 will continue to be conducted in accordance with the old legal regulations and intercepted conversations will be used as evidence.

SPO cases⁵⁹¹ continue to be followed by the BPPOOCC.⁵⁹² However, very few grand corruption cases have resulted in successful convictions. A few high ranking officials received only the minimum sentence.

At the end of 2022, the Skopje court of appeals overturned the Target-Fortress case verdict, and this case of mass wiretapping in North Macedonia returned to retrial.⁵⁹³ The Target-Fortress case has to be completed before becoming obsolete in early 2025. However, in the existing context, to complete that case before then, with a new first-degree verdict that is permissible, seems highly unlikely. In 2021, 14 defendants in the Titanic election fraud case, who the SPO had declared were members of a criminal association, could not be held accountable for this

⁵⁸⁵ The Gender Mainstreaming Gap: Security Council Resolution 1325 and UN Peacekeeping Mandates | The Consortium on Gender, Security and Human Rights (genderandsecurity.org)

⁵⁸⁶ Basic texts - Istanbul Convention Action against violence against women and domestic violence (coe.int)

⁵⁸⁷ Law on Public Prosecutor's Office for Prosecuting Cases Related to and Arising from the Content of the Unauthorised Interception of Communications

⁵⁸⁸ Пресуда за „Рекет“: 9 години затвор за Боки, 7 за Јанева - 360 степени (360steperi.mk)

⁵⁸⁹ SPO is officially obsolete, the new law on the public prosecutor's office is in force. <https://mk.vovanews.com/a/5483095.html>

⁵⁹⁰ Телевизија 24: Јовески: По предметите од СЈО не е исклучена можноста да постапуваат и досегашните обвинители

⁵⁹¹ 19 investigations against more than 150 accused officials, the majority of whom were charged with multiple transgressions. Six of those cases are now proceeding in the courts.

⁵⁹² So far, there have been final convictions in seven cases against 17 defendants. Trials are ongoing for most of the remaining cases. First-instance verdicts have been issued in 11 cases. The courts issued first-instance convictions including against prominent former government officials such as the former prime minister, the former minister of transport, the former minister of interior and the former director of the Bureau of Security and Counterintelligence (UBK). Three of those found guilty remain at large.

⁵⁹³ Поништени пресуди - застарена „правда“ (slobodnaevropa.mk)

crime because it had expired.⁵⁹⁴ In April 2023, the case for electoral fraud, Titanic 2, also became obsolete.⁵⁹⁵ Absolute obsolescence for this crime that of unlawful influence, usually occurs after 10 years, but the latest amendments to the criminal code⁵⁹⁶ meant all these cases could be dismissed.

In 2021, the BPPOOCC opened investigations into seven cases of alleged corruption against 25 suspects (14 high-profile investigations involving 49 individuals in 2020). Investigations are ongoing against 21 individuals regarding alleged abuse of official positions. Charges were filed in eight cases against 38 individuals.⁵⁹⁷

In 2021, the financial police office investigated 27 cases, which led to criminal charges related to corruption. In three cases, high-value movable and immovable assets were temporarily frozen. In four cases, valuable assets totalling approximately €256,000 were confiscated after the first-instance judgements. Prosecutors reported ongoing investigations against nine individuals on alleged money laundering.⁵⁹⁸

INTERACTIONS

The PPO cooperates with law enforcement (criminal police, financial police, financial intelligence unit), the government and the State Audit Office.

Cooperation is based on the legal obligation for cooperation as judicial police is composed of law enforcement officials from the Ministry of Interior (police) and other law enforcement agencies such as the customs authority and financial police.⁵⁹⁹ In February 2023, the public prosecutor of the republic and the president of the SCPC signed a memorandum for cooperation.⁶⁰⁰ However, there is no such memorandum between the BPPOOCC and the SCPC and therefore a lack of processes for everyday communication on corruption related offences.

Prosecutors participate in different forums where the government and civil society organisations (CSOs) are developing policy documents and legislative reforms related to criminal prosecution.

PILLAR RECOMMENDATIONS

- The BPPOOCC and the SCPC need to establish everyday communication and cooperation on corruption related offences by signing a memorandum.
- The government needs to provide financial resources for additional human resources to the public prosecutor's office and investigative centres in charge of investigating corruption.
- The chief prosecutor of the BPPOOCC needs to regularly report to the Assembly on the implementation of accountability mechanisms, such as disciplinary cases, citizen complaints and dismissals due to the violation of official duties.
- An independent disciplinary commission needs to be established to create an independent body to investigate complaints against public prosecutors and to ensure accountability.

⁵⁹⁴ For fourteen defendants in the "Titanic" election fraud case, one offence is obsolete. <https://prizma.mk/na-14-obvineti-vo-titanik-im-zastare-po-edno-del/>

⁵⁹⁵ TV 24, Engie Nikolovska, 18 September 2023, "Titanic": One of the Gruevski and Bozinovski case is obsolete, <https://24.mk/details/titanik-zastaruva-edno-od-delata-za-gruevski-i-bozhinovski>

⁵⁹⁶ Law for Amendments of the Criminal Code Official Gazette No 188/23 <https://360stopeni.mk/sluzhben-vesnik-gi-objavi-izmenite-vo-krivichniot-zakonik/>

⁵⁹⁷ The State Commission for the Prevention of Corruption is reported to have sent 11 initiatives for criminal proceedings to the BPPOOCC in 2022 and 7 initiatives in 2021. However, they do not have information about the decisions. "We have sent several initiatives to the public prosecutor's office, which unfortunately did not reach court," said the president of the SCPC Ivanovska.

⁵⁹⁸ Annual report for 2021, Financial Police Authority of the RNM izveshtaj-finalen-2021-1.pdf (jorm.gov.mk) p.55

⁵⁹⁹ Article 31, Law for the Public Prosecutors, Official Gazette No. 42/20

⁶⁰⁰ The State Commission for the Prevention of Corruption and the Public Prosecutor's Office of the Republic of North Macedonia signed a memorandum of cooperation <https://dksk.mk/mk/потпишан-меморандум-за-соработка-со-ј/>

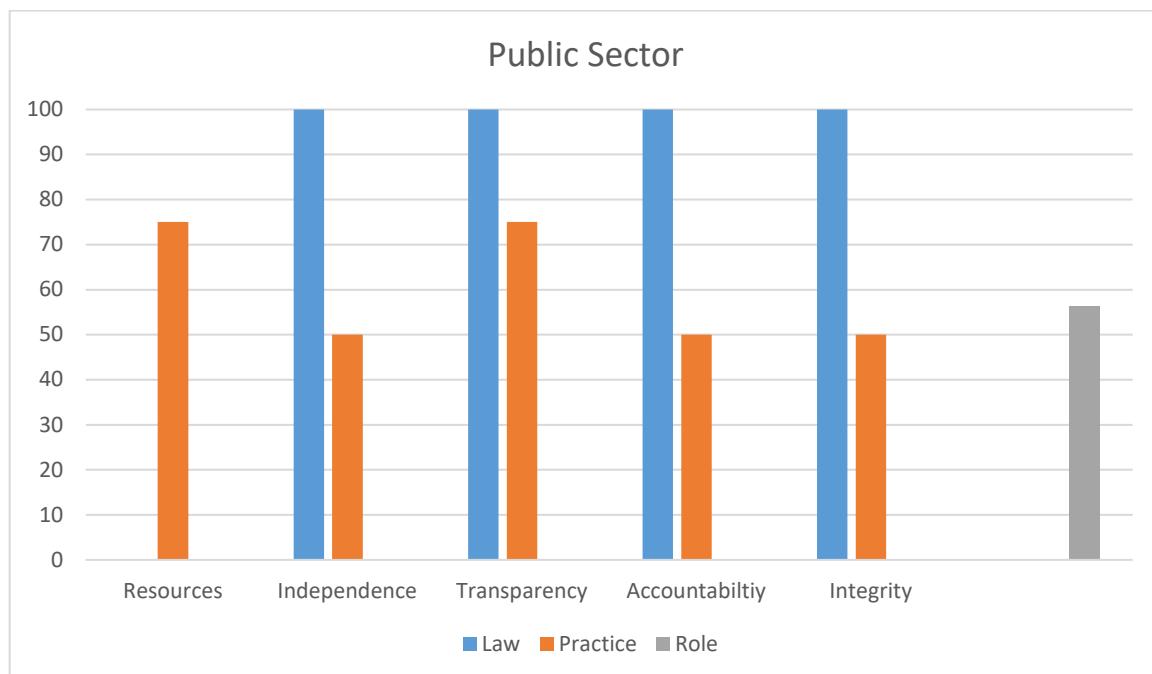
- The government needs adopt regulatory provisions to protect a person who files a complaint against a public prosecutor.
- The public prosecutor's office needs to provide a protected reporting channel for whistleblowers based on the Law on the Protection of Whistleblowers.
- The public prosecutor's office should create a separate ethical committee that will ensure that citizen can make complaints about public prosecutors' conduct in private, especially regarding their contacts, hospitality or interests.

5. PUBLIC SECTOR

SUMMARY



Indicators scores: law and practice



In the Republic of North Macedonia, the public sector is extensive both in terms of the number of institutions and the number of employees in these bodies. The public sector includes a wide range of bodies, governed by the Law on Organization and Operation of State Administration Bodies (LOOSAB) and other special laws.⁶⁰¹ The

⁶⁰¹ Example, for bodies established by special laws: the Administration for the Protection of Cultural Heritage, as a body within the Ministry of Culture with the Article 144, of the Law on the Protection of Cultural Heritage, Official Gazette of RM No. 20/04, 71/04, 115/07, 18/11, 148/11, 23/13, 137/13, 164/13, 38/14, 44/14, 199/14, 104/15, 154/15, 192/15, 39/16, 11/18 and 20/19; the Bureau for Representation of the Republic of North Macedonia before the European Court of Human Rights with the Law on Representation of the Republic of Macedonia before the European Court of Human Rights (Article 3 and Article 22), Official Gazette of RM No. 67/09, 43/14 and 64/18); the inspectorate for the use of languages as a body within the Ministry of Justice, with the Law on the Inspectorate for the Use of Languages, Official Gazette of RM No. 220/19 and 42/20; the Inspection Council by the Law on Inspection Supervision; the Energy Agency of the RNM, by the Law on the Establishment of the Energy Agency of the Republic of Macedonia; the Agency for Mandatory Oil Reserves, by the Law on Mandatory Oil Reserves, the Real Estate Cadastre Agency, by the Law on Real Estate Cadastre and other substantive laws establishing state administration bodies.

bodies of the state administration include ministries, other bodies of the state administration and administrative organisations.⁶⁰² The public sector has 1,354 institutions⁶⁰³ in which 129,374 people are employed.⁶⁰⁴

In terms of integrity, responsibility and transparency in the operation of public bodies, there is a good and comprehensive legal framework that regulates the responsibility of administrative servants and the responsibility of holders of public functions. Additionally, more attention is being paid to legal texts, codes of ethics and other documents. Transparency in the operation of the institutions is greater, and increasingly individuals and legal persons use the mechanisms for obtaining public information. What is missing is greater visibility of the results of the applying control mechanisms, such as reasoned decisions on the election of holders of public functions, publication of court decisions in one place that refer to the work of an official or administrative servants, as well as effective political control over elected persons.

The legal framework that regulates the status of employees in the public sector (administrative servants) primarily consists of the Law on Public Sector Employees (LPSE) and the Law on Administrative Servants (LAS). There is no special law for senior management of the service, which determines the criteria and selection procedures for candidates for management positions (although notice for the preparation of a draft law on senior management service was published in May 2022).⁶⁰⁵ The process and conditions for the selection of the directors of certain institutions according to the applicable legal framework are regulated by the Law on Public Enterprises⁶⁰⁶ and special material laws that regulate the relevant area.⁶⁰⁷

CAPACITY

INDICATOR 5.1.1 RESOURCES (PRACTICE)

To what extent does the public sector have adequate resources to effectively carry out its duties?

Score: 75/100

The public sector has an adequate financial, infrastructural and human resource base to effectively carry out its duties. However, there is a need to strengthen or increase resources such as spatial conditions, vehicles IT equipment, and so on, and there is a need for professional staff.

The expenditure from the RNM Budget for salaries increases every year.

⁶⁰² Article 5, Law on Organization and Operation of State Administration Bodies, Official Gazette of RM, no. 58/00, 44/02, 82/08, 167/10, 51/11, 96/19 and 110/19

⁶⁰³ According to the type of institutions, this number includes: public institutions 920; public enterprises 155; municipalities 81; independent bodies of state administration 36; courts 34; bodies within the ministry 30; public prosecution 28; ministries 16; legal entities with public powers 17; independent state bodies 13; regulatory bodies 10; independent professional bodies 2; secretariats in the government of RNM 2; government of RNM 1; Ombudsperson 1; national Bank 1; special body of state administration 1; president of RNM 1; service (office) in the government of RNM 1; Assembly of RNM 1; Council of Public Prosecutors 1; judicial council 1; constitutional court 1; report from the Register of Public Sector Employees for 2022, pp.11-12, accessed on 15 November 2023,

https://www.mioa.gov.mk/sites/default/files/pbl_files/documents/reports/finalen_izveshtaj_za_2022_godina_30.03.2022_godina.pdf

⁶⁰⁴ MISA. 2023. Report from the Register of Public Sector Employees for 2022, https://mioa.gov.mk/sites/default/files/pbl_files/documents/reports/finalen_izveshtaj_za_2022_godina_30.03.2022_godina.pdf, accessed 12 August 2023.

⁶⁰⁵ Draft Law for High Management Service:

https://ener.gov.mk/default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=74070

⁶⁰⁶ Article 23 of the Law on Public Enterprises, Official Gazette of RM No. 38/96, 9/97, 6/02, 40/03, 49/06, 22/07, 83/09, 97/10, 6/12, 119/13, 41/14, 138/14, 25/15, 61/15, 39/16, 64/18 and 35/19 and Official Gazette of RM No. 275/19, 89/22 and 274/22)

⁶⁰⁷ For example, Article 29 of the Law on Culture, Official Gazette of RM, No. 31/98, 49/03, 82/05, 24/07, 116/10, 47/11, 51/11, 136/12, 23/13, 187/13, 44/14, 61/15, 154/15, 39/16, 11/18 and 11/18)

2022 ⁶⁰⁸	MKD 32.7 billion (€532,510,537)
2021 ⁶⁰⁹	MKD 31.4 billion (€511,340,393)
2020 ⁶¹⁰	MKD 30.1 billion (€490,130,081)

In 2022, there was an increase in salaries for public sector employees, especially with the adoption of the minimum wage law.⁶¹¹ On 5 January 2023, a draft law on the salary system in the public sector was published⁶¹² that should establish a single system of salaries and allowances for employees in public sector institutions.⁶¹³

There is interest in employment in the public sector, which can be seen in the number of public announcements published by the Agency for Administration (AA). In 2021, the AA published 784 public announcements for employment for 2,319 executors, and 17,531 electronic applications were submitted.⁶¹⁴ In 2022, the AA published 800 public announcements for 1,771 jobs, and for a total of 2,075 executors, for which 17,422 electronic applications were submitted.⁶¹⁵

According to the data from the annual reports on employees in the public sector, it can be seen that, for seven years in a row, the number of employees has been constantly changing, but the approximate number is around 130,000.

Year	Number of employees in the public sector
2022 ⁶¹⁶	129,374
2021 ⁶¹⁷	132,088
2020 ⁶¹⁸	131,183
2019 ⁶¹⁹	132,900
2018 ⁶²⁰	132,068
2017 ⁶²¹	128,722
2016 ⁶²²	129,653

⁶⁰⁸ Ministry of Finance, Budget of Republic of North Macedonia for 2022: <https://finance.gov.mk/wp-content/uploads/2021/12/BUDZET-2022-konec-za-objavuvanje-16.12.2021-mk.pdf>, p. 20

⁶⁰⁹ Ministry of Finance, Budget of Republic of North Macedonia for 2021: <https://finance.gov.mk/wp-content/uploads/2020/12/БУЏЕТ-НА-РЕПУБЛИКА-СЕВЕРНА-МАКЕДОНИЈА-ЗА-2021-ГОДИНА-4.pdf>, p.9

⁶¹⁰ Ministry of Finance, Budget of Republic of North Macedonia for 2020: <https://finance.gov.mk/wp-content/uploads/2020/12/БУЏЕТ-НА-РЕПУБЛИКА-СЕВЕРНА-МАКЕДОНИЈА-ЗА-2020-ГОДИНА-4.pdf>, p.9

⁶¹¹ Law on Minimum wage, Official Gazette of RM no. 11/12, 30/14, 180/14, 81/15, 129/15, 32/17, 140/18, 124/19, 239/19 and 41/22,

⁶¹² Draft law on the wages in the public sector,

https://ener.gov.mk/default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=77498

⁶¹³ Report on the assessment of the influence of the regulation, https://ener.gov.mk/files/propisi_files/plan/27_1686228609 Нацрт Извештај за проценка на влијанието на регула.pdf

⁶¹⁴ Annual report on the work of the Agency for Administration for 2021, pp.17 and 20 https://aa.mk/content/pdf/Drugi_dokumenti/Povazni_dokumenti/Извештаи_за_работа_на_АА/Извештај_за_работата_на_Агенцијата_за_администрација_за_2021.pdf

⁶¹⁵ Annual report on the work of the Agency for Administration for 2022, pp.16 and 19 https://aa.mk/content/pdf/Drugi_dokumenti/Povazni_dokumenti/Извештаи_за_работа_на_АА/Извештај_за_работа_на_Агенцијата_за_Администрација_за_2022_година.pdf

⁶¹⁶ MISA. 2023. Report from the Register of Public Sector Employees for 2022:

https://portal.mioa.gov.mk/sites/default/files/pbl_files/documents/reports/finalen_izveshtaj_za_2022_godina_30.03.2022_godina.pdf

⁶¹⁷ MISA. 2022. Report from the Register of Public Sector Employees for 2021,

https://portal.mioa.gov.mk/sites/default/files/pbl_files/documents/reports/finalen-izveshtaj_2021_rabotna_30.03.2022.pdf

⁶¹⁸ MISA. 2021. Report from the Register of Public Sector Employees for 2020,

https://portal.mioa.gov.mk/sites/default/files/pbl_files/documents/reports/izvestaj_registar_2020_rev.1.01.pdf

⁶¹⁹ MISA. 2020. Report from the Register of Public Sector Employees for 2019,

https://portal.mioa.gov.mk/sites/default/files/pbl_files/documents/reports/izvestajreg2019.pdf

⁶²⁰ MISA. 2019. Report from the Register of Public Sector Employees for 2018,

https://www.mioa.gov.mk/sites/default/files/pbl_files/documents/reports/izvestajreg2018.pdf

⁶²¹ MISA. 2018. Report from the Register of Public Sector Employees for 2017,

https://portal.mioa.gov.mk/sites/default/files/pbl_files/documents/reports/izvestajreg2017_v1.02.pdf

⁶²² MISA. 2017. Report from the Register of Public Sector Employees for 2016,

https://portal.mioa.gov.mk/sites/default/files/pbl_files/documents/reports/Godisen_izvestaj_2016_Registar_na_vrboteni_vo_JS.pdf

The institutions point out that they need to strengthen or increase other resources such as spatial conditions, vehicles, IT equipment, all of which differs in each institution, and can be seen from the functional analyses prepared by the institutions.⁶²³ At the same time, there is a need for professional staff and training to strengthen their knowledge and skills in the interests of professional development,⁶²⁴ which is currently very weak, both in terms of training activities and strategy.⁶²⁵

Since 2019, to strengthen the efficiency and effectiveness of public services delivery, there is a national portal for e-services.⁶²⁶ The number of digital services in the national platform for services reached 245, and the number of registered users reached 110,229.⁶²⁷

In 2013, a special law introduced a quality management system and a common framework for assessing the operation and provision of services in the civil service,⁶²⁸ and all institutions are obliged to implement the following two quality standards: ISO 9001 and the Common Framework for Assessment – CAF.⁶²⁹ In 2019, the Law on the Central Population Register,⁶³⁰ the Law on Electronic Management and Electronic Services and the Law on Electronic Documents,⁶³¹ Electronic Identification and Confidential Services⁶³² were adopted.

In February 2021, the Ministry of Information Society and Administration (MISA) approved a new methodology for assessing the quality of institutions,⁶³³ which is expected to be applied once a year to a range of institutions

⁶²³ Functional analysis of MISA, strp.17-18, https://mioa.gov.mk/sites/default/files/pbl_files/documents/Funkcionalna%20analiza_MIOA.pdf, Functional analysis of the Ministry of Justice, p.100, <https://www.pravda.gov.mk/Upload/Documents/Функционална анализа за Министерство за правда на РСМ.pdf>; functional analysis of the State Administrative Inspectorate p.29, <https://duinspektorat.mioa.gov.mk/sites/default/files/Funkcionalna%20analiza.pdf>; functional analysis of the Agency for Administration p.46, <https://aa.mk/content/pdf/Drugi dokumenti/Povazni dokumenti/Iзвештај од спроведената функционална анализа во Агенција за администрација 2018.pdf>

⁶²⁴ Government of RM, "Mancevski: There is overemployment in the institutions, but also a lack of professional staff"
<https://vlada.mk/node/12877?ln=mk>. The public administration faces overemployment, but there is not enough professional staff, and the institutions have inadequate staffing, especially IT staff, which is why it needs urgent reform, was the conclusion of today's first of the series of debates with the civil sector on the topic of administration reform, organized by Ministry of Information Society and Administration. It has been pointed out that this is the case in several ministries and, as an example, he highlighted the Ministry of Information Society and Administration, where, as he said, the projects are led by IT personnel from the Agency for Electronic Communications. Accessed on 3 November 2023.

For example, in the functional analysis of MISA, it is stated that the ministry faces a shortage of professional staff, p.13 and p.20, https://mioa.gov.mk/sites/default/files/pbl_files/documents/Funkcionalna%20analiza_MIOA.pdf

See also: <https://vistinomer.mk/se-kontrolira-brojot-na-vrabotuvanjata-vo-javniot-sektor-ostanuva-somnezhot-kolku-e-realen/>

See also: The Public Administration Reform Strategy 2023-2030, p. 39, 74, https://mioa.gov.mk/content/Strategija%20RJA_MK%202003.pdf
⁶²⁵ SIGMA. 2021. Monitoring Report: The Principles of Public Administration Republic Of North Macedonia November, 2021, <https://www.sigmapublications.org/publications/Monitoring-Report-2021-Republic-of-North-Macedonia.pdf>, pg.67

⁶²⁶ The national portal for e-services is <https://uslugi.gov.mk/>

The legal basis for the operation of the portal is provided by the Law on Electronic Management and Electronic Services (98/2019), which defines the electronic exchange of data and the manner in which it should be implemented, the provision of e-services, the operation of intermediaries and more, <https://uslugi.gov.mk/about.nsp>

⁶²⁷ <https://uslugi.gov.mk/>, accessed on 3 November 2023

⁶²⁸ The Law on the Introduction of a Quality Management System and the common framework for assessing the operation and provision of services in the civil service Official Gazette of the RM No. 215/21

⁶²⁹ Many institutions in North Macedonia have implemented the ISO 9001 standard: out of 110 state bodies, 51 are certified, 5 are in the final phase of certification, 35 have started the procedure, 9 have not started the procedure and 10 have not provided funds in their budget for this. According to MISA, a total of 29 institutions have introduced the CAF model. Of them, 17 are institutions at the central level, and 12 are institutions at the local level.

https://www.mioa.gov.mk/sites/default/files/pbl_files/documents/strategies/usvoen_nacionalen_plan_za_upravuvanje_so_kvalitet_2018-2020_lektura_vo_tek.pdf, p. 27; MISA, Ministry of Republic of North Macedonia: National Plan for Quality Management in the Public Sector (2018-2020), <https://www.mioa.gov.mk/?q=en/node/2377>; national plan for management of quality in the public sector in the Republic of North Macedonia (2018-2020),

https://www.mioa.gov.mk/sites/default/files/pbl_files/documents/strategies/usvoen_nacionalen_plan_za_upravuvanje_so_kvalitet_2018-2020_lektura_vo_tek.pdf

⁶³⁰ Law on the Central Population Register, RNM Official Journal, no. 98 of 21.5.2019

⁶³¹ Law on electronic management and electronic services, Official Gazette of RM, No. 98/19 and 244/19

⁶³² Law on electronic management and electronic services, Official Gazette of RM, No. 98/19 and 244/19) Law on Electronic Documents, Electronic Identification and Confidential Services Official Gazette of RM, No. 101/19 and 275/19)

⁶³³ MISA, "The new methodology for the evaluation of the quality index of the institutions has been adopted", <http://kvalitet.mioa.gov.mk/usvoena-novata-metodologija> D1%98ata-za-oczenka-na-indeks-na-kvalitet-na-institucii e/.

selected by the government at the suggestion of MISA, but it has not yet been applied as the methodology is very recent.⁶³⁴ MISA has also drafted various documents (service delivery standards,⁶³⁵ guidelines for service optimisation,⁶³⁶ methodology for involving end users)⁶³⁷ that could lay down the foundations for a more uniform approach in improving the quality of public services. However, these documents have been pending adoption since the beginning of 2020.

According to a 2019 survey of citizens' satisfaction with the delivery of public services: "citizens (respondents) are generally satisfied with the delivery of the public service they received... the respondents generally see the lack of expertise of employees, the relationship of employees with citizens, the lack of timeliness in the delivery of services and partisanship in public administration. [As for] the highest priorities in the reform of the delivery of public services, respondents consider that the price of public services should be corrected, the expertise of officials should be improved and the time for the delivery of services should be reduced".⁶³⁸

INDICATOR 5.1.2 INDEPENDENCE (LAW)

To what extent is the independence of the public sector safeguarded by law?

Score: 100/100

There is a comprehensive legal framework which ensures the independence of the public sector.

Prevention of inappropriate political interference in the appointment and promotion of employees in the public sector is well regulated by laws such as the LAS,⁶³⁹ the LPSE,⁶⁴⁰ the Law on Prevention of Corruption and Conflict of Interest (LPCCI)⁶⁴¹ and the code of ethics for administrative servants (CEAS).⁶⁴²

This is confirmed by the 2021 SIGMA report, which notes that merit-based recruitment, demotion and dismissal of administrative servants are adequately regulated.⁶⁴³ Specifically, the LAS, regulates the procedure for the employment and promotion of administrative servants,⁶⁴⁴ while the horizontal movement of employees from one workplace to another within the same group of workplaces is regulated by the LPSE.⁶⁴⁵ The LPCCI prohibits undue influence in the selection, appointment and dismissal of management positions.⁶⁴⁶

"As for the senior management service, the only provisions pertain to public announcements and general prerequisites, rather than offering specific guidelines for criteria for candidate selection for managerial roles. There are no clear rules for appointment and dismissal, nor for competition for a significant portion of managerial

⁶³⁴ OECD. 2021. Monitoring Report: Republic of North Macedonia p.112, <https://www.sigmapublications.org/publications/Monitoring-Report-2021-Republic-of-North-Macedonia.pdf>

⁶³⁵ Draft guide for service delivery: <https://ener.gov.mk/Default.aspx?item=newdocumentdetails&detalisId=19>

⁶³⁶ Draft guide for optimization of services: <https://ener.gov.mk/Default.aspx?item=newdocumentdetails&detalisId=20>

⁶³⁷ Methodology for involving end users, https://ener.gov.mk/PublicDocuments/Најава - Методологија за вклучување на крајните корисници во процесот на подобрување на јавните услуги_Најава_id=18_version=1.pdf

⁶³⁸ Center for Change Management. 2019. A citizen-oriented approach to the delivery of public services research on the topic: The satisfaction of the citizens of the Republic of Macedonia for the delivery of public services in the Republic of Macedonia, <https://cup.org.mk/proekti/citizen-centric-approach-to-delivery-of-public-services>, <https://cup.org.mk/publication/research-on-the-citizens-satisfaction-in-public-service-delivery>, pp.32-34.

⁶³⁹ Law on Administrative Servants, Official Gazette of RM, No. 27/14, 199/14, 48/15, 154/15, 5/16, 142/16 и 11/18, 275/19, 14/20, 215/21 и 99/22

⁶⁴⁰ Law on Public Sector Employees, Official Gazette of RM No. 27/14, 199/14, 27/16, 35/18, 198/18, 143/19 и 14/20

⁶⁴¹ Law on the Prevention of Corruption and Conflict of Interest. Official Gazette of RM, No.12/2019

⁶⁴² Code of ethics for administrative servants, Official Gazette of RM, No. 183/ 2014

⁶⁴³ SIGMA. 2021. Monitoring Report The Principles of Public Administration Republic Of North Macedonia November, 2021, <https://www.sigmapublications.org/publications/Monitoring-Report-2021-Republic-of-North-Macedonia.pdf>, p.67

⁶⁴⁴ Article 30, Law on Administrative Servants, Official Gazette of RM, No. 27/14, 199/14, 48/15, 154/15, 5/16, 142/16 и 11/18, 275/19, 14/20, 215/21 и 99/22

⁶⁴⁵ Article 24, Law on Public Sector Employees, Official Gazette of RM, No. 27/14, 199/14, 27/16, 35/18, 198/18, 143/19 и 14/20

⁶⁴⁶ Article 39 and 40, Law on Prevention of Corruption and Conflict of Interest, Official Gazette of RM, No.12/2019.0

positions".⁶⁴⁷ The selection and conditions for the selection of directors of certain institutions are regulated by the Law on Public Enterprises⁶⁴⁸ and special material laws that regulate the relevant area.⁶⁴⁹

Legal protection of the rights, obligations and responsibilities of administrative servants are regulated by the LAS.⁶⁵⁰ A political party or a person acting on behalf of a political party may not influence the employment, assignment and termination of employment of a civil servant. A person who has been dismissed against the law under pressure from a political party, as well as a candidate for election or appointment who has been harmed by an election or appointment carried out under such pressure, may request the annulment of the act of election, appointment or dismissal before a competent court with a lawsuit. There is also a possibility to submit a petition to the ombudsperson or submit a petition to the State Administrative Inspectorate (SAI).⁶⁵¹ The SSCPC may request from the competent authority a review or annulment of the decision that was made under the influence of a political party or a person acting on behalf of a political party.⁶⁵²

The LAS regulates disciplinary procedures if an administrative servant expresses and represents a political belief in the performance of tasks, participation in election activities or other public appearances of such a nature during working hours, questioning one's status as an administrative servant by performing party activities, wearing or displaying party symbols in the office.⁶⁵³

If the SAI finds evidence that the violation of the regulations is a crime, a misdemeanour or a more serious violation of official duty, it is obliged to file a criminal report, a request to initiate a misdemeanour procedure or an initiative to initiate a disciplinary procedure.⁶⁵⁴

The Law on Lobbying provides for the possibility of influencing the processes of preparation, adoption and amendment of: laws, by-laws or other general acts or public policies, such as programmes adopted by the bodies that are lobbied, especially when those policies or programmes refer to spatial and urban planning, development and allocation or the distribution of public funds.⁶⁵⁵

INDICATOR 5.1.3 INDEPENDENCE (PRACTICE)

To what extent is the public sector free from external interference in its activities?

Score: 50/100

⁶⁴⁷ Final performance audit report: Reform of public administration, pp. 17-18,

https://dzn.mk/sites/default/files/2023-03/176_RU_Reforma_javna_administracija_KOMPLET_2022.pdf

⁶⁴⁸ Article 23 of the Law on Public Enterprises, Official Gazette of RM No. 38/96, 9/97, 6/02, 40/03, 49/06, 22/07, 83/09, 97/10, 6/12, 119/13, 41/14, 138/14, 25/15, 61/15, 39/16, 64/18 and 35/19 and Official Gazette of RM, No. 275/19, 89/22 and 274/22)

⁶⁴⁹ For example, Article 29 of the Law on Culture, Official Gazette of RM No. 31/98, 49/03, 82/05, 24/07, 116/10, 47/11, 51/11, 136/12, 23/13, 187/13, 44/14, 61/15, 154/15, 39/16, 11/18 and 11/18

⁶⁵⁰ Articles 19, 20, 45, 52, 75, 76 and 98, Law on Administrative Servants, Official Gazette of RM, No. 27/14, 199/14, 48/15, 154/15, 5/16, 142/16 и 11/18, 275/19, 14/20, 215/21 и 99/22

⁶⁵¹ Article 2, Article 15-b, paragraph 2, Extraordinary inspection supervision is carried out on the basis of initiatives, petitions and proposals submitted by state authorities, legal and natural persons, as well as in case of suspicion of the inspector, Law on Administrative Inspection, Official Gazette of RM, No. 69/04, 22/07, 115/07, 51/11, 164/13, 41/14, 33/15, 156/15, 193/15, 53/16, 11/18, and 103/21

⁶⁵² Article 39 and Article 40 of the Law on the Prevention of Corruption and Conflict of Interest, Official Gazette, No. 12/2019.

⁶⁵³ Article 73, paragraph 1, point 3 of the Law on Administrative Servants, Official Gazette of RM No. 27/14, 199/14, 48/15, 154/15, 5/16, 142/16 and 11/18 and Official Gazette of RM, No. 275/19, 14/20, 215/21 and 99/22

⁶⁵⁴ Article 13, of the Law on Administrative Inspection, Official Gazette of RM No. 69/04, 22/07, 115/07, 51/11, 164/13, 41/14, 33/15, 156/15, 193/15, 53/16 and 11/18 and Official Gazette of RM, No. 103/21

In 2019, 22 disciplinary initiatives were initiated against administrative officers employed in the entities in which the inspection was carried out, <https://duinspektorat.mioa.gov.mk/sites/default/files/documents/Godisen%20izvestaj%20DUI%202019.pdf>, In 2018, 42 initiatives for disciplinary proceedings were initiated, of which 3 were after regular inspections, 34 initiatives for disciplinary proceedings were initiated after control inspections and 5 initiatives after extraordinary inspections,

<https://duinspektorat.mioa.gov.mk/sites/default/files/documents/GODISEN%20IZVESTA%20DUI%202018.pdf>

⁶⁵⁵ Article 3 of the Law on Lobbying. Official Gazette of RM, No. 122/2021

Activities in the public sector are mainly carried out by personnel selected through a public announcement and procedure prescribed by law, but there is occasionally external influence in the appointment of senior management positions (directors, secretaries) who were appointed by the government (acting directors) and ministers or heads of institutions (in the appointment of secretaries).

In the public sector, after the change of government or by the end of the mandate of the appointing official, category A administrative servants – the secretaries in institutions – can be changed since that they are appointed persons.⁶⁵⁶ There is a certain discretion in the appointment of category A administrative servants , state secretary, general secretary, secretary of the City of Skopje, secretary of a municipality with headquarters in a city and secretary of a municipality with headquarters in a village, who are not selected by advertisement but are appointed.⁶⁵⁷

Frequently, acting directors, a role meant exclusively for addressing unforeseen situations, are appointed without the need for a public announcement or an extension of their tenure until a permanent director is selected.⁶⁵⁸ The State Audit Office (SAO) report states that in the period from 2018 to 2021, 52 percent of the total number of managers appointed by the government are acting directors/deputies.⁶⁵⁹ In the SCPC report, it is stated that a large number of applications were submitted to the SCPC for multiple appointments as acting director.⁶⁶⁰ The 2021 SIGMA report states that the discretionary appointment and dismissal of senior managers remains the weakest area.⁶⁶¹

There are no records of how many administrative servants are dismissed or reassigned to another post after the change of government. But one of the indicators that can indicate whether or not there is new employment before the elections or after the elections are, for example, changes in the regulations for internal organisation that can establish or abolish new organisational units or changes to the regulations for the systematisation of workplaces.

According to the 2022 AA, 524 civil servants submitted complaints or objections, of which 81 were for selection by public announcement, 99 were submitted by public servants, of which 16 were for selection by public announcement.⁶⁶² For 2021, there were 56 complaints submitted for the assignment of a job, and 91 complaints by choice per advertisement, out of a total of 377 complaints/objections that were submitted by administrative servants.⁶⁶³ In 2020, 628 complaints/objections were submitted, of which 109 complaints were based on the selection of an advertisement, and 50 were based on job assignment. In 2019, a total of 700 complaints/objections

⁶⁵⁶ Article 23, paragraph 9, of the Law on Administrative Servants, Official Gazette of RM, No. 27/14, 199/14, 48/15, 154/15, 5/16, 142/16 and 11/18 and Official Gazette of RM, No. 275/19, 14/20, 215/21 and 99/22

⁶⁵⁷ Article 23 of the Law on Administrative Servants, Official Gazette of RM No.o. 27/14, 199/14, 48/15, 154/15, 5/16, 142/16 and 11/18 and Official Gazette of RM, No. 275/19, 14/20, 215/21 and 99/22

⁶⁵⁸ Health institutions have 11 acting directors, institutions from the field of culture 32, in institutions for social protection 21, in public enterprises 32. Center for Change Management, Skopje.2023. Report from the monitoring of management structures in public sector institutions, p.7,

<https://cup.org.mk/publication/report-from-monitoring-the-management-structures-in-public-institutions>

⁶⁵⁹ In 2018, 52 were appointed, in 2019–22, in 2020–48, and in 2021–42 acting director/deputy director, from the final performance audit report Reform of Public Administration", pp.17-18, https://d2r.mk/sites/default/files/2023-03/176_RU_Reforma_javna_administracija_KOMPLET_2022.pdf; OECD. 2021. Monitoring Report: Republic of North Macedonia. executive summary, pp.9, 67, 77

⁶⁶⁰ From the received documents, the illegal actions of the management bodies were confirmed, but the SCPC realistically has no possibility of initiating initiatives before the competent courts because none of the mentioned laws, nor the Law on Local Self-Government foresee sanctions for this kind of action, p.19, <https://dksk.mk/wp-content/uploads/2021/04/%d0%93%d0%98-%d1%84%d0%b8%d0%bd%d0%b0%d0%bb.pdf>

⁶⁶¹ SIGMA. 2021. Monitoring Report The Principles of Public Administration Republic Of North Macedonia November, 2021, <https://www.sigmapro.org/publications/Monitoring-Report-2021-Republic-of-North-Macedonia.pdf>, p.67

⁶⁶² Agency for Administration (2022): Annual report on the work of the Agency for Administration for 2022, pp.29 and 31, https://aa.mk/content/pdf/Drugi_dokumenti/Povazni_dokumenti/Извештај_за_работа_на_АА/Извештај_за_работа_на_Агенцијата_за_Администрација_за_2022_година.pdf

⁶⁶³ Agency for Administration. 2022. Annual report on the work of the Agency for Administration for 2021, pp.28 and 29 https://aa.mk/content/pdf/Drugi_dokumenti/Povazni_dokumenti/Извештај_за_работа_на_АА/Извештај_за_работа_на_Агенцијата_за_администрација_за_2021.pdf

were submitted, of which 128 were for selection by advertisement, and 116 were for job assignment. In 2018, 774 complaints were submitted (612 from civil servants and 162 from public servants), of which 127 were for job placement, and 98 were for selection based on an advertisement.⁶⁶⁴

There is a provision in the LPSE for fixed-term employment, but only in certain cases.⁶⁶⁵ However, in practice, there is a high number of such placements. For example, through temporary employment agencies, in the institutions of the public sector, in 2020, a total of 2,425 people were employed, in 2019 it was 3,222, in 2018, 2,439 people, and in 2017, 1,624, who have no status as employee in the public sector and are not included in the analyses contained in this report.⁶⁶⁶

The AA established a department for candidate selection for administrative servant employment and a selection commission following public announcements. However, political influence on commission members cannot be determined.

Despite the LAS requirement for institutions to submit annual reports on disciplinary and material liability, the MISA website lacks these reports, and some institutions fail to submit them.⁶⁶⁷

In the SCPC, abuse of official duties is also reported mostly for employment, the issuing of various permit decisions (for construction), the existence of a conflicts of interest, when making court decisions, and so on.⁶⁶⁸

The only data available the decisions of the courts in regard to disciplinary sanctions comes from the MoJ. The MISA does not follow these decisions and does not keep statistics on them. From the data provided by the MoJ, only 31 per cent of the court decisions on disciplinary sanctions were fully or partially in favour of the administration. This means that appealing parties were successful in their appeals in 69 per cent of cases. It is not known whether the causes of the negative rulings were procedural problems or substantive factors, but the particularly low percentage of court confirmations is a sign of weaknesses in the management of the disciplinary process or, even worse, of unfair disciplinary sanctions.⁶⁶⁹

⁶⁶⁵ Article 22 of the Law on Public Sector Employees Official Gazette of RM, No. 27/14, 199/14, 27/16, 35/18 and 198/18 and Official Gazette of tRM, No. 143/19 and 14/20

⁶⁶⁸ SCPC. 2020. Annual report, pp.10-11, <https://dksk.mk/wp-content/uploads/2021/04/%D0%93%D0%98-%D1%84%D0%B8%D0%BD%D0%B0%D0%BB.pdf>; SCPC. 2021. Annual report: The increased awareness and courage of citizens to report illegalities and irregularities in the work of officials contributed to the DKS during 2020 receiving 550 reports from citizens with suspicions of the existence of corrupt behavior, abuse of public office, the existence of a conflict of interest and established 102 cases on its own initiative DKS, <https://dksk.mk/wp-content/uploads/2022/03/%D0%93%D0%98-2021-final.pdf>, p.10.

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GOVERNANCE

INDICATOR 5.2.1 TRANSPARENCY (LAW)

To what extent are there provisions to ensure transparency in financial, human resource and information management of the public sector?

Score: 100/100

There are comprehensive provisions that ensure transparency of the public sector.

According to the LPCCI,⁶⁷⁰ data from asset declarations, including changes in assets, have to be published on the SCPC website.⁶⁷¹ The SCPC has to verify the property status and interests data, either on the basis of an annual plan or based on a specific request.⁶⁷²

The Law on Free Access to Information of a Public Character (LFAIPC)⁶⁷³ regulates the entire procedure for exercising the right to free access to information of a public nature (freedom of information requests). One inconsistency is that the Agency for the Protection of the Right to Free Access to Public Information (APRFAI), as the authority that provides legal protection, cannot provide the party with the information that only the owner possesses. In this case, the agency only has the authority to issue a fine. Under the LFAIPC, an official/servant of the owner of information of a public interest is required to keep records of requests for information and is obliged to prepare an annual report on the implementation of this law, submit it to the APRFAI and publish it on the website of the information holder.⁶⁷⁴ This law also contains precise deadlines within which a decision should be made on the request.⁶⁷⁵

The obligation to keep records for public procurement is stipulated in the Law on Public Procurements (LPP),⁶⁷⁶ the rulebook for keeping records of public procurement procedures, as well as the content of the record book.⁶⁷⁷ The contracting authority, in accordance with the LPP, adopts a plan for its total procurement needs in the current year by type of goods.

LAS and LEPS contain provisions that the procedures to fill jobs are transparent and carried out on the basis of a previously published announcement. The Law on Institutions⁶⁷⁸ and the Law on Public Enterprises⁶⁷⁹ state that the selection of the director of a public institution or public enterprise is carried out on the basis of a previously published public announcement.

⁶⁷⁰ Head 8, Law on the Prevention of Corruption and Conflict of Interest, Official Gazette of RM, no.12/2019

⁶⁷¹ Article 87, Law on the Prevention of Corruption and Conflict of Interest, Official Gazette of RM, no.12/2019

⁶⁷² Article 92, Law on The Prevention of Corruption and Conflict of Interest

⁶⁷³ Law on Free Access to Information of a Public Character, Official Gazette of RM, no 01/2019.

⁶⁷⁴ Article 36, Law on Free Access to Information of Public Character, Official Gazette of RM, No. 01/2019.

⁶⁷⁵ Article 21, The owner of the information is obliged to respond immediately to the request, and no later than 20 days from receipt of the request, Law on Free Access to Information of Public Character, Official Gazette of RM, no 01/2019.

⁶⁷⁶ Article 129, Law on Public Procurement, Official Gazette of RM, no 24/19 and 87/21

⁶⁷⁷ Rulebook on the way of keeping records of public procurement procedures, Official Gazette of RM, no. 64/2019

⁶⁷⁸ Article 49 of the Law on Institutions, Official Gazette of RM No.o. 32/05, 120/05 and 51/11 and Official Gazette of RM, No. 99/22

⁶⁷⁹ Article 23 of the Law on Public Enterprises, Official Gazette of RM No.o. 38/96, 9/97, 6/02, 40/03, 49/06, 22/07, 83/09, 97/10, 6/12, 119/13, 41/14, 138/14, 25/15, 61/15, 39/16, 64/18 and 35/19 and Official Gazette of RM, No. 275/19, 89/22 and 274/22

INDICATOR 5.2.2 TRANSPARENCY (PRACTICE)

To what extent are the provisions on transparency in financial, human resource and information management in the public sector effectively implemented?

Score: 75/100

*The transparency of the public sector is satisfactory, but there are institutions that still do not have their own websites.*⁶⁸⁰

APRF API publishes its annual reports with the number of cases it acted upon, the number of submitted complaints, entities that have submitted the most complaints, the most common basis for complaint and other details.⁶⁸¹

In 2022, the agency reported that it had received a total of 343 complaints and acted upon 343 cases in accordance with its legal competences.⁶⁸² In 2021, it received 798 complaints, 608 were submitted by legal entities, that is, by citizens' associations and foundations, while 190 complaints were submitted by natural persons/individuals; 359 complaints were related to a lack of response from the administration (44.99 per cent), 356 were related to decisions by the information holders (44.61 per cent) and were 82 related to the response/notification from the information holders (10.28 per cent).⁶⁸³

The personal assets of elected and appointed officials are published on the SCPC website.⁶⁸⁴ There is also an official accountability tool for greater digital transparency of holders of public functions⁶⁸⁵ that publishes the official expenses of appointed directors and deputy directors of public enterprises, independent bodies of the state administration, legal entities with public powers, state-owned joint-stock companies and bodies within ministries.⁶⁸⁶ The data is published on the open finance portal.⁶⁸⁷

Information on public procurement is published on the electronic system for public procurement, which is used to increase efficiency, transparency and economy in the field of public procurement.⁶⁸⁸

In practice, the provisions for the mandatory publication of public and internal announcements are respected.⁶⁸⁹ Regarding the procedures for the employment of administrative servants, all data are published on the AA

⁶⁸⁰ Agency for the Protection of the Right of Free Access to Information of a Public Character. 2021. Annual report, p.38. In the last update, a larger number of holders were noted as institutions without a website, and these are mostly owners from the following categories: education (secondary, primary schools and kindergartens), health facilities, public enterprises, etc., https://aspi.mk/wp-content/uploads/2022/04/Годишен-известај_МК.pdf, p.38

In 2021, according to data from the Agency for the Protection of the Right to Free Access to Public Information (APRF API), about 55 per cent of 1,445 holders did not have their own website, nor did they have a link to the website where they proactively publish the prescribed public information, <https://aspi.mk/wp-content/uploads/2023/07/насоки-за-проактивно-објавување-на-информации-од-јавен-карактер-за-иматели-на-информации-кои-немаат-официјална-веб-страница.pdf>

⁶⁸¹ APRF API annual reports:

[https://aspi.mk/%d0%b4%d0%be%d0%ba%d1%83%d0%bc%d0%b5%d0%bd%d1%82%d0%b8/%d0%b3%d0%be%d0%b4%d0%b8/](https://aspi.mk/%d0%b4%d0%be%d0%ba%d1%83%d0%bc%d0%b5%d0%bd%d1%82%d0%b8/%d0%b3%d0%be%d0%b4%d0%b8%d1%88%d0%bd%d0%b8/)

⁶⁸² APRF API. 2023. Annual report on the work of ASPI for 2022: ASPI March 2023 / Annual Report 2022 - ENG

⁶⁸³ APRF API. 2022. Annual report on the work of ASPI for 2021: https://aspi.mk/wp-content/uploads/2022/04/%D0%93%D0%BE%D0%B4%D0%B8%D1%88%D0%B5%D0%BD%D0%8B%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98_MK.pdf, p.3 and 4

⁶⁸⁴ Asset declarations: http://www.dksk.org.mk/imoti_2/

⁶⁸⁵ Government of RM. Accountability tool for public office holders' expenses: <https://vlada.mk/node/14277>

⁶⁸⁶ BPP. Expenses of appointed directors: <https://www.bjn.gov.mk/sluzbeni-troshoci-na-imenuvani-direkt/>

⁶⁸⁷ Open finance: <https://open.finance.gov.mk/mk/home>

⁶⁸⁸ E-system of public procurement: <https://www.e-nabavki.gov.mk/publicaccess/home.aspx#/home>

⁶⁸⁹ List of ads for public sector employment: <https://prijava.aa.mk/#/>; Ministry of Finance internal ads: <https://finance.gov.mk/интерни-огласи/>; Ministry of Health internal ads: <http://zdravstvo.gov.mk/interni-oglasil/>;

website.⁶⁹⁰ Employment advertisements as well as announcements for the selection and appointment of directors are published on the websites of the respective institutions.⁶⁹¹

INDICATOR 5.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions to ensure that public sector employees have to report and be answerable for their actions?

Score: 100/100

There are comprehensive provisions regulating the accountability of employees in the public sector.

According to the Law for the Protection of Whistleblowers⁶⁹² and the Rulebook for Protected Internal Reporting in Public Sector Institutions⁶⁹³ a protected report/disclosure can take various forms (internal, external or public) and may be submitted anonymously or confidentially. The report must be made in good faith, with a reasonable belief in the information's accuracy. Disclosing a whistleblower's identity is strictly prohibited unless mandated by a court decision during a legal procedure. The law also offers protection to both the whistleblower and their close associates from rights violations, including responsibility determination, sanctions, and termination of employment, job suspension, unfavourable job assignments, discrimination or any adverse actions arising from their protected reporting. The responsibility for providing this protection lies with the institution or legal entity where the report was filed. If the institution fails to provide protection, the whistleblower can report this to various authorities, such as the SCPC, the ombudsperson, the inspection council, the Ministry of Interior and the Public Prosecutor's Office. These authorities are obliged to take appropriate action according to their specific areas of responsibility.

Additionally, the Bureau of Public Procurement, operating within the Ministry of Finance, is responsible for enhancing the public procurement system to ensure efficiency, transparency and rationality. Complaints related to public procurement should be submitted electronically through the electronic system for public procurement to both the State Commission for Public Procurement Appeals and the relevant contracting authority.⁶⁹⁴ The legal protection of public procurement within the domestic legal system is regulated by the criminal code and involves offences such as "abuse of official position and authority" and "abuse of the procedure for public invitation, awarding of a contract for public procurement or public-private partnership".⁶⁹⁵ However, with the latest amendment to the criminal code,⁶⁹⁶ paragraph 5 of Article 353 (covering the abuse of an official position and powers in the execution of public procurement or to the detriment of the budget and public funds with a possible sentence of at least five years in prison) was cut. According to the current legal solution, the article is more general and the penalty has been reduced. Namely, Article 353 now reads: officials who will take official action that exceeds the limits of their official powers or will not perform their official duties with the intention of obtaining property, benefit or inflicts damage, or seriously infringes the rights of another, shall be punished by imprisonment from six months to three years.

The criminal code covers several crimes against official duty, including extortion, bribery, corruption and abuse of privileged state information.⁶⁹⁷

⁶⁹⁰ Agency of Administration: <https://aa.mk/>

⁶⁹¹ Government of RM: <https://vlada.mk/node/14061>; Municipality of Delcevo: <https://www.delcevo.gov.mk/soopstenija/25794>

⁶⁹² Articles 2-5, Law on the Protection of Whistleblowers, Official Gazette of RM, No. 196/15, 35/18 and 257/20

⁶⁹³ Rulebook for Protected Internal Reporting in Public Sector Institutions, Official Gazette of RM, No. 46/ 2016

⁶⁹⁴ State Commission for Complaints in the Public Procurement: <https://dkzjn.mk/tag/mk-zalbi-postapka>

⁶⁹⁵ Criminal Code, Article 353, Article 275-c, Official Gazette of RM No. 37/96, 80/99, 4/02, 43/03, 19/04, 81/05, 60/06, 73/06, 7/08, 139 /08, 114/09, 51/11, 135/11, 185/11, 142/12, 166/12, 55/13, 82/13, 14/14, 27/14, 28/14, 41/14 , 115/14, 132/14, 160/14, 199/14, 196/15, 226/15, 97/17 and 248/18. See more in: Alexandra Rogleva, Prevention of Corruption in Public Procurement in the Domestic Legal System, Prevention of Corruption in Public Procurement, <https://js.ugd.edu.mk>

⁶⁹⁶ Law for the Amendments to the Criminal Code, Official Gazette of RM, No. 23. 7 September 2023

⁶⁹⁷ Criminal code. Official Gazette of RM No. 37/96, 80/99, 4/02, 43/03, 19/04, 81/05, 60/06, 73/06, 7/08, 139/ 08, 114/09, 51/11, 135/11, 185/11, 142/12, 166/12, 55/13, 82/13, 14/14, 27/14, 28/14, 41/14, 115/14, 132/14, 160/14, 199/14, 196/15, 226/15, 97/17 and 248/18. See: Article 353, 353-a, 353-b, 353-c, 354,355,356, 357, 358, 358-a, 359, 359-a, 360, 360-a, 361, 362, crimes against official duty: abuse of official position and authority, violation of guarding the state border, non-execution of an order, negligent work in the service, embezzlement

According to the Law on Administrative Inspection, administrative inspection oversees the enforcement of various laws, including the Law on the General Administrative Procedure, the Law on Inspection Supervision, the Law on Public Sector Employees, the Law on Administrative Servants and the Law on Prohibition and Prevention of Unregistered Activities. Additionally, administrative inspection is responsible for ensuring the execution of regulations pertaining to administrative operations.⁶⁹⁸

Pursuant to the LAS, the administrative servants are subject to disciplinary action for violation of official duty.⁶⁹⁹

The SCPC and the ombudsperson are independent state bodies that supervise and act on reports and complaints from citizens.⁷⁰⁰ The AA handles complaints and objections from administrative servants. The APRFAPI deals with appeals against decisions denying access to information. It focuses on cases where information owners reject requests for information.

Public sector entities⁷⁰¹ are obliged to form a special organisational unit responsible for financial management and control⁷⁰² as well as an internal audit unit.⁷⁰³ The State Audit Office is responsible for performing the state audit and is independent in its operations.⁷⁰⁴ The SCPC, the ombudsperson and the SAO have presidents, members and directors elected by the Assembly, and they must submit an annual report on their operations to the Assembly.

INDICATOR 5.2.4 ACCOUNTABILITY (PRACTICE)

To what extent do public sector employees have to report and be answerable for their actions in practice?

Score: 50/100

Despite the fact that there is a good legal framework that regulates responsibility in the public sector, in practice there is still no data on the effective implementation of the mechanisms specified in the laws. That is, there is not enough publicly available information to enforce accountability.

In practice, there is limited implementation of the Law on the Protection of Whistleblowers.⁷⁰⁵ According to the 2022 SCPC annual report, only 15.18 per cent of institutions had an authorised person to receive reports from whistleblowers. In 2022, only 9 institutions submitted information on received reports, (a total of 24 submitted reports).⁷⁰⁶

in the service, fraud in the service, serving in the service, accepting a bribe, giving a bribe, giving a reward for against lawful influence, receiving a reward for lawful influence, illegal acquisition and concealment of property, disclosure of official secrets, abuse of state official or military secrets, falsification of an official document, illegal collection and payment.

⁶⁹⁸ Article 2 of the Law on Administrative Inspection, Official Gazette of RM No. 69/04, 22/07, 115/07, 51/11, 164/13, 41/14, 33/15, 156/15, 193 /15, 53/16 and 11/18 and Official Gazette of RM No. 103/21

⁶⁹⁹ see Article 70 to Article 80 of the Law on Administrative Servants. Official Gazette of RM No. 27/14, 199/14, 48/15, 154/15, 5/16, 142/16 and 11/18 and Official Gazette of RM no. 275/ 19, 14/20, 215/21 and 99/22. Article 73: A disciplinary offence is a more serious violation of official duty, work discipline, the reputation of the institution or the reputation of the administrative officer, namely: non-performance, negligence, untimely or negligent performance of tasks; expressing and representing a political belief in the performance of tasks; participation in election activities or other public appearances of such a nature during working hours; questioning one's status as an administrative officer by performing party activities; wearing or displaying party symbols in the workplace; illegal disposal of material and financial assets; receiving gifts or other benefits; misuse of entrusted powers in the performance of tasks; behaviour contrary to the provisions of the code; etc. For more on disciplinary responsibility of administrative servants,

⁷⁰⁰ Law on Ombudsman, Official Gazette of RM, no. 60/03, 114/09, 181/16, 189/16 и 35/18

⁷⁰¹ Law on Internal Financial Control, Official Gazette of RM, no. 90/09, 188/13 and 192/15

⁷⁰² Ibid, Article 9

⁷⁰³ Ibid, Article 29, 30 and 31

⁷⁰⁴ State Audit Law, Official Gazette of RM, no. 66/10, 145/10, 12/14, 43/14, 154/15, 192/15, 27/16 и 83/18 and 122/21

⁷⁰⁵ Akademik. "Low awareness in institutions about the whistleblower protection law as stated in the annual report on received reports from whistleblowers": <https://akademik.mk/niska-svest-vo-institutsiite-za-zakonot-za-zashtita-na-ukazhuvachi-se-konstatira-vo-godishniot-izveshtaj-za-primeni-prijavi-od-ukazhuvachi/>; <https://ukazuvac.mk/2019/02/10/zakon-za-ukazhuvachi-ima-ukazhuvachi-nema/>

⁷⁰⁶ SCPC. 2023. Annual report for 2022: <https://dksk.mk/wp-content/uploads/2023/03/GI-2022-%D0%BA%D0%BE%D0%BD%D0%B5%D1%87%D0%B5%D0%BD%D0%BD.pdf>

The number of officials reported for an alleged crime against official duty has decreased in recent years. In 2021, 487 persons were reported for crimes against official duty, compared to 516 in 2020 and 740 in 2019.⁷⁰⁷

The AA publishes information about appeals based on imposed measures for disciplinary responsibility of administrative servants in its annual reports. However, there is no complete record for each public sector institution with the number of initiated disciplinary procedures, the types of disciplinary measures imposed, nor for the basis on which the disciplinary procedures are initiated. For example, in 2021, out of a total of 377 complaints, 28 were for disciplinary violations;⁷⁰⁸ In 2022, out of 623 complaints, 40 were for disciplinary violations.⁷⁰⁹

In 2021, the State Administrative Inspectorate conducted 315 regular inspections, 72 exceptional inspections and 17 control inspections. One criminal report was submitted.⁷¹⁰

On the website of the State Commission for Public Procurement Appeals⁷¹¹, all submitted appeals, decisions, the decisions of the administrative and higher administrative court related to a violation in the procedure for concluding administrative contracts, are published. The commission is efficient in its work in that it solves 96.38 per cent of cases annually, despite the fact that the number of newly received cases has consistently increased from 2017 to 2020. By comparing the number of published announcements for public procurement and the number of appeal cases (1,023 cases), it can be concluded that out of a total of 20,418 published announcements, appeals were filed in 5.01 per cent of published announcements. According to data from the administrative court, a total of 110 lawsuits were filed during 2020, or 10.61 per cent of the total number of cases handled by the state commission. From the total number of administrative court decisions for 2020, in 73.53 per cent of lawsuits were rejected.⁷¹²

INDICATOR 5.2.5 INTEGRITY MECHANISMS (LAW)

To what extent are there provisions to ensure the integrity of public sector employees?

Score: 100/100

There is a comprehensive legal framework to regulate the integrity of the public sector, including multiple laws and a code of conduct.

The legal framework that regulates integrity in public sector employees consists of the LPCCI,⁷¹³ the code of ethical behaviour of members of the government and holders of public functions appointed by the government⁷¹⁴ and the code for administrative servants.⁷¹⁵

The code of ethical behaviour outlines the conduct and work standards for government officials, including the prime minister, ministers, deputy ministers, and other executive role holders appointed by the government. If any provisions of the code are breached, the responsible government member is required to address the violation

⁷⁰⁷ MaxStat database,

https://makstat.stat.gov.mk/PXWeb/pxweb/mk/MakStat/MakStat__Sudstvo__ObvinetiOsudeniStoriteli/275_SK2_Mk_T13_ml.px/table/tableViewLayout2/?rxid=46ee0f64-2992-4b45-a2d9-cb4e5f7ec5efa

⁷⁰⁸ AA. 2022. Annual report for 2021: https://aa.mk/godisni_izvestai_za_rabota_na_aa.nspx; https://aa.mk/content/pdf/Drugi_dokumenti/Povazni_dokumenti/Izvestatai_za_rabota_na_AA/Izvestaj_za_rabotata_na_Agenicijata_za_administracija_za_2021.pdf, p.29

⁷⁰⁹ AA. 2022. Annual report for 2022, pp.28-31, https://aa.mk/content/pdf/Drugi_dokumenti/Povazni_dokumenti/Izvestatai_za_rabota_na_AA/Izvestaj_za_rabotata_na_Agenicijata_za_Administracija_za_2022_godina.pdf

⁷¹⁰ State Administration Inspectorate. Annual report for 2021: https://duinspektorat.mioa.gov.mk/sites/default/files/Godishen_izvestaj_na_Drzhavniot_upraven_inspektorat_za_spovedeni_inspektski_nadzori_od_ZAC_vo_2021.pdf

⁷¹¹ The State Commission for Public Procurement Complaints, in accordance with the Law on Public Procurement, is a state authority responsible for resolving complaints in procedures for awarding public procurement contracts, concessions and public private partnerships, appeals in the procedures for awarding public procurement contracts in defence and security, among others.

⁷¹² State Commission for Public Procurement Appeals. Annual report for 2021: https://dkzjn.gov.mk/sites/default/files/zalbi/Godishen_izvestaj_2020-p.pdf

⁷¹³ Law on Prevention of Corruption and Conflict of Interest, Official Gazette of RM, No.12/2019

⁷¹⁴ Code of ethical behaviour of members of the government and holders of public functions appointed by the government, Official Gazette of RNM, 232/2020; https://vlada.mk/sites/default/files/img/etichki_kodeks.pdf

⁷¹⁵ Code for Administrative servants, Official Gazette of RM, No. 183/2014.

through both verbal and written communication, urging the executive office holder to rectify their behaviour. Written notices are also distributed to all executive function holders to guide their future conduct and prevent further breaches of the code.⁷¹⁶

The code for administrative servants describes the ethical standards and rules of conduct of administrative servants. For example, the legal, professional and impartial performance of tasks, as well as the politically neutral performance of affairs. For non-compliance with the provisions of this code, administrative servants are subject to disciplinary action in accordance with the LAS. There are also rules for handling gifts, favours and hospitality,⁷¹⁷ as well as guidelines for handling gifts, favours and hospitality in the public sector.⁷¹⁸

The LAS and LPSE also regulate public sector integrity. According to the LAS, receiving gifts or other types of benefit and the misuse of confidential data are considered serious violations of official duty, work discipline, the reputation of the institution or the reputation of the administrative officer.⁷¹⁹ The LPSE forbids political activity in the workplace and receiving of gifts⁷²⁰.

According to the Law on Public Procurement, the contracting authority must take proactive steps during the planning, procurement procedure and contract execution to identify and address corruption promptly. Anyone involved in procurement within the contracting authority or individuals with knowledge of corruption activities are legally obligated to report such incidents to the SCPC or the Public Prosecutor's Office. Furthermore, the law mandates that the president, deputy president, commission members, deputy members and the responsible person involved in procurement must sign a declaration confirming the absence of any conflict of interest. This declaration is a component of the procurement procedure record. In addition, certain public procurement contracts include an anti-corruption clause, which is made available in the electronic public procurement system.⁷²¹

INDICATOR 5.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is the integrity of public sector employees ensured in practice?

Score: 50/100

Despite the fact that there is adequate legal framework for ensuring integrity in the public sector, in practice there is still a lack of sufficient publicly available information for the application and effectiveness of the foreseen mechanisms.

According to the Balkan Barometer survey, bribery in the public sector remains widespread compared to other countries in the region.⁷²² To address this, most public institutions have adopted an integrity policy which was prepared in accordance with the guidelines prepared by the SCPC, according to which the state authorities and

⁷¹⁶ Article 1 and Article 23, Code of ethical behaviour of members of the government and holders of public functions appointed by the government, Official Gazette of RNM, 232/2020

⁷¹⁷ Rules for dealing with gifts, benefits and hospitality in the State Commission for the Prevention of Corruption, <https://dksk.mk/wp-content/uploads/2022/06/Правила-за-постапување-со-подароци-погодности-и-гостопримства-во-ДКСК.pdf>; <https://www.moepp.gov.mk/wp-content/uploads/2016/01/upatstvo-za-postapuvanje-so-podaroci.pdf>

⁷¹⁸ Guidelines for dealing with gifts, benefits and hospitality in the public sector, <https://dksk.mk/wp-content/uploads/2022/03/Упатство-за-постапување-со-подароци-погодности-и-гостопримства-во-јавниот-сектор.pdf>

⁷¹⁹ Article, 73, Law on Administrative Servants Official Gazette of RM No.o. 27/14, 199/14, 48/15, 154/15, 5/16, 142/16 and 11/18 and Official Gazette of RM no. 275/ 19, 14/20, 215/21 and 99/22)

⁷²⁰ Article 38 and 39, Law on Public Sector Employees, Official Gazette of RM No.o. 27/14, 199/14, 27/16, 35/18 and 198/18 and Official Gazette of RM no. 143/19 and 14/20)

⁷²¹ Portal, The government accepted the recommendation for using the anti-corruption clause in public procurement, <https://enabavki.gov.mk/PublicAccess/home.aspx#/contracts/0>; <https://www.bjn.gov.mk/wp-content/uploads/2021/01/Informacija.pdf>; <https://iportal.mk/makedonija/vladata-ja-prifati-preporakata-za-koristenje-na-antikorupciskata-klauzula-pri-javnite-nabavki/>

⁷²² SIGMA. 2021. Monitoring Report The Principles of Public Administration Republic Of North Macedonia November, 2021, Public service and human resource management, pg.67-68, Medium-term recommendations (3-5 years), <https://www.sigmapublications.org/publications/Monitoring-Report-2021-Republic-of-North-Macedonia.pdf>, accessed on 20 August 2023

institutions from the public sector accept integrity as the basis of good governance and a strategic and sustainable response to corruption.⁷²³ In 2022, the SCPC also prepared a rulebook for integrity officers, which is a guide for establishing an institutional environment which respects the standards of integrity.⁷²⁴ In 2019, the SCPC prepared a methodology for assessing the risks of corruption for the purposes of strategic planning in the fight against corruption and the conflicts of interest.⁷²⁵ SCPC organises training for the integrity system, such as one in 2022 to help employees to familiarise themselves with the competences arising from Law on Lobbying. The SCPC promoted their training centre together with an e-learning platform intended for anyone interested in acquiring new knowledge in the field of corruption, conflict of interest and integrity.⁷²⁶

There is no data on how many disciplinary or other measures were imposed due to violations of the code of ethics.

In its 2023 annual report, the SCPC published data on the fulfilment of the integrity system, which states that implementation in the 18 monitored institutions was 48%.⁷²⁷ For a more efficient implementation of all competencies, the SCPC developed an e-learning platform in 2022 where interested parties can learn about corruption and integrity. In addition, the SCPC training centre was equipped and operated in the premises of the SCPC.⁷²⁸

Establishing and implementing the elements of the integrity system is covered by the 2021-2025 national strategy for combating corruption, with the 2018-2022 strategy for the reform of public administration, as well as with the new strategy for public administration reform 2023-2030. To fulfil the competences and obligations determined by these strategic documents, SCPC effectively works on the implementation of the elements of the system of integrity in central and local government.⁷²⁹

INDICATOR 5.2.7 GENDER

To what extent are the public service's mechanisms gender-sensitive?

Score: 50/100

Gender-sensitive protocols and guidelines exist in terms of gender-sensitive budgeting. However, there is a lack of gender-disaggregated data and a lack of information on the gender sensitivity of complaint mechanisms.

There is an obligation for public sector institutions to prepare an annual report on the progress of equal opportunities for men and women, and they usually have coordinators for equal opportunities with a database available divided by gender. The responsibilities of the coordinator and the deputy coordinator are determined in the regulation on systematisation. Coordinators also participated in gender training (according to data extracted from the annual reports of two ministries).⁷³⁰

⁷²³ Integrity policy, <https://dksk.mk/wp-content/uploads/2022/02/Политика-на-интегритет-ДКСК.pdf>;

⁷²⁴ SCPC. 2022. Guide for the persons for integrity: <https://dksk.mk/wp-content/uploads/2022/07/Прирачник-за-интегритет.pdf>

⁷²⁵ SCPC. 2019. Methodology for assessing the risks of corruption for the purposes of strategic planning of the fight against corruption and the conflict of interests: https://dksk.mk/fileadmin/user_upload/2019/Metodologija_za_procenka_na_rizicite_od_korupci_a_02.10.2019_mk.pdf

⁷²⁶ <https://dksk.mk/mk/обуки-за-систем-на-интеритет/>; <https://dksk.mk/wp-content/uploads/2023/03/GI-2022-конечен.pdf>, pp.2, 3, 37.

⁷²⁷ SCPC. 2023. Annual report for 2022. p.78-80, <https://dksk.mk/wp-content/uploads/2023/03/GI-2022-конечен.pdf>

⁷²⁸ Ibid., p.40

⁷²⁹ Ibid., p.61

⁷³⁰ General Secretariat of the Government. Annual report on actions taken and progress achieved to establish equal opportunities for women and men in 2022, https://vlada.mk/sites/default/files/programa/2022-2024/_godishen_izveshtaj_-rodova_ednakvost_01.01.-31.12.2022_mart_2023.pdf; <https://finance.gov.mk/wp-content/uploads/2020/12/20200601131005911.pdf>; https://kultura.gov.mk/wp-content/uploads/2022/11/Izvestaj-2019_compressed.pdf. The report contains the following data: basic information, activities carried out in accordance with the law, initiatives undertaken in the year subject to the report, cooperation with other institutions, database, activities carried out and results achieved in accordance with strategic documents in the field of gender equality, challenges, good practices and lessons learned, next steps in the field of gender equality, proposals and suggestions to the Ministry of Labor and Social Policy.

However, there is no regulation for gender-sensitive protocols and guidelines for the public sector's complaint mechanisms. Therefore, there is also no public information on such protocols or gender-disaggregated data on, for example, complaints filed by women or men.

The SAI states in a 2022 performance audit report that there is a need to establish a system for the collection of gender-disaggregated data for the members of the working bodies, delegations, consultative and coordinating bodies as well as the members of the management boards of public enterprises and institutions. It is also necessary to take measures to increase the participation of women in public positions in the state, in order to improve gender equality.⁷³¹ But this refers to gender equality in terms of employment.

One of the objectives of the Ministry of Labour and Social Policy, established in the ministry's annual work plan for 2022, is the creation of gender-sensitive policies, programmes and budgets and the adoption and implementation of a new law on gender equality.⁷³²

There is a methodology for gender responsible budgeting for state administration bodies at the central level, but special guides and protocols have not been adopted.⁷³³

There is a special law for protection against discrimination, which regulates the prevention and prohibition of discrimination, the forms and types of discrimination, the procedures for protection against discrimination, as well as the composition and work of the Commission for Prevention and Protection from Discrimination. The commission acts on complaints, brings opinions, recommendations and conclusions on specific cases of discrimination.⁷³⁴ Anyone who believes they have suffered discrimination can submit a complaint to the commission.⁷³⁵ Anyone who believes they have been discriminated against can file a lawsuit before a competent civil court.⁷³⁶

The department for equal opportunities was established in 2007 under the Ministry of Labour and Social Policy, which is responsible for initiating and implementing policies and activities related to gender equality and non-discrimination. Coordinators and deputy coordinators for equal opportunities for women and men have been appointed in all ministries and municipalities.⁷³⁷

In accordance with the Law on Equal Opportunities for Women and Men, various government and non-governmental entities, including government bodies, local government units, public institutions, educational institutions, and more, are required to collect and report statistical data categorised by gender to the state statistics

⁷³¹ State Audit Office. 2022. Final Performance Audit Report on the Effectiveness of the Measures of the Government of the Republic of North Macedonia on Gender Equality and Corresponding Gender Budget Initiatives. The performance audit included the following entities: Government of RSM - General Secretariat of the Government of RSM; Assembly of RSM; Ministry of Labor and Social Policy; Ministry of Defence; Ministry of Finance; Ministry of Foreign Affairs; Ministry of Environment and Spatial Planning; Ministry of Economy; Ministry of Agriculture, Forestry and Water Management; and Agency for Youth and Sports. The performance audit was carried out in the period from 01 July 2021 to 30 December 2021, pp.26 and 67, https://dzh.mk/sites/default/files/2022-07/RU_Efektivnost_merki_Vlada_rodova_ednakvost_0.pdf

⁷³² Ministry of Labor and Social Policy. 2022. Annual Work Plan of the for 2022, p.56, https://www.mtsp.gov.mk/content/word/2022_akti/strateski_dok/GODISEN%20PLAN%20ZA%202022.pdf

⁷³³ Methodology for Gender Responsible Budgeting for State Administration Bodies At the Central Level, <https://www.mtsp.gov.mk/content/word/metodologija.doc>

⁷³⁴ Article 21 Law on the Prevention and Protection against Discrimination, Official Gazette of RM, No. 258/2020

⁷³⁵ Article 23 Law on the Prevention and Protection against Discrimination, Official Gazette of RM, No. 258/2020. Anyone who believes they have been discriminated against before the commission may be represented by an association, foundation or trade union with prior consent. Associations, foundations, unions or other civil society organisations and institutions, which have a justified interest in protecting the interests of a certain group or within the framework of their activity deal with protection against discrimination, can submit a petition, if they make it likely that the actions of a certain natural or legal person is discriminated against by a larger number of people. The commission initiates a procedure ex officio if, from the circumstances and facts, as well as from the knowledge obtained after a vote, it reasonably follows that discrimination has been carried out by the authorities in accordance with the discriminatory grounds.

⁷³⁶ Article 32 Law on Prevention and Protection against Discrimination, Official Gazette of RM, No. 258/2020

⁷³⁷ Information on progress on gender issues in the last two decades in the Republic of North Macedonia, p.7, <https://www.sobranie.mk/detali-na-materijal.nspx?param=a12475a8-0574-4184-b8e8-019316766402>

office.⁷³⁸ The annual report from the Public Sector Employees Register shows data on the number of employees by gender. The 2022 report states that out of 110,465 employees in public sector 62,178 are women, while 48,287 are men.⁷³⁹ In terms of sectors, women are mostly employed in labour and social affairs (82.99 per cent), especially in social and child protection, health (72.72 per cent) and education (66.71 per cent). Men are most commonly employed in the environment sector (89.29 per cent), transport (85.51 per cent) and communal works (83.74 per cent).⁷⁴⁰

The 2022-2027 national strategy for gender equality encompasses a situational analysis, measures to promote gender equality in various social aspects, including employment, social security, healthcare, education and public representation. It designates action plans to responsible parties, emphasises gender-specific data collection, sets up monitoring mechanisms, and outlines funding sources for implementation.⁷⁴¹ The Commission for Protection and Prevention from Discrimination stated that the number of submitted complaints against sexual or gender equality was 37, and most of them were submitted by men, not by women.⁷⁴²

Training on gender equality are held in RNM. For example, The Ministry of Labor and Social Policy established the Resource Center for Gender Responsive Policy Making and Budgeting, within the project Promoting Gender Responsive Policies and Budgets: Towards Transparent, Inclusive and Accountable Governance in the Republic of North Macedonia, implemented by UN Women, with financial support from Switzerland and Sweden. The Center for Change Management (CUP), which promotes gender equality, developed an online platform.⁷⁴³

ROLE

INDICATOR 5.3.1 PUBLIC EDUCATION

To what extent does the public sector inform and educate the public on its role in fighting corruption?

Score: 50/100

Although the institutions have adopted anti-corruption programmes and plans, anti-corruption campaigns are being implemented and certain anti-corruption training is being conducted. However, additional efforts are needed to strengthen the anti-corruption fight in order to achieve visible results.

The SCPC is a key institution for training on the prevention of corruption.

The institutions usually inform the public about the mechanisms for preventing corruption and strengthening the integrity of institutions through their operations, their plans and policies for integrity, and the people authorised to act on reports of corruption, and they do this by publishing the information on their websites. Training is mostly carried out by the SCPC and NGOs through the implementation of projects related to the prevention of corruption and strengthening the integrity of the institutions.

⁷³⁸ Article 18, Law on Equal Opportunities for Women and Men, Official Gazette of RM No. 6/12, 30/13, 166/14 and 150/15 and Official Gazette of RM No. 53/21

⁷³⁹ MIOA. 2023. Annual Report from the Public Sector Employees Register: https://mioa.gov.mk/sites/default/files/pbl_files/documents/reports/finalen_izveshtaj_za_2022_godina_30.03.2022_godina.pdf, p.4

⁷⁴⁰ Ibid, p.33

⁷⁴¹ National Strategy for Gender Equality 2022-2027: Official Gazette of RM, No. 170/2022;

https://www.mtsp.gov.mk/content/pdf/2022/strategija/_Стратегија_за_родова_еднаквост_2022_2027.pdf

⁷⁴² Annual report of the Commission for Prevention and Protection against Discrimination (KSZD) in which all achievements and realized activities in 2021 are presented, <https://kszd.mk/wp-content/uploads/2022/03/Godisen-izvestaj-2021.pdf>

⁷⁴³ MLSP, Resource Center: <https://mtspreurscentar.mk/programme/basic-training-on-gender-gender-equality-and-introduction-of-the-gender-perspective-in-public-policy/>; <https://www.sec.mk/obuka-za-rodova-ednakvost/>; https://www.mtsp.gov.mk/maj-2022-ns_article-preku-obukite-vo-resursniot-centar-za-kreiranje-na-politiki-i-rodovo-odgovorno-budzetiranje-se-zajak.nspx

The government implemented the campaign Now Everything is Public, Corruption Does Not Pay, aimed at the complete eradication of corruption in society.^{744,745} The Ministry of Education and Science prepared an action plan for the prevention of corruption 2021-2022,⁷⁴⁶ and the SCPC prepared a national strategy for the prevention of corruption and the conflict of interest 2021- 2025.⁷⁴⁷ The Agency for Quality in Higher Education has drawn up an annual plan for the prevention of corruption and for corruption risks assessment in higher education for 2022.⁷⁴⁸ The Ministry of Internal Affairs has drawn up an anti-corruption programme too,⁷⁴⁹ and the customs administration will fight corruption with a campaign with the slogan, "Don't turn a blind eye, you too can prevent corruption – be part of the progress of your country", which is aimed at citizens or employees to report corruption or suspicious activity if they witness it.⁷⁵⁰

The SCPC conducted anti-corruption education for elementary school and high school students,^{751,752} and implements a campaign "Be Heroes of Honesty" to raise awareness among students about corruption so that they can identify it and create an anti-corruption movement that will contribute to a corruption free society.⁷⁵³

Citizens know how to report corruption by submitting reports/petitions to the SCPC, as well as by using the mechanisms offered by non-governmental organisations.

INDICATOR 5.3.2 COOPERATE WITH PUBLIC INSTITUTIONS, CSOS AND PRIVATE AGENCIES IN PREVENTING/ADDRESSING CORRUPTION

To what extent does the public sector work with public watchdog agencies, business and civil society on anti-corruption initiatives?

Score: 75/100

The public sector has good cooperation with CSOs in the fight against corruption, but additional efforts are still needed from all stakeholders to have an effective anti-corruption strategy that will be visible in practice.

Public sector institutions actively work on anti-corruption issues with the CSOs. For example, Transparency International Macedonia has been working with the SCPC on various projects to prevent risks of corruption in employment in the public sector⁷⁵⁴ and in the construction sector.⁷⁵⁵

There is a department for cooperation with CSOs within the general secretariat of the government. The department is responsible for monitoring and coordinating the implementation of the government's strategy for

⁷⁴⁴ Channel 5. The Government Starts a Campaign "Now everything is public, corruption does not pay", <https://kanal5.com.mk/vladata-pochnuva-kampanja-sega-se-e-javno-korupcijata-ne-se-isplati/a491157>, Accessed in December 2023

⁷⁴⁵ 360 degrees. The Government Launched a Campaign to Fight Corruption, <https://360stepeni.mk/vladata-zapochna-kampanja-za-borba-protiv-korupsijata/>, Accessed in December 2023

⁷⁴⁶ Ministry of Education and Science. Action Plan for the Prevention of Corruption 2021-2022, <https://mon.gov.mk/stored/document/Akciski%20plan%20za%20sprecuvanje%20na%20korupcijata.pdf>

⁷⁴⁷ National strategy for the prevention of corruption and the conflict of interest 2021-2025, Skopje, December 2020, <https://dksk.mk/wp-content/uploads/2021/01/Nacionalna-strategija-DKSK-KONECNA.pdf>

⁷⁴⁸ Agency for Quality in Higher Education. Annual plan for the prevention of corruption and for corruption risks assessment in agency for quality in higher education for 2022, https://www.akvo.mk/docs/Godishen_plan_rizici_korupcija.doc

⁷⁴⁹ Ministry of Interior. Anti-corruption programme, [https://mvr.gov.mk/Upload/Editor_Upload/ilovepdf_merged\(1\).pdf](https://mvr.gov.mk/Upload/Editor_Upload/ilovepdf_merged(1).pdf)

⁷⁵⁰ 24. The Customs Administration Will Fight against Corruption with a Campaign, <https://24.mk/details/carinskata-uprava-so-kampanja-kje-se-bori-protiv-korupcijata>

⁷⁵¹ Anti-corruption education of primary school students , <https://dksk.mk/mk/антикорупциска-едукација-на-ученици/>;

⁷⁵² Anti-corruption education of high school students <https://dksk.mk/mk/антикорупциска-едукација-на-ученици-2/>

⁷⁵³ 24. "Be Heroes of Honesty" Anti-Corruption Campaign, <https://24.mk/details/bidete-kheroji-na-chesnosta-kampanja-za-borba-protiv-korupcijata>

⁷⁵⁴ Transparency International Macedonia. Project: "Vulnerability to Corruption Assessment of the Employment Policies and Procedures, with Special Focus on Nepotism, Cronyism and Clientelism": <https://transparency.mk/en/project/vulnerability-to-corruption-assessment-of-the-employment-policies-and-procedures-with-special-focus-on-nepotism-cronyism-and-clientelism/>

⁷⁵⁵ Transparency International Macedonia. Project: "Assessment for Vulnerability to corruption in the state institutions and authorities for physical planning, urbanism and construction": <https://transparency.mk/en/project/assessment-for-vulnerability-to-corruption-in-the-state-institutions-and-authorities-for-physical-planning-urbanism-and-construction/>

cooperation with and development of the civil sector. It works to include CSOs in the process of creating policies and creating conditions for the financial sustainability of the civil society sector.⁷⁵⁶

There is a council for cooperation between the government and civil society, which is an advisory for the promotion of cooperation, dialogue and encouraging the development of the civil sector. The council is composed of 31 members appointed by the government, of which 15 members are employees of the state administration bodies: Ministry of Internal Affairs, Ministry of Justice, Ministry of Finance, Ministry of Economy, Ministry of Agriculture, Forestry and Water Management, Ministry of Health, Ministry of Education and Science, Ministry of Labor and Social Policy, Ministry of Local Self-Government, Ministry of Culture, Ministry of Environment and Spatial Planning, Ministry of Information Society and Administration, Ministry for the Political System and Relations between Communities, the Secretariat for European Affairs and the Agency for Youth and Sports, and 16 members on proposal of the organisations registered in accordance with the Law on Associations and Foundations, through a public call.⁷⁵⁷

According to the Law on the Organisation and Work of the State Administration Bodies, state administration bodies, when preparing the laws and other regulations under their jurisdiction, should consult with the citizens through: public announcement of the type, content and deadlines for the adoption of laws and other regulations; organising public forums and obtaining opinions from interested associations of citizens and other legal entities, among others.⁷⁵⁸

Institutions from the public sector cooperate with the business sector, but additional efforts are needed for cooperation in the fight against corruption.⁷⁵⁹

INDICATOR 5.3.3 REDUCE CORRUPTION RISKS BY SAFEGUARDING INTEGRITY IN PUBLIC PROCUREMENT

To what extent is there an effective framework in place to safeguard integrity in public procurement procedures, including meaningful sanctions for improper conduct by both suppliers and public officials, and review and complaint mechanisms?

Score: 50/100

There is a good legal framework that regulates public procurement procedures; however, the procedures are largely disregarded in practice.

The Bureau of Public Procurement is responsible for the development of the public procurement system, as well as ensuring its rationality, efficiency and transparency.

The Law on Public Procurement notes the following types: small-value procurement, simplified open procedure; open procedure; restricted procedure; competitive procedure with negotiation; competitive dialogue; innovation partnership; procedure with negotiation without publication of a contract notice; and negotiation procedure with publication of a contract notice.⁷⁶⁰

⁷⁵⁶Department for Cooperation with Non-Governmental Organisations in the General Secretariat, <https://www.nvosorabotka.gov.mk/>

⁷⁵⁷Council for cooperation between the government and the civil sector, <https://nvosorabotka.gov.mk/?q=mk/node/66>, p.2, accessed on 14 September 2023, <https://nvosorabotka.gov.mk/sites/default/files/Dopolnet%20Izvestaj%20Sovet%202018-2021.pdf>

⁷⁵⁸ Article 10 of the Law on the Organisation and Work of State Administration Bodies, Official Gazette of RM No. 58/00, 44/02, 82/08, 167/10, 51/11 and Official Gazette of RM, No. 96/19 and 110/19

⁷⁵⁹Ministry of Economy, <https://economy.gov.mk/mk-MK/news/bektesi-na-sostanok-so-rakovodstvoto-na-skszm-preku-sorabotka-so-komorite-kreirame-merki-za-podobravane-na-biznis-klimata-i-zivotniot-standard-za-graganite.nspx>

⁷⁶⁰ Article 47, Law on Public Procurement, Official Gazette of RM No. 24/19 and 87/21

One of the mandatory principles of public procurement procedures is that of competition between economic operators, where the contracting authority must not unjustifiably limit competition, implement the public procurement procedure in accordance with the regulations for the protection of competition and must not limit potential bidders by choosing the type of procedure.⁷⁶¹

The law also contains provisions for the tender documentation and establishes bodies responsible for control, including the state commission for appeals on public procurement, which is an independent body. There is also an electronic system for public procurement, which aims to improve efficiency, transparency and economy in public procurement.

However, in practice, inconsistencies appear in the implementation of public procurements. For example, where there are deadlines for starting the tender process, 90 per cent of the monitored procedures were carried out late. There is also an inconsistency in competitiveness. In 2022, very third contract was concluded in a procedure in which only one company participated. In terms of legality in the proceedings, as many as 31 per cent of tenders in 2022 were annulled. In the same year, the Public Procurement Bureau handled 270 tenders, and for the first time it submitted two cases to the State Commission for the Prevention of Corruption for possible abuses of public procurement provisions. There were also 751 complaints submitted to the State Commission for Public Procurement Complaints.⁷⁶²

The law also contains general measures to prevent corruption.⁷⁶³ According to the law, the person responsible for public procurement or any other person engaged by the contracting authority, as well as any interested person who has information about corruption, is obliged to notify the SCPC or the Public Prosecutor's Office.⁷⁶⁴ The SCPC is responsible for the resolution of complaints in public procurement, in procedures for awarding contracts for concessions and public-private partnerships, and other matters in accordance with the law.

5.3.4 OVERSIGHT OF SOES

To what extent does the state have a clear and consistent ownership policy of SOEs and the necessary governance structures to implement this policy?

Score: 50/100

There is a good legal framework for the operation and control of public enterprises, but there is a lack of effective, visible control for the application of control mechanisms. Also there is no centralised coordination unit.

Public enterprises are regulated by the Law on Public Enterprises.⁷⁶⁵ There are 155 public enterprises, of which 113 are public utility enterprises, 8 are SOEs for agriculture and forestry, 16 are transport SOEs, 2 are informational, 1 is in the information society area and 15 are from other activities of public interest (sport, urban planning, energy, treatment of stray animals and others). Out of these, 13 were established by the government, 3 by the Assembly, and the majority, 139, by the City of Skopje and the municipalities.⁷⁶⁶

⁷⁶¹ Article 5, Law on Public Procurement, Official Gazette of RM, No. 24/19 and 87/21

⁷⁶² Center for Civic Communications. 2022. Report from the monitoring of public procurement, Report no. 38, p. 6-7, accessed 14 September 2023, <https://www.ccc.org.mk/images/stories/38mk.pdf>

⁷⁶³ Article 33, Law on Public Procurement, Official Gazette of RM no. 24/19 and 87/21

⁷⁶⁴ Article 34, Law on Public Procurement, Official Gazette of RM no. 24/19 and 87/21

⁷⁶⁵ Article 1, Law on Public Enterprises Official Gazette of RM, No. 38/96, 9/97, 6/02, 40/03, 49/06, 22/07, 83/09, 97/10, 6/12, 119/13, 41/14, 138/14, 25/15, 61/15, 39/16, 64/18 and 35/19 and Official Gazette of RM No. 275/19, 89/22 and 274/22

⁷⁶⁶ MISA. 2023. Annual Report from the Public Sector Employees Register:

https://mioa.gov.mk/sites/default/files/pbl_files/documents/reports/ inale_izveshtaj_za_2022_godina_30.03.2022_godina.pdf, p.33

There is no centralised unit that coordinates the work of the SOEs or is responsible for SOE oversight. The ownership arrangements for SOEs are dispersed across the administration and there is no unified state ownership policy to guide corporate decision-making on SOE performance.

Public enterprises are obliged to submit to the founding organ quarterly reports containing indicators of the financial operation, no later than 35 days after the end of the quarter, which should then be published on its website no later than 35 days after the end of the quarter.⁷⁶⁷ The founder of the public enterprise exercises control by giving consent to certain acts and documents.⁷⁶⁸ The founder can dismiss all the members of the management board before the end of the mandate if it does not give its consent to the annual account.⁷⁶⁹ The director is obliged to submit a report every six months to the management board.

The Ministry of Finance then publishes a unified table containing data on the financial operations (income and expenses) of the 29 state-owned entities (the government is the founder of 14 public enterprises and the sole shareholder/partner in 15 trading companies, of which 13 are state-owned joint-stock companies, and 2 are state-owned LLCs) on a quarterly basis.⁷⁷⁰

According to the OECD, many SOEs are loss-making.⁷⁷¹ There has been no attempt to define, disclose or estimate the costs of SOEs' non-commercial objectives, which can be wide ranging, including delivering public services and supporting local employment.⁷⁷²

INTERACTIONS

The public sector has close relations with the legislature, executive and judicial authorities. These mostly come to the fore during the implementation of control of these three authorities over the public sector. For example, the legislative authority interacts with public office holders during the implementation of political responsibility, with the executive authority during the appointment of managerial positions or the selection of members to management boards. The judiciary controls the legality in the work and the acts adopted by public authorities or when the SCPC is analysing a case related to the work of the institution. The public sector has the closest relationship with the executive branch because public sector institutions carry out the established policy. Cooperation is therefore necessary not only for ensuring legality in their actions but also effectiveness and efficiency in the implementation of certain policies, measures and recommendations.

It can be concluded that the legal framework that governs the mutual relationship between the public sector institutions and other holders of power, such as the parliament, the government and the judiciary, are adequately legally regulated, but there is a lack of effective application of some of the control mechanisms.

The public sector cooperates well with CSOs, mostly when drafting laws.

⁷⁶⁷ Article 5, Law on Public Enterprises Official Gazette of RM No. 38/96, 9/97, 6/02, 40/03, 49/06, 22/07, 83/09, 97/10, 6/12, 119/13, 41/14, 138/14, 25/15, 61/15, 39/16, 64/18 and 35/19 and Official Gazette of RM No. 275/19, 89/22 and 274/22)

⁷⁶⁸ Article 11, Law on Public Enterprises Official Gazette of RM No. 38/96, 9/97, 6/02, 40/03, 49/06, 22/07, 83/09, 97/10, 6/12, 119/13, 41/14, 138/14, 25/15, 61/15, 39/16, 64/18 and 35/19 and Official Gazette of RM No. 275/19, 89/22 and 274/22).

⁷⁶⁹ Article 17-f, Law on Public Enterprises Official Gazette of RM No. 38/96, 9/97, 6/02, 40/03, 49/06, 22/07, 83/09, 97/10, 6/12, 119/13, 41/14, 138/14, 25/15, 61/15, 39/16, 64/18 and 35/19 and Official Gazette of RM No. 275/19, 89/22 and 274/22)

⁷⁷⁰ Ministry of Finance, <https://finance.gov.mk/wp-content/uploads/2022/05/Приходи-и-расходи-I-квартал-2022-20.04.2022-1-1.pdf>
Radio Free Europe, <https://www.slobodnaevropa.mk/a/државните-претпријатија-со-договори-до-гуша-и-партиска-превработеност-31596539.html>

⁷⁷¹ OECD. 2021. Competitiveness in South East Europe 2021. pg.1450, <https://www.oecd-ilibrary.org/docserver/cf2e0fc7-en.pdf?Expires=1680721901&id=id&accname=guest&checksum=3652D91983F42D0674C21E2CC86C963>

⁷⁷² OECD. 2021. Competitiveness in South East Europe 2021. pg.1450, <https://www.oecd-ilibrary.org/docserver/cf2e0fc7-en.pdf?Expires=1680721901&id=id&accname=guest&checksum=3652D91983F42D0674C21E2CC86C963>

PILLAR RECOMMENDATIONS

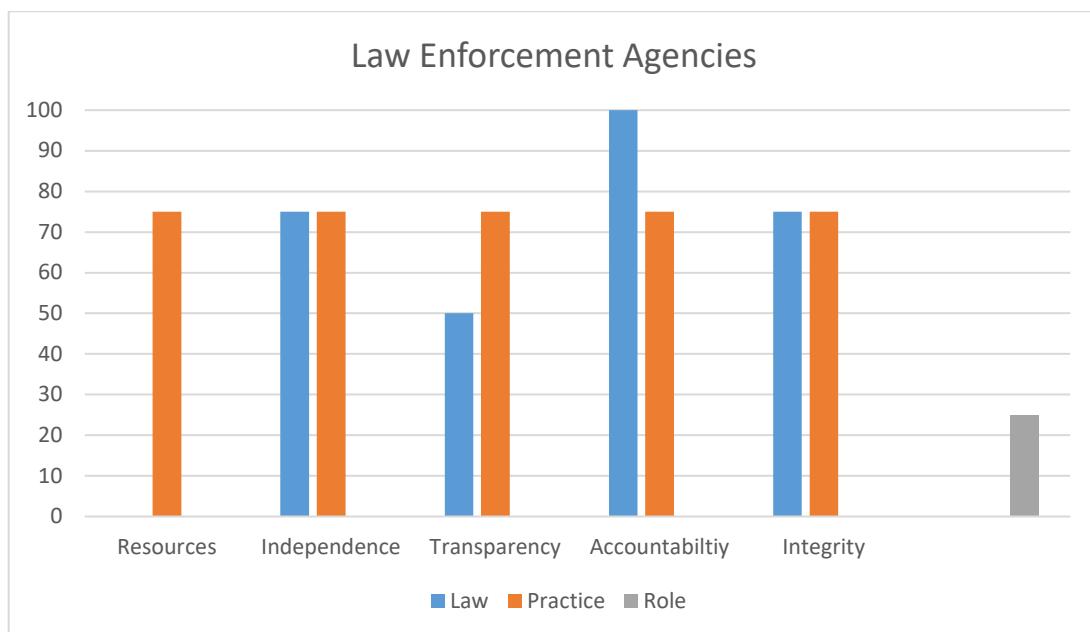
- Data on the execution of control mechanisms (imposed measures, recommendations, decisions, judgements, and soon on) should be published in the annual reports of public sector institutions. Namely, all annual reports from public bodies should contain data on their actions and the execution of their decisions in order to ensure the effective application of the control mechanisms. For example, how many of their decisions have been implemented, how many were contested by appeal or lawsuit, what were the decision of the second-instance authority or court.
- MISA and AA should publish an annual report on imposed measures for disciplinary and material responsibility in all institutions, including data on the type of violation for which the measure was imposed, whether the measure was implemented, against how many decisions legal protection has been requested, the type of decisions from the second-level authority and how that decision was implemented.
- Public Institutions should make their functional analysis publicly available on theirs and the website of the Ministry of Information Society and Administration, to allow for the analysis of the data and, based on that, to take measures that lead to a more efficient public administration.

6. LAW ENFORCEMENT AGENCIES

SUMMARY



Indicators scores: law and practice



This chapter assesses the Ministry of Interior (Mol) as it is responsible for law enforcement agencies, such as the criminal police and uniformed police officers. Other law enforcement agencies are the customs and the financial police, who are not part of the Mol. The customs administration, the financial intelligence unit, and the financial police department are affiliated to the Ministry of Finance.⁷⁷³

The Mol is one of the three largest ministries in North Macedonia in terms of employees. The legal basis for the mandate, organisation and operation of the Mol is the Law on Internal Affairs⁷⁷⁴ and the Law on Police.⁷⁷⁵ The Law on Internal Affairs regulates the relations between the different units in the Ministry of Interior as well as the

⁷⁷³ Customs administration, public revenue office, OPMLFT (FIU), financial police office, public procurement bureau, property and legal affairs office and state foreign exchange inspectorate

Affiliated Institutions - Министерство за финансии (finance.gov.mk)

⁷⁷⁴ Clear version of the Law for the Internal Affairs published contains: Law on Internal Affairs, Official Gazette of the RM, No 92/2009, 35/2010, 36/11, 158/11 as well as the Correction of the Law for the Internal Affairs, Official Gazette of the RM No. 118/2009

https://ener.gov.mk/files/propisi_files/plan/219_Закон за внатрешни работи - неофицијален пречистен.pdf

⁷⁷⁵ Law on Police, Official Gazette of the RM, No. 114/2006, 6/2009, 45/2012, 41/2014, 33/2015, 31/16, 106/16, 120/16, 21/18, 64/18, 294/21, 89/22 and the Constitutional Court Decision published in the Official Gazette No 148/8

status of police officers and other employees. It also outlines the responsibilities of the Bureau for Public Security, which is responsible for the police. However, there are other laws relevant to the police in their activities related to preventing and investigating corruption, including the use of the investigative means and methods,⁷⁷⁶ and the Law for the National Criminal Intelligence Database.⁷⁷⁷

The Ministry of Interior has the capacity and a solid legal framework that enables its function and role in the fight against corruption. Law enforcement agencies (LEAs) are legally independent, but professional criteria for employment are not explicitly specified in the law. Concerns have been raised about potential political influence in specific employment procedures, particularly for civilian roles within the MoI. The regulatory measures to depoliticise the police, such as the provisions for amendments in the Law on Internal Affairs based on GRECO recommendations⁷⁷⁸ or the Law on Police,⁷⁷⁹ still have to be fully implemented, as also concluded by GRECO in its latest 2023 report.⁷⁸⁰

The integrity of law enforcement agencies is partly ensured by the law, primarily through the code of ethics. However, there are notable gaps in the law, such as the absence of post-employment restrictions and measures for holding officials accountable for not accurately disclosing their assets and interests. There is a lack of information regarding the enforcement of the code of ethics, control of gifts and hospitalities and the use of dissuasive sanctions.

Law enforcement agencies primarily detect and investigate corruption cases upon the guidance and request of public prosecutors. The number of cases and the use of investigative means for corruption detection are deemed insufficient. Special investigative measures are outlined in the law but are used sparingly. In the reported data, these measures have been applied in only a few corruption related cases. Further, law enforcement often fails to cooperate with the SCPC on corruption related cases.

Law enforcement mechanisms lack gender sensitivity, and there is a lack of gender-disaggregated data in official statistics. Although there is a national strategy for gender equality,⁷⁸¹ but it does not contain specific measures for the LEAs. In the MoI, there are plans for gender equality training and mentoring programmes, although their implementation has yet to occur.

CAPACITY

INDICATOR 6.1.1 RESOURCES (PRACTICE)

To what extent do law enforcement agencies have adequate levels of financial resources, staffing and infrastructure to operate effectively in practice?

Score: 75/100

The MoI has an adequate resource base to carry out its duties effectively. However, further salary increases are needed, according to the police syndicate.

⁷⁷⁶ Special investigative measures, their type and number are prescribed in Law for the Criminal Procedure, special investigative measures, their type and number are prescribed in Article 252 of the CPA

⁷⁷⁷ Law for the National Criminal Intelligence Database Official Gazette No 120/09

⁷⁷⁸ Law for Amendment of the Law for the Internal Affairs Official Gazette No 89/22 articles 66, 73, 168 and 188

⁷⁷⁹ Law on Police, Article 105, Official Gazette of the RM, No. 114/2006, 6/2009, 45/2012, 41/2014, 33/2015, 31/16, 106/16, 120/16, 21/18, 64/18, 294/21, 89/22 and Decision of the Constitutional Court of the Republic of Macedonia, published in the Official Gazette of the Republic of Macedonia No. 148/08)

⁷⁸⁰ Recommendation x, p.11, Paragraph 65; Fifth Evaluation Round Preventing Corruption and Promoting Integrity in Central Governments (top executive functions) and law enforcement agencies; Second Compliance Report, North Macedonia, Adopted by GRECO at its 94th Plenary Meeting (Strasbourg, 5-9 June 2023) GRECO (coe.int).

⁷⁸¹ Strategy for Gender Equality, adopted by the Assembly and published in the Official Gazette Official Gazette of the RNM No. 170/22. Стратегија_за_родова_еднаквост_2022_2027.pdf (mvr.gov.mk)

The budget of the Mol is adequate for the functions to be performed, with MKD199.02 million in 2022 or 3.08 per cent of the state budget. Law enforcement agencies can receive donations such as computer equipment⁷⁸² and technical assistance⁷⁸³ but not direct budgetary donations. The Mol informs about 56 projects of technical assistance, most of them funded from the Instrument for Pre-Accession Assistance,⁷⁸⁴ which have been implemented between 2019 and 2023 with the amount of €100 million.⁷⁸⁵ The Mol⁷⁸⁶ has to pay the salary of employees based on the Law on Internal Affairs⁷⁸⁷ and a collective agreement. According to the new minimum wage law,⁷⁸⁸ the minimum gross wage amounts to MKD26,422.00 (€450). The salary for employees in the lowest positions, according to the systematisation of the Ministry of the Interior, with the status of authorised persons and police officers, is above the stipulated minimum salary, was further increased by 5 per cent from September 2022.⁷⁸⁹

Due to the type, nature and complexity of the duties and tasks performed by the employees with special obligations and rights, as well as the difficult tasks assigned and the special conditions they have to be performed in, the salaries for performing those duties and tasks will increase up to 20 per cent for specialists and up to or 30 per cent for uniformed officers.⁷⁹⁰

However, due to the increase in the minimum salary level,⁷⁹¹ the police syndicate expressed the need for the salaries of all employees in the Ministry of the Interior to be increased by 10 per cent, and from April 2023, the monthly hours worked beyond full time should be returned to all employees. They also request and propose that the salary increase come from the budget of the Mol, which they believe is possible within the budget.⁷⁹²

There is a continuous need to update the IT equipment in the Mol. In 2023, the Mol published five tenders for equipment and reserve parts for computers.⁷⁹³

There is a specialised police unit in the Mol dedicated to investigating corruption related offences within the department for combating serious and organised crime.⁷⁹⁴

INDICATOR 6.1.2 INDEPENDENCE (LAW)

To what extent is the electoral management body independent by law?

Score: 75/100

⁷⁸² The director of the Public Security Bureau, Sasho Tasevski, and the deputy German ambassador, Otto Graf, today signed a donation agreement between the Embassy of the Federal Republic of Germany and the Ministry of Interior of the Republic of North Macedonia <https://www.slobodenpecat.mk/en/technical-and-computer-equipment-donated-for-movement-from-Germany/> UNDP, German Embassy donate computer equipment for more effective SALW control to Mol (26 August 2021) <https://mia.mk/en/story/undp-german-embassy-donate-computer-equipment-for-more-effective-salw-control-to-moi> Viewed on 8 August 2023; On 8 October 2020, Ambassador Kate Byrnes joined Minister of Interior Oliver Spasovski and other officials of the Ministry of Internal Affairs in a donation ceremony in support of Mol's effort in tackling terrorism and combatting all forms of organised crime in North Macedonia and the broader region. <https://mk.usembassy.gov/embassy-donates-equipment-in-support-of-mois-effort-in-tackling-terrorism-and-combating-organized-crime/>

⁷⁸³ Information provided by Ministry of Internal Affairs, 22 June 2023

⁷⁸⁴ The Instrument for Pre-Accession Assistance, or simply IPA, is a funding mechanism of the European Union. As of 2007, it replaced previous programmes such as the PHARE, ISPA, SAPARD and CARDS.

⁷⁸⁵ FAOI request from 12 June 2023 and response received on 22 June in the form of a table in a Word document.

⁷⁸⁶ Harmonisation of the minimum wage and increase in September by 5% <https://mrv.gov.mk/vest/19622>

⁷⁸⁷ Law on Internal Affairs Article 144 <https://mrv.gov.mk/zakon/1>

⁷⁸⁸ Law on Minimum Wage in the Republic of North Macedonia - consolidated text. Official Gazette No. 11/2012, 30/2014, 180/2014, 81/2015, 129/2015, 132/2017, 85/2018, 140/2018, 124/2019, 239/2019, 41/2022 Закон-за-минимална-плата-во-Република-Северна-Македонија-консолидиран-текст.pdf (trudovopravo.mk)

⁷⁸⁹ Harmonisation of the minimum wage and increase in September by 5% <https://mrv.gov.mk/vest/19622>

⁷⁹⁰ Law on Internal Affairs Article 145 <https://mrv.gov.mk/zakon/1>

⁷⁹¹ Minimum wage in the country: 20,100 denars (€350) <https://netpress.com.mk/sindikat-na-polici-a-vo-makedoni-a-bara-povisoki-plati-od-mesec-april/>

⁷⁹² Ibid

⁷⁹³ Ministry of Interior website, Section: Public Procurements: <https://mrv.gov.mk/page/e-nabavki>. Accessed 21 September 2023

⁷⁹⁴ Organigram of the Mol Република Северна Македонија - Министерство за внатрешни работи (mrv.gov.mk)

Law enforcement agencies are independent by law and officers can be members of political parties but cannot be active in politics. However, the law only specifies basic but no professional criteria for employment.

The independence of law enforcement agencies is guaranteed by law. The Law on Police regulates the relationship of police officers with political activity. According to the law, it is forbidden for a police officer to establish, lead or be a member of the management of a political party. Candidates for employment have to submit a written statement in which they pledge compliance in this respect.⁷⁹⁵ Non-compliance constitutes a “more serious” disciplinary offence for employed staff. Police officers cannot organise political activities on police premises or display political symbols in their office and cannot wear a uniform during political demonstrations unless they are on duty.⁷⁹⁶

The amendments to the Law on Internal Affairs⁷⁹⁷ (based on the GRECO Recommendation 3) added the obligation not to be a member of a political party and to have passed an integrity test⁷⁹⁸ conducted by the Mol.⁷⁹⁹

The police law contains basic criteria for appointments: such as citizenship; age less than 25 for first-time employment in the position for which secondary school education is necessary, and 30 years if employed for the first time for a position for which university education is necessary; good mental health and physical condition; and not to have been sentenced with a ban on conducting a profession, activity or⁸⁰⁰ duty. However, the law does not stipulate clear professional criteria for appointments.

The law provides for Mol employees to be seconded to the public prosecutor’s office.⁸⁰¹ The rights of the seconded officers are regulated with a separate agreement concluded between the PPO and the Mol.⁸⁰²

INDICATOR 6.1.3 INDEPENDENCE (PRACTICE)

To what extent are law enforcement agencies independent in practice?

Score: 75/100

Appointments of police officers is mostly independent, non-biased and based on clear criteria and procedure stipulated in an open call published on the Mol website.⁸⁰³ However, the appointment of staff to the Bureau for the Public Security and the criminal police has been criticised by the SCPC for potential political influence from the ruling SDSM party because no announcement for these positions has been published.

Apart from the criteria pronounced in the law, the call contains conditions such as: to be medically and psychophysically fit; not be a member of a political party or a member of organs and bodies of a political party; and to have passed an integrity test. In addition, candidates should meet special conditions for a height of at least 175 cm. (men) and 165 cm. (women) and a high level of physical fitness.⁸⁰⁴

⁷⁹⁵ GRECO Recommendation, p.11, Paragraph 65; Fifth Evaluation Round Preventing corruption and Promoting Integrity in Central Governments (top executive functions) and law enforcement agencies; Second Compliance Report, North Macedonia, Adopted by GRECO at its 94th Plenary Meeting (Strasbourg, 5-9 June 2023) GRECO (coe.int)

⁷⁹⁶ Law on Police, Article 105, Official Gazette of the RM, No. 114/2006, 6/2009, 45/2012, 41/2014, 33/2015, 31/16, 106/16, 120/16, 21/18, 64/18, 294/21, 89/22 and Decision of the Constitutional Court of the Republic of Macedonia, Published in the Official Gazette of the Republic of Macedonia No. 148/08

⁷⁹⁷ Law for Amendment of the Law for the Internal Affairs Official Gazette No 89/22 articles 66, 73, 168 and 188

⁷⁹⁸ Article 66 of the Law for Amendment of the Law for the Internal Affairs Official Gazette No 89/22

⁷⁹⁹ Article 70-a of the Law for Amendment of the Law for the Internal Affairs Official Gazette No 89/22

⁸⁰⁰ Law on Police, Article 95, Official Gazette of the RM, No. 114/2006, 6/2009, 45/2012, 41/2014, 33/2015, 31/16, 106/16, 120/16, 21/18, 64/18, 294/21, 89/22 and Decision of the Constitutional Court of the Republic of Macedonia. Official Gazette of RM No. 148/08).

⁸⁰¹ Clear version of the Law for the Internal Affairs published on the Mol website, Article 55 <https://mvr.gov.mk/zakon/1>

⁸⁰² Ibid

⁸⁰³ Ministry for the Interior has published a call to employ 600 police officers. 10 August 2023

<https://www.vrrobotuvanje.com.mk/Vest/18133/MVR-vrrobotuva-Se-baraat-600-policajci/77/>

⁸⁰⁴ Ministry for the Interior has published a call to employ 600 police officers. 10 August 2023

<https://www.vrrobotuvanje.com.mk/Vest/18133/MVR-vrrobotuva-Se-baraat-600-policajci/77/>

The candidate selection procedure is carried out by the police candidates selection commission, established by the minister of interior, which determines the order of the selection stages. The selection is carried out in the following stages: administrative check; written test; interview; psychological testing (integrity test and psychological test); security check and health examinations (checking the health and psychophysical abilities of the candidates).⁸⁰⁵

A security check is carried out for registered candidates based on their prior written consent. If the person refuses the security check, it is considered that they do not meet the conditions for employment in the ministry.⁸⁰⁶

After the selection procedure has been carried out, the selected police officer candidates sign a contract for a basic training of one year, conducted at the training centre in the Ministry of Internal Affairs. Only candidates that complete the training are employed.⁸⁰⁷

Politicisation of the Mol is possible in the case of the separate employment procedure that is applied for the non-uniformed (civilian) part of the Mol, which is part of the Bureau for the Public Security, and the criminal police, for the candidates that have completed university education.⁸⁰⁸ In some cases, when the law provides the possibility for employment without a public call,⁸⁰⁹ there has been a suspicion of political influence in employment, which has been confirmed by the State Commission for the Prevention of Corruption (SCPC).⁸¹⁰ In 2022, in amendments to the Law on Internal Affairs, the possibility for employment without a public call has been specified for particular working positions determined in the act for systematisation.⁸¹¹ In its decision published in April 2023,⁸¹² the SCPC stated that, due to the fact that the employment of the mentioned persons in the ministry is without publication of a public announcement in accordance with Article 76 of the Law on Internal Affairs, there is a well-founded suspicion of party influence from the SDSM political party. However, due to the lack of competition and reports of other candidates, the SCPC is not able to determine the potential impact and has no legal possibility for further action or to take measures against the mentioned persons.

There are no clear and reported examples of undue external interference in ongoing investigations. However, it is important to mention that, according to the Law for the Criminal Procedure,⁸¹³ the public prosecutor is the "dominus litis"⁸¹⁴ in the pre-investigation and investigation. Therefore, all arguments regarding external influence, as well as the role of the public prosecutor, are presented in indicator 4.1.3 & 4.1.4.

⁸⁰⁵ Ministry for the Interior has published a call to employ 600 police officers. 10 August 2023

<https://www.vrrobotuvanje.com.mk/Vest/18133/MVR-vrrobotuva-Se-baraat-600-policajci/77/>, paragraph 5

⁸⁰⁶ Ministry for the Interior has published a call to employ 600 police officers. 10 August 2023

<https://www.vrrobotuvanje.com.mk/Vest/18133/MVR-vrrobotuva-Se-baraat-600-policajci/77/>, paragraph 6

⁸⁰⁷ Ministry for the Interior has published a call to employ 600 police officers. 10 August 2023

<https://www.vrrobotuvanje.com.mk/Vest/18133/MVR-vrrobotuva-Se-baraat-600-policajci/77/>, Paragraph 10

⁸⁰⁸ Public call from 21 July 2021: Based on the Article 71 and 72 of the Law on Internal Affairs. Official Gazette of the RM no. 42/14, 116/14, 33/15, 33/15, 5/16, 120/16, 127/16, 142/16, 190/16, 21/18, 135/18 and Official Gazette of the RM No 108/19, 275/19 и 110/21), and related to the rulebook for the selecting and determination of the persons establishing the working relationship with the Ministry for the Interior.

Official Gazette of the RM. бр.13/2015 и 203/2019

⁸⁰⁹ Ibid

⁸¹⁰ Case number 09-9202/1 of 09.11.2022 was established on its own initiative for the existence of a conflict of interest in the Ministry of Internal Affairs in relation to the procedure for hiring former mayors and candidates for mayors in the local elections held in 2021.

⁸¹¹ Law for Amendments of the Law on Internal Affairs, Official Gazette of the Republic of North Macedonia no 89/22 published on: ЛДБИС преглед на закон (pravda.gov.mk)

⁸¹² Did the former officials of the SDSM exercise party influence for employment in the Ministry of the Interior? <https://lider.mk/poraneshnite-funkcioneri-na-sdsms-izvrshile-partisko-vlijanie-za-vrrobotuvanje-vo-mvr/> Published on 22 May 2023, viewed on 11 August 2023

⁸¹³ Law for the Criminal Procedure, Article 39 and Article 41 Official Gazette No. 150/2010

<https://www.slvesnik.com.mk/Issues/BDBF29F810D5E9468FC65FA542B857B3.pdf>

⁸¹⁴ Definition: the person who is actually behind legal proceedings,

[https://uk.practicallaw.thomsonreuters.com/Glossary/PracticalLaw/l6c160002c3bb11e79bef99c0ee06c731?transitionType=Default&contextData=\(sc.Default\)&firstPage=true](https://uk.practicallaw.thomsonreuters.com/Glossary/PracticalLaw/l6c160002c3bb11e79bef99c0ee06c731?transitionType=Default&contextData=(sc.Default)&firstPage=true)

GOVERNANCE

INDICATOR 6.2.1 TRANSPARENCY (LAW)

To what extent are there provisions to ensure that the public can access the relevant information on law enforcement agency activities?

Score: 50/100

The law provides a certain level of transparency for informing the public of the daily activities within the competencies of the Mol and the police. However, the asset declarations of law enforcement officials do not have to be disclosed, and there are no provisions that will enable victims to have access to case files.

The Law on Internal Affairs regulates two aspects of law enforcement to be publicly disclosed: notifying the public about issues within the competence and under the jurisdiction of the ministry and providing citizens, legal entities and state authorities with information, data and notices on matters of its scope in which they are directly interested.⁸¹⁵

Classified information will only be released when the conditions determined by a separate law have been met. This type of information, data and notifications can only be disseminated with the signature of the minister of interior or an authorised employee.⁸¹⁶

Separate legal provision regulates transparency on information of public interest that can be disclosed under conditions established by law.⁸¹⁷ This includes information as provided in the Law on Access to Information of Public Character.⁸¹⁸

The Mol's community engagement and communication strategy 2020-2022⁸¹⁹ is a key document that, among other things, refers to the forms of openness and transparency during police operations. It refers to training to improve the communication skills of police officers and the dissemination of timely information to citizens about planned preventive activities and feedback on the results of the activities.⁸²⁰ Also, with the strategic plan 2023-2025,⁸²¹ the Mol states that it will continue its efforts to realise its commitments to the flawless functioning of the police, as well as transparent and accountable operations, while strengthening citizen trust. This includes the rapid flow of information and documents into organisational units in the Mol as well as the unification of data.⁸²² Through these two documents, the police encourages active transparency, in addition to legally defined obligations.

Asset declarations of the minister of interior and the director of the Public Security Bureau have to be published on the SCPC website. However, there is no such legal obligation for police officers.

INDICATOR 6.2.2 TRANSPARENCY (PRACTICE)

To what extent is there transparency in the activities and decision-making processes of law enforcement agencies in practice?

Score: 75/100

There is a high level of transparency in the work of the Ministry of Interior, especially in the relevant activities related to criminal investigations and public order. However, the decisions of the disciplinary committee.

⁸¹⁵ Law for Internal Affairs, Article 5

⁸¹⁶ Law for Internal Affairs Ibid, paragraph 3 and 4

⁸¹⁷ Law for Internal Affairs, Article 11 Principle of transparency and confidentiality

⁸¹⁸ Law on Access to Information of Public Character, Official Gazette No 101/19 Article

⁸¹⁹ Community Engagement and Communication Strategy 2020-2022

https://mvr.gov.mk/Upload/Editor_Upload/strategii/CEC%20STRATEGY_MK.pdf

⁸²⁰ Ibid p.14

⁸²¹ The Strategic Plan 2023-2025, Viewed on 27 October 2023

https://mvr.gov.mk/Upload/Editor_Upload/220310%20SP%20na%20MVR%202022-2024.pdf

⁸²² Ibid p.36

Asset declarations of the minister for the interior and the director of the Public Security Bureau are published on the SCPC website.⁸²³ However, asset declarations of the police officials are not published, due to missing legal obligations. Article 70 b of the Law on Internal Affairs provides that employees need to submit asset declarations to the authorised unit in the Mol.⁸²⁴

The police regularly inform the public about its relevant activities. In addition to the regular distribution of various types of information on the activities of the Ministry and its interior sectors, the Mol public relations office, the department of information of a public character (freedom of information), keeps constant and regular communication with organisational units within the ministry in order to respond in a timely manner to the requests for information of public interest.⁸²⁵

Results from a public opinion survey⁸²⁶ showed that the percentage of citizens who believe that the police are transparent in their work corresponds to the percentage of citizens who expressed confidence in the police as an institution. One out of five respondents have confidence in the police as an institution, that is, they believe that the police are transparent in their work. This shows that a correlation exists between the perception of transparency and trust in this institution.

It is important to note that the ministry publishes regular reports on the work of the Internal Control Department, criminal investigations and professional standards, and quarterly reports on the work of internal control, in addition to the annual report. These are published on the ministry's website under: internal control.⁸²⁷

INDICATOR 6.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions to ensure that law enforcement agencies have to report and be answerable for their actions?

Score: 100/100

There is a comprehensive legislative and regulatory framework to ensure that law enforcement agencies have to report and be answerable for their actions.

In the Mol, there is an independent mechanism for citizens to complain about police misconduct⁸²⁸ and a separate entity in the public prosecutor's office to investigate and prosecute corruption committed by law enforcement officials.⁸²⁹ The ombudsperson is also legally authorised to conduct external control and there is special protection available for a person, their family and property after a complain has been made and there are concerns for the person's safety.⁸³⁰

Victims of the certain crime can access justice by reporting to the law enforcement agencies or to the prosecution. The first instance for reporting in the majority of crime incidents is the Mol. It has two levels of control of the ministry's performance:⁸³¹ internal control and external control.⁸³² Internal control is carried out by a special

⁸²³ Public Officials - Функционери (dksk.org.mk)

⁸²⁴ Law on Internal Affairs Article 70 b LIA, cleared version April 2022 - ZVR PRECISTEN TEKST april 2022(1)(1).doc (live.com)

⁸²⁵ Website of the Unit for the Public Relations and Strategic affairs of the Mol Република Северна Македонија - Министерство за внатрешни работи (mvr.gov.mk)

⁸²⁶ Stojanovski, Aleksandar, Angelevska, Kristina and Nikolovski, Dimitar. 2022. Transparency in the Work of the Police in the Republic of North Macedonia [Electronic Source]. Public policy document. Skopje: Eurothink Centre for European Strategies <https://eurothink.mk/2022/09/06/dokument-transparentnost-vo-rabotata-na-policijata/> Viewed on 10 08 2023

⁸²⁷ Internal Control website <https://mvr.gov.mk/profilepage/svkps>

⁸²⁸ Ibid and Law on the Internal Affairs Article 38 p.2

⁸²⁹ organisation of the Public Prosecutor's Office of the Republic of North Macedonia – Public Prosecutor's Office of the Republic of North Macedonia (jorm.gov.mk)

⁸³⁰ Law for the Ombudsman Article 42, Zakon-za-narodniot-pravobranitel-22-09-2003.pdf (pravdiko.mk)

⁸³¹ Law for the Internal Affairs, Chapter VII; Unofficial Translation of the Law for the Internal Affairs 2020, published on <https://mvr.gov.mk/zakon/1>, viewed on 11 August 2023

⁸³² Ibid, Article 57

organisational unit, which evaluates the legality of actions of ministry employees.⁸³³ To protect and exercise the rights of the citizen making the complaint when that person believes their freedoms and rights have been violated by the actions of the employee in the ministry, the citizen has the right to submit a complaint to the internal control unit.⁸³⁴ The ministry is obliged to verify the allegations in the petition and, within a period of no more than 30 days from receipt, to inform the petitioner in writing about the situation and the measures taken.⁸³⁵

External control of the work of the ministry is carried out by the ombudsperson⁸³⁶ as well as by the public prosecutor's office.⁸³⁷

Law enforcement (police) is highly accountable and not immune from criminal proceedings. In the Basic Public Prosecutor's Office for Organised Crime and Corruption, there is a specialised department⁸³⁸ to prosecute criminal offences committed by persons with police powers⁸³⁹ and members of the prison police.⁸⁴⁰ For the matters of competence in the specialised department, there is a separate investigative centre is established in the BPPOOCC.⁸⁴¹

Anyone can notify this specialised department of suspected wrongdoing.⁸⁴² If a citizen sends a report to the Mol about an employee with the status of a police officer who has committed a crime, the ministry should immediately inform the specialised department.⁸⁴³

INDICATOR 6.2.4 ACCOUNTABILITY (PRACTICE)

To what extent do law enforcement agencies have to report and be answerable for their actions in practice?

Score: 75/100

Police officials and Mol employees are, to a high extent, answerable for their actions: The independent law enforcement complaint reporting mechanism responds to citizen's complaints, and a specialised prosecutorial unit initiates investigations into allegations of corruption by law enforcement officials. However, there have been cases that indicate insufficient accountability mechanisms where only a small number of direct perpetrators were held accountable.

The internal control unit for criminal investigations and professional standards is the main control mechanism in the Mol for the work of the police and the ministry. In the first six months of 2023, the unit has reported 572 cases based on 416 reports from the citizens.⁸⁴⁴ There were also 78 reports submitted by the NGOs, the ombudsperson, legal entities and defending lawyers.⁸⁴⁵

⁸³³ Internal Control Article 58

⁸³⁴ Ibid, Article 58 Paragraph 2 and 3

⁸³⁵ Law on Internal Affairs, Article 58 p.3

⁸³⁶ Ibid, Article 59

⁸³⁷ ORGANISATION of the PUBLIC PROSECUTOR'S OFFICE of the REPUBLIC of NORTH MACEDONIA – PUBLIC PROSECUTOR'S OFFICE of the REPUBLIC of NORTH MACEDONIA (Jorm.Gov.Mk)

⁸³⁸ ORGANISATION of the PUBLIC PROSECUTOR'S OFFICE of the REPUBLIC of NORTH MACEDONIA – PUBLIC PROSECUTOR'S OFFICE of the REPUBLIC of NORTH MACEDONIA (Jorm.Gov.Mk)

⁸³⁹ A person with police powers within the meaning in paragraph (1) of this article is understood to be a police officer, authorised security official, counterintelligence officer with police powers, members of the financial police, legally authorised persons of the customs administration who work to detect crimes, and authorised officials of the Ministry of Defense who work to detect and investigate crimes

⁸⁴⁰ Law for Amending of the Law for the Public Prosecution 198/18 from 31 October 2018, Article 1

⁸⁴¹ Ibid, Article 7

⁸⁴² Law for the Criminal procedure Official Gazette 150/2010, Article 273. Microsoft Word - Zakon_za_Krivicna_postapka_150_18112010 (jorm.gov.mk)

⁸⁴³ Law for the Public Prosecution, Official Gazette No 42/20, Article 33

⁸⁴⁴ Six month report of the Unit for the Internal Control, Criminal Investigations and Professional Standards - Шест месеци 2023.pdf (mvr.gov.mk) p.1

⁸⁴⁵ Ibid, p3

The unit complies with a wide range of measures and activities to establish unprofessional, illegal or non-ethical behaviour of Mol employees. It also undertakes preventive activities.⁸⁴⁶ In March 2023, unit issued 79 disciplinary measures and, in April 2023, 41 disciplinary measures.⁸⁴⁷ Citizens can submit their reports electronically to prijavi_i_poplaki@moi.gov.mk.

Law enforcement officials are not immune from criminal proceedings. In 2022, the public prosecutor's office investigated 171 cases⁸⁴⁸ related to 370 police officials.⁸⁴⁹ On the BPPOOCC website, there is a lot of information about the cases initiated against police officers who have committed crimes while performing official duties.⁸⁵⁰ For example, proceedings were initiated for 11 persons for abuses during the issuance of passports (10 of the suspects were employees of the Mol in the passport service, while one person mediated the illegal issuance of the documents). A total of 219 illegally issued passports were covered. The first criminal report refers to 215 illegally issued travel documents, where the suspects enabled foreign citizens to acquire a travel document of the Republic of North Macedonia with a Macedonian identity card, with a photo of the person to whom the travel document was issued. In doing so, the identity of persons living in the diaspora was used.⁸⁵¹ However, only a small number (76) of direct perpetrators were held accountable between 2019-2021.⁸⁵²

INDICATOR 6.2.5 INTEGRITY MECHANISMS (LAW)

To what extent is the integrity of law enforcement agencies ensured by law?

Score: 75/100

The integrity of the law enforcement agencies is ensured by the law of the Mol and the code of ethics. However, the provisions do not provide for post-employment restrictions and accountability measures in the case of not disclosing assets and interests.

In 2020, the minister of interior approved the code of ethics for Mol employees.⁸⁵³ All employees need to sign the statement that they have seen and understood the principles of the code. The code regulates: political impartiality; avoiding any personal gain when performing official duties; avoiding conflicts of interests; non-disclosure of official and confidential information; effectiveness and economy in conducting official duties; integrity; treating citizens with trust, care, kindness and support; professional behaviour; non-discrimination; avoiding the use of weapons; activities on social media; behaviour among the colleagues; and the dress code.

Following the GRECO recommendations, the minister of interior has adopted the guidance and rules related to gifts and hospitality and conflict of interests. These two documents are not available for review, but the conclusion

⁸⁴⁶ Ministry of Interior, Section: Department of Internal Control, Criminal Investigations and Professional Standards, Република Северна Македонија - Министерство за внатрешни работи (mvr.gov.mk), Accessed in December 2023

⁸⁴⁷ Ministry of Interior, Section: Issued disciplinary measures, Република Северна Македонија - Министерство за внатрешни работи (mvr.gov.mk), Accessed in December 2023

⁸⁴⁸ PP of RM (2023), Report of the work of public prosecutors for 2022: izveshtaj-za-rabotata-na-javnite-obvinitelsta_2022_2_mail-2-3.pdf (jorm.gov.mk) p.45

⁸⁴⁹ Ibid, p.38

⁸⁵⁰ Basic Public Prosecutor's Office for the Prosecution of Organised Crime and Corruption. Public Prosecutor's Office of the Republic of North Macedonia, p.2 (jorm.gov.mk); Detention of three members of the prison police. Public Prosecutor's Office of the Republic of North Macedonia (jorm.gov.mk); Order to investigate police officers from GP Tabanovce – Public Prosecutor's Office of the Republic of North Macedonia (jorm.gov.mk); Indictment against police inspector for the migrant killed. Public Prosecutor's Office of the Republic of North Macedonia

Основно јавно обвинителство за гоњење на организиран криминал и корупција – Страница 2 – ЈАВНО ОБВИНИТЕЛСТВО НА РЕПУБЛИКА СЕВЕРНА МАКЕДОНИЈА (jorm.gov.mk) Притвор за тројца припадници на затворска полиција – ЈАВНО ОБВИНИТЕЛСТВО НА РЕПУБЛИКА СЕВЕРНА МАКЕДОНИЈА (jorm.gov.mk); Наредба за истрага против полициски службеници од ГП Табановце – ЈАВНО ОБВИНИТЕЛСТВО НА РЕПУБЛИКА СЕВЕРНА МАКЕДОНИЈА (jorm.gov.mk); Обвинителен акт против полициски инспектор за усмртената мигрантка – ЈАВНО ОБВИНИТЕЛСТВО НА РЕПУБЛИКА СЕВЕРНА МАКЕДОНИЈА (jorm.gov.mk)

⁸⁵¹ PP of RM, "Proceedings were initiated for 11 persons for abuses during the issuance of passports": <https://jorm.gov.mk/za-11-licza-povedena-postapka-za-zloupotrebi-pri-izdava-%D1%9Aeto-pasoshi/>

⁸⁵² Investigative journalism (Research) Increasingly convicted police officers, but rarely behind bars

Aleksandar Dimitrevski. 17 July 2022. (ИСТРАЖУВАЊЕ) Сè повеќе осудени полицајци, но ретко кој е зад решетки - 360 степени (360stopeni.mk)

⁸⁵³ Code of Ethics Eticki Kodeks.Pdf (Mvr.Gov.Mk)

is based on the GRECO report and the response to the ministry. The effective implementation is to be further assessed.⁸⁵⁴ Mol has adopted an integrity plan⁸⁵⁵ and an action plan for implementing it.⁸⁵⁶

However, the code of ethics does not contain any provisions related to post-employment restrictions.

According to the Law on Internal Affairs,⁸⁵⁷ within 30 days of conclusion of the employment contract, Mol employees have to declare their assets and property to the designated unit in the Mol. However, this law does not contain any provisions for holding to account any law enforcement officials who have not accurately declared their assets and property.⁸⁵⁸

The code also contains provisions for continuous education for the implementation of the code.⁸⁵⁹

INDICATOR 6.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is the integrity of members of law enforcement agencies ensured in practice?

Score: 75/100

Some of the integrity mechanisms are implemented in practice, especially the proceedings of the department for internal control, disciplinary proceedings and investigations. However, there is no information related to the breaking of the code of ethics and related measures.

The minister of interior has appointed a person responsible for integrity, gifts and conflict of interest among the employees of the internal control unit.⁸⁶⁰ However, there is no evidence of an effective implementation of the existing code of ethics in conflict-of-interest policies and effectively ensuring ethical behaviour by law enforcement officials. The six-month reports from the department for internal control do not provide any information in this regard or for the control of gifts and hospitality.⁸⁶¹

Also, there is no information about particular training programmes related to the implementation of code of ethics.

In 2022, the internal control unit initiated disciplinary proceedings against 175 officials.⁸⁶² With the 2022 amendments to the Law on Internal Affairs, a separate disciplinary unit was created in the Mol.⁸⁶³ The disciplinary mechanism is very effective and independent, and the statistics for the disciplinary measures are published monthly, indicating in average more than 50 disciplinary measures in a month.⁸⁶⁴ The most frequent disciplinary measures are financial, in the form of a decrease in the monthly salary for a certain period of time.

INDICATOR 6.2.7 GENDER

To what extent are law enforcement's mechanisms gender-sensitive?

Score: 25/100

⁸⁵⁴ Response to the request for the free access to official information from 03 March 2023. Also GRECO Report GRECO (coe.int) p.82. However, the documents are not published as they are considered to be internal acts.

⁸⁵⁵ Integrity Plan for the Mol employees 2023 – 2025 ENG Plan za integritet MVR 2023-25_04_06_2023_ENG_web.pdf

⁸⁵⁶ Action plan for implementation of the integrity plan of the MINISTRY for the Interior 2023-2025 Акционен План За Имплементација На Планот За Интегритет На.Pdf (Mvr.Gov.Mk)

⁸⁵⁷ Law on Internal Affairs, Cleared version, Article 70 b, April 2022 ZVR PRECISTEN TEKST april 2022(1)(1).doc (live.com)

⁸⁵⁸ Ibid

⁸⁵⁹ Code of Ethics of the employees of the Ministry for the Interior, Article 33. ETICKI KODEKS.pdf (mvr.gov.mk)

⁸⁶⁰ Website of the Mol where the name of the person and e-mail contact is indicated: Република Северна Македонија - Министерство за Внатрешни работи (mvr.gov.mk)

⁸⁶¹ Six month report of the unit for the internal control, criminal investigations and professional standards - Шест месеци 2023.pdf (mvr.gov.mk)

⁸⁶² Six month report of the internal control unit, criminal investigations and professional standards Шест месеци 2023.pdf (mvr.gov.mk) p.4

⁸⁶³ Article 22 of the Law on Amendments to the law on Internal Affairs, Official Gazette No 89/22, published on ЛДБИС преглед на закон (pravda.gov.mk) and Article 198 and 199 of the Law on Internal Affairs, Cleared version, April 2022 ZVR PRECISTEN TEKST april 2022(1)(1).doc (live.com)

⁸⁶⁴ Ibid

⁸⁶⁴ Република Северна Македонија - Министерство за внатрешни работи (mvr.gov.mk)

Law enforcement mechanisms are not gender-sensitive and do not produce gender-disaggregated data. However, gender equality training as well as mentoring programmes have been included in the strategic programme, but which still have to be implemented.

Official statistical data do not contain gender-disaggregated data (complaints filed by gender, processing times of complaints filed by women or men, complaints solved or disregarded, and so on). Similarly, complaint and investigation mechanisms do not contain explicit gender-sensitive protocols and guidelines, and there is no specific training module or awareness-raising material for optimal implementation of gender-sensitive mechanisms.

The practice for front-facing female staff is implemented only in the case of a specific need for a body search of a female perpetrator.

In 2020, the employees in Mol were 80.35 per cent men and 19.65 per cent women, of which 53.77 per cent of men and 7.37 per cent women are in uniform. Civilian or non-uniformed police officials are made up of 18.44 per cent men and 4.47 per cent women.⁸⁶⁵ In 2021, the Mol employed 79.89 per cent men and 20.11 per cent women, of which 51.93 per cent of men and 7.40 per cent of women were in uniform. Civilian or non-uniformed police officials were 19.01 per cent men and 4.62 per cent women. The percentage of female employees has therefore slightly increased. Statistical data for 2022 has not been published yet.

A success indicator for the implementation of the strategic programme 1.11.1 on police development is the number of conducted training courses and police officers trained in gender equality.⁸⁶⁶ In the 1.11.2 programme for the promotion of the common functions of the Mol, one of the priorities is the implementation of gender equality and ensuring equal treatment and opportunities through the inclusion of the mentoring programme for women.⁸⁶⁷ However, the strategic plan still needs to be implemented.

ROLE

INDICATOR 6.3.1 CORRUPTION PROSECUTION

To what extent do law enforcement agencies detect and investigate corruption cases in the country?

Score: 25/100

Law enforcement agencies detect and investigate corruption cases under guidance and based on the request of public prosecutors. The number of cases and use of the possible investigative means is insufficient.

Special investigative measures, their type and number are described in Law for the Criminal Procedure.⁸⁶⁸ They are only to be used when it is likely that other evidence can not be admissible and not sufficient for the provision of data and evidence necessary for successful criminal prosecution. According to the Law on Criminal Procedure, 12 investigative techniques can be used, including simulated giving and receiving bribes, the use of persons with a masked identity to monitor and collect information or data, opening a simulated bank account and others.⁸⁶⁹ The public prosecutor's office is leads the investigations and the use of special investigative techniques and measures.

⁸⁶⁵ The Strategic Plan 2022-2024, adopted in March 2022, p.17. Viewed on 10 August 2023
https://mvr.gov.mk/Upload/Editor_Upload/220310%20SP%20na%20MVR%202022-2024.pdf

⁸⁶⁶ Ibid p.25;

Special investigative measures, their type and number are prescribed in Article 252 of the CPA,

⁸⁶⁷ Ibid p36

⁸⁶⁸ Zakon_za_Krivicna_postapka_150_18112010 (jorm.gov.mk) Law for the Criminal Procedure

⁸⁶⁹ Ibid, Article 252

The 2021 annual report⁸⁷⁰ for the use of the special investigative measures in 2021 indicates that these measures have been used in three corruption related cases. Information for 2022 has not been published yet.

Police officers have the legal power to apply investigative technics in detecting corruption cases. The powers are adequate in the Law on Internal Affairs,⁸⁷¹ which determines activities in preventing the commission of crimes and offences, detecting and catching their perpetrators and taking any other legally provided measures to accuse the perpetrators of those acts, as internal affairs.⁸⁷²

Other laws that provide the possibility for the application of investigative means and techniques for the fight against corruption are the Law for the National Criminal Intelligence Database,⁸⁷³ which provides the database to be established in the Mol as an integrated information system; the Law for the Interception of Communications,⁸⁷⁴ where Article 9 provides possibility for the police officer in the Mol to submit to the competent judge a request for a court order to monitor communications.⁸⁷⁵

INTERACTIONS

The Mol and more specifically the criminal police and other units that participate in criminal intelligence and analytics provide support to the public prosecutor's investigative units based on the mutual agreement between the Mol and the public prosecutor's office. Interaction is based on the legal framework, mainly the Law on Criminal Procedure, that establishes the public prosecution service as a lead investigative body. Therefore, the Mol mainly works upon the request and under the lead of the prosecutors when it comes to investigations of corruption related cases. Therefore, the work of the Mol when investigating organised crime and corruption is mainly influenced by public prosecution. The work of the public prosecution is explained in pillar four of this report.

Mol officials who work in the area of anti-corruption often fail to cooperate with the SCPC, especially in cases related to abuse of official duties due to conflicts of interest, illicit enrichment and other possibilities to investigate corrupt practices in a multidisciplinary and proactive manner. In 2023, the Mol and the SCPC signed a MoU that specifies the need for enhanced cooperation for better understanding and investigation of the cases arising from the work of the SCPC. However, the cooperation is often still missing or insufficient.

PILLAR RECOMMENDATIONS

- The Mol needs to establish effective implementation of the adopted code of ethics by establishing effective vetting of reported cases of conflict of interest and asset declaration, as well as regular reporting of the gifts and hospitality for police officials.
- The Mol needs to publish information on the number of cases and results related to integrity tests of police officials.
- The Mol needs to establish cooperation with the SCPC for proactive investigations of corruption related cases. As a result, the Mol and SCPC need to publish separate statistical data for corruption related cases on their websites.

⁸⁷⁰ PP of RM (2022), Report on implementation of special investigative measures in 2021, pim-merki-2021.pdf (jorm.gov.mk)

⁸⁷¹ Law for the Internal Affairs, unofficial cleared version of the Law for the Internal Affairs April 2022, published on <https://mvr.gov.mk/zakon/1>, viewed on 11 August 2023

⁸⁷² Ibid, Article 2

⁸⁷³ Law for the National Criminal Intelligence Database Official Gazette No 120/09

⁸⁷⁴ Law for the Interception of Communications, Official Gazette of the RM no 121/06; Law for Amendments to the Law for the Interception of Communications. Official Gazette of the Republic of Macedonia no 110/08; and Law for Amendments to the Law for the Interception of Communications. Official Gazette of the Republic of Macedonia no. 116/12.

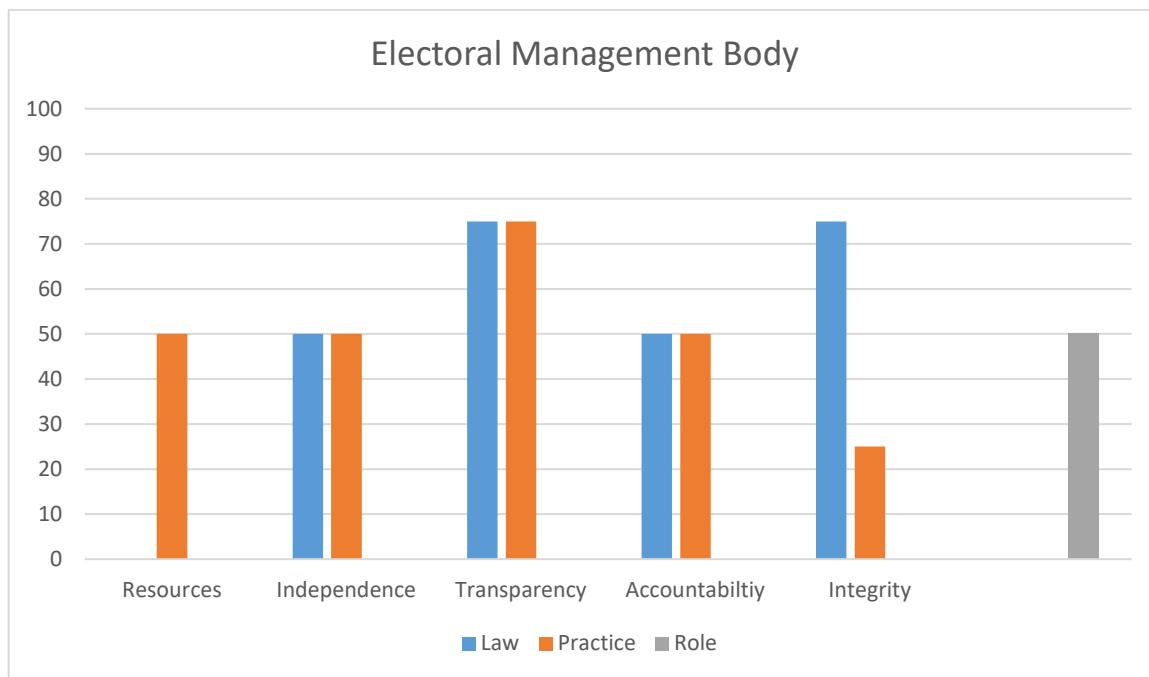
⁸⁷⁵ Ibid

7. ELECTORAL MANAGEMENT BODY

SUMMARY



Indicators scores: law and practice



The State electoral commission (SEC) is the highest electoral authority. With regulatory, monitoring and oversight powers, the SEC is responsible for organising and supervising parliamentarian and local elections and referenda. The electoral code⁸⁷⁶ regulates the SEC work and composition, including the appointment of SEC members, of which total of seven are appointed by the Assembly. The work of the SEC members is supported by the professional service, the secretariat.⁸⁷⁷

The SEC has insufficient human resources and an inadequate budget for the employment of permanent staff. The lack of sufficient financial resources and professional staff may also affect its independence and accountability.

⁸⁷⁶ Electoral Code, consolidated version, Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21): https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

⁸⁷⁷ Ibid, Article 30

There are laws aimed at safeguarding the SEC's independence, but its independence is not ensured in the constitution. However, the election procedure for SEC members by political parties introduces political influences. Also, the selection of secretariat staff faces transparency issues and alleged nepotism, potentially affecting independence. Public attacks on the election process, like accusing the winning party of election irregularities, incorrect voting lists and technical issues on vote counting, erode trust in the SEC's independence and effectiveness. Also, incoherent and non-transparent complaint handling procedures during the 2021 local elections have raised concerns among international organisations.

The SEC has its own website with information on the electoral process and has educative content for voters and participants in the elections. However, the SEC only submits reports on the conduct of elections to the Assembly and does not publish an annual report, also due to a gap in legal obligations. This leads to a lack of transparency in SEC activities and hinders the watchdog role of civil society.

The SEC has a policy of integrity and a code of ethics for SEC members and a code of ethics for the electoral administration. However, recent cases opened against the president of the SEC as well as a lack of cases where misbehaviour of staff has been sanctioned by the SEC has called the implementation of such policies into question

The cooperation between the SEC, SCPC and SAO, although strengthened with the signing of an MOU, still fails to produce visible results in the sanctioning irregularities during elections.

CAPACITY

INDICATOR 7.1.1 RESOURCES (PRACTICE)

To what extent does the electoral management body (EMB) have adequate resources to achieve its goals in practice?

Score: 50/100

The SEC has some financial, human and technical resources in terms of equipped offices, staff and other equipment for running the elections. However, significant resource gaps for additional human resources and continuous professional development need to be filled.

The SEC budget provides funds for the SEC's regular work and for carrying out elections. Even though the budget for its regular work increased over the years, according to the head of SEC's training centre the budget is not sufficient for the regular activities of the SEC. According to her, 80 per cent of this budget is for employees' salaries and there are limited resources for development projects and setting up elections and no budget for staff training.⁸⁷⁸ New activities and projects have to receive funds from international donors to get realised. For example, the Swiss agency for development and cooperation is currently supporting the development of an e-registry of legal acts.⁸⁷⁹ In 2022, the Swiss government also supported a study on the roadmap to creation of the centre for training for the elections.⁸⁸⁰ Training of SEC staff gets listed on the SEC's website.⁸⁸¹

⁸⁷⁸ Interview conducted on 22 December with Ljupka Gugucevska, head of the training centre at the SEC

⁸⁷⁹ SEC. 2022. Workshop for development of registry of acts: <https://www.sec.mk/rabotilnica-za-izgotvuvanje-na-elektronski-registar-na-akti/>

⁸⁸⁰ SEC. 2022. Public presentation on the roadmap for establishing centre for training for the elections: <https://www.sec.mk/javna-prezentacija-na-patokazot-za-formiranje-centar-za-obuki-za-izborite/>

⁸⁸¹ SEC. 2023. Annual programme for continuous educational development: https://drive.google.com/file/d/1jIO_XBHiKynxia9v-1Yv4D99iGyDWE0Y/view

Table 1. The total budget (in MKD and EUR) for 2019 to 2023:⁸⁸²

Year	Realised budget	Regular programme (Programme 20) budget	Election programme (Programme 21) budget
2023		82,641,000 MKD (€1,339,400)	
2022	159,349,000 MKD (€2,582,642)	82,864,353 MKD (€1,343,020)	76,484,647 MKD (€1,239,621)
2021	1,189,405,141 MKD (€19,277,231)	75,457,323 MKD (€1,222,971)	1,113,947,818 MKD (€18,054,260)
2020	517,396,139 MKD (€8,385,675)	51,136,915 MKD (€828,799)	466,259,224 MKD (€7,556,876)
2019	581,260,791 MKD (€9,420,758)	61,171,056 MKD (€991,427)	519,934,631 MKD (€8,426,817)

The SEC's work⁸⁸³ is supported by professional service staff⁸⁸⁴ whose responsibilities and competencies are regulated by the rulebook on internal organisation.⁸⁸⁵ The required number of staff for the SEC to function efficiently is listed in detail in the systematisation of working places, which regulates the needs for the functioning of the institution; however, through the years, the SEC has been understaffed and only 98 of 248 positions are currently filled. According to the head of SEC's training centre, this is because 14 people retired in the last year, three were transferred to other institutions and the SEC is waiting for approval from the Ministry of Finance and the Ministry of Information Society and Administration to employ new staff. She notes that only during elections are their resource needs recognised.⁸⁸⁶

Table 2. Human resources⁸⁸⁷

Year	Systematised working places	Fulfilled working places
2023	248	98
2022	248	93
2021	248	111
2020	248	108
2019	248	94

⁸⁸² Received information on 24 April 2023 through a freedom of information request

⁸⁸³ Electoral Code, consolidated version, Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21), Article 26: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

⁸⁸⁴ The employees are considered to be administrative servants and they are employed based on the Law of Administrative Servants. This service is headed by the general secretary who is elected by the SEC for a term of five years. If there is a change in the structure of SEC, the general secretary is also subject to change. Source: Electoral Code, consolidated version, Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20,

⁸⁸⁵ 74/21 и 215/21), Article 26: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

⁸⁸⁶ Systematisation of working places of SEC's secretariat: <https://www.sec.mk/sistematzicija-na-ss-na-dik-2/>

⁸⁸⁷ Interview conducted on 22 December with Ljupka Gugucevska, head of the training centre at the SEC

⁸⁸⁷ Information received through a freedom of information request

The experience and qualifications required for the president and the members of the SEC are regulated in the electoral code.⁸⁸⁸ The employees in the professional service are experienced and qualified to conduct SEC activities.⁸⁸⁹ According to the head of SEC's training centre, the SEC acquired an ISO certificate for the first time and the certification body concluded that there is qualified staff within the institution.⁸⁹⁰

INDICATOR 7.1.2 INDEPENDENCE (LAW)

To what extent is the electoral management body independent by law?

Score: 50/100

While a number of laws to ensure the independence of the SEC, it is not ensured in the constitution. Also the procedure for the election of SEC members is highly political, and a lack of resources limits the independence and effectiveness of the SECs.

The status of the SEC as an independent body is ensured in the electoral code but not in the constitution.

There is a clear division internally in terms of the members being responsible for the overall management of the institution and competences defined within the electoral code and the professional service being responsible for support of the commission in its work.⁸⁹¹

The electoral code provides rules for the selection of the seven SEC members.⁸⁹² Members are nominated by the political parties represented in the parliament: four by the ruling parties, including the vice president, and three by the opposition, including the president.⁸⁹³ Although the members are elected from professionals in accordance with established procedure, their appointment by political parties can be used to influence their independence (which happened in practice – see 7.1.3). The conditions that a person should fulfil to be elected as a member are too general and do not provide any precise criteria and competences.⁸⁹⁴

The law stipulates a five-year mandate for the president and members of the SEC. However, there is no clear provision that stipulates the possibility for re-election that if it existed, could make it less likely that SEC members get pressured and influenced.⁸⁹⁵

The selection of secretariat staff is based on the Law of Administrative Servants;⁸⁹⁶ however, the procedure is not always transparent and without political interference due to the high level of nepotism in the recruitment in the public sector as shown in a 2020 study from TI Macedonia.⁸⁹⁷ The professional staff is elected based on an open

⁸⁸⁸ Electoral code. Official Gazette of Republic of Macedonia", number 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19; and Official Gazette of Republic of North Macedonia. number 98/19, 42/20, 74/21 и 215/21, Article 26

⁸⁸⁹ The employees are administrative servants that need to fulfil general requirements as well as specific requirements in accordance with the nature of the work place <https://www.sec.mk/sistematizacija-na-ss-na-dik-2/>

⁸⁹⁰ Interview conducted on 22 December with Ms. Ljupka Gugucevska, head of training centre in SEC

⁸⁹¹ Electoral Code, consolidated version. Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21), Article 31: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

⁸⁹² SEC consists of a president, vice-president and five members; Electoral code, Article 26, Official Gazette of Republic of Macedonia, number 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19 and Official Gazette of Republic of North Macedonia", number 98/19, 42/20, 74/21 и 215/21.

⁸⁹³ Electoral Code, consolidated version. Official Gazette of Republic of Macedonia, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21), Article 26: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

⁸⁹⁴ Ibid, Article 27

⁸⁹⁵ Ibid, Article 26

⁸⁹⁶ Law on Administrative Servants, Consolidated version:

https://www.mioa.gov.mk/sites/default/files/pbl_files/documents/legislation/zakon_za_administrativni_sluzhbenici_2021.pdf

⁸⁹⁷ Transparency International Macedonia. 2020. "Vulnerability to corruption assessment of the employment

procedure for employment. The head of the professional service is elected by a majority of members of the SEC.⁸⁹⁸

There are clear provisions regulating the termination of the mandate of the president, vice president and the members of SEC. The law protects from dismissal without justification. These justifications include: unprofessional discharge of their responsibilities⁸⁹⁹ or if sentenced with a final court decision to at least six months imprisonment.⁹⁰⁰

There is currently a provision which stipulates that, if there is a change of political parties in governance and in opposition, then this should be reflected in the composition of SEC members. However, to strengthen independence, this provision should be changed or removed. Also, the criteria for who can be a member of the SEC should be more detailed.

INDICATOR 7.1.3 INDEPENDENCE (PRACTICE)

To what extent does the electoral management body function independently in practice?

Score: 50/100

Attacks of political parties on the electoral process and the misuse of the appointment process for SEC members for party interests have damaged the independence of the SEC.

Opposition political parties and civil society have repeatedly raised concerns about the process for the election of SEC members by parliamentary parties. Even though balance is ensured between the ruling opposition party (see 7.1.4), public attacks by political parties and the election process show that there is a risk that parties could misuse the appointment for their own political interests. Often the political parties that lost the election publicly accuse the winning party of causing irregularities in the election process. For example, in the 2021 local election, the opposition party VMRO-DPMNE accused the SDSM led government of using state funds for vote buying. This damages the trust in the independence of the SEC and its members.⁹⁰¹

For example, the appointment of the current SEC president, Aleksandar Dashtevski (which was a proposal by the conservative opposition party VMRO- DPMNE) was criticised by SDSM because of his personal connections to the party. He was a former president of the commission for the prevention of discrimination proposed by VMRO-DPMNE and a party member.⁹⁰²

policies and procedures, with special focus on nepotism, cronyism and clientelism": <https://transparency.mk/wp-content/uploads/2021/07/proczenka-na-ranlivost-od-korupczi%D1%98a-vo-politikite-i-postapkite-zavrabotuva%D1%9Aee-so-poseben-fokus-na-nepotizam-kronizam-klientelizam-.pdf>

⁸⁹⁸ Electoral Code, consolidated version, Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21, Article 30: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

⁸⁹⁹ The SEC can submit a proposal to the Parliamentary Committee on Election and Appointment Affairs for dismissing a member due to unprofessional and unconscientious performance of their office with a two third majority vote from the total number of members.

⁹⁰⁰ Electoral Code, consolidated version, Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21, Article 28: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

⁹⁰¹ DW. 2021. "The opposition accuses for irregularities": <https://www.dw.com/mk/опозицијата-обвинува-за-нерегуларности-за-дик-гласањето-беше-фер-и-демократско/a-59680478> Accessed on 10 August 2023; Nova Makedonija. 2021. "VMRO-DPMNE accuses for irregularities, SDSM points out attempt for discrediting": <https://novamakedonija.com.mk/makedonija/politika/вмро-дпмне-обвинува-за-нерегуларност-2/>, Accessed on 10 August 2023

⁹⁰² 24 Vesti. 2021. "In favour and against Aleksandar Dashtevski for president of SEC": <https://24.mk/details/za-i-protiv-aleksandar-dashtevski-za-prestesedatel-na-dik>, accessed on 13 October 2022

The Venice Commission states that there needs to be more stability and defining of specific rules for the composition of electoral commissions so that the political party power cannot take advantage for their own purposes, which are not in the Macedonian electoral code.⁹⁰³

GOVERNANCE

INDICATOR 7.2.1 TRANSPARENCY (LAW)

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the EMB?

Score: 75/100

The electoral code contains comprehensive provisions regarding the transparency of SEC activities and publishing of information. The public can easily obtain information on the organisation and functioning of the SEC and the decisions that they adopt. However, there is no legal deadline for financial reports to be submitted.

According to the electoral code, the SEC has to inform citizens about the elections through a public call and by displaying posters in visible places.⁹⁰⁴ The work of the SEC - enabling a smooth voting process, educating of the voters and the members of the election commissions, updating of voting lists, preparing and safe storage of the materials, voting process, and so on – has to be public, and authorised representatives of those who submitted lists plus accredited observers have the right to be present during the work of the SEC.⁹⁰⁵

The SEC has to inform the public about voting procedures and how they can exercise their right to vote.⁹⁰⁶ Citizens can require information that is not publicly available on the website of the SEC through free access of information of in the public interest.⁹⁰⁷

Regarding political funding, the parties are obliged to have a separate account dedicated to resources for the electoral campaign. Parties need to submit reports for expenditures during electoral campaigns to the SEC, SAO, SCPC and to the Assembly within 30 days after the closing the account used for elections, and, for local elections, submitted to the municipal council and the council of the City of Skopje. The financial reports have to be published by the SEC, the SAO and SCPC on their websites; however, there is no legal deadline for this.⁹⁰⁸ The SEC has to publish the minutes from the session within 48 hours of their adoption.⁹⁰⁹ The SEC should publish the final results of the voting immediately and no later than 24 hours from the day they become final.⁹¹⁰

⁹⁰³ Venice Commission. 2020. "Compilation of Venice Commission opinion and reports concerning the stability of electoral law: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2020\)020-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2020)020-e), p.4

⁹⁰⁴ Electoral Code, consolidated version, Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21), Article 13: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

⁹⁰⁵ Ibid, Article 24

⁹⁰⁶ Ibid, Article 31

⁹⁰⁷ Law on Access to Information of Public Character: <https://aspi.mk/wp-content/uploads/2020/09/ЗАКОН-ЗА-СПИ-ПДФ.pdf>

⁹⁰⁸ Ibid, Article 85

⁹⁰⁹ Electoral Code, consolidated version, Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21), Article 43-b: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

⁹¹⁰ Ibid, Article 135 and 136

INDICATOR 7.2.2 TRANSPARENCY (PRACTICE)

To what extent are there provisions to ensure that the public can obtain relevant information on the activities and decision-making processes of the EMB?

Score: 75/100

The public is able to readily obtain relevant information on the organisation and functioning of the electoral management body on decisions that concern them and how these decisions were made. However, there is no information whether all the necessary reports are published in a timely manner.

The SEC publishes all the relevant information as regulated in the electoral code on its website.⁹¹¹ The SEC has published information about its work, including laws, by-laws, rulebooks, strategic plans and other internal documents that regulate the work of SEC. The website also contains information about the elections, their organisation and their conduct. Informative sessions, campaigns, publishing of informative material and other tools are also used for informing the public about the organisation and conduct of elections.⁹¹² The website also contains the electoral list for citizens to check whether they are included in the list.⁹¹³ If some information cannot be found on the website, the website lists the contact person responsible for information of public interest.⁹¹⁴

During the 2021 local election, the SEC held regular public sessions, which were live-streamed, and the recording was made available on the SEC's YouTube channel.⁹¹⁵ However, the OSCE election observation report still highlights transparency issues because the sessions were only announced via an official mailing list, often at very short notice, and some sessions were not publicly announced at all. The OSCE further notes that the decisions and information related to the functioning of SEC are not published in a timely manner, which can influence the transparency of the institution.⁹¹⁶

The SEC is currently developing a registry of acts⁹¹⁷ and an election portal⁹¹⁸, which will enable sharing of information and which will be open, transparent and easy for analysis by the media and others working in this field; however, there is no information on when this will be public.

INDICATOR 7.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions to ensure that the EMB has to report and be answerable for its actions?

Score: 50/100

The law contains general provisions on the accountability of the SEC but does not specify how the SEC is answerable to the Assembly for its actions.

The SEC has to submit a report to the Assembly on the administered elections within 45 days of the announcement of the final election results. However, there is no provision regulating the detail of the SEC reports submitted.⁹¹⁹ The SEC also does not have to submit a report on its regular activities.

⁹¹¹ Ibid

⁹¹² SEC, Education (Online courses), <https://education.sec.mk/>

⁹¹³ SEC, Voting registry: <https://izbirackispisok.gov.mk/>

⁹¹⁴ SEC, Contacts: <https://www.sec.mk/kontakti/>

⁹¹⁵ Video recording of SEC's sessions: <https://www.sec.mk/#av-tab-section-1-4-link>

⁹¹⁶ ODIHR Election Observation Mission. 2022. Final Report Local elections, 17 and 31 October 2021, p.11: <https://www.osce.org/files/f/documents/9/3/514666.pdf>, p.2

⁹¹⁷ SEC. 2022. Workshop for preparation of e-registry for acts: <https://www.sec.mk/rabotilnica-za-izgotuvanje-na-elektronski-registar-na-akti/>

⁹¹⁸ SEC. 2022. Preparation for establishing portal for elections: <https://www.sec.mk/portal-za-izbori/>

⁹¹⁹ Electoral Code, consolidated version, Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21), Article 31 (25): https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

The SEC is obliged to submit the electoral lists to the political parties and candidates within five days of the conclusion of the public inspection. The parties can request additions, modifications or deletions of data in the voting registry.⁹²⁰

Political parties and candidates as well as citizens have the right to submit complaints on the electoral process and election campaigns to the SEC.⁹²¹ These provisions also ensure that citizens can file a complaint if there are discrepancies within the voting registry. The SEC has to issue a decision on the complaints within 72 hours. The SEC's decisions can be appealed before the administrative court.⁹²²

The SEC is subject to audit control in accordance with the Law on State Audit and the annual working programme of the State Audit Office.⁹²³

Staff of SEC is accountable in accordance with the Law on Administrative Servants. The general secretary is accountable to the members of the commission.⁹²⁴

INDICATOR 7.2.4 ACCOUNTABILITY (PRACTICE)

To what extent does the EMB have to report and be answerable for its actions in practice?

Score: 50/100

While the SEC has to be answerable via reports on elections and regular audits, there are no reports available on its regular work. Complaints to the SEC can be submitted by political parties and citizens but the 2021 local elections showed multiple shortcomings in how complaints were handled.

The SEC prepares reports on the conduct of the elections which are detailed and extensive and are available on the SEC's website.⁹²⁵ However there are no annual reports available on its regular work, because this is not required by law (see 7.2.4).

The latest financial and compliance report for the work of SEC in 2019⁹²⁶ was published by the SAO in July 2021. The audit report notes inconsistencies in the application of legal acts.⁹²⁷ Although the SAO found various irregularities including irregularities in public procurement procedures, disbursement of finances, inventory and other irregularities in the work of SEC, no decisions on the accountability of SEC are available.⁹²⁸

The Office for Democratic Institutions and Human Rights (OIDHR) report for the 2021 local elections⁹²⁹ noted multiple shortcomings in the handling of complaints at the SEC along with the inconsistent application of

⁹²⁰ Ibid, Articles 49 and 49-a

⁹²¹ Ibid, Article 69a

⁹²² Ibid, Article 48 (5)

⁹²³ Law on State Audit, Article 22 and 23: https://dzh.mk/sites/default/files/2021-07/Zakon_drzavna_revizija_21_final_MKD_p.pdf

⁹²⁴ Rulebook of SEC: <https://drive.google.com/file/d/0B8ZpCwro9h-zUE0wZ3JPa2Zta2M/view?resourcekey=0-ZSCcSiKVClvx3n7-GY9CA, Article 26>

⁹²⁵ SEC. 2021. Section dedicated to the local elections held in 2021: <https://www.sec.mk/izbori-2021/#av-tab-section-1-1-link>

⁹²⁶ SAO report on SEC: https://dzh.mk/sites/default/files/2021-07/07_RR_Drzavna_izborna_komisija_DIK_2019_KOMPLET.pdf, Accessed on 29 August 2022

⁹²⁷ The SAO recommend that the person responsible for the internal audit should undertake measures and activities for its proper function in accordance with the rulebooks for systematisation and organisation of the working places in SEC. There have also been irregularities with the conduct of the inventory and payments to Municipal electoral committees where finances are disbursed based on incomplete financial reports and documentation. The disbursement of finances without complete documentation as foreseen in the laws is considered as unlawful. Irregularities in the public procurement procedures have been noted too.

⁹²⁸ SAO report on SEC: https://dzh.mk/sites/default/files/2021-07/07_RR_Drzavna_izborna_komisija_DIK_2019_KOMPLET.pdf, Accessed on 29 August 2022

⁹²⁹ In the latest report published on the local elections in 2021: <https://www.sec.mk/izbori-2021/#av-tab-section-1-1-link>, there is section with information on the received complaints. There were 21 complaints covering the protection of personal voting rights of which 17 were accepted and 4 rejected; 30 complaints were submitted by candidates and participants in the elections, 5 were accepted, 10 were rejected

admissibility requirements and failure to publish decisions. Also the administrative court held the appeals without a public hearing, despite the legal obligation to do so.⁹³⁰

The SEC regularly issues accreditations for interested parties to monitor the elections. The SEC uses various public relations tools to establish contact with all the relevant parties and inform them of the electoral processes.⁹³¹

INDICATOR 7.2.5 INTEGRITY (LAW)

To what extent are there mechanisms to ensure the integrity of the electoral management body?

Score: 75/100

While a number of laws exist to ensure the integrity of the members of the SEC, provisions on sanctions for breaching the code of ethics are non-specific.

In its mission and vision,⁹³² the SEC states that it is a professional and independent institution, governed in its operations in accordance with the constitution, laws and generally accepted international standards, conventions and good practices in elections.⁹³³ The SEC also has its own policy of quality⁹³⁴ and principles of work.⁹³⁵

The professional conduct of the SEC is regulated in the electoral code, Law on the Prevention of Corruption and Conflict of Interest and the ethical code for administrative servants. SEC members have to submit a declaration of assets and interests to the SCPC no later than 30 days after their appointment.⁹³⁶ SEC members further have to follow the SCPC's guide for the acceptance of gifts and hospitality in the public sector.⁹³⁷ The ethical code covers the ethical principles and the working behaviour of the professional services of the SEC.⁹³⁸ However, the ethical code contains only mild measures for the breaching of the code, having only issuance of verbal and written notices for any detected breach.

Post-employment restrictions are regulated by the Law on the Prevention of Corruption and Conflict of Interest, as well as the principle of political non-partisanship. The law foresees restrictions in doing business up to three years after the termination of the function. It includes restricting employment, acquiring stocks or shares, advocating for international or other organisations, representing a legal or a natural person or performing management or auditing activities within the legal entity in which the public competences were exercised.⁹³⁹

The integrity of the electoral process is ensured in the electoral code⁹⁴⁰, the codes for fair⁹⁴¹ and democratic elections and other documents developed by SEC.

and 15 were withdrawn. Two appeals were submitted to the administrative court against the decisions of SEC. The court decided positively upon the two appeals. In the second round 163 complaints were submitted regarding the protection of personal voting rights, from which 110 were accepted and 53 were rejected. From the candidates, 23 complaints were submitted of which 1 was accepted, 14 were rejected and 8 were withdrawn, two appeals were submitted to the administrative court and were rejected.

⁹³⁰ ODIHR Election Observation Mission. 2022. Final Report, Local elections, 17 and 31 October 2021, p.11:

<https://www.osce.org/files/f/documents/9/3/514666.pdf>, p.4

⁹³¹ SEC. 2021. Section dedicated to the local elections held in 2021: <https://www.sec.mk/izbori-2021/#av-tab-section-1-1-link>

⁹³² Mission of SEC: <https://www.sec.mk/misija-drzavna-izborna-komisija/>

⁹³³ Ibid

⁹³⁴ Policy of quality: <https://www.sec.mk/politika-za-kvalitet/>

⁹³⁵ Work principles: <https://www.sec.mk/principi-na-rabota-na-dik/>

⁹³⁶ Law on the Prevention of Corruption and Conflict of Interest, published in the Official Gazette of Macedonia numbers 12, 19 January 2019, Article 82

⁹³⁷ Rulebook for Handing Gifts and Hospitality in the Public Sector. 2022. <https://dksk.mk/wp-content/uploads/2022/03/Упатство-запостапување-со-подароци-погодности-и-гостопримства-во-јавниот-сектор.pdf>, Accessed on 29 August 2022

⁹³⁸ Ethical code for administrative servants, published in the Official Gazette of Macedonia number 183, 12 December 2014, Article 1

⁹³⁹ Law on the Prevention of Corruption and Conflict of Interest, published in the Official Gazette of Macedonia numbers 12, 19 January 2019, Article 47

⁹⁴⁰ Electoral Code, consolidated version, Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21), Article 26: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

⁹⁴¹ From the day of adoption of the decision for the announcement of the elections until the completion of the elections, the political parties, participants in the elections sign the code for fair and democratic elections.

There is no legal obligation for the staff to sign a contract, declaration or swear an oath to uphold the guiding principles of independence and integrity.

In 2021, the SCPC developed an integrity policy⁹⁴² that should be applied by all state institutions, including the SEC. The SEC developed its own policy of integrity⁹⁴³ in June 2023. It also developed a code of ethics for the members of the SEC⁹⁴⁴ and a code of ethics for the electoral administration.⁹⁴⁵

INDICATOR 7.2.6 INTEGRITY (PRACTICE)

To what extent is the integrity of the electoral management body ensured in practice?

Score: 25/100

The highly politicised composition of the SEC may be a risk for the implementation of the integrity rules by the SEC itself. In practice, there is an absence of actions applied by the SEC that would ensure the integrity of its members. The only body that conducts an integrity check for SEC members is the SCPC.

Existing codes of conduct for public administration employees are not implemented in the SEC. There are no special gift and hospitality regulations, post-employment restrictions, conflict of interest policies, integrity bodies, and so on to ensure ethical behaviour by SEC staff.

However, SEC commissioners are obliged to respect the requirements based on the Law for the Prevention of Corruption and Conflict of Interest (LPCCI). In practice, SEC staff are not obliged to sign a contract, declaration or swear an oath to uphold the guiding principles of independence, impartiality, integrity, transparency, efficiency, professionalism and service in conducting their duties.

The SEC has signed the policy of integrity developed by the SCPC that should be implemented soon. It is expected that this policy will strengthen the integrity of the institution in practice.

There are no actions taken for staff misbehaviour, or their suspension or dismissal, by the SEC.⁹⁴⁶ However, based on a journalistic investigative story, the SCPC has opened a case⁹⁴⁷ (based on Article 96 of the LPCCI) against the current president of the SEC, Aleksandar Dashtevski, to establish the facts about the purchase of a house for his mother-in-law. Allegedly, the official value of the house stated in the notarial deeds is at least half the market price of similar properties in Elani.⁹⁴⁸ In addition, in June 2023, the SCPC referred a case to the public prosecutor's office against Dasthevski and a few others from the SEC for alleged insufficient procurement procedures for voting equipment to identify fingerprints.⁹⁴⁹

The SEC has not made any effort to expose or sanction breaches, irregular or corrupt practices in its staff, and there is no case of a hearing or investigation process in this regard and no precedents of staff suspension or dismissals.

⁹⁴² SCPC webpage section on Integrity: <https://dksk.mk/mk/integrity/>

⁹⁴³ SEC. 2023. Policy of Integrity: https://drive.google.com/file/d/1s1_ijYmgH6doqO0Dx-KGLCp0A1shzZm8/view

⁹⁴⁴ SEC. 2023. Code of Ethics for the members of SEC: <https://drive.google.com/file/d/1UFFw752eCPuUiINxAmnzj1AEXRtNpEJ3/view>

⁹⁴⁵ Code of Ethics for the Electoral Administration: <https://drive.google.com/file/d/1rMsTf8wdphLeB-DsOQxUaiEVdl6PU7Vx/view>

⁹⁴⁶ Interview conducted on 22 December with Ljupka Gugucevska, Head of the training centre at the SEC

⁹⁴⁷ 360 Stepeni. 2023. "SCPC opens a case for the house of the mother in law of Dashtevski on Halkidiki":

<https://360stepeni.mk/antikorruptsiska-otvora-predmet-za-kukata-na-teshtata-na-dashtevski-na-halkidiki/>, Accessed on 16 August 2023

⁹⁴⁸ 360. Stepeni 2023. "Dashtevski authorised by his retired mother in law to finalise the purchase of a house on Khalkidiki, Greece":

<https://360stepeni.mk/video-teshtata-kupila-kuka-vo-halkidiki-za-koja-zetot-dashtevski-dobil-polnomoshtvo/>

⁹⁴⁹ Alsat TV. 2023. "SCPC demands criminal prosecution of Dashtevski and other persons from the SEC for the procurement of the 'fingerprint'": <https://alsat.mk/mk/dksk-bara-krivichen-progon-na-dashtevski-i-drugi-litsa-od-dik-za-nabavkata-na-fingerprintot/>, Accessed on 16 August 2023

ROLE

INDICATOR 7.3.1 CAMPAIGN REGULATION

Does the electoral management body effectively regulate candidate and political party finance?

Score: 50/100

While the SEC does seek to regulate candidate and political finance, its approach is largely reactive and its success is limited due to limited competencies and failures in implementing existing provisions. The regulation is divided between the SEC, the SCPC and the SAO, but due to a slow exchange of information for the detection of irregularities, there is a lack of proper sanctioning of any irregularities detected in the financing of political parties and electoral campaigns.

The SEC is responsible for controlling the legality of the work of the central and local election bodies and undertake measures in cases of determined legal violations in the preparation, procedure for candidacy, administration of elections and the determining of election results.⁹⁵⁰

Political parties and candidates have to regularly submit financial reports to the SEC, SAO and SCPC. The SAO is responsible for auditing the financial reports and can initiate a procedure if irregularities are detected.⁹⁵¹ The same is applicable for the media financial reports.⁹⁵² The SPSC is responsible for monitoring the legality of the financing of political parties and electoral campaigns, while the SEC only is responsible for publishing the financial reports of the political parties (see 11.2.3).

Even though the cooperation between these three institutions has been strengthened through the signing of a memorandum for cooperation in 2019, some coordination issues remain. This includes issues on the exchange of information for the detection and sanctioning of irregularities during the conduct of elections and imposing sanctions.

On 28 June 2023, the SAO published final audit reports for four political parties.⁹⁵³ A lack of transparency related to party funding is one of the main findings of the SAO, including the expressed reservation about the lack of reliability and objectivity of the parties' financial reports.

An ongoing problem for the SEC's success in this regard remains the non-submission of reports and a lack of transparency from the political parties (see 11.2.4). The ODIHR report from the 2020 parliamentary elections showed reduced transparency due to the inconsistent publication by the SEC of reports from participants in the election process, and the non-publication of third-party reports.⁹⁵⁴

⁹⁵⁰ Electoral Code, consolidated version, Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21), Article 31: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

⁹⁵¹ Ibid, Article 84-b and Article 85

⁹⁵² Ibid, Article 85-a and Article 85-b

⁹⁵³ Biznis Vesti. 2023. "SAO publish the audits reports for SDSM, DUI and Alternative": <https://www.biznisvesti.mk/dzr-gi-objavi-revizorski-izveshtai-za-sdsdsm-vmro-dpmne-dui-i-alternativa/>, Accessed on 16 August 2023

Links to all reports: https://dzr.mk/sites/default/files/2023-06/10_Politicka_partija_SDSM_Smetka_redovno_rabotenje_KOMPLET_2022.pdf https://dzr.mk/sites/default/files/2023-06/11_Politicka_partija_VMRO_DPMNE_Smetka_redovno_rabotenje_MKD_2022.pdf

https://dzr.mk/sites/default/files/2023-06/12_Politicka_partija_DUI_Smetka_redovno_rabotenje_2022.pdf

https://dzr.mk/sites/default/files/2023-06/13_Politicka_partija_Alternativa_Smetka_redovno_rabotenje_2022.pdf

⁹⁵⁴ ODIHR. 2020. ODIHR Special Election Assessment Mission Final Report: Early parliamentarian elections held on 15 July 2020, Section IX: https://www.osce.org/files/f/documents/b/e/465648_0.pdf

Political parties and independent candidates have the right to access the media coverage of their campaigns.⁹⁵⁵ Media planning to broadcast political campaigns have to register at the SEC and submit the price lists for their services.⁹⁵⁶ The SEC can then reimburse campaign expenses directly to the media.⁹⁵⁷ Online campaigning is regulated in detail in the electoral code;⁹⁵⁸ however, campaigns on social media are still a grey zone.⁹⁵⁹ For example, online media that cover the election process are obliged to do so in a fair, balanced way and have to provide equal access to paid political advertising to all participants in the election process.⁹⁶⁰

INDICATOR 7.3.2 ELECTION ADMINISTRATION

Does the EMB ensure the integrity of the electoral process?

Score: 50/100

The SEC is active in ensuring free and fair elections. However, its success is slightly limited due to ongoing problems with securing the electoral material and integrity of vote counting.

The SEC has to ensure the right to vote for all eligible voters (Macedonians who are at least 18 years old).⁹⁶¹ The voters' list is published in advance of the elections, and citizens have the right to check and to ask for corrections. In addition, the electoral code extensively provides the SEC with competences and procedures regarding the electoral materials, ballots, security measures and checking the people who have voted.⁹⁶² For example, for the 2021 local elections, the SEC developed a rulebook for securing, maintaining, handling and distributing election material.⁹⁶³

A citizen may request to inspect the voter register in the regional offices of the SEC, DCOs or consular offices and on the SEC website throughout the year.⁹⁶⁴ However, there are still concerns about the accuracy of the voter lists. In the 2021 local elections, there were 1,814,263 citizens on the voters list, which is considered a high number in comparison to the total number of residents (1,836,713).⁹⁶⁵

The integrity of the electoral processes was brought into question for the early parliamentary elections on 15 July 2020. Technical issues disrupted the reporting of voter turnout data on election day, forcing officials to use phone calls and text messages to collect information. After polling stations closed, the web application showing preliminary results also faced disruptions. These issues were widely covered in the media. The SEC president indicated that a cyber-attack was responsible for affecting the publication of results, although it did not impact the actual counting and tabulation of votes.⁹⁶⁶

⁹⁵⁵ Electoral Code, consolidated version, Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21), Article 70: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

⁹⁵⁶ Ibid, Article 75-f

⁹⁵⁷ Ibid, Article 76-d

⁹⁵⁸ Ibid, Articles 75-77

⁹⁵⁹ In the interview conducted with Ms. Gugucevska

⁹⁶⁰ Electoral Code, Article 75-77

⁹⁶¹ Article 6 of this code

⁹⁶² Electoral Code, consolidated version, Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21), Article 31: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

⁹⁶³ SEC. 2021. Rulebook for securing, maintenance, handling and distribution of election material: <https://drive.google.com/file/d/1RFIfNHsPxlskpGjvd2mtGgHL7dx5gRTx/view>

⁹⁶⁴ The SEC website has a section where any citizen can check if they are on the voting list: <https://izbirackispisok.gov.mk/> Other sections provide online training for the voter, as well other categories involved in the electoral process: <https://education.sec.mk/>. Law No. No. 10-2091/2 Electoral code, Article 48, <https://ldbis.pravda.gov.mk/PregledNaZakon.aspx?id=9108>

⁹⁶⁵ ODIHR Election Observation Mission. 2022. Final Report, Local elections, 17 and 31 October 2021, p.11: <https://www.osce.org/files/f/documents/9/3/514666.pdf>

⁹⁶⁶ ODIHR Special Election Assessment Mission Final Report on the early parliamentarian election held on 15 July 2022: https://www.osce.org/files/f/documents/b/e/465648_0.pdf, Accessed on: 29 August 2022

In accordance with the electoral code, political parties and observers are allowed to observe all stages of the electoral process, from polling to counting and result aggregation.⁹⁶⁷ For example, in the 2019 local elections, the SEC accredited seven citizen organisations with 1,210 observers, 2 international organisations and 19 diplomatic and foreign delegations.⁹⁶⁸

The electoral code also regulates the participation of the independent candidates in elections. The precondition for participation in elections is to collect a certain number of signatures from citizens and to submit a list for participation.⁹⁶⁹ The practice showed that this number is very high and it is not possible to collect the signatures within the prescribed procedure that requires the signatories to present themselves to the office where they vote, to present identification and to be registered as a supporter to an independent candidate. The citizen and interested candidates found that process intimidating and complicated.⁹⁷⁰ Moreover, it is not possible to collect the signatures without the support of a political party. In the latest elections for the mayor of Skopje, the independent candidate, Danel Arsovsk, won the elections after she was supported by VMRO-DPMNE.⁹⁷¹

INDICATOR 7.3.3 GENDER

To what extent does the electoral body promote the political participation of women?

Score: 75/100

Legal provisions exist and are followed in practice. However, women were under-represented in the latest local elections.

The legal framework ensures that women have the right to vote and run for election. There are also provisions to ensure gender representation in election.⁹⁷² On each list, at least one candidate of each gender must be placed in every third place on the list, with an additional candidate of the lesser represented gender in every tenth place (40 per cent of the candidates have to be women).

⁹⁶⁷ Electoral Code, consolidated version, Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21), Article 24: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

⁹⁶⁸ ODIHR Election Observation Mission. 2022. Final Report, Local elections, 17 and 31 October 2021, p.4: <https://www.osce.org/files/f/documents/9/3/514666.pdf>

⁹⁶⁹ Electoral Code, consolidated version, Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21), Article 62: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view: "In cases when submitter of a list of candidates for member of council, i.e., candidate list for a mayor, is a group of voters, it shall be required to collect: in a municipality that has no more than 10,000 inhabitants, at least 100 signatures of the registered voters in the excerpt of the Voters List of the municipality; in a municipality that has between 10,001 and 30,000 inhabitants, at least 150 signatures of the registered voters in the excerpt of the voters list of the municipality; in a municipality that has between 30,001 and 50,000 inhabitants, at least 250 signatures of the registered voters in the excerpt of the voters list of the municipality; in a municipality that has between 50,001 and 100,000 inhabitants, at least 350 signatures of the registered voters in the excerpt of the voters list of the municipality; in a municipality with more than 100,001 inhabitants at least 450 signatures of the registered voters in the excerpt of the voters list of the municipality; and in the City of Skopje at least 1,000 signatures of the registered voters in the excerpt of the voters list for the area of the City of Skopje."

⁹⁷⁰ 360 Stepeni, "SCPC: The increasing of the threshold for the independent candidates is a political corruption", <https://360stepeni.mk/antikoruptsiska-krevaneto-na-pragot-za-nezavisnite-kandidati-za-lokalnite-izbori-e-politichka-koruptsija/>; 360 Stepeni.2021. "The increasing of the threshold for independent candidates is a characteristic of a regime country, accuse Zelen human grad", <https://360stepeni.mk/podignuvane-na-pragot-za-nezavisni-listi-e-odlika-na-rezhimski-zemji-reagiraat-od-zelen-human-grad/>, Accessed on 9 August 2023

⁹⁷¹ SDK. 2021. "Danel Arsovsk announced victory in City of Skopje", <https://sdk.mk/index.php/dopisna-mreza/danel-aarsovsk-a-proglasili-pobeda-vo-grad-skopje/>, Accessed on 9 August 2023

⁹⁷² Electoral Code, consolidated version, Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21), Article 64 (5): https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

The SEC has prepared and adopted an action plan for strengthening gender sensitivity at the SEC for the period from 2021 to 2024.⁹⁷³

In the 2020 parliamentary elections, a total of 12 political parties and 3 coalitions fielded 1,598 candidates on 78 lists. These included 675 women candidates (42 per cent), and women headed 19 of 78 lists.⁹⁷⁴ The ODIHR report for the 2021 local elections notes that women were under-represented in the electoral process. The composition of election management bodies generally complied with the legal requirements for gender and ethnic representation, but only two of the seven SEC members are women. Women comprised some 45 per cent of all councillor candidates, in line with legal requirements for gender representation, and headed 111 lists, but only 8 per cent of mayoral candidates were women.⁹⁷⁵

While women were well-represented in lower-level election bodies, accounting for 49 per cent of Municipal Election Commissions (MECs) and the Election Commission of the City of Skopje (ECCS) members and presiding over 39 mid-level commissions, only 2 of the 7 SEC members, including the vice president, are women, which falls short of the required quota. The SEC did not publish gender-disaggregated data on the composition of electoral bodies. In the first-round on election day, women presided over 55 per cent of the electoral bodies in the polling stations visited by ODIHR observers.⁹⁷⁶

INTERACTIONS

To secure transparency and integrity in the electoral process, the SEC needs to have good communication and cooperation with the SCPC and SAO. This cooperation is foreseen within the electoral code,⁹⁷⁷ and before each electoral cycle in recent years, they sign a memorandum of cooperation to secure a good exchange of information and cooperation in detecting irregularities in the electoral process.⁹⁷⁸ This cooperation is of great importance and should result in securing an electoral process without irregularities and eliminating the risks of corruption. Their cooperation has had a very positive impact in the anti-corruption work of this pillar. However, this cooperation needs further strengthening to be effective in practice by detecting and sanctioning irregularities. The SEC regularly submits necessary information on the financing of the campaigns to the SCPC that summarises all the data in a consolidated report for each election.⁹⁷⁹

The SEC also interacts with the political parties as direct participants in the electoral process and with the media. Before elections, political parties sign a codex for fair elections between the political parties to ensure fair and democratic elections.⁹⁸⁰ This should ensure the integrity of the electoral process which is monitored by SEC. The political parties and media also submit financial reports to the SEC, SCPC and SAO (see 7.3.1).

⁹⁷³ SEC. 2021. Action plan for enhancing of the gender sensitivity at SEC: https://drive.google.com/file/d/16EGLPg8bJzPnu0_0piYam7Cue0pj2Yws/view

⁹⁷⁴ ODIHR Special Election Assessment Mission. 2020. Final Report: Early Parliamentary Elections, 15 July 2020, p.2: https://www.osce.org/files/f/documents/b/e/465648_2.pdf

⁹⁷⁵ ODIHR Election Observation Mission. 2022. Final Report, Local elections, 17 and 31 October 2021, p.3: <https://www.osce.org/files/f/documents/9/3/514666.pdf>

⁹⁷⁶ Ibid, p.9

⁹⁷⁷ Electoral Code, consolidated version, Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 and 215/21), Article 85-b: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

⁹⁷⁸ Ibid, 85 (9)

⁹⁷⁹ SCPC. 2022. Special report on the determined state of the financing of electoral campaign for the local elections for election of a mayors of the Municipalities of Mavrovo and Rostuse and Centar Zupa and Council of Tetovo held on 20 August 2022: <https://dksk.mk/wp-content/uploads/2022/12/Посебен-извештај-за-утврдените-состојби-за-изборната-кампања-Локални-....pdf>

⁹⁸⁰ TV 24. 2021. "Political parties sign code for fair and democratic elections", <https://24.mk/details/politichkite-partii-potpishaa-kodeks-za-fer-i-demokratski-izbori>, Accessed on 16 August 2023

The SEC is accountable to the Assembly via reports on the election process (see 7.2.3 & 7.2.4). The Assembly is also responsible for the election of SEC members, which has raised concerns about political influence in the election process (see 7.1.2 & 7.1.3).

PILLAR RECOMMENDATIONS

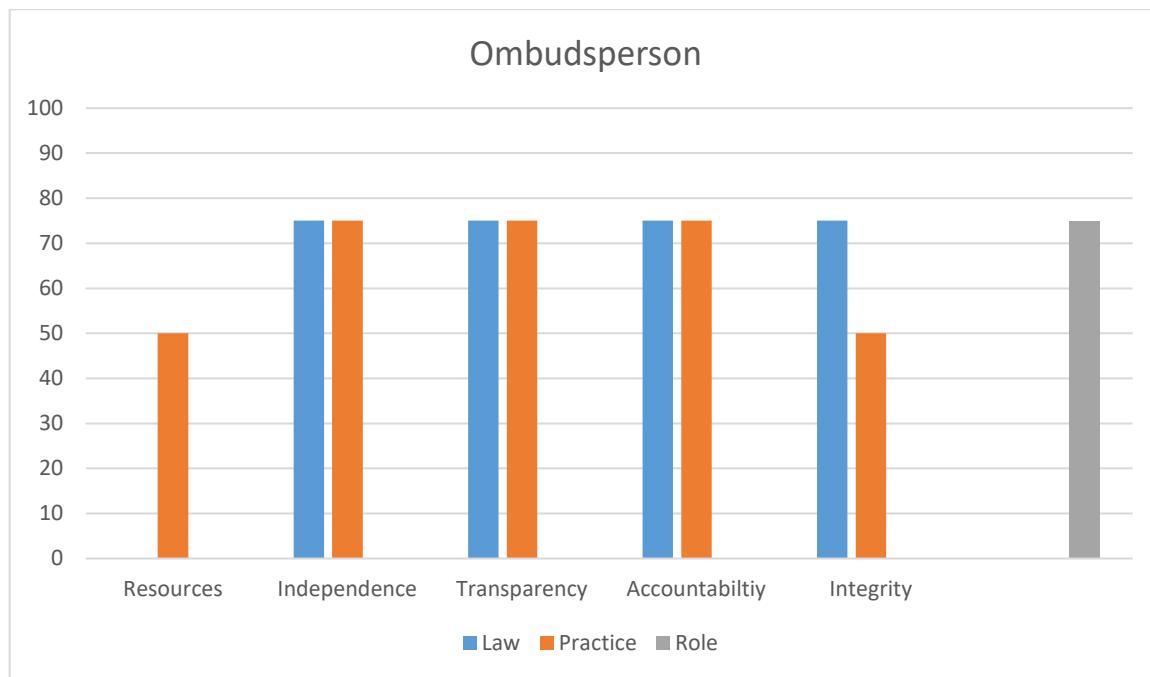
- The government needs to increase the budget of the SEC to enable it to carry out its regular activities in non-election years properly.
- The SEC needs to conduct a functional analysis of staff and skill needs for the functioning of the SEC.
- The SEC should publish an annual report, with details on financial and human resources as well as a comprehensive overview of its activities and statistics on previous elections as well as complaints received.
- The SEC and SCPC need to ensure the proper implementation of the SEC's integrity plan.
- The SEC needs to amend the existing code of ethics for the SEC's members and the electoral administration with specific reprimand provisions in the case of established unethical behaviour of staff and members of the central and local electoral bodies.
- The SEC needs to make sure technical issues on vote counting get fixed before the next election and ensure they do not recur.
- The Assembly needs to amend the electoral code to reduce the number of signatures from 10,000 to 5,000 signatures for independent candidates for president of the country; and the number of signatures from 1,000 to 500 to submit to the list of independent candidates for members of the parliament; and decrease by 50 per cent the necessary signatures for independent candidates for mayors to enable more independent candidates to meet the threshold.

8. OMBUDSPERSON

SUMMARY



Indicators scores: law and practice



The Ombudsperson's office is an independent national institution with the authority to protect the human rights and freedoms of individuals or groups of citizens when these are violated by the state. Its competencies do not apply to the private sector or the judiciary, except in cases of an unjustified delay in court proceedings or irresponsible court services. The ombudsperson has no legislative, executive or judicial powers, and is neither a prosecuting organ nor inspection authority. It is an oversight mechanism that intervenes with proposals, suggestions, recommendations and the like. Its role is ethical and moral in terms of respect and exercise of human rights and freedoms. Therefore, the ombuds' actions are aimed primarily at promoting and improving the efficient and effective performance of public administration as a service to citizens to exercise their right and as an educational and advisory role in access and communication with citizens.⁹⁸¹

⁹⁸¹ European Network of National Human Rights Institutions, Members:<https://ennhri.org/our-members/north-macedonia/>

The Ombudsperson's budget does not cover the scope of work, especially resources for building the capacities of the institutional and human resources. Specifically, there is a lack of resources for sub-programmes such as the national preventive mechanism for torture, and a lack of integrity and whistleblowing training.

The legal framework secures the independence of the ombudsperson. However, the selection and appointment procedure lacks transparency, which could be misused to limit the independence of the office. The inclusion of the public in election of the ombudsperson, as with the election of the State Commission for the Prevention of Corruption, can strengthen both the independence and the role of the ombudsperson. Also, the possibility of re-appointment is not the preferred option according to the Venice Commission.

The website of the ombudsperson contains useful information and links related to the work of the institution. However, information is not always published timely and sometimes lacks details, such as the reporting of regular activities or special reports on discrimination.

The Ombudsperson is accountable to the Assembly via an annual report, but this report is often not reviewed on time, perhaps due to the lack of a legal deadline. The institution currently does not have its own codes of conduct, ethics or political integrity.

The Ombudsperson is very active in providing recommendations to the government and other institutions, but these are often not implemented, which limits the ombudsperson's effectiveness. Also, even though the ombudsperson deals with complaints from the public effectively, the complaints procedure and assessment tools of the ombudsperson lack gender-sensitive mechanisms and they might not be accessible enough for the wider public because of a lack of visibility of the ombudsperson.

CAPACITY

INDICATOR 8.1.1 RESOURCES (PRACTICE)

To what extent does an ombudsperson or its equivalent have adequate resources to achieve its goals in practice?

Score: 50/100

The Ombudsperson's office suffers significant human and financial resource gaps, which leads to delays in the implementation of the working programmes and staff training.

The Ombudsperson is financed by the state budget. From 2020 to 2023, there was a slight increase in the budget dedicated to the different programmes within the Ombudsperson's office (see Table 8.1). However, the budget in 2022 was slightly lower than in 2020. In 2021, the budget was larger than the other years because of the amount of donations (projects) was higher.

Table 8.1: Annual budget of the Ombudsperson Office, 2020-2023⁹⁸²

Year	Budget in EUR	Budget in MKD
2022	1,308,833	80,755,000
2021	1,259,935	77,738,000
2020	1,339,498	82,647,000
2019	1,398,590	86,293,000

⁹⁸² Annual report on the work of the ombudsperson: https://ombudsman.mk/Почетна/Годишни_извештаи.aspx

The biggest portion of the budget is dedicated to salaries, and there is a lack of resources for investment in equipment, field work and continuous professional development. According to the ombudsperson, the current resources are insufficient to properly fulfil its roles, and there is no budget for the education and professional development of staff.⁹⁸³ For example, the listed employee training was supported by international donors.⁹⁸⁴ In addition, international donors, such as the UNHCR, supported the improvement of the system of legal aid related to asylum and naturalisation. However, they only have one staff member working on international cooperation, which limits the institution's ability to receive more funds.⁹⁸⁵

Table 8.1: Staff needs of the ombudsperson's office, 2020-2023

Year	Number of planned staff positions	Number of unfulfilled staff positions	% of unfulfilled position
2022	183	83	45.4
2021	183	85	46.5
2020	155	86	55.5
2019	155	90	58

There is also a lack of staff, as in 2022, where less than half (only 83 of 183) planned staff positions were filled. There is a strong need for qualified and competent staff to implement the sub-programmes, such as the national preventive mechanism for torture.⁹⁸⁶ In 2019, two more programmes were approved with sufficient budget, but not used due to late staffing.⁹⁸⁷

INDICATOR 8.1.2 INDEPENDENCE (LAW)

To what extent is the ombudsperson independent by law?

Score: 75/100

There are quite comprehensive laws to ensure the independence of the ombudsperson. However, loopholes exist in the election procedure, the possibility of re-appointment and the lack of an obligation for judicial reviews.

The ombudsperson's independence is ensured in the constitution⁹⁸⁸ and is additionally regulated with the Law on the Ombudsperson.⁹⁸⁹

The ombudsperson and supporting staff have to be selected based on professional criteria.⁹⁹⁰ The Assembly has to elect and appoint the ombudsperson with a majority of votes.⁹⁹¹ However, the election procedure can be improved by introducing open sessions for the introduction of candidates. Civil society organisations (CSOs) and other relevant stakeholders, such as legal practitioners, media, representatives from state institutions, and so on, can participate in these sessions and have the possibility to pose questions to candidates for ombudsperson. This

⁹⁸³ Interview conducted with the ombudsperson, Mr. Naser Ziberi on 26 January 2023

⁹⁸⁴ Annual report on the work of the ombudsperson for 2021, page 151:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Godisni%20izvestai/GI-2021/GI%20-2021.pdf>

⁹⁸⁵ Interview conducted with the ombudsperson, Mr. Naser Ziberi on 26 January 2023

⁹⁸⁶ National Preventive mechanism Article 31 https://ombudsman.mk/Почетна/НПМ/ЗА_HAC/Надлежност.aspx

⁹⁸⁷ Annual report on the work of the ombudsperson for 2019, page 175:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Godisni%20izvestai/GI-2019/GI-2019.pdf>

⁹⁸⁸ Constitution of Republic of North Macedonia: <https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>

⁹⁸⁹ Law on the Ombudsperson, Consolidated version:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Zakon%20na%20NP/Preisten%20tekst%20na%20Zakon%20za%20NP-29.03.2018.pdf>

⁹⁹⁰ Ibid, Article 6

⁹⁹¹ Ibid, Article 5

secures transparency of the election and appointment. The ombudsperson has a term of eight years and has a right to be reappointed.⁹⁹² However, the Venice Commission does not recommend re-election.⁹⁹³

According to the ombudsperson, the salary is in line with the salaries of the other high-profile officials; however this is only regarding the basic salary since the ombudsperson does not receive additional reimbursement.⁹⁹⁴

The ombudsperson can employ and remove staff within the professional service in accordance with the legal provision regulating the status of administrative servants.⁹⁹⁵ There are existing legal provisions which restrict the removal of the ombudsperson without relevant justification⁹⁹⁶ and ensure that the ombudsperson is not prosecuted criminally for acts performed under the law.⁹⁹⁷

The ombudsperson's activities are not subject to judicial review.

The Law on the Ombudsperson forbids political engagement and is incompatible with other public functions, professions and functions in a political party.⁹⁹⁸ The Law on the Prevention of Corruption and Conflict of Interest also forbids political engagement and states the incompatibility with other public functions for the appointed persons.

INDICATOR 8.1.3 INDEPENDENCE (PRACTICE)

To what extent is the ombudsperson independent in practice?

Score: 75/100

The ombudsperson operates freely from any interference by other actors, particularly the executive and the ruling party, and is not engaged in any political or other activities which may compromise the independence or political neutrality of the office. However, the media and CSOs were critical of the appointment of the ombudsperson, with allegations that the political influence.

Overall, there is an enabling environment for the ombudsperson to work independently in a professional and non-partisan manner. However, in 2020 the media and CSOs criticised the appointment of the current ombudsperson because he was the prime ministerial candidate for the Democratic Union for Integration (DUI) in the previous parliamentary election. In addition, CSOs cited insufficient transparency when the call for an election on the ombudsperson was published only in the Official Gazette and three media outlets.⁹⁹⁹ This raised concerns about the conduct of the newly appointed ombudsperson's work because he is closely connected with one political party in government.¹⁰⁰⁰

There are, however, no known examples of the ombudsperson's political engagement or of conducting other activities prohibited by law or holding positions which might compromise independence. The previous ombudsperson had been reappointed, and his term lasted from 2004 until 2020. There are no cases of an

⁹⁹² Ibid, Article 5

⁹⁹³ Principles on the protection and promotion of the Ombudsman institution, page 4, point 10:
[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2019\)005-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)005-e)

⁹⁹⁴ Interview conducted with the Ombudsperson, Mr. Naser Ziberi on 26 January 2023

⁹⁹⁵ Law on the Ombudsperson, Consolidated version, Articles 43 and 43-a:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Zakon%20na%20NP/Preisten%20tekst%20na%20Zakon%20za%20NP-29.03.2018.pdf>

⁹⁹⁶ Ibid, Article 9

⁹⁹⁷ Ibid, Article 38

⁹⁹⁸ Law on the Ombudsperson, Consolidated version, from Article 8:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Zakon%20na%20NP/Preisten%20tekst%20na%20Zakon%20za%20NP-29.03.2018.pdf>

⁹⁹⁹ Sloboden pecat, "Margini Coalition: The Parliament hid the announcement for the Ombudsman from the public",

<https://www.slobodenpecat.mk/koalicija-margini-sobranieto-go-sokri-oglasot-za-naroden-pravobranitel-od-javnosta/>, Accessed in December 2023

¹⁰⁰⁰ 360 Degrees, Irena Krevska, "How Ziberi went from a "defender" of DUI in the last election, to a candidate for the defender of citizens' rights", <https://360stopeni.mk/https-360stopeni-mk-kako-ziberi-od-branitel-na-dui-na-poslednite-izbori-stana-kandidat-za-branitel-na-graganskie-prava/>, Accessed in December 2023

ombudsperson (or senior staff member) being removed from their position before the end of their term without relevant justification or because of political influence.

Citizens can file complaints without fear of retaliation.

GOVERNANCE

INDICATOR 8.2.1 TRANSPARENCY (LAW)

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the ombudsperson?

Score: 75/100

There are sufficient legal provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the ombudsperson. However, there is no deadline by which documents prepared by the ombudsperson should be published on the website.

The ombudsperson has to respect the privacy and confidentiality of the persons filing the complaint.¹⁰⁰¹ The handling of reports is additionally regulated with the rulebook on the work of the ombudsperson.¹⁰⁰²

The ombudsperson has to publish an annual report,¹⁰⁰³ but the law does not establish a timeframe for this report. The annual report has to include an analysis of the ombudsperson's work, the level at which the respect, promotion and protection of the constitutional and legal rights of the citizens, respect of the principles of non-discrimination and equitable representation of community members are ensured by the relevant bodies, as well as recommendations for overcoming any established problems. If necessary, the ombudsperson can prepare special reports¹⁰⁰⁴ and publish reports on the activities undertaken within the national preventive mechanism.¹⁰⁰⁵

The ombudsperson's office also has to provide information requested under the Law on Access to Information of Public Character by respecting the confidentiality clause.¹⁰⁰⁶

The ombudsperson and its deputies have to make asset declarations publicly available.¹⁰⁰⁷ The staff is not obliged to make declarations of assets publicly available.

The rulebook defines cooperation with other organisations, bodies and the public. It regulates the cooperation with state bodies and CSOs, as well as cooperation with foreign institutions and international organisations.¹⁰⁰⁸

¹⁰⁰¹ Law on the Ombudsperson, consolidated version, Article 18:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Zakon%20na%20NP/Preisten%20tekst%20na%20Zakon%20za%20NP-29.03.2018.pdf>

¹⁰⁰² Rulebook on the work of the ombudsperson:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Delovnik%20na%20NP/Delovnik%20na%20NP-28.03.2022.pdf>

¹⁰⁰³ Law on the Ombudsperson, Consolidated version, Article 37:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Zakon%20na%20NP/Preisten%20tekst%20na%20Zakon%20za%20NP-29.03.2018.pdf>

¹⁰⁰⁴ Law on the Ombudsperson, Consolidated version, from Article 36:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Zakon%20na%20NP/Preisten%20tekst%20na%20Zakon%20za%20NP-29.03.2018.pdf>

¹⁰⁰⁵ Rulebook on the work of the ombudsperson, Article 98:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Delovnik%20na%20NP/Delovnik%20na%20NP-28.03.2022.pdf>

¹⁰⁰⁶ Law on Access to Information of Public Character, Official Gazette of RM, number 101/ 2019: <https://aspi.mk/wp-content/uploads/2023/03/Закон-за-слободен-пристан-до-информациите-од-јавен-карактер.pdf>

¹⁰⁰⁷ Law on the Prevention of Corruption and Conflict of Interest, Official Gazette of RM, number 12/2019, Article 82: <https://dksk.mk/wp-content/uploads/2020/12/Закон-за-спречување-на-корупцијата-и-судирот-на-интереси.pdf>

¹⁰⁰⁸ Rulebook on the work of the ombudsperson, Section IX:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Delovnik%20na%20NP/Delovnik%20na%20NP-28.03.2022.pdf>

Within the framework of the ombudsperson, there is a mechanism for citizen's control in which three external members from CSOs participate.¹⁰⁰⁹ This mechanism was established to provide possibilities for controlling policies and enabling procedures to be initiated when there is a breach of human rights by police.

INDICATOR 8.2.2 TRANSPARENCY (PRACTICE)

To what extent is there transparency in the activities and decision-making processes of the ombudsperson in practice?

Score: 75/100

The public can readily obtain relevant information on the organisation and functioning of the ombudsperson, on decisions that concern them and how these decisions were made. However, there is a lack of detailed information on the work of the ombudsperson, such as regular activities or special reports on discrimination.

The ombudsperson's office has a website¹⁰¹⁰ on which information regarding its work are available, including information on the legal framework that regulates its work, annual reports¹⁰¹¹ and other reports, such as financial reports,¹⁰¹² reports for the work of the national preventive mechanism,¹⁰¹³ working programmes,¹⁰¹⁴ organisational structure¹⁰¹⁵ and other information relevant to the work of the ombudsperson.

The ombudsperson also publishes statistical reports on received complaints,¹⁰¹⁶ without details on the content and the manner of handling. However, there is no available information on whether the ombudsperson handles the complaints within a reasonable deadline.

All asset declarations of the ombudsperson are published on the website of the State Commission for the Prevention of Corruption.¹⁰¹⁷

In an external monitoring report on the ombudsperson that focused on prevention from discrimination, the CSO Coalition Margini noted that transparency on this issue needs to be improved and recommended issuing special reports on discrimination as well as more detailed information on the procedures conducted and decisions adopted.¹⁰¹⁸

The Ombudsperson cooperates with CSOs through MoUs. The CSOs follow and monitor the work of the Ombudsperson, they conduct analyses on the legal framework and share opinions on improvements of legislation, receive cases and complaints that can be also reviewed by the ombudsperson, while the ombudsperson participates in various projects implemented by CSOs. However, this is currently not visible in practice and there are rarely any public conferences where the public can learn more about the work of the ombudsperson.¹⁰¹⁹

¹⁰⁰⁹ Law on the Ombudsperson, consolidated version, from Article 11-e: <https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Zakon%20na%20NP/Preisten%20tekst%20na%20Zakon%20za%20NP-29.03.2018.pdf>

¹⁰¹⁰ <https://ombudsman.mk/>

¹⁰¹¹ Annual reports on the work of the ombudsperson: <https://ombudsman.mk/Почетна/НПМ/ИЗВЕШТАИ/Годишни.aspx>

¹⁰¹² Financial reports on the work of the ombudsperson: https://ombudsman.mk/Почетна/ЗА_НАС/Буџет_на_НП/2022.aspx

¹⁰¹³ Annual report on the national preventive mechanism: <https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/NPM-dokumenti/2021/NPM%20Godisen%20izvestaj-2021.pdf>

¹⁰¹⁴ Working programme of the ombudsperson for 2022: https://ombudsman.mk/Почетна/ЗА_НАС/Програма_за_работа.aspx

¹⁰¹⁵ Organisational structure of the office of the ombudsperson: https://ombudsman.mk/Почетна/ЗА_НАС/Програма_за_работа.aspx

¹⁰¹⁶ Statistical data on received complaints are available on the webpage of the ombudsperson:

https://ombudsman.mk/Почетна/ПРЕДМЕТНО_РАБОТЕЊЕ/Статистика/Месечна.aspx. Also the annual reports contain more detailed information on the received complaints.

¹⁰¹⁷ Assets declarations:

http://www.dksk.org.mk/imoti_2/detail.php?detail=20930&search=&ime=&prezime=%D0%B7%D0%B8%D0%B1%D0%B5%D1%80%D0%B8&funkcija=&institucija

¹⁰¹⁸ Coalition Margini. 2020. Report form the monitoring on the work of the ombudsperson with focus on prevention of discrimination (2010-2019)

¹⁰¹⁹ Report on the work of the ombudsperson related to its work with focus on prevention of discrimination 2020-2022, p.10: http://mzd.mk/wp-content/uploads/2022/12/NP_GolemDokument_v002-1.pdf

INDICATOR 8.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions in place to ensure that the ombudsperson has to report and be answerable for its actions?

Score: 75/100

Extensive provisions are in place to ensure that the ombudsperson has to report and be answerable for its actions to the legislature. However, there is no deadline for the submission of the annual report to the Assembly.

The Ombudsperson has to submit an annual report to the Assembly¹⁰²⁰ but the law does not determine the time for submission.¹⁰²¹ The Ombudsperson can also prepare special reports when needed.¹⁰²²

The Assembly has to review the report in a plenary session with representatives of the government.¹⁰²³ However there are no deadlines for when the Assembly should review the report. The activities of the ombudsperson are not subject to judicial review.

In accordance with the Law on the Protection of Whistleblowers, this institution is authorised to receive external and internal whistleblower disclosures.¹⁰²⁴

INDICATOR 8.2.4 ACCOUNTABILITY (PRACTICE)

To what extent does the ombudsperson report and is answerable for its actions in practice?

Score: 75/100

Existing provisions are mostly effective in ensuring that the ombudsperson has to report and be answerable for its actions in practice. However, the Assembly only reviewed the last two annual reports after a delay.

Ombudsperson annual reports are regularly submitted to the Assembly and published in the media.¹⁰²⁵ The annual report includes an analysis of the work of the ombudsperson, the level at which the respect, promotion and protection of the constitutional and legal rights of the citizens, respect of the principles of non-discrimination and equitable representation of community members are ensured by the bodies, as well as recommendations for overcoming the established problems.¹⁰²⁶

The last two annual reports have been reviewed by the Assembly but with delays. For example, the 2020 report was reviewed at the end of 2021¹⁰²⁷ and the 2021 annual report¹⁰²⁸ has not yet been reviewed.¹⁰²⁹ In an interview,¹⁰³⁰ the ombudsperson explained that the 2021 report is in the process of being reviewed by the commission for political system and inter-community relations as a competent commission within the Assembly. He is satisfied with the debate conducted within the commission regarding the proposals and recommendations.

¹⁰²⁰ Ibid, Article 36

¹⁰²¹ Rulebook on the work of the ombudsperson, Article 96:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Delovnik%20na%20NP/Delovnik%20na%20NP-28.03.2022.pdf>

¹⁰²² Law on the Ombudsperson, consolidated version, from Article 36:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Zakon%20na%20NP/Preisten%20tekst%20na%20Zakon%20za%20NP-29.03.2018.pdf>

¹⁰²³ Law on the Ombudsperson, consolidated version, from Article 36:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Zakon%20na%20NP/Preisten%20tekst%20na%20Zakon%20za%20NP-29.03.2018.pdf>

¹⁰²⁴ Law for the Protection of Whistleblowers, Official Gazette of RM, number 196/2015

¹⁰²⁵ Article 36 Law on the Ombudsperson

¹⁰²⁶ Annual reports on the work of the ombudsperson: https://ombudsman.mk/Почетна/Годишни_извештаи.aspx

¹⁰²⁷ Conclusion from the plenary session of the Assembly, held on 23 December 2021: <https://www.sobranie.mk/detalni-na-materijal.nsp?param=aaa0c7e3-f65e-4b20-a855-824c7adc1999>

¹⁰²⁸ Sitel, "MPs discuss the Annual Report of the Ombudsman for 2021", <https://sitel.com.mk/pratenicite-raspravaat-po-godishniot-izveshtaj-na-narodniot-pravobranitel-za-2021-godina>

¹⁰²⁹ Interview conducted with the ombudsperson, Mr. Naser Ziberi on 26 January 2023

¹⁰³⁰ Ibid 26 January 2023

However, according to the ombudsperson, the discussion in the plenary session of the Assembly fails to address the gaps highlighted in ombudsperson's reports.

Internally, the staff is accountable to the ombudsperson in accordance with internal policies and procedures, regulated with the rulebook on the work of the ombudsperson.¹⁰³¹

Even though the Law for the Protection of Whistleblowers came into effect in 2016, it took until 2022 before the ombudsperson's office had appointed the official for receiving the reports in practice.¹⁰³² However, the ombudsperson's role in the protection of the whistleblowers is not proactive as it has not undertaken any activity to explain to the public its role in receiving reports as an external disclosure point.

INDICATOR 8.2.5 INTEGRITY MECHANISMS (LAW)

To what extent are there provisions to ensure the integrity of the ombudsperson?

Score: 75/100

There are sufficient legal provisions to ensure the integrity of the Ombudsperson and its deputies. However, it lacks its own ethical code with rules on employee conflicts of interest and sanctions for misconduct.

There is no ethical code or code of conduct for the office of ombudsperson. The European Commission prepared a draft version of an ethical code in 2021, but it was never completed and no final version was prepared and adopted.¹⁰³³

There are still legal provisions for the prevention of conflict of interest, receiving of gifts and other related issues in the Law on the Prevention of Corruption and Conflict of Interest.¹⁰³⁴ The staff further has to act in accordance with the code of conduct of administrative servants. However, legal provisions related to the prevention of conflict of interest should be more specific. It should also include sanctions for staff misconduct, regulated through an ethical code. The ombudsperson has adopted an anti-corruption programme which generally regulates conflict of interest. This also foresees the creation of an ethical code, but there is no timeframe in which should be finalised.¹⁰³⁵

The Law on the Ombudsperson forbids political engagement (see 8.1.2).¹⁰³⁶ The ombudsperson, prior to taking the office, should make a solemn declaration in front of the president of the Assembly, promising to exercise the function conscientiously and responsibly in accordance with the constitutions and the laws of North Macedonia.¹⁰³⁷

The ombudsperson and its deputies have to submit declarations of assets and interests to the State Commission for the Prevention of Corruption (see 8.2.3).

Respecting confidentiality in the communication and complaints received the ombudsperson is clearly defined within the law and the rulebook, within one section proscribing the procedures for receiving complaints, protecting personal data, and the confidentiality and storage of complaints.¹⁰³⁸

¹⁰³¹ Rulebook on the work of the ombudsperson, Section III:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Delovnik%20na%20NP/Delovnik%20na%20NP-28.03.2022.pdf>

¹⁰³² For the purposes of a project implemented by TI-M in 2019, TI-M asked for information from the ombudsperson about an authorised person for receiving of reports of whistleblowers. At first TI-M did not receive any information, as the ombudsperson did not know the name of the person responsible. But finally TI-M received information on the responsible person.

¹⁰³³ Interview conducted with the ombudsperson, Mr. Naser Ziberi on 26 January 2023

¹⁰³⁴ Law on the Prevention of Corruption and Conflict of Interest, Official Gazette of RM, number 12/2019, Head V: <https://dksk.mk/wp-content/uploads/2020/12/Закон-за-спречување-на-корупцијата-и-судирот-на-интереси.pdf>

¹⁰³⁵ Anti-corruption programme:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/documents/2021/Antikorupciska%20programa-07.2021.pdf>

¹⁰³⁶ Law on the Ombudsperson, consolidated version, from Article 8:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Zakon%20na%20NP/Preisten%20tekst%20na%20Zakon%20za%20NP-29.03.2018.pdf>

¹⁰³⁷ Ibid, Article 7

¹⁰³⁸ Rulebook on the work of the ombudsperson, from Article 52:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Delovnik%20na%20NP/Delovnik%20na%20NP-28.03.2022.pdf>

The State Commission for the Prevention of Corruption has created an integrity policy that should be implemented by all state institutions. Also, it has prepared directions for the preparation of ethical codes and other internal documents regulating the prevention of conflicts of interest.¹⁰³⁹

INDICATOR 8.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is the integrity of the ombudsperson ensured in practice?

Score: 50/100

There is a piecemeal and reactive approach to ensuring the integrity of members of the ombudsperson, including only some of the following elements: enforcement of existing rules, inquiries into alleged misbehaviour, sanctioning of misbehaviour and training of staff on integrity issues. However, there is no code of conduct to regulate conflict of interest, post-employment procedures and the establishment of integrity bodies.

There is no code of conduct to regulate gifts and hospitality, post-employment restrictions, conflicts of interest, internal integrity or effective mechanisms for ensuring ethical behaviour by the ombudsperson and staff. In 2021 and 2022, there was no staff training on integrity issues. The Law on the Prevention of Corruption and Conflict of Interest regulates this for the ombudsperson and its deputies, as does the Law on Administrative Servants is for the staff. However, having an internal code of conduct based on the existing legal framework can strengthen the integrity of the institution and give more precise, detailed and specific guidelines for staff on the prevention of corruption and conflicts of interest.

There were no cases revealed publicly regarding misconduct and misbehaviour of staff. However, there were allegations about the behaviour of the previous ombudsperson towards the staff. In 2020, the media published articles on conflicts between the ombudsperson and his deputies along with allegations of bullying.¹⁰⁴⁰

The ombudsperson's assets are published and are publicly available in the registry published by the SCPC (see 8.2.4).

INDICATOR 8.2.7 GENDER

To what extent are the ombudsperson's mechanisms gender-sensitive?

Score: 25/100

There are no explicit gender-sensitive protocols and guidelines, but there is a front-facing female staff member for the whistleblower channel.

The ombudsperson does not have specific protocols or guidelines that are gender-sensitive. There is no gender-disaggregated data for the complaints that the ombudsperson receives (for example, complaints filed by gender women, processing times of complaints filed by women and men, complaints solved or disregarded by women and men). The ombudsperson has no practice of providing gender-sensitive material to staff and, based on an interview with the ombudsperson, there is a lack of resources, mainly budget, for staff training in general.¹⁰⁴¹ However, the person authorised to receive whistleblower reports is female.¹⁰⁴²

¹⁰³⁹ SCPC, Section related to information and material for the Policy of integrity: <https://dksk.mk/mk/политика-на-интегритет-за-државните-о/>

¹⁰⁴⁰ Fokus, "Ombudsman Ijet Memeti or the despot from Rakovec?!", <https://fokus.mk/ombudsmanot-idhet-memeti-ili-despotot-od-rakovets/>, Accessed in October 2023

¹⁰⁴¹ Interview conducted with the ombudsperson, Mr. Naser Ziberi on 26 January 2023

¹⁰⁴² Transparesy International Macedonia, Web platform for protection of whistleblowers, Section with personse responsible for external disclosure: <https://ukazuvac.mk/nadvoreshno-prijavuvanje/>

Even though the mechanisms of the ombudsperson are not gender-sensitive, there is a gender balance in the institution. Three out of five deputies to the ombudsperson are women.

The ombudsperson produces gender-disaggregated data on gender equality within the institution, such as the number of employees by gender, number of appointed persons, number of managerial positions lead by women: 64 per cent of the employees are women.¹⁰⁴³ In the reports, it emphasises the rights of women from different nationalities (Roma).¹⁰⁴⁴ The ombudsperson is *ex officio* the national rapporteur for trafficking in human beings, and in the report for 2021, it refers to the victims of human trafficking and illegal migration, indicating the number and origin of trafficked women.¹⁰⁴⁵

ROLE

INDICATOR 8.3.1 INVESTIGATION

To what extent is the ombudsperson active and effective in dealing with complaints from the public?

Score: 75/100

The ombudsperson is generally very active and successful in dealing with complaints from the public. However, the recommendations the office gives to government are rarely implemented, and the institution lacks visibility for citizens.

The ombudsperson has established simple procedures to enable every citizen to easily file a complaint. Citizens can file a complaint in writing, directly to the offices of the ombudsperson and in other forms.¹⁰⁴⁶ The ombudsperson institution has six regional offices in an effort to be more accessible to citizens.¹⁰⁴⁷

In 2021, 2,686 complaints were received/filed, and 389 cases were transferred from the previous year. The total number of cases/complaints on which the ombudsperson acted/reviewed is 3,075 in 2021, of these the ombudsperson initiated a procedure for 2,108 (67.8 per cent) of complaints, and did not initiate a procedure for 655 (21.30 per cent) of complaints. Of the 2,108 cases on which the ombudsperson initiated proceedings, 755 (35.82 per cent) found a violation of human freedoms and rights and intervened to enable citizens to execute their rights. In 1,353 cases (64.89 per cent), no violation of human freedoms or rights were found and the procedure was stopped.¹⁰⁴⁸

The ombudsperson points out in a 2022 report that the government does not implement its recommended measures, and did not submit reports for the implementation of the recommendations.¹⁰⁴⁹ However, the ombudsperson still had some success in this regard. In 2021, in cooperation with CSOs and other interested parties, the ombudsperson succeeded in speeding up the process to suspend a provision in the Law on Social Protection that did not allow for citizens over 65 to receive compensation for disabilities. The constitutional court

¹⁰⁴³ Annual report on the work of the ombudsperson for 2021, p.171:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Godisni%20izvestai/GI-2021/GI%20-2021.pdf>

¹⁰⁴⁴ Ibid p.83

¹⁰⁴⁵ Ibid, p.138

¹⁰⁴⁶ Rulebook on the work of the ombudsperson, Article 52:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Delovnik%20na%20NP/Delovnik%20na%20NP-28.03.2022.pdf>

¹⁰⁴⁷ Law on the Ombudsperson, consolidated version, from Article 44:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Zakon%20na%20NP/Preisten%20tekst%20na%20Zakon%20za%20NP-29.03.2018.pdf>

¹⁰⁴⁸ Annual report of the work of the ombudsman for 2021:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Godisni%20izvestai/GI-2021/GI%20-2021.pdf>

¹⁰⁴⁹ Organisation Margini: Report on the work of the ombudsperson with a focus on prevention of discrimination for the period of 2020 until 2022, November 2022, p.8

responded positively to this initiative.¹⁰⁵⁰ The ombudsperson was also successful in suggesting amendments to a law on the enforcement of sanctions so young women would not be placed in the Idrizovo prison, which lacks appropriate conditions and standards.¹⁰⁵¹

However, the institution is not visible enough to citizens. There is no communication strategy or other programme to promote the work of the ombudsperson.

INDICATOR 8.3.2 PROMOTING GOOD PRACTICE

To what extent is the ombudsperson active and effective in raising awareness within government and the public about standards of ethical behaviour?

Score: 75/100

While the ombudsperson does seek to raise awareness within the government about standards of ethical behaviour through recommendations, its efforts are generally limited as the government and other institutions fail to implement them.

The ombudsperson can review the work of any institution if there are indications that the institution breaches fundamental human rights and freedoms or acts beyond its competences.¹⁰⁵² For gaps in institutions, the ombudsperson prepares recommendations and suggestions on how the current situation should be improved.¹⁰⁵³ For example, the 2021 annual report mentions the poor conditions and corruption in prisons and in detention facilities in the police stations.¹⁰⁵⁴

There are no examples of campaigns in which the focus is on the ethical behaviour of government institutions, but the ombudsperson recognised in an interview for this report that this would be good to implement in the future.

The ombudsperson prepares an annual report and other special reports,¹⁰⁵⁵ which include findings and recommendations for the assessed sectors and areas. However, due to the Assembly's slow adoption of the recommendations, the actions are limited in practice. This also limits the follow-up of the implementation of these measures.¹⁰⁵⁶

INTERACTIONS

The Law on the Ombudsperson has established principles for interaction between the ombudsperson, Assembly and the government. It also establishes interactions with civil society through the national preventive mechanism¹⁰⁵⁷ and activities related to protection of victims. The ombudsperson is accountable to the Assembly and submits an annual report to the Assembly with recommendations the Assembly should adopt. The office has a close relationship with the government as established by the law. Law enforcement agencies are of great importance too for effective execution of the ombudsperson's work since it monitors the rights of people in

¹⁰⁵⁰ Decision of the Constitutional Court of Republic of North Macedonia for 2021, p.127: <https://ustavensud.mk/wp-content/uploads/2022/05/%D0%91%D0%98%D0%9B%D0%A2%D0%95%D0%9D-2021.pdf>

¹⁰⁵¹ Interview conducted with the ombudsperson, Naser Ziberi on 26 January 2023

¹⁰⁵² Law on the Ombudsperson, consolidated version, from Article 11 until 11-f:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Zakon%20na%20NP/Preisten%20tekst%20na%20Zakon%20za%20NP-29.03.2018.pdf>

¹⁰⁵³ Ibid, Article 28

¹⁰⁵⁴ Annual report of the work of the ombudsperson for 2021:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Godisni%20izvestai/GI-2021/GI%20-2021.pdf>, Page 41

¹⁰⁵⁵ Ibid

¹⁰⁵⁶ Ibid

¹⁰⁵⁷ Law on the Ombudsperson, consolidated version, Article 11-v- 11-g:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Interni%20akti/Zakon%20na%20NP/Preisten%20tekst%20na%20Zakon%20za%20NP-29.03.2018.pdf>

detention. The ombudsperson is entitled to oversight of these facilities and can start an administrative or other procedure to establish a violation of human rights, including rights of persons in detention.¹⁰⁵⁸

In the fight against corruption, the ombudsperson office cooperates closely with State Commission for the Prevention of Corruption and with Transparency International Macedonia (TI-M) in fulfilling its role as an external point for whistleblower reporting. It participates in joint workshops, meetings and trainings, which makes the ombudsperson office one of the country's anti-corruption institutions.

However, the ombudsperson and the Assembly need to ensure that ombuds reports are reviewed in a timely manner and avoid delays longer than one year to ensure the reports are relevant. There is, therefore, a need for further strengthening of cooperation with the Assembly and acting without delays to implement the given recommendations and measures. This could be done through regular communication, meetings and exchange of information.

PILLAR RECOMMENDATIONS

The Ombudsperson institution

- The Ombudsperson needs to draft and adopt a code of ethics and integrity policy in accordance with the directions from the State Commission for the Prevention of Corruption.
- The ombudspersons office needs to hire more staff to be able to implement sub-programmes properly.
- The Ombudsperson needs to increase visibility by developing and implementing a communication strategy that will also promote the ombudsperson's competences as a point for external disclosure and the protection of whistleblowers.
- The ombudsperson needs to provide the possibility for integrity and whistleblowing training for staff.
- The Ombudsperson should include gender-disaggregated data of received complaints in its annual report in the general statistical data section.
- The Ombudsperson should actively promote the implementation of the Law on the Protection of Whistleblowers by preparing campaigns, conducting training with the people responsible for external and internal disclosure and closer communication with the other institutions responsible for external disclosure: SCPC, public prosecutor's office and the Ministry of Interior.

For the government

- Provide additional budget for the ombudsperson office to better implement sub-programmes, and hire more staff and deliver integrity and whistleblowing training.
- Amend the Law on the Ombudsperson, other legal acts and internal procedures in line with the Paris Principle, so the institution can receive the statutes as a national human rights institution

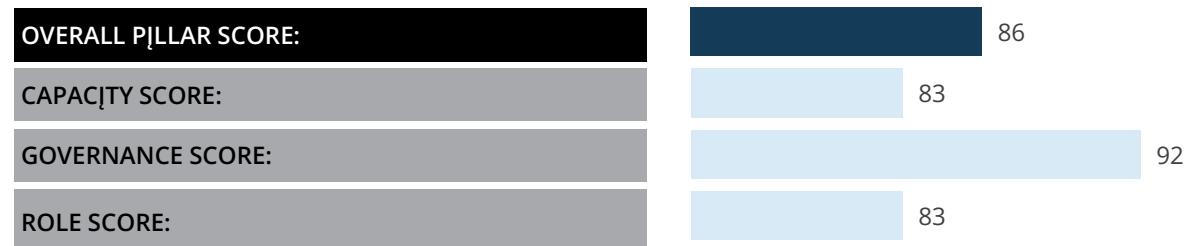
The Assembly

- Finalise the review of the ombudsperson office 2021 report and ensure future reports are reviewed and discussed within a legal deadline, which should be included in the legal framework.
- Establish effective and time-determined procedures that will ensure efficiency in the monitoring and implementation of the ombudsperson's recommendations. Ombuds staff should be responsible for monitoring the implementation of the recommendations with a publicly available report.
- Establish a more transparent and open procedure for the election and appointment of the ombudsperson and its deputies, similar to the one for the election and appointment of the president and the members of the State Commission for the Prevention of Corruption.

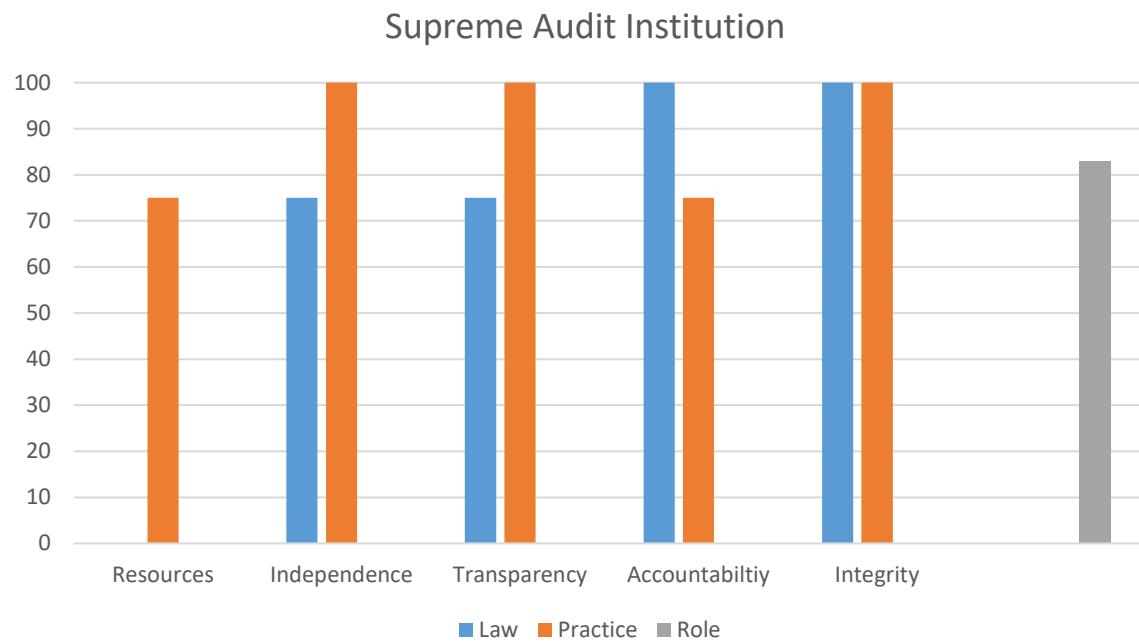
¹⁰⁵⁸ Ibid

9. SUPREME AUDIT INSTITUTION

SUMMARY



Indicators scores: law and practice



The State Audit Office (SAO) is an independent institution led by the auditor general, appointed by and accountable to the Assembly, whose conduct is regulated with the state audit law (SAL).

The SAO has financial and operational independence that enables the smooth conduct of its work. In the last five years, the SAO's annual budget continuously increased, and retained stable human resources and established a strategy for the continuous professional development of its staff. However, there is a significant gap between the systematised and filled staff positions, even though the SAO has sufficient human resources to conduct its work.

The SAL provides the legal basis for the independence of the SAO; however, its independence is not included within the constitution.

The SAO is transparent, regularly publishing relevant information in a timely manner on its website, even though there is no legal deadline for the publication of these details. The information is also published on Facebook and LinkedIn, and sent to all relevant stakeholders via mail. The SAO has developed its own integrity policy and code of ethics. The SAO is continuously working on the integrity of the institution and its employees by implementing

the relevant domestic legal acts and applying international standards of integrity in the state audit institutions. The SAO is accountable to the Assembly, submitting an annual report on audits and operation. However, timely review of the annual reports has been lacking because there is no legal deadline for reviews.

The SAO provides effective financial audits, but their impact is limited by auditees failing to implement its recommendations in a timely manner. There is also no mechanism or webtool for the Assembly or the public to monitor the implementation of recommendations in a timely and user-friendly way.

The SAO cooperates with the Assembly, the public prosecutor's office, the State Commission for the Prevention of Corruption and the Ministry of Finance to increase their capacity in reading and using the SAO reports in their work of oversight and investigations into the expenditure of public funds. However, when it comes to sanctioning misbehaviour detected in audit reports, the PPO often fails to initiate investigations, due to a lack of capacity and external interference (see 4.1.4).

CAPACITY

INDICATOR 9.1.1 RESOURCES (PRACTICE)

To what extent does the audit institution have adequate resources to achieve its goals in practice?

Score: 75/100

The SAO has adequate financial and human resources to carry out its work and meet its goals. However, according to the systematisation of staff positions, the SAO is understaffed, which indicates that the systematisation is not correct. Also, additional human resources have to be approved by the minister of finance, potentially limiting the SAO's ability to remain properly staffed, even if the workload is increasing.

The SAO is in control of managing its own resources. The Assembly is responsible for deciding on the budget based on the SAOs proposal.¹⁰⁵⁹ However, there are no legal provisions that regulate the application for additional necessary resources.

Overall, there are continuous increases in financial resources, which is also seen in increased salaries.¹⁰⁶⁰ However, many positions remain unfilled, which can decrease the effectiveness of the SAO (see Table 1 and 2)

Table 1: Annual budget of the SAO¹⁰⁶¹ (the amounts are in EUR)

	Total budget in MKD	Total budget in EUR	Increase in % per year
2023	155,940,000	2,535,609	9.17
2022	142,845,000	2,322,683	22.86
2021	116,295,000	1,890,976	12.63
2020	103,258,000	1,678,992	3.83
2019	99,757,000	1,616,807	

The budget for 2023 has increased by 42 per cent compared to the 2019 budget.

¹⁰⁵⁹ State Audit Law, Official Gazette of RM, no. 66/10, 145/10, 12/14, 43/14, 154/15, 192/15, 27/16, 83/18 and 122/21, Article 12

¹⁰⁶⁰ Open finances: <https://open.finance.gov.mk/mk/budget>

¹⁰⁶¹ Information received by SAO on 25 October 2023

Table 2: Human resources (data received from SAO):¹⁰⁶²

	Number of staff positions according to rulebook on the systematisation of staff positions ¹⁰⁶³	Filled positions	Unfilled positions	% of unfilled position
2022	183	113	70	38
2021	183	113	70	38
2020	168	98	70	42
2019	143	90	53	37

The number of employees remained relatively stable in the last four years, but more than a third of systematised positions are not filled. The SAO effectively implements its responsibilities with the current number of staff; however, the systematised working places need to be fulfilled.

The SAO regularly prepares annual plans for professional development. The latest is for 2023, based on the results of an employee survey. Key areas identified are methodological training, financial reporting, accounting, ethics and integrity, IT, and so on.¹⁰⁶⁴

INDICATOR 9.1.2 INDEPENDENCE (LAW)

To what extent is there formal operational independence of the audit institution?

Score: 75/100

The independence of the SAO is ensured through self-determined programming, merit-based recruitment and protection against undue dismissals. However, the independence of the SAO is not guaranteed in the constitution¹⁰⁶⁵ but in the SAL.¹⁰⁶⁶ To change that, the SAO submitted proposals for draft amendments of the constitution¹⁰⁶⁷ to the Ministry of Justice.

In 2022, the SAO initiated the procedure for the preparation of the new SAL and published it on the unique national electronic registry of legal acts (ENER), and it is expected to be adopted by the end of 2023, which should strengthen the financial and operational independence of the SAO.¹⁰⁶⁸

The SAO carries out its audits in accordance with a self-determined programme and methods specified in the annual working programme (AWP).¹⁰⁶⁹

¹⁰⁶² Information received through a freedom of information request

¹⁰⁶³ SAO. 2020. Rulebook on systematisation of staff positions: https://dzh.mk/sites/default/files/2021-01/3_Pravilnik_za_sistematsizacija_na_rabotnite_mesta_vo_DZR_2021.pdf

¹⁰⁶⁴ SAO. 2022. Annual plan for professional development for 2023, pp.5 & 6 https://dzh.mk/sites/default/files/2022-01/Godisen_plan_kontinuirano_profesionalno_usovrsuvanje_2022_godina.pdf

¹⁰⁶⁵ European Commission. 2022. Progress report on North Macedonia for 2022, p.62: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022.pdf>

¹⁰⁶⁶ Law on State Audit, consolidated version 2021. Official Gazette of RM, no. 66/10, 145/10, 12/14, 43/14, 154/15, 192/15, 27/16 and 83/18 and Official Gazette of RNM, no. 122/21, https://dzh.mk/sites/default/files/2021-08/State_Audit_Law_clear_text_2021_ENG_p.pdf Article 1

¹⁰⁶⁷ In the AWP for 2023, it is noted that the SAO will get the status of a constitutional category: SAO. 2022. Annual working programme of SAO for 2023, p.19

¹⁰⁶⁸ Unique National Electronic Registry of Legal Acts:

https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_ann_detail&itemid=PD2ViwbPI6kHJJluB4+NfA==

¹⁰⁶⁹ State Audit Law, consolidated version 2021. Official Gazette of RM, no. 66/10, 145/10, 12/14, 43/14, 154/15, 192/15, 27/16 and 83/18 and Official Gazette of RNM, no. 122/21, https://dzh.mk/sites/default/files/2021-08/State_Audit_Law_clear_text_2021_ENG_p.pdf, Article 9

Recruitment to the SAO has to be based on merit in accordance with the SAL¹⁰⁷⁰ and the Law on Administrative Servants.¹⁰⁷¹ The SAO is headed by the auditor general (AG),¹⁰⁷² elected and appointed by the Assembly. The AG serves for a fixed term of nine years, without the right for re-election.¹⁰⁷³ The auditor general should not hold any other public office or occupation, nor be a member of a political party, managing board, supervisory board or any body of another legal entity.¹⁰⁷⁴

State auditors are protected from dismissal for expressing opinions in relation to the performance of official authorities.¹⁰⁷⁵ The auditor general and deputy cannot be held criminally liable or be detained for stated views, opinions and recommendations regarding the audits.¹⁰⁷⁶ They can only be dismissed in specific cases, such as ceasing to meet the requirements that they need to fulfil to be appointed as auditor general and are unable to perform their duty longer than six months due to illness or other justified reasons.¹⁰⁷⁷

INDICATOR 9.1.3 INDEPENDENCE (PRACTICE)

To what extent is the audit institution free from external interference in the performance of its work in practice?

Score: 100/100

The audit institution operates largely free from political influence and its activities are non-partisan. However, the appointment of the auditor general has been used as leverage in political disputes.

Although the legal framework establishes a professional and non-partisan environment, the political parties try to have their influence over the work of this body as well. As an example, from 2017 to the end of 2019, the SAO functioned without an auditor general due to political differences in deciding on the candidate. After pressure from the public, media¹⁰⁷⁸ and non-governmental organisations,¹⁰⁷⁹ a professional and SAO employee was appointed.¹⁰⁸⁰

There were no cases of political interference in the SAO's activities nor cases of political engagement by the director and staff. The reports from the international community¹⁰⁸¹ confirm the independence and professionalism of the SAO.

Since the establishment of the institution, there have been no cases where the auditor general was removed before the end of the nine-year term. There is also no case of senior SAO staff being removed from their position before the end of their term without relevant justification or for political reasons.

¹⁰⁷⁰ State Audit Law, Head 2-a

¹⁰⁷¹ Law on Administrative Servants, Consolidated version. Official Gazette of RM no. бп.27/14, 199/14, 48/15, 154/15, 5/16, 142/16 and 11/18 and в Official Gazette of RM no. 275/2019, 14/20 and 215/21)

¹⁰⁷² State Audit Law, Consolidated version 2021. Official Gazette of RM, no. 66/10, 145/10, 12/14, 43/14, 154/15, 192/15, 27/16 and 83/18 and Official Gazette of RNM, no. 122/21), https://dzh.mk/sites/default/files/2021-08/State_Audit_Law_clear_text_2021_ENG_p.pdf, Article 4.1

¹⁰⁷³ State Audit Law, Article 4.4

¹⁰⁷⁴ State Audit Law, Article 5

¹⁰⁷⁵ State Audit Law, Article 28

¹⁰⁷⁶ State Audit Law, Article 11

¹⁰⁷⁷ State Audit Law, Article 7

¹⁰⁷⁸ IRL. 2019. <https://irl.mk/politichkiot-pazar-vo-sobranie-go-kochi-funktsioniraeto-na-nekolku-drzhavni-institutsii/>

¹⁰⁷⁹ Anti-Corruption Platform of CSOs. 2019. <https://www.antikorupcija.mk/архиви/509>

¹⁰⁸⁰ SAO, Maksim Acevski unanimously elected as new auditor general: <https://dzh.mk/en/191219-maksim-acevski-unanimously-elected-new-auditor-general>, Accessed on 01 November 2023

¹⁰⁸¹ European Commission. 2022. EC Progress Report on North Macedonia for 2022, pp.63 & 64: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022.pdf>

GOVERNANCE

INDICATOR 9.2.1 TRANSPARENCY (LAW)

To what extent are there provisions to ensure that the public can obtain relevant information on the relevant activities and decisions by the SAI?

Score: 75/100

Comprehensive provisions are in place for MPs and the public to obtain information on the organisation and functioning of the SAO, on decisions that concern them and how these decisions were made. Loopholes exist in the lack of a legal deadline for the publication of audit reports.

The SAO should prepare and submit its annual report to the Assembly no later than December of the current year.¹⁰⁸² The budget of SAO is separately adopted by the Assembly, and the Assembly reviews the report on conducted audits and the work of SAO and adopts conclusions based on the report.¹⁰⁸³

The SAO has to communicate with the media and inform the public about its work and the conducted audits by publishing the relevant information on its website. For increased transparency and accountability, as well as availability of information on SAO operations and the shortcomings in the final audit reports, SAO has put together a register of 1,110 stakeholders. SAO has also prepares audit abstracts and press releases for the public, where key shortcomings/information contained in the final audit report are presented in a simple and comprehensible way. When publishing final audit reports on the SAO website (www.dzr.mk), the information is also sent to all stakeholders and posted to the SAO Facebook page. All audit reports are published when submitted to the audit institution.¹⁰⁸⁴ However, there is no legal deadline in the laws detailing which information should be published on the website. The deadline for publishing of the audit reports is indicated in the action plans for implementation of the annual programme.¹⁰⁸⁵

The SAO has created a communication strategy to strengthen the transparency of the institution.¹⁰⁸⁶

The Law on Access to Information of Public Character contains clear provisions regulating which information should be available to the public.¹⁰⁸⁷

As the state budget provides public funds for political parties, the SAO also has to publish the financial reports of the political parties related to their regular activities and electoral campaigns.¹⁰⁸⁸ (see 7.2.1 and 11.2.1)

INDICATOR 9.2.2 TRANSPARENCY (PRACTICE)

To what extent is there transparency in the activities and decisions of the audit institution in practice?

Score: 100/100

¹⁰⁸² State Audit Law, Article 23

¹⁰⁸³ Ibid, Article 12 and 33

¹⁰⁸⁴ Audit report on Ministry of Finance dated 23 March 2023, viewed 24 March: <https://dzr.mk/mk/230323-revizija-na-usoglasenost-2022-ministerstvo-za-finansi>

¹⁰⁸⁵ Information received by SAO on 25 October 2023

¹⁰⁸⁶ SAO. 2020. SAO's Communication Strategy 2020- 2023: https://dzr.mk/sites/default/files/2020-09/Komunikaciska_strategija_2020_2023.pdf

¹⁰⁸⁷ Law on Access to Information on Public Character. Official Gazette of RM, no. 101/2019, Article 10

¹⁰⁸⁸ Law on Financing of Political Parties. Official Gazette of the RM, no. 76/2004, 86/2008, 161/2008, 96/2009, 148/11, 142/12, 23/13, 140/18 and 294/20, Head III; Electoral Code, consolidated version: https://drive.google.com/file/d/1Sa9L6emhxw12VaV_8d7oK3hJ6r1usnuY/view, Article 78-a (10), 84-b (7) and 85 (4)

MPs and the public are able to readily obtain relevant information on the organisation and functioning of the SAI, on decisions that concern them and how these decisions were made.

The SAO regularly publishes the information in accordance with the SAL, and in a timely manner, even though there is no legal deadline. The SAO has its own website¹⁰⁸⁹ that is regularly updated with all the required information, including their budget¹⁰⁹⁰ and annual working programme,¹⁰⁹¹ individual reports on each of the conducted audits,¹⁰⁹² annual report on the conducted audits and the work of SAO¹⁰⁹³ plus other related documents.

The SAO website is well developed, with information related to its work and categorised for easy access. The public can find all relevant information as provided by the law. All other information not available on the website can be requested through the law on access to information.

To maintain transparency, the SAO prepared a communication strategy for the period 2020- 2023 as part of a Westminster Foundation for Democracy project to contribute towards the creation of “checks and balances” by including the general public, media and NGOs in the communication processes of the SAO with other institutions.¹⁰⁹⁴

INDICATOR 9.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions to ensure that the SAI has to report and be answerable for its actions?

Score: 100/100

The law provides comprehensive provisions to ensure that the SAI has to report and be answerable for its actions.

The SAO has to submit its annual report on conducted audits and operation to the Assembly by 30 June for the previous year.¹⁰⁹⁵ There are no legal requirements on the content of the report. The Assembly should review the report and adopt its conclusions.¹⁰⁹⁶

Audits on the SAO's operations has to be conducted by an independent audit company.¹⁰⁹⁷ To ensure transparency, the selection of an audit company is made by the Assembly based on previously conducted procedure in line with the Law on Public Procurement.¹⁰⁹⁸ The audit report is submitted to the Assembly no later than 30 June of the current year and is reviewed by the Assembly.¹⁰⁹⁹

The SAO's authorised state auditor prepares and submits draft audit reports to the legal representative of the auditee and, within 30 days from the days of receipt of the draft report, the auditee may submit comments to the SAO. After this deadline, the SAO prepares the final audit report. The final report is submitted to the auditee and is published on the website of the SAO with comments from the auditee, if any.¹¹⁰⁰

¹⁰⁸⁹ SAO's website: <https://dzn.mk/mk>

¹⁰⁹⁰ Information on the SAO annual budget from 2019: <https://dzn.mk/mk/zavrsni-smetki>

¹⁰⁹¹ Annual working SAO programmes, from 2004: <https://dzn.mk/mk/godisni-programi-archiva>

¹⁰⁹² Individual audits by SAO, from 2006: <https://dzn.mk/mk/revizorski-izvestai>

¹⁰⁹³ Annual report on the conducted audits and the work of SAO, from 2001: <https://dzn.mk/mk/godisni-izvestai-dzn?page=0>

¹⁰⁹⁴ SAO. 2020. SAO Communication Strategy 2020-2023, p.3, https://dzn.mk/sites/default/files/2020-09/Komunikacionika_strategija_2020_2023.pdf

¹⁰⁹⁵ State Audit Law, Article 33.2

¹⁰⁹⁶ State Audit Law, Article 33

¹⁰⁹⁷ State Audit Law, Article 38

¹⁰⁹⁸ Law on Public Procurement. Official Gazette of RM no.24/19)

¹⁰⁹⁹ State Audit Law, Official Gazette of RM, no. 66/10, 145/10, 12/14, 43/14, 154/15, 192/15, 27/16, 83/18 and 122/21, Article 38

¹¹⁰⁰ Ibid, Article 30 and 31 and 32

There are no other legal provisions which allow administrative bodies audited by the SAO to challenge or appeal against audit results. They can only submit comments to the State Audit Office within 30 days from the day of receipt of draft report.¹¹⁰¹

INDICATOR 9.2.4 ACCOUNTABILITY (PRACTICE)

To what extent does the SAI have to report and be answerable for its actions in practice?

Score: 75/100

The SAO has to report and be answerable for its actions in practice via annual reporting to the Assembly. However, timely reviews of the annual reports by the Assembly has been lacking. For example, the 2021 annual report submitted in June 2022 was reviewed at the end of March 2023.

SAO annual reports contain detailed information on the general work of the SAO and on its conducted audits. Reports are divided into sections that cover different areas of the work of the SAO. The general part explains the legal framework and other relevant strategic documents. A separate section is dedicated to the conducted audits. At the end, systematic weaknesses are outlined.¹¹⁰² The report from the annual financial audits of SAO finances¹¹⁰³ are also included in the report. On 29 September 2023, the president of the committee for finance and budget in the Assembly submitted a request for information to SAO and informed that the committee that, in accordance with Article 60 paragraph 4 of the Rules of Procedure of the Assembly of the Republic of North Macedonia, it will review the final report of J3U University's clinic for radiotherapy and oncology in Skopje. The committee then discussed the reports on 12 October 2023.

In 2021, at two separate Assembly's plenary sessions held in March and December¹¹⁰⁴ annual reports submitted by the SAO on conducted audits were reviewed by the Assembly, with the conclusions adopted, which were then submitted to the government, the Ministry of Finance and to the SAO. The conclusions are posted on the SAO website. The annual report for 2021 was reviewed in March 2023, almost a year after its submission.¹¹⁰⁵

The SAO findings can be challenged in practice in accordance with the procedure given within the SAL.¹¹⁰⁶

INDICATOR 9.2.5 INTEGRITY MECHANISMS (LAW)

To what extent are there mechanisms in place to ensure the integrity of the audit institution?

Score: 100/100

There are comprehensive provisions in place to ensure the integrity of SAO officials regarding conflicts of interest, rules on gifts and hospitality, as well as post-employment restrictions.¹¹⁰⁷

¹¹⁰¹ Ibid, Article 30 and 31

¹¹⁰² All the annual reports are available on the following link: <https://dzh.mk/mk/godisni-izvestai-dzh>

¹¹⁰³ Ibid

¹¹⁰⁴ 34 Plenary Session held on 3 March 2021 were reviewed in the annual report for 2019: Assembly of Republic of Macedonia. 2021. Conclusion regarding the annual report: https://dzh.mk/sites/default/files/2021-04/Zaklucok_SobranieRSM_GI2019_DZR.pdf and on the 54 plenary session were reviewed the annual report for 2020: Assembly of R. 2021. Conclusion regarding the Annual report: https://dzh.mk/sites/default/files/2021-12/Zaklucoci_Godisen_izvestaj_2020_GDR_Sobranie_RSM.pdf

¹¹⁰⁵ Assembly of RM. 2023. Conclusion of annual report: https://dzh.mk/sites/default/files/2023-03/Zaklucoci_Sobranie_Godisen_izvestan_DZR_2021.pdf

¹¹⁰⁶ State Audit Law, Article 30

¹¹⁰⁷ Policy of integrity of SAO: <https://dzh.mk/sites/default/files/2022-02/politika-integritet-dzh.pdf>; Law on the Prevention of Corruption and Conflict of Interest. Official Gazette of RM no. 12/2019, Article 47: <https://dksk.mk/wp-content/uploads/2020/12/Закон-за-спречување-на-корупцијата-и-судирот-на-интереси.pdf>

The SAO has its own integrity policy adopted in February 2022.¹¹⁰⁸ According to the auditor general, the SAO also has developed a new code ethics for the SAO's employees who have signed a statement to say that they have seen the code.¹¹⁰⁹ The new code of ethics is available on the SAO's website.^{1110,1111}

It includes rules on conflict of interest and receiving gifts and services. The code foresees the establishment of a commission for professional ethics that will follow if the principles of the code are being respected.

In addition, regulation of conflicts of interest are included in the Law on the Prevention of Corruption and Conflict of Interest and the ethical code for administrative servants.¹¹¹² The auditor general and the deputy AG, as appointed persons, are obliged to submit asset and interests declarations to the State Commission for the Prevention of Corruption (LPCCI).¹¹¹³

The SAO code of ethics and the LPCCI make the SAO accountable to a two level integrity system, one on the level of the institution itself and the second by the competent authority, the SCPC. The follow-up of the integrity system will determine the efficiency of the established procedures and policies that provide a base for the implementation of the principles of integrity and the measurement of the results for the measures implemented to decrease the risk of corruption.¹¹¹⁴

INDICATOR 9.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is the integrity of the audit institution ensured in practice?

Score: 100/100

There is a comprehensive approach to ensuring the integrity of members of the SAO, comprising effective enforcement of existing rules, proactive inquiries into alleged misbehaviour, sanctioning of misbehaviour, as well as regular staff training on integrity issues.

The SAO implements the policy of integrity in practice, and there have been no cases where the integrity of the institution or the reports that they publish were in question.

The institution appointed a person for integrity who is responsible for follow-up and reporting on the implementation of this policy.¹¹¹⁵

There were no cases where employees of SAO were publicly blamed for a breach of the regulations related to conflict of interests, integrity and gift and hospitality regulations.

The programme for continuous professional development for SAO employees in 2022 included regular training on integrity and ethics for all staff members.¹¹¹⁶

¹¹⁰⁸ SAO. 2022. Policy on integrity: <https://djr.mk/sites/default/files/2022-02/politika-integritet-djr.pdf>

¹¹⁰⁹ Interview conducted with Maksim Acevski, auditor general on 23 December 2022

¹¹¹⁰ SAO. 2023. Code of Ethics: https://djr.mk/sites/default/files/2023-06/8.%20Kodeks%20na%20etika_MAK_11_0.pdf

¹¹¹¹ Discussed with a representative from SAO on the meeting of the advisory group held on 29 June 2023

¹¹¹² Ministry of information society and administration. 2014. Ethical code for administrative servants:

https://aa.mk/content/pdf/Drugi%20dokumenti/ZAS/podzakonski%20akti/kodeks_za_administrativni_sluzbenici.pdf

¹¹¹³ State Commission for Prevention of Corruption and Declaration of Assets: http://www.dksk.org.mk/imoti_2/detail.php?detail=19234&search=&ime=%D0%BC%D0%B0%D0%BA%D1%81%D0%B8%D0%BC&prezime=&funkcija=&institucija=;

¹¹¹⁴ Ibid

¹¹¹⁵ SAO. 2022. Policy on integrity, p.5: <https://djr.mk/sites/default/files/2022-02/politika-integritet-djr.pdf>

¹¹¹⁶ SAO. 2021. Programme for continuous professional development of the employees of the SAO, p.6:

https://djr.mk/sites/default/files/2022-01/Godisen_plan_kontinuirano_profesionalno_usovrsuvanje_2022_godina.pdf

INDICATOR 9.2.7 GENDER

To what extent are the audit institution's mechanisms gender-sensitive?

Score: 100/100

Gender-sensitive protocols and guidelines exist and are actively implemented, and there is significant training.

There are two appointed staff members for internal disclosure in accordance with the Law on the Protection of Whistleblowers, one of whom is a woman. Also, a woman is responsible for receiving reports and complaints.¹¹¹⁷

In June 2021, the State Audit Office signed a memorandum of understanding with UN Women that provides a framework for strengthening the capacities of the SAO on gender-responsive policy-making and budgeting. According to the UN Women Regional Office for Europe and Central Asia, by 2022 “90 auditors have attended informative sessions on the basic concepts of gender equality and GRB [gender-responsive budgeting] and 35 state auditors and the auditor general have completed in-depth training on how to mainstream gender into auditing processes and the methods and tools for conducting gender impact assessments of policies and regulations”.¹¹¹⁸

In 2021, the SAO conducted its first performance audit on the effectiveness of government measures for gender equality and appropriate gender budgeting initiatives.¹¹¹⁹

Regarding the structure of human resources of SAO, it has 116 employees of whom 72 are women and 44 are men. There are 23 head of audit teams of which 16 are women and 7 are men.¹¹²⁰

From April until November 2022, the SAO, with support from UN Women, prepared a guide for auditing gender equality.¹¹²¹ This was the first time this type of guidance had been prepared and provides basic guidance on the key issues to be included during the selection, implementation and reporting of audits related to areas of gender equality and when integrating gender aspects in the general topics of an audit.

ROLE

INDICATOR 9.3.1 EFFECTIVE FINANCIAL AUDITS

To what extent does the audit institution provide effective audits of public expenditure?

Score: 100/100

The SAO has the full authority to oversee all public financial operations and always reports the results of the audit to the Assembly. All the reports prepared by the SAO are submitted to the Assembly in a timely manner.

The SAO conducts audits of legality, regularity of financial management and performance.¹¹²² The SAO also examines and assesses the effectiveness of internal control and public internal financial control.¹¹²³

Audits are conducted on the basis of annual programmes that are prepared and published by the SAO at the beginning of the year.¹¹²⁴ According to criteria set out in the guidelines for strategic and annual audit planning, the SAO's 2023 plan will carry out a total of 78 audits, 50 of which relate to regularity audits (financial audit with a compliance audit), 13 audits of compliance, 11 performance audits and 4 audits on the implementation of the recommendations contained in the final audit reports of the past period, which are shown in the review of planned

¹¹¹⁷ Authorised persons for internal disclosure and complaints: <https://dzh.mk/mk/kontakt-informacii>

¹¹¹⁸ ECA UN Women, Transformative financing for gender equality in the Western Balkan, p.18, https://eca.unwomen.org/sites/default/files/2022-03/GRBMagazine_Issue1Winter2022-1.pdf

¹¹¹⁹ Ibid

¹¹²⁰ SAO. 2023. Annual report on performed audits and operation of SAO for 2022:

https://dzh.mk/sites/default/files/2023-07/DZR_Godisen%20izvestaj_2022_ANG_za_web_compressed_c.pdf, p.56 and 57

¹¹²¹ SAO. 2023. Guide for auditing gender equality: https://dzh.mk/sites/default/files/2022-12/SAO_Upatstvo-za-Revizija_MK-web.pdf

¹¹²² State Audit Law, Official Gazette of RM, no. 66/10, 145/10, 12/14, 43/14, 154/15, 192/15, 27/16, 83/18 and 122/21, Article 18

¹¹²³ State Audit Law, Official Gazette of RM, no. 66/10, 145/10, 12/14, 43/14, 154/15, 192/15, 27/16, 83/18 and 122/21, Article 19

¹¹²⁴ SAO. Annual working programme: Report on performed audits and operation of the State Audit Office: <https://dzh.mk/mk/node/3750>; Law on state audit, Consolidated version: https://dzh.mk/sites/default/files/2021-07/Zakon_drzavna_revizija_21_final_MKD_p.pdf, Article 9

revisions, which forms an integral part of the 2023 annual plan for. Under the 2023 SAO annual work programme, there are plans to conduct a total of 11 performance audits, of which at least 4 performance audits will be co-operative audits with the SAI.¹¹²⁵

Further, the SAO also has to conduct audits on political financing from the state budget¹¹²⁶ (see 11.2.1).

In the previous years (2019 to 2022), the SAO conducted all required audits and submitted its reports to the Assembly on time.

Table 9.3. Number of conducted audits in the period from 2019- 2022¹¹²⁷

Annual programme of the work of SAO	Planned audits	Conducted audits	Published final audits reports
2022	188	188	223
2021	68	68	109
2020	58	58	82
2019	54	54	90

The audit reports published on the website are up-to-date and comprehensive.¹¹²⁸ In 2022, the SAO issued 223 final audit reports.¹¹²⁹ A total of MKD 411,508 million of public revenue and MKD 284,839 million of public expenditure were audited in line with SAO annual work programme for 2022.¹¹³⁰

In its audit, the SAO takes into consideration the environmental and climate impact of public expenditures and how the activities undertaken by public institutions are influencing natural resources and environment. It also provides training for the employees in this area. The 2021 annual working programme contained 9 performance audits, where the SAO provides recommendations to the authorities regarding their work and use of public resources, health and social themes, natural resources and the protection of the environment.¹¹³¹

INDICATOR 9.3.2 DETECTING AND SANCTIONING MISBEHAVIOUR

Does the audit institution detect and investigate misbehaviour of public officeholders?

Score: 75/100

Misbehaviour of public officeholders can be and has been assessed by the SAO. Whenever irregularities are detected, the SAO has a legal obligation to submit a copy of the audit report to the SCPC and to the PPO for further investigation. However, as the PPO does not have a proactive role in opening investigations and there is a lack of information on PPO investigation sanctioning of detected irregularities.

¹¹²⁵ Ibid, p.3

¹¹²⁶ Law on Financing of Political Parties, Official Gazette of the RM, number 76/2004, 86/2008, 161/2008, 96/2009, 148/11, 142/12, 23/13, 140/18 and 294/20, Head III

¹¹²⁷ Information received through a freedom of information request

¹¹²⁸ SAO. Annual report on performed audits and operation of the State Audit Office (All the reports available): <https://dzh.mk/mk/godisni-izvestai-dzr>

¹¹²⁹ SAO. 2022. Annual report on the work of SAO: https://dzh.mk/sites/default/files/2023-07/DZR_Godiseni%20izvestaj_2022_ANG_za_web_compressed_c.pdf, p.12

¹¹³⁰ Ibid, p.13

¹¹³¹ SAO. 2022. Annual Report on performed audits and operation of the State Audit Office for 2021: <https://dzh.mk/sites/default/files/2022-06/2021-godiseni-izvestaj-dzr-mk.pdf>

The SAO has adequate mechanisms to identify misbehaviour through access to all the relevant information needed for the audit, including operation and financial irregularities. The auditors also have the right to request the necessary documents in case they are not submitted by the entity subject to an audit.¹¹³²

The SAO also has the authority to investigate misbehaviour and identify responsibilities of office holders.¹¹³³

Through regular submissions of final audit reports to the Assembly and the competent authorities, the SAO brings attention to the identified weaknesses in the operation of audited entities. However, identified irregularities and illegalities in the operation of entities may be expected only if competent institutions take necessary measures.¹¹³⁴ There is no public information on open investigations by the PPO for any findings contained in the audit reports. The lack of transparency in PPO case management (See 4.2.2) means citizens cannot obtain relevant information for its work.

In the report for the audit of the SEC published in 2021, irregularities were detected in the public procurement procedure and in the preparing and printing of confidential election material and voting lists for the 2019 local elections. For these irregularities, a report to the State Commission for the Prevention of Corruption was submitted.¹¹³⁵

In the report issued on the 2021 census, the SAO noted numerous irregularities, such as: low response of candidates for enumerators and instructors, problems with the application software, problems with the internet connection and hacker attacks that stopped the census for a certain period.¹¹³⁶ In relation to public procurements, the SAO indicated the need for full transparency of procedures and competition between economic operators but this was not implemented.¹¹³⁷

INDICATOR 9.3.3 IMPROVING FINANCIAL MANAGEMENT

To what extent does the audit institution provide effective audits of public expenditure?

Score: 75/100

The SAO makes comprehensive, well-grounded and realistic recommendations on how to improve financial management and engages government in an effective follow-up to ensure their implementation. However, although a large percentage of the SAO's recommendations are implemented by the auditees, there is still a need for additional effort in the full implementation of the recommendations.

The SAO continuously records, monitors and analyses the feedback it receives from audited institutions submitted to the public prosecutor's office, the State Commission for the Prevention of Corruption, financial police directorate, Ministry of Interior and the deputy prime minister of RNM in charge of good governance policies.¹¹³⁸ The SAO then publishes reports on how the audited institutions followed up on its recommendations.¹¹³⁹

In April 2022, the SAO submitted a request to the competent bodies for investigating and opening cases relevant to the fight against corruption, such as prosecution, ministries and agencies, to provide updates on measures taken upon the key final audit reports in 2021. Until the time of writing, feedback has been received by the public

¹¹³² State Audit Law. Official Gazette of RM, no. 66/10, 145/10, 12/14, 43/14, 154/15, 192/15, 27/16, 83/18 and 122/21, Articles 24 to 39

¹¹³³ SAO. 2022. Annual report on the audits conducted and the work of SAO for 2021, p.63: <https://djr.mk/sites/default/files/2022-06/2021-godisen-izvestaj-dzr-mk.pdf>

¹¹³⁴ Ibid, p.35

¹¹³⁵ SAO. 2021. Final report on financial and compliance audit for 2019 of the State Electoral Commission:

https://djr.mk/sites/default/files/2021-07/07_RR_Drzavna_izborna_komisija_DIK_2019_KOMPLET.pdf

¹¹³⁶ SAO. 2023. Annual report on performed audits and operation of SAO for 2022: https://djr.mk/sites/default/files/2023-07/DZR_Godisen%20izvestaj_2022_ANG_za_web_compressed_c.pdf, p.126

¹¹³⁷ Ibid, p.129

¹¹³⁸ SAO. 2022. Annual report on the audits conducted and the work of SAO for 2021, p.63: <https://djr.mk/sites/default/files/2022-06/2021-godisen-izvestaj-dzr-mk.pdf>

¹¹³⁹ Example: https://djr.mk/Uploads/31_SDMS_FOLOW_UP_2018.pdf

prosecutor's office and the Ministry of Finance's financial police directorate.¹¹⁴⁰ The SAO also has a memorandum of cooperation with the public prosecutor's office, appointing a person for regular communication with the SAO and for organising joint events. However, according to the auditor general there are still gaps in following up on feedback due to resource gaps in the public prosecution office (see 4.1.2). This situation is expected to be overcome in the next period by enabling inter-education.¹¹⁴¹

However, there is no mechanism or overview website that enables the Assembly and the public to monitor the implementation of recommendations in a timely and user-friendly way.

The 2022 EC progress report on North Macedonia concludes that State Audit Office's recommendations are not efficiently implemented by the auditees. In 2021, 88 per cent of the audit recommendations were implemented.¹¹⁴² In 2022, the percentage was 80 per cent.¹¹⁴³

The SAO also participates with the council for the conduct of public finances, which is the coordinating body of the government for following up on the implementation of reforms to public finances within the public finance management reform programme Smart Public Finances 2022 – 2025.¹¹⁴⁴

The SAO is also responsible for auditing the regular financing of political parties and, in accordance with the electoral code, conducts audits on the financial reports for their electoral campaigns.¹¹⁴⁵ In 2022, the SAO carried out audits on the income statements of all 141 participants in the 2021 local elections, with 27 political parties audited, 22 coalitions and 92 independent candidates.¹¹⁴⁶

INTERACTIONS

The SAO is accountable to the Assembly. The interaction between these two institutions is regulated by the SAL. This cooperation is of great importance for the further implementation of the SAO's recommendations, addressing different systemic and procedural failures that otherwise enable the misuse of public funds. However, the communication and adoption of the SAO reports is not always done in a timely manner, which leads to delay in action for addressing the gaps detected in the audit reports (see 9.2.3 & 9.2.4). The SAO and the Assembly signed a MoC to promote cooperation in the execution of competences of both bodies by setting up professionally sustainable and efficient relations for strengthening efficiency and transparency in public finance oversight. The signed MoC regulates the method of communication and exchange of information and data in relation to audit reports, technical assistance and cooperation with the Assembly's professional committees in the field of audit, by organising joint meetings, training, briefings and other events for better informing MPs and clarifying audit reports. This MoC regulates the manner for reviewing final audit reports or summary reports for a group of entities at a session of the relevant working body of the Assembly, plus the way of consulting and deciding on final audit reports or summary reports to be reviewed at Assembly sessions.¹¹⁴⁷

¹¹⁴⁰ Ibid, p.36

¹¹⁴¹ Information received by representative of SAO during the meeting of the Advisory group held on 29 June 2023

¹¹⁴² European Commission. 2022. EC Progress report on North Macedonia 2022, https://neighbourhood-enlargement.ec.europa.eu/north-macedonia-report-2022_en, p.64

¹¹⁴³ SAO (2. 2023), . Annual report on the conducted audits and the work of SAO for 2022: https://dzh.mk/sites/default/files/2023-07/DZR_Godisen%20izvestaj_2022_ANG_za_web_compressed_c.pdf, p.12

¹¹⁴⁴ Ibid, p.28

¹¹⁴⁵ Law on Financing of Political Parties. Official Gazette of the RM, number 76/2004, 86/2008, 161/2008, 96/2009, 148/11, 142/12, 23/13, 140/18 and 294/20, Head III; Electoral Code, Consolidated version, Article 78-a (10), 84-b (7) and 85

¹¹⁴⁶ https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

¹¹⁴⁷ SAO. 2023. Annual report on the conducted audits and the work of SAO for 2022: https://dzh.mk/sites/default/files/2023-07/DZR_Godisen%20izvestaj_2022_ANG_za_web_compressed_c.pdf, p.230

¹¹⁴⁸ Memorandum of cooperation (MoC) between the Assembly and the State Audit Office, October 2023:

https://dzh.mk/sites/default/files/2022-10/Memorandum_Sobranie_RSM_DZR.pdf, Accessed on 30 October 2023

The SAO and the State Commission for the Prevention of Corruption have signed a memorandum of cooperation too. The MoC will enable a smooth exchange of data and information. Both institutions also cooperate with the state electoral commission for the control and increased transparency of political party finances (see 10.3.3).

PILLAR RECOMMENDATIONS

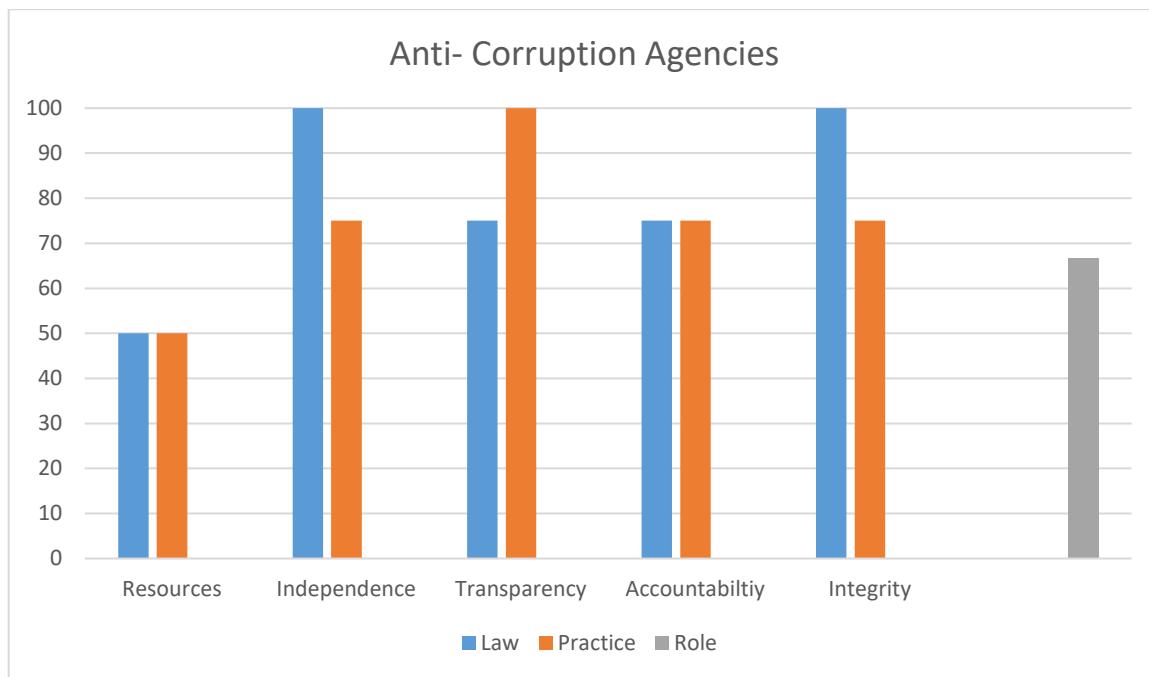
- The government should follow the request of the SAO to include the independence of the SAO in the constitution.
- The government should introduce legal deadlines for the timely review and publication of SAO annual reports.
- The SAO should fulfil the systematised working places.
- The SAO should make publicly available the follow-up mechanism for the implementation of the recommendations given by the SAO.

10. ANTI-CORRUPTION AGENCIES

SUMMARY



Indicators scores: law and practice



The State Commission for the Prevention of Corruption (SCPC) is an independent institution whose function is regulated with the 2019 Law on the Prevention of Corruption and Conflict of Interest (LPCCI). The SCPC consists of 7 members, and one is the president of the commission. Their work is supported by the SCPC secretariat, which is a professional service composed of civil servants, led by the secretary general.

The institution is financed by the state budget but the legal provisions are missing objective indicators for budget changes and the option to acquire further funds. The independence of the institution and the financial and human resources for its functioning were increased in line with its new competencies, such as the anti-corruption check of the legal acts, financing of political parties and improvement of the integrity at an institutional level under the LPCCI. However, 25 per cent of systematised staff positions remain unfilled and there is a high dependency on donor funds for staff training.

The 2019 LPCCI introduced a new and transparent procedure for the selection of the president and members of SCPC via an election by members through an open procedure and including external experts, and aired on the Assembly TV channel.

The SPSC conducts its work transparently and informs the public of its activities through various means (website, briefings for the media, regular communication with CSOs and other institutions, and so on).

The SCPC is accountable to the Assembly through the submission of an annual report and other thematic reports such as special reports after the elections, plus annual reports for the implementation of the law for access to information.¹¹⁴⁸ All these reports and other details relevant to the work of SCPC are published on its website (dksk.mk) in timely manner.

In the last four years, the SCPC took a more proactive role in the fighting corruption. Its openness and transparency have contributed towards an increased number of reports submitted by the citizens and the media. However, there is no follow-up action by the other relevant authorities, such as the public prosecutor's office, government and the judiciary, who do not always take the necessary measures when irregularities are confirmed.

CAPACITY

INDICATOR 10.1.1 RESOURCES (LAW)

To what extent are there provisions in place that provide the ACA with adequate resources to effectively carry out its duties?

Score: 50/100

While a number of provisions exist, they do not cover fiscal stability, objective indicators for budget changes or the acquisition of further funding through, for example, asset confiscation.

The SCPC is financed by the state budget. The institution has to prepare its budget proposal in accordance with the law on budgeting and has to submit it to the Ministry of Finance.¹¹⁴⁹

There are no legal acts that secure fiscal stability and the government can conduct budgetary changes.¹¹⁵⁰ There are no objective performance or problem based indicators incorporated into the law to determine budgetary changes. Finally, there is no leeway for SCPC to acquire further funding (for example, from confiscating assets) due to the fact that the SCPC is a preventive body and has no competences related to confiscation of the assets.

INDICATOR 10.1.2 RESOURCES (PRACTICE)

To what extent does the ACA have adequate resources to achieve its goals in practice?

Score: 50/100

The ACA has some resources. However, there are gaps in human resources and a high dependency on donor funds for staff training.

The SCPC budget increased in the last five years after the LPCCI from 2019, which introduced new competencies for the SCPC¹¹⁵¹ that required additional IT and human resources. In 2021, there was a substantial increase in

¹¹⁴⁸ SCPC. 2022. Yearly report for received requests for access to information in the public interest for 2021: <https://dksk.mk/wp-content/uploads/2022/01/Годишен-извештај-за-спроведување-на-ЗСПИЈК-за-2021-година.pdf>

¹¹⁴⁹ Law on the Prevention of Corruption and Conflict of Interest, Official Gazette of RM, number 12/19, Article 21: <https://dksk.mk/wp-content/uploads/2020/12/Закон-за-спречување-на-корупцијата-и-судирот-на-интереси.pdf>

¹¹⁵⁰ Law on Budgets. Official Gazette of RM, no. 203/2022, Article 57: <https://finance.gov.mk/wp-content/uploads/2022/09/Закон-за-Буџети.pdf>

¹¹⁵¹ Law on the Prevention of Corruption and Conflict of Interest. Official Gazette of RM, number 12/19: <https://dksk.mk/wp-content/uploads/2020/12/Закон-за-спречување-на-корупцијата-и-судирот-на-интереси.pdf>

employment in the area of financial and bank statement checks, anti-corruption reviews of legislation and other related areas for the secretariat. In 2021, the institution moved to new offices and was supplied with additional IT equipment.¹¹⁵²

Table 10.1: Budget allocation to SCPC for the period from 2019 until 2022

Year	Amount in MKD	Amount in EUR	Realisation of the budget
2022 ¹¹⁵³	46,824,000	761,366	MKD 44,650,298 (726,021€) or 95.4%
2021 ¹¹⁵⁴	46,517,000	756,373	MKD 35,909,482 (583,894€) or 77.2%
2020 ¹¹⁵⁵	33,749,000	548,764	MKD 31,143,751 (€506,402) or 92.3%
2019 ¹¹⁵⁶	35,603,000	578,910	MKD 26,876,694 (€437,019) or 75.49%

Also, the human resources, after a five-year stagnation with around 24 employees, increased substantially in 2021, followed by a bigger increase in 2022. However, according to the systematisation of staff needs, 64 positions are allocated for the SCPC secretariat, but 25 per cent of the positions remained unfulfilled at the end of 2022. According to the general secretary of the SCPC, there is a need for additional financial and human resources, particularly in the units for the prevention of conflicts of interest and for monitoring asset status and interests.¹¹⁵⁷

Table 10.2: Number of employees in the SCPC secretariat¹¹⁵⁸

Year	Number of staff positions according to systemisation	Number of staff positions filled	% of unfulfilled positions
2022	64	48	25.00
2021	64	34	46.88
2020	60	23	61.67
2019	51	24	52.94

The SCPC president and six commissioners have to be elected in an open competition and they are not political appointees. The selection has been conducted in the Assembly in a very transparent procedure with the participation of CSOs and media and was broadcast via the parliamentary TV channel.¹¹⁵⁹

¹¹⁵² SCPC. 2022. SCPC annual report for 2021: <https://dksk.mk/wp-content/uploads/2022/03/%D0%93%D0%98-2021-final.pdf>, p.1

¹¹⁵³ SCPC. 2023. SCPC annual report for 2022: <https://dksk.mk/wp-content/uploads/2023/03/GI-2022-%D0%BA%D0%BE%D0%BD%D0%B5%D1%87%D0%B5%D0%BD.pdf>, p.58

¹¹⁵⁴ SCPC. 2022. SCPC annual report for 2021: <https://dksk.mk/wp-content/uploads/2022/03/%D0%93%D0%98-2021-final.pdf>, p.64

¹¹⁵⁵ Ibid

¹¹⁵⁶ SCPC. 2020. SCPC annual report for 2019: <https://dksk.mk/wp-content/uploads/2020/12/Годишен-извештај-за-работата-на-ДКСК-2019.pdf>, p.61

¹¹⁵⁷ Interview (face-to-face) with the general secretary of SCPC, Irena Popovska, on 20 January 2023

¹¹⁵⁸ Annual reports for the work of SCPC for the years 2019, 2020, 2021 and 2022: <https://dksk.mk/mk/годишни-извештаи/>

¹¹⁵⁹ Statement of the Anti-Corruption platform of CSOs regarding the election and appointment of the new members of SCPC: <https://transparency.mk/2019/02/18/очекување-за-нова-борбена- комисија-за-борба-против-корупцијата/>, Accessed on 10 July 2023

Secretariat employees are civil servants and are employed in accordance with the procedures in the Law on Administrative Servants, general working rules and the LPCCI.¹¹⁶⁰ No ethics screening is needed, and recruitment is based on necessary competences and experience depending on the position.

The SCPC conducts a procedure that ensures career development. For example, in March 2021 through internal procedures, six administrative servants with longer term work experience were promoted to managerial positions.¹¹⁶¹

The LPCCI does not outline additional training sessions or screening process for the employment in the secretariat. However, the SCPC has its own training programme, and employees do need to undergo specific training to increase their competence. The employees regularly take part in training workshops in the country and internationally.¹¹⁶² According to the general secretary of SCPC, employee training is conducted with resources provided by international donors, not from the institution's own budget.¹¹⁶³ The SCPC is continuously supported by EU, USAID, MATRA, Council of Europe, OSCE Mission in North Macedonia and other donor funded projects that offer technical assistance and capacity building for the employees.¹¹⁶⁴

INDICATOR 10.1.3 INDEPENDENCE (LAW)

To what extent is the ACA independent by law?

Score: 100/100

There are comprehensive laws to ensure the independence of the SCPC.

The SCPC is an autonomous and independent statutory body.¹¹⁶⁵ The law provides for the SCPC's independence from political interference, and the commissioners and staff are obliged to adhere to principles of legality and integrity.¹¹⁶⁶

The 2019 LPCCI outlines the procedure for the election of the SCPC president and six commissioners that provides transparency and aims to ensure professionalism and integrity among the members of the commission. The Assembly has to make a public announcement¹¹⁶⁷ and create a special committee and involve numerous experts in the selection of the president and members of the SCPC.¹¹⁶⁸ The committee has to be composed of two MPs from opposition and two from the MPs from the leading coalition; one representative from the ombuds office, one CSO and one media representative. The list of candidates that fulfil the formal criteria has to be published along with the times to interview each candidates, and public and media are invited to monitor. After the interviews, the list of selected candidates and all the related documents are to be sent to the Assembly for discussion and election/appointment. The Assembly appointed the president and the members of the SCPC for a period of five years, without the possibility of re-election.¹¹⁶⁹

¹¹⁶⁰ Law on the Prevention of Corruption and Conflict of Interest. Official Gazette of RM, number 12/19, Article 20: <https://dksk.mk/wp-content/uploads/2020/12/Закон-за-спречување-на-корупцијата-и-судирот-на-интереси.pdf>

¹¹⁶¹ SCPC. 2022. SCPC annual report for 2021: <https://dksk.mk/wp-content/uploads/2022/03/%D0%93%D0%98-2021-final.pdf>, p.7

¹¹⁶² Ibid, p.53

¹¹⁶³ Interview (face-to-face) with the general secretary of SCPC, Irena Popovska, on 20 January 2023

¹¹⁶⁴ EU Support for Rule of Law – Component 3 for Improving the Prevention and Fight against Corruption: <https://dksk.mk/mk/eu-support-for-rule-of-law/>; CAF Consensus Workshop: <https://dksk.mk/en/caf-consensus-workshop/>; Cooperation with the Italian Anti-corruption Agency <https://dksk.mk/en/italian-anti-corruption-authority-anac-2/>; Project: Strengthening Institutional Capacities in the Fight against Corruption <https://transparency.mk/en/project/strengthening-institutional-capacities-in-the-fight-against-corruption/>

¹¹⁶⁵ Law on the Prevention of Corruption and Conflict of Interest. Official Gazette of RM, number 12/19, article 9:

¹¹⁶⁶ Ibid, Article 3 and 4

¹¹⁶⁷ Law on the Prevention of Corruption and Conflict of Interest. Official Gazette of RM, number 12/19, article 10

¹¹⁶⁸ Ibid, Article 12

¹¹⁶⁹ Law on the Prevention of Corruption and Conflict of Interest. Official Gazette of RM, number 12/19, article 10

The staff is recruited based on the Law on Administrative Servants,¹¹⁷⁰ based on merit principles, in accordance with the required educational background and experience which the working position requires.

The president and the members of the SCPC have the status of appointed public officials. The function of president and member of the SCPC is incompatible with other public functions, professions or a position in a political party.¹¹⁷¹

The law details protection for the people working in the bodies for the detection and suppression of corruption to effectively exercise their powers and duties and shall not be subjected to pressure in their work or in the undertaking of specific actions. Those authorised to receive disclosures from whistleblowers also receive full protection. Any pressure made on them they should be reported to the SCPC, which should then inform the Assembly.¹¹⁷²

INDICATOR 10.1.4 INDEPENDENCE (PRACTICE)

To what extent is the ACA independent in practice?

Score: 75/100

The ACA operates freely from any interference by other actors, particularly the executive through a transparent and participatory election process for the ACA president and committee members. However, there is decrease in citizens trust in the SCPC and it lacks proper mechanisms for investigation and sanctioning, which makes it dependent on law enforcement agencies.

The new transparent procedures for the selection of the president and members of SCPC (see 10.1.3) was also mentioned in the 2019 EC Progress Report for North Macedonia as a positive result in the fight against corruption.¹¹⁷³ However, analysis conducted by the International Republican Institute in 2022¹¹⁷⁴ showed that citizens distrust of the SCPC is at 44 per cent, while in 2021 in an analysis by the National Endowment Institute¹¹⁷⁵ found it was 33 per cent. The lack of concrete results in the fight against corruption caused this decrease in trust towards the SCPC.

There has not been any evidence of political interference in the work of the SCPC since 2019, when the new anti-corruption law came into effect and new commissioners were appointed.

The SCPC is independent in terms of administrative processing of the cases within its authority. In 2022, it continued to fulfil its role proactively and opened several new cases. In 2022, the SCPC processed 583 cases of alleged corruption, 145 cases for alleged conflict of interest and 71 cases into asset declarations.¹¹⁷⁶ In October 2022, the SCPC signed a memorandum for the exchange of data with the Ministry of Interior.¹¹⁷⁷ However, the

¹¹⁷⁰ Law on Administrative Servants: <https://ldbis.pravda.gov.mk/PregledNaZakon.aspx?id=59460>, Accessed on 29 September 2022

¹¹⁷¹ Law on the Prevention of Corruption and Conflict of Interest. Official Gazette of RM, number 12/19, article 13

¹¹⁷² Ibid, Article 43

¹¹⁷³ EC Report on the progress of Macedonia for 2019. 2020. p.4: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2019-05/20190529-north-macedonia-report.pdf>

¹¹⁷⁴ IRI North Macedonia Poll Finds Dissatisfaction with Country's Direction, Support for EU Membership, Increase in Positive Perceptions of Turkey and China, 19 December 2022: <https://www.iri.org/news/iri-north-macedonia-poll-finds-dissatisfaction-with-countrys-direction-support-for-eu-membership-increase-in-positive-perceptions-of-turkey-and-china/>

¹¹⁷⁵ NDI, December 2021, "Citizens' Perception of Anti-Corruption":

<https://www.ndi.org/sites/default/files/Corruption%20Poll%20NDI%20MK%20December%202021%20%D0%BC%D0%BA.pptx.pdf>

¹¹⁷⁶ SCPC. 2023. SCPC annual report for 2022, page 12: <https://dksk.mk/wp-content/uploads/2023/03/GI-2022-%D0%BA%D0%BE%D0%BD%D0%B5%D1%87%D0%B5%D0%BD.pdf>

¹¹⁷⁷ SCPC. Signed MoC between the State Commission for Prevention of Corruption and Ministry of Interior: <https://dksk.mk/претседателката-на-дкск-билијана-иван/?hilite=внатрешни>, Accessed on 6 November 2023

SCPC lacks proper mechanisms for sanctioning officials (see 10.3.3), which makes it dependent on the government and other institutions in applying the sanctions.

In July 2023, there were attacks on the independence of the SCPC.¹¹⁷⁸ The deputy prime minister, Artan Grubi, expressed reservations about the capacities of the current composition of the SCPC to successfully fight corruption. Previously, the commission had misunderstandings with the deputy prime minister responsible for good governance, Slavice Grakovska.¹¹⁷⁹ The latter dispute was resolved in a positive manner with an agreement for regular meetings to address the issues.¹¹⁸⁰ These attacks over the current composition of SCPC could have a negative influence on SCPC independence and even have a negative impact on the fight against corruption as those institutions should be partners, not opponents in this work.

GOVERNANCE

INDICATOR 10.2.1 TRANSPARENCY (LAW)

To what extent are there provisions to ensure that the public can obtain relevant information on the activities and decision-making processes of the ACA?

Score: 75/100

Comprehensive provisions are in place to allow the public to obtain information on the organisation and functioning of the SCPC, on decisions that concern them and how these decisions were made. However, there are no legal deadlines for the publication of reports or decisions.

The SCPC has to submit an annual report to the Assembly¹¹⁸¹ and special reports on the financing of election campaigns and on identified abuses in the financing of election campaigns, no later than three months after the elections.¹¹⁸² These reports have to be published on the SCPC's website; however, there is no legal deadline to do so.¹¹⁸³

The SCPC has to inform the public via press-conferences about cases of conflict of interest on which it acted.¹¹⁸⁴ Data from the declaration of assets and interests and reports for changes in assets and interests submitted to the SCPC have to be published on the commission's website, but again there is no legal deadline for this.¹¹⁸⁵

The SCPC also has to submit relevant data to interested parties in accordance with the Law on Access to Information of Public Character.¹¹⁸⁶ This procedure is based on the deadlines established in the Law for the Free Access to Official Information that states that the information should be sent, at latest, 20 days after the receipt of the request by the institution.¹¹⁸⁷

¹¹⁷⁸ DW. 2023. "SCPC: We are target of organized attacks": <https://www.dw.com/mk/antikorupciska-komisija-do-artan-grubi-vo-pravo-stenemame-kapacitet-za-zloupotrebi-i-da-se-rasfrlame-so-budetski-pari/a-66053060>, Accessed on 10 July 2023

¹¹⁷⁹ 21 TV, Besir Arifi. "Grubi suspects in the capacities of the members of SCPC; they state that these are organized attacks", Accessed on 10 July 2023

¹¹⁸⁰ SCPC and the Cabinet of the Vice-Premier of the Government on joint workshop for good governance: <https://dksk.mk/mk/дкск-и-кабинетот-на-заменик-претседат/>, Accessed on 15 August 2023

¹¹⁸¹ Law on the Prevention of Corruption and Conflict of Interest. Official Gazette of RM, number 12/19, Article 19

¹¹⁸² Ibid, Article 36

¹¹⁸³ Ibid, Article 32

¹¹⁸⁴ Ibid, Article 80

¹¹⁸⁵ Ibid, Article 87

¹¹⁸⁶ Law on Access to Information of Public Character. Official Gazette of RM no.101/2019: <https://aspi.mk/wp-content/uploads/2023/03/Закон-за-слободен-пристан-до-информациите-од-јавен-карактер.pdf>

¹¹⁸⁷ Ibid, Articles 17-23

The SCPC has to adopt a five-year national strategy for preventing of corruption and conflict of interests. The SCPC then has to monitor the implementation of this national AC strategy and prepare annual reports and a final report on its implementation. These reports also have to be submitted to the Assembly no later than March 31 each year. The national AC strategy, changes to the strategy, as well as the reports have to be published on the SCPC's website.¹¹⁸⁸

INDICATOR 10.2.2 TRANSPARENCY (PRACTICE)

To what extent is there transparency in the activities and decision-making processes of ACA in practice?

Score: 100/100

The public is able to readily obtain relevant information on the organisation and functioning of the SCPC on decisions that concern them and how these decisions were made.

The SCPC has its own website¹¹⁸⁹ that is regularly updated and where all information required by law is made publicly available, and in three languages. The published documents¹¹⁹⁰ are readable, open and available for analysis by interested parties. The SCPC has regular briefings with the media, cooperates with experts and civil society organisations and continuously is working for the improvement of transparency.¹¹⁹¹

The SCPC has appointed a person who receives requests for information of public interest according to the Law on Access to Information of Public Character. The SCPC is also obliged to publish reports on the received requests. The 2021 report notes that the SCPC received 31 such requests, from which 30 were positively responded and 1 was declined.¹¹⁹²

The SCPC is working on international projects supported by various donors to improve its transparency standards.¹¹⁹³ The project included exchange on good practices regarding transparency and accountability, a community portal was developed to enable the SCPC to communicate with all institutions and develop IT solutions to measure the performance, transparency and accountability of the SCPC.¹¹⁹⁴

The SCPC is open for cooperation and communication and is visible within society. SCPC sessions are broadcast publicly and their decisions, documents and other related information are regularly published on their website.¹¹⁹⁵ According to the SCPC general secretary, the practice of conducting public session held by SCPC contributed towards an increased number of reports received from citizens and the media.¹¹⁹⁶

INDICATOR 10.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions to ensure that the ACA has to report and be answerable for its actions?

Score: 75/100

¹¹⁸⁸ Law on the Prevention of Corruption and Conflict of Interest. Official Gazette of RM, number 12/19, article 14

¹¹⁸⁹ SCPC Website: <https://dksk.mk/mk/>

¹¹⁹⁰ Laws: <https://dksk.mk/mk/закони/>; Annual reports: <https://dksk.mk/mk/годишни-извештаи/>; NSPCCI: <https://dksk.mk/mk/национална-стратегија-2020-2024-2/>; Special reports on financing of elections: <https://dksk.mk/mk/избори-посебни-извештаи/>; Audit reports: <https://dksk.mk/mk/ревизорски-извештаи/>; Strategic plans: <https://dksk.mk/mk/стратешки-план/>

¹¹⁹¹ SCPC. 2022. SCPC annual report for 2021, Section 6, p.57: <https://dksk.mk/wp-content/uploads/2022/03/ГИ-2021-final.pdf>

¹¹⁹² SCPC (2022), Annual report, from 01.01.2021 to 31.12.2021: <https://dksk.mk/wp-content/uploads/2022/01/Годишен-извештај-за-спроведување-на-ЗСПИЈК-за-2021-година.pdf>

¹¹⁹³ SCPC website, Information on international cooperation: <https://dksk.mk/mk/ила-2-промовирање-на-транспарентност-и/>

¹¹⁹⁴ Project: Promoting Transparency and Accountability in Public Administration. 2022. Final report. from pp.20 to 50: https://dksk.mk/wp-content/uploads/2023/02/Final-Report_Promoting-Transparency-and-Accountability-in-Public-Administration-Reviewed_Final.pdf

¹¹⁹⁵ Rulebook on the work of the SCPC, Article 58; <https://dksk.mk/wp-content/uploads/2021/09/ДЕЛОВНИК-ЗА-РАБОТА-НА-ДКСК-ПРЕЧИСТЕН-ТЕКСТ.pdf>; Decisions adopted on the SCPC's sessions: <https://dksk.mk/mk/одлуки-3/>

¹¹⁹⁶ Interview (face-to-face) with the General Secretary of SCPC, Irena Popovska, on 20 January 2023

Extensive provisions are in place to ensure that the SCPC has to report and be answerable for its actions to the legislature. However, it is not possible for citizens to file a complaint against the SCPC and there are no citizen oversight committees. Also there is no legal basis for the application of a judicial review mechanism.

The SCPC is accountable to the Assembly and has to submit an annual report no later than 31 March each year. This report is also has to be submitted to the president of the state.¹¹⁹⁷ The annual report has to contain statistical data on cases opened, solved and cases upon which it acts in accordance with its competencies, the number of initiatives submitted to the public prosecutor's office and other bodies, plus information about the institutions that have not acted upon the SCPC's requests.¹¹⁹⁸

In accordance with the Law for the Protection of Whistleblowers,¹¹⁹⁹ the SCPC is authorised to receive whistleblower reports from persons inside the institution and reports from other institutions,¹²⁰⁰ for which the SCPC established an internal whistleblowing channel and appointed authorised persons for both internal and external disclosure.¹²⁰¹

The State Audit Office can conduct and audit the SCPC's work in accordance with its annual programmes.¹²⁰² Internal audits of the SCPC are regulated in the Law on Public Internal Financial Control. According to this law, the internal audit unit should be established for all public sector entities whose average annual budget/financial plan in the last three years exceeded MKD 50 million. This provision applies for the SCPC.¹²⁰³

There is no legal or other regulatory act that enables citizens to file complaints against the SCPC. Based on Article 50 of the constitution,¹²⁰⁴ the right of judicial review for the legality of individual acts of state institutions is guaranteed. Constitutional amendment No. XXI provides the right to appeal.¹²⁰⁵ However, there is no legislative provision to ensure judicial review of SCPC decisions.

There are no formal citizen oversight committees for the work of the SCPC.

INDICATOR 10.2.4 ACCOUNTABILITY (PRACTICE)

To what extent does the ACA have to report and be answerable for its actions in practice?

Score: 75/100

Existing provisions are effective in ensuring that the ACA has to report and be answerable for its actions. However, gaps in the law lead to ineffective judicial reviews and a lack of citizen oversight.

The head of the SCPC accounts for the activities of its staff in its annual report, which has to be sent to the Assembly within the legal deadline and made available on its webpage (see 10.2.2).¹²⁰⁶

¹¹⁹⁷ Law on the Prevention of Corruption and Conflict of Interest. Official Gazette of RM, number 12/19, Article 19 (2): <https://dksk.mk/wp-content/uploads/2020/12/Закон-за-спречување-на-корупцијата-и-судирот-на-интереси.pdf>

¹¹⁹⁸ Law on the Prevention of Corruption and Conflict of Interest. Official Gazette of RM, number 12/19, Article 19

¹¹⁹⁹ Law for the Protection of Whistleblowers. Official Gazette of RM, no.196/2015, Article 4 and Article 5: <https://dksk.mk/wp-content/uploads/2020/11/Закон-за-заштита-на-укажувачите-2016-година.pdf>

¹²⁰⁰ Ibid

¹²⁰¹ Rulebook on Protected Internal Disclosure. Official Gazette of RM, 46/16 Article 2, Paragraph 4 and Rulebook on Protected External Disclosure. Official Gazette of RM, 46/16 Article 2

¹²⁰² Law on Audit, Consolidated version: https://dza.mk/sites/default/files/2021-07/Zakon_drzavna_revizija_21_final_MKD_p.pdf, Article 9

¹²⁰³ Law on Public Internal Financial Control, Consolidated version: <https://finance.gov.mk/wp-content/uploads/2022/02/Закон-за-ЈВФК-пречистен-текст-1.pdf>, Article 30

¹²⁰⁴ Constitution of Republic of North Macedonia: <https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>

¹²⁰⁵ Ibid

¹²⁰⁶ Official website of SCPC: dksk.mk

The whistleblowing policy is effective¹²⁰⁷ as the SCPC works with whistleblowers and regularly reports on whistleblowers' reports received.¹²⁰⁸ The SCPC website contains a separate software application for the support of the whistleblowers,¹²⁰⁹ by simplifying reporting to the authorised persons within the SCPC.¹²¹⁰ The SCPC has implemented various projects and educational programmes in cooperation with CSOs and the Ministry of Justice to increase the capacity for the support and protection of whistleblowers.¹²¹¹

The judiciary review mechanism has not been effective as there is no clear legislative basis for its application.

Civil society organisations have very good cooperation and communication with the SCPC. They regularly prepare reports with information on the SCPC.¹²¹² However, there are no citizen oversight committees.

INDICATOR 10.2.5 INTEGRITY MECHANISMS (LAW)

To what extent are there mechanisms to ensure the integrity of members of the ACA(s)?

Score: 100/100

There are comprehensive provisions to ensure the integrity of members of the SCPC. Examples are a code of conduct, rules regarding conflicts of interest, rules on gifts and hospitality and post-employment restrictions.

The SCPC has its own code of ethics for the president and members to follow.¹²¹³ The secretariat staff is obliged to also follow the code of ethics for the administrative servants, which does not cover specific areas such as the asset declarations and conflict of interest rules specific to the SCPC. However the SCPC has established rules for internal order and discipline of employees in the secretariat of SCPC,¹²¹⁴ which additionally regulates the professional conduct of the employees within the secretariat. The rulebook for prevention of conflict of interest and reporting of additional engagement for officials in the SCPC was also developed.¹²¹⁵ The anti-corruption law covers all asset declarations and conflict of interest rules, as well as the rules on gifts, hospitality and post-employment restrictions applicable to SCPC commissioners.¹²¹⁶

In 2021, the SCPC adopted and implemented an integrity policy¹²¹⁷ to contribute towards the protection of public interest and the prevention of conflicts of interest, compliance with the code of ethics relevant for the official's position, human resources management based on a merit and qualifications system, efficient management of public resources, transparency of the public sector, quality management and protection for whistleblowers.

The anti-corruption law also provides very complex and transparent procedures for integrity checks of candidates for election and appointment of members of the SCPC (see 10.1.3).¹²¹⁸ However, there are no integrity screenings for regular staff.

¹²⁰⁷ Handbook on Protection of Whistleblowers: <https://dksk.mk/mk/прирачници-за-заштита-на-укајувачите-2>

¹²⁰⁸ SCPC annual report for 2021, 2022, page 45: <https://dksk.mk/wp-content/uploads/2022/03/%D0%93%D0%98-2021-final.pdf>

¹²⁰⁹ Software for the protection of whistleblowers: <https://dksk.mk/mk/апликација-за-укајувачи>

¹²¹⁰ SCPC, Protection of whistleblowers section: <https://dksk.mk/mk/апликација-за-укајувачи/>

¹²¹¹ TI - Macedonia, Information on cooperation with SCPC, <https://transparency.mk/2022/05/18/pet-godini-od-implementacijata-na-zakonot-za-zashtita-na-ukazhuvachi/>; <https://dksk.mk/одржан-вториот-меѓународен-вебинар-на-укајувачи/>; <https://www.antikorupcija.mk/архиви/754>

¹²¹² SCPC info on cooperation with CSOs: <https://dksk.mk/mk/учество-на-обуки-на-преставници-на-лок/>; <https://dksk.mk/втор-квартален-извештај-за-имплементација/>; <https://transparency.mk/2022/05/18/pet-godini-od-implementacijata-na-zakonot-za-zashtita-na-ukazhuvachi/>; <https://www.antikorupcija.mk/архиви/754>

¹²¹³ SCPC (2020), Ethical Code: https://dksk.mk/wp-content/uploads/2020/12/Etichki_kodeks_za_DKSK-20200206_comm.pdf

¹²¹⁴ SCPC. 2020. Rules for internal order and discipline of employees in the secretariat of SCPC:

https://dksk.mk/fileadmin/user_upload/2020/Pravila_za_vnatreshen_red_i_disciplina_za_vrabotene_vo_Sekretari_atot_na_DKSK.pdf

¹²¹⁵ SCPC. 2023. Rulebook for Prevention of Conflict of Interest and Reporting of Additional Engagement for Officials in the SCPC:

<https://dksk.mk/wp-content/uploads/2023/02/Правилник-управување-со-судир-на-интереси.pdf>

¹²¹⁶ Article 10 LPCCI Закон-за-спречување-на-корупцијата-и-судирот-на-интереси.pdf (dksk.mk)

¹²¹⁷ <https://dksk.mk/имплементација-на-систем-на-интегрит/>

¹²¹⁸ Article 12 of the LPCCI

INDICATOR 10.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is the integrity of members of the ACA(s) ensured in practice?

Score: 75/100

There is a comprehensive approach to ensuring the integrity of members of the SCPC, comprising effective enforcement of existing rules, proactive inquiries into alleged misbehaviour, sanctioning of misbehaviour, as well as regular training of staff on integrity issues. However, an internal assessment has identified missing mechanisms to handle risks of conflict of interest.

In 2021, the SCPC conducted an assessment of possible risks of corruption, especially conflict of interest, based on employee surveys.¹²¹⁹ The assessment results noted the following missing mechanisms: no internal act for management of conflict of interests (there is a lack of procedures for reporting conflicts of interest or withdrawal of a procedure due to an existing conflict of interest); no regular educational programmes as preventive mechanisms; no internal act for limitation or forbidding receiving gifts; and a risk of unrecognition of unlawful request by competent persons within the institution due to a lack of training. As a follow-up, the SCPC decided to develop new mechanisms and monitor their implementation.¹²²⁰

In June 2022, the SCPC adopted a rulebook for receiving gifts, benefits and hospitality within the SCPC.¹²²¹ The rulebook for the prevention of conflicts of interest and reporting of additional engagement for officials in the SCPC was developed in 2023.¹²²²

The new procedure for selection and appointment of the SCPC commissioners (see 10.1.3) has significantly contributed to ensuring integrity of the selected and appointed individuals.¹²²³

The SCPC secretariat staff is continuously trained and the commission is organising training for public institutions in North Macedonia on integrity policy and protection of whistleblowers.¹²²⁴ According to the general secretary, the SCPC is working on implementing the integrity policy. Continuous trainings and education is planned for SCPC employees and they have given training to other state institutions. The SCPC has appointed a person for integrity and a deputy. Also, for each of the elements contained within this policy, there is an appointed person to follow-up on the implementation.¹²²⁵

There have been no public cases of violation of the codes of conducts by SCPC employees.

INDICATOR 10.2.7 GENDER

To what extent are the ACA mechanisms gender-sensitive?

Score: 50/100

¹²¹⁹ SCPC. 2021. Report on the assessment of risks of corruption: <https://dksk.mk/wp-content/uploads/2022/07/Регистар-на-ризици-2022.pdf>

¹²²⁰ Ibid

¹²²¹ SCPC (2022), Rulebook for receiving gifts, benefits and hospitality: <https://dksk.mk/wp-content/uploads/2022/06/Правила-за-постапување-со-подароци-погодности-и-гостопримства-во-ДКСК.pdf>

¹²²² SCPC. 2023. Rulebook for Prevention of Conflict of Interest and Reporting of Additional Engagement for Officials in the SCPC <https://dksk.mk/wp-content/uploads/2023/02/Правилник-управување-со-судир-на-интереси.pdf>

¹²²³ EC Progress Report for Macedonia for 2019: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2019-05/20190529-north-macedonia-report.pdf>

¹²²⁴ Training for the implementation of the system of integrity: <https://dksk.mk/обуки-за-систем-на-интеритет/>

¹²²⁵ Interview (face-to-face) with the General Secretary of SCPC, Ms. Irena Popovska, on 20 January 2023

No explicit gender-sensitive protocols and guidelines or gender-disaggregated data on complaints exist. However, there is front-facing female staff for the SCPS's whistleblower mechanism.

The president of the SCPC is a woman and 3 out of 7 members of the SCP are women. Out of 14 senior managerial positions, 13 are led by women.¹²²⁶ The general secretary of the SCPC and the authorised person for the external and internal disclosure of whistleblowers, is also a woman.¹²²⁷ However, the SCPC does not have specific gender-sensitive policies and protocols.

The commission has data on the number of men and women employees. But the SCPC does not produce other gender-disaggregated data. The data available in their reports includes the total number of received reports, in which sector and what number of reports were resolved.¹²²⁸

ROLE

INDICATOR 10.3.1 PREVENTION

To what extent does the ACA engage in preventive activities regarding fighting corruption?

Score: 50/100

The SCPC is active in preventive anti-corruption activities, but its efforts are generally unsuccessful because of a lack of action from institutions to follow its recommendation.

The SCPC's main role is in the prevention of corruption. Its competences for prevention include: adopting a national strategy for the prevention of corruption and conflicts of interest; conducting corruption proofing of laws, by-laws and other general legislature; acting upon reports from individuals and legal entities about suspicions for corruption and conflicts of interest.¹²²⁹

Based on the national strategy and its competences, the SCPC can recommend to the Ministry of Justice legislative reforms or other interventions.¹²³⁰ For example, in 2022 the SCPC sent a recommendation to the Ministry of Transport and Communications to amend the construction law to provide independence for local level inspectors and minimise the influence of mayors. The SCPC further recommended to the Ministry of Justice to digitalise submitted bar exam documents and to create an e-account for each of the candidates.¹²³¹ However, there is no indication that these recommendations have been implemented. In 2021, the SCPC also met with the Ministry of Information Society and Administration regarding the update of the Law on Administrative Servants, the law on employees from the public sector and the law for senior civil service, which are still in procedure for adoption.¹²³²

The SCPC has no specific role in the coordination of anti-corruption activities, but it is preparing the national strategy for prevention of corruption and conflict of interests, which indirectly coordinates efforts across the country. The latest strategy covers 2021 until 2025.¹²³³ Along with the strategy, the SCPC adopts action plans

¹²²⁶ SCPC. 2023. SCPC annual report for 2022, p.7: <https://dksk.mk/wp-content/uploads/2023/03/GI-2022-конечен.pdf>

¹²²⁷ SCPC, Protection on whistleblowers protection: <https://dksk.mk/mk/заштита-на-укајувачите/>

¹²²⁸ SCPC. 2022. SCPC annual report for 2021, p.6: <https://dksk.mk/wp-content/uploads/2022/03/%D0%93%D0%98-2021-final.pdf>

¹²²⁹ Law on the Prevention of Corruption and Conflict of Interest. Official Gazette of RM, number 12/19, Article 17

¹²³⁰ The Ministry of Justice is the competent authority for regulation of the legal framework in the field of anti-corruption. The SCPC is included in the whole process of creating new laws or preparing amendments.

¹²³¹ SCPC. 2023. SCPC annual report for 2022, p.20: <https://dksk.mk/wp-content/uploads/2023/03/GI-2022-конечен.pdf>

¹²³² SCPC. 2022. SCPC annual report for 2021, p.36: <https://dksk.mk/wp-content/uploads/2022/03/%D0%93%D0%98-2021-final.pdf>

¹²³³ SCPC. 2020. National Strategy for Prevention of Corruption and Conflict of Interests 2021-2025: <https://dksk.mk/wp-content/uploads/2021/01/Nacionalna-strategija-DKSK-KONECNA.pdf>

and prepares annual reports¹²³⁴ for the implementation of the strategy. From 165 activities for implementation in 2022, 17 (10 per cent) were completely implemented, 58 activities (35 per cent) were started and 90 (55 per cent) have not been implemented yet.¹²³⁵ It can be concluded that there is a need for more proactive role by the SCPC and all institutions relevant for the prevention and fight against corruption.

The SCPC has no research unit or staff assigned to do research only. There is a unit for strategic planning, cooperation, projects, analytics and education,¹²³⁶ which is responsible for the preparation of projects and international cooperation. The SCPC's head of the sector for strategic planning and integrity notes that they are planning to establish an analytical centre by the end of 2023.¹²³⁷ At the moment, they are getting expert support from Technical Assistance and Information Exchange instrument of the European Commission (TAIEX). The general secretary notes that additional technical and human resources will be needed.¹²³⁸

The SCPC receives responses and reports from the public and other government agencies based on their assigned anti-corruption activities in the national strategy.¹²³⁹ Officials can also request advice on conflict of interest from the SCPC.¹²⁴⁰

INDICATOR 10.3.2 EDUCATION

To what extent does the ACA engage in educational activities regarding fighting corruption?

Score: 100/100

The SCPC is proactive in providing educational programmes and training for its staff and for educating the public on corruption and how fight it.

The SCPC is responsible for education and awareness-raising activities to fight corruption and prevent conflicts of interest.¹²⁴¹ One of the aims (goal 11) of the national anti-corruption strategy is raising awareness and anti-corruption education.¹²⁴²

In 2019, the SCPC in collaboration with the CSO IDSCS, the Bureau for Development of Education and the Ministry of Education and Science started a pilot project for anti-corruption education for secondary school students in 10 schools. The aim was to include anti-corruption content in the regular curricula.¹²⁴³

In 2021, the SCPC implemented education programmes on integrity systems for the local government, plus training for its staff and authorised persons in other institutions on whistleblower protection.¹²⁴⁴

The SCPC has a fruitful cooperation with domestic CSOs and international donors. A list of projects can be found in its annual report for 2021.¹²⁴⁵ Transparency International Macedonia has been working with the SCPC on

¹²³⁴ SCPC. 2023. 2022 Annual report for the implementation of the national strategy for prevention of corruption and conflict of interests 2021- 2025 for the period from January until December 2022: https://dksk.mk/wp-content/uploads/2023/03/Годишен-извештај-ХССКСИ_финален.pdf, p.8

¹²³⁵ Ibid

¹²³⁶ List of employees in the secretariat of SCPC: <https://dksk.mk/en/list-of-employees-in-the-secretariat-of-the-scpc/>

¹²³⁷ Interview with Maja Konevska, head of the sector for strategic planning and integrity, conducted on 30 June 2022

¹²³⁸ Interview (face-to-face) with the General Secretary of SCPC, Irena Popovska, on 20 January 2023

¹²³⁹ SCPC. 2022. Annual report for the implementation of the national strategy for prevention of corruption and conflict of interests for the period 1 January until 31 December 2021, p.5: <https://dksk.mk/wp-content/uploads/2022/03/Godisen-izvestaj-za-sproveduvanje-na-NS-vo-2021.pdf>

¹²⁴⁰ Law on the Prevention of Corruption and Conflict of Interest. Official Gazette of RM, number 12/19, Article 74 (3)

¹²⁴¹ Law on the Prevention of Corruption and Conflict of Interest. Official Gazette of RM, number 12/19, Article 17, Paragraph 19

¹²⁴² SCPC. 2020. National strategy for prevention of corruption and conflict of interests 2021- 2025: <https://dksk.mk/wp-content/uploads/2021/01/Nacionalna-strategija-DKSK-KONECNA.pdf>, p.10

¹²⁴³ Ibid

¹²⁴⁴ SCPC (2022), SCPC annual report for 2021: <https://dksk.mk/wp-content/uploads/2022/03/%D0%93%D0%98-2021-final.pdf>, from pp.40 to 43

¹²⁴⁵ Ibid, from pp.53 to 63

various projects for the prevention of corruption in the public sector, urbanism and construction and other fields relevant to its work.¹²⁴⁶ The SCPC regularly participates in public debates and conferences organised by CSOs.¹²⁴⁷

INDICATOR 10.3.3 INVESTIGATION

To what extent does the ACA engage in investigations of alleged corruption?

Score: 50/100

The SCPC's track record in detecting, investigating and sanctioning misbehaviour is mixed. This is due to its limited investigative power and the lack of measures taken by the prosecution.

The SCPC has no investigative powers, but it can act upon reports from individuals or legal entities about suspicions of corruption and conflict of interest. It can also: instigate initiatives before the competent authorities to determine the liability of officials; instigate initiatives for criminal investigation and prosecution; and instigate initiatives before the competent authorities on the basis of reports from the State Audit Office.¹²⁴⁸ Also, the Misdemeanours Commission of the State Commission leads the misdemeanours procedures and enforces misdemeanour sanctions.¹²⁴⁹

The SCPC has an open case against the former (2017–2021) general secretary of the government,¹²⁵⁰ which is currently being processed at court. The general secretary is charged with the misuse of position in procedures for the procurement of software for state institutions.¹²⁵¹

In January 2023, the SCPC submitted a request to the government to hold the minister of interior responsible for not stopping work at the station for the technical control of vehicles in time. This station was responsible for conducting controls on the bus that was involved in an accident in which 45 people died.¹²⁵²

In 2021, the SCPC received 698 reports from citizens with allegations of corruption, conflict of interest and misuse of public functions. The institution created 127 cases on its own initiative and 1,056 decisions were adopted.¹²⁵³

INTERACTIONS

The SCPC is accountable to the Assembly that appoints the commissioners, adopts the annual and other SCPC reports and the national strategy for prevention of corruption (see 10.2.3 & 10.2.4). However, there is a lack of debate in the Assembly on the weaknesses in the fight against corruption identified in the SCPC reports.

The SCPC further cooperates with the State Audit Office in detecting irregularities in the financial reports of political parties and in other cases where failures budget funds are detected that may indicate risks of corruption. Their cooperation is regulated by law and a signed MoU for cooperation and the exchange of information. In practice, this cooperation works well and there is a timely exchange of information.

¹²⁴⁶ Project: Assessment for Vulnerability to Corruption in the State Institutions and Authorities for Physical Planning, Urbanism and Construction: <https://transparency.mk/en/project/assessment-for-vulnerability-to-corruption-in-the-state-institutions-and-authorities-for-physical-planning-urbanism-and-construction/>

¹²⁴⁷ SCPC annual report for 2021, 2022, Section: Cooperation with CSOs and international organisations: <https://dksk.mk/wp-content/uploads/2022/03/%D0%93%D0%98-2021-final.pdf>

¹²⁴⁸ Law on the Prevention of Corruption and Conflict of Interest. Official Gazette of RM, number 12/19, Article 17, Paragraph 3, 4, 5 and 8

¹²⁴⁹ Ibid, Article 114

¹²⁵⁰ Faktor, "Ivanovska: SCPC has opened a case for Rashkovski's software, we think there are enough elements for the case to be investigated": <https://faktor.mk/ivanovska-otvorivme-predmet-za-softverot-na-rashkovski-smetame-deka-ima-dovolno-elementi-za-sluchajot-da-se-istrazi>, Accessed on 10 July 2023

¹²⁵¹ Faktor. 2021. "Ivanova: SCPC open case for the software of Rashkovski": <https://360stopeni.mk/video-hronologija-na-sluchaj-kako-rashkovski-od-vladin-funksioner-stasa-pred-obvinenie/>, Accessed on 10 July 2023

¹²⁵² 360 Degree. 2023. "SCPC asks for accountability of Spasovski for hiding of the assessed irregularities at the station for technical check of vehicles": <https://360stopeni.mk/dksk-bara-odgovornost-od-spasovski-zashto-se-kriele-nepravilnostite-utvrdeni-za-stanitsata-za-tehnichki-pregled-vo-koja-pominal-avtobusot-na-besa-trans/>, Accessed on 10 July 2023

¹²⁵³ SCPC. 2023. SCPC annual report for 2022, p.12: <https://dksk.mk/wp-content/uploads/2022/03/%D0%93%D0%98-2021-final.pdf>

The SCPC also has an effective and continuous cooperation and communication with CSOs. Their relationship is informal and SCPC is signing memoranda of cooperation to be formalise some of them. CSOs regularly conduct analyses and monitor the work of the SCPC. They contribute towards a more effective practical implementation of the anti-corruption policies and strengthening the human resource capacities of the SCPC.

PILLAR RECOMMENDATIONS

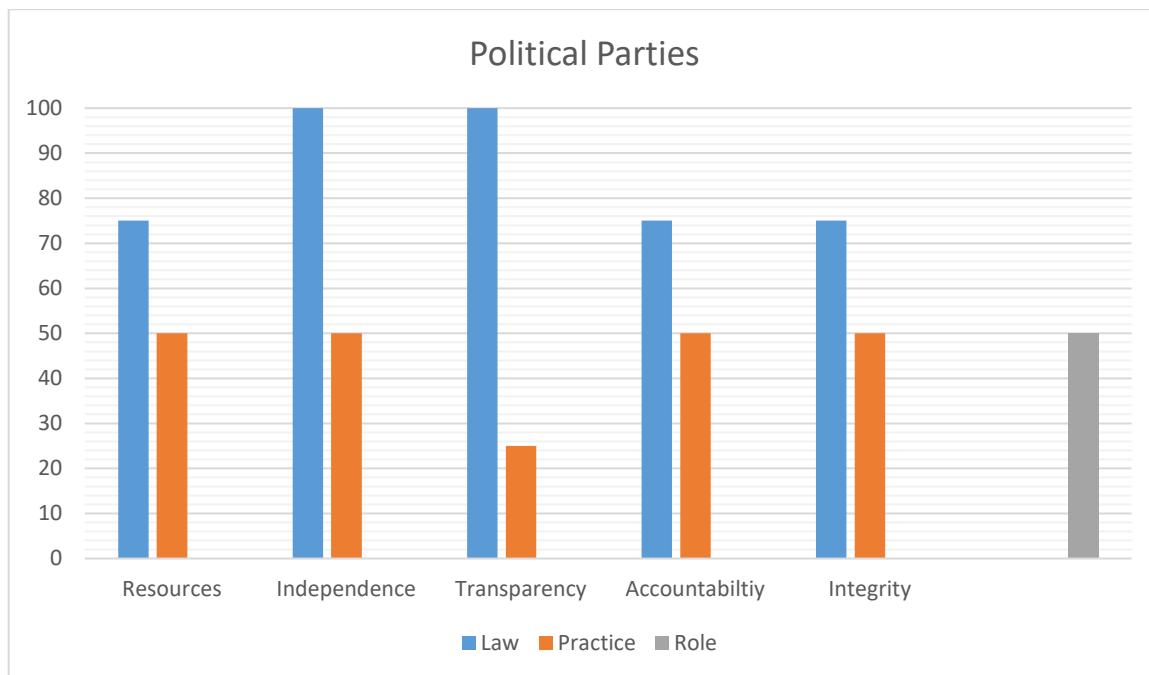
- SCPC
 - hire more staff to fill the current human resource gaps
 - improve the capacity for research and analysis of asset and interest declarations, as well as other corruption risk assessments
 - implement missing mechanisms to handle risks of conflict of interest identified in the SCPC's internal assessment
 - establish a mechanism for citizens to file a complaint against the SCPC and introduce citizen oversight committees for greater accountability of the institution.
 - implement gender-sensitive protocols and guidelines for internal and external complaints mechanisms and produce gender-disaggregated data on such complaints
- Public prosecutor's office
 - establish working relations with the SCPC to increase understanding of their procedures when working on corruption related cases and to develop capacity for supporting the investigations.
- Government
 - establish a mechanism in the general secretariat of the government to follow up on the findings and recommendations of the SCPC in cases of established conflict of interest, non-reported assets or asset declarations that were not submitted, and to call high-level officials accountable

11. POLITICAL PARTIES

SUMMARY



Indicators scores: law and practice



In December 2022, North Macedonia had a total of 62 registered political parties. In this pillar of the NIS report, only parties represented in the parliament are analysed, as follows:

- SDSM – largest ruling party
- VMRO-DPMNE – largest opposition party
- DUI – ruling coalition party
- BESA
- DPA
- Alliance of Albanians
- Alternative
- Levica
- Union of Roma
- GROM
- Liberal Democratic Party

- VMRO - People's party
- Democratic Renewal of Macedonia
- Democratic Party of Serbs in Macedonia
- Democratic Party of Turks in Macedonia
- Democratic Alliance
- Democratic movement
- European Democratic Party
- New Social Democratic Party
- Socialist Party of Macedonia
- Serbian Party of Macedonia
- Party of Pensioners
- Party for Movement of the Turks in Macedonia

The independence of the parties is guaranteed in the constitution and regulated by several laws, such as the Law on Political Parties and the Law on Financing of Political Parties. In practice, political parties face occasional interference via influence-trading for tailored-made laws. Also, public procurement processes are influenced by political ties between businesses and political parties.

Parties are entitled to receive public funding for the regular functioning and for the electoral activities; however, they are still dependent on private donations that can influence the policies pursued by the parties.

The reporting system is quite complex, with various reports that must be submitted to different institutions at different times (for example, two reports on donations during the election campaigns and one financial report at the end of the elections). Also, there is no public online platform for the submission and publication of reports. Not all parties make their financial information publicly available on their website and, when they do, it is often not in an open or searchable format. The template for reporting developed by the Ministry of Finance also lacks a separate item/category for funds spent on political advertisements on social media.

The State Audit Office (SAO) and State Commission for the Prevention of Corruption (SCPC) effectively oversee party financing and provide annual reports to the Assembly. However, there is a lack of execution of misdemeanour provisions by the Ministry of Justice.

Factionalism and power struggles within parties are common, affecting internal democracy. Most parties are strongly influenced by their political leader, which in most parties is elected indirectly by the party congress. Only SDSM have held direct elections for a party leader, so far. Leadership positions in parties are primarily held by men.

All major parties have anti-corruption policies in their party programmes, but their commitment to these issues wanes once they are in power. Hence, it is imperative to strengthen political parties' dedication to anti-corruption policies and intra-party transparency. Their active involvement holds significant potential in the battle against corruption, potentially helping to eradicate impunity associated with grand corruption and corruption at all levels within the country.

CAPACITY

INDICATOR 11.1.1 RESOURCES (LAW)

To what extent does the legal framework provide an environment conducive to the formation and operations of political parties?

Score: 75/100

The constitution and specific laws provide comprehensive provisions related to the establishment and operations of political parties. However, regulations on public funding lead to an unfair playing field between larger and smaller parties.

The constitution provides general provisions on the establishment of political parties and their role,¹²⁵⁴ which are also covered in the legal procedures along with, number of founders, registration, de-registration, and other related matters, all of which are extensively regulated in the Law on Political Parties.¹²⁵⁵

Political parties can be established by a minimum of 1,000 citizens with the right to vote.¹²⁵⁶ Political parties are registered in the unique court registry on political parties.¹²⁵⁷ The court's decision for rejecting a registration has to explain why it was rejected. An appeal can be filed against such a decision within 15 days from the day of the reception.¹²⁵⁸

Legal restrictions on the functioning of political parties include that the programme, statute and functioning of the political parties cannot contain a call for violent devastation of the constitutional order, inciting or calling for military aggression or inciting national, racial or religious intolerance.¹²⁵⁹

All these provisions enable a conducive environment for the formation and operation of political parties in which the parties can be easily registered in accordance with the required procedures. The restrictions are well regulated and provide space for the establishment of parties, without applying overburdening procedures and rules that will undermine free association in parties.

The Law on Financing of Political Parties (LFPP) and electoral code (EC) contain provisions for public funding. With the 2020 amendments of the LFPP, the share of public funding for all parties has to be 0.105 per cent of the state budget.¹²⁶⁰ Additionally, the law allows for €280,000 to support research centres that are part of the internal organisation of the political parties.¹²⁶¹ Parties are also allowed to receive private funding.

According to the LFPP, 30 per cent of the amount provided as public funding has to be allocated in equal terms to all political parties that have won at least 1 per cent of the vote of the turnout at the last elections for representatives in the Assembly, at the national level or the last held local elections. The remaining 70 per cent is to be allocated to political parties proportionally to the number of elected representatives or the number of counsellors elected.¹²⁶² This rule leads to significant differences between larger and smaller parties, which lack funds to promote themselves to citizens (see 11.1.2).

During the election campaign, the public broadcasting service needs to provide equitable access by allocating 30 per cent of its programme time to the campaign activities of the ruling political parties, 30 per cent to opposition parties and 10 per cent to parties not represented in the Assembly. The remaining 30 per cent can be used for regular programming.¹²⁶³

¹²⁵⁴ Constitution of Republic of North Macedonia, Official Gazette of Republic of North Macedonia, no. 08-4642/1: <https://www.sobranie.mk/content/Odluki%20USTAV/Odluka%20za%20proglasuvanje%20na%20Ustavot%20na%20RM.pdf>

¹²⁵⁵ Law on Political Parties, consolidated version, Official Gazette of RM, number 76/04, 5/07, 8/07, and 23/13

¹²⁵⁶ Ibid, Article 11

¹²⁵⁷ Ibid, Section 2

¹²⁵⁸ Law on Political Parties, consolidated version, Official Gazette of Republic of North Macedonia, number 76/04, 5/07, 8/07, and 23/13, Article 22, 23

¹²⁵⁹ Ibid, Article 3

¹²⁶⁰ Law Amending the Law on Financing of Political Parties, Official Gazette of RM, No. 294/ 2020:

<http://www.slvesnik.com.mk/Issues/edc979af65d64fc7ac24b974b6c78071.pdf>, Article 2

¹²⁶¹ Law on the Analytical Centers of the Parties: <https://dejure.mk/zakon/zakon-za-partiski-istratzhuvachko-analitichki-centri>

¹²⁶² Law on Financing of Political Parties, Official Gazette of the Republic of Macedonia, number 76/2004, 86/2008, 161/2008, 96/2009, 148/11, 142/12, 23/13, 140/18 and 294/20, Article 10

¹²⁶³ Electoral code, consolidated version: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view, Article 76-a

INDICATOR 11.1.2 RESOURCES (PRACTICE)

To what extent do the financial resources available to political parties allow for effective political competition?

Score: 50/100

While small and opposition parties can draw on some financial resources, these are considerably lower than the resources of the larger or ruling parties. Therefore, political competition among parties is biased towards the ruling party.

Political parties are financed from various sources (private and public). They receive donations, substantial public funding and collect membership fees.

Table 11.1: Funding of political parties, 2019-2022 (amounts in euro) ¹²⁶⁴:

Year	State budget	Percentage of the state budget	Amount reallocated to the parties by Ministry of Justice
2022	6,822,277,022 ¹²⁶⁵	0.082	5,630,007 ¹²⁶⁶
2021	3,304,650,406	0.105%	3,469,883
2020	3,079,577,236	0.105%	3,234,050
2019	3,296,292,633	0.15%	4,944,439
2018	3,047,170,732	0.15%	4,570,756
2017	2,898,569,106	0.06%	1,739,141
2016	2,702,000,000	0.06%	1,621,200
2015	2,516,260,163	0.06%	1,509,756

However, there are significant differences between public funding of larger and smaller political parties.

¹²⁶⁴ Marija Mircevska, Dijana Zupanovska, Dance Danilovska- Bajdevska, Nade Naumovska, IRI/Foundation Open Society Macedonia. 2022. Authors: "Norms and Practices of the Financing of Political Parties in North Macedonia", p.3

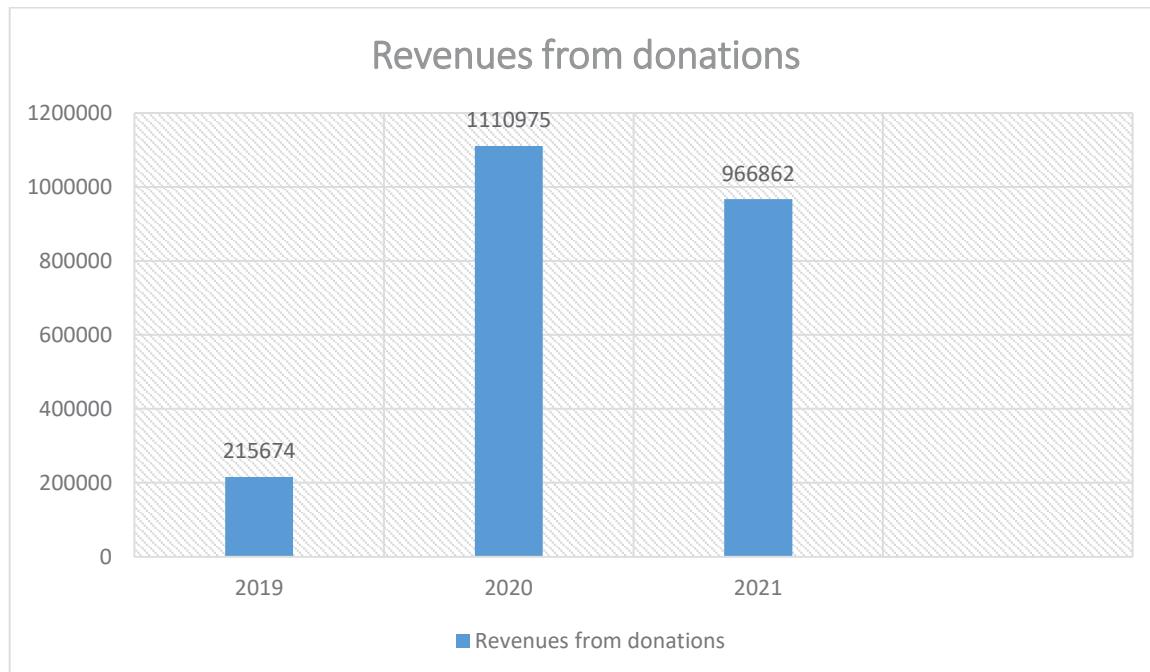
¹²⁶⁵ Data available on: <https://open.finance.gov.mk/mk/home>, Accessed on 01 November 2023

¹²⁶⁶ Ibid

Table. 11.2: Amount of state funds received by the parties from 2011 until 2021 (amounts in euro)¹²⁶⁷

Amount of public funding received: 2011- 2021	
SDSM	6,077,817
VMRO-DPMNE	5,771,340
DUI	2,955,835
BESA	1,067,873
DPA	1,055,109
AA	902,161
DPTM	807,043
Union of Roma	628,292
GROM	520,891
DNET	409,801

The parties receive funds to cover their day-to-day functioning and electoral campaigning. In the last couple of years, an increase in funds is linked to the increase in the state budget. The resources that the parties have received from 2019 until 2021 are the following (amounts in euro):



¹²⁶⁷ Ibid, p.6



Although one of the arguments for increasing state funding to the parties was that it will make the parties more independent, still they receive high portion of private donations.

INDICATOR 11.1.3 INDEPENDENCE (LAW)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of political parties?

Score: 100/100

There are comprehensive legal safeguards to prevent unwarranted external interference in the activities of political parties.

State authorities have the legal power to order the exclusion of a political party. The Law on Political Parties provides for the possibility that a political party is dissolved by deleting its registration from the court register.¹²⁶⁸ However, the law states that this can only happen when the official deletion is requested by the party itself, when the political party is forbidden to act, if there is a decision to merge with another party or when the party's operations are not in compliance with the constitution.¹²⁶⁹

Political parties are also equal before the constitution and the law. They are guaranteed freedom and independence in determining their internal structure, the goals and the choice of democratic forms and methods

¹²⁶⁸ Law on Political Parties, consolidated version, Official Gazette of RM, number 76/04, 5/07, 8/07, and 23/13, Article 29

¹²⁶⁹ A political party can be dissolved when: a) it submits a request for deletion from the court register based on legally valid determination; b) the political party is forbidden to act by a legally valid determination c) the body determined by the statute of the political party adopts a decision to merge with another political party; d) the membership determined by the law is decreased and when the constitutional court determines that the programme or statute of the political party are not in compliance with the constitution.

of action.¹²⁷⁰ The acts provide independence of the parties and prevent the state from interference in the parties' activities.

Regarding foreign influence, political parties can participate in international organisations and cooperate with other foreign political parties, known as "sister parties".¹²⁷¹ However, foreign actors cannot finance them.¹²⁷²

The state authorities do not have other powers over political parties except those outlined in the Law on Political Parties to ensure reasonable oversight. The state does not have the power to ensure mandatory attendance at the parties; meetings or other forms of organising. The State Commission for Prevention of Corruption (SCPC), the State Audit Office (SAO) and the State Election Commission (SEC) are legally entitled to monitor the financing of political parties and elections (see 11.2.3).

INDICATOR 11.1.4 INDEPENDENCE (PRACTICE)

To what extent are political parties free from unwarranted external interference in their activities in practice?

Score: 50/100

External interference in political parties occurs between the ruling and opposition parties through influence-trading and undue influence to create tailor-made laws. Also, business actors exert undue influence on parties to win public procurement contracts.

There are no examples of the state dissolving or prohibiting political parties. In general, there is no interference in the political parties' activities from the state or third parties. There are no examples of harassment and attacks on opposition parties by state authorities or actors linked to the state/governing party.

However, there are examples of trading in influence¹²⁷³ and using undue influence¹²⁷⁴ to gain support from another political group. The most notable cases were the amendment of the criminal code and the vote for the adoption of the so-called Prespa agreement between Greece and Macedonia in 2018, when the name of the country was changed to North Macedonia.

In 2018, the criminal offence of the "misuse of the procedure for the public call (tender), award of a public procurement contract or public-private partnership" was adopted, reducing the maximum penalty from five to four years in prison.¹²⁷⁵ That amendment meant that a number of criminal proceedings against former high-level officials from the current opposition and former ruling party VMRO-DPMNE needed to be reviewed based on the rule "in dubio pro reo" (doubts about the guilt of the accused). It is alleged that, in exchange for these amendments, VMRO-DPMNE MPs voted in favour of the Prespa agreement, which resulted in changes in the constitution and the country's name change. This change was not supported by the citizens, and it is highly likely that this was the result of a political bargain. In this case, there was political influence from the current ruling SDSM party as it was supported by the opposition party, VMRO-DPMNE, for strategic reasons.

In September 2023, SDSM proposed another draft amendment to the criminal code, suggesting reduced penalties for the criminal offence of "abuse of official position and authority". By reducing the severity of the penalties for

¹²⁷⁰ Law on Political Parties, consolidated version, Official Gazette of RM, number 76/04, 5/07, 8/07, and 23/13, Article 6

¹²⁷¹ Ibid, Article 8

¹²⁷² Law on Financing of Political Parties, Official Gazette of RM, number 76/2004, 86/2008, 161/2008, 96/2009, 148/11, 142/12, 23/13, 140/18 and 294/20, Article 20

¹²⁷³ Criminal Law Convention on Corruption: <https://rm.coe.int/168007f3f5>, Article 12

¹²⁷⁴ Ibid

¹²⁷⁵ Amendment 248/2018 of the Article 275-v. Paragraph 3 of the criminal code

these offences, the duration of their statute of limitations is also reduced. With this legislative decision, which was adopted in the parliament, investigations into several crimes of financial corruption crimes involving high-level officials from ruling and opposition parties will face the issue of statute of limitations.¹²⁷⁶

Public procurements are also influenced by political ties. Many companies are awarded tenders based on their political affiliation or close relationship with the governing officials at the national and local levels. For example, one of the biggest oil suppliers to state institutions in the last 10 years is a company that is related to an MPs from DUI.¹²⁷⁷

The biggest private donor to DUI is the company Eurovia, which donated €30,000 EUR in 2022 and was awarded numerous tenders.¹²⁷⁸

There are no cases of political party members being arrested for their work.

GOVERNANCE

INDICATOR 11.2.1 TRANSPARENCY (LAW)

To what extent are there regulations in place that require parties to make their financial information publicly available?

Score: 100/100

There are comprehensive regulations requiring political parties to make their financial information publicly available.

The legal framework on the financial accounting of parties provides clear provisions on the parties' obligations to reporting of financing. The Law on Financing of the Political Parties regulates the regular financing,¹²⁷⁹ while electoral financing is regulated by the electoral code.¹²⁸⁰ The financing of the parties' research centres is regulated with the Law on Party Analytical Centres.¹²⁸¹ The political parties have to keep their accounts in accordance with the provisions of the Law on Accounting of Non-profit Organisations¹²⁸².

Political parties have to prepare a report of private donations they receive. The report has to be submitted to the State Audit Office (SAO) and the Public Revenue Office (PRO). The SAO and PRO are obliged to publish the

¹²⁷⁶ 360 Stepeni, "The Official Gazette published the amendment on the criminal code": <https://360stepeni.mk/sluzhben-vesnik-gi-objavizmenite-vo-krivichniot-zakonik/>; TI Macedonia. Reaction to withdrawal of the amendments to the criminal code: <https://transparency.mk/2023/09/06/izvestuva%d1%9ae-do-mediumi-povlekuva%d1%9ae-na-predlogot-za-izmena-na-kzm-toa-e-obid-zatitka-amnesti%d1%98a/>, Accessed on 26 October 2023

¹²⁷⁷ Boris Grujoski, Alfa TV. "Tenders worth millions of euros awarded due to family- political- business relationships": <https://alfa.mk/пукопетрол-милионски-тендери-пр/>, Accessed on 4 October 2023

¹²⁷⁸ 24 Vesti. Tenders for the biggest donor to DUI, Eurovia: <https://24.mk/details/tender-za-najgolemiot-donator-na-dui-eurovia>, Accessed on 26 October 2023

¹²⁷⁹ Law on Financing of Political Parties, Official Gazette of RM, number 76/2004, 86/2008, 161/2008, 96/2009, 148/11, 142/12, 23/13, 140/18 and 294/20, Section II, Articles 6, 7, 8, 10-a and 13

¹²⁸⁰ Electoral Code, Consolidated version: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view, Article 71, 83 and 84

¹²⁸¹ These centres are part of the internal structure of the parties. Their responsibilities are related to conducting analysis, planning of activities, organization of debates, workshops, etc.: Law on party analytical centres, Official Gazette of RM, of RM, no. 23/ 2013: <http://eurisk.biz/klient/pdf.js/web/viewer.php?file=8d679090a98e461b88ffa50b24f627b7.rtf>, Article 6

¹²⁸² Law on Accounting of Non-profit Organizations, Official Gazette of RM, no. 24/ 2003, http://eurisk.biz/klient/pdf.js/web/viewer.php?file=ZAKON%20ZA%20SMETKOVODSTVOTO%20ZA%20NEPROFITNITE%20ORGANIZACII%20____%2024,%20____%2004.04.2003.rtf

reports on their websites,¹²⁸³ while political parties have to publish their annual financial statements, covering both public and private funds, on their websites.¹²⁸⁴

The templates for reporting are adopted by the Ministry of Finance.¹²⁸⁵ The parties have an obligation to disclose the full name of the contributor, the amount of donation and the date of the transaction. In order to receive public funding, parties are obliged to disclose information on the public and private donations received along with any other resources. If the reports are not submitted by the deadline (30 April of the current year for the previous year), the State Audit Office can ask the Ministry of Justice to suspend public funding.¹²⁸⁶

Online campaigning on registered news portals is regulated by the electoral code. Registered online news portals have to present the candidates in a balanced and transparent manner. The prices for advertising are defined in advance and are submitted to the SEC, SAO and SCPC.¹²⁸⁷ Political parties are not required to declare resources spent on social media campaigning and related activities. In its annual report, the SAO recommended that social media campaigning be regulated in terms of the manner of organising, paying, monitoring and reporting to the competent authorities on the internet representation of the participants in the election campaign through social media.¹²⁸⁸

INDICATOR 11.2.2 TRANSPARENCY (PRACTICE)

To what extent can the public obtain relevant financial information from political parties?

Score: 25/100

While it is possible for the public to find financial information from political parties, they often do not have the register of donors and the reports are not available in an open and searchable format.

In general, not all political parties make their financial information publicly available. In 2022, the SCPC found that of 31 parties that have their own websites, only 7 parties fulfilled their obligation of publishing reports (including annual, election, list of donations, etc.) completely. Three parties published their reports partially, 18 parties do not have any information and 3 parties do not have an active website.¹²⁸⁹

In June 2023, the leading political parties, SDSM¹²⁹⁰ and DUI,¹²⁹¹ published their financial reports on their websites up to the year 2022 and, from the other reviewed parties' websites, VMRO-DPMNE¹²⁹², Levica¹²⁹³, Liberal-democratic party and others had their financial reports available, while VMRO-DPMNE and Levica also showed the expenses for advertisements on social media, including Facebook. Meanwhile, the party Besa

¹²⁸³ Law on Financing of Political Parties, Official Gazette of RM, number 76/2004, 86/2008, 161/2008, 96/2009, 148/11, 142/12, 23/13, 140/18 and 294/20, Article 27

¹²⁸⁴ Ibid, Article 27-a

¹²⁸⁵ Reports on political parties financing (templates):

<https://finance.gov.mk/%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D0%B8-%D0%B7%D0%B0-%D0%BF%D0%BE%D0%BB%D0%B8%D1%82%D0%B8%D1%87%D0%BA%D0%B8-%D0%BF%D0%B0%D1%80%D1%82%D0%B8%D0%B8/>

¹²⁸⁶ Law on Financing of Political Parties, Official Gazette of RM, number 76/2004, 86/2008, 161/2008, 96/2009, 148/11, 142/12, 23/13, 140/18 and 294/20, Article 27-b/ 27-c

¹²⁸⁷ Electoral code, Consolidated version: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view, Section VI, Part 2. Media representation

¹²⁸⁸ SAO (2023), Annual Report on Performed Audits and Operation of the State Audit Office, p. 236: https://dza.mk/sites/default/files/2023-07/dza_godisni_izvestaj_2022_en.pdf

¹²⁸⁹ SCPC. 2022. Special report on the irregularities of the financing of electoral campaigning on the Local elections 2021: <https://dksk.mk/wp-content/uploads/2022/02/Посебен-извештај-7.2.2022.pdf>, p.37

¹²⁹⁰ Yearly financial statements of SDSM: <https://sdsdm.org.mk/finansiski-izveshtai/godisni-smetki>

¹²⁹¹ Yearly financial statement of DUI for 2022: <https://bdi.mk/pasqyrat-financiare-vjetore-2022/>

¹²⁹² Financial statements of VMRO-DPMNE: <https://vmro-dpmne.org.mk/годишни-финансиски-извештаи>

¹²⁹³ Financial statements of Levica: <https://levica.mk/informatsii-od-javen-karakter/izvestaj-donacii/>

submitted a financial report to the SAO for 2022, but there are no reports on its website. This is the case with other parties as well.

Financial reports for 54 parties can be found on the SAO website.¹²⁹⁴

In 2022, the Open Society Macedonia organisation created an index of transparency of the political parties in North Macedonia. The general findings are that political parties rarely publish their register of donations or donation report. Even the parties which are highly ranked on the list as most transparent lack one or two of these types of documents. Another issue is the publishing of the data in an open and selectable format which can be copied, and there is only two such examples by NSDP (report on donations for 2019 in excel format) and DPTM (balance sheet for 2018).¹²⁹⁵

Table 11.2: Top 10 highest-ranking parties in the category of financial transparency

Financial transparency (max.48 points)		
1	Levica	30
2	DS	25
3	Demokrati	22
4	SDSM	21
5	BESA	20
6	Srpska stranka	18
7	NSDP	16
8	DOM	14
9	Glas za Makednija	14
10	PP	13

INDICATOR 11.2.3 ACCOUNTABILITY (LAW)

To what extent are there provisions governing financial oversight of political parties by a designated state body?

Score: 75/100

¹²⁹⁴ Parties' financial reports for 2022: https://dza.mk/izvestai-politicki-partii?field_godina_na_odrzhuvane_value=&field_tip_izbori_value>All&page=0

¹²⁹⁵ Marija Mirchevska, Diana Zupanoska, Dance Danilovska-Bajdevska and Nada Naumovska. "Index of transparency of political parties in Republic of North Macedonia". https://fosc.mk/wp-content/uploads/2022/05/transparency_index_design_final_mk-1.pdf

There are comprehensive provisions which mandate political parties to maintain records of their finances and report on them. Still, there are loopholes related to the role of oversight institutions when reports show a surplus, or there are more expenses than income.

There are clear provisions in the Law on Financing of Political Parties and the electoral code for the financial reporting by the political parties, and the law determines that the parties submit different reports to different institutions. Reports on the donation received should be submitted to the State Audit Office and the Public Revenue Office and¹²⁹⁶ published on their websites and those of the parties.^{1297,1298} The annual balance sheet for the financial operation should be submitted to the PRO, SAO and the central register and published on the parties' websites.¹²⁹⁹ Annual financial reports should be submitted to the SAO¹³⁰⁰ and published by the parties.¹³⁰¹

A participant in an electoral campaign needs to keep a registry of donations¹³⁰² and submit the following reports: a financial report on income and expenditures from the election campaign bank account from the day it was opened until it is closed and a report with for donations received one day after the electoral campaign and one day before the start of the second cycle of elections. The reports are submitted to the SEC, SAO and SCPC, which should publish them on their websites.¹³⁰³ Election campaign participant's should submit financial reports on the electoral campaign immediately or within 30 days after the closer of the election bank account to the SEC, SAO and SCPC. These institutions should publish the financial report on their websites.¹³⁰⁴

The SAO is responsible for auditing the financial reports (both annual and electoral) and can initiate a procedure if irregularities are detected.¹³⁰⁵ The same is applicable for media financial reports.¹³⁰⁶ The SCPC can initiate a procedure for examining the financing of a political party or upon a complaint by an election campaign organiser or accredited observers if irregularities are detected or where there is suspicion of unlawful financing in an election campaign.¹³⁰⁷

Most political parties have assessed the submission framework of the reports for the financing of the elections as redundant and burdensome, and no participants in the election process submitted all of the periodic reports, despite the legal requirement.

The annual financial statement have to contain data on the total income, including the total amount of donations, gifts, contributions, grants, sponsorships, loans, money, material assets, equipment, services, incomes, membership fees, legates and the total expenditures per item/category, but not individual expenditure.¹³⁰⁸ By 31 March at the latest, the political parties have to prepare the annual financial statement for the previous year and

¹²⁹⁶ Law on Financing of Political Parties, Official Gazette of RM, number 76/2004, 86/2008, 161/2008, 96/2009, 148/11, 142/12, 23/13, 140/18 and 294/20, Article 25

¹²⁹⁷ Ibid, Article 17

¹²⁹⁸ Ibid, Article 25

¹²⁹⁹ Ibid, Article 26

¹³⁰⁰ Ibid, Article 27

¹³⁰¹ Ibid, Article 27-a

¹³⁰² Electoral code, consolidated version, Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21), Article 31 and Article 83-b https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view,

¹³⁰³ Ibid, Article 84-b

¹³⁰⁴ Ibid, Article 85

¹³⁰⁵ Electoral code, consolidated version. Official Gazette of RM, no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, 42/20, 74/21 и 215/21), Article 31: https://drive.google.com/file/d/1Sa9L6emhxwl2VaV_8d7oK3hJ6r1usnuY/view

¹³⁰⁶ Ibid, Article 85-a and Article 85-b

¹³⁰⁷ Law on the Prevention of Corruption and Conflict of Interest, Official Gazette of Republic of Macedonia, number 12/19, Head 4

¹³⁰⁸ Law on Financing of Political Parties, Official Gazette of RM, number 76/2004, 86/2008, 161/2008, 96/2009, 148/11, 142/12, 23/13, 140/18 and 294/20, Article 27

submit it to the State Audit Office,¹³⁰⁹ including the financial operations of the parties' bank accounts.¹³¹⁰ Failure to submit a financial report is a misdemeanour and parties can lose state funding.^{1311,1312}

The SAO's annual report for 2022 provides recommendations to improve the electoral code and the Law on Financing of Political Parties, specifically Article 14 related to the manner of payment and the recording of membership fees and Article 15 for defining preconditions and limitations when the political party receives a donations of real estate as a tangible asset. The recommendations in the electoral code are related to the financing of electoral campaigns with resources from the regular party account, regulation of cases when the financial report shows surplus funds as well as unpaid liabilities on the election campaign account.¹³¹³ The format for reporting is supplied by the Ministry of Finance.¹³¹⁴

INDICATOR 11.2.4 ACCOUNTABILITY (PRACTICE)

To what extent is there effective financial oversight of political parties in practice?

Score: 50/100

Parties generally provide partial, low-quality and/or late reports on their financing sources to the SEC, SCPC and SAO. The SAO and SCPC are effective in the oversight of political party financing and provide annual reports to the Assembly. However, there is a lack of execution of the misdemeanour provisions by the Ministry of Justice.

The SAO 2022 annual report notes that some parties have not submitted financial reports for their election campaign, while others have not submitted reports on revenue and expenditure during election campaigns on time.¹³¹⁵ The report does not mention the exact number of parties that did not submit financial reports.

Regarding regular financial reports, the SAO report notes that unpaid obligations to suppliers from past years (due to the obligation to close the election bank account 30 days after the election results have been announced) and that the structure of funding sources from private and public funding sources is incomplete. Meanwhile, 72% of election campaign funding was provided from the state budget and paid by the State Election Commission, while 28% was provided by other funding sources.¹³¹⁶

The accuracy of the reports may be questioned, according to a former member of SCPC because, allegedly, political parties are taking illicit money and are not transparent about the interests of the legal entities or people donating to them. This is clear from the fact that they have more expenses than revenue, but there is no legal evidence to prove that they have been financed illegally.¹³¹⁷

¹³⁰⁹ Ibid

¹³¹⁰ Ibid

¹³¹¹ Article 27-b

¹³¹² Electoral code, Official Gazette of RM, number 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19 and Official Gazette of RM, number 98/19, 42/20, 74/21 и 215/21, Article 27-b

¹³¹³ SAO. 2023. Annual Report on Performed Audits and Operation of the State Audit Office, pp.235 and 236:

https://djr.mk/sites/default/files/2023-07/djr_godisen_izvestaj_2022_en.pdf

¹³¹⁴ Reports on political parties financing (templates): [https://finance.gov.mk/%d0%be%d0%b1%d1%80%d0%b0%d0%b7%d0%b5%d1%86-%d0%b7%d0%b0-%d1%84%d0%b8%d0%bd%d0%b0%d0%b0%d0%bd%d1%81%d0%b8%d1%81%d0%ba%d0%b8-%d0%b8%d0%b7%d0%b2%d0%b5%d1%88%d1%82%d0%b0%d1%98-%d0%bd%d0%b0-%d1%83%d1%87%d0%b5/](https://finance.gov.mk/wp-content/uploads/2009/02/Obrazec-za-Godisen-finansiski-izvestaj-za-politickite-partii_0.doc)

¹³¹⁵ SAO. 2023. Annual Report on Performed Audits and Operation of the State Audit Office, p.230: https://djr.mk/sites/default/files/2023-07/djr_godisen_izvestaj_2022_en.pdf

¹³¹⁶ Ibid, p.232

¹³¹⁷ Interview with Arif Musa, former member of SCPC conducted in September 2021; Article from the magazine Focus from 16 September 2021

A 2022 analysis conducted by Foundation Open Society Macedonia shows that in the past four years, in 38% of the cases where the Ministry of Justice gave notice of the suspension of public party funding, the irregularities were resolved and the payment was transferred.¹³¹⁸

INDICATOR 11.2.5 INTEGRITY (LAW)

To what extent are there organisational regulations regarding the internal democratic governance of the main political parties?

Score: 75/100

In general, all major parties have comprehensive regulations in place on internal democratic governance; however, provisions regulating the implementation of disciplinary measures and exclusion of party members remain vague.

The establishment of the party bodies, their organisations, rules for electing members of the bodies, their programme and other issues related to the functioning of parties should be in the party statutes, in accordance with the Law on Political Parties.¹³¹⁹

The principles for the election of party bodies and party platforms are more or less regulated in the in the party statutes.¹³²⁰ The party congress is the highest body in political parties and is composed of members and delegates. All political parties, including the largest, SDSM, VMRO, DUI, and others, have adopted a programme and statute.¹³²¹

For example, the statute of Levica regulates internal procedures, bodies, the election of members and leader of the party and all other issues regarding the organisation and functioning of the party.¹³²² The congress elects the president, and presidential candidates can be proposed by 30 delegates and elected by a majority of votes.¹³²³ The Statute regulates the election of members of other bodies as well.

Although included in the statutes, disciplinary measures against political party members who act against party principles or have irregularities detected in their work, remain vague and unspecific. It is not fully clear in which cases the disciplinary measures are implemented or if they could lead to the exclusion of a party, creating a risk of arbitrary exclusions based on personal disputes.

Political parties do not have a code of ethics.

INDICATOR 11.2.6 INTEGRITY (PRACTICE)

To what extent is there effective internal democratic governance of political parties in practice?

Score: 50/100

The majority of political parties do not follow provisions for internal democratic governance comprehensively, especially in the regulation of the selection of members in the party bodies and of the party president.

In most cases, the integrity of the political parties is strongly connected to the party's president as the main person of influence. Although all of the party statutes say they are democratic, in practice, there is a lack of transparency,

¹³¹⁸ Marija Mirchevska, Diana Zhupanoska, Dance Danilovska- Bajdevska and Nada Naumovska, Foundation Open Society Macedonia. 2022. "Norms and practices in the financing of political parties in North Macedonia", <https://fosc.mk/wp-content/uploads/2022/04/04-norms-and-practices-design-mkd-final.pdf>, p.22

¹³¹⁹ Law on Political Parties, Official Gazette of RM, no. 76/ 2004, Articles 15 and 16

¹³²⁰ Statute of SDSM: <https://sdsms.org.mk/sdsms/statut>. Statute of VMRO-DPMNE: <https://vmro-dpmne.org.mk/%d1%81%d1%82%d0%b0%d1%82%d1%83%d1%82>; Statute of Levica: <https://levica.mk/wp-content/uploads/2019/12/нов-СТАТУТ-Левица-2019-1.pdf>

¹³²¹ Statute of SDSM: <https://sdsms.org.mk/sdsms/statut>

¹³²² Statute of Levica: <https://levica.mk/wp-content/uploads/2019/12/нов-СТАТУТ-Левица-2019-1.pdf>

¹³²³ Statute of VMRO-DPMNE: <https://www.vmro-dpmne.org.mk/statut/statut.pdf>

integrity and accountability.¹³²⁴ For example, the latest intra-party struggles within the Democratic Union for Integration (DUI) in 2023 brought to light the factionalism within the party and the consequences of power struggles that have persisted within it for years.¹³²⁵ DUI is the biggest political party of Albanian citizens and has been a coalition partner in every government in the past 20 years. In July 2023, DUI organised elections in 14 branches where party members selected their regional leaders.¹³²⁶ On 21 March 2021, the leading political party, SDSM, held the first internal party elections for party president.¹³²⁷ Besides democratic elections to the party bodies, political leaders still influence the selection of party members in electoral ballots for official positions. Only the SDSM party, so far, has held a direct election for a party leader, and only once.¹³²⁸

The 2022 EC progress report notes that some of the parties took steps to improve internal democracy.¹³²⁹

An assessment conducted in 2020 by the National Democratic Institute on the organisational culture of political parties measured whether the public leadership behaves according to the values of the party, whether the leadership shows respect for the rest of the membership and whether it is accountable to the party bodies. The average score of 68 per cent indicates that integrity¹³³⁰ is at risk and parties need to identify areas for reform.¹³³¹

INDICATOR 11.2.7 GENDER REPRESENTATION

To what extent are women part of political parties' leadership?

Score: 50/100

Legal provisions exist and in practice political parties routinely follow them, supplemented by additional measures to enable and promote equal participation. There is a balance in the participation and conditions for women and men across the parties. However, leadership positions of parties are in the hands of men.

The gender balance in politics is regulated by the electoral code. At least 40 per cent of the candidates from the submitted list of candidates for members of parliament and members of council municipalities and the City of Skopje have to be of the under-represented sex. At least one out of every three places has to be reserved for the under-represented sex, with at least one additional place out of every ten places.¹³³² There are no legal provisions to ensure political parties face non-symbolic consequences for failing to implement parity mechanisms.

Each of the parties have a union of women, which is the main body that ensures gender balance within the party.¹³³³ Party membership is not restricted based on gender, however, the party statutes do not have specific

¹³²⁴ The general situation in Macedonia regarding intra-party democracy has been probably best described by Gordana Siljanoska-Davkova stating that: "The party leaders are tragic-comical when they speak up for democracy and the development of democratic processes in the country on one side, and run sultan-parties on the other." Petreski. 2012.

https://www.kas.de/documents/252038/253252/7_dokument_dok_pdf_33615_2.pdf/f0548a69-5e7f-7a10-0ee1-1b06965ded93?version=1.0&t=1539663295631

¹³²⁵ North Macedonia political briefing: In-Party Fight Boils Over in DUI Political Party (2023): <https://china-cee.eu/2023/03/16/north-macedonia-political-briefing-in-party-fight-boils-over-in-dui-political-party/>

¹³²⁶ A1on, The Democratic Union for Integration organised internal party elections for 14 branches. <https://a1on.mk/macedonia/izbori-vo-14-organoci-na-dui-ova-se-iminjata-na-lugjeto-koi-kje-gi-vodat/>

¹³²⁷ SDSM, Elections section: <https://sdsm.org.mk/izbori>

¹³²⁸ Ibid, p.11

¹³²⁹ EC Progress Report for North Macedonia for 2022: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022.pdf>, p.9

¹³³⁰ NDI conducted an analysis of the party integrity with 35 representatives in 7 political parties, in the following: organisational culture and structure, selection of candidates, inclusion of marginalised people and financing of political parties. Organisational structure and internal processes refers to whether the party statutes are taken into consideration for involving municipal branches in decision-making and the inclusion of marginalised groups, as well as whether there are mechanisms for resolving internal disputes. The average score is 69 per cent (55 out of 80 points).

¹³³¹ Presentation delivered on 22 June 2021 by Aleksandra Krsteska, project manager in National Democratic Institute at a training course on financing political parties organised by Transparency International Macedonia.

¹³³² Electoral code, Official Gazette of RM, number 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19 and number 98/19, 42/20, 74/21 и 215/21, Article 64

¹³³³ SDSM Women Union: <https://sdsm.org.mk/organizacija/forum-na-zheni>; Levica: <https://levica.mk/organi-na-partijata/afz/>; VMRO-DPMNE: <https://vmro-dpmne.org.mk/уница-на-жени-на-вмро-дпмне>

provisions for gender balance protected by quotas or similar measures.¹³³⁴ The high-level positions in the parties usually belong to men.

A 2020 OIDHR report for the early parliamentary elections mentions efforts by the SDSM and the VMRO-DPMNE to increase the prominence of women in their campaigns. The SDSM campaign focused on the top two candidates in each electoral district, a man and a woman in each case. Women headed the VMRO-DPMNE list in two out of six electoral districts.¹³³⁵

Two smaller political parties have woman leader: the Liberal Democratic Party¹³³⁶ and Democratic renewal of Macedonia.¹³³⁷

ROLE

INDICATOR 11.3.1 INTEREST AGGREGATION AND REPRESENTATION

To what extent do political parties aggregate and represent relevant social interests in the political sphere?

Score: 50/100

While the political party system is effective in aggregating and representing many of the social interests in the country, they often lack a proactive approach to resolve major issues such as increasing economic development and the fight against corruption.

In the SDSM parliamentary election programme, the party appealed to citizens based on the following projects: maintenance of sustainable economic development, opening of new work places, support for new businesses, support for the agriculture, building roads, increased social aid, etc.¹³³⁸

Similarly, the VMRO-DPMNE programme for the 2020 parliamentary elections was divided into four pillars, focusing on the creation of: efficient state and strong institutions (including the fight against corruption and the grey economy), a competitive private sector, integrated, secure and stable country and better living conditions for the citizens.¹³³⁹

The party Levica stands for social justice, improvement of laws and anti-corruption policies, efficient administration, redistribution of social wealth, etc.¹³⁴⁰

There is no precise assessment on the fulfilment of the programmes once the parties are in parliament or become part of the executive. There is often no real connection between what is written in the programmes and what is actually implemented. Often there is criticism that some companies are favoured in public procurement

¹³³⁴ Every two years, political parties should adopt a plan for equal opportunities, which should clearly define the measures for the promotion of equal participation of women and men in the bodies of the parties, the candidate lists for elections of local self-government units, the Assembly and for the election of the President. Such plans should be submitted to the Ministry of Labor and Social Policy for their opinion. <https://reactor.org.mk/publication-all/родов-информатор-за-политичарки/>

¹³³⁵ OIDHR. 2020. OIDHR special report on the early parliamentarian elections held on 15 July 2020, https://www.osce.org/files/f/documents/b/e/465648_2.pdf, p.13

¹³³⁶ LDP, Structure of the party: <https://ldp.mk/struktura/pretsedatel/>

¹³³⁷ DOM party: <https://dom.org.mk/>

¹³³⁸ SDSM. 2020. Programme for the early parliamentary elections 2020: https://sdsm.org.mk/wp-content/uploads/2020/06/Programma-2020_Mozeme.pdf, Accessed on 4 July 2023

¹³³⁹ VMRO-DPMNE. 2020. Programme for the early parliamentary elections 2020: <https://www.vmro-dpmne.org.mk/programa/programa2020.pdf>, Accessed on 4 July 2023

¹³⁴⁰ Levica. 2020. Programme for the early parliamentary elections 2020: <https://levica.mk/wp-content/uploads/2020/06/2.-Levica-programma-A5-final-za-web-11.06.2020.pdf>, Accessed on 4 July 2023

procedures, tenders are awarded because of close business or family ties, or nepotism or a lack of resources for capital investment, etc. which negates the effective implementation of the planned activities.¹³⁴¹

The majority of the political parties have good cooperation and communication with CSOs. They participate in meetings, conferences and other events related to their field of work. The parties are also supportive when there is a need to support legal changes suggested by CSOs.

INDICATOR 11.3.2 ANTI-CORRUPTION COMMITMENT

To what extent do political parties give due attention to public accountability and the fight against corruption?

Score: 50/100

While there are a number of reforms promoted by political parties to counter corruption and promote integrity, there is a lack of practical implementation once parties are in power.

The political parties' programmes place anti-corruption policies and the commitment to strengthening these policies highly on their agenda. It is usually the most important issue in electoral campaigns. The same goes for public accountability. During elections, these are among the most exploited themes.

In the party programme for the 2020 parliamentary elections, VMRO-DPMNE included the fight against corruption and the grey economy in the first of its four pillars.¹³⁴² They propose four measures with 11 projects for the fight against corruption.¹³⁴³ Levica had a chapter dedicated to the legal system and anti-corruption. Among the measures they proposed are: introduction of strict preventive anti-nepotism measures for protection against family influence in the judiciary and barring the performing of different roles within the same appellate area; non-statutory limitation of criminal charges related to so-called economic crimes and corruption committed by public officials; abolition of corruption as a misdemeanour and making it a criminal liability, with a tightening of penalties and a mandatory ban on performing a professional activities; among others.¹³⁴⁴ The SDSM programme included: awards for the citizens who report corruption; digital follow-up of reported cases that based of corruption; EU monitoring of cases of grand corruption; transparency of institutions.¹³⁴⁵ SDSM is part of the executive, so they have a programme of work for the government. The latest is for 2022-24 which includes anti-corruption measures.¹³⁴⁶ Political parties from the Albanian block do not publish data or resources in Macedonian on their websites. But

¹³⁴¹ Transparency International Macedonia. 2020. "Vulnerability to corruption: assessment of the employment policies and procedures, with a special focus on nepotism, cronyism and clientelism" <https://transparency.mk/wp-content/uploads/2021/07/proczenka-na-ranlivost-od-korupczi%D1%98a-vo-politikite-i-postapkite-zavrabotuva%D1%9Aee-so-poseben-fokus-na-nepotizam-kronizam-klientelizam-.pdf>; IDSCS. 2020. "Political party programs and fight against corruption: A vision or pre-election pamphlet?" <https://idscs.org.mk/en/2020/01/29/political-party-programs-and-fight-against-corruption-a-vision-or-a-pre-election-pamphlet/>

¹³⁴² VMRO-DPMNE. 2020. Programme for the early parliamentary elections 2020: <https://www.vmro-dpmne.org.mk/programa/programa2020.pdf>, Accessed on 4 July 2023

¹³⁴³ One of the measures is the strengthening of the transparency and accountability of institutions through five projects: publishing State Audit Office reports of institutions and action plans for correction of any irregularities; improvement of the access to data; relieving companies of the pressure of complying with different inspections by decreasing the many inspection regulations; zero tolerance of corruption; and implementation of the ISO 37001 standard. Another measure is to strengthen the capacities of the State Audit Office by enabling systematic networking of this body with the state prosecutor's office and by establishing an office to audit public procurement. They plan to have low taxes to strengthen the fight against the grey economy and to simplify the tax system, and they propose a project to strengthen the capacities of the State Commission for the Prevention of Corruption.

¹³⁴⁴ Election programme of Levica, Early parliamentary elections 2020: <https://levica.mk/wp-content/uploads/2020/06/2.-Levica-programa-A5-final-za-web-11.06.2020.pdf>

¹³⁴⁵ SDSM, Program of activities 2020- 2024, parliamentary election 2020: https://sdsms.org.mk/wp-content/uploads/2020/06/Programa-2020_Mozeme.pdf

¹³⁴⁶ Program for the work of the Government of the Republic of North Macedonia for the period 2022–2024: https://sdsms.org.mk/wp-content/uploads/2022/02/programa_na_vladata_2022-2024-Copy.pdf

the BESA party, for example, do not have programmes published in Albanian on their website either. Neither does the DUI.

In general, all the parties pledge to fight corruption in their programmes and in their electoral campaigns but it is not reflected in the policies they push once they get elected. North Macedonia is still low on the index for the perception of corruption. The political parties in power are lacking significant commitments and efforts to achieve measurable and visible results in the fight against corruption. They are only interested in anti-corruption activities when they are in the opposition.

For example, the Assembly shows little commitment to the fight against corruption as they postpone the review of the annual reports of the main anti-corruption bodies, such as the SCPS (See 10.2.4) and the SAO (See 9.2.4).

Also, in 2023, the Assembly passed amendments to the criminal code in favour of a government proposal that allegedly provided a "quiet amnesty" for corrupt kleptocrats from the ruling parties.¹³⁴⁷ CSOs and the opposition criticised the ruling party for essentially "legalising the illegal".¹³⁴⁸

Occasionally the parties are also supportive of the participation of anti-corruption CSOs in legislative amendments, such as the working groups for amendments to the Law on the Prevention of Corruption and Conflict of Interest and the whistleblower protection law in 2023.¹³⁴⁹

INTERACTIONS

At the policy-making level political parties are connected to businesses, the media and CSOs. The business community is usually consulted on economic issues. With CSOs, there is regular communication and participation of political party members in various activities such as workshops, training, skill development and other activities organised by the CSOs. The party leaders and members constantly communicate with the media and participate in informative media programmes.

Political party activities are very varied and there is no effective cooperation between the ruling party and the opposition. In fact, in May 2022 the political opposition party VMRO-DPMNE officially declared a blockade of parliament¹³⁵⁰ with complaints about the economy, health, education and international politics and after a request for the Prime Minister Dimitar Kovačevski and leader of the largest opposition party, Hristijan Mickoski, to discuss a date for early parliamentary elections. However, the state budget and the session to vote on criminal law amendments were excluded from the blockade.¹³⁵¹

¹³⁴⁷ 360 Degrees, "The government "secretly" established them, the Parliament expressly, with 48 votes "for", adopted the amendments to the Criminal Code", <https://360stepeni.mk/vladata-tajno-gi-utvrdi-sobranieto-ekspressno-so-48-glasa-za-gi-donese-izmenite-na-krivichniot-zakonik/>

¹³⁴⁸ Transparency International Macedonia, Reactions from the CSOs for the adoption of the amendments to the criminal code: <https://transparency.mk/2023/09/06/izvestuva%d1%9ae-do-mediumi-povlekuva%d1%9ae-na-predlogot-za-izmena-na-kzm-toa-e-obid-zatvika-amnesti%d1%98a/>; <https://transparency.mk/2023/09/07/pendarovski-da-go-iskoristi-pravoto-na-veto-pobara-platformata-na-gra%d1%93anski-organizaciji-za-borba-protiv-korupcji%d1%98a/>; <https://360stepeni.mk/i-bluprint-grupata-bara-od-pendarovski-da-ne-stava-potpis-na-ukazot-za-izmenite-vo-krivichniot-zakonik/>

¹³⁴⁹ The Platform of NGO's against corruption was invited to participate in drafting of the legal amendments to those two laws.

¹³⁵⁰ Faktor, "Micevski declared an active blockade of the Parliament", <https://faktor.mk/micevski-proglasi-aktivna-blokada-na-sobranieto>

¹³⁵¹ SDK, The reduction of sentences is a bargain with former prime minister Nikola Gruevski, who should provide MPs to vote on constitutional amendments in exchange amnesty for him and other former and current VMRO-DPMNE officials.

<https://sdk.mk/index.php/makedonija/namaluvaneto-na-kaznite-e-pazar-so-gruevski-koj-treba-da-obezbedi-pratenitsi-za-ustavni-izmeni-vo-zamena-za-negova-i-amnestija-na-bivshi-i-segashni-funktsioneri-od-vmro-dpmne/>

PILLAR RECOMMENDATIONS

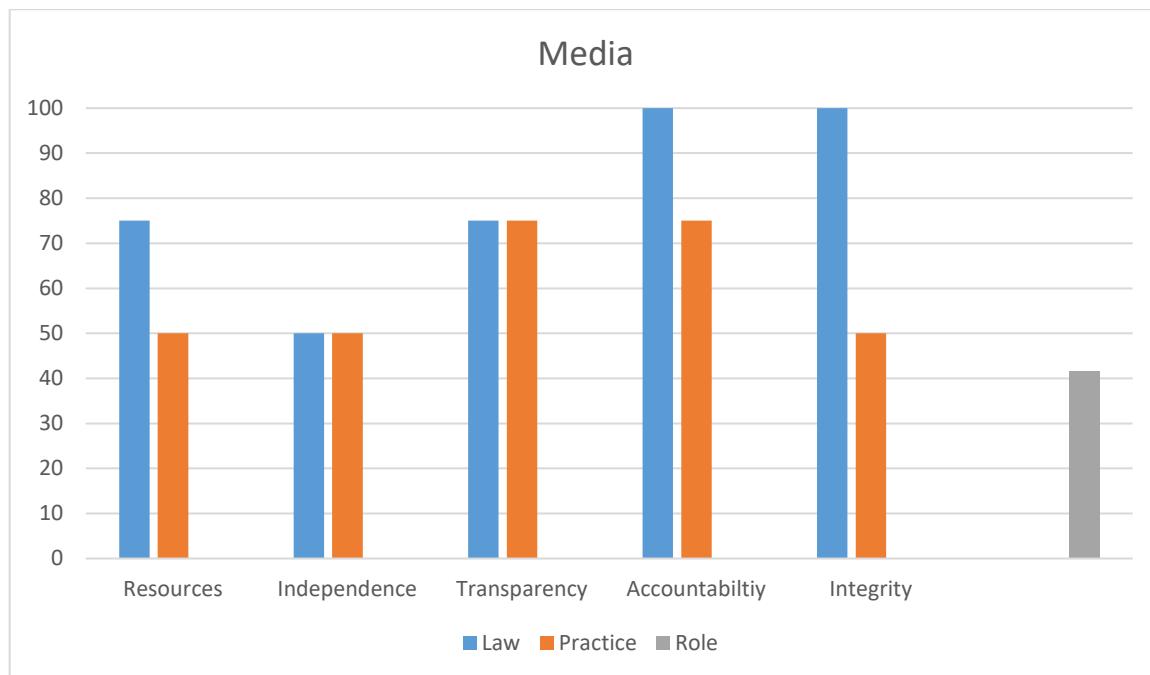
- The Law for the Financing of Political Parties should establish a more balanced model of public financing of parties between the larger and smaller ones by sharing the percentages of funding more equally among participants in parliamentary elections.
- The Ministry of Finance needs to establish an online platform for political parties to submit their financial reports. This platform should provide a public database with all the financial reports available in a searchable format, this would reduce the burden of reporting and make the data useful for other institutions and transparent for the media and citizens.
- The Ministry of Finance needs to improve the financial reporting template by adding a separate item on political advertisement on social media and to enable online reporting with the possibility of a comparison of the data.
- The Ministry of Justice in cooperation with the SCPC, the SAO and the SEC, as well as other bodies related to the oversight of political financing, need to establish a mechanism for the proper application of legal obligations and apply misdemeanour provisions for violations by political parties in their political finance obligations, in particular for not submitting their financial reports.
- The government and the Assembly need to work together with media associations to find a solution to include regulation of campaigns on social media within the electoral code.

12. MEDIA

SUMMARY



Indicators scores: law and practice



The legal framework¹³⁵² related to media is not restrictive in terms of licensing and setting up broadcasting entities; however, online media – for example, online news portals and social media, such as Facebook, Twitter, and so on) – is not sufficiently regulated by law, and disinformation is prolific in internet media reporting along with a lack of professional standards, also noted in the EC report on North Macedonia.¹³⁵³ Since the country is striving for EU membership, the authorities have made efforts to reduce this gap in legislation by regulating online news portals, as well as video-sharing platforms such as YouTube.

¹³⁵² EC Report. 2020. North Macedonia. https://neighbourhood-enlargement.ec.europa.eu/system/files/2020-10/north_macedonia_report_2020.pdf.

¹³⁵³ EU. 2018. Directive 2018/1808 of the European Parliament and of the Council. <https://eur-lex.europa.eu/eli/dir/2018/1808/oj>.

There have also been changes in the financing of media from the state budget. The 2018 amendment to the law¹³⁵⁴ established a ban for state institutions, the public sector, local governments, state-owned enterprises and companies with state ownership to advertise in the media. However, on 2 November 2023, parliament passed a decision to adopt a new amendment to the law that will bring back the possibility for government advertising on commercial channels.¹³⁵⁵

The dominating media landscape in North Macedonia is more traditional and depicts programmes and channels that the general public wants to see – sensational news that presents opposing statements by the ruling versus opposition parties on daily events and challenges in the country, entertainment programmes that generally consist of regional music shows, Turkish TV series, morning call-in programmes, among others. There is a lack of an alternative media scene and independent media outlets, and the most popular media are the national state media channels (Kanal5, Sitel, Alfa, Alsat).

Political and business elites in the country have a large influence on the media which has decreased media integrity, professionalism¹³⁵⁶ and quality reporting. Journalists also face verbal attacks and legal pressures, often involving defamation lawsuits. Parallel media systems have been established by political parties in power, and journalists, especially female ones, are targeted. Although attacks are reported to authorities, investigations are rarely initiated.

CAPACITY

INDICATOR 12.1.1 RESOURCES (LAW)

To what extent does the legal framework provide an environment conducive to a diverse independent media?

Score: 75/100

The legal framework is mostly conducive to the existence and operations of independent media. Media have the freedom to cover wide-ranging content and are not limited in their scope of broadcasting content. However, plans to reintroduce state funding of the media has raised concerns about media pluralism.

The legal framework for the media is the Law on Media,¹³⁵⁷ the Law on Audio and Audiovisual Media Services, the Law on Free Access to Information of a Public Character¹³⁵⁸ and the Law on Civil Liability and Defamation.¹³⁵⁹

To set up broadcast media entities, registration for a licence as a broadcasting company enterprise or non-profit is required. Only universities and educational institutions can broadcast on radio without having to register.¹³⁶⁰ The Agency for Audio and Audiovisual Media is responsible for granting, terminating or extending licences for

¹³⁵⁴ Law Amending the Law on Audio and Audiovisual Media Services. Official Gazette of RM, no. 248/2018, Article 102. <https://ldbis.pravda.gov.mk/PregledNaZakon.aspx?id=43213>.

¹³⁵⁵ SDK. "SDSM and VMRO-DPMNE together to pass a law on bribing TV channels with at least €2.3 million annually from the state budget," <https://sdk.mk/index.php/makedonija/sdsm-i-vmro-dpmne-se-zdruzhija-da-donesat-zakon-za-potkup-na-televiziite-so-najmalku-2-3-milioni-evra-godishno-od-drzhavniot-budhet/>, [accessed on 14 November 2023].

¹³⁵⁶ Law on Media. Official Gazette of RM, No. 184, 26 December 2013. Law Amending the Law on Media. Official Gazette of the Republic of Macedonia, No. 13, 23 January 2014, <https://avmu.mk/закон-за-медиуми/>.

¹³⁵⁷ Law on Media. 2013. Law Amending the Law on Media. 2014.

¹³⁵⁸ Law on Free Access to Information of Public Character, Official Gazette of RM, No. 101, 2019, available on <https://aspi.mk/документи/прописи/>.

¹³⁵⁹ Law Amending the Civil Liability and Defamation Law, www.pravdiko.mk/shto-predviduva-noviot-predlog-zakon-za-graganska-odgovornost-za-navreda-i-kleveta/

¹³⁶⁰ Law on Audio and Audiovisual Media Services, Official Gazette of RM, No. 184, 26 December, 2013, available on https://avmu.mk/wp-content/uploads/2017/05/Zakon_za_audio_i_audiovizuelni_mediumski_uslugi_mkd_1.pdf

television and radio broadcasting.¹³⁶¹ A decision not to grant a licence can be appealed to the agency. The agency has a register of all the entities and persons with a licence to broadcast content, along with the information of the responsible person or owner of the media entity. Also, the agency has to take into account the pluralism in the broadcast content when granting a licence to the broadcaster in order to ensure diversity.¹³⁶²

The Law on Media requires electronic publications, online magazines and online media outlets to publish information about their ownership and editorial structure, as well as the names of the journalists writing the online articles.¹³⁶³

Any natural person or legal entity can publish print or online media, but they have to be registered in the central registry with the necessary information such as address of the publisher and the name of the print/electronic media/website.¹³⁶⁴ Media diversity in terms of languages is ensured in the Law on Audio and Audiovisual Media Services which requires that broadcasters emit content in Macedonian and its Cyrillic alphabet, except in cases when the broadcast content is intended for a different group with a language different than the official one.¹³⁶⁵ If the broadcast content is subtitled in a different language than the one in which it was originally made, it must be subtitled in Macedonian or in a language to a minority, which should represent at least 20 per cent of the overall population in North Macedonia.

Media programming contributes to developing and raising awareness of equal opportunities, as well as equal participation of women and men in creating programming concepts and content.¹³⁶⁶ The Broadcasting Council of the Republic of North Macedonia is responsible for reporting each year to the Assembly on how women and men are portrayed and represented in programming concepts and content.¹³⁶⁷

The state financing of media was not allowed with the legislative reforms in the Law on Audio and Audiovisual Media Services. However, in 2022, the government submitted amendments to the Assembly that will enable indirect state budget funding for the media by allowing the government to advertise on commercial channels. This proposal has caused some media non-profits to claim that state financing in the media will contribute to more media bias and even greater polarisation in the media.¹³⁶⁸ However, the media community is divided on this question. There is a lot of pressure from national and local TV and radio channels for financing “campaigns of public interest”. There is a perception that corruption in the media occurs before elections.¹³⁶⁹ Media associations continued to express concern over legal provisions enabling political parties to use state funding to advertise in the media and about the lack of transparency of party political advertising generally and on online media platforms in particular.¹³⁷⁰ However, on 2 November 2023, parliament passed a decision to adopt new amendment to the law.¹³⁷¹

¹³⁶¹ Law on Audio and Audiovisual Media Services. 2013.

¹³⁶² Law on Audio and Audiovisual Media Services. 2013.

¹³⁶³ Law on Media. 2013.

¹³⁶⁴ Law on Media. 2013.

¹³⁶⁵ Law on Audio and Audiovisual Media Services. 2013. Article 64

¹³⁶⁶ Law on Equal Opportunities on Men and Women. 2017. Article 17, p.1,

www.mtsp.gov.mk/content/pdf/zakoni/2017/precisten%20tekst%202015%20na%20ZEM_nov.pdf

¹³⁶⁷ Law on Equal Opportunities on Men and Women. 2017: Article 17, p.3.

¹³⁶⁸ Jasmina Jakimova. Slobodna Evropa. <https://www.slobodnaevropa.mk/a/дали-власта-пак-ќе-купува-влијание-во-медиумите-32133555.html>, Accessed on 14 November 2023

¹³⁶⁹ Mirche Adamchevski. 2023. Council for Ethics in Media, Report Commentary

¹³⁷⁰ EC Progress report on North Macedonia for 2023: https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf, p.31, Accessed on 14 November 2023

¹³⁷¹ SDK. “SDSM and VMRO-DPMNE together to pass a law on bribing TV channels with at least €2.3 million annually from the state budget,” <https://sdk.mk/index.php/makedonija/sdsm-i-vmro-dpmne-se-zdruzhija-da-donesat-zakon-za-potkup-na-televiziite-so-najmalku-2-3-milioni-evra-godishno-od-drzhavniot-budget/>, Accessed on 14 November 2023

INDICATOR 12.1.2 RESOURCES (PRACTICE)

To what extent is there a diverse independent media providing a variety of perspectives?

Score: 50/100

While there is a plurality of media sources (in terms of type and topic), they are biased towards the conservative political and social spectrum, due to challenges such as media ownership concentration and threats to alternative journalists.

There are both public (Macedonian Radio Television¹³⁷²) and private media (Nasha TV, Kanal 5, Telma, Alfa TV), national radio stations (Antena 5, Kanal 77, Metropolis, Radio Skopje, Life Radio), and local radio (Radio 105, Akord, BubaMara), newspapers (Sloboden Pechat, Nova Makedonija, Fokus, Vecher and Koha), and online news portals (MIA - Macedonian Information Agency - government media portal, Centar.mk, A1on.mk, 24info, Kapital, among others). These outlets cover a range of topics, including politics, economics, culture and entertainment. News in Albanian is covered by the TV channel Alsat-M, the Albanian newspaper Koha and the online media outlets PortalB and Almakos.¹³⁷³

There is, however, a lack of alternative and investigative programmes. It is important to note that the media landscape in North Macedonia has faced challenges in terms of media ownership concentration and political influence. Some media outlets have been associated with specific political parties or individuals, which can potentially limit the diversity of perspectives and independence of journalism. Additionally, there have been instances of pressure, threats and attacks on journalists in the country. Such incidents can create an atmosphere of self-censorship and limit the willingness of journalists to pursue critical or alternative perspectives (see 12.1.4).

Despite these challenges, there are still media outlets (such as Prizma¹³⁷⁴, Scoop¹³⁷⁵) and individual journalists who strive to provide independent and diverse perspectives. The rise of digital media has also provided alternative avenues for independent voices and opinions. Online news portals and social media platforms have allowed individuals and organisations to express diverse viewpoints and provide alternative sources of information. Scoop Macedonia¹³⁷⁶ has produced many investigative and good quality stories and have covered many national and international cases and scandals. BIRN Macedonia is another independent NGO that is part of the regional Balkan Investigative Reporting Network.¹³⁷⁷ Some journalists and media organisations, such as Snezana Lupevska Sozen, who runs the investigative show Kod, prioritise investigative reporting and critical analysis, aiming to present different viewpoints and contribute to a pluralistic media environment.¹³⁷⁸

INDICATOR 12.1.3 INDEPENDENCE (LAW)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of the media?

Score: 50/100

While a number of laws to protect the independence of media exist, the current defamation law enables intimidation and pressure of media and individual journalists. Also plans to re-authorise the government to advertise in private media have been met with concerns for media independence.

¹³⁷² Macedonian Radio Television, MRT, <https://www.mrt.com.mk/>

¹³⁷³ Prizma. Database of Media in North Macedonia, <http://mediumi.prizma.mk/mk>

¹³⁷⁴ Prizma, <https://prizma.mk/>

¹³⁷⁵ Scoop, Center for Investigative Journalism. Macedonia, <https://en.scoop.mk/>

¹³⁷⁶ Scoop Macedonia, CSO for investigative journalism, <http://en.scoop.mk/>

¹³⁷⁷ BIRN Macedonia, <https://birn.eu.com/network/birn-macedonia/>

¹³⁷⁸ KOD Lupevska, YouTube Channel, <https://www.youtube.com/channel/UCJWqgAOqcAI0tVoMwraB7bA>

The constitution of North Macedonia guarantees freedom of expression and freedom of the press. These constitutional provisions provide a foundational framework for protecting the independence of the media from external interference. The constitution further guarantees the right to protect and not to disclose sources, and prohibits censorship.¹³⁷⁹ The constitution only prohibits the dissemination of information that incites cultural, ethnic, religious, gender, racial, national or other forms of intolerance.¹³⁸⁰ This is also covered by the Law on Media which prohibits any content that incites military aggression, discrimination, religious or national intolerance.¹³⁸¹

Laws such as the Law on Protection of Personal Data and the Law on Access to Public Information including the right to protect sources, access information and work without undue pressure further provide journalists with the legal tools to protect their independence.¹³⁸²

However, Reporters without Borders note in their 2023 analysis of North Macedonia that lawsuits based on the Law on Civil Responsibility for Defamation are used to intimidate and pressure media outlets, inciting self-censorship.¹³⁸³

In July 2021, the Ministry of Justice proposed a new draft of the Law on Civil Liability for Defamation, which establishes the legal principles, procedures and remedies related to defamation cases.¹³⁸⁴ The amendment to the law considered recommendations from experts engaged by UNOPS,¹³⁸⁵ international legal documents, such as the Council of Europe Resolutions,¹³⁸⁶ that provide for prison sentences for defamation, even if they are not actually imposed. It introduced the right to request a public apology or public withdrawal of the statement or content before filing a lawsuit and a significant reduction of the maximum amounts that the court can award as compensation for non-material damage caused by insult or defamation by a journalist in the exercise of their journalistic profession, by editors or the person who replaces them or by a legal entity.

The Association of Journalists of Macedonia and the Journalists' Syndicate further recommended to amend the Civil Responsibility for Defamation Law and the Criminal Law so attacks on journalists¹³⁸⁷ get treated as an attack on an official person, which means that the public prosecutor's office should act and the penalties for the attackers will be increased. This should contribute to strengthened legal protection for journalists and will close the legal gaps where there was a lack of guaranteed protection for journalists.¹³⁸⁸

A coalition of Macedonian not-for-profit media have raised concerns about the government's plans to pass a law which will re-authorise the government to advertise in private media,¹³⁸⁹ which will likely lead to increased media

¹³⁷⁹ Constitution of the Republic of Macedonia, Article 16, 17th November, 1991, Parliament of the Republic of Macedonia, <https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>

¹³⁸⁰ Constitution of the Republic of Macedonia, Article 20, 17th November, 1991, Parliament of the Republic of Macedonia, <https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>

¹³⁸¹ Law on Media, Article 4, Official Gazette of the Republic of Macedonia, No.184, 26 December, 2013, https://www.mioa.gov.mk/sites/default/files/pbl_files/documents/legislation/Zakon_za%20_mediumi_konsolidiran_15102015.pdf

¹³⁸² Law on Free Access to Information of Public Character, <https://aspi.mk/wp-content/uploads/2020/09/ЗАКОН-ЗА-СПИ-ПДФ.pdf>

¹³⁸³ Reporters Without Borders, North Macedonia, <https://rsf.org/en/country/north-macedonia> (Accessed: 15 July 2023)

¹³⁸⁴ Law Amending the Law on Civil Liability for Defamation, Skopje, July 2021 <https://www.pravdiko.mk/shto-predviduva-noviot-predlog-zakon-za-graganska-odgovornost-za-navreda-i-kleveta/>

¹³⁸⁵ EU Mission in Skopje. 2014, by Gavin Miller (submitted via Permanent Mission of the Republic of Moldova to the EU in Brussels)

¹³⁸⁶ Council of Europe, Assembly, Resolution 1577 (2007) Towards the decriminalization of defamation, adopted on October 4, 2007

¹³⁸⁷ Meta Agency. 2022. Five Attacks Registered on Journalists Last Year in the Country, Social Media Threats are a Problem.

<https://meta.mk/lani-registrirani-pet-napadi-kon-novinari-vo-zemjava-problem-se-zakanite-na-socijalnite-mrežhi/>

¹³⁸⁸ Recommendations by the Association of Journalists of Macedonia, online webinar organised by the Association of Journalists with the Ministry of Justice, June 2020, <https://znm.org.mk/odrzhan-i-vtoriot-vebinar-za-razmema-nal/>; Regarding the new draft of the Civil Liability and Defamation Law, it is relevant to notice that the recommendations proposed by the Association of Journalists of Macedonia for decreasing the financial amounts for non-material damage caused by journalists have been included and now there is a significant reduction of the maximum amounts that the court can award as compensation for non-material damage. Thus, for a journalist this limit is US\$396 for an editor US\$1,980, and for a legal entity US\$4,954 in Denar equivalent, <https://www.pravdiko.mk/shto-predviduva-noviot-predlog-zakon-za-graganska-odgovornost-za-navreda-i-kleveta/>

¹³⁸⁹ Vlado Apostolov, Prizma. 2022. Government Advertisements will Become Public Interest Campaigns https://prizma.mk/vladinite-reklami-ke-stanat-zadolzhitelni-kampani-od-javen-interes/?fbclid=IwAR1aFrJmwf12nYr0sGfu9XNg7vkwpPxTuw_fjZprqoX9_dxIq7GVw0EOiQ

bias polarisation.¹³⁹⁰ In relation to this bill, Reporters without Borders further highlights concerns about possible influence peddling.¹³⁹¹

INDICATOR 12.1.4 INDEPENDENCE (PRACTICE)

To what extent is the media free from unwarranted external interference in its work in practice?

Score: 50/100

In practice, there is political influence due to media ownership and economic pressure on independent media. Attacks on journalists happen but are usually not severe, such as verbal attacks or legal pressure with threats of defamation lawsuits.

The 2023 World Press Freedom Index shows a slight increase from 68.44 (38 out of 180 countries) in 2022 to 74.35 (57 out of 180 countries).¹³⁹²

However, the analysis from Reporters without Borders also notes that the media is often subject to pressure by the authorities, politicians and businessmen. Parallel media systems have been established by the two largest parties SDS, (in power) and VMRO-DPMNE¹³⁹³

The 2023 analysis further notes that journalists are regularly targets of verbal attacks and legal pressure in the form of gag proceedings or SLAPPs based on the Law on Civil Responsibility for Defamation (see 12.2.3). However, it also notes that a special prosecutor was appointed to uphold press freedom and handle attacks against it.¹³⁹⁴ In a report published in March 2022,¹³⁹⁵ the Association of Journalists of Macedonia stated that, compared to 2020, threats in 2021 had decreased, but have also taken new forms, targeting more female journalists.¹³⁹⁶ Although all of the attacks were reported to the police and the public prosecutor's office, no further investigations were ever opened.¹³⁹⁷

GOVERNANCE

INDICATOR 12.2.1 TRANSPARENCY (LAW)

To what extent are there provisions to ensure transparency in the activities of the media?

Score: 75/100

In general, the legal provisions and individual rules and codes of media outlets seek to establish full transparency with regard to relevant media activities. However, there is need for inclusion on the names of internal staff, authors of the articles and original articles when the information is rewritten from another media.

Print media as well as registered broadcast companies, are required to disclose their ownership. According to the Law on Media, the media outlet is required to publish information such as its address, ownership, responsible

¹³⁹⁰ Reaction: ZNM, SEMM, SSNM, The Government Favours Media with Public Money, <https://znm.org.mk/знм-семм-сснм-владата-со-народни-парти-ф/>

¹³⁹¹ Reporters Without Borders, North Macedonia, <https://rsf.org/en/country/north-macedonia> (Accessed: 15 July 2023)

¹³⁹² Reporters Without Borders. North Macedonia. <https://rsf.org/en/country/north-macedonia> (Accessed: 15 July 2023)

¹³⁹³ Reporters Without Borders. North Macedonia. <https://rsf.org/en/country/north-macedonia> (Accessed: 15 July 2023)

¹³⁹⁴ Reporters Without Borders. North Macedonia, <https://rsf.org/en/country/north-macedonia> (Accessed: 15 July 2023)

¹³⁹⁵ ZNM. 2022. Attacks on Journalists. <https://znm.org.mk/wp-content/uploads/2022/06/Attacks-on-journalists-MK-310322.pdf>

¹³⁹⁶ ZNM. Cases of Journalistic Attacks. <https://znm.org.mk/povreda-na-novinari/>

¹³⁹⁷ Ibid

person for the media outlet, and the responsible editor(s) in accordance with the internal structure of the organisation, as well as the address of the press where the print media was produced and the number of printed media produced.¹³⁹⁸ Additionally, broadcasters have to submit data to the agency on their ownership structure, technical data and financial information. The broadcasters are required to disclose this information at the beginning or end of the audio/audiovisual programme. Besides the ownership structure and responsible persons, the media publisher is required to disclose the information of the author of the published content.¹³⁹⁹

INDICATOR 12.2.2 TRANSPARENCY (PRACTICE)

To what extent is there transparency in the media in practice?

Score: 75/100

While most media outlets usually disclose relevant information on their activities, there are media portals that lack contact information, addresses, information about their ownership or organisational structure and fail to provide sources for their published information.

In general, print and broadcast media outlets disclose their ownership, editing policies, internal staff and so on, although there are also media outlets that do not have this information published. The online media outlet Prizma has published an online database¹⁴⁰⁰ of media and print outlets with the relevant information. For example, the online media A1-ON has published its e-mail address, location¹⁴⁰¹ and staff,¹⁴⁰² although there is not a phone number available, which should be published and visible according to the Law¹⁴⁰³ on Audio and Audiovisual Media Services.¹⁴⁰⁴ One of the five biggest national TV broadcasters, Kanal 5, has the relevant information published and there is data to be found in terms of its ownership structure as well as history of ownership since its existence and establishment in 1998.¹⁴⁰⁵

One of the oldest established newspapers in North Macedonia is the daily Nova Makedonija that exists since 1944. It has all the necessary relevant information available in terms of contact, ownership and internal structure. Besides being a print media, it also has its web-portal. Moreover, the TV broadcaster Alsat-M¹⁴⁰⁶ is one of the first TV broadcasters with a national concession that is bilingual, broadcasts in both Albanian and Macedonian. Other media broadcasters also have programmes in both languages.¹⁴⁰⁷

The 2023 EC progress report for North Macedonia notes that there is a lack of transparency in paid political advertising in online media since there is no specific law regulating these media.¹⁴⁰⁸ It recommends stronger self-regulation for online media, in particular through the promotion of a registry of online media (promedia.mk) and the development of professional standards for online journalism.¹⁴⁰⁹

As required by law, the media regulator publishes a register of broadcasting and print media, including information on the number of employees and type of employment.¹⁴¹⁰

¹³⁹⁸ Law on Media, Article 14, Official Gazette of RM, No. 184/2013, <https://dejure.mk/zakon/zakon-za-mediumi#>

¹³⁹⁹ Law on Media, Article 15, Official Gazette of RM, No. 184/2013, <https://dejure.mk/zakon/zakon-za-mediumi#>

¹⁴⁰⁰ Prizma, Database of Media in Macedonia, <http://mediumi.prizma.mk/mk>

¹⁴⁰¹ TV A1-ON. Contact information <https://a1on.mk/kontakt/>

¹⁴⁰² TV A1-ON. Impressum, <https://a1on.mk/impressum/>

¹⁴⁰³ *ibid*

¹⁴⁰⁴ Law on Audio and Audiovisual Media Services, Article 28, Official Gazette of RM, No. 184 26 December, 2013

¹⁴⁰⁵ One of the biggest national TV broadcasters Kanal 5, <http://mediumi.prizma.mk/mk/medium/kanal-5>

¹⁴⁰⁶ Alsat-M, one of the biggest national TV broadcasters of bilingual programming, <https://alsat.mk/>

¹⁴⁰⁷ Alsat-M, media information, <http://mediumi.prizma.mk/mk/medium/alsat-m>

¹⁴⁰⁸ EC Progress Report on North Macedonia for 2023: https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf, p.32, Accessed on 14 November 2023

¹⁴⁰⁹ *Ibid*

¹⁴¹⁰ *Ibid*

INDICATOR 12.2.3 ACCOUNTABILITY (LAW)

To what extent are there legal provisions to ensure that media outlets are answerable for their activities?

Score: 100/100

Comprehensive legal provisions and mechanisms are in place to ensure the accountability of media outlets.

The Audio and Audiovisual Media Services performs oversight of broadcast media, especially in periods of elections, election campaigns and paid political advertising, and is responsible for granting or terminating broadcasting licences for media operators. The agency also performs programme, administrative and expert supervision. The programme and administrative supervision may be systematic, ad-hoc or controlled supervision.¹⁴¹¹

The supervision of media content is limited to ensuring the protection of minors and compulsory broadcasting of special government or state-of-emergency announcements.¹⁴¹²

Moreover, the supervision can be performed by the agency to ensure that the requirements related to technical, spatial and personnel are satisfied. However, this supervision should be done with prior notice from the agency and provide a justification for it.¹⁴¹³

Moreover, the Law on Media outlines obligations that broadcasters need to fulfil to ensure transparency, accountability and visibility within the scope of their work.¹⁴¹⁴ The broadcasters have until 31 March to provide data to the agency of ownership structure, the name and location of the legal person or the address of the physical persons who are shareholders with the publisher of the medium, with data on the percentage of shares they acquired and the date of acquisition. Additionally, broadcasters need to submit data related to the sources of financing in the previous year (advertising, sponsorship, content sale, other type of services); data related to income and expenditures, viewership or listenership of the broadcaster in the previous year. Besides submitting this data to the competent regulatory body, they also need to publish this data on their own programmes at least three times in a year.

According to Article 142, paragraph (3) of the Law on Audio and Audiovisual Media Services, financial reports need to be submitted to the Agency for Audio and Audiovisual Media Services and need to include all the financial information related to income and expenditure in the previous year. If this obligation is not fulfilled by the media broadcasters, there are financial fines to the legal entity and the responsible person of the legal entity.¹⁴¹⁵

The Council of Media Ethics of Macedonia (CMEM) is a non-governmental organisation which receives complaints from the public and institutions with regards to information published in the media which violate the professional standards and the Code of Journalists. This council is a member of the Alliance of Independent Press Councils of Europe (AIPCE) that maintains and promotes ethics and professional standards in the media. It functions as a body of self-regulation of the media.¹⁴¹⁶ The council publishes the complaints and the outcomes of the complaints on their website. In addition, media outlets can submit complaints about other media that have breached rules.

¹⁴¹¹ Competencies of the Agency for Audio and Audiovisual Media Services, <https://avmu.mk/en/agency-competences/>

¹⁴¹² Law on Audio and Audiovisual Media Services, Article 29, paragraph (1), Official Gazette of RM, No.184 26 December, 2013

¹⁴¹³ Law on Audio and Audiovisual Media Services, Article 29, paragraph (1), Official Gazette of RM, No.184 26 December, 2013

¹⁴¹⁴ Law on Media, Article 15, paragraph (1), pg. 80, Official Gazette of RM, No. 184, 26 December, 2013

¹⁴¹⁵ Law on Audio and Audiovisual Media Services, Article 142, paragraph (3), Official Gazette of RM, No.184 26 December, 2013, <https://avmu.mk/закон-за-аудио-и-аудиовизуелни-медиум/>

¹⁴¹⁶ The Council of Media Ethics of Macedonia is an independent body of self-regulation of the media through the application of moral sanctions on those who do not observe the professional standards and the code of journalists, <https://semm.mk/en/sovet-za-etika-3/za-nas>

The decisions are published on the website of the council and delivered to the media that has breached the rules or code, and the decision should then be published on the outlet's website within three days.¹⁴¹⁷

INDICATOR 12.2.4 ACCOUNTABILITY (PRACTICE)

To what extent can media outlets be held accountable in practice?

Score: 75/100

In general, media outlets have to answer for their activities to stakeholders. There are sector-wide accountability mechanisms, which work effectively. However, there is no media ombudsperson.

The Agency for Audio and Audiovisual Media Services conducts public meetings twice a year where they present the activities it has implemented in accordance with its annual work programme. Moreover, at these meetings, there is information related to media outlets and broadcasters that have breached the rules related to the compulsory legal provisions for broadcasting.¹⁴¹⁸ For instance, at the Agency for Audio and Audiovisual Media Services' second public meeting for 2022, on 29 June 2022, there were findings that broadcasters had breached the legal provisions and that the agency had brought misdemeanour provisions to certain media broadcasters. The most frequent violations, as pointed out by the agency's department of legal affairs and public procurement covered the obligations to broadcast originally created programmes, provide information that should be made available to the users and ensure minors' protection.

According to statistics published by the press complaints commission in 2020, the most common breaches were incorrect and unchecked information, absence of "second source of information" and absence of at least a two mutually unrelated sources (73 breaches or 67 per cent in total for 2020). Furthermore, 21 breaches or 19.2 per cent for 2020 were because a journalist had not made a distinction between facts and opinions, news and commentary.¹⁴¹⁹

However, there is no media ombudsperson nor is there a public official who acts as a media ombudsperson.

INDICATOR 12.2.5 INTEGRITY MECHANISMS (LAW)

To what extent are there provisions to ensure the integrity of media employees?

Score: 100/100

Comprehensive mechanisms are in place to ensure the integrity of media employees.

There are several codes of ethics, guiding principles and guidebooks prepared by the Association of Journalists of Macedonia, the Council of Media Ethics of Macedonia, and others.¹⁴²⁰

For instance, the Council of Media Ethics of Macedonia has prepared some guiding points for ethical reporting in online media,¹⁴²¹ the Code of Journalists in the Online Sphere. There is also a self-regulatory code of professional

¹⁴¹⁷ Council of Media Ethics of Macedonia, Rules of Operation, <https://semm.mk/en/komisija-za-zalbi-3/delovnik>

¹⁴¹⁸ Agency for Audio and Audiovisual Media Services. Agenda. <https://avmu.mk/dneven-red/>

¹⁴¹⁹ Council of Media Ethics of Macedonia. 2021. Statistical findings, Press Complaints Commission for 2020, <https://semm.mk/en/komisija-za-zalbi-3/statistical-findings/858-infographic-statistics-from-the-press-complaints-commission-for-2020-n>

¹⁴²⁰ Guide for Ethical Reporting of the Online Media (application of the code of journalists in the online sphere), Council of Media Ethics in Macedonia; <https://bit.ly/3Adarll>

¹⁴²¹ Guide for Ethical Reporting of the Online Media (application of the code of journalists in the online sphere), Council of Media Ethics in Macedonia; <https://bit.ly/3Adarll>

ethical practices for digital publishing in Macedonia¹⁴²² published by the Association for Interactive Publishing (IAB Macedonia), which is a non-profit organisation.

There is a Code of Journalists of Macedonia¹⁴²³ prepared by the Association of Journalists of Macedonia and distributed to all registered media. This code was first published in 2001 and contains guiding principles that broadcasters have to follow and implement in their work.

In general, there is no universal mandatory code of ethics for media employees, but there are individual voluntary codes that media organisations implement. Additionally, media outlets and broadcasters need to keep their work to the ethical standards compulsory by the laws related to non-discrimination, impartiality and to abide to the principles of legality, constitutionality and prohibition to encourage cultural, ethnic, religious, gender, racial, national, or any other form of intolerance.¹⁴²⁴

There is also a charter for ethical reporting during local election campaigns that was conducted in 2021 and produced by the Media Ethics Council in North Macedonia for journalists, editors and broadcasters to provide non-biased and objective information so that certain principles will be followed and respected in terms of professionalism, impartiality and integrity.¹⁴²⁵

INDICATOR 12.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is the integrity of media employees ensured in practice?

Score: 50/100

While the Agency for Audio and Audiovisual Media Services and the Media Ethics Council inquire and sanction misbehaviour, there are still numerous integrity violations.

The Media Ethics Council¹⁴²⁶ is an independent organisation that advocates for ethics and respect of the professional standards in the media and by the media, promoting ethical and professional journalism and the principles, norms and rules related to these standards.

Additionally, the Media Ethics Council provides the opportunity for citizens, organisations and others to report on media portals and broadcasters that breach the rules and standards of reporting to the Commission for Complaints in the Council. The council publishes these complaints and their decisions on its official website.¹⁴²⁷

The reporting of the media that have breached the standards designated by laws and the journalists' code of ethics can be done through the Media Ethics Council's website by filling a form and submitting it along with related files and documents.¹⁴²⁸

¹⁴²² IAB Macedonia. 2018. Self-Regulatory Ethics Code of Good Professional Practices in the Digital Publishing in Macedonia; <https://bit.ly/3Pc5XX5>

¹⁴²³ Association of Journalists of Macedonia. 2001. Code of Journalists of Macedonia, <https://znm.org.mk/znm-obezbedi-etichki-kodeks-za-mediumi/>

¹⁴²⁴ Law on Audio and Audiovisual Media Services, Article 111, Official Gazette of RM, No.184 26 December, 2013

¹⁴²⁵ Media Ethics Council of Macedonia. 2021. Charter for Ethical Reporting during 2021 Elections Campaign for Local Political Elections, <https://www.semm.mk/dokumenti/korisni-resursi/kodeks/950-povelba-za-etichko-izvestuvanje-za-izborite-2021>

¹⁴²⁶ The Council of Media Ethics of Macedonia (CMEM) is a non-governmental, non-political and non-profit organization, which is a body of media self-regulation through the application of moral sanctions on those who do not observe the professional standards and the code of journalists, <https://semm.mk/en/sovet-za-etika-3/za-nas>

¹⁴²⁷ Media Ethics Council of Macedonia. 2021. Decisions on complaints received on certain media broadcasters/web portals; latest decision upon a complaint brought on 15 July, 2021, https://complaints.semm.mk/?page_id=46

¹⁴²⁸ Media Ethics Council of Macedonia. Submit a Report, https://complaints.semm.mk/?page_id=33

At their second public meeting on 29 June 2022, the Agency for Audio and Audiovisual Media Services presented the public reprimands they had given to broadcasters¹⁴²⁹ for breaching the programme standards.

In 2021, there were 34 public reprimands and criminal proceedings, whereas in the first six months of 2022 there were 20 that have breached articles of the Law on Media and Law of Audio and Audiovisual Media Services. If the media outlet does not respond to these reprimands with a correction, then the agency initiates criminal proceedings in the event that the violation continues. Other measures may be followed in more serious situations, such as licence revocation or removal from the registry of media broadcasters.

ROLE

12.3.1 INVESTIGATE AND EXPOSE CASES OF CORRUPTION PRACTICE

To what extent is the media active and successful in investigating and exposing cases of corruption?

Score: 25/100

In general, the task of investigating and exposing individual cases of corruption is neglected by the majority of media, but there are some investigative outlets and programmes that regularly uncover corruption cases.

There are well-known media non-profit organisations (Scoop, IRL, Prizma) that are active in investigative journalism. Another is the Investigative Reporting Lab (IRL)¹⁴³⁰ which is also part of the OCCRP global network that uncovers corruption cases involving high-profile actors in the country. Investigative journalists collaborate with civil society organisations¹⁴³¹ and often write stories and depict corruption cases. Moreover, there is an investigative show that runs once a week on one of the biggest national broadcasters, Kanal 5 TV, called KOD with the journalist Snezana Lupevska Sozen that uncovers corrupt schemes and focuses on high-profile cases and stories involving key politicians and businesspeople. It also depicts simulations based on current facts, statistics and data.¹⁴³²

In July 2022, there was one investigative report presented by the IRL that involved the well-known and distinguished hospital regarding treatments during the COVID-19 pandemic. IRL's research and the documentary¹⁴³³ is publicly available and has initiated a case by the public prosecutor's office.

INDICATOR 12.3.2 INFORM THE PUBLIC ON CORRUPTION AND ITS IMPACT

To what extent is the media active and successful in informing the public on corruption and its impact on the country?

Score: 50/100

While media outlets pay some attention to informing the public on corruption and its impacts, reports are often limited, biased and/or of poor quality.

¹⁴²⁹, Agency for Audio and Audiovisual Media Services. 2022. Second Public Meeting <https://avmu.mk/en/public-meeting-29-06-2022/>

¹⁴³⁰ Investigative Reporting Lab Macedonia. CSO active in the investigative journalism in Macedonia, <https://irl.mk/en/>

¹⁴³¹ Scoop, Investigative Reporting Lab (IRL)

¹⁴³² Investigative the Show KOD (Code) with journalist Snezana Lupevska-Sozen,

<https://www.youtube.com/channel/UCJWqgAOqcAI0tVoMwraB7bA>; <https://arhiva.telma.com.mk/kategorija/kod/>

¹⁴³³ Investigative Reporting Lab (IRL). 2022. Bad Blood, Documentary, <https://www.youtube.com/watch?v=vm538U5lJQ>

In general, the national TV media broadcasters (Kanal 5, Sitel, Alsat-M, Alfa) report and inform the public on corruption related cases and claims, but there is lack of any educational or preventive information on corruption.

A lot of coverage was given to the Corruption Perceptions Index for 2021 and Transparency International Macedonia the press conference¹⁴³⁴ in 2022 for the low score North Macedonia received (ranked 87 out of 180 countries, with a score of 39 out of 100). The press conference and the announcement were covered by more than 40 different media outlets/portals in both Macedonian and Albanian languages.¹⁴³⁵ Additionally, in August 2022, a publication on the vulnerabilities to corruption in urban planning and construction was reported by around 30 media outlets/portals.

INDICATOR 12.3.3 INFORM PUBLIC ON GOVERNANCE ISSUES

To what extent is the media active and successful in informing the public on the activities of the government and other governance actors?

Score: 50/100

While media outlets pay some attention to informing the public on governance issues, reports are often limited, biased and/or of poor quality.

In general, the trending topics and the daily reporting by the media revolves around government activities and activities related to the country's EU integration process.¹⁴³⁶ There have been concerns following the government announcement that it would lift the ban on government advertising in private media¹⁴³⁷ as some have said this would contribute to the lack of media independence in news reporting. This statement was also supported by the Agency for Audio and Audiovisual Media Services, which has publicly stated¹⁴³⁸ that the amendments to the Law on Audio and Audiovisual Media Services are unclear, lack transparency and that the public funds should not be used for financing "public campaigns" that are unclear in their nature. This also contributes to the risk of corruption in the media and unbiased media reporting on government activities.

The media is the main source of informing the public on government activities. However, there are media outlets such as Kurir, Republika or Alfa TV that are at times subjective and favour the current opposition party's interests or rely on scarce sources of information, while other media are in favour of the governing parties. In order to be informed in an objective manner, the public should also rely on other sources of information or media.

INDICATOR 12.3.4 GENDER

To what extent does the media include women's voices?

Score: 50/100

Only some news portals feature women's voices and perspectives and cover issues such as sextortion, female unemployment, reproductive rights, family and political violence on women.

¹⁴³⁴ Transparency International Macedonia. 2021. 2021 CPI results press conference, <https://transparency.mk/2022/01/25/indeksot-naperczepci%d1%98a-na-korupczi%d1%98ata-ipk-za-2021-godina-makedoni%d1%98a-%d1%98a-podobruva-svo%d1%98ata-poziczi%d1%98a-vo-borbata-protiv-korupczi%d1%98ata/>

¹⁴³⁵ Note: due to the high number of references, this source is available in a separate document

¹⁴³⁶ Monitoring daily news content during July to September, <https://time.mk/>

¹⁴³⁷ Vladimir Kalinski, Slobodna Evropa. 2022. Government Advertisements Used to be Media Corruption, Now it is a Public Interest Campaign, <https://bit.ly/3bSwQSu>

¹⁴³⁸ Agency for Audio and Audiovisual Media Services. 2022. Newsletter No. 7, <https://bit.ly/3dwPBvh>

The Law on Equal Opportunities for Women and Men obliges broadcasters to promote programmes that raise awareness to equal opportunities and participation of women and men in the creation of the programme concepts and content.¹⁴³⁹

Moreover, in November 2021, the agency adopted the guidelines of the Agency for Audio and Audiovisual Media Services on monitoring the reporting standards in cases of gender-based violence in the media. The guidelines aim to provide the media and all stakeholders with information on: reporting gender-based violence; an outline of the most important relevant international documents and domestic legislation; and the good practices to be followed in reporting. Further monitoring is required to determine whether these guidelines are followed by the media, and the agency will publish reports on this.¹⁴⁴⁰

The biggest national TV broadcaster Telma has the investigative documentary KOD (Code) exposing corrupt schemes¹⁴⁴¹ and run by the journalist Snezana Lupevska; the programme is also shared on the YouTube channel KOD Lupevska.¹⁴⁴²

Also, Kanal 5, which is one of the five biggest national broadcasters, has a show called Samo Vistina (Only Truth), which includes interviews with politicians and other relevant actors on current, trending and important relevant to the public. The show is run by six journalists, out of which five are women.¹⁴⁴³ Moreover, another national TV channel, Alsat-M, has a political talk show Patot kon... (The path towards...)¹⁴⁴⁴ run by a female journalist.

However, there is a need for more stories that focus on raising awareness about the problems women face in society. In the recent years, many areas where covered and questions asked about sextortion, female unemployment, reproductive rights, family and political violence on women, among others.¹⁴⁴⁵ In the future, these issues need to be more represented in the media in order to open space for finding solutions and improving situations which stigmatise women.

INTERACTIONS

The ombudsperson, law enforcement agencies and public prosecutor's office need to strengthen their cooperation with media organisations such as the Association of Journalists in Macedonia to cooperate in cases of attacks on journalists.¹⁴⁴⁶ The Association of Journalists signed a Memorandum of cooperation with the ombudsperson in 2019 where both parties have agreed to cooperate on security for journalists.¹⁴⁴⁷ Transparency International Macedonia collaborates with journalists to publish investigative stories that illustrate societal paradigms.¹⁴⁴⁸

¹⁴³⁹ Law on Equal Opportunities for Women and Men, Article 17, Official Gazette of the RM, No. 6 2012, Law Amending the Law on Equal Opportunities for Women and Men, Official Gazette of the RM, No. 166, 2014 <https://bit.ly/3pIRFJ7>

¹⁴⁴⁰ Prof. Dr. Katharine Sarikakis, Council of Europe. Guidelines of the Agency for Audio and Audiovisual Media Services on monitoring the reporting standards in cases of gender-based violence in the media, Horizontal Facility for Western Balkans and Turkey 2019-2022, <https://bit.ly/3dxhcwe>

¹⁴⁴¹ Investigative Documentary KOD, <https://arhiva.telma.com.mk/kategorija/kod/>

¹⁴⁴² Snezana Lupevska Sozen. KOD Lupevska, investigative documentary, <https://www.youtube.com/channel/UCJWqgAOqcAI0tVoMwraB7bA/featured>

¹⁴⁴³ Samo Vistina (Only Truth), Talk show, Kanal 5 TV, <https://kanal5.com.mk/-samo-vistina/a362230>

¹⁴⁴⁴ Alsat M TV. Patot kon... (The path towards), Talk show, <https://alsat.mk/mk/category/tv-alsat-2/emisii/patot-kon/>

¹⁴⁴⁵ Media developing stories on gender issues: [https://www.slobodnaevropa.mk/a/semejno-nasilstvo/se-prijavuva-koga-modrinkite-kje-izlezat-na-videlina/32550539.html](https://www.slobodnaevropa.mk/a/semejno-nasilstvo-se-prijavuva-koga-modrinkite-kje-izlezat-na-videlina/32550539.html); <https://www.slobodnaevropa.mk/a/semejno-nasilstvo/32550443.html>; <https://www.slobodnaevropa.mk/a/семејно-насиљство-пандемија/31354155.html>; <https://telma.com.mk/2023/09/29/top-tema-zhenite-zhrtviv-na-semejno-nasilstvo-nema-kade-da-pobaraat-pomosh-osven-da-prijavat-vo-policijal/>; <https://mk.voanews.com/a/voa-zeni-zemjodelki-bez-porodilno-otsustvo/6435904.html>; <https://www.slobodnaevropa.mk/a/на-нива-со-детето-во-количка-затоа-што-за-земјоделките-нема-породилно/32292061.html>

¹⁴⁴⁶ Association of Journalists of Macedonia. 2021, North Macedonia, Indicators for the Level of Media Freedom and Security, <https://znm.org.mk/wp-content/uploads/2022/05/MK-MK-2021-finalen-izvestaj.pdf>

¹⁴⁴⁷Ibid, pg. 35,

¹⁴⁴⁸ Miomir Serafinovik. Nobody accountable for the lack of public water, <https://transparency.mk/2021/07/14/vodata-%d1%98a-snemuva-niz-vodovodnite-czevki-a-niko%d1%98-ne-odgovara-za-gube%d1%9aeto/>

PILLAR RECOMMENDATIONS

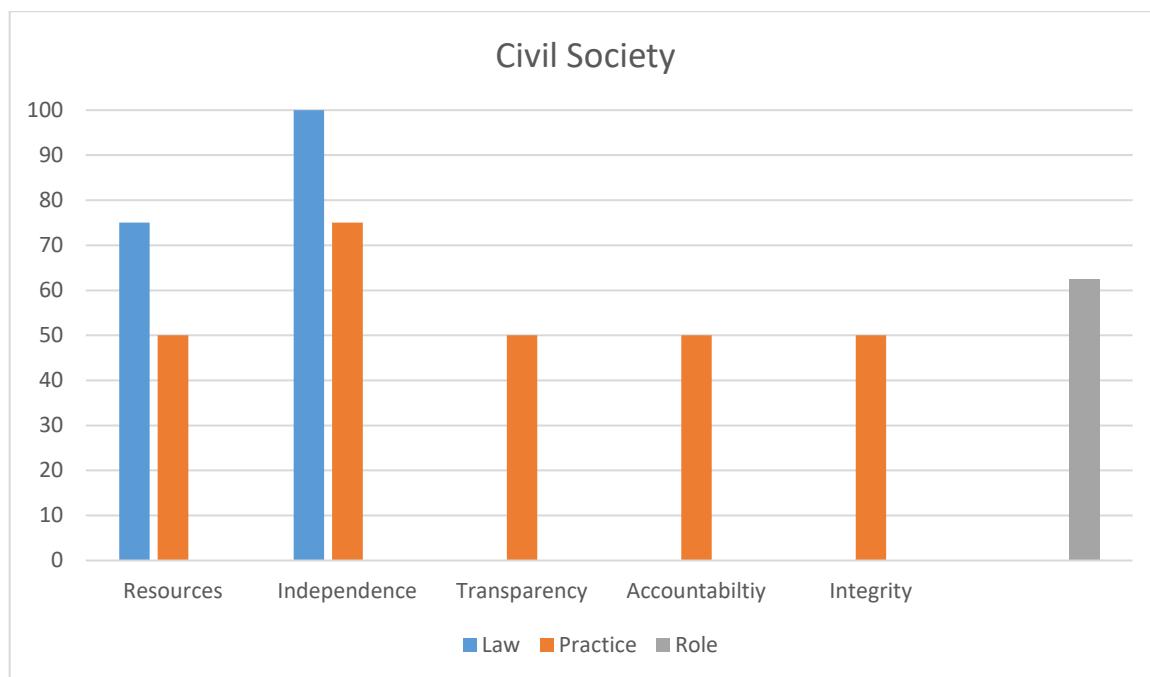
- The Academy for judges and prosecutors along with the Council of Media Ethics of Macedonia and the Agency for Audio and Audiovisual Media Services needs to provide training to judges for the correct application of the Law on Defamation and Insult in accordance with international standards and practices, guaranteeing that state and party officials refrain from lawsuits against investigative journalists and the media for revealing information of public interest.
- Media owners need to give full legal protection to their journalists in court processes conducted against them after publishing articles on corruption. That way, journalists will feel encouraged to investigate and report on corruption in the knowledge that the media is behind them.
- Journalists should use more sources of information about corruption and not rely only on state institutions' sources. Moreover, they can research the systemic problems uncovered by their findings and which allow for corruption.

13. CIVIL SOCIETY

SUMMARY



Indicators scores: law and practice



By June 2023, a total of 11,134 organisations were registered in North Macedonia and 7,957 of them were active, according to data provided by the Central Registry of North Macedonia (CRNM).¹⁴⁴⁹ However, the 2021 CSO Sustainability Index report for North Macedonia notes that the data publicly listed by CRNM lacks precision and should be considered with caution.¹⁴⁵⁰

There is a variety of advocacy and service delivery CSOs. In terms of anti-corruption work, in 2014, 15 CSOs, growing to 18 CSOs in 2023, joined forces to build the Platform of Civic Organisations for the Fight against

¹⁴⁴⁹ Central Registry of North Macedonia (CRNM). List of Civil Society Organisations, <https://www.crm.com.mk/en/open-data/civil-society-organizations>

¹⁴⁵⁰ USAID. 2021. Civil Society Organisation Sustainability Index: North Macedonia, p.1, https://www.balkancsd.net/novo/wp-content/uploads/2022/10/24-7-North-Macedonia_final.pdf

Corruption.¹⁴⁵¹ The platform is active in joint activities for legislative anti-corruption reforms, is involved in working groups for legislative changes in the area of anti-corruption and good governance, and some member organisations also collaborate with the SCPC in this regard.

Table 13.1: CSOs participating in the Platform of Civic Organisations for the Fight against Corruption.

Name of organisation	Description
Association for Democratic Initiatives	ADI aims toward inclusion, based on equality and non-discrimination, for any individual or group to freely participate in the democratic process.
Institute for Democracy/Societas Civilis Skopje	IDSCS is working towards promoting the active engagement of citizens to balance social and economic development.
Coalition for a Fair Trial for All	The coalition monitors court cases in the basic court of Skopje in the area of organised crime and corruption.
Macedonian Center for International Cooperation	In 2013, MCMS began an active contribution to the fight against corruption through USAID's anti-corruption programme. MCMS initiated the Platform of Civil Society Organisations for the Fight against Corruption and implements a project to monitor the implementation of anti-corruption legal obligations, transparency and accountability by the SCPC.
MOST	MOST works on mobilising citizens to use their democratic rights, and on increasing the democratic capacity of CSOs, institutions and political actors.
Metamorphosis	Metamorphosis works on the transparency, accountability and political responsibility of public officeholders and politicians.
OHRID Institute	The OHRID Institute for Economic Strategies and International Relations provides research and analysis in the political sphere as well as policy-making.
Transparencies International Macedonia	TI-M monitors the implementation of anti-corruption laws, strategies and international standards, as well as advocacy and the creation of policies for greater transparency and accountability in public institutions.
Transparency Macedonia	TM aims to strengthen good governance at the national and local levels, improve standards and anti-corruption practices in the state sector, promote anti-corruption standards among political parties, business and civil society and raise public awareness of anti-corruption measures.
Open Society Foundation Macedonia	OSF Macedonia implemented numerous projects in the fight against corruption in the country.
Center for Strategic Research and Documentation	The CSRD works on the inclusion of citizens in processes of participatory democracy, educating hundreds of citizens and civil activists on how to influence decision-makers.
Center for Civic Communication	The Center for Civic Communications has focused its work on two groups of mutually related activities: (1) monitoring of state institutions, and on the basis of this,

¹⁴⁵¹ The Platform of CSOs for the Fight against Corruption was established on 9 December 2014 by 15 organisations, <https://www.antikorupcija.mk/en/%d0%b8%d1%81%d1%82%d0%be%d1%80%d0%b8%d1%98%d0%b0>

	recommending measures and policies for enhancing their work and for narrowing the room for corruption, and (2) enhancing the abilities of the journalists and the special role of the media and the nongovernmental organizations in the fight against corruption.
Center for Research and Policy Making	Center for Research and Policy Making analyses of policies to improve laws, assesses the institutional capacities for their implementation, contributes to increased accountability and transparency of public institutions, and monitors and evaluates how much these policies create a public value and/or are aimed at the "Europeanisation" of the Republic of Macedonia.
EUROTINK – Center for European Strategies	EUROTINK supports North Macedonia's accession to the EU and the Europeanisation of society through professional training and counselling, evidence based public policy development, regional cooperation and advocacy for change.
Helsinki Committee for Human Rights	The Helsinki Committee for Human Rights monitors the state of human rights, provides legal assistance, cooperates with other organisations and state authorities to increase the promotion, respect and protection of human rights and freedoms.
Scoop – Center for Investigative Journalism	Scoop provides support to journalists to help them financially or professionally in promoting investigative journalism in the country and the region, as well as at the world level.

The legal framework in North Macedonia allows for the easy establishment and operation of CSOs with some reasonable constraints to protect constitutional freedoms. However, certain laws, such as the 2021 Law on Prevention of Money Laundering and Financing of Terrorism, have increased administrative burdens for CSOs, and the Law on Protection of Personal Data imposes disproportionate costs, particularly on smaller CSOs.

Also, comprehensive legal safeguards exist to prevent unwarranted external interference in CSOs' activities. CSOs operate relatively freely since the change in government in 2017, but there are cases of political actors verbally attacking CSOs. CSOs are further limited through a large dependency on foreign donors. State funding for CSOs is relatively low, and larger CSOs tend to have more stable funding compared to smaller ones.

In terms of their governance, larger CSOs tend to disclose annual and financial reports, while smaller CSOs struggle with transparency due to limited resources. Oversight, primarily in smaller CSOs, is limited due to overlapping structures between executive and governing bodies. About half of CSOs have a code of conduct or adhere to the sector-wide code from MCIC. Smaller organisations show less adherence to integrity policies. Gender CSO programmes funded by international donors often consider gender, but written gender equality policies are present in only 21 per cent of CSOs.

Some CSOs actively and successfully hold the government accountable, but the proactive public watchdog role of CSOs is not well developed. CSOs are actively engaged in advocating for anti-corruption reforms, but the government sometimes lacks collaborative consultations with them in legislative processes.

CAPACITY

INDICATOR 13.1.1 RESOURCES (LAW)

To what extent does the legal framework provide an environment conducive to civil society?

Score: 75/100

The legal framework permits the easy establishment and operation of CSOs with reasonable constraints to protect other constitutional freedoms, and the environment became more conducive after the change in government in 2017. However, the 2021 Law on Prevention of Money Laundering and Financing of Terrorism²³ has increased

the administrative burdens for CSOs and the Law on Protection of Personal Data still causes disproportionate costs, especially for smaller CSOs.²⁴

Article 20 of the constitution states that citizens have the freedom to associate, establish citizens' associations and become members of such associations as long as their work is not directed towards violating the constitution or inciting military aggression or religious, ethnic, or national hate and intolerance.¹⁴⁵²

The CRNM is responsible for the registration of organisations. The registration process is relatively easy and cheap. The registration form is available online on various official websites¹⁴⁵³ and can be signed digitally.¹⁴⁵⁴ To register an organisation, there must be a minimum of five persons of legal age,¹⁴⁵⁵ and three have to be residents. A foreign organisation can also be registered, but it requires additional documents, such as the residence status of the responsible person in the organisation and an official translation of the documents for registration.¹⁴⁵⁶ Necessary documents include a statute with a mission and vision for its purpose, act of establishment of the organisation, president or executive director, declaration, decision for the establishment by the assembly of the organisation and other documents.¹⁴⁵⁷ Costs related to the registration procedure include approximately €39.81 EUR (MKD 2,452).¹⁴⁵⁸

The CRNM has to inform the applicant of registration or if additional documents are required within five days upon the receipt for the request for registration. Also, if the registration is rejected, the applicant is informed and may submit an appeal within 15 days to the State Commission for Decision-making in Administrative Procedure and Employment Procedure in the Second Degree.¹⁴⁵⁹

According to the latest CSO Sustainability Index report from 2021, the 2021 Law on Prevention of Money Laundering and Financing of Terrorism¹⁴⁶⁰ has increased the administrative burden for CSOs, including high fines for failure to register a "real owner" in a timely manner. Also, the Law on Protection of Personal Data¹⁴⁶¹ potentially causes disproportionate costs, especially for smaller CSOs.¹⁴⁶²

¹⁴⁵² Constitution of the Republic of North Macedonia. 1991. Article 20. The Parliament of the Republic of Macedonia, https://vlada.mk/sites/default/files/dokumenti/zakoni/the_constitution_of_the_republic_of_north_macedonia_containing_the_valid_constitutional_provisions_in_force_as_amended_by_constitutional_amendments_i-xxvi.pdf; For example, in August 2022 the minister of justice started to assess the names of the associations that are potentially tied to historical fascist figures, following public reaction on this issue.

¹⁴⁵³ See for example: Documents (Templates) for registration of an organisation of citizens, Government of the Republic of North Macedonia, <https://www.nvosorabotka.gov.mk/?q=mk/node/35>, or: Documents (Templates) for registration of an organization of citizens, Pravdiko – a web portal that publishes information related to the national legislation, <https://www.pravdiko.mk/category/obrasci/registrirane-zdruzenie-na-gragani/>

¹⁴⁵⁴ Registration Instructions for Associations, Organizations and other Entities, Central Registry of North Macedonia, <https://www.crm.com.mk/en/services/perform-a-registration-or-complete-a-task/establish-a-new-entity/samostojna-registratsija-na-subjekt>

¹⁴⁵⁵ Minors, up to 15 years old, need written consent for the establishment by their parent or legal representative.

¹⁴⁵⁶ Registration Instructions for Associations, Organizations and other Entities, Central Registry of North Macedonia, <https://www.crm.com.mk/en/services/perform-a-registration-or-complete-a-task/establish-a-new-entity/samostojna-registratsija-na-subjekt>

¹⁴⁵⁷ Law on Associations of Citizens and Foundations, Article 3, Official Gazette of the Republic of Macedonia, No. 52, 16 April 2010, <https://www.pravdiko.mk/zakon-za-zdruzenija-i-fondatsii/>

¹⁴⁵⁸ The overall registration cost for an Association is US\$44, CRNM, see "Tariffs and Payment Methods", <https://www.crm.com.mk/en/services/perform-a-registration-or-complete-a-task/establish-a-new-entity/samostojna-registratsija-na-subjekt?idV=9218>

¹⁴⁵⁹ Law on Associations of Citizens and Foundations, Article 43, 43-a, 43-b, pg.14, <https://rcgo.mk/wp-content/uploads/2018/10/Zakon-za-zdruzenija-i-fondacii.pdf>

¹⁴⁶⁰ Law on the Prevention of Money Laundering and Terrorism, Financial Intelligence Agency <https://ufr.gov.mk/wp-content/uploads/2020/05/AML-CFT-Law-2022-adopted-Off.gazette-151.pdf>

¹⁴⁶¹ Law on Protection of Personal Data, Unofficial version in English language, <https://mbdp.mk/Upload/Documents/law-on-personal-data-protection.pdf>; Law on Personal Data Protection (in Macedonian language). Official Gazette of RNM No. 42, 16 February 2020, https://azlp.mk/wp-content/uploads/2022/11/zakon_za_zastita_na_licnite_podatoci.pdf

¹⁴⁶² USAID. 2021. Civil Society Organisation Sustainability Index: North Macedonia, p.3, https://www.balkancsd.net/novo/wp-content/uploads/2022/10/24-7-North-Macedonia_final.pdf

The Law on Donations and Sponsorship in Public Activities¹⁴⁶³ provides certain VAT and profit tax exemptions and preferential tax rates of 1 per cent.¹⁴⁶⁴

INDICATOR 13.1.2 RESOURCES (PRACTICE)

To what extent do CSOs have adequate financial and human resources to function and operate effectively?

Score: 50/100

In general, most CSOs tend to have some resources. However, the heavy reliance on foreign funding and lack of sufficient state funding makes many CSOs financially unsustainable and dependent on donor agendas and rules.

According to the Macedonian Center for International Cooperation, CSOs in North Macedonia are largely dependent on foreign donors (for approximately 80 per cent of their budget or more).¹⁴⁶⁵ According to the latest CSO Sustainability Index from 2021 this has led to the implementation of donor-driven agendas for some CSOs rather than working on their core missions. The report also notes that larger CSOs tend to have more longer term funding support, while smaller ones often relied on short-term funding.¹⁴⁶⁶

The Civil Society Resource Centre provides a regular newsletter to update CSOs on funding opportunities.¹⁴⁶⁷ The dominant funding source of CSOs are foreign donors, including: United States Agency for International Development, the European Union, the Embassy of the Kingdom of the Netherlands, Norwegian Embassy, Civica Mobilitas programme (from Switzerland), and others. However, the requirement for co-financing by the EU presents an obstacle for some CSOs, especially as there is no state co-financing support. Also, according to latest CSO Sustainability Index from 2021, CSOs reported constraints on available funds for human resources as an obstacle in EU funds, using external consultants rather than using and strengthening their own capacities. At the local level, the Civica Mobilitas programme provides smaller grants to local CSOs.¹⁴⁶⁸

As part of the government's strategy for cooperation with and development of CSOs, central state funding is planned to gradually increase to account for 30 per cent of CSOs' total revenue (or around MKD 2 million) by 2024. However, progress to meet this goal is rather slow. In the 2022 budget, adopted in 2021, state funding for CSOs was only about 5 per cent of CSOs' total revenue.¹⁴⁶⁹ In the 2023 budget state, funding for CSOs is to be 25 per cent.¹⁴⁷⁰ In general, the CSOs that receive most state funding are conducting project based work related to health protection, rare diseases, environment protection as well as the promotion of the rights of women and other marginalised groups.¹⁴⁷¹

In terms of philanthropic donations, according to the latest report published by Catalyst Balkans in 2020, philanthropic donations increased in 2020 in comparison with 2019; more specifically, the number of donations

¹⁴⁶³ Law on Donations and Sponsorship in Public Activities, <https://rcgo.mk/wp-content/uploads/2018/10/Zakon-za-donacii-i-za-sponzorstva-vo-javnite-dejnosti.pdf>

¹⁴⁶⁴ USAID. 2021. Civil Society Organisation Sustainability Index: North Macedonia, p.5, https://www.balkancsd.net/novo/wp-content/uploads/2022/10/24-7-North-Macedonia_final.pdf

¹⁴⁶⁵ Monitoring Matrix on Enabling Environment for Civil Society Development, Country Report, North Macedonia 2021, Snezhana Kamilovska Trpovska and Valentina Velickovska April, 2022, p.12 <https://mcmc.mk/images/docs/2022/Monitoring-Matrix-Brief-North-Macedonia.pdf>; Interview with Snezana Kamilovska Trpovska via ZOOM, Macedonian Center for International Cooperation, 26 December, 2022

¹⁴⁶⁶ USAID. 2021. Civil Society Organisation Sustainability Index: North Macedonia, p.5, https://www.balkancsd.net/novo/wp-content/uploads/2022/10/24-7-North-Macedonia_final.pdf

¹⁴⁶⁷ Civil Society Resource Center, <https://rcgo.mk/en/>

¹⁴⁶⁸ USAID. 2021. Civil Society Organisation Sustainability Index: North Macedonia, p.5, https://www.balkancsd.net/novo/wp-content/uploads/2022/10/24-7-North-Macedonia_final.pdf

¹⁴⁶⁹ USAID. 2021. Civil Society Organisation Sustainability Index: North Macedonia, p.5, https://www.balkancsd.net/novo/wp-content/uploads/2022/10/24-7-North-Macedonia_final.pdf

¹⁴⁷⁰ Government Budget Allocation Planning for CSOs, <https://www.nvosorabotka.gov.mk/?q=mk/node/588>

¹⁴⁷¹ Associations and foundations: recipients of government funding 2021, https://www.nvosorabotka.gov.mk/sites/default/files/Pregled%20na%20finansiska%20poddrska%202012%20-%202021_1.pdf

increased for 7.5 times in 2020 with more than €14.7 million donated. This was especially due to increased donations for marginalised groups and the health sector related to the COVID-19 crisis.¹⁴⁷²

INDICATOR 13.1.3 INDEPENDENCE (LAW)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of CSOs?

Score: 100/100

Comprehensive legal safeguards to prevent unwarranted external interference in the activities of CSOs exist.

The Law on Associations of Citizens and Foundation allows for all citizens regardless of their political ideology, religion or objectives to be engaged in CSOs as long as their activities and objectives do not violate the constitution or threaten national security.¹⁴⁷³ It also establishes the independence of CSOs in their governance, determination and achievement of the goals and performance of their activities as determined in their statute, in accordance with the constitution or law.¹⁴⁷⁴ The law further states that they should not initiate any political favouritism or promotion of political interests, or participate in financing political parties' campaigns.¹⁴⁷⁵ There are no regulations allowing for mandatory state attendance at CSO meetings. Also, there are no regulations that stipulate state membership on CSO boards. The structure of CSOs governing boards, assembly and membership structures is for the CSOs to define.¹⁴⁷⁶

INDICATOR 13.1.4 INDEPENDENCE (PRACTICE)

To what extent can civil society exist and function without undue external interference?

Score: 75/100

CSOs operate relatively freely since the SDSM led government took over in 2017. However, external actors, such as current opposition parties, occasionally interfere with the activities of CSOs in the form of threatening verbal or written attacks, without significant consequences for their behaviour.

Overall, the civic space in North Macedonia is assessed as “narrowed” by the CIVICUS Civic Space Monitor. Freedom House concludes in their 2022 Freedom in the World report that CSOs that criticise the government operate in a freer and safer environment since the SDSM led government took over in 2017. However, CSOs, especially those that receive foreign funding, face pressure from the VMRO-DPMNE party and its supporters. Also, Levica party members and leaders have targeted civil society with “hate speech” meant to delegitimise their work, as demonstrated in an open letter by several CSOs.¹⁴⁷⁷

The Macedonian Centre for International Cooperation (MCIC) regularly analyses and surveys Macedonian CSOs, including whether they face pressures, obstruction or influence in their activities. According to their latest survey from 2022,¹⁴⁷⁸ the MCIC CSOs responded that they did not face obstructions or did not respond to this question, which, according to the MCIC, indicates that the operational context for CSOs is enabling them to operate freely and independently.¹⁴⁷⁹

¹⁴⁷² Annual Report for Philanthropy, Catalyst Balkans, 12 January 2022, <https://www.slideshare.net/CatalystBalkans/2020-250983330>

¹⁴⁷³ Annual Report for Philanthropy, Catalyst Balkans, 12 January 2022, Article 4

¹⁴⁷⁴ Ibid, Article 10

¹⁴⁷⁵ Law on Associations of Citizens and Foundations. Official Gazette of RM, Article 13, No. 52, 16 April 2010, <https://www.slvesnik.com.mk/Issues/623772ADC92FEE42A1DB496E1E190648.pdf>

¹⁴⁷⁶ Ibid, Articles 15 to 36

¹⁴⁷⁷ Freedom House. 2023. Freedom in the World 2022: North Macedonia, <https://freedomhouse.org/country/north-macedonia/freedom-world/2022>

¹⁴⁷⁸ MCIC. 2022. Report on the Enabling Environment for CSOs, <https://mcms.mk/en/about-us/our-strategy/2403-izveshtaj-za-ovozmozhuvachkata-okolina-za-razvoj-na-grajjanskoto-opshtestvo-za-2021-godina.html>

¹⁴⁷⁹ Interview with Snezana Kamilovska Trpovska via ZOOM, Macedonian Center for International Cooperation, 26 December, 2022

GOVERNANCE

INDICATOR 13.2.1 TRANSPARENCY (PRACTICE)

To what extent is there transparency in CSOs?

Score: 50/100

While many larger international CSOs usually disclose legally required annual and financial reports or even go beyond that, smaller CSOs often struggle to be transparent due to lack of resources and capacity.

In a 2020 report analysing survey results of 234 CSOs in North Macedonia, MCIC shows that, even though it is a legal obligation to disclose annual and financial reports,¹⁴⁸⁰ some CSOs fail to do so: 89 per cent of CSOs prepare the report, and only 60 per cent publish an annual financial report on their website. Similarly, 83 per cent prepared a report, and only 52 per cent published an annual narrative report. According to this 2019 survey, more than three-quarters (82 per cent) share contact details of their organisation, but only 33 per cent share information on their governing body members and staff.¹⁴⁸¹

According to a 2020 report by the MCIC, larger CSOs are more likely to follow the legal obligations or even go beyond this because they have more capacity to do so. According to the SCPC response to MCIC, smaller CSOs especially lack sufficient public information about their governing structure. This might have contributed to 2018 survey results that showed that citizens in Macedonia believe that CSOs are not fully transparent and independent in their work and there is insufficient independence of CSOs from party influence and corruption in the civil society sector.¹⁴⁸²

According to a representative from the MCIC, the numbers from the 2019 survey have only increased slightly, but once CSOs have signed the code of CSOs available since 2021 (see 13.2.3) their transparency increased in terms of publishing information related to their activities and work.¹⁴⁸³

At a workshop organised by MCIC in July 2022, more than 17 CSOs participated and discussed how to strengthen the implementation of the code in practice for increasing transparency and integrity of CSOs. The code has been signed by 70 CSOs.¹⁴⁸⁴

INDICATOR 13.2.2 ACCOUNTABILITY (PRACTICE)

To what extent are CSOs answerable to their constituencies?

Score: 50/100

In general, CSO boards and members are only partially effective in providing oversight of CSO management decisions because of overlapping structures between the executive and governing structures in many smaller CSOs.

According to a 2020 MCIC, report 87 per cent of the surveyed CSOs have an assembly as a governing body, 70 per cent have a board, 61 per cent have an executive body and 50 per cent have a supervisory body. The report

¹⁴⁸⁰ Law on Associations of Citizens and Foundations, Article 53, Official Gazette of the Republic of Macedonia, No. 52, 16 April 2010, <https://www.slvesnik.com.mk/Issues/623772ADC92FEE42A1DB496E1E190648.pdf>

¹⁴⁸¹ Macedonian Center for International Cooperation. 2020. Report on the Governance Practices, Transparency and Accountability of Civil Society Organisations, pp.29-30 <https://www.otcetnigo.mk/izveshtaj-za-upravuvachkite-praktiki-za-transparentnosta-i-otchetnosta-na-graganski-te-organizatsii/>

¹⁴⁸² Macedonian Center for International Cooperation. 2020. Report on the Governance Practices, Transparency and Accountability of Civil Society Organisations, p.30 <https://www.otcetnigo.mk/izveshtaj-za-upravuvachkite-praktiki-za-transparentnosta-i-otchetnosta-na-graganski-te-organizatsii/>

¹⁴⁸³ Interview with Snezana Kamilovska Trpovska via ZOOM, Macedonian Center for International Cooperation, 26 December, 2022

¹⁴⁸⁴ MCIC. 2022. Accountable Work and Ethical Financing of CSOs, <https://mcms.mk/mk/vesti-i-javnost/vesti/2396-dobroto-upravuvanje-polesno-se-praktikuva-so-vospostaven-vnatreshen-sistem.html>

also notes that more than half of these organisations have a dual non-executive governance structures that includes the assembly and the board,¹⁴⁸⁵ which goes back to the old law on citizen associations and foundations, which was replaced in 2010, 2011 and later in 2016 and required this structure.¹⁴⁸⁶

One of the main challenges with regard to accountability, according to the MCIC report, is the weak division of executive and governance functions, with the same people being part of the executive and governing bodies of the organisations. This practice, the report notes, is often related to the way organisations have been established (for instance, by groups of close friends or relatives). It is also rather an issue in smaller organisations with budgets of €2,500 to €100,000. Only 7 per cent of CSOs have a budget of between €500,001 to €1,000,000, and only 3 per cent of CSOs have a budget of more than €1 million and lack the separation of functions.¹⁴⁸⁷

INDICATOR 13.2.3 INTEGRITY (PRACTICE)

To what extent is the integrity of CSOs ensured in practice?

Score: 50/100

In general, only half of the CSOs have some form of code of conduct or have signed up to the sector-wide code from MCIC. Since organisations are individually responsible for enforcement, but there is a lack of data on how this is done.

In 2021, MCIC published the civil society code. This code was signed by more than 50 organisations. It is a voluntary, sector-wide code to improve transparency, accountability and self-regulation among North Macedonian CSOs. The implementation of this code is not regulated. It is the sole responsibility of the CSOs that join it to implement the code, complying with and practicing the commitments, values and standards set out in it.¹⁴⁸⁸

Also, according to a 2020 MCIC report, 55 per cent of surveyed organisations have statutes of the organisation that include conflict of interest rules, 37 per cent have their own ethical code of conduct, 16 per cent have a rulebook on conflict of interest, and 6 per cent have an integrity policy.¹⁴⁸⁹

According to a representative from the MCIC, there is increasing interest from CSOs to sign the code for integrity, transparency and professionalism.¹⁴⁹⁰ As for anti-corruption CSOs, the Platform of Civil Society Organisations for the Fight against Corruption have signed the code, which obliges the CSOs to report the implementation of the code in their annual reports.¹⁴⁹¹

ROLE

INDICATOR 13.3.1 HOLD GOVERNMENT ACCOUNTABLE

To what extent is civil society active and successful in holding government accountable for its actions?

Score: 50/100

¹⁴⁸⁵ Macedonian Center for International Cooperation. 2020. Report on the Governance Practices, Transparency and Accountability of Civil Society Organisations, pp.31-32, <https://www.otcetnigo.mk/izveshtaj-za-upravuvachkite-praktiki-za-transparentnosta-i-otchetnosta-na-graganshkiye-organizatsii/>

¹⁴⁸⁶ Law on Associations of Citizens and Foundations, Official Gazette of the Republic of Macedonia No. 52/2010, 135/2011, and 55/2016,

¹⁴⁸⁷ Ibid

¹⁴⁸⁸ Civil society code, <https://mcms.mk/mk/kodeks-za-go>

¹⁴⁸⁹ Macedonian Center for International Cooperation. 2020. Report on the Governance Practices, Transparency and Accountability of Civil Society Organisations, p. 23, <https://www.otcetnigo.mk/izveshtaj-za-upravuvachkite-praktiki-za-transparentnosta-i-otchetnosta-na-graganshkiye-organizatsii/>

¹⁴⁹⁰ Interview with Snezana Kamilovska Trpovska via ZOOM, Macedonian Center for International Cooperation, 26 December, 2022

¹⁴⁹¹ The code for CSOs has been signed by 51 organisations, 30 November 2021, MCMS

<https://mcms.mk/vesti-i-javnost/vesti/2351-kodeksot-za-gragjanski-organizacii-dosega-go-potpishaa-51-organizacija.html>

While some CSOs are active and successful in seeking to hold the government to account, overall, the proactive public watchdog role of CSOs is not well developed.

From 2021 to 2023, some CSOs implemented several successful advocacy campaigns. CSOs contributed to relevant policy-making processes, such as the draft lobbying law, the preparation of the 2021-2025 national strategy for the prevention of corruption and conflict of interest and the selection of candidates for the prevention and protection against discrimination.¹⁴⁹²

TI Macedonia is actively following the progress and the implementation of the reforms and politics that the government is implementing. Through its projects TI Macedonia creates advocacy campaigns for the improvement of the legal framework in some areas. For example, in 2021, TI-M developed recommendations for overcoming nepotism in employment procedures in the public sector. These recommendations were submitted to all the relevant institutions and was followed and assessed by TI-M. The reports are publicly available.¹⁴⁹³ Similar activities were conducted in the area of prevention of corruption in the construction sector.

The Institute for Democracy, for example, followed the work of the State Commission for the Prevention of Corruption and parliament, and the Center for Civil Communication is following the implemented policies and practices in the area of public procurement; other organisations are doing the same in the area of rule of law, and so on.

There are proactive organisations in a public watchdog role; however, there is still a need for more pressure on the institutions for the implementation of the legal framework. Also, the government and the institutions are not always willing to accept the suggested recommendations or their implementation is not done in timely manner.

In 2023, there was strong advocacy activity regarding amendments to the criminal code. Reaction from TI-M¹⁴⁹⁴ was followed by reactions from of the Platform of CSOs for the Fight against Corruption¹⁴⁹⁵ and the Blueprint Group.¹⁴⁹⁶ In 2023, CSOs criticised the government for deteriorating cooperation (see 13.3.2).

INDICATOR 13.3.2 POLICY REFORM

To what extent is civil society actively engaged in policy reform initiatives on anti-corruption?

Score: 75/100

In general, civil society is quite active in pushing for anti-corruption reforms and participated in the drafting of anti-corruption commitments in North Macedonia's OGP plan. However, the government is either insufficient in initiating collaborative consultations processes with CSOs on upcoming legal reforms or does not involve them at all.

From 2021 to 2023, CSOs actively pushed and engaged on anti-corruption reforms. The Platform of CSOs for the Fight against Corruption is currently involved in legislative reforms for the preparation of the new draft law on whistleblower protection. The platform also prompted anti-corruption reforms in terms of increased transparency

¹⁴⁹² Strategija 12 11 2021.pdf (nvosorabotka.gov.mk)

¹⁴⁹³ Reports on the implementation of the recommendations from the report on assessment of corruption vulnerabilities in public sector employment procedures: <https://transparency.mk/wp-content/uploads/2021/07/prv-kvartalen-izveshtaj-za-monitoring-na-implementacija-na-preporakite-od-izveshtajot-za-proczenka-na-ranlivost-od-korupcija-pri-pr.pdf>, <https://transparency.mk/wp-content/uploads/2021/07/tret-kvartalen-izveshtaj-za-monitoring-na-implementacija-na-preporakite-od-izveshtajot-za-proczenka-na-ranlivost-od-korupcija-pri-procedurite-za-vrabotuvaњe-vo-javniot-sektor.pdf>; <https://transparency.mk/wp-content/uploads/2021/12/chetvrti-kvartalen-izveshtaj-za-monitoring-na-implementacija-na-preporakite-od-izveshtajot-za-proczenka-na-ranlivost-od-korupcija-pri-procedurite-za-vrabotuvaњe-vo-javniot-sektor.pdf>

¹⁴⁹⁴ TI-M reaction on the proposed changes to the criminal code: <https://transparency.mk/2023/09/06/izvestuva%d1%9ae-do-medium-povlekuva%d1%9ae-na-predlogot-za-izmena-na-kzm-toa-e-obid-za-tivka-amnesti%d1%98a/>

¹⁴⁹⁵ The Platform of CSOs for Fight Against Corruption requested Pendarovski to use the right of veto: <https://www.antikorupcija.mk/%D0%B0%D1%80%D1%85%D0%B8%D0%B2%D0%B8/1622>

¹⁴⁹⁶ Reaction of the Blueprint Group to the adopted changes of the Criminal Code: blueprint.org.mk/2023/09/06/reakcija-po-povod-izmenite-na-krivich/; blueprint.org.mk/2023/09/07/do-pretsedatelet-na-psm-baraњe-za-nepo/

in cooperation with the deputy prime minister in charge of good governance through their work on the preparation of a strategy for transparency, which aims to increase the transparency of institutions in the country. This ongoing process is conducted by the Metamorphosis Foundation which is preparing the new strategy for government transparency with an action plan (2023-2026).¹⁴⁹⁷

In 2021, as part of a joint project with TI Macedonia, the SCPC provided recommendations for anti-corruption reforms in state and local institutions.¹⁴⁹⁸ These recommendations refer to the need for adopting new amendments to the Law on Public Sector Employees, the Law on Administrative Officials, the Law on the Organisation and Work of State Administration Bodies, and the Law on Salaries of Public Sector Employees. So far these recommendations have only been implemented by publishing draft laws. TI-M regularly conducts follow-up monitoring, which saw an increased political will to implement recommendations.¹⁴⁹⁹

In 2021, TI-M participated in the development of the government's anti-corruption plan, Action 21, to appoint an authorised person to receive reports from whistleblowers. Moreover in 2023, TI Macedonia on behalf of the Platform of CSOs for the Fight against Corruption participates in the working group for the reform of the law on whistleblower's protection. The working group was established by the Ministry of Justice and consists of various stakeholders from different areas of society.¹⁵⁰⁰

CSOs are actively participating in the creation of the new action plan for Open Government Partnership 2024-2026.¹⁵⁰¹

In 2023, the Ministry of Justice formed a working group which is also comprised by representatives from CSOs to work on the implementation of the OSCE/ODIHR recommendations and design a new electoral code. This process is still ongoing.¹⁵⁰²

In 2023, the deputy prime minister in charge of good governance policies established a working group to reform the law on confiscation of property in civil proceedings, but the platform decided to withdraw from participation in this group since the working dynamic did not allow effective time for contribution to the text of the law.¹⁵⁰³ The government has also included a representative from the platform, the Blueprint Group and academia for legislative reforms.¹⁵⁰⁴

Besides these positive examples, the government still fails in some cases to provide possibilities to include CSOs in the decision-making process. CSOs have made public statements regarding the lack of cooperation with the government, informed the public and urged the government to be more open to cooperation.¹⁵⁰⁵ Moreover, in 2022, CSOs that are part of the council of CSOs for cooperation with the government expressed their concerns

¹⁴⁹⁷ Anti-Corruption Newsletter, No. 7, Platform of CSOs for the Fight against Corruption
<https://www.antikorupcija.mk/wp-content/uploads/2023/07/broj-7.pdf>

¹⁴⁹⁸ Transparency International Macedonia. 2021. Analysis of the legal framework in spatial planning, urban planning and construction with possible risks of corruption and the methodology for following recommendations, Sirma Gjorgjieva Antonijevic, Dr. Slagjana Taseva, <https://transparency.mk/wp-content/uploads/2021/12/analysis-of-the-legal-framework-in-spatial-planning-urban-planning-and-construction-with-possible-risks-of-corruption-and-the-methodology-for-following-recommendations.pdf>

¹⁴⁹⁹ Fourth quarterly report on the implementation of the recommendations, publications, TI-Macedonia, <https://transparency.mk/wp-content/uploads/2021/12/chetvrti-kvartalen-izveshta%C4%8D1%98-za-monitoring-na-implementaci%C4%8D1%98a-na-preporakite-od-izveshta%C4%8D1%98ot-za-proczenka-na-ranlivost-od-korupczi%C4%8D1%98a-pri-procedurite-za-vrabotuva%C4%8D1%9Ae-vo-%D1%98avniot-sektor.pdf>

¹⁵⁰⁰ Information on the participation of the Platform of CSOs for the Fight against Corruption in the working group established by the Ministry of Justice related to amending of the law for the protection of whistleblowers: <https://transparency.mk/2023/05/10/sostanok-na-rabotnata-grupa-za-podgotovka-na-predlog-na-zakon-za-zashchita-na-ukazhuvachi/>

¹⁵⁰¹ First meeting of the working group for OGP: <https://ovp.gov.mk/en/прв-состанок-на-работната-група-парт/>

¹⁵⁰² Ministry of Justice. 2023. Working group established for reforms to the electoral code, <https://pravda.gov.mk/vest/6527>

¹⁵⁰³ Withdrawal from the working group for creation of the Law on Confiscation of Property in Civil Proceedings: <https://www.antikorupcija.mk/%D0%80%D1%80%D1%85%D0%B8%D0%B2%D0%B8/1629>

¹⁵⁰⁴ 360 Stepeni. 2023. Preparation for a new Law on Confiscation of Property in Civil Proceedings, <https://360stopeni.mk/pochnaa-podgotovkite-za-nov-zakon-za-konfiskatsija-na-imot-vo-graganska-postapka-grkovska-veli-deka-e-vazhno-da-se-donese-vo-najbrz-rok/>

¹⁵⁰⁵ Blakan CSD. 2023. Macedonian CSOs Alarmed about Government's Attitude towards Civil Society. <https://www.balkancsd.net/macedonian-csos-alarming-about-governments-attitude-towards-civil-society/>

in an open letter to the government about the lack of cooperation from the government, especially in the consultative process for reforms to the law on associations of citizens and foundations.¹⁵⁰⁶

INDICATOR 13.3.3 GENDER

To what extent are CSO programmes gender-sensitive?

Score: 50/100

Primarily, CSO programmes funded by international donors take into account gender as part of the requirements for such funds. Also, CSOs focused on women's rights collect gender-disaggregated data.

According to a 2020 MCIC report, only 21 per cent of CSOs have a written gender equality and diversity policy.¹⁵⁰⁷

Overall, gender sensitivity in programme implementation has been highlighted in funding calls from international donors. In this regard, CSOs have started to include gender cross-cutting objectives in the implementation of their programmes even when their project was not focused on gender issues.

CSOs that mostly gather gender-related data are organisations whose primary field of work is gender and women's rights programmes. For instance, UN Women gathers gender-disaggregated data in their reports such as Gender Equality in Sport in North Macedonia,¹⁵⁰⁸ Municipal Initiatives on Women's Economic Empowerment: Strengthening the employability, entrepreneurship and digital skills of women in local communities¹⁵⁰⁹ and Women and Men in North Macedonia: A statistical portrait of trends in gender equality.¹⁵¹⁰

There are two notable organisations in this area: Hera, promoting LGBTQ rights, sexual education and prevention of discrimination on the basis of gender, ethnic group, nationality or sexual orientation, with recent research on the employability of Roma women in the public institutions;¹⁵¹¹ and the Coalition Margini, which publishes quarterly reports about human rights violation cases, with the most recent report being for the period September 2022–January 2023.¹⁵¹²

INTERACTIONS

Most interaction CSOs have are with the government, the SCPC and the media.

In 2021, CSOs actively participated in the drafting of the government's strategy for cooperation with and development of CSOs for 2022–2024. Generally, the majority of CSOs speak openly about government issues and cooperate well with the government. However, in a meeting in June 2023, MCIC has raised concerns about

¹⁵⁰⁶ The Civil Society sector Alarms about the Government's Treatment towards CSOs, Open Letter signed by 15 CSOs, 30 January 2023 <https://mcms.mk/mk/vesti-i-javnost/vesti/2443-grajjanskot-sektor-alarmira-za-odnosot-na-vladata-kon-grajjanskoto-opshtestvo.html>

¹⁵⁰⁷ Macedonian Center for International Cooperation. 2020. Report on the Governance Practices, Transparency and Accountability of Civil Society Organizations, p. 20-21, <https://www.otcetnigo.mk/izveshtaj-za-upravuvachkite-praktiki-za-transparentnosta-i-otchetnost-na-grajanski-te-organizatsii/>

¹⁵⁰⁸ UN Women North Macedonia. 2022. Gender Equality in Sport in North Macedonia, <https://eca.unwomen.org/en/digital-library/publications/2022/11/gender-equality-in-sport-in-north-macedonia>

¹⁵⁰⁹ Foundation CEED Macedonia/Ad Verbum Skopje. 2023. Municipal initiatives on women's economic empowerment: strengthening the employability, entrepreneurship and digital skills of women in local communities, <https://eca.unwomen.org/en/digital-library/publications/2023/04/municipal-initiatives-on-womens-economic-empowerment-strengthening-the-employability-entrepreneurship-and-digital-skills-of-women-in-local-communities>

¹⁵¹⁰ UN Women North Macedonia. 2022. Women and Men in North Macedonia: A Statistical Portrait of Trends in Gender Equality, <https://eca.unwomen.org/en/digital-library/publications/2022/10/women-and-men-in-north-macedonia-a-statistical-portrait-of-trends-in-gender-equality>

¹⁵¹¹ HERA. 2022. Monitoring of the Employability of Roma Women in Public Institutions in 2020. <https://hera.org.mk/monitoring-na-vrabotuvanjeto-romki-2020-multimedija/>

¹⁵¹² Report for Human Right Violation Cases Documented in Coalition Margini, September 2022–January 2023, http://coalition.org.mk/archives/portfolio_page/kvartalen_izvestaj_sep_jan

the diminished cooperation between the government and the civil sector.¹⁵¹³ Moreover, the council of CSOs for cooperation with the government has urged the government to increase CSO financing, which for 2022 was only 4 per cent of the total revenues of the CSOs.¹⁵¹⁴ The government provides a website intended for cooperation with the non-governmental sector with information relevant to cooperation with the civil sector. There is a council of government and civil society representatives and representatives, which publishes the results and outcomes of the sessions, as well as a programme¹⁵¹⁵ for cooperation between the government and the civil society for 2022. The Ministry of Justice presents a positive example for including CSOs in working groups for legislative reforms, such as the working group meetings held once or twice a month for the preparation of the new draft law on whistleblower protection. Moreover, the State Audit Office disseminates a daily newsletter with the latest audit reports conducted in public institutions, municipalities, and so on, to CSOs, media and public institutions. There are institutions that need to be more open and responsive to requests for access to public information, such as the public prosecutor's office and the Ministry of Interior.

The Platform of CSOs for the Fight against Corruption cooperates with the SCPC by publishing joint announcements on legislative processes and government statements. Moreover, the SCPC collaborates with CSOs on project implementation with, for example, Transparency International Macedonia, on projects related to corruption risk assessments in laws and procedures.¹⁵¹⁶

There are also particular CSOs comprised of journalists that publish investigative stories and cases, such as Investigative Reporting Lab (IRL), Scoop¹⁵¹⁷, Association of Media Journalists of Macedonia and¹⁵¹⁸ Prizma. These CSOs also cooperate with other journalists on investigative stories.¹⁵¹⁹

PILLAR RECOMMENDATIONS

- The government needs to increase state funding for CSOs in 2024 to MKD 2 million (approx. €32,500), so it can meet its goals in the strategy for cooperation with and development of CSOs of providing 30 per cent of CSOs' total revenue.
- The CRNM should provide capacity support to CSOs to comply with the Law on Prevention of Money Laundering and Financing of Terrorism and the Law on Protection of Personal Data before issuing fines, such as training and educational materials.
- The government and public institutions need to involve CSOs more in consultative processes and working groups for legislation changes and other policy-making processes.
- The government should amend the law on defamation to impose restrictions and sanctions on government officials or political party members who engage in public defamation of CSOs.
- The EU should set up a fund with other donors or remove the requirement for co-funding completely for smaller CSOs. Donors should make sure they provide enough funding and capacity building, especially for smaller CSOs, to develop their transparency, accountability and integrity structure.
- CSOs that have overlapping functions between executive and oversight structures need to restructure their functions so accountability and oversight through independent bodies can be ensured.

¹⁵¹³ MCIC's project officer on TI Macedonia's advisory board meeting stated that the cooperation between the government and CSOs has significantly diminished in the last period, as well as consultations with CSOs concerning legislative changes. June 2023

¹⁵¹⁴ MCIC. 2023. Analysis of Government Financial Contribution to CSOs for 2022, <https://mcms.mk/mk/vesti-i-javnost/vesti/2486-samo-4-e-udelot-na-drzavnote-finansiranje-vo-prihodite-na-grajanskie-organizacii-za-2022.html>

¹⁵¹⁵ Council for Cooperation between the Government and the CSOs: <https://www.nvosorabotka.gov.mk/>

¹⁵¹⁶ Transparency International Macedonia. Project Vulnerability to Corruption Assessment of the Employment Policies and Procedures, with Special Focus on Nepotism, Cronyism and Clientelism, , <https://transparency.mk/en/project/vulnerability-to-corruption-assessment-of-the-employment-policies-and-procedures-with-special-focus-on-nepotism-cronyism-and-clientelism/>

¹⁵¹⁷ Scoop, Investigative Journalism, <https://scoop.mk/>

¹⁵¹⁸ Association of Media Journalists of Macedonia, <https://znm.org.mk/>

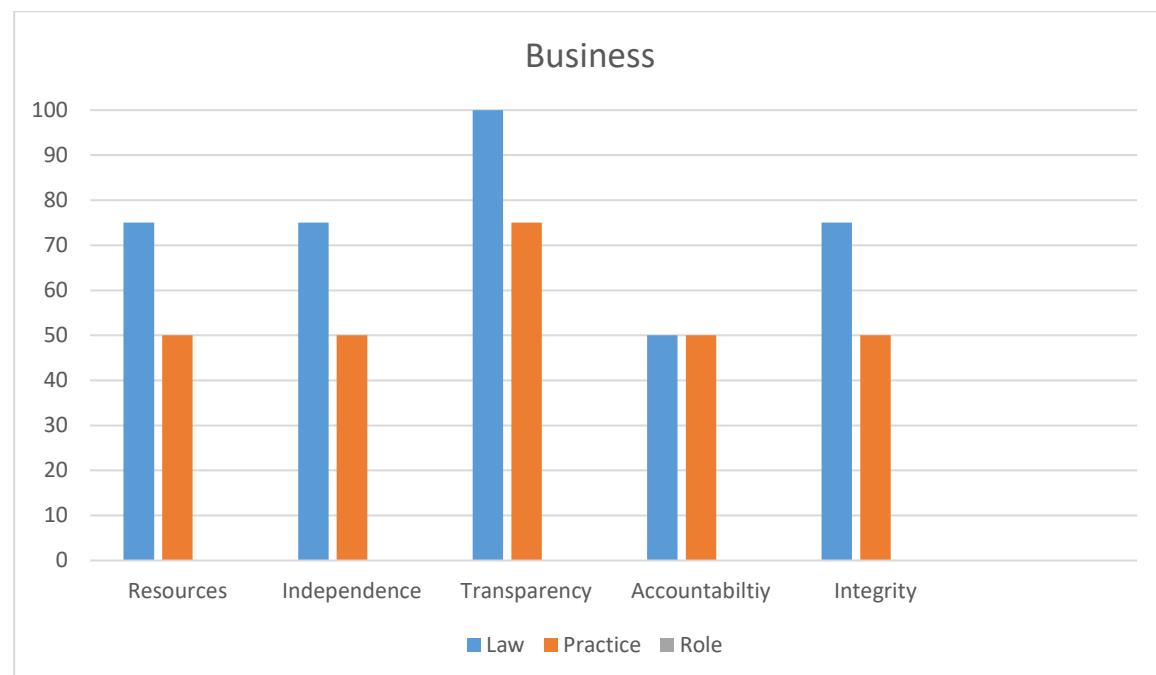
¹⁵¹⁹ Prizma, Media Portal, <https://prizma.mk/>

14. BUSINESS

SUMMARY



Indicators scores: law and practice



There is a total of 72,922 business entities in North Macedonia. Most, (47,074) of these are micro-business entities, the remaining are small (24,199), medium (1,010) and large (639) businesses.¹⁵²⁰ More than three-quarters of all companies are limited liability companies (LLCs).¹⁵²¹ At the end of 2022, 96 companies were listed on the Macedonian stock exchange, with a capital of about €3,470,000,000.¹⁵²²

Most of the smaller companies act in the areas of trade, construction and manufacturing, and the larger companies are in the areas of trade, services, industry and financial operation, insurance and telecommunication. Company

¹⁵²⁰ State Statistical Office, <https://www.stat.gov.mk/PublikaciiPoOblasti.aspx>, pp.1-3. [accessed on 06. April 2023].

¹⁵²¹ Ibid.

¹⁵²² Macedonian Stock Exchange, Annual Statistical Newsletter, <https://www.mse.mk/Repository/Reports/%D0%91%D0%B8%D0%BB%D1%82%D0%B5%D0%BD%D0%B8%202018/Bilteni%202022/Bilteni%20Godisen%202022.pdf>, p.1, [accessed on 15.08 2023].

registration is done at the central register. The national bank supervises the financial sector, including saving and e-money issuers. The securities exchange commission supervises the Macedonian stock exchange and the companies listed on it. The business sector is supported by chambers of commerce that support private sector development.

Legislation in the business sector is mostly favourable to businesses. Registration is quick and cheap. However, closing down a business is particularly challenging and costly, and delays in VAT returns and government payments affect business liquidity. A number of laws ensure the independence of private companies, but the laws have changed often, and they are unnecessarily prescriptive, which creates uncertainty for the business sector.

The central register is responsible for maintaining data on registered companies, and information is readily accessible to the public. There is usually transparency, with financial accounts made publicly available and relevant authorities reporting required information. However, there is a lack of information on state aid to the business sector and no national certification system for internal auditors.

The legislation provides a good foundation for effective corporate governance in practice, particularly for banks and larger companies. However, there is no agency that oversees the implementation of relevant regulations.

While larger companies tend to adopt their own codes of conduct, sector-wide codes are often missing, except for the banking sector. In the realm of public procurement, the law bans conflicts of interest, but there is no requirement for bidders on public contracts to have ethics codes. There is also no official statistic on the prevalence of bribery in the private sector.

While there are legal safeguards against external interference, weak judiciary and administrative irregularities hinder the business sector's effectiveness. Corruption remains a concern, affecting the economy's informal sector.

There is dialogue between the government and business associations, but the business sector tends to complain that few of their initiatives get adopted. The business sector shows little interest in pushing anti-corruption issues associated when meeting with the government and there are no links between business and civil society.

CAPACITY

INDICATOR 14.1.1 RESOURCES (LAW)

To what extent does the legal framework offer an enabling environment for the formation and operations of individual businesses?

Score: 75 /100

The legal framework generally creates a business friendly environment for the formation and operation of a business. However, frequent changes (amendments) in legislation and extensive laws with long procedures create some hurdles for opening and closing a business.

The Law on Trade Companies¹⁵²³ regulates company registration, which is done by the central register. The procedure for registration is not complicated. Registration of property consists of six steps.¹⁵²⁴ The Law on Bankruptcy regulates the closing down of businesses, which determines a very extensive procedure with

¹⁵²³Law on Trade Companies, Official Gazette of RM, No.28/2004, 84/2005, 25/2007, 87/2008, 42/2010, 24/2011, 166/2012, 70/2013, 119/2013, 120/2013, 38/2014, 138/ 2014, 88/2015, 192/2015, 6/2016 and Official Gazette of RNM,6 No.1/2016,64/2018, 120/2018,290/2020,215/2021 and 99/2022, Article 86, Paragraph 1 and Article 182, Paragraph 5.

¹⁵²⁴ Doing Business 2020. Economy Profile: North Macedonia, p.4.

<https://archive.doingbusiness.org/content/dam/doingBusiness/country/n/north-macedonia/MKD.pdf> [accessed on 08 January 2023].

complicated provisions,¹⁵²⁵ and this law does not provide clear procedures, clear sanctions or precise deadlines for bankruptcy administrators, which are appointed by the court. The law was adopted in 2006 and amended eight times, and does not correspond with the present conditions in the business sector. Also, the law is unnecessarily extensive, with 366 articles. According to the president of the Macedonian Chambers of Commerce, frequent amendments in regulation and complex administrative procedures are obstacles to businesses operating.¹⁵²⁶ The new law on bankruptcy, intended to facilitate market exit by reducing the cost and time of procedures, has still not been adopted despite requests from the business sector¹⁵²⁷ and as noted in the 2022 EU progress report.¹⁵²⁸ Also, according to the executive president of the business confederation, the bankruptcy procedure is unjustifiably long.¹⁵²⁹ An additional 2022 EU report underlines that North Macedonia made no progress on simplifying administrative procedures and that the law on general administrative procedures is not yet systematically implemented across the administration.¹⁵³⁰

A number of other laws are favourable for companies. Individual income and corporate tax rates are a flat 10 per cent. According to the Law on Innovative Activities, there is an innovation and technology development fund which co-finances projects based on innovation and technological development, including for start-up companies.¹⁵³¹ The Law on the Protection of Competition regulates measures to ensure free competition and forbids market monopolies. It also establishes the competition protection committee which is authorised to enforce the law.¹⁵³²

According to the Bertelsmann Transformation Index for North Macedonia, private companies are given functioning legal safeguards.¹⁵³³ Property rights are guaranteed in the constitution,¹⁵³⁴ and only public interest property rights can be limited. In such cases, the state must compensate the owner at the market value of the property. The owner can dispute the decision to expropriate their property in court.¹⁵³⁵ Intellectual property rights are regulated by the Law on Intellectual Rights and Related Rights¹⁵³⁶ and in the Law on Industrial Property.¹⁵³⁷ Besides these laws, the rulebook on trademarks regulates registration procedures, evidence requirements, databases and protection of trademarks.¹⁵³⁸ The obligations law provides protection and compensation for damages to businesses.¹⁵³⁹ The Law on Civil Procedure regulates court procedures for the protection of companies' rights.¹⁵⁴⁰

¹⁵²⁵ Law on Bankruptcy, Official Gazette of RM, No. 34/2006, 126/2006, 84/2007 и 47/11 and 79/13, 164/13, 39/14, 98/15 and Official Gazette of NRM, 98/19.

¹⁵²⁶ Interview with Trajan Angeloski, President of Macedonian Chambers of Commerce, Skopje, 30 January 2023 and 16 August 2023.

1527 *Ibid.*

¹⁵²⁸ European Commission. Staff Working Document, North Macedonia 2022, Report Accompanying the Document, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement Policy. p.52, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022> [Accessed on 17.01. 2023].

¹⁵²⁹Interview with Mile Boskov, executive president of Business Confederation, Skopje, 21 January 2023 and 16 August 2023.

¹⁵³⁰ *Ibid.* p. 16.

¹⁵³¹ Law on Innovative Activities, Official Gazette of RM, 79/2013, 137/ 2013, 41/2014, 44/15, 6/2016 and 64/2016.

¹⁵³² Law on Protection Competition, Official Gazette of RM No. 145/2010, 136/112, 41/14, 5/16 and 83/18, Articles 1-3 and 6.

¹⁵³³ BTI Transformation Index North Macedonia. Country Report, p.22. <https://bti-project.org>

project.org/fileadmin/api/content/en/downloads/reports/country_report_2022_MKD.pdf, [accessed on 08 January 2023]

¹⁵³⁴ Constitution of Republic of North Macedonia, Article 30.
<https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf> [accessed on 11.01. 2023].

¹⁵³⁵ Law on Expropriation, Official Gazette of RM, No95/12, 131/2012, 24/2013, 27/2014, 104/2015, 192/2015, 23/2016, and 178/2016, Article 18 and 47 Paragraph 2 and Unofficial consolidated version, on the Law on Expropriation,
<https://view.officeapps.live.com/opi/view.aspx?src=https%3A%2F%2Ffinance.gov.mk%2Fwp->

¹⁵³⁶ Law on Authors Rights and on Related Rights, Official Gazette of RM, No. 15/2010, 140/2010, 51/2011, 147/2013, 154/2015 and 27/2016, Articles 12, 20, 22, 23 and 23, 50, and Unofficial consolidated version.

<http://arhiva.kultura.gov.mk/index.php?legislativa/2011-03-24-10-39-07/281> zakon za zaverskoto pravo i srednito pravo.

http://arhiva.kultura.gov.mk/index.php/legislativa/2011-03-04-10-39-07/281-zakon-za-avtorskoto-pravo-i-srzdnite-prava
1537 Law on Industrial Property. Official Gazette of Republic of PM, No. 21/2009 and 24/2011 and unofficial version of the Law

¹³³⁷ Law on Industrial Property, Official Gazette of Republic of MK, No. 21/2009 <https://www.ippo.gov.mk/MK/legislativaView.aspx?lang=MK&id=131&cat=NAT>

1538 Rulebook on Trademarks Official Gazette of RM No. 18/2004

--- Rulebook on Trademarks, Official Gazette of RM, NO. 16/2004
1539 Obligation Law, Official Gazette of Republic of RM No. 18/2001, 78/2001, 04/2002, 05/2003, 84/2008, 81/2009, 161/2009 and 23/2013
123/2013 and Official Gazette of Republic of RS.M No. 215/2021 and 154/2023.

¹⁵⁴⁰ Law on Civil Procedure, Official Gazette of RM, No. 7/2011 and 124/2015 and unofficial consolidated version.

[https://www.pravda.gov.mk/upload/Documents/%D0%97%D0%9F%D0%9F%20%D1%80%D0%B5%D0%B4%D0%B0%D0%BA%D1%86%D0%B8%D1%81%D0%BA%D0%B8%20%D0%BF%D1%80%D0%B5%D1%87%D0%B8%D1%81%D1%82%D0%B5%D0%BD%D1%82%D0%B5%D0%BA%D1%81%D1%82%202015\(1\).pdf](https://www.pravda.gov.mk/upload/Documents/%D0%97%D0%9F%D0%9F%20%D1%80%D0%B5%D0%B4%D0%B0%D0%BA%D1%86%D0%B8%D1%81%D0%BA%D0%B8%20%D0%BF%D1%80%D0%B5%D1%87%D0%B8%D1%81%D1%82%D0%B5%D0%BD%D1%82%D0%B5%D0%BA%D1%81%D1%82%202015(1).pdf)

The 2022 EU progress report notes that the country needs further efforts to align intellectual property rights with the EU, notably the collective rights management system, by aligning with the collective rights management directive, industrial property rights, enforcement directive, the EU on design and with the trade secrets directive.¹⁵⁴¹

INDICATOR 14.1.2 RESOURCES (PRACTICE)

To what extent are individual businesses able in practice to form and operate effectively?

Score: 50/100

The legislation enables the effective operation of the business sector in practice. However, there are some problems in its implementation, especially in complex procedures for closing down businesses and frequent changes in the legislation that create obstacles to businesses operating more effectively.

The central register deals with company registration and its website clearly shows the procedures for registration in three steps,¹⁵⁴² a process that is easy and cheap.

The World Bank ranks the country at 47 out of 190 countries in enforcing contracts.¹⁵⁴³ According to a professor of economics at the School of Business Economics and Organizational Science at the University American College Skopje, business regulation is strong, but in some cases, there are problems in its implementation because it is not always clear which institution is responsible for dealing with some matters and some procedures are too long. This is especially the case in the procedure for closing down a business,¹⁵⁴⁴ such as getting opinions from different institutions as a prerequisite for the final decision from the institution that is ultimately responsible and the vague distinctions of responsibilities between different inspection bodies.¹⁵⁴⁵ The 2022 EU progress report underlines that North Macedonia had made no progress on simplifying administrative procedures. The law on general administrative procedures is not yet systematically and practically implemented across the administration.¹⁵⁴⁶

The average cost of closing a business is approximately €510 and the taxes for preparing the procedure are approximately €25. The president of the Macedonian chambers of commerce emphasised that the process for filing for bankruptcy is often unjustifiably delayed by the bankruptcy managers appointed by the court.¹⁵⁴⁷ The executive president of the business confederation also agrees that closing down a business takes a long time.
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According to the president of the Macedonian chambers of commerce, the government has accelerated VAT returns, and there are no objections about the VAT return process since 2021,¹⁵⁴⁹ which, since 2021 is faster. This contributes to the financial liquidity and effectiveness of the business sector. Additionally, he noted that

¹⁵⁴¹ European Commission. Staff Working Document, North Macedonia 2022, Report Accompanying the Document, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement Policy. p.73. <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022> [Accessed on 18.01. 2023].

¹⁵⁴² <https://www.crm.com.mk/en> [Accessed on 18.01. 2003]

¹⁵⁴³ Doing Business 2020, Economy Profile North Macedonia,

<https://archive.doingbusiness.org/content/dam/doingBusiness/country/n/north-macedonia/MKD.pdf> [accessed on 08 January 2003], p.4.

¹⁵⁴⁴ Law on Bankruptcy, Official Gazette of RM, No34/06 34/06, 126/06, 84/07, 47/11, 79/13, 164/13, 29/14, 98/15 and 192/15.

¹⁵⁴⁵ Interview with Marjan Petreski, Professor of Economics at the School of Business Economics and Organizational Science at the University American College Skopje, Skopje, January 12 2023 and June 8 2023.

¹⁵⁴⁶ European Commission. Staff Working Document, North Macedonia 2022, Report Accompanying the Document, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement Policy, p.16. <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022> [Accessed on 16 January 2023].

¹⁵⁴⁷ Interview with Trajan Angeloski, President of Macedonian Chambers of Commerce, Skopje, 18 January 2023 and 16 August 2023.

¹⁵⁴⁸ Interview with Mile Boskov, Executive President of Business Confederation, Skopje, 21 January 2023 and 12 August 2023.

¹⁵⁴⁹ Interview with Trajan Angeloski, President of Macedonian Chambers of Commerce, Skopje, 18 January 2023 and 16 August 2023.

Law on VAT, Official Gazette of RM, No 44/99, 59/99, 86/99, 11/00, 155/12, 12/14, 112/14, 130/14, 15/15, 129/15, 225/15, 23/16, 189/16, 198/18 and, Official Gazette of NRM, No. 98/19 , 124/19, 275/19, 267/20 , 163/21 and 57/22.

government payments to companies for procurement contracts are often delayed, even though by law they have to be completed within 30 days. This affects the financial liquidity of business contracts with the state.

According to the 2022 Index of Economic Freedom, property rights and contractual rights are recognised, and the country respects the ability of individuals to accumulate private property, secured by clear laws that are fully enforced by the state.¹⁵⁵⁰ In the sphere of property rights, North Macedonia is at 48 out of 190 countries. Foreign investors can acquire property if they register a company.¹⁵⁵¹ In general property rights are well protected.¹⁵⁵²

According to the 2022 Index of Economic Freedom, North Macedonia is ranked 53 out of 177 in the area of economic freedom.¹⁵⁵³ In the area of doing business in 2020, the country is ranked at 17 out of 190 countries.¹⁵⁵⁴ Property rights and contractual rights are recognised, but their protection is inconsistent.¹⁵⁵⁵

INDICATOR 14.1.3 INDEPENDENCE (LAW)

To what extent are there legal safeguards to prevent unwarranted external interference in activities of private businesses?

Score: 75/100

There are no significant gaps in the legislation that would compromise the ability of businesses to function free of external influence. The legal framework for a functional private sector is in place.¹⁵⁵⁶ However minor gaps exist in the form of frequent changes (amendments) to the laws.

Legislation governing businesses is generally not overly rigid, but it does tend to change frequently, adding the spectre of unpredictability to running a business.¹⁵⁵⁷ The role of public servants in starting and supporting businesses in registration, licensing, trademarks, and protection of business activities is kept to a minimum, thanks to the introduction of an e-registry.¹⁵⁵⁸

According to the Law on Trade Companies, the central register can initiate a procedure for deleting companies that do not submit an annual financial report by the end of a given year.¹⁵⁵⁹ The list of these companies is announced on an ongoing basis on the central register's website. The Law on Administrative Officers regulates professional standards for administrative officers to perform their duties related to the business sector, such as

¹⁵⁵⁰ 2022 Index of Economic Freedom, North Macedonia, p.1-2.

<https://www.heritage.org/index/country/macedonia#:~:text=North%20Macedonia's%20economic%20freedom%20score,but%20above%20th%20world%20average>. [accessed on 08 January 2023].

¹⁵⁵¹ BTI Transformation Index North Macedonia, Country Report, pp.11-12, <https://bti-project.org/en/?&cb=00000> [accessed on 08 January 2023].

¹⁵⁵² European Commission. Staff Working Document, North Macedonia 2022, Report Accompanying the Document, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement Policy.p.73. <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022> [accessed on 10 January 2023].

¹⁵⁵³ 2022 Index of Economic Freedom, North Macedonia pp.1-2.

<https://www.heritage.org/index/country/macedonia#:~:text=North%20Macedonia's%20economic%20freedom%20score,but%20above%20th%20world%20average>. [accessed on 11 January 2023].

¹⁵⁵⁴ Doing Business 2020. Economy profile North Macedonia, p.4

<https://archive.doingbusiness.org/content/dam/doingBusiness/country/n/north-macedonia/MKD.pdf> [accessed on 12 January 2023].

¹⁵⁵⁵ Ibid.

¹⁵⁵⁶ BTI Country Report 2022, p.22, https://bti-project.org/fileadmin/api/content/en/downloads/reports/country_report_2022_MKD.pdf, [accessed on 17 January 2023]

¹⁵⁵⁷ Index of Economic Freedom, North Macedonia, p. 324

https://www.heritage.org/index/pdf/2022/countries/2022_IndexofEconomicFreedom-North-Macedonia.pdf [accessed on 11 January 2023].

¹⁵⁵⁸ Law on One Stop System and Keeping the Trade, Register and Registry of Legal Entities, Official Gazette of RM No 70/13, 115/2014,97/2015,192/2015 and 53/2016.

¹⁵⁵⁹ Law on Trade Companies, Law on Trade Companies, Official Gazette of RM, No.28/2004, 84/2005, 25/2007, 87/2008, 42/2010. 24/2011, 166/2012, 70/2013, 119/2013, 120/2013, 38/2014, 138/ 2014. 88/2015, 192/2015, 6/2016 and Official Gazette of RNM,6 No.1/2016,64/2018, 120/2018,290/2020,215/2021 and 99/2022, Article 477 a, Paragraph 6 and Articles 552 a and 552 b, and unofficial version, <https://www.economy.gov.mk/Upload/Documents/ZTD%20konsolidiran.pdf>

issuing licences and inspecting their operations.¹⁵⁶⁰ According to the Law on Administrative Procedures,¹⁵⁶¹ companies can submit a complaint to the second-level commission if they are not satisfied with the decision of the administrative authority.¹⁵⁶² The 2022 EU progress report notes that the 2019 Law on Inspection Supervision (control) implements transparent and consistent procedures for inspection.¹⁵⁶³

As for public procurement, the 2021 Law on Public Procurement¹⁵⁶⁴ aims to avoid unwarranted interference and conflict of interest between public administration services and the business sector. The law describes the obligation to sign a conflict-of-interest statement between public officers and companies for each separate public procurement procedure. Also, the Law on the Prevention of Corruption and Conflict of Interest stipulates provisions that prevent conflict of interest.¹⁵⁶⁵

The obligation law defines the mechanism for businesses seeking redress in cases of undue external influence. Companies can also seek compensation through court proceedings.¹⁵⁶⁶

14.1.4 INDEPENDENCE (PRACTICE)

To what extent is the business sector free from unwarranted external interference in its work in practice?

Score: 50/100

Even though there are mechanisms in place to protect businesses from unwarranted interference, a weak judiciary system and irregularities in public administration lead to some level of influence in the form of prolonged procedures and ineffective complaints mechanisms.

According to the president of the Macedonian chambers of commerce, the absence of a fully independent judiciary limits the protection of businesses from unwarranted external interference. There is a dialogue between the government and the business sector, but the business sector tends to complain that only a few of their initiatives, such as faster VAT returns, have been adopted but others have not been, such as: issues such as faster digitalisation of the state institutions to facilitate administrative procedures and improve the business environment; lower construction taxes and dialogue for solving a problem with a lack of construction land for business facilities; and a reduction in the number of employees in public administration, which would provide additional funds for state subsidies to the business sector. He added that the business sector provides financial sources for the state budget, including public administration, and if this sector has problems with its operation, that is the problem for the whole state. According to him, the excess of administrative employees could be employed in a business sector where there is a lack of workers.¹⁵⁶⁷

North Macedonia has made some progress and is well prepared to develop a functioning market economy,¹⁵⁶⁸ while it remains moderately prepared in terms of its public administration reform.¹⁵⁶⁹

¹⁵⁶⁰ The Law on Administrative Officers, Official Gazette of RM, No. 6p. 27/14, 199/14, 48/15, 154/15, 5/16, 142/16 and Official Gazette of RNM, No. 275/19 and 14/20.

¹⁵⁶¹ Law on Administrative Procedures, Official Gazette of RM, No. 124/2015 and 65/2018.

¹⁵⁶² Law on Inspection Control, Official Gazette of RM, No. 102/2019.

¹⁵⁶³ European Commission. Staff Working Document, North Macedonia 2022, Report Accompanying the Document, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement Policy. p.15. <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022> [Accessed on 10 January 2023].

¹⁵⁶⁴ Law on Public Procurement, Official Gazette of RM No. 24/2019 and of NRM No. 87/2021, Articles 37 and 38.

¹⁵⁶⁵ Law on the Prevention of Corruption and Conflict of Interest, Official Gazette of RM No. 128/2009.

¹⁵⁶⁶ Obligation Law, Official Gazette of Republic of RM No. 18/2001, 78/2001, 04/2002, 05/2003, 84/2008, 81/2009, 161/2009 and 23/2013 123/2013 and Official Gazette of Republic of RSM No. 215/2021 and 154/2023, Articles 141-145 and 174- 215.

¹⁵⁶⁷ Interview with Trajan Angeloski, President of Macedonian Chambers of Commerce, Skopje, 18 January 2023 and 16 August 2023.

¹⁵⁶⁸ European Commission. Staff Working Document, North Macedonia 2022, Report Accompanying the Document, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement Policy. p.6

<https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022> [accessed on 16 January 2023]

¹⁵⁶⁹ Ibid.p.4

The State Commission for the Prevention of Corruption has been proactive in addressing cases of irregularities in public administration and in providing policy guidance to public institutions on preventing corruption. It has opened several corruption cases, including cases against high-level officials related to their corruption links with the business sector.¹⁵⁷⁰ The government is currently organising a new state institution to streamline the institutional framework, eliminate overlapping competencies, improve the administration efficiency and improve the lines of accountability.¹⁵⁷¹ It will mean a reduction or merging of a number of institutions. This is one of the requests from the business sector.

The business sector suffers from an unstable enforcement of regulations, particularly in the areas of licensing and judicial enforcement.¹⁵⁷² Provisions in legislation designed to protect businesses from unwarranted inference are not always applied effectively in practice, primarily due to the absence of a fully independent judiciary.¹⁵⁷³ The Index of Economic Freedom 2020 underlines that there are numerous reports of undue executive, business and political interference in the judiciary. Limited judicial independence, politicisation of the judicial oversight body and inadequate funding of the judiciary are ongoing concerns.¹⁵⁷⁴ According to the Balkan Barometer 2021 survey, a significant majority of citizens (75 per cent) have stated that they disagree that the judicial system is independent of political influence.¹⁵⁷⁵ However, the 2022 EU progress report notes that the judicial system of North Macedonia is moderately prepared and that some progress was achieved in the field of the judiciary through the steady implementation of the judicial reform strategy.¹⁵⁷⁶

According to the executive president of the business confederation, the perception of business is that public administration officers in general perform their duties of issuing licences and approvals on time. But there are some cases of delays, especially in issuing some decisions, giving opinions from different institutions as a prerequisite for decisions from other institutions, and answering the various requests from the business sector.¹⁵⁷⁷ According to a professor of economics, there is no complete updated state aid register to give transparency to the amount and types of state aid to businesses.¹⁵⁷⁸

According to a 2016 survey of 70 representatives from the business sector, 45.7 per cent of them said that corruption is the main cause for a grey (hidden) economy and 42.9 per cent said that it is an obstacle for business.¹⁵⁷⁹

It is not always easy in practice for a business to complain or file a lawsuit against the behaviour of the public administrator or a civil servant, particularly with the current level of court protection. The Global Competitive Report ranks North Macedonia 127 out of 141 countries in terms of judicial independence, 105 in the burden of government regulation, 31 in administrative requirements and 129 in setting disputes.¹⁵⁸⁰

¹⁵⁷⁰ Ibid.p.21 and 22.

¹⁵⁷¹ Ibid.p.15

¹⁵⁷² Ibid.p.48

¹⁵⁷³ 2020 Index of Economic Index, North Macedonia.

[¹⁵⁷⁴ Ibid.](https://www.heritage.org/index/country/macedonia#:~:text=North%20Macedonia's%20economic%20freedom%20score,freest%20in%20the%202022%20Index. pp.1-2. [accessed on 12 January 2023]</p>
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¹⁵⁷⁵ Freedom House. 2022. Nations in Transits, North Macedonia. <https://freedomhouse.org/country/north-macedonia/nations-transit/2022> [18 April 2023]

¹⁵⁷⁶ European Commission. Staff Working Document, North Macedonia 2022, Report Accompanying the Document, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement Policy.

¹⁵⁷⁷ p.16, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022> [Accessed on 10 January 2023]

¹⁵⁷⁸ Interview with Mile Boskov, Executive President of Business Confederation, Skopje, 21 January and 12 August 2023.

¹⁵⁷⁹ Ibid.

¹⁵⁸⁰ Centre for Research and Policy Creation, <https://akademik.mk/biznis-anketa-korupsijata-e-najvazhen-faktor-za-skrienata-ekonomija-a-segashniot-danochen-sistem-prechka-za-biznisot/>, [accessed on 6 March 2023.]

¹⁵⁸⁰ The Global Competitiveness Report 2019.

¹⁵⁸⁰ p.436, https://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf). [accessed on 14 January 2023]

GOVERNANCE

INDICATOR 14.2.1 TRANSPARENCY (LAW)

To what extent are there provisions to ensure transparency in the activities of the business sector?

Score: 100/100

There are no significant gaps in the legislation to ensure transparency in the activities of the business sector, and it provides comprehensive disclosure rules for financial records and business activities.

The Law on Central Registry regulates the publication of data of registered companies.¹⁵⁸¹ The law obliges the central register to establish a register of companies. All information from the register can be obtained in person or electronically. The Law on Trade Companies provides an obligation for all companies to submit an annual financial account to the central register for the previous year, which must contain data on all business financial operations.¹⁵⁸² According to this law¹⁵⁸³ and to the law on audits,¹⁵⁸⁴ the classified companies (medium, large and specified companies: banks, insurance and stock-listed companies) have to prepare financial accounts in accordance with the International Standards for Financial Information. Violation of this requirement is an offence.¹⁵⁸⁵ The Law of Trade Companies, classified the companies as micro, small, medium and large companies, according to the criteria determined in Article 470 of this law¹⁵⁸⁶ (classification depends on the number of employees, total annual income and value of all active assets).

The Law on the National Bank determines that the national bank of the Republic of North Macedonia supervises the financial sector, including saving and e-money issuers. The national bank is a central bank and it is independent in the performance of its function. It performs inspections and audits, oversees the operation of financial institutions in the country, and has the power to impose sanctions and suspend licences.¹⁵⁸⁷ The 2022 EU progress report noted that the operational and financial independence of the central bank is provided in the Law on the National Bank. Additionally, this report noted that, for transparency, the listing in the stock exchange is designed to be in line with the requirements of the transparency directive.¹⁵⁸⁸

The securities exchange commission is an autonomous and independent regulatory body established by the Law on Securities.¹⁵⁸⁹ This law requires companies listed on the stock exchange to be audited annually by an external auditor, and these audits have to be published. The securities exchange commission also regulates according to the Law on Investments Funds, which determines the conditions for the establishment and operation of those

¹⁵⁸¹ Law on Central Registry, Official Gazette of RM, No. 50/2001, 49/2003, 109/2005, 88/2008, 35/2011, 43/20114, 199/2014, 97/2015, 153/2015, 27/2016 83/2018 and 98/2019.

¹⁵⁸² Law on Trade Companies, Official Gazette of RM, No.28/2004, 84/2005, 25/2007, 87/2008, 42/2010. 24/2011, 166/2012, 70/2013, 119/2013, 120/2013, 38/2014, 138/ 2014. 88/2015, 192/2015, 6/2016 and Official Gazette of RNM, 6 No.1/2016,64/2018, 120/2018,290/2020,215/2021 and 99/2022, Article 476, Paragraph 1- 6 and Article 477, Paragraphs 1-5.

¹⁵⁸³ Ibid. Articles 469, Paragraph 1-3 and Article 470.

¹⁵⁸⁴ Law on Audits, Official

Gazette of RM No. 158/2010,135/2011, 188/2013, 43/2014, 138/2014, 145/2015, 192/2015, 23/2016 and Official Gazette of RSM No.83/2018 and 122 /2021, Article 4, Paragraphs 1-4. 192/2015, 6/2016 and Official Gazette of RNM, 6 No. 1/2016,64/2018, 120/2018,290/2020,215/2021 and 99/2022, Article 470

¹⁵⁸⁵ Ibid

¹⁵⁸⁶ Law on Trade Companies, Official Gazette of RM, No.28/2004, 84/2005, 25/2007, 87/2008, 42/2010. 24/2011, 166/2012, 70/2013, 119/2013, 120/2013, 38/2014, 138/ 2014. 88/2015, 192/2015, 6/2016 and Official Gazette of RNM, 6 No.1/2016,64/2018, 120/2018,290/2020,215/2021 and 99/2022, Article 470

¹⁵⁸⁷ Law on National Bank of the Republic of North Macedonia, Official Gazette of RM, No. 158/2010, 123/2012, 43/202014, 153/15, 6/2016, 83/2018 and Official Gazette of the RNM, No. 110/2021

¹⁵⁸⁸ European Commission. Staff Working Document, North Macedonia 2022, Report Accompanying the Document, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement Policy. p.81, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022> [Accessed on 19 January 2023]

¹⁵⁸⁹ Law on Securities, Official Gazette of the RM No. 95/2005, 25/2007, 07/2008, 57/2010, 135/2011, 13/2013, 188/2013, 43/2014, 15/2015, 154/2015, 192/2015, 23/2016 and 83/2018, and Official Gazette of RSM No. 31/2020 and 288/2021, Articles 152-154 and 166 and unofficial consolidated version, <https://www.sec.gov.mk/Files/Attachments/Закон за хартии од вредност - пречистен текст 13.01.2022.pdf>

funds.¹⁵⁹⁰ According to a professor of economics, the legislation on auditing and reporting standards is solid, particularly for banks and other financial entities. This ensures the structure of financial companies' reports in accordance with the international standards and quality audit procedures, and enables visibility and transparency of the financial entities' operation, and there are no objections from the business sector related to this legislation.¹⁵⁹¹

INDICATOR 14.2.2 TRANSPARENCY (PRACTICE)

To what extent is there transparency in the business sector in practice?

Score: 75 /100

In general business make their financial accounts publicly available. The information's about registered companies is available. The national bank, the securities exchange commission, banks and stock market actors report to the relevant authorities the information required by legislation. However, there is an absence of information on state aid to the business sector.

The central register has an online database with information on registered companies which can also be obtained upon request, for which is necessary to pay according to the tariffs of CR.¹⁵⁹² General data on registered companies, such as the name of directors, contact details and annual reports are available to the public or on a request. Information about company registers and tax numbers, as well as bank account details, are available on the website of central register.¹⁵⁹³

Financial auditing and reporting standards are applied effectively. However, there is a need for further strengthening of the administrative capacity in the area of financial management and further improvement of control and auditing.¹⁵⁹⁴

The national bank publishes monthly, quarterly, and annual reports, required by the legislation and these reports are available on its website.¹⁵⁹⁵ The Macedonian stock exchange on its website provides complete information and reports as stipulated by law.¹⁵⁹⁶ According to a professor of economics, the national bank regularly performs controls, and it is a credible and efficient institution, which performs all their obligation determined in the legislation.¹⁵⁹⁷

The 2021-2025 national strategy for prevention of corruption and conflict of interest notes that the absence of a complete state aid register, which means a reduction in the transparency of the private sector.¹⁵⁹⁸ Likewise, the 2022 EU progress report highlighted the lack of a visible and updated register for liquidity support provided by the government in the form of interest-free credit.¹⁵⁹⁹ According to the president of the Macedonian chambers of

¹⁵⁹⁰ Law on Investments Funds, Official Gazette of RM, No. 12/2009, 67/2010, 24/2011, 188/2013, 145/2015 и 23/2016, and Official Gazette of NRM, No. 3120/20, 15./2021 and 288/2021.

¹⁵⁹¹ Interview with Marjan Petreski, Professor of Economics at the School of Business Economics and Organizational Science at the University American College Skopje, Skopje, 12 January 2023 and 8 June 2023.

¹⁵⁹² Central Registry of RM, Section Tariffs: <https://www.crm.com.mk/mk/za-tsrrsm/osnovni-informatsii-za-institutsijata/tarifa> [accessed on 16 August 2023].

¹⁵⁹³ Central Registry of RM, Section Services, <https://www.crm.com.mk/> [accessed on 16 August 2022].

¹⁵⁹⁴ European Commission. Staff Working Document, North Macedonia 2022, Report Accompanying the Document, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement Policy, p. 73, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022> [Accessed on 10.01.2023]

¹⁵⁹⁵ National Bank of RM, <https://www.nbrm.mk/> [accessed on 15. 01.2023].

¹⁵⁹⁶ Macedonian Stock Exchange, <https://www.mse.mk/en> [accessed on 15.01.2023].

¹⁵⁹⁷ Interview with Marjan Petreski, professor of economics at the School of Business Economics and Organizational Science at the University American College Skopje, Skopje, 12 January 2023 and 8 June 2023.

¹⁵⁹⁸ State Commission For Prevention Corruption, National Strategy for Prevention Corruption and Conflict of Interest (2021-2025), p.33, https://dksk.mk/wp-content/uploads/2021/09/NACS-2021_25-and-Action-Plan-EN-final.pdf, [accessed on 17.01. 2023]

¹⁵⁹⁹ European Commission. Staff Working Document, North Macedonia 2022, Report Accompanying the Document, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the

commerce, there are no wider discussions between the government and the business sector about the issues related to transparency in the business area.¹⁶⁰⁰ There is insufficient data about corruption in the private sector.

14.2.3 ACCOUNTABILITY (LAW)

To what extent are there rules and laws governing oversight of the business sector and governing the corporate governance of individual companies?

Score: 50 /100

Legal provisions for appropriately overseeing corporate governance are established, including rules for governing the companies, formation of the companies, board regulation, management and owners, and insolvencies. However, some gaps exist where there is an absence of specific regulation for overseeing companies.

The Law on Trading Companies contains provisions regarding transparency, oversight, strengthening the protection of stakeholder, and reform of the company register.¹⁶⁰¹ According to this law, there is a list of companies (large and medium-sized and specified companies: banks, insurance companies stock market listed companies) that need to conduct external audits. The criteria and thresholds for the companies' listing are determined in Article 470 of the Law on Trading Companies.¹⁶⁰² The audit law regulates the authority and obligations of external auditors and determines the structure of company reporting.¹⁶⁰³ A partner or shareholder of a company has the right to be personally informed about the company's operations and the right to inspect all documentation of the company.¹⁶⁰⁴ Those partners whose contributions are at least one-tenth of the capital have the right to appoint an authorised auditor to audit the documentation of the company.¹⁶⁰⁵ Directors of companies must submit a report about the company's operation at least once per year.¹⁶⁰⁶ The stock exchange adopted the new corporate governance code in 2021.¹⁶⁰⁷ This code includes rules, recommendations and good corporate governance practices on the principles of complain or explain for certain listed companies.¹⁶⁰⁸

A number of other laws regulate the legal framework related to accountability, especially in the financial sector. The most important ones are the Law on Securities,¹⁶⁰⁹ the Law on Undertaking Stock Companies¹⁶¹⁰ the Law on Investments Funds¹⁶¹¹ and the Law on Banks.¹⁶¹² The stock market is overseen by the securities exchange commission, which supervises the trading of securities on the stock exchange, supervises the operation of the

Regions, 2022 Communication on EU Enlargement Policy. p.53, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022> [Accessed on 10 January 2023].

¹⁶⁰⁰ Interview with Trajan Angeloski, President of Macedonian Chambers of Commerce, Skopje, 30 January 2023 and 16 August 2023.

¹⁶⁰¹ Law on Trade Companies, Official Gazette of RM, No.28/2004, 84/2005, 25/2007, 87/2008, 42/2010, 24/2011, 166/2012, 70/2013, 119/2013, 120/2013, 38/2014, 138/ 2014, 88/2015, 192/2015, 6/2016 and Official Gazette of RNM, 6 No.1/2016,64/2018, 120/2018,290/2020,215/2021 and 99/2022, Article 86, Paragraph 1

¹⁶⁰² Ibid. Article 470, Paragraph 1-6.

¹⁶⁰³ Law on Audit, Official Gazette of RM no.158/20 10, 135/2011, 188/2013, 43/2014, 138/2014, 145/2015, 192/2015, 23/2016, 83/2018, Articles 26-29 and Articles 32-35.

¹⁶⁰⁴ Law on Trade Companies, Official Gazette of RM, No.28/2004, 84/2005, 25/2007, 87/2008, 42/2010, 24/2011, 166/2012, 70/2013, 119/2013, 120/2013, 38/2014, 138/ 2014, 88/2015, 192/2015, 6/2016 and Official Gazette of RNM, 6 No.1/2016,64/2018, 120/2018,290/2020,215/2021 and 99/2022, Article 39 Paragraph 1-3., Article 184, Paragraphs 3 and 4, Article 244, Paragraph 1, Article 252, Paragraphs 1-4, Article 319, Article 320, Paragraphs 1 and 2,

¹⁶⁰⁵ Ibid, Article 229, Paragraph 1.

¹⁶⁰⁶ Ibid. Article 86, Paragraph 1, and Article 318-320.

¹⁶⁰⁷ Macedonian Stock Exchange. 2021. New Corporate Governance for the companies listed on stock exchange <https://www.mse.mk/Download/news/26/10/2021/new-corporate-governance-code> (accessed on 11.01.2023)

¹⁶⁰⁸ ibid.

¹⁶⁰⁹ Law on Securities, Official Gazette of the RM No. 95/05, 25/07, 07/08, 57/10, 135/11, 13/13, 188/13, 43/14, 15/15, 154/15, 192/15, 23/16 and 83/18, and Official Gazette of RSM No. 31/20 and 288/20

¹⁶¹⁰ The Law on Undertaking Stock Companies, Official Gazette of RM, No.69/2013, 188/2013, 166/2013,154/2015 and 23/16.

¹⁶¹¹ Law on Investments Funds, Official Gazette of RM, No. 12/2009, 67/2010, 24/2011, 188/2013, 145/2015 и 23/2016, and Official Gazette of RM, No. 31/2020, 150/2021 and 288/2021.

¹⁶¹²Law on Banks, Official Gazette of RM, No. 67/2007,90/2009,67/2010,26/13, 15/2015,153/2015, 190/2016, Official Gazette of RSM 7/2019 and 122/2021.

participants in the securities markets, supervises the functioning of the securities market and supervises investment funds. These laws provide good legal conditions for governing businesses in the financial sector.

The Law on Investments Funds regulates conditions for the establishment and operation of investment funds and all related financial operations. The Law on Banks regulates all the financial operations of banks, including the obligation to establish a department for internal audits, as well as an obligation for external audits. The Law on Trading Companies defines the list of companies (large and medium-sized companies) that need to conduct external audits.¹⁶¹³ The audit law regulates the authority, obligation and the operation procedures of external audits.¹⁶¹⁴ There is no appropriately funded and professional financial regulator for overseeing companies.

The 2022 EU progress report noted that the draft legislation on accounting still needs to be adopted in consultation with the relevant chamber of commerce and association of accountants and that a national certification system for internal auditors should be introduced.¹⁶¹⁵ The report also noted that the government provided liquidity support to companies in the form of interest-free credit, but there is no transparent and updated register of this support.¹⁶¹⁶ Transparency and effectiveness of state aid are affected by the lack of a state aid register.¹⁶¹⁷ There is a need for further strengthening of the administrative capacity in financial management and further improvement in control and auditing.¹⁶¹⁸

Overall, it can be said that the above-mentioned legislation is a solid basis for oversight of the business sector. However, the executive president of the business confederation noted that the legislation is insufficient, particularly in monitoring companies' financial reports, and there is a lack of clear provisions for internal auditing, especially for medium and small companies.¹⁶¹⁹ Similarly, the president of the Macedonian chambers of commerce emphasised that the government has not had satisfactory consultation with the business sector about the issues related to regulation.¹⁶²⁰

14.2.4 ACCOUNTABILITY (PRACTICE)

To what extent is there effective corporate governance in companies in practice?

Score: 50 /100

The legislation creates good conditions for effective corporative governance in practice, as well as of corporate rules, particularly by banks and larger companies. However, there is a lack of wider company reports about anti-corruption activities and there is no agency for overseeing the implementation of the relevant regulations.

The World Global Competitiveness Report ranks the strength of auditing and accounting systems in North Macedonia at 114 out of 141 countries, incidence of corruption is 81 out of 141. Further, this report ranks corporate governance at 32, conflict of interest regulation at 12 and shareholder governance at 7 out of 141 countries. In the protection of minority investors, the country is ranked at 12 out of 141.¹⁶²¹ There is no agency for overseeing the implementation of relevant regulations.

¹⁶¹³ Law on Trade Companies, Official Gazette of RM, No.28/2004, 84/2005, 25/2007, 87/2008, 42/2010, 24/2011, 166/2012, 70/2013, 119/2013, 120/2013, 38/2014, 138/ 2014. 88/2015, 192/2015, 6/2016 and 61/2016

¹⁶¹⁴ Law on Audits, Official Gazette of RM No. 158/2010,135/2011, 188/2013, 43/2014, 138/2014, 145/2015, 192/2015, 23/2016 and Official Gazette of RSM, No.83/2018, articles, 34-38.

¹⁶¹⁵ European Commission. Staff Working Document, North Macedonia 2022, Report Accompanying the Document, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement Policy. p.72

<https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202020> [accessed on 14 January.2023].

¹⁶¹⁶ Ibid. p.72.

¹⁶¹⁷ Ibid. p.72

¹⁶¹⁸ Ibid.

¹⁶¹⁹ Interview with Mile Boskov, executive president of Business Confederation, Skopje, 21 January 2023 and 12 August 2023.

¹⁶²⁰ Interview with Trajan Angeloski, president of Macedonian Chambers of Commerce, Skopje, January 2023 and 16 August 2023.

¹⁶²¹ WEF. 2019. The Global Competitiveness Report 2019, p.435,

https://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf [accessed on 16.01. .2023]

The 2021-2025 national strategy for the prevention of corruption and conflict of interest underlines the importance of the business sector's role in the activities for the prevention of corruption in the area of business. The strategy also raises awareness among smaller companies to issues related to corruption.¹⁶²² However, with the exception of banks and other financial institutions, there are no wider activities for companies to report on anti-corruption programmes.

The securities exchange commission supervises the stock market, regulates the manner of trading with securities on the stock exchange, monitors and supervises the work of the securities market and participants of competition among the listed companies, monitors and supervises the functioning of the securities market, and proscribes standards of competition among licensed market intermediaries in their activities with securities, as well as authorised investment management companies.¹⁶²³ According to the 2022 EU progress report, the banking sector remains sound and it has sufficient capital, is liquid and profitable.¹⁶²⁴ Alignment with the EU *acquis* is well advanced on the supervisory and regulatory framework for credit institutions, but planned alignment in the area of insurance and capital markets is lagging. Implementation of long-term Basel III liquidity standards has progressed.¹⁶²⁵

According to a professor of economics, banks and other financial institutions and larger companies follow corporate governance provisions more consistently than other types of companies.¹⁶²⁶

INDICATOR 14.2.5 INTEGRITY MECHANISMS (LAW)

Score: 75 /100

To what extent are there mechanisms in place to ensure the integrity of all those acting in the business sector?

The legislation in general ensures the integrity of the business sector and defines and proscribes corrupt practices within and between companies and corporate liability. The larger companies tend to establish their own codes of conduct. However, there is a lack of sector-wide codes of conduct in small and medium-sized companies. There is also no legal requirement for a chief compliance officer or to have ethics programmes (for example, anti-corruption agreements, business principles) for bidders on public contracts.

According to the criminal code, private sector bribery, both active and passive, is a criminal offence and can result in a prison sentence.¹⁶²⁷ The code also provides punishment for money laundering and abuse of official duty during public procurement. It contains provisions on corporate liability and describes sanctions for companies as legal persons as well as for responsible natural persons. Companies can be held responsible for crimes committed by authorised representatives, with punishment including fines, temporary and permanent bans from performing specific activities and the confiscation of property. Foreign legal entities are also liable, no matter whether there is a branch established in North Macedonia or not. The law prohibits bribery when business is performed abroad.¹⁶²⁸ There is no business sector-wide code of conduct. Only the banking sector is covered by a sector code of conduct, (which covers conflict of interest, bribery, corruption, good commercial practices, gifts and

¹⁶²² State Commission for Prevention Corruption, State Commission For Prevention Corruption, National Strategy for Prevention Corruption and Conflict of Interest (2021-2025), p.45, https://dksk.mk/wp-content/uploads/2021/09/NACS-2021_25-and-Action-Plan-EN-final.pdf pp.45 and 103, [accessed on 15.01.2023].

¹⁶²³ Law on Securities, Official Gazette of the R.M No. 95/05, 25/07, 07/08, 57/10, 135/11, 13/13, 188/13, 43/14, 15/15, 154/15, 192/15, 23/16 and 83/18, and Official Gazette of RSM No. 31/20 and 288/21.

¹⁶²⁴ European Commission. Staff Working Document, North Macedonia 2022, Report Accompanying the Document, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement Policy. p.54 <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022> [accessed on 14. January .2003].

¹⁶²⁵ Ibid. p.75

¹⁶²⁶ Interview with Marjan Petreski, Professor of Economics at the School of Business Economics and Organizational Science at the University American College Skopje, Skopje, 21 January 2023 and 8 June 2023.

¹⁶²⁷ Criminal Code, Official Gazette of RM, No. 37/1996, 80/199, 4/2002, 43/2003, 19/2004, 73/2006 and 114/2009.

¹⁶²⁸ Ibid. Articles 271a – 287.

whistleblowing) adopted by the Association of Bankers in the Chamber of Commerce. Also, each bank has its own code that provides provisions determined in the sector code of conduct.¹⁶²⁹ In the last few years, the larger companies, such as Telekom and Makpetrol, have adopted their own codes and tend to have their own conduct that describes good and responsible practices and which bans corrupt behaviour. These codes include operations within the companies, as well as operations with other companies, especially with the supplier companies and state authorities and cover the behaviour of the members of boards, as well as the managers and individual employees, ethical behaviour, prevention of corruption and prevention of bribery.¹⁶³⁰ The legislation does not require that companies should have a chief compliance officer. The stock exchange new corporate governance code includes integrity procedures for companies trading on the stock market.¹⁶³¹ The members of governing bodies of listed companies are obliged to act according to the principle of integrity and in a way that best serves the company and the holders of stock. Also, the members of boards must notify the company's board about any upcoming transactions involving conflicts of interest.¹⁶³²

The Law on Public Procurement bans conflicts of interest and determines that a bidder will be excluded if, in the last five years, the bidding entity has been sentenced for corruption or money laundering. There is no requirement for bidders of public contracts to have ethics codes.¹⁶³³ The 2022 EU progress report notes that legal framework on public procurement is largely aligned with the EU legislation.¹⁶³⁴

INDICATOR 14.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is there effective corporate governance in companies in practice?

Score: 50/100

Even though there is no legal obligation, the bigger companies tend to adopt codes of conduct. However, there is a lack of sector-wide codes of conducts and there are no statistics about bribery in the business sector.

Larger companies, such as Telekom and Makpetrol, that have adopted their own codes apply them in practice.¹⁶³⁵ The Telekom code has been applied in practice since 2007¹⁶³⁶ and contains, among others, the corrupt conduct prevention clause and supplier code. According to Telekom's code, there is a ban on any type of passive and active corrupt activities that could be construed as corrupt. Additionally, there is no permitted offer, promise or giving of illegal benefits, or gifts to public officials or decision-makers in the private sector.¹⁶³⁷ The code of Makpetrol has been applied in practice since 2008, and infringement of the code is an offence, punishable by internal and state regulation.¹⁶³⁸

¹⁶²⁹ Komercijalna Banka AD Skopje, <https://www.kb.com.mk/content/Eticky%20Kodeks%2002-180-151-1%202018.PDF>, NLB Banka <https://nlb.mk/NlbKodeks/kodeks.html>, [accessed on 8 April 2023]; Halk Banka,

https://www.halkbank.mk/content/pdf/2018/KODEKSOT_NA_KORPORATIVNO_UPRAVUVANJE.pdf [accessed on 8 April 2023]; NLBbanka, https://nlb.mk/За_Банката/Претставување_на_Банката/кодекс_на_однесување.aspx

¹⁶³⁰ Makpetrol, Ethical Code of Makpetrol, <https://www.makpetrol.com.mk/wp-content/uploads/2022/12/Eticky-Kodeks.pdf> [accessed on 8 April 2023].

Telekom, Code of conduct: <https://www.telekom.mk/download/usoglasenost/Kodeks%20na%20odnesuvanje.pdf> [accessed on 8 April 2023].

¹⁶³¹ New Corporate Governance Code , Macedonian Stock Exchange, <https://www.mse.mk/en/content/14/10/2021/corporate-governance-code> [accessed on 11 January 2023].

¹⁶³² Law on Securities, Official Gazette of the R.M No. 95/05, 25/07, 07/08, 57/10, 135/11, 13/13, 188/13, 43/14, 15/15, 154/15, 192/15, 23/16 and 83/18, and Official Gazette of RSM No. 31/20 and 288/21.

¹⁶³³ Law on Public Procurement, Articles 37, and 38, Official Gazette of RM, No. 24/19 and of NRM No. 87/21

¹⁶³⁴ European Commission. Staff Working Document, North Macedonia 2022, Report Accompanying the Document, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement Policy, p.58. <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022> [accessed on 12 January 2023].

¹⁶³⁵ Makpetrol, Ethical Code, <https://www.makpetrol.com.mk/wp-content/uploads/2022/12/Eticky-Kodeks.pdf> [accessed on 8 April 2023].

Telekom, Code of conduct: <https://www.telekom.mk/download/usoglasenost/Kodeks%20na%20odnesuvanje.pdf> [accessed on 8 April 2023].

¹⁶³⁶ Telekom, Rules on compatibility: <https://www.telekom.mk/usoglasenost.nspx>

¹⁶³⁷ Telekom. Our code of conduct: How we work, pp.12-16.

<https://www.telekom.mk/download/usoglasenost/Kodeks%20na%20odnesuvanje.pdf>

¹⁶³⁸ Statement from a Makpetrol employee.

According to a professor of economics, there is a need to promote and encourage companies to adopt their own codes. He noted that increasing the number of companies that adopt codes is a positive step forward that he expects to continue in the future.¹⁶³⁹

There is no blacklist of companies that have engaged in corrupt practices and money laundering and there are no statistics about bribery in private companies.

The 2021-2025 national strategy for prevention of corruption and conflict of interest notes that one of the priorities in the area of transparency for the SCPC will be rising a public awareness and education in the business sector.¹⁶⁴⁰

INDICATOR 14.2.7 GENDER REPRESENTATION

Score: 75/100

The legislation in general is favourable to measures for supporting gender representation in business. The government is providing state support for female entrepreneurs. However, there is no official statistic on women and female leadership in the business sector.

The Law on the Prevention and Protection from Discrimination bans any discrimination, including discrimination on the basis of gender.¹⁶⁴¹ The Law on Equal Opportunities for Women and Men regulates the establishment of equal opportunities and the equal treatment of women and men.¹⁶⁴² Equal opportunities determined by this and other laws cover the area of economy and ownership.¹⁶⁴³ The government has prepared a draft law for gender equality, which defines expanding full equality as equal rights, opportunities, conditions and treatment in all spheres of public and private life and the absence of cultural, social, economic and political conditions that produce unequal power relations and unfair distributions of social benefits between women, men and people of diverse gender identities.¹⁶⁴⁴ This law has still not been adopted in parliament. The 2022 EU progress report also noted that adoption of the draft law for gender equality is still pending.¹⁶⁴⁵

The 2019- 2023 strategy for development of women's entrepreneurship was adopted by the government in 2018.¹⁶⁴⁶ This strategy and its action plan determine a set of measures for supporting women in business, such as support for starting a business, co-financing the expenses for participation in business exhibitions and fairs, co-financing procurement equipment and other tools. This strategy designs additional criteria of ranking in favour of woman entrepreneurs in government announcements for state aid in the form of subsidies, grants and incentives. The Ministry of Economy has published two calls, one for financial support of €35,000 to women entrepreneurship for the digitalisation of business processes¹⁶⁴⁷ and €35,000 for financial support for women

¹⁶³⁹ Interview with Marjan Petreski, professor of Economics at the School of Business Economics and Organizational Science at the University American College Skopje, Skopje, 12 January 2023, and 8 June 2023.

¹⁶⁴⁰ State Commission for Prevention Corruption, https://dksk.mk/wp-content/uploads/2021/09/NACS-2021_25-and-Action-Plan-EN-final.pdf

¹⁶⁴¹ Law on the Prevention and Protection from Discrimination, Official Gazette of RSM, No. 258/2020, Articles 1, 2 and 5.

¹⁶⁴² Law on Equal Opportunities of Women and Men. Official Gazette of RM, No.166/2011, Article 1, Paragraph 1.

¹⁶⁴³ Ibid. Article 1, Paragraph 2 and Article 5, Paragraph 1.

¹⁶⁴⁴ Draft Law for Gender Equality, Article 4, Paragraph 1. https://ener.gov.mk/files/propisi_files/ria1/11_1043522045Нацrt - закон_Предлог закон за родова еднаквост _1.pdf

¹⁶⁴⁵ European Commission. Staff Working Document, North Macedonia 2022, Report Accompanying the Document, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement Policy. p.32, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022> [Accessed on 17.08. 2023].

¹⁶⁴⁶ Government of North Republic of Macedonia, Strategy for Development of Women's Entrepreneurship in The Republic of Macedonia 2019-2023, <https://economy.gov.mk/Upload/Documents/Акциски план за имплементација на стратегија за развој на женско претприемништво во Република Македонија 2019-2023.pdf> [accessed on 17 January 2023].

¹⁶⁴⁷ Ministry of Economy, Public call for subsidizing women's entrepreneurship for digitization of business processes:

<https://economy.gov.mk/mk-MK/news/javen-povik-za-subvencionirane-na-zensko-pretpriemnisvo-za-digitalizacija-na-delovni-procesi.aspx> [accessed on 10.04.2023].

entrepreneurship in tourism.¹⁶⁴⁸ Also, the 2023 government programme for supporting rural development contains financial grants for women in rural areas.¹⁶⁴⁹

The new corporate governance code recommends that it has at least 30 per cent of supervisory and management boards be women by 2025.¹⁶⁵⁰

The deputy president, Fatmir Bitici, stated that the government is working on specific measures to support women in business, including the introduction of criteria that favour women in the evaluation of projects submitted for state support.¹⁶⁵¹ There is however no wider statistic about this support to women.

According to the state statistical office, women's participation in economic activities is 38.3 per cent,¹⁶⁵² but there are no wider statistics about the participation in leadership positions in the business. According to Gabriela Kulebanova, former vice president of Macedonian chambers of commerce, one-third of company owners are women, but that there is no relevant data for a complete analysis.¹⁶⁵³ A female business entrepreneur, interviewed for this report, notes that although it is on the rise, the potential of women entrepreneurs is still not at a satisfactory level and there is a need for further improvement.¹⁶⁵⁴

The 2022 World Bank's Women, Business and the Law report, presents an index covering 190 economies related to the participation of women in the business sector. According to this, North Macedonia scores 85 out of 100 points.¹⁶⁵⁵

ROLE

INDICATOR 14.3.1 ANTI-CORRUPTION POLICY ENGAGEMENT

To what extent is the business sector active in engaging with the domestic government in anti-corruption efforts?

Score: 0/100

In general, the issue of anti-corruption is absent from the business sector's agenda of engagement with the government.

According to the president of the Macedonian chambers of commerce, anti-corruption activities are not on the agenda of meetings between business associations and the government and there are almost no examples of

¹⁶⁴⁸ Ministry of Economy, Public call for financial support for female entrepreneurship in tourism: <https://economy.gov.mk/mk-MK/news/javen-povik-za-finansiska-podrska-za-zensko-pretpriemnistvo.nspx> [accessed on 10.04.2023].

¹⁶⁴⁹ Government of RM, MAFWS: The program for financial support of rural development for 2023 worth 1.3 billion denars was adopted <https://vlada.mk/node/32167?In=mk> <https://www.mzsv.gov.mk/CMS/Upload/programi2023/ПРОГРАМА%20ЗА%20ФИНАНСИСКА%20ПОДРШКА%20ВО%20ЗЕМЈОДЕЛСТВОТО%20ЗА%202023%20ГОДИНА%20Сл.весник%2030.p>

¹⁶⁵⁰ Macedonian Stock Exchange. 2021. New Corporate Governance Code: <https://www.mse.mk/Repository/%D0%9A%D0%BE%D0%B4%D0%B5%D0%BA%D1%81/KKU%20na%20angliski%20final.pdf>.¹⁴
¹⁶⁵¹ Deputy President of Government Fatmir Bitiki. One of specific measures is the introduction of incentives for women in business during the evaluation process of submitted application projects related to state support. Further, he added that in co-financed grants for technological development, from 686 companies about 42% are the companies that are managed or owned by women, <https://vlada.mk/node/27016> [accessed on 14 January 2023].

¹⁶⁵² State Statistical Office, Women and Men in North Macedonia 2022, p.56 https://www.stat.gov.mk/publikacii/2023/ZeniteMazite_2023.pdf, [accessed on 10 June.2023].

¹⁶⁵³ Akademik, "One third of the companies are founded by women, but they are in management positions only on paper", <https://akademik.mk/edna-tretina-od-kompaniite-se-osnovani-od-zheni-no-tie-se-na-rakovodna-pozitsija-samo-na-hartija/> [accessed on 12 April.2023].

¹⁶⁵⁴ InStore, "Opinions and comments: Women in business": <https://instore.mk/record/34/7047/mislenja-i-komentari-zhenite-vo-biznisot> [accessed on 15 January 2023].

¹⁶⁵⁵ The World Bank, Women, Business and the Law, 2022, p.1<https://wbl.worldbank.org/content/dam/documents/wbl/2022/snapshots/North-macedonia.pdf>, [accessed on 15 January 2023].

business associations publicly calling on the government to fight corruption.¹⁶⁵⁶ However, the business confederation, as well as a small number of companies, including Makpetrol, Adora, Komerijalna Banka Ad Skopje, Farmahem, Ading, Inet, Lotary of Macedonia, Publicist, Cementarnica Usje, Feni, Konekt, Remedika, Next Sence and IRECEE¹⁶⁵⁷ are members of the UN Global Compact,¹⁶⁵⁸ under which anti-corruption action in the business sector is a key issue. Makpetrol, Komercijalna Banka and Cementarnica Usje also report on their progress.¹⁶⁵⁹

14.3.2 SUPPORT FOR ENGAGEMENT WITH CIVIL SOCIETY

To what extent does the business sector engage with/provide support to civil society in its task of combating corruption?

Score: 0/100

There is no significant engagement from the companies in civil society anti-corruption activities, and no examples of any sponsorship of civil society anti-corruption activities.

The Law on Donations and Sponsorship does not provide favourable conditions for the business sector to donate and sponsor civil society organisations. The procedures for the admission and reporting of donations are very complicated and do not incentivise donation and sponsorship.¹⁶⁶⁰ As a result, the activities of civil society in North Macedonia are largely dependent on foreign donor support. There are some projects supported by foreign donors that support cooperation among the business sector and non-government organisations.¹⁶⁶¹ For example, Transparency International Macedonia has ongoing activities to initiate cooperation between the business sector and civil society to fight corruption. Among other things, it has translated and published Transparency International's anti-bribery business principles.¹⁶⁶²

INTERACTIONS

The business sector has interactions with almost all pillars, in particular with the executive, public sector and judiciary.

The government has executive power and creates the policies and legislation for the business sector. However, there is no communication between the government and the business sector for anti-corruption policy, which is an important area of opportunity for future support.

The business sector has interactions with the public sector, which is responsible for issuing a number of licences, decisions, approvals and asserting controls that affect the business sector. However, a lack of higher transparency and efficiency in the public sector (see the public sector pillar for further details) leads to untimely information to the business sector about related future activities. Also, it can unnecessarily prolong business operations.

¹⁶⁵⁶ Interview with Trajan Angeloski, president of Macedonian Chambers of Commerce, Skopje, 30 January and 16 August 2023.

¹⁶⁵⁷ Makpetrol, Adora, Komerijalna Banka Ad Skopje, Farmahem, Ading, Inet, Lotary of Macedonia, Publicist, Cementarnica Usje, Feni, Konekt, Remedika, Next Sence and IRECEE. <http://konekt.org.mk/en/klub-na-odgovorni-biznisi/united-nations-global-compact/chlenki-na-mrezhata/> [accessed on 15 January 2023].

¹⁶⁵⁸ United Nations Global Compact, Principle Ten: Anti-Corruption <https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-10> [accessed on 15.01.2023].

¹⁶⁵⁹ Makpetrol, Komercijalna Banka and Cementarnica Usje <http://konekt.org.mk/en/klub-na-odgovorni-biznisi/united-nations-global-compact/chlenki-na-mrezhata/> [accessed on 15.01.2023].

¹⁶⁶⁰ Law on Donation and Sponsorship, Official Gazette of RM, No. 47/06.86/08/51/11,28/14 and 153/15.

¹⁶⁶¹ Business without corruption, Strengthening integrity and reducing corruption in public and private business, <https://bezkorupcija.mk/zajaknuvanje-na-integritetot-i-namaluvanje-na-korupcijata-vo-javniot-i-privatniot-biznis-sektor/> [accessed on 15.01.2023].

¹⁶⁶² Transparency International Macedonia, Business principles in the fight against bribery, https://transparency.mk/wp-content/uploads/2020/12/bpcb_macedonian_ver.pdf [accessed on 14 January 2023].

The business sector has interactions with the judiciary in cases of protection of its interests and rights. The lack of efficiency in the judiciary creates uncertainty for the business sector, mainly because of long-lasting court procedures.

There are no significant interactions between the business sector and civil society and should be stimulated in the legislation with simplification for providing donations (see 14.3.2).

PILLAR RECOMMENDATIONS

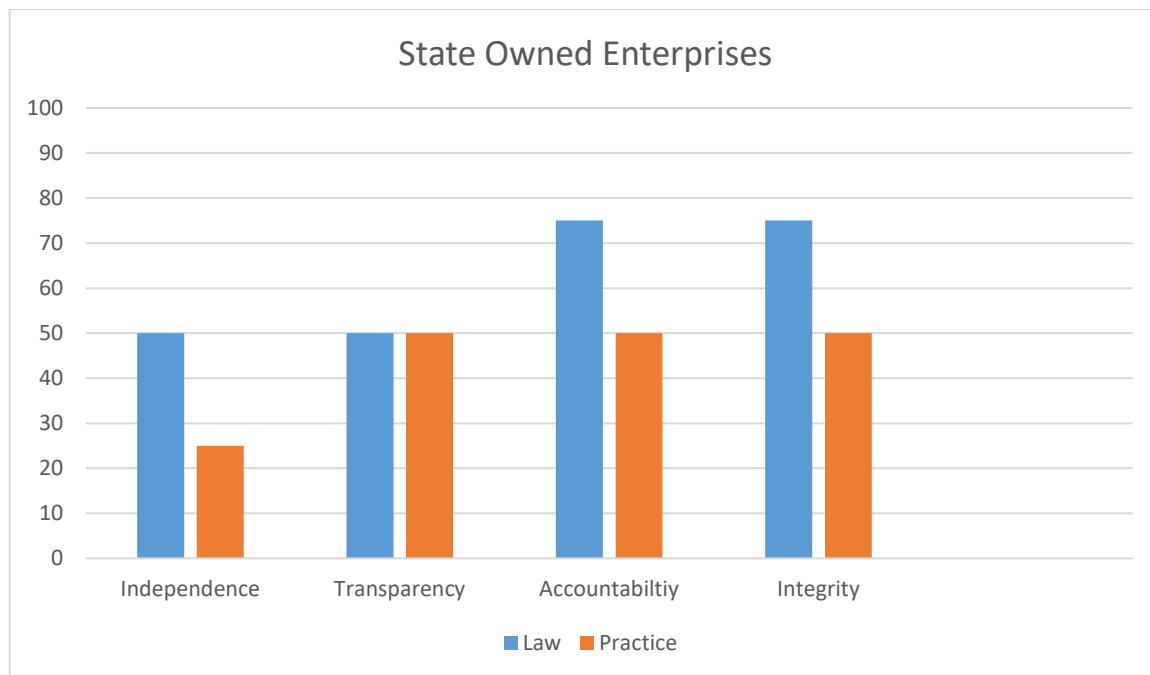
- The chambers of commerce (all existing chambers) should insist on dialogue with the government in the area of transparency and anti-corruption activities, and the government should put this dialogue on its agenda.
- The parliament needs to adopt the draft legislation on accounting in consultation with the relevant chamber of commerce and association of accountants and establish a national certification system for internal auditors.
- The government should introduce a legal requirement for anyone bidding on public contracts to have a chief compliance officer or ethics programme (for example, anti-corruption agreements, business principles).
- The government should introduce a public state aid register on the internet to transparently show which businesses received how much state aid, when and for what.
- The business sector should establish cooperation with the State Commission for the Prevention of Corruption, via the chambers of commerce, to increase transparency, prevent of corruption and encourage the business sector to report the involvement of officials in cases of corruption, through organising annual meetings.
- The government should accelerate legislation that will create more favourable business environments, especially by eliminating overlaps of the competencies between institutions and having long and complex procedures. Such legislation or amendments to existing laws should include:
 - bankruptcy law;
 - law on administrative procedures.
 - law on audit;
 - adoption of official consolidated versions of the laws that have often been amended, or the adoption of the new laws.
- The government and the business sector should promote campaigns to show the importance of adopting anti-corruption codes of conduct in companies.

15. STATE-OWNED ENTERPRISES

SUMMARY



Indicators scores: law and practice



The common term for state-owned enterprises (SOEs) in the Republic of North Macedonia is public enterprises (PEs). PEs are legal entities established by the state, municipalities or the City of Skopje. There are 155 PEs in the country, of which 113 are public utility enterprises, 8 are for agriculture and forestry, 16 are for transport, 2 for informative character, 1 is an information society enterprise, and 15 are for other activities (sport, urban planning, energy, treatment of stray animals and others). Only 13 were established by the government, 3 by the Assembly, and the others by the City of Skopje and the municipalities.¹⁶⁶³

A total of 17,240 people are employed in PEs, divided into three categories: administrative (public) officials, public service providers and technical support people. Most are employees in communal works, followed by transport,

¹⁶⁶³ MIOA. 2023. Report on the registry of employees in the public sector for 2022: https://portal.mioa.gov.mk/sites/default/files/pbl_files/documents/reports/finalen_izveshtaj_za_2022_godina_30.03.2022_godina.pdf, p.13,

agriculture and forestry, information, and information society.¹⁶⁶⁴ PEs employ 2.5 per cent of the total number of workers in the country.

The functioning of the PEs is regulated by the Law on State-Owned Enterprises (SOEs law). However, the law contains loopholes that allow for the political appointment of directors and nepotism in the hiring of staff.

The lack of transparency and accountability further compromises the independence of PEs. Although there has been improvement in the information available on the webpages of the PEs, data is missing, especially on the governing structures and public procurements. Also, many PEs have not published the contact points for access to information of public interest or details for internal whistleblowing channels. There is also no centralised unit for consistent and aggregate reporting on PEs and no single official database for state and local government ownership, hindering transparency and supervision.

The State Audit Office conducts audits, and PEs are subject to accounting and auditing standards similar to private companies. However, there is a lack of information on accountability measures for SAO reports that show inefficiency in PEs or bad financial management.

A small number of PEs developed their own anti-corruption policies and strategies, as well as a code of ethics, but there is no sector-wide code of corporate governance for PEs. There is also a lack of cooperation with the SCPC for the development and implementation of anti-corruption and integrity actions.

CAPACITY

INDICATOR 15.1.1 INDEPENDENCE (LAW)

To what extent does the legal and regulatory framework for SOEs protect the independent operation of PEs and ensure a level playing field between PEs and private sector companies?

Score: 50/100

While a number of laws exist, they contain loopholes for the appointment of directors and board members connected to governing parties and dependence on government resources for daily functioning.

The independence of PEs is regulated by the SOE law and with other internal acts developed by each of the PEs.

PEs carry out economic activities of public interest¹⁶⁶⁵ and should work according to the rule of competition, except in cases where it will influence the conduct of services of public interest.¹⁶⁶⁶ Although PEs work under the competition rules and their revenues can come from their conduct of duties, they are allowed to receive resources from the state or municipality budget.¹⁶⁶⁷ PEs are not exempt from any of the general laws and regulations which apply to private sector companies. In this regard, the PEs have to perform their material-financial operations in accordance with the financial and accounting rules and standards for trade companies.¹⁶⁶⁸

Directors are appointed by the governing board of the PEs in accordance with a procedure that is defined in the SOE law.¹⁶⁶⁹ In Article 17-d of the law, a list of the 15 best candidates is formed from which the members of the

¹⁶⁶⁴ Ibid, p.30

¹⁶⁶⁵ Law on SOEs. Official Gazette of Republic of Macedonia number 38/1996; 9/1997; 6/2002; 40/2003; 49/2006; 22/2007; 83/2009; 97/2010; 6/2012; 119/2013; 41/2014; 138/2014; 25/2015; 61/2015; 39/2016, 64/2018, 35/19, 275/19 and 89/22, Article 1

¹⁶⁶⁶ Ibid, Article 2-a

¹⁶⁶⁷ Ibid, Article 5

¹⁶⁶⁸ Ibid, Article 7

¹⁶⁶⁹ Ibid, Article 19-a

governing boards are selected. Such a large list gives discretionary powers to select the candidates. There are no clearly defined criteria on which the directors are selected.¹⁶⁷⁰

PEs have their own internal documents that regulate their functioning. Their public service obligations are regulated by the act for the establishment of PEs, which regulates the scope of work, resources, and the organisation of PEs and the implementation of the adopted decisions.¹⁶⁷¹ The statute of PEs regulates the organisation and management of PEs, the general acts and the procedure for their adoption.¹⁶⁷²

The government may give general directions to the governing board about its functioning if it is of interest to the state but cannot influence the day-to-day management of the PEs.¹⁶⁷³

INDICATOR 15.1.2 INDEPENDENCE (PRACTICE)

To what extent is the integrity of PE's ensured in practice?

Score: 25/100

Board members are politically appointed and SCPC and journalists continuously report on alleged nepotism and conflicts of interest in PE staff.

Party interference is visible, especially in the appointment of board members and the employment of staff. PEs are regularly used to employ political party members or supporters.¹⁶⁷⁴ The director of the Agency for Electronic Communications (AEC) explained in an interview that his close family relationship with the former official from the governing DUI party did not influence his appointment as a director. Also, he claimed that other employees who have close relationships with politicians have been employed in the AEC for their professional competencies.¹⁶⁷⁵ However, in the public and media, these cases are clearly seen as nepotism and an abuse of power by politicians to interfere in the employment procedures in the PEs. According to the director of the PE Macedonian Forests, board members change with the change of the government, which jeopardises the PE's independence.¹⁶⁷⁶

In the last two years, the SCPC has repeatedly reported on potential nepotism and conflicts of interest related to the PEs' employment or board members' appointments.¹⁶⁷⁷ For example, the legal framework states that members of the management and supervisory boards should have at least higher education (university degree); in the analysed sample of 1,245 members of management bodies, 111 members do not fulfil this requirement.¹⁶⁷⁸ There have also been numerous cases of conflicts of interest and nepotism detected in the employment procedures and

¹⁶⁷⁰ Ibid, Article 17-d

¹⁶⁷¹ Ibid, Article 10

¹⁶⁷² Ibid, Article 29

¹⁶⁷³ Ibid, Article 22

¹⁶⁷⁴ VOA News, Ognen Cancarevki. "The system allows for the public administration to be filled with party employment"

<https://mk.voanews.com/a/5596220.html>; Vulnerability to corruption assessment of the employment

polices and procedures, with special focus on nepotism, cronyism and clientelism: <https://transparency.mk/wp-content/uploads/2021/07/proczenka-na-ranlivost-od-korupczi%D1%98a-vo-politikite-i-postapkite-za-vrabotuva%D1%9Aee-so-poseben-fokus-na-nepotizam-kronizam-klientelizam-.pdf>

¹⁶⁷⁵ Radio Slobodna Evropa. "The fact that I am Bejta's brother-in-law has no influence in my appointment as director":

<https://www.slobodnaevropa.mk/a/32542590.html>, Accessed on 15 August 2023

¹⁶⁷⁶ Interview conducted on 13 September 2023 with the director of the PE "Nacionalni Shumi", Mr. Valentin Gruevski

¹⁶⁷⁷ Duma. "Kocevski: There is no conflict of interest with the two members of the municipal council who voted 'for' the decision on the price of water despite the fact that they have close relationship with employees in PE "Derven)": <https://duma.mk/region/veles-3/26332-2018-12-08-17-43-03/>; Goce Trpkovski, Prizma, "With secondary and primary school in the management and oversight boards": <https://prizma.mk/so-sredno-i-so-osnovno-vo-upravni-i-vo-nadzorni-odbori/>; <https://sdk.mk/index.php/makedonija/bratuchedite-na-milososhoski-i-kerkite-na-ustavnata-sudijka-gosheva-vraboteni-so-nepotizam-vo-aek-telekom-i-vodovod/>; Vladimir Kalinski, Radio Slobodna Evropa, "Employment in state companies only for those close to the government": <https://www.slobodnaevropa.mk/a/вработувања-водржавни-компании-само-за-блиски-до-власта/29726628.html1> (All accessed on 15 September 2023)

¹⁶⁷⁸ Center for Change Management (CCM). 2023: Report monitoring the management structures in public institutions, p.13:

<https://cup.org.mk/publication/report-from-monitoring-the-management-structures-in-public-institutions>

appointing and selecting members to the boards.¹⁶⁷⁹ Many cases are revealed by journalists or after public pressure. Also, although it is legal allowed¹⁶⁸⁰ to ask if a person has a conflict of interest when taking such a position, this is rarely done in practice.

Although many PEs are in debt and do not always work in the public interest, they are supported by the government in their functioning by providing different resources, assets and other assistance.¹⁶⁸¹

GOVERNANCE

INDICATOR 15.2.1 TRANSPARENCY (LAW)

To what extent are there provisions to ensure transparency in the activities of PEs?

Score: 50/100

While a number of laws exist, they do not cover the establishment of a centralised unit that should develop consistent and aggregate reporting on PEs and publish an annual aggregate report on PEs.

According to the SOE law, PEs have an obligation to publish the personal information of the governing board members on their website.¹⁶⁸² This was introduced with the new amendments to the law in July 2022. The Law on Access to Public Information also obliges the entities to provide information to the public to enhance transparency of public institutions.¹⁶⁸³

The public service obligations are regulated by the statute of PEs, which is usually available on their website. They do not have an obligation to publish information on state grants received, but the information is included in the financial reports that PEs are obliged to publish.¹⁶⁸⁴

In January 2021, the government adopted a separate conclusion and recommendation which aims to improve transparency and accountability of PEs.¹⁶⁸⁵ The SOE law states that PEs must follow the internationally recognised principles of accounting and financial transparency.¹⁶⁸⁶

PEs have to prepare anti-corruption policies.¹⁶⁸⁷

¹⁶⁷⁹ MKD. "Anti-corruption Commission found nepotism in the employment of officials, demands a misdemeanour report on Bekteshi", <https://www.mkd.mk/makedonija/politika/antikorupciska-utvrdi-nepotizam-kaj-vrabotuvanja-na-funkcioneri-bara>; Kanal 5. "After a series of dismissals, new suspicions of nepotism, Tahir Hani's son is newly employed at ELEM", <https://Kanal5.com.mk/po-serijata-otkazi-novi-somnezhzi-za-nepotizam-sinot-na-tahir-hani-e-novovraben-vo-elem/a366944>; IRL. "The governing boards will not hold directors accountable in cases of nepotism", <https://irl.mk/upravnite-odbori-nema-da-baraat-odgovornost-od-direktorite-za-sluchaite-na-nepotizam/>;

¹⁶⁸⁰ Law on the Prevention of Corruption and Conflict of Interest. Official Gazette of RM, number 12/19, Article 72

¹⁶⁸¹ SDK. "The Government gave over €2 million to JSP SKOPJE to cover losses due to the coronavirus": <https://sdk.mk/index.php/dopisna-mrezena/vladata-mu-dade-nad-2-milioni-evra-na-jsp-skopje-za-pokrivane-na-zagubite-poradi-koronavirusot/>; Faktor. "The government provided resources for the PEs, then announced anti-crisis measures": <https://faktor.mk/vladata-prvo-gi-napolni-so-pari-javnite-pretprijatija-pa-objavi-antikrizni-merki>, Accessed on 25 October 2023

¹⁶⁸² Law on SOEs, Official Gazette of Republic of Macedonia number 38/1996; 9/1997; 6/2002; 40/2003; 49/2006; 22/2007; 83/2009; 97/2010; 6/2012; 119/2013; 41/2014; 138/2014; 25/2015; 61/2015; 39/2016, 64/2018, 35/19, 275/19 and 89/22, Article 17-d

¹⁶⁸³ Law on Access to Information of Public Character, Official Gazette of Republic of Macedonia, No. 101/ 2019, Section III: <https://aspi.mk/wp-content/uploads/2023/03/Закон-за-слободен-пристап-до-информациите-од-јавен-карактер.pdf>

¹⁶⁸⁴ Law on SOEs, Official Gazette of Republic of Macedonia number 38/1996; 9/1997; 6/2002; 40/2003; 49/2006; 22/2007; 83/2009; 97/2010; 6/2012; 119/2013; 41/2014; 138/2014; 25/2015; 61/2015; 39/2016, 64/2018, 35/19, 275/19 and 89/22, Article 5

¹⁶⁸⁵ In 2021 the government of Macedonia ordered agencies, directorates, funds, bureaus, councils, joint-stock companies or other state-owned legal entities to increase transparency and accountability in their operations. It was concluded that all financial reports (quarterly, half-yearly and annual) that are submitted for consideration through government procedure will not be reviewed if the list of 22 binding information and documents according to the Law on Free Access to Public Information were not published on the websites of the proponents, in accordance with the government's transparency strategy. In 2020, the government recommended that the municipalities, the City of Skopje, as well as the holders of information established by them, should publish the information in accordance with Article 10 from the Law on Free Access to Public Information for these entities to use financial support for the realisation of projects, with funds from the central budget and funds from international donors. Source: <https://vlada.mk/node/23947>

¹⁶⁸⁶ Law on SOEs, Official Gazette of Republic of Macedonia number 38/1996; 9/1997; 6/2002; 40/2003; 49/2006; 22/2007; 83/2009; 97/2010; 6/2012; 119/2013; 41/2014; 138/2014; 25/2015; 61/2015; 39/2016, 64/2018, 35/19 и 275/19, 89/22, Sec. 2

¹⁶⁸⁷ Government of Republic of Macedonia. 2021. "Action 21": Anti-corruption plan, Point 12: https://vlada.mk/sites/default/files/img/anti-corruption_plan_-_action_21.pdf

There are no legal provisions that regulate the creation of a centralised unit to develop consistent and aggregate reporting on PEs and publish an annual aggregate report on PEs.

INDICATOR 15.2.2 TRANSPARENCY (PRACTICE)

To what extent is there transparency in PEs in practice?

Score: 50/100

Most PEs disclose less than half of the relevant information on their website, and there is no central database where information on all PEs is published.

In the absence of a centralised coordination unit for PEs, civil society monitors the transparency of PEs.

A 2022 survey of the Center for Civic Communications showed the low level of transparency of the PEs in practice. In 2022, the 30 biggest PEs published only 48 per cent of the information, reports and documents they are obliged to make publicly available on their official websites.¹⁶⁸⁸ Therefore, PEs do not have an established practice of making data publicly available. However, if there is a need to analyse the work of PEs, the information can be acquired with a freedom of information requests.

Also, there is limited information on the governing structure of the PEs. A vast portion of the analysed 30 enterprises (47%) only publish the names of governing board members, while only 30 per cent of them publish their CVs. The publication of relevant information on supervisory boards is even lower.¹⁶⁸⁹

Only 27 per cent of analysed PEs published operation reports in 2021, while 40 per cent published financial reports.¹⁶⁹⁰ However, the Ministry of Finance publishes financial information on the work of the PEs established by the government,¹⁶⁹¹ but there is no other central database for information on PEs.

For example, the PE Power Plants of Macedonia (ESM), the electricity production company, has a website with company information, and there is information about the supervisory and management boards,¹⁶⁹² annual plans for anti-corruption,¹⁶⁹³ and annual and financial reports.¹⁶⁹⁴ Public Enterprise for State Roads – Skopje also has solid information regarding the structure of the company, reports and programmes.¹⁶⁹⁵ However, there is a lack of contact information for those responsible for internal disclosure or responsible for receiving freedom of information requests, plans for public procurement and contracts for public procurements, and other information that need to be publicly provided on the website in accordance with the Law for Access to Information of Public Character.

There is no single official database of all legal entities established in accordance with the above laws in which the state or the local government has full ownership or certain equity shares. This leads to a lack of transparency and inadequate supervision to prevent corruption risks.¹⁶⁹⁶

There are no established PEs that work internationally and therefore, no financial and operational information on a country-by-country basis.

¹⁶⁸⁸ Center for Civil Communications. 2022, Transparency and Accountability of the PEs: <https://www.ccc.org.mk/images/stories/itjp2022mk.pdf>, p.6

¹⁶⁸⁹ Ibid, p.15

¹⁶⁹⁰ Ibid, p.20

¹⁶⁹¹ Public enterprises and state-owned companies: <https://finance.gov.mk/public-enterprises-and-state-owned-companies/?lang=en>

¹⁶⁹² Members of supervisory and management boards: https://www.esm.com.mk/?page_id=315

¹⁶⁹³ 2023 annual anti-corruption plan: <https://www.esm.com.mk/wp-content/uploads/2023/01/Годишниот-план-за-спречување-на-корупција-во-АД-ЕСМ-Скопје-за-2023-год..pdf>

¹⁶⁹⁴ ESM annual and financial reports: https://www.esm.com.mk/?page_id=530;

¹⁶⁹⁵ Public Enterprise for State Roads – Skopje: <https://roads.org.mk/>

¹⁶⁹⁶ SCPC. 2020. National Strategy for Prevention of Corruption 2021-2025: https://dksk.mk/wp-content/uploads/2021/09/NACS-2021_25-and-Action-Plan-EN-final.pdf, p.36

INDICATOR 15.2.3 ACCOUNTABILITY (LAW)

To what extent are there rules and laws governing oversight of PE's?

Score: 75/100

Comprehensive legal provisions for appropriate oversight of PEs exist internally (through the board), but not externally, because of the lack of a central coordinating unit.

The Law on SOEs sets out the provisions for the establishment and governing structures of PEs, its nature and provides relevant regulating provisions regarding the oversight of PEs. According to the law, the bodies of PEs are the governing board, the oversight board for control of the material-financial working and the director.¹⁶⁹⁷ The law was amended in 2022, reducing the number of board members and strengthening the requirements and procedure for the appointment of members to ensure professionalism in the PEs. The governing board adopts the statute of the PEs and its annual working programme. The governing board conducts other functions which contribute to the well-being of the SOE in accordance with the law.¹⁶⁹⁸

There is no centralised unit which regularly monitors and assesses the performance of the PEs.

The PEs are subject to an audit by the State Audit Office in accordance with the state audit law and their working programme. However, the PEs are not subject to regular annual audits.¹⁶⁹⁹ They can conduct internal audits as well, although they are subject to inspection if irregularities are detected.¹⁷⁰⁰

PEs are subject to the same accounting and auditing standards as trade companies.¹⁷⁰¹

INDICATOR 15.2.4 ACCOUNTABILITY (PRACTICE)

To what extent is there effective oversight of PEs in practice?

Score: 50/100

In general, there is a lack of evidence of oversight due to low levels of transparency in how boards make decisions in PEs.

Due to insufficient public information, it is very difficult to establish clear facts regarding the role of PE boards, the way they apply their authority and competencies and the extent of their objectivity in carrying out their functions of strategic guidance and monitoring of management. There is rarely any information on the activities of the board or minutes from their meetings. This is especially concerning because PEs are among the biggest employers in the country and remain influenced by political parties' interests (15.1.2).¹⁷⁰²

The SAO conducts audits on the work of PEs in accordance with the adopted annual programme.¹⁷⁰³

¹⁶⁹⁷ Law on SOEs, Official Gazette of Republic of Macedonia, No. 38/1996; 9/1997; 6/2002; 40/2003; 49/2006; 22/2007; 83/2009; 97/2010; 6/2012; 119/2013; 41/2014; 138/2014; 25/2015; 61/2015; 39/2016, 64/2018, 35/19 и 275/19, 89/22, Art.16

¹⁶⁹⁸ Ibid, Article 19

¹⁶⁹⁹ Law on Audit, consolidated version, Article 22: https://dzh.mk/sites/default/files/2021-07/Zakon_drzavna_revizija_21_final_MKD_p.pdf

¹⁷⁰⁰ Law on Inspection Supervision, Official Gazette of Republic of Macedonia number 102/2019, Article 18, Paragraphs 8 and 9:

<https://is.gov.mk/wp-content/uploads/2020/11/Закон-за-инспекциски-надзор-СЛВ-102.19.pdf> <https://is.gov.mk/wp-content/uploads/2020/11/Закон-за-инспекциски-надзор-СЛВ-102.19.pdf>

¹⁷⁰¹ Ibid, Section 2

¹⁷⁰² VOA News, Ognen Cancarevki, "The system allows for the public administration to be filled with party employment", <https://mk.voanews.com/a/5596220.html>, Accessed on 13 September 2023

¹⁷⁰³ Audit reports: <https://dzh.mk/mk/230523-revizija-na-regularnost-2022-jp-vodovod-i-kanalizacija-skopje>; <https://dzh.mk/mk/230411-revizija-na-usoglasenost-2022-ad-za-prenos-na-elektrichna-energija-i-upravuvane-so>; <https://dzh.mk/mk/220629-revizija-na-usoglasenost-2021-zhelezni-na-rsm-transport-ad-skopje>; <https://dzh.mk/mk/210224-revizija-na-usoglasenost-2020-ad-za-izgradba-i-stopanisuvane-so>

PEs prepare financial reports and can conduct an internal audit, but there is no information on how they are accountable to the board and what measures are taken if there is a negative opinion in the audit report.

There is also no information on the communication policies of PEs.

According to Radio Slobodna Evropa, PEs have debts, personnel are employed based on party interests and the organisations usually lack transparency and integrity. PEs are characterised as inefficient, and their management as prone to corruption.¹⁷⁰⁴

INDICATOR 15.2.5 INTEGRITY MECHANISMS (LAW)

To what extent are there mechanisms in place to ensure the integrity of PEs?

Score: 75/100

Comprehensive legal provisions are in place to ensure the integrity of SOEs, however, there is no code of corporate governance for PEs.

There is no code of corporate governance for PEs and there are no internal procedures or documents that regulate anti-corruption. The Law on the Prevention of Corruption and Conflict of Interest contains rules on conflicts of interest, stating that a member of a public enterprise management board cannot have personal interests in an enterprise or a company that has business relations with the PE. Each member of the management board and the general manager of the public enterprise is obliged to warn the founder about the existence of any conflicts of interest among members of the management board. PE officials are also obliged to provide asset declarations to the SCPC.¹⁷⁰⁵ The criminal code contains provisions for sanctioning bribery in PEs and in general.¹⁷⁰⁶

The general procurement rules and their transparency requirements apply equally to PEs and private sector enterprises when working with government entities. The electoral code prohibits donations from public sources, either in monetary form or in kind.¹⁷⁰⁷ The Law on Lobbying contains a provision that prohibits lobbying activities on the part of responsible persons in public enterprises or public institutions established by the legislature, executive or local government.¹⁷⁰⁸

According to the Law on the Protection of Whistleblowers, each PE should appoint a person for internal disclosure. However, a person can report illegal or irregular practices to the appointed persons responsible for external disclosure.¹⁷⁰⁹

The national strategy for prevention of corruption contains measures for the prevention of corruption in PEs. However, in its annual review, the SCPC states that there is a need for a more systematic approach to preventing corruption in PEs.¹⁷¹⁰ The SCPC has developed an integrity policy for institutions in the public sector that can also

stanben-i-deloven-prostor-od; <https://dzh.mk/200526-revizija-na-usoglasenost-2019-akcionersko-drushtvo-vo-drzhavna-sopstvenost-zavrsene-na>;

¹⁷⁰⁴ Radio Slobodna Evropa, Zorana Gadzovska Spasovska and Vladimir Kalinski, "The PE's are in debts and filled with party employment", <https://www.slobodnaevropa.mk/a/државните-претпријатија-со-долгови-до-гуша-и-партиска-превработеност-31596539.html> Accessed on 13 September 2023

¹⁷⁰⁵ Law on the Prevention of Corruption and Conflict of Interest, Article 18

¹⁷⁰⁶ Criminal Code. Official Gazette of Republic of Macedonia, No. 37/1996, 80/1999, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 7/2008, 139/2008, 114/2009, 51/11, 135/11, 185/11, 142/12, 166/12, 55/13, 82/13, 14/14, 27/14, 28/14, 115/14, 132/14, 160/14, 199/14, 196/15, 226/15, 97/17 и 248/18), Articles 357 and 358

¹⁷⁰⁷ Electoral Code. Official Gazette of RM, No. 40/06, 148/08, 155/08, 44/11, 51/11, 142/12, 31/13, 34/13 and 32/14, Article 83.

¹⁷⁰⁸ Law on Lobbying, Official Gazette of RM, No. 106/08 and 135/11

¹⁷⁰⁹ Law for the Protection of Whistleblowers

¹⁷¹⁰ SCPC. 2022. Annual report for implementation of the national strategy for prevention of corruption: <https://dksk.mk/wp-content/uploads/2022/03/Godisen-izvestaj-za-sproveduvanje-na-NS-vo-2021.pdf>, p.73

be used by PEs, who can also consult SCPC guidebooks on integrity policies, prevention of conflict of interests and preparation of a code of conduct.¹⁷¹¹

INDICATOR 15.2.6 INTEGRITY MECHANISMS (PRACTICE)

To what extent is the integrity of PEs ensured in practice?

Score: 50/100

In general, there is a piecemeal and reactive approach to ensuring the integrity of PEs.

There is no coordinating body that monitors the work of the PEs and also there is no code of corporate governance for PEs.

Investigative journalists¹⁷¹² often disclose information on possible conflicts of interest in the appointment of PE board members and employment scandals in PEs are also publicly disclosed.¹⁷¹³ In 2022, the SCPC received 118 reports from citizens for possible conflicts of interest in the public sector, and the institution opened 27 cases on its own initiative.¹⁷¹⁴ For example, they noted that a person exercised two public functions, one as a member of a municipal council and one as a director of a public body.¹⁷¹⁵

A research study conducted by the Institute for Democracy in 2020 found that only 9 out of 45 PEs have established anti-corruption policies.¹⁷¹⁶

Transparency in public procurement is low too. In many cases, there are suspicions of not following public procurement procedures and the concerns that contracts are not awarded to the bidder with the best offer. Contracts are often awarded to companies close to the governing structure. One example is from the main oil provider for the institutions, which has a close relationship with the governing DUI party.¹⁷¹⁷

In an analysis conducted in 2022, it was found that only one company participated in one-third the public procurements published in 2022; those procurements had a total value of €427 million. It is an indicator that those procurements do not guarantee that the selected option is the best value for money.¹⁷¹⁸

PEs do not have signed integrity pacts. There are no cases of lobbying activities on public decision-making bodies.

Although the PEs have obligations to appoint a person responsible for internal whistleblowing, very few PEs actually do so, as is the number of PEs that have appointed authorised persons for internal disclosure. Out of 155 PEs, 35 have information available.¹⁷¹⁹

¹⁷¹¹ Policy of integrity: <https://dksk.mk/mk/политика-на-интегритет-за-државните-о/>

¹⁷¹² IRL. "The governing boards will not hold directors accountable for cases of nepotism", <https://irl.mk/upravnite-odbori-nema-da-baraat-odgovornost-od-direktorite-za-sluchaite-na-nepotizam/>; Accessed in December 2023

¹⁷¹³ SDK, "They will cancel the advertisement for flight controllers because the Albanians who passed the test are not from DU": <https://sdk.mk/index.php/makedonija/ke-go-ponishtat-oglasot-za-kontrolori-na-letane-zashto-albantsite-shto-polozhile-ne-se-od-dui-a-pominale-detsa-shto-ne-se-nichii/>, Accessed in December 2023

¹⁷¹⁴ SCPC. 2023. SCPC annual report for 2022: <https://dksk.mk/wp-content/uploads/2023/03/GI-2022-%D0%BA%D0%BE%D0%BD%D0%B5%D1%87%D0%B5%D0%BD.pdf>, p.22

¹⁷¹⁵ Ibid, Attachment number 3

¹⁷¹⁶ IDSCS. 2020. "Analysis of internal procedures and procedural gaps in public enterprises and sectoral in-depth analysis of six utilities", https://idscs.org.mk/wp-content/uploads/2020/04/WEB_A5_MKD_Процедурални_язови_шест_претпријатија-1.pdf

¹⁷¹⁷ Alfa, "Taseva: The work of "Pucko petrol" is a conflict of interests and influence trading": <https://alfa.mk/тасева-работењето-на-пукко-петрол-е-суј/>, Accessed in December 2023

¹⁷¹⁸ Center for Citizens Communication. 2023. Report of the monitoring of public procurements for the period from January until December 2022, p.6: <https://www.ccc.org.mk/images/stories/38mk.pdf>

¹⁷¹⁹ List of persons authorised for internal disclosure: <https://ukazuvac.mk/vnatreshno-prijavuvanje/>

The national strategy for prevention of corruption states that PEs are susceptible to the risks of corruption and abuse because of their ties to political structures, sub-standard management policies and a lack of transparency and control.¹⁷²⁰

INTERACTIONS

By law, PEs are related to the executive and legislature since the government and the Assembly have founded some of the PEs. Their relationship is legally regulated, and their mutual cooperation and coordination are defined by the legal frameworks.¹⁷²¹ The governing boards and directors are accountable to their founders, but their reports are not regularly published (see 15.2.2). There are also no parliamentary committees responsible for the review of the PEs' activities, which further limits the Assembly's oversight possibilities.

The SAO provides recommendations, and the SCPC provides guidance to PEs for improving governance and integrity structures. However, the recommendations and guidance are not sufficiently applied. PEs lack anti-corruption and integrity policies (see 15.2.5).

PILLAR RECOMMENDATIONS

- The government needs to establish a centralised coordination unit with the role of coordinating the work of the PEs.
- The government needs to create a centralised platform to publish information on the work of the PEs (governing structure, number of employees, financial reports, and so on), to improve the transparency of PEs.
- The government needs to establish a corporate code for all PEs and a centralised coordination unit needs to oversee its implementation.
- The government needs to amend the law on PEs, introducing sanctions and measures in cases when financial irregularities and misconduct are detected.
- The financial accountability of PEs should be improved by a more transparent reporting mechanism established by the MoF. This mechanism should include annual reports on the activities of PEs to be submitted to the competent authorities and publicly available on the PEs' webpages.
- All PEs should develop and publish internal documents for the prevention of corruption and integrity, this includes a code of conduct and a policy of integrity, with measures for the prevention of conflict of interests, receiving of gifts, misconduct, and so on.

¹⁷²⁰ National Strategy for Prevention of Corruption 2021-2025: https://dksk.mk/wp-content/uploads/2021/09/NACS-2021_25-and-Action-Plan-EN-final.pdf, p.36

¹⁷²¹ Law on SOEs, Official Gazette of Republic of North Macedonia number 38/1996; 9/1997; 6/2002; 40/2003; 49/2006; 22/2007; 83/2009; 97/2010; 6/2012; 119/2013; 41/2014; 138/2014; 25/2015; 61/2015; 39/2016, 64/2018, 35/19 и 275/19, 89/22, Art.9

CONCLUSIONS

The NIS assessment was conducted between January 2022 and December 2023. This two-year period is characterised by intense political efforts, which led to the start of the EU accession negotiation process, and the first intergovernmental conference in July 2022 was a historic moment that marked a new phase in the accession process for North Macedonia. This was followed by the start of the EU accession negotiations process, including the screening process. However, the EU integration process is blocked in parliament, although the government is committed to launch and achieve the necessary constitutional changes as a matter of priority. The government continued to direct the work of parliament, but uses excessive and sometimes inappropriate fast-track procedures. This happened with amendments to the criminal code too, with some of them not in line with the country's pledges to fight corruption. Numerous political scandals, very low trust in the judiciary and prosecution are only some of the indicators of insufficient political and institutional integrity. These factors influenced the assessment of the NIS pillars. Both the Corruption Perception Index published by Transparency International and the 2023 progress reports from the European Commission indicated that additional efforts are needed in the fight against corruption and that the institutions are still insufficiently prepared to respond effectively to the challenges that this fight brings. The overall results confirmed that the legal framework related to most of the pillars already exists and that it is strong and comprehensive. However, there is a lack of implementation, which is clear from the cross-pillar and cross areas assessment. It is a complex issue, since the institutions have sufficient capacity but lack resources. Inadequate and insufficient allocation of funds has affected the effectiveness of some of the crucial NIS pillars, such as the judiciary, public prosecution and electoral management, especially in the fight against corruption.

Insufficient governance has led to impunity of officials at all levels in the government. However, the biggest impact on weak responsiveness to anti-corruption initiatives is the continued impunity of high-level officials. Despite reports and cases initiated by the SAO and the SCPC, there was no response from the government or prosecution service in holding high-level officials accountable. These are seen as the main problems in the implementation of the legal framework and why there has been no progress in many of the assessed pillars.

The State Audit Office is the institution that stands out as having a very high overall score of 86, 92 for the governance and 83 for its role in the fight against corruption. The institution has strong integrity policies that are not only written but are fully implemented. Their work is also well presented to the public and is the most transparent institution, providing timely and qualitative information to the relevant stakeholders and the public. The recommendations for this pillar are focused on strengthening its independence and establishing more deadlines for the Assembly to review its reports in order to have coherent and inter-institutional approach to the implementation of the SAOs recommendations. The independent State Commission for the Prevention of Corruption (SCPC), follows with the overall score of 72.9, mainly based on its high score in governance 83.3. The SCPC had a challenge in implementing the new law and to reform the institution, but it managed to obtain additional resources. The results related to the role of the main anti-corruption agency are greatly affected by insufficient cooperation from government bodies that, in majority of the cases, were not responsive to the SCPC's initiatives, and have not addressed the activities indicated in the national strategy for the prevention of corruption, of which only 10 per cent was implemented. The third stand out pillar is the ombudsperson's office, with an average score of 70.84. However, there is need for additional strengthening of its capacities through additional resources. Like the SAO, there is a need for the Assembly to review the ombudsperson's reports on time.

One independent institution that had significantly lower scores was the electoral management body, with a score of 52.7, and a score of 50 for its role in anti-corruption efforts, which shows the institution's limited capacities. It also lacks independence and accountability, which endanger the election process as this is the main electoral authority.

The executive continues to be highly independent, although indicators demonstrate that its internal governance structures – which ought to promote transparency, accountability and integrity – are very weak. The executive

has been dominant in the legislature as the majority of the laws adopted by the Assembly were sent by the government, and half of the laws passed through fast-track procedures, avoiding public debate and discussion in the Assembly.

Due to the opposition's refusal of the to participate in certain discussions, the Assembly has been blocked in making amendments to constitution to change the name and in the EU accession process. The executive and the legislature have particularly strong capacities, but are weak in anti-corruption efforts and the need to improve their internal governance. Both branches need to improve their integrity and ethical principles. The political parties have the same average score as the Assembly (60.42). The weakest area for political parties is their accountability when it comes to political financing. This assessment found weaknesses and the need to strengthen the legal framework for political financing and the role of oversight bodies.

There have been many reforms in the public sector, with the implementation of new strategies and procedures, but it still lacks independence. This pillar has a score of 68.75, with the lowest results for its role in anti-corruption. To strengthen the public sector, the process to adopt the law of high-level management service, among others, should be done quickly to ensure merit-based employment in the sector.

Ironically, the weakest pillars in the Macedonian integrity system are the ones that are expected to be the leading rule of law institutions. The role of the public prosecutor's office (PPO) in the fight against corruption is assessed with the score of 25 as it remains the bottleneck of the whole anti-corruption system. Meanwhile, the Ministry of Interior, important in law enforcement, also has the very low score of 25 for its role in anti-corruption but 75 for capacity and governance. In the Macedonian criminal law system, the PPO is leading the pre-investigation and investigation body, and also decides on which cases will be tried. The judiciary, a separate branch of power, has an average score lower than the other two branches of power (legislature and executive), with only 50.68 and the second lowest score (after the PPO) with only 33.3 for its role in the fight against corruption.

The judiciary and the PPO have weak governance scores of 50 and 41.7 respectively. The difference of 11 points in their average scores is mainly result of better capacity in the judiciary. However, the fact that only 4 per cent of citizens have stated they trust the judiciary, and the fact that a significant amount of international funding has been directed to strengthen capacity in the PPO has again demonstrated that personal integrity is much more important than resources. There is a need for serious reforms within these pillars. The recommendations for the judiciary are focused on the implementation of the code of ethics and strengthening of the mechanisms for accountability. The PPO needs additional resources and the establishment of investigative centres to investigate corruption. The Ministry of Interior needs professionalism and strengthening of the ethical and integrity principles that need to be respected in order to have an institution with high-level capacities in the fight against corruption.

The business sector has no role in anti-corruption despite a solid governance structure and capacity. Two other sectors that have been assessed but which are not branches of power are the media, with an average score of 58.98, and CSOs with an average score of 62.5. The capacity of the CSOs is assessed as 75, while the capacity of the media is scored at 56.25. International funding for the media has been very limited compared to CSOs, which have received support similar to that of the PPO, which is the third-most supported pillar. This may be why the role of the media in the fight against corruption is significantly lower (41.6) than that of CSOs (62.5), which then has a significantly lower score of 50 for governance while the media has 79.1. In general, the role and independence of the media is dependent on financing.

State-owned enterprises (SOEs) have an overall score of 47.9. The lack of transparency and accountability further compromises their independence. There is a lack of integrity and professionalism, which results in high losses in their score for functioning, along with a managerial and governing structures that are prone to political influences.

The newly introduced gender indicators in this NIS assessment have shown that, in spite of the legal framework that guarantees gender equality in the country¹⁷²² (such as the national strategy that defines the strategic priorities of the state in terms of gender equality plus the establishment of equal opportunities and other laws and regulations^{1723, 1724}), complaint mechanisms in the public sector and informing mechanisms in independent oversight bodies and law enforcement are not gender-sensitive, meaning that this area needs addressing and improvement.

The NIS assessment extended the existing methodology by introducing a completely new method for a cost-benefit analysis of the institutions that hold the integrity pillars. Both the NIS assessment and the cost-benefit analysis showed the amount of the state budget assigned to these pillars. Available data on the international technical assistance dedicated to anti-corruption pillars were collected. The results were compared to the NIS pillar scores for 2016 and 2023, clearly showing that personal and institutional integrity are more important than resources when it comes to the fight against corruption. This pioneering analysis will be used for further developing Macedonian institutions and will provide possibilities for a more realistic, value-for-money approach in policy-making for building institutional integrity, which are prerequisites for anti-corruption and good governance processes. The analysis indicated that the pillars receiving international funds still lack integrity and are weak links in the institutional system for the fight against corruption.

¹⁷²² After the first national strategy for gender equality 2013-2020 Official V. of R.M. no: 27/2013 of 22 February 2013. In 2022, the Assembly of the RSM adopted the second national strategy for gender equality 2022-2027, Official Gazette of RM no. 170/2020

¹⁷²³ Law on Equal Opportunities for Women and Men. Official Gazette of RM, No. 6/12, 30/13, 166/14 and 150/15 and Official Gazette of RM No. 53/21

¹⁷²⁴ Law on Prevention and Protection from Discrimination, Official Gazette of RSM No. 258/2020, Law on Labour Relations, the Law on Budgets

ANNEX 1:
NATIONAL INTEGRITY SYSTEM:
A COST-BENEFIT ANALYSIS

**NATIONAL INTEGRITY
SYSTEM (NIS)
OF THE
REPUBLIC OF
NORTH MACEDONIA**

**A COST-BENEFIT
ANALYSIS**

NOVEMBER 2023

With the latest assessment Transparency International Macedonia extended its work and the existing methodology by introducing a completely new method for a cost benefit analysis of the institutions that hold the integrity pillars

*Research and analysis conducted by Alex Holmes (UK)
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Abbreviations

NIS	national integrity system
VFM	value for money
IPA	instrument for pre-accession assistance
EU	European Union
D&G	democracy & governance
RL&FR	rule of law & fundamental rights
USAID	US Agency for International Development
SDC	Swiss Agency for Development and Cooperation
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit

FOREWORD

The National Integrity System assessment broadens Transparency International's advocacy and puts its national chapters at the centre of the country's integrity and institutional debate. Transparency International Macedonia (TI-M) has conducted two NIS assessments, in 2002 and 2016. This year, 2023, we are finalising the third assessment, together with our colleagues from the Western Balkans Region + Turkey. The NIS methodology gives the possibility for a holistic assessment of the national integrity system based on a number of pillars. The assessment is used for national policy documents, creation of new institutions and budgetary support to the anti-corruption institutions and other involved stakeholders. This also affects decisions for the international technical support needed for anti-corruption initiatives.

With the latest NIS assessment, Transparency International Macedonia extended its work and the existing methodology by introducing **a completely new method for a cost-benefit analysis** of the institutions that hold the integrity pillars.

Both the NIS assessment and the cost-benefit analysis results showed the amount of state budget assigned to the integrity pillars. Also, we have collected available data on the international technical assistance dedicated to anti-corruption pillars. The results are compared to the NIS pillar scores for 2016, making it clear that personal and institutional integrity is more important than resources when it comes to the role in the fight against corruption.

This pioneering analysis can be used for further developing Macedonian institutions and will open the possibility for a more realistic, value-for-money approach in policy-making for building institutional integrity as a prerequisite for anti-corruption measures and good governance.

We are happy to share the first piloted cost-benefit analysis with the TI movement, with the anti-corruption practitioners and policymakers in North Macedonia, with international donors and in general with all participants to the CoSP10 in Atlanta.

We show international funding in monetary terms by pillar, along with NIS progress since 2016. The research. The findings of this first NIS cost-benefit analysis are really eye-opening and will require cutting-edge steps to improve the situation, and we are happy to offer it as a topic for discussion.

The figures speaks for themselves.

We offer it as a topic for discussion and further development of the methodology.

We can be reached on our e-mail info@transparency.mk

Slagjana Taseva PhD

Chair of TI Macedonia

MOTIVATION AND CONTEXT: NATIONAL INTEGRITY SYSTEM (NIS) REPORTS REPEATEDLY MENTION INADEQUATE BUDGETS, LEADING TO RESOURCE GAPS

Many institutions in the Republic of North Macedonia have capacity issues – meaning they simply lack the human and technological capital/resources needed to operate effectively. Both the previous (2016)¹⁷²⁵ and latest (2023) National Integrity System (NIS) reports repeatedly mention inadequate budgets, leading to resource gaps, as a hindrance to the operation of key institutions to the integrity system.

STATE BUDGET FUNDING

From the interviews conducted for this latest NIS assessment, inadequate and insufficient resources from the state budget is repeatedly mentioned as the main reason for the resource gaps, and furthermore, as the main reason for the lack of capacity to fulfil the institutions' anti-corruption activities.

Table 1 shows state budget allocation by pillar for the year 2022, along with resource scores in practice.

PILLAR	Budget (million €)	% of total budget	Resources (practice)
Legislature	9.31	0.14	87.5
Executive	342.07	5.29	75
Judiciary	38.88	0.6	75
Public prosecutor	1.25	0.16	62.5
Public sector	2525.38	39.07	75
Law enforcement agencies	199.02	3.08	75
Electoral mgmt. body	1.44	0.02	50
Ombudsman	1.33	0.02	50
Supreme Audit Institution	2.32	0.04	75
Anti-corruption Agencies	0.76	0.01	50
Civil society*	0.64	0.01	62.5

Table 1 - *Latest data available 2021

In an attempt to close the resource gap, foreign donors contribute to institutions by financing projects and, in some cases, giving direct grants. These projects extend from the provision of equipment and IT solutions to the reconstruction of prisons and courtroom facilities. This wide range of projects causes variety in project effectiveness, and hence in the efficiency of fund use. Assessing the effectiveness of project implementation is key to improving the overall efficiency of international funds and enhancing the benefits for the receiving country.

Table 1 not only illustrates the relationship between budget allocations and resources, but it also provides necessary context for the amounts of money being spent by international donors in the Republic of North Macedonia.

¹⁷²⁵ Transparency International Macedonia. 2016. National Integrity System Assessment Macedonia, 2016: nis_eng.pdf (transparency.mk)

INTERNATIONALLY FUNDED PROJECTS

In this section, we attempt to assess the effectiveness of internationally funded projects and the efficiency with which international funds are being used to improve the integrity of institutions in North Macedonia. In other words, we assess the value for money (VFM) of internationally funded projects using NIS score progress since 2016 as a proxy for the overall effectiveness of projects aimed at improving each pillar of integrity.

METHODOLOGY AND DATA

We have taken a sample of completed and ongoing projects financed by international donors implemented in the Republic of North Macedonia. The sample has been restricted to projects starting in or after 2016 to allow for direct comparison between total funding and NIS score progress since the previous report in 2016. We have looked at details of the workings along with the beneficiaries of the projects, and through this have grouped projects by the NIS pillar they aim to improve. It is important to note that some of the larger projects list multiple institutions and organisations as beneficiaries, so we have allowed for cross-pillar spillovers in the analysis. It was not possible to obtain precise information about the proportions of the total budget directed to each beneficiary, therefore certain projects appear in the budget accumulation of more than one pillar. This approach was considered to be more accurate than spreading budgets across pillars as we had no information regarding the respective weights of received funds. A sizeable number of projects implemented since 2016 have been financed by the European Commission as part of the Instrument for Pre-Accession Assistance (IPA) fund, aimed at preparing the Western Balkans and Turkey for EU membership. Due to the large amounts of funding through this instrument, we have split the analysis by IPA projects and projects financed by other international donors.

The IPA II (2014-2020) indicative budget allocation for North Macedonia was €608.7 million, of which €132.3 million was to be spent on improving the first two priority sectors: democracy and governance (D&G) and rule of law and fundamental rights (RoL&FR).¹⁷²⁶ We have assessed only projects classed under these two priority sectors as these projects are the most relevant to our pillars of integrity. The third instance of IPA funding, IPA III, commenced in 2021 and will run until 2027, hence we have looked at projects included in both IPA II and IPA III in order to aggregate totals from 2016 to the present day. Since 2016, there has been a total of 259 IPA projects aimed at our two sectors of interest, with a cumulative budget total of €152.7 million.

Data collection on internationally funded projects outside the scope of the IPA fund proved much more difficult due to the lack of a single, comprehensive database listing implemented projects. We contacted a number of relevant government institutions and independent bodies to request information on past/ongoing projects that were part or fully financed by international donors. However, the only institutions that were able to provide us with information were the ombudsperson, the Economic Chamber of North Macedonia and the Ministry of Interior, despite contacting many more. This raised immediate concerns over the data collection and use in institutions, despite the country receiving a maximum of 100 on “data use” and an overall score of 72.04/100 on the World Bank’s Statistical Performance Indicators (SPI),¹⁷²⁷ which is above the regional average for the Western Balkans. Therefore, we must acknowledge that the data presented here fails to paint a comprehensive picture of both the number of projects and the amount spent by international donors in North Macedonia. Amidst these data issues, we were able to compile a sample of 75 non-IPA projects relating to one or more pillar of integrity financed by international donors since 2016, with information published by the donor on the most part. Donors include embassies such as the Netherlands, Denmark, Sweden and the UK, along with national aid agencies such as USAID, Swiss Agency for Development and Cooperation (SDC) and GIZ (Germany).

¹⁷²⁶ European Union. North Macedonia: Financial Assistance Under IPA. https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/overview-instrument-pre-accession-assistance/north-macedonia-financial-assistance-under-ipa_en

¹⁷²⁷ The World Bank. 2021. Statistical Performance Indicators. datacatalog.worldbank.org/dataset/statistical-performance-indicators

RESULTS AND FINDINGS

Out of the 259 implemented IPA projects on D&G and RoL&FR since 2016, we found 175 that benefitted one or more institution that plays a part in one or more of our 15 pillars of integrity. The funding for these projects amounts to €117.8 million (76.65 per cent of total spend IPA spend on D&G and RoL&FR). Out of the 15 pillars, 10 were affected by IPA projects. The excluded pillars were executive, electoral management body, political parties, business, and state-owned enterprises. It is worth noting that the last two pillars mentioned, business and state-owned enterprises, are likely to have been influenced by IPA projects aimed at other priority sectors that lie outside the scope of this analysis.

Within the sample of 75 non-IPA projects there were 62 projects for which North Macedonia was the sole beneficiary country, with 13 being cross-border projects aimed at regional development. These 13 cross-border projects have been excluded from financial analysis due to the difficulty in determining the proportions of budgets being spent in each recipient country. We were able to find financial information for 53 out of the 62 projects solely benefitting North Macedonia, with a few donors lacking transparency in the finances of certain projects. The 53 projects amounted to a total of €99.5 million being spent by foreign donors in North Macedonia (the 13 cross-border budgets amounted to €19.7 million).

Figure 1: Type of donor support and number of projects per pillars

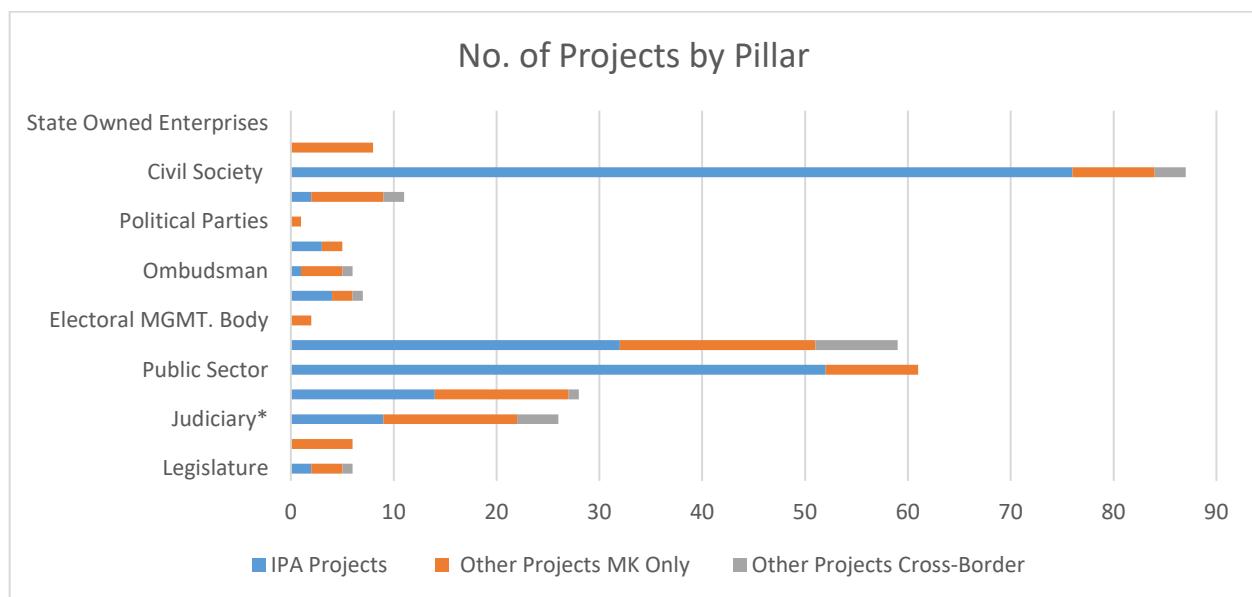


Figure 1 shows the total number of projects aimed at improving each pillar of integrity. The data for the judiciary* pillar includes a donation from the Dutch embassy in Skopje to the judicial council with a total of €954,850 over four years, which has recently been postponed due to the illegitimacy of the JC. Using the 2022 budget, this would have represented a 28.9 per cent increase on the state budget allocation per year. The notably high number of internationally funded projects related to civil society reflects the lack of state funding for CSOs.

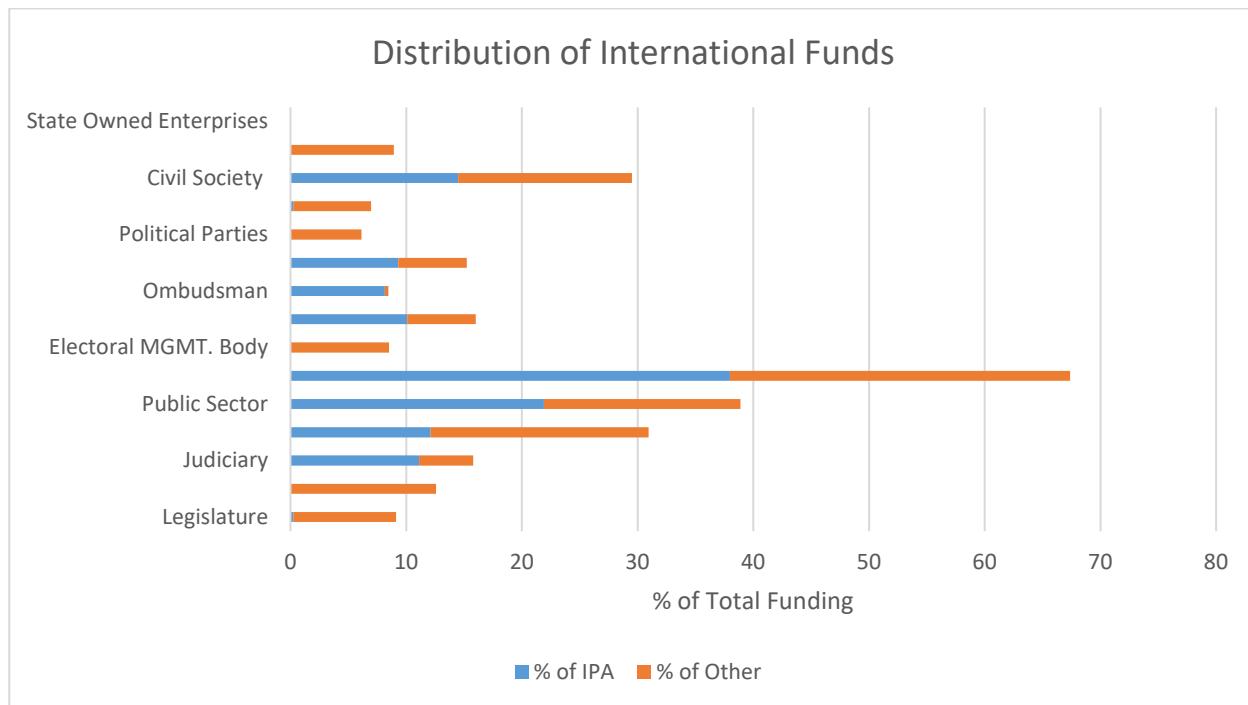
Figure 2: Distribution of international funds per NIS pillars

Figure 2 shows the distribution of international funds through illustrating the proportion of the cumulative budget spent on projects related to each pillar.

To compare the costs incurred by donors with the benefits of projects, we look at the NIS scores for each pillar from the previous report (2016), from the new report (2023), and the progress of each pillar over that timeframe. The data is presented in Table 2.

Table 2. Progress of each NIS pillar over that time frame

PILLAR	IPA fund (million €)	Other projects (million €)	% of IPA	% of other	NIS 2016	NIS 2023	NIS progress
Legislature	0.34	8.86	0.23	8.91	51.3	60.42	9.12
Executive	0	12.51	0	12.57	65.2	69.2	4
Judiciary	16.98	4.65	11.12	4.67	51.3	48.2	-3.1
Public prosecutor	18.48	18.75	12.1	18.84	51.3	38.9	-12.4
Public sector	33.44	16.92	21.9	17	42.3	70	27.7
Law enforcement agencies	57.99	29.27	37.98	29.42	42.3	58.3	16
Electoral mgmt. body	0	8.48	0	8.52	40.2	59.7	19.5
Supreme Audit Institution	15.4	5.88	10.09	5.91	73.6	86	12.4
Ombudsman	12.45	0.31	8.15	0.31	76.3	71	-5.3
Anti-corruption agencies	14.24	5.88	9.33	5.91	40.2	74.4	34.2
Political parties	0	6.12	0	6.15	45.8	60.42	14.62
Media	0.35	6.7	0.23	6.74	36.1	57.35	21.25
Civil society	22.15	14.94	14.5	15.02	43.7	66.8	23.1
Business	0	8.89	0	8.94	32.6	43.05	10.45
State-owned enterprises	0	0	0	0	34.7	47.75	13.05

Table 2 – "% of Other" calculates percentage of total IPA spend on D&G and RoL&FR that has benefitted each pillar. "% of Other" calculates the percentage of funds from our sample of non-IPA projects benefitting each pillar.

Figures 3 and 4 show international funding in monetary terms by pillar, along with NIS progress since 2016. It can be seen that scores have declined for certain pillars, most notably the public prosecutor. Meanwhile, with nearly €90 million spent on projects, the NIS score for law enforcement agencies has improved by 16 points over the past seven years.

Figure 3 – International Funding since 2016 and NIS Progress

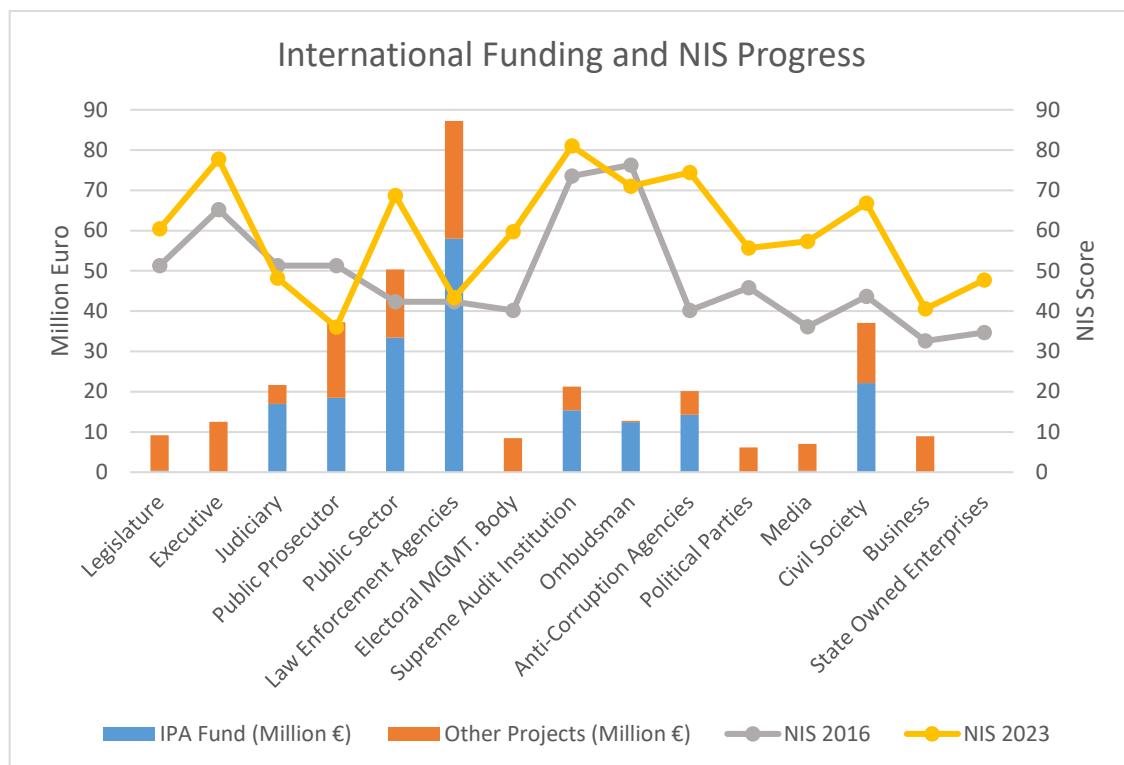
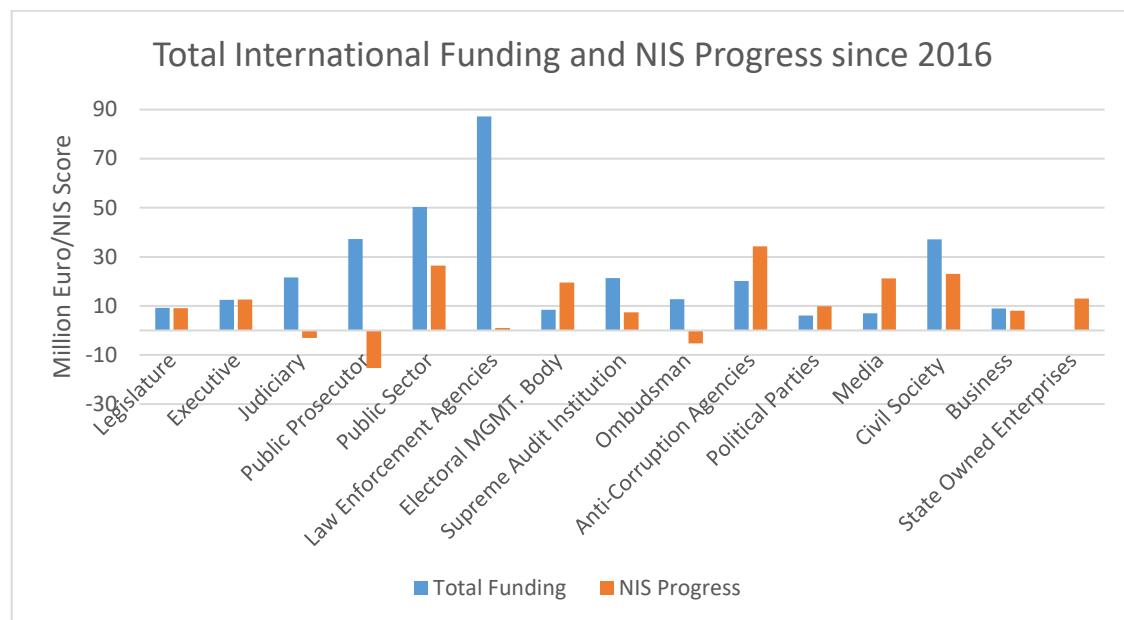


Figure 4



RECOMMENDATIONS:

There is considerable room for improvement in both the collection and use of data regarding internationally funded projects and donations.

- All institutions should keep an accessible record of international funding/projects they have been a beneficiary of. This information should be publicly available (without the need for request) and accessible (digitalised).
- There should be development of a single, consolidated, digitalised database listing projects, descriptions, direct and indirect beneficiaries, along with financial data at the state level. This information needs to be publicly available to enhance transparency.
- Such a database would support country-wide analysis on the direction of funds, allowing for donor coordination to target resource deprived sectors.
- There is a need for an independent review at the sector, beneficiary (or better still, project) levels to assess project effectiveness and value for money (VFM).



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