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Country Review Report of North Macedonia

Review by Montenegro and the Republic of Moldova of the implementation by North Macedonia of articles 5-14 and 51-59 of the United Nations Convention against Corruption for the review cycle 2016-2021¹

¹ The State was previously referred to as “the former Yugoslav Republic of Macedonia” within the United Nations. The amendments made to the Constitution on 11 January 2019, in particular the change of the country name, do not have retroactive effect. For consistency purpose, the report uses “North Macedonia” to refer to the State except in legal citations, titles of government bodies and other organizations/entities, and other areas where North Macedonia cannot be used due to the non-retrospective nature.

I. Introduction

1. The Conference of the States Parties to the United Nations Convention against Corruption was established pursuant to article 63 of the Convention to, inter alia, promote and review the implementation of the Convention.
2. In accordance with article 63, paragraph 7, of the Convention, the Conference established at its third session, held in Doha from 9 to 13 November 2009, the Mechanism for the Review of Implementation of the Convention. The Mechanism was established also pursuant to article 4, paragraph 1, of the Convention, which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and of non-intervention in the domestic affairs of other States.
3. The Review Mechanism is an intergovernmental process whose overall goal is to assist States parties in implementing the Convention.
4. The review process is based on the terms of reference of the Review Mechanism.

II. Process

5. The following review of the implementation by North Macedonia of the Convention is based on the completed response to the comprehensive self-assessment checklist received from North Macedonia², and any supplementary information provided in accordance with paragraph 27 of the terms of reference of the Review Mechanism and the outcome of the constructive dialogue between the governmental experts from Montenegro, the Republic of Moldova and North Macedonia, by means of telephone conferences, e-mail exchanges and other further means of direct dialogue in accordance with the terms of reference and involving the following experts:

North Macedonia:

- Elena Dimovska, Advisor, Ministry of Justice (focal point)
- Nikola Prokopenko, State Advisor, Ministry of Justice
- Vladimir Georgiev, State Advisor, Secretariat of the State Commission for Prevention of Corruption
- Marija Kostovska, Deputy Head of Department, Ministry of Finance
- Elena Sazdov, Advisor, Ministry of Justice
- Gordana Milevska, Advisor, Ministry of Justice
- Vesna Doneva, Advisor, Secretariat of the State Commission for Prevention of Corruption

Montenegro:

- Nina Ivanovic, State prosecutor, Supreme State Prosecutor's Office of Montenegro

² The State was previously referred to as "the former Yugoslav Republic of Macedonia" within the United Nations. The amendments made to the Constitution on 11 January 2019, in particular the change of the country name, do not have retroactive effect. The present review refers to the implementation status as of September 2018. The responses to the checklist were provided and the dialogue was conducted by the team of experts under the constitutional name of the State of that period.

- Miljan Vlaovic, Advisor, Supreme State Prosecutor's Office of Montenegro
- Mladen Tomovic, Acting Deputy Director for Division for Prevention of Corruption, Agency for Prevention of Corruption
- Mirela Bakalbasic, Senior Advisor, Department of international cooperation and standards, Agency for Prevention of Corruption

Republic of Moldova:

- Victoria Popa, Head of the Anti-corruption policies unit, National Anticorruption Centre of the Republic of Moldova
 - Olga Pojilțov, Inspector of the Anti-corruption policies unit, National Anticorruption Centre of the Republic of Moldova
6. A country visit, agreed to by North Macedonia³, was conducted from 15 May 2018 to 17 May 2018. Separate meeting with CSOs was held on the last day of the visit.

III. Executive summary

7. Executive summary⁴

North Macedonia⁵

1. Introduction: overview of the legal and institutional framework of North Macedonia in the context of implementation of the United Nations Convention against Corruption

The State party under review signed the United Nations Convention against Corruption on 18 August 2005 and ratified it on 13 April 2007.

North Macedonia is a unitary State with a parliamentary governance structure. The constitutional organization of power is based on its division into legislative, executive and judicial.

The main legislation for corruption prevention and asset recovery includes the Law on Prevention of Corruption (LPC, 2002), the Law on Prevention of Conflict of Interest (LPCI, 2009), the Law on Public Sector Employees (LPSE), the Law on Administrative Servants (LAS), the Criminal Code (CC), the Criminal Procedure Code (CPC), the Law on Prevention of Money-Laundering and Financing of Terrorism (AML Law), the Law on Management of Confiscated Property, Proceeds and Objects Seized in Criminal and Misdemeanour Procedure and the Law on International Cooperation in Criminal Matters. In addition, the Convention may be directly applied.

The key institutions in corruption prevention and asset recovery include the State Commission for the Prevention of Corruption (SCPC), the Public Prosecutor's Office (PPO), the courts, the State Audit Office, the Anti-Corruption Unit of the Ministry of Interior (MOI), the Financial Police Administration of the Ministry of Finance (MOF), the Anti-Corruption Department of the Public Revenue Office, the Integrity Department of the Customs Administration (CA) and the Financial Intelligence Office (FIO).

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2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

Under the overarching legal framework based on the LPC and the LPCI, the State Programme for Prevention and Suppression of Corruption and the State Programme for Prevention and Reduction of Conflict of Interest, originally separate but later combined, have been adopted as a national anti-corruption strategy. Corresponding action plans were constantly formulated to implement these State Programmes. The latest State Programme (2016–2019), in maintaining a continuity with previous programmes, has established fundamental strategic anti-corruption goals. New amendments to the LPC have been proposed and are to be adopted soon.⁶

SCPC, as an autonomous and independent national body, is assigned a variety of preventive and repressive functions against corruption, including monitoring and promoting the implementation of the State Programmes (art. 49, LPC, and art. 21, LPCI). SCPC has taken measures on a wide scope of issues for the prevention of corruption. The Commission publishes periodic assessment reports on the implementation of these measures and activities pursuant to the State Programme. In addition, it conducts proofing of legislation regarding corruption risks, which has been facilitated by mandatory obligations on other government bodies to submit draft legislation to SCPC for such review. SCPC strives to cooperate with other national bodies and ensure public participation in the fight against corruption.

The seven members of SCPC are appointed and can be dismissed by the National Assembly, and are subject to a four-year term with the possibility of reappointment for another term. Though the budget allocated to SCPC is steadily increasing, its financial and human resources remain insufficient as the mandate of the Commission constantly expands. Shortage of specialized training for SCPC employees has also been identified. At the time of the country visit, SCPC was dysfunctional owing to the collective resignation of its members.⁷

North Macedonia participates in the Regional Anti-Corruption Initiative and the Ethics and Integrity Network of the Regional School of Public Administration. SCPC has also established cooperation with foreign anti-corruption authorities and maintains partnerships with several international or regional organizations, such as the European Union, the Organization for Economic Cooperation and Development (OECD) and the Organization for Security and Cooperation in Europe (OSCE), on corruption prevention issues.

SCPC is the designated preventive authority under article 6, paragraph 3, of the Convention.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

The LPSE, the LAS and relevant secondary legislation regulate procedures on the recruitment, retention and retirement of public sector employees and administrative servants. The integrity of the public sector is stipulated in the LPSE (art. 9) and training sessions on corruption are regularly provided to public officials.

The recruitment of public sector employees must be conducted through transparent, fair and competitive selection procedure, including by announcing vacancies publicly and using open competition (arts. 5 and 6, LPSE). Rules on mobility and rotation of positions are in place under the LPSE (chap. VII). Remuneration for public sector employees is calculated by means of a points system. Similar recruitment rules apply to administrative servants, including civil servants, where

⁶ The authorities of North Macedonia reported that the Law on Prevention of Corruption and Conflicts of Interest of 17 January 2019 replaced the Law on Prevention of Corruption, and the Law on Prevention of Conflict of Interest, and that the new law would be applicable in relation to chapter II of the United Nations Convention against Corruption.

⁷ The authorities of North Macedonia reported that the members of the State Commission for the Prevention of Corruption were appointed on 8 February 2019.

the Agency of Administration is designated as the main recruitment authority. Unsuccessful candidates for positions of administrative servants may appeal to the Agency and, beyond, to the competent courts (art. 19, LAS). Nevertheless, no appeal mechanism regarding the recruitment of other categories of public officials was reported.

Additional measures for selection and retention are available for certain categories of officials, such as the police, the financial police and CA. However, there is no clear definition or reference regarding public positions that may be vulnerable to corruption.

Criteria for elected public officials and financing of elections are governed by the Electoral Code (EC), which also contains rules on financial reporting and auditing (art. 85). Election campaigns are subject to a financing ceiling of 3,000 euros and to a ceiling of 30,000 euros on donations from each individual and each legal entity, respectively (art. 83, EC). Penalties and misdemeanour procedures may be applied (chap. XIV, EC). The Law on Financing of Political Parties also regulates the procedure for providing and disposing funds for activities of the political parties, including relevant reporting requirements.

Preventing conflicts of interest is envisaged in the LPCI, according to which every public official is required to submit a statement on conflicts of interest at the beginning of the service and when changes occur, subject to further verifications by SCPC (art. 20, paras. a–e). The procedure for deciding the existence of a conflict of interest is initiated by SCPC, and disciplinary and other measures may be taken in case of violations (art. 23, LPCI).

Ethical codes and codes of conduct for all categories of public officials have been adopted to promote integrity, honesty and responsibility. These include not only general codes for high-level officials and administrative servants, but also sector-specific codes taking into account various corruption risks. However, some codes are not enforceable.

The Law on Whistle-Blower Protection (LWP) aims to provide for a wide range of protections for reporting persons, including reporting by public officials. Specialized hotlines for reporting are in place, and authorized persons have been designated in the public-sector entities to receive reports on irregularities and corrupt conduct (art. 50, Law on Public Internal Financial Control; arts. 4 and 5, LWP). Suspicions of corruption may also be reported directly to SCPC, including anonymously.

North Macedonia has an asset declaration system for elected and appointed officials, responsible persons in public entities dealing with State funds, and officials in State bodies and municipal administrations, including judges and prosecutors. The obligated personnel are required to submit asset declarations to designated offices upon taking and leaving office and whenever a change in assets occurs that exceeds 20 average salaries (arts. 33, 33-a and 34, LPC). The declarations are checked by SCPC on a random basis and when processing concrete cases of allegations of corruption. The asset declarations submitted by elected and appointed persons to SCPC are open to the public on the SCPC website (www.dksk.mk) (art. 35, LPC). Measures have also been undertaken for SCPC to connect to the national interoperability system. A software for electronic filing of asset declarations will be put in place in the future. Misdemeanour procedure in relation to asset declarations may be applied in non-compliance cases (art. 36, LPC). Acceptance of gifts is generally prohibited for public officials, with exceptions on low-value protocol and occasional gifts (art. 30, LPC; art. 73, LAS).

The independence of the judiciary is established in the Constitution (art. 98). The organization of courts, selection and dismissal of judges are governed by the Law on Courts (LOC) and the Law on Judicial Council (LJC). The courts make use of professional as well as lay judges (part III, LOC). A Code of Judicial Ethics was adopted in 2014. The independent National Judicial Council may apply disciplinary and other measures against judges (art. 78, LOC; art. 60-a, LJC). In addition, LOC provides for rules on prohibition of gifts (art. 58), case assignment and distribution (art. 7).

PPO is an autonomous body (art. 106, Constitution). The organization of PPO, including the selection and dismissal of prosecutors, is regulated by the Law on the Public Prosecution Office. The competence of the Council of Public Prosecutors responsible for ensuring the autonomy of public prosecutors in carrying out their functions is governed by the Law on Council of Public Prosecutors. A new Code of Ethics for Public Prosecutors entered into force in 2014, according to which an ethical council was established to monitor compliance with the Code (art. 24 of the Code).

Public procurement and management of public finances (art. 9)

Public procurement is decentralized and regulated by the Law on Public Procurement (LPP)⁸. The LPP provides for clear rules on various types of contract award procedures, including open procedure (chap. V, LPP). The contracting authorities are required to publish the contract invitation through the Electronic System for Public Procurement and the Official Gazette, except in cases of negotiated procedure without prior publication of a notice (art. 53, LPP). Reasonable time is established for the preparation and submission of tenders under different procurement procedures (chap. V, LPP). The contract is generally awarded to the most economically advantageous or the lowest priced tender (art. 160, LPP). It is mandatory to notify the award decision to all tenderers, including refusal reasons for the non-selected parties (arts. 167 and 168, LPP).

The State Appeals Commission is a specialized and independent authority assigned to review public procurement award procedures (arts. 200 and 201, LPP). An aggrieved party having relevant legal interest or the State attorney may appeal to the Commission (art. 207, LPP). The Commission may suspend the procurement process and its decisions are subject to review by administrative courts (arts. 217 and 230, LPP).

The Public Procurement Bureau is mainly designated to supervise the public procurement process, including undertaking trainings for procurement staff. The key personnel in each public procurement commission of the contracting authorities bear the obligation to submit a declaration on conflicts of interest, which may lead to potential recusals (art. 62, LPP). In addition, contracting parties are prohibited from hiring persons previously involved in the tender evaluation (art. 63, LPP).

The procedure for preparation and adoption of the budget is provided in the Organic Budget Law (OBL). MOF is responsible for coordinating policies on the public internal control, including organizing trainings and meetings to help governmental agencies to cope with risks identified. A risk management system is also put in place in most government agencies. The OBL and the Law on Reporting and Recording Liabilities set out rules on timely reporting on revenue and expenditure.

The State Audit Office has the authority to conduct audit on financial reports and transactions relating to government expenditures (arts. 3, 18 and 19, State Audit Law). The head of each public sector entity is obliged to appoint a person responsible for reporting on irregularities and to take necessary actions against irregularities and fraud, subject to fines in case of failures (arts. 50 and 54, Law on Public Internal Financial Control).

The different periods for keeping accounting books and records are specified in the Law on Accountancy of the Budget and the Budget Beneficiaries (arts. 10 and 13). The falsification of data and documents is criminalized under article 280 of the CC.

Public reporting; participation of society (arts. 10 and 13)

Free access to information is enshrined in the Constitution (art. 16) and regulated by the Law on Free Access to Information of Public Character (LFAI). Access may be refused on grounds provided under article 6 of the LFAI. These grounds were considered to be too wide, and the compulsory harm test provided for under this article may not sufficiently limit the discretion to reject access to information. If a request for information is refused, an appeal may be made to the Commission for the Protection of the Right to Free Access to Public Information, and then to the Administrative Court (arts. 28 and 35, LFAI).

North Macedonia adopted an Open Government Partnership National Action Plan 2018–2020. The public institutions are required to inform the public of various information and designate personnel in dealing with relevant requests, otherwise the responsible persons may be subject to fines (art. 39, LFAI). The prevention of access to a public information system is also criminalized (art. 149-a, CC).

⁸ The authorities of North Macedonia indicated that a revised law on public procurement was adopted on 28 January 2019 and that the amended provisions would be applicable in relation to article 9 of the Convention.

The Ministry of Information Society and Administration has created an initial database of administrative services, with a view to enhancing future administrative simplification for public access to information and government service delivery. Information concerning corruption risks is regularly published by several institutions.

Public consultation on draft legislation is mandatory, whereby the draft report and legislation text must be published on the Single National Electronic Register of Regulations. Civil society organizations have taken an active part in the preparation for and implementation of anti-corruption policies and measures. SCPC also signed memorandums of cooperation for the prevention of corruption and conflicts of interest with many such organizations. There are nationwide projects for primary and secondary schools and individual projects for tertiary schools on anti-corruption education.

Anyone may report corruption directly to SCPC by mail or email or in person.

Private sector (art. 12)

Apart from criminal penalties, the LPC contains provisions regarding corruption in the private sector of a preventive and repressive character (arts. 22, 32, 46 and 59). Whistle-blower protection under the LWP also applies to reporting in the private sector. In order to prevent potential conflicts of interest, former public officials are prohibited from employment or having a business interest in certain private entities for three years after the termination of their public functions (art. 17, LPCI).

The Company Law (CL) requires the registration of private entities in the commercial register (art. 99). North Macedonia has also introduced a register of beneficial owners of legal entities, which is publicly available (arts. 26 and 29, AML Law).⁹ SCPC has signed memorandums of understanding for the prevention of corruption with nine associations from the private sector and, as a result of such cooperation, a Business Code of Ethics was developed in 2012.

Auditing and accounting standards and requirements are regulated in the CL (arts. 469 and 479), according to which commercial entities must keep proper accounting books and records. Sanctions are provided regarding violation of accounting and reporting obligations by various types of companies (arts. 598, 599, 601, 602 and 605, CL). In addition, criminal provisions on counterfeiting or the destruction of business books may apply (art. 280, CC). The corporate criminal liability is provided in the CC (arts. 28-a-c and 96-a-m).

Prohibition on tax deductibility of expenses that constitute bribes is not provided in the tax regulation.

Measures to prevent money-laundering (art. 14)

The AML Law came into force in March 2002 (with revisions in 2004, 2008, 2014 and 2018) and established a list of financial and non-financial institutions subject to that regime as well as professions (art. 5, AML Law). The AML Law also lists categorized supervisory authorities of those professions (art. 146), as well as details on risk management by obliged entities (arts. 10 and 11).

In 2016, the State party under review finalized a national risk assessment with the assistance of the World Bank, which was designed to identify, assess and understand the money-laundering and terrorism financing risks within its jurisdiction. Consequently, the State party under review adopted a risk-based approach in accordance with the National Strategy Against Money-Laundering and Financing of Terrorism in November 2017. The country established a financial intelligence office in March 2002 (art. 64, AML Law). The Office is a member of the Egmont Group of Financial Intelligence Units and has concluded several cooperation agreements with national and international institutions to share information received domestically as well as internationally (art. 127, AML Law).

Article 126 of the AML Law establishes an obligation to declare the import or export of cash or negotiable instruments of an amount equivalent to 10,000 euros. CA is responsible for centralizing, collecting, registering and processing the information contained in the declarations (art. 126, AML

⁹ The authorities of North Macedonia reported that the implementation of the Register would start by the end of 2019.

Law). Information gathered during the declaration and disclosure process is sent to FIO (art. 126, para. 4). Sanctions for undeclared, false or incomplete information to the customs authority are provided for under the Law on Foreign Exchange Operations (arts. 29, 56-a and 57-b).

North Macedonia has various requirements for electronic transfers and money remitters. These include provisions on obtaining and forwarding information relating to the payer and receiver in cases of money transfer (art. 43, AML Law), exchange operations (art. 44, AML Law), as well as due diligence obligations of money remitters (arts. 53, para. 4, and 57, AML Law). The AML Law implements the Financial Action Task Force (FATF) Recommendations and European Union anti-money-laundering/combating the financing of terrorism Directives. Compliance of the anti-money-laundering/combating the financing of terrorism system with FATF recommendations and its efficiency are evaluated by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism in the framework of the Council of Europe.

2.2. Successes and good practices

- Adoption of a specific law, the LWP, for the protection of whistle-blowers (art. 8, para. 4, of the Convention)
- SCPC has established wide cooperation with the private sector and civil society organizations by signing memorandums of cooperation for the prevention of corruption and conflicts of interest (ibid., arts. 12 and 13, para. 1)

2.3. Challenges in implementation

It is recommended that North Macedonia:

- Take measures to ensure that SCPC has operational capacity and is allocated adequate resources to fulfil its broad mandates, including providing the trainings necessary for its staff to carry out their functions (ibid., art. 6, para. 2)
- Consider introducing an appeal mechanism for unsuccessful candidates applying for public positions other than positions of administrative servants (ibid., art. 7, para. 1)
- Consider adopting a clear definition of public positions considered especially vulnerable to corruption and providing rules on the rotation of such officials where appropriate (ibid., art. 7, para. 1)
- Continue enhancing the asset declaration system, including through the use of electronic means and methods (ibid., art. 8, para. 5)
- Consider strengthening enforcement mechanisms for the ethical codes or relevant behaviour standards for public officials. (ibid., art. 8, para. 6)
- Consider establishing effective risk management systems in all government agencies (ibid., art. 9, para. 2)
- Narrow the grounds on denial of access to information, with a view to facilitating the contribution of the public to decision-making processes (ibid., arts. 10 and 13, para. 1)
- Continue efforts to facilitate public access to information and government services (ibid., art. 10, para. b)
- Adopt an explicit provision disallowing the tax deductibility of expenses that constitute bribes (ibid., art. 12, para. 4)
- Consider developing systematic and nationwide public education programmes for tertiary education that contribute to the non-tolerance of corruption (ibid., art. 13, para. 1)

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

The asset recovery regime is currently in its infancy in North Macedonia. The asset recovery framework is comprised of the CC, the CPC, the Law on Management of Confiscated Property, Proceeds and Objects Seized in Criminal and Misdemeanour Procedure; the Law on International Cooperation in Criminal Matters, and the AML Law. The Convention may be directly applied. Its application is, however, difficult in practice, given the absence of a clear domestic policy and procedure. Legislative amendments to fill the identified gaps are currently pending.

A number of law enforcement, financial and judicial institutions play a role in the asset recovery process, including PPO, the courts, MOI, MOF, the Public Revenue Office, CA, the Agency for Management of Seized Assets, SCPC and FIO. There is no national institution specialized in the tracing, securing and confiscation of assets. The overlapping asset recovery mandates of the aforementioned institutions engaged in asset recovery and their means of collaboration on the asset recovery process are not clear.

Article 25 of the Law on International Cooperation in Criminal Matters provides for the spontaneous transmission of information by the domestic judicial authority to foreign counterparts on crimes, including for the ultimate objective of recovering assets domestically or internationally. Furthermore, FIO is a member of the Egmont Group. North Macedonia has been an observer to the Camden Asset Recovery

Inter-Agency Network since July 2014, and its police is engaged internationally through the International Criminal Police Organization.

North Macedonia has concluded a number of bilateral and multilateral agreements that enhance the effectiveness of international cooperation undertaken pursuant to chapter V, with countries, such as Bosnia and Herzegovina, Croatia, Montenegro and Serbia.

Prevention and detection of transfers of proceeds and crime; financial intelligence unit (arts. 52 and 58)

Customer due diligence is required under article 12 of the AML Law, while beneficial owners are defined under its article 2 (20). The framework for a beneficial ownership register is established under its article 26. The AML Law provides a definition of high-risk profile person, in particular of domestic and foreign politically exposed persons (art. 2, para. 22). The entities concerned must, in addition, focus particularly on business relationships or operations that involve a person from a country representing a high risk of money-laundering (art. 37, AML Law).

MOF publishes guidelines for credit institutions. These institutions take measures to prevent risks related to the use of new technologies (art. 10, para. 6, AML Law). Moreover, financial institutions subjected to AML measures use ongoing monitoring for profiling clients. Foreign politically exposed persons and Security Council resolutions are included in the set of screening tools (art. 14-e, AML Law). In compliance with the AML Law and circulars from supervisory authorities, it is required to put in place enhanced due diligence mechanisms relating to transactions carried out by high-risk customers (art. 33, AML Law). When there is suspicion of money-laundering or financing of terrorism, the Office may submit to the entity (financial institution) a written warrant for monitoring the client's business relationship (art. 119, para. 1, AML Law).

Entities are required to keep files and records for at least 10 years from the day of receipt (art. 145, AML Law). Records are currently kept within each institution in electronic and hard copy format.

The establishment of "shell banks" is prohibited (art. 49, AML Law). Financial institutions shall also refrain from establishing or maintaining correspondent banking relationships with any fictitious financial institution (art. 49, AML Law).

The national system of asset declarations provides for a fine of between 500 and 1,000 euros for non-compliance (art. 63, LPC). Taxes on undeclared earnings in the declarations are also calculated at 70 per cent of their value (art. 36-a, para. 1, LPC). It is not clear whether declarations may be shared with competent authorities in other jurisdictions. Residents of North Macedonia may open

bank accounts abroad under specific conditions established by decision of the National Bank (art. 23, Law on Foreign Exchange Operation). Those granted exceptions are required to provide details and records of such accounts. A fine in the amount of 10,000 euros shall be imposed for a misdemeanour to a legal entity or a sole proprietor resident if said entity or resident opens and holds an account abroad contrary to the conditions (art. 56-a, Law on Foreign Exchange Operation).

FIO does not have investigative powers. As a result, it receives and analyses suspicious transaction reports and forwards them, as necessary, to the law enforcement authorities (art. 64, para. 3, AML Law). In addition, FIO has temporary freezing powers over transactions for 72 hours (art. 120, AML Law). In practice, as FIO disseminates information to financial entities, it assesses systemic risks and regularly hosts discussions with financial entities and government authorities. FIO is an autonomous body under MOF composed of members who are experts in anti-money-laundering, the financing of terrorism and tax matters. It may cooperate with other financial intelligence offices pursuant to its memorandum of understanding and membership in the EGMONT Group, as well as article 127 of the AML Law, which allows the international exchange of information by FIO.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

Natural and legal entities are entitled to initiate civil action, sue for compensation and be recognized as legitimate owners of property acquired through an offence established in accordance with the Convention (arts. 110, 111 and 114, CPC). Whether foreign States are entitled to initiate civil action is not explicitly regulated, and North Macedonia has also never had a case involving a foreign State as a civil party.

North Macedonia does not require a treaty to engage in international cooperation, and articles 97 and 98 of the CC provide the basis for confiscation. The provisions protect bona fide owners and victims (art. 98, CC). Article 202 of the CPC allows the public prosecutor and the criminal police to temporarily seize and freeze assets until a court order is issued.

A competent authority of a foreign State party may request the direct enforcement of interim measures in North Macedonia. In that case, the request is implemented by the domestic judicial authority, although the direct enforcement of interim measures relating to civil matters is not clear (arts. 28 and 29, Law on International Cooperation in Criminal Matters). The request is presented to court by the public prosecutor, who should provide, inter alia, reasons for the probability that the seizure of property shall be made especially difficult or impossible following criminal proceedings (art. 202, CPC). The legislation of North Macedonia allows for the direct enforcement of foreign judgements and orders of confiscation after recognition by a domestic court (arts. 82 and 83, Law on International Cooperation in Criminal Matters).

Nevertheless, North Macedonia does not have other mechanisms to proactively preserve property for confiscation on the basis of a foreign arrest or criminal charges issued by a foreign court. Because North Macedonia has not yet had to deal with a case of enforcement of interim or confiscation orders related to corruption, the implementation of articles 55, paragraphs 1 and 2, of the Convention cannot yet be fully assessed.

The legislation and procedures of North Macedonia do not explicitly give the requesting State party the opportunity to present its reasons in favour of continuing the measures before lifting any provisional measures taken in relation to assets, but foreign authorities are always informed of all circumstances that may reflect on their requests in practice. North Macedonia submitted copies of its pertinent laws at the time of the review.

The confiscation of property by adjudication of an offence of money-laundering is provided in the CC (arts. 97, 97-a, 98, 100 and 273), without distinguishing the origin of the property.

North Macedonia provides for non-conviction-based forfeiture, with respect to natural persons and legal entities that have committed crimes, including where a suspect is deceased, has absconded or is otherwise unavailable (art. 540, CPC).

Return and disposal of assets (art. 57)

There is no law that specifically provides procedures for the disposal and return of assets to other States in the case of offences under this Convention, including with deductions of reasonable expenses. Confiscated properties below 10,000 euros become the property of North Macedonia, while in all other cases, 50 per cent of the amounts obtained from the confiscation order are transferred to the foreign State (art. 27, Law on International Cooperation in Criminal Matters). There is a project currently under way to change the Law on International Cooperation in Criminal Matters to bring it in line with the Convention in this respect. Consequently, North Macedonia has not yet returned assets or concluded any agreements for the final disposal of confiscated property.

3.2. Successes and good practices

North Macedonia has established a Register of Beneficial Ownership Information (arts. 12 and 52, para. 1, of the Convention).

3.3. Challenges in implementation

It is recommended that North Macedonia:

- Take steps to clarify the institutional roles of different offices in the asset recovery process, given the overlapping mandates, and continue efforts (ibid., art. 51)
- Consider permitting the sharing of asset declarations with competent authorities in other States parties and establishing clear procedures on the reporting of accounts held in foreign jurisdictions (ibid., art. 52, paras. 5 and 6)
- Ensure that another State party is allowed to initiate civil action, sue for compensation and be recognized as legitimate owner of property acquired through the commission of an offence established under the Convention (ibid., art. 53)
- Consider enforcing foreign confiscation orders emanating from civil proceedings (ibid., arts. 54, para. 1 (a), and 55, para. 1 (b))
- Consider taking measures to ensure that assets may be preserved for confiscation on the basis of foreign arrests or criminal charges issued by a foreign court (ibid., art. 54, para. 2 (c))
- Ensure that the obligations under article 55, paragraphs 1 and 2, of the Convention are discharged when a foreign confiscation order is received
- Take measures to ensure that, whenever possible, the requesting State party is given an opportunity to present its reasons in favour of continuing the measure before the lifting of provisional measures (ibid., art. 55, para. 8)
- Take measures to ensure that confiscated property is returned to requesting States or to its prior legitimate owners in accordance with the requirements of article 57 of the Convention and consider concluding agreements for the final disposal of confiscated property

3.4. Technical assistance needs identified to improve implementation of the Convention

- Capacity-building and training (ibid., arts. 52–57)

IV. Implementation of the Convention

A. Ratification of the Convention

The State party under review signed the Convention on 18 August 2005 and ratified it on 13 April 2007.

B. Legal system of the North Macedonia

North Macedonia is a unitary State with a parliamentary type of governance. According to article 1 of its Constitution, North Macedonia is a sovereign, independent, democratic and social State with its sovereignty deriving from and belonging to its citizens.

The constitutional organization of power is divided into legislative, executive and judicial branches. The Assembly of the Republic is a representative body of citizens in which the legislative power is vested. At present, it is composed of 120 representatives, directly elected for a term of four years. The President of the Republic is directly elected for a maximum of two terms, with each term being five years. The executive power is vested in the Government.

The office of the Prime Minister and that of a Minister is incompatible with the performance of any public office. The judicial power is exercised by independent Courts which rule on the basis of the Constitution, laws and international agreements ratified in accordance with the Constitution.

In terms of hierarchy of norms, article 118 of the Constitution provides that “the international agreements ratified in accordance with the Constitution are part of the internal legal order and cannot be changed by the laws”.

The laws most relevant to the prevention and fight against corruption are:

- Law on Prevention of Corruption (“Official Gazette”, No. 28/2002, 46/2004, 126/2006, 10/2008, 161/2008, 145/2010, 97/15 and 148/15);
- Law on Prevention of Conflict of Interest (“Official Gazette”, No. 70/2007, 114/2009, 6/12 and 153/15);
- Criminal Code (“Official Gazette”, No. 37/96, 80/99, 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 and 97/17);
- Criminal Procedure Code (“Official Gazette”, No. 150/10, 100/12 and 142/16);
- Law on Whistle-blower Protection (“Official Gazette”, No. 196/15 and 35/18);
- Law on Witness Protection (“Official Gazette”, No. 38/ 2005 and 58/2005);
- Law on International Cooperation in Criminal Matters (“Official Gazette”, No. 124/10);
- Law on Free Access to Public Information (“Official Gazette”, No. 13/2006, 86/2008, 6/10, 42/14, 148/15, 55/16 and 64/18);
- Law on Public Internal Financial Control (“Official Gazette”, No. 90/2009, 188/13 and 192/15);
- Law on Lobbying (“Official Gazette”, No. 106/2008 and 135/11);

The institutions most relevant to the prevention and fight against corruption are:

- State Commission for Prevention of Corruption;
- Public Prosecutors Offices, especially Public Prosecutor's Office for Organized Crime and Corruption;
- Courts, especially First Instance Court Skopje 1 (Criminal Court) - Specialized department for proceeding cases of organized crime and corruption;
- Ministry of Interior - Public Security Bureau - Central Police Services - Department for Combating Organized and Serious Crime - Anti-corruption Unit;
- Ministry of Finance - Financial Police Directorate;
- Ministry of Finance - Financial Intelligence Office;
- Ministry of Finance - Public Revenue Office;
- Ministry of Finance - Customs Administration;
- Ministry of Finance - Central Unit for Harmonisation of Public Internal Financial Control System;
- State Audit Office;
- Ministry of Justice;

Type of criminal process, the structure and main phases

The Criminal Procedure Code (CPC) is based on several procedural principles:

- a) initiation of the procedure (accusatory, formality and legality);
- b) conduct of the criminal procedure (contradiction, immediacy, publicity and equity).

The key principle underlying the CPC is the principle of fair trial in accordance with the rules and practice of the European Convention on Human Rights. Significant for the criminal procedure are also the principles that refer to the organization of the judiciary, the public prosecution and advocacy, such as the independence of the judiciary, participation of citizens as lay judges, etc.

Phases of the procedure:

I. Preliminary procedure

The case from the police or a person reporting a criminal act is only transferred to the public prosecutor's office which is heading and guiding the judicial police. Serving as the controller of lawfulness and guarantor of freedoms and rights, the courts are required to make impartial decisions on measures of detention, special investigative measures, searches and so on. The investigative procedure is deformed where evidence is only collected. As the central part of the criminal procedure, the main hearing is held to test evidence in a public and adversarial manner.

The procedure starts with the initial investigations conducted by the police and other State bodies with similar authorizations. The public prosecutor's office can authorize the Police, the Financial Police Directorate and the Customs Administration (the judicial police) to undertake any action necessary for detecting and prosecuting a criminal offence.

The defence counsel may directly present the information and evidence in favour of his/her client to the public prosecutor and the judge of the preliminary procedure.

II. Accusation

The public prosecutors decide prosecution in the regular criminal procedure. If not satisfied with the decision made by the prosecutor, the injured party can submit an appeal to the immediate superior public prosecutor. After the completion of the investigation procedure, the public prosecutor prepares and directs the indictment to the competent court when there is sufficient evidence based upon which a convicting verdict may be expected. The assessment of the indictment is carried out by a judge if the indictment refers to a criminal conduct for which a sentence of imprisonment of up to ten years is envisaged, or by a council if the indictment refers to a criminal conduct for which a sentence of imprisonment of ten years or more severe punishment is envisaged. In addition, the public prosecutor can propose some measures to secure suspect's presence, in accordance with his/her own assessment.

A judge performs the assessment of the indictment independently, and the indictment review chamber performs additional assessments. The assessment may be conducted at a hearing that is held when the judge or the indictment review chamber deems necessary or when an objection is filed against the indictment where the suspect is ready to plead guilty in respect of all or some of the criminal offences indicted.

If the suspect represented by a defence lawyer gives a statement or pleads guilty with respect to all or certain counts of the indictment, or if he/she pleads guilty at the hearing, the judge or the indictment review chamber shall check the following:

- 1) whether the guilty plea has been given voluntarily, advisedly and with full understanding of the consequences, including the consequences related to any property-legal claim and the expenses of the criminal proceedings; and
- 2) whether there is sufficient evidence to prove the suspect's guilt.

The judge or the indictment review chamber assesses the justification of the indictment in respect of all criminal offences indicted when the suspect does not make a guilty plea or if the given statement of guilt is not accepted in the objection against the indictment.

The judge or the indictment review chamber assesses only certain criminal acts indicted if a judgment is rendered on the basis of a plea bargaining agreement.

III. Main hearing and verdict

The mixed type of criminal procedure is established with the advantage of the inquisitorial. In general, the greater weight of proposing and presenting evidence is put on the side of the parties. The court is supposed to intervene only when the defence proves to be incompetent.

Evidentiary procedure - Evidence is usually presented in the following order:

- a) prosecutorial evidence,
- b) evidence of the defence,
- c) prosecutorial evidence refuting the evidence of the defence,
- d) evidence of the defence in reply to the refuting, and
- e) evidence of relevance to the measurement of the criminal sanction.

During the evidence presenting phase, a direct examination, a cross-examination and additional examination is permitted.

d) Legal remedies are divided into regular and extraordinary remedies. Appeal against the judgment is permitted only if it refers to a wrongly established factual situation, and not an incomplete factual situation. New facts or new evidence may not be cited in the appeal, except those for which the parties will prove that they could not present because the evidence is not known or available by the conclusion of the evidentiary procedure.

A judgment that has entered into effect may be reversed without repeating the criminal procedure pursuant to the laws.

Any criminal procedure that is validly terminated prior to the commencement of the main hearing may be repeated, if the public prosecutor waives his or her right of criminal prosecution, or if it is proved that such a waiver is a result of a committed crime. In addition, any criminal procedure that ends with an effective judgment may be repeated in favour of the convicted person in certain situations.

In exceptional cases, the criminal procedure may also be repeated to the detriment of the convicted person, if the verdict that overruled the indictment has been passed due to subject-matter non-jurisdiction of the court and the public prosecutor initiated a procedure before a competent court asking for the procedure to be repeated.

Any criminal procedure whereby a person is convicted in absentia (Article 365 of the Criminal Procedure Code) and there is a possibility for the person to be tried in his or her presence shall be repeated also apart from the conditions prescribed in Article 364 of the Law. Additionally, in any event, the court shall allow for repetition of the criminal procedure if there is an ongoing procedure for extradition of the person convicted in his or her absence and if the State where the person resides applies for guarantees that the person shall be granted the right to be tried again in his or her presence. The court shall not allow for a defendant to be tried again in his or her absence, when the person's motion for repetition of the criminal procedure due to a trial in absence is granted, if the person becomes unavailable to the law enforcement entities during the repeated procedure.

The Public Prosecutor of the Republic may file a motion for protection of legality against judicial verdicts that have entered into effect if there is a violation of the Constitution, laws or international agreements that are ratified in accordance with the Constitution.

The Criminal Procedure Code prescribes expedited procedures:

- Summary procedure (Chapter XXVIII)
- Reaching a judgment on the basis of a plea agreement between the public prosecutor and the suspect (Chapter XXIX),
- Mediation procedure (Chapter XXX) and
- Procedure for issuing a penal warrant (Chapter XXXI).

The special forms of expedited procedures vary depending on which phase of the procedure is left out, upon whose initiative the procedure is initiated, and in light of the will of the defendant to acknowledge the guilt and engage in a plea agreement with the public prosecutor.

Specific procedures are prescribed as follows:

- Procedure for issuing alternative measures (Chapter XXXII);
- Procedure against legal persons (Chapter XXXIII);
- Procedure for application of safeguarding measures, forfeiture of property and crime proceeds, seizure of objects and revocation of suspended sentences (Chapter XXXIV);
- Procedure for enacting a decision on shorter duration of prohibitions, termination of any legal consequences of the conviction and deleting a conviction from a record (Chapter XXXV);
- Procedure for compensation for damages, rehabilitation and exercising other rights of persons who have been unjustifiably convicted and ungrounded or unlawfully deprived of their liberty (Chapter XXXVI), and
- Arrest warrant and public notice (Chapter XXXVII).

In a separate communication addressed and e-mailed to the secretariat (uncac.cop@unodc.org), please provide a list of relevant laws, policies and/or other measures that are cited in the responses to the self-assessment checklist along with, if available online, a hyperlink to each document and, if available, summaries of such documents. For those documents not available online, please include the texts of those documents and, if available, summaries thereof in an attachment to the e-mail. If available, please also provide a link to, or the texts of, any versions of these documents in other official languages of the United Nations (Arabic, Chinese, English, French, Russian or Spanish). Please revert to this question after finishing your self-assessment to ensure that all legislation, policies and/or other measures you have cited are included in the list.

A list of relevant laws, policies and other measures that are cited in the responses to the self-assessment checklist is shared.

Please provide a hyperlink to or copy of any available assessments of measures to combat corruption and mechanisms to review the implementation of such measures taken by your country that you wish to share as good practices.

- Assessment of the level and nature of corruption and of the visibility and perception of the anti-corruption policy, summary report, January 2015, commissioned by the State Commission for Prevention of Corruption under the IPA 2010 Twinning Project entitled “Support to Efficient Prevention and Fight against Corruption”;
- Monitoring and Evaluation of the Implementation of National Anti-Corruption Strategies and Action Plans - Methodology, developed and published by the Regional Anti-corruption Initiative;
- Promoting cooperation through good governance in the anti-corruption policy implementation, surveys and analysis, December 2014, commissioned by OSCE Mission to Skopje, Democratic Governance Unit, in partnership with the State Commission for Prevention of Corruption and in cooperation with Transparency International – Macedonia;
- Report on assessment of corruption 2016 and 2018, commissioned by NGO Macedonian Centre for International Cooperation(MCMS);
- Executive summary: Quarterly report No. 1 for oversight of the work of the State Commission for Prevention of Corruption (SCPC) Achievements in the period from October to December 2016, Executive summary: Quarterly report No. 2 for oversight of the work of the State Commission for Prevention of Corruption (SCPC) Achievements in the period from January to March 2017, Executive summary: Quarterly report No. 3 for oversight of the work of the State Commission for Prevention of Corruption (SCPC) Achievements in the period from April to June 2017, Executive summary: Quarterly report No. 4 for oversight of the work of the State Commission for Prevention of Corruption (SCPC) Achievements in the period from June to September 2017, Executive summary: Quarterly report No. 5 for oversight of the work of the State Commission for Prevention of Corruption (SCPC) Achievements in the period from October to December 2017, commissioned by NGO Macedonian Centre for International Cooperation (MCMS) under the Project “Oversight of the Work of the State Commission for Prevention of Corruption by the Public”, supported by the British Government.
- OECD Competitiveness in South East Europe: A Policy Outlook 2016;
- GRECO evaluation reports;
- Moneyval evaluation reports;

- Annual report on implementation of the SEE 2020 Strategy RCC - Balkan opinion barometer;
- Public Attitudes to Whistle-blowing in SEE - Data Analysis of Opinion Survey about Whistleblowing and the Protection of Whistle-blowers;
- RAI Assessment Report on the Methodology on Anti-corruption Assessment of Legislation;
- Open Government Partnership – Mid Term Self-Assessment 2016-2018;
- Open Government Partnership – Mid Term Self-Assessment 2016-2018 (Year 1);
- European judicial systems Efficiency and quality of justice CEPEJ Studies No. 23;
- European judicial systems Efficiency and quality of justice CEPEJ Studies No. 24;
- SIGMA Monitoring report: The Principles of Public Administration –, 2017.

Please provide the relevant information regarding the preparation of your responses to the self-assessment checklist.

The team of governmental experts from the State party under review is composed of representatives from the Secretariat of the State Commission for Prevention of Corruption, the Ministry of Justice, the Ministry of Interior and the Ministry of Finance.

Sources of information used in completing the checklist:

- Laws and by-laws and related explanatory notes and commentaries
- Contributions sent to the European Commission for the progress reports
- Completed questionnaires for research and evaluation purposes (GRECO, RCC - SEE Strategy 2020, OECD - Competitiveness Outlook, CEPEJ, Moneyval)
- Published official documents: strategic and programmatic documents, publications/brochures, manuals and statistical information, research documents, desk-reviews, surveys and reports

Consultative processes

The initial consultative meeting with representatives of the academic community, NGOs and business associations was held on 18 September 2017. All participants were called upon to provide reports and publications regarding the implementation of chapters II and V of the Convention and comments.

On 21 September 2017, an open call for participation of interested individuals and organizations in activities conducted by the Ministry of Justice in the course of preparation of the responses to the self-assessment checklist was published on the website, with a plan of activities and contact information of the designated coordinators.

To ensure a wider participation of the society, the following organizations were invited to nominate participants: Transparency International – Macedonia, Macedonian Centre for International Cooperation (MCMS), Institute for Democracy “Societas Civilis” - Skopje (IDSCS), Centre for Civil Communications, Centre for Research and Policy Making, Economic Chamber of Macedonia, Business Confederation Macedonia, Analytica Think Tank, the Organization of Employers of Macedonia (OEM), Coalition “All for fair trials” (represents a network of 15 independent NGOs) , Faculty of Law “Iustinianus I” - Skopje, Faculty of Security - Skopje, Faculty of Law - Tetovo. As of 7 April 2017, IDSCS has been hosting the Secretariat of the Anti-corruption platform of civil society organizations. This platform is formed by 15 independent civil society organizations.

The second meeting for exchange of views between the team of governmental experts and the NGOs,

business associations and academic community was held on 31 October 2017. Representatives of the following NGOs, business associations and academic community participated in the organized events: Transparency International – Macedonia, Macedonian Centre for International Cooperation (MCMS), Institute for Democracy “Societas Civilis” - Skopje (IDSCS), Economic Chamber of Macedonia, Centre for Civil Communications and Faculty of Law “Iustinianus I” - Skopje (prof. Ana Pavlova Daneva, Head of the National Delegation to GRECO).

Feedback was received directly from two NGOs: Transparency International – Macedonia (short comments on the implementation of UNCAC Chapter II and Chapter V provisions) and Institute for Democracy “Societas Civilis” (link to a research publication).

The team of governmental experts held several coordinative and consultative meetings, and completed its work on the preparation of the responses to the self-assessment checklist following a workshop on consolidation and exchange of opinions held from 27 to 29 November 2017.

In September 2018, the self-assessment checklist was updated and presented for assessment.

Please describe three practices that you consider to be good practices in the implementation of the chapters of the Convention that are under review.

I. Comprehensive regulation and instruments were adopted to ensure broad public consultations on new regulation (Regulatory Impact Assessment and Anti-corruption Assessment of Legislation, mechanisms for cooperation with CSOs, including Open Government Partnership) and on ex-post evaluation of adopted regulation (Methodology on assessment of the implementation of regulation, including methodology on analysis of the discretionary powers of the officials with public authorisations).

II. There is a specialization for different agencies/bodies in the judiciary and law-enforcement as follows: Public Prosecutor’s Office of First Instance (Basic Public Prosecutor’s Office) for organized crime and corruption; First Instance Court Skopje 1 (Criminal Court) - Specialized department for proceeding cases of organized crime and corruption; Ministry of Interior - Public Security Bureau - Central Police Services - Department for Combating Organized and Serious Crime - Anti-corruption Unit, Financial Intelligence Office - Unit for detection of corruption and organized financial crime, Customs Administration - Professional Standards Department, Public Revenue Office - Tax Inspectorate for Examination of Assets and Property Status.

III. The State party under review has adopted a special Law on International Cooperation in Criminal Matters and is a party to a large number of relevant bilateral and multilateral agreements.

Please describe (cite and summarize) the measures/steps, if any, your country needs to take, together with the related time frame, to ensure full compliance with the chapters of the Convention that are under review, and specifically indicate to which articles of the Convention such measures would relate.

The further implementation of the Convention will be ensured by: implementation of the new Strategy on Reform in the Judicial Sector, the new Strategy on reform in Public Administration 2018-2022, the State Programme on Prevention and Suppression of Corruption and Prevention and Reduction of Conflict of Interest, with an action plan 2016-2019, and the AML/CFT National Strategy.

C. Implementation of selected articles

II. Preventive measures

Article 5. Preventive anti-corruption policies and practices

Paragraph 1 of article 5

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The State Commission for Prevention of Corruption (SCPC), on the basis of its legal competencies stipulated by the Law on Prevention of Corruption (LPC, Paragraph 1 of Article 49) and the Law on Prevention of Conflict of Interest (LPCI, Paragraph 1 of Article 21), adopts the State Programme for Prevention and Suppression of Corruption and the State Programme for Prevention and Reduction of conflict of interest, together with implementing action plans.

These State Programmes collectively represent a comprehensive anti-corruption strategy which springs into a coordinated, systematic and comprehensive action against corruption at national level.

So far, SCPC has adopted the following State Programmes:

- State Programme for Prevention and Suppression of Corruption with an Action Plan in 2003. It aimed at, in particular, creating and strengthening the anti-corruption legal and institutional framework.
- Annex of the State Programme for Prevention and Suppression of Corruption with an Action Plan in 2005. It adopted measures for prevention and suppression of corruption within the local government.
- State Programme for Prevention and Suppression of Corruption with an Action Plan in 2007. It was based on the six pillars of the system of national integrity. The action plan included the indicators for monitoring the implementation of activities and key performance indicators for individual institutions.
- State Programme for Prevention and Reduction of Conflict of Interest with an Action Plan in 2008. It was a separate strategic paper that identified nine risk areas of conflicts of interest with relevant mitigating measures.
- State Programme for Prevention and Suppression of Corruption and the State Programme for Prevention and Reduction of Conflict of Interest with an Action Plan of 2011-2015. It was based on a sectoral approach which determined 11 sectors susceptible to corruption and conflicts of interest.
- State Programme for Prevention and Suppression of Corruption and Prevention and Reduction

of Conflict of Interest with an Action Plan of 2016-2019. The two State Programmes were combined for this period. This joint State Programme established five specific strategic goals as follows:

1. Strengthened institutional system and legislation for prevention of corruption and conflicts of interest;
2. Strengthened repression of corruption;
3. Strengthening of the capacities and independence of the law enforcement bodies;
4. Increased public participation in the fight against corruption and conflicts of interest; and
5. Efficient coordination of anti-corruption activities, monitoring and evaluation of the implementation.

The Action plan contained activities to address the aforementioned goals.

All State Programmes adopted by SCPC as well as the related implementation assessment reports are published on [the website of SCPC](https://dksk.mk/index.php?id=70&L=958) at <https://dksk.mk/index.php?id=70&L=958>.

SCPC has prepared the draft of the State Programmes and relevant action plans in broad consultations with all segments of the society. For instance, the latest State Programme was prepared with active involvement and participation of representatives from other government institutions, the private sector, the media, the civil society organizations, and the experts in the field. The suggestions, comments and opinions of all involved stakeholders served as a basis for determining and defining the measures set out in the Action Plan for implementation of the State Programme 2016-2019.

State Programme 2016-2019

The State Programme 2016-2019 set out five strategic objectives. The first strategic objective was to strengthen the institutional system and legislation for prevention of corruption and conflicts of interest; the integrity and ethics in the institutions at all levels; public procurement, concessions and public-private partnerships; election process, financing of political parties and election campaigns; free access to public information; assets and conflicts of interest; anti-corruption examination of the legislation; and lobbying.

In terms of “integrity and ethics in institutions at all levels”, activities were envisioned to establish a frame of the integrity system in the public sector. Such a frame included elements regarding the full compliance and implementation of existing mechanisms in organizations of public administration and quality management, such as internal audit and control mechanisms; adjustment of the various organs of public administration in accordance with their specific needs to manage corruption risks; establishment of operative standards and procedures in an inclusive manner; development of a code of ethics for particular institutions; provision of clear and written anti-corruption/integrity policies to everyone; and establishment of internal channels for reporting corruption and impermissible conducts.

The second strategic objective was to strengthen repression of corruption, in particular on handling the judicial procedure as well as the cooperation and coordination between institutions in detecting, proving and prosecuting corruption. The State Programme also covered the area of “judicial bodies and their proceedings” concerning the functioning of the judicial system.

The third strategic objective was to strengthen the capacities and independence of the institutions

to implement the laws, with focus on the needs for funds and human resources of law enforcement agencies, with consideration to their increased competences resulting from the new anti-corruption legislation.

The fourth strategic objective was to increase public awareness to combat corruption and conflicts of interest. It is identified that there is considerable room for civil society organizations to raise public awareness.

The fifth strategic goal was to maintain effective coordination of anti-corruption activities, monitoring and evaluation of the implementation of the State Programme 2016-2019. This goal focused on cooperation between the institutions involved in the implementation and monitoring of the State Programme.

The State Programme was developed on the basis of several international instruments and reports, such as the UN Convention against Corruption; reports issued by the European Commission; the list of urgent reform priorities (June 2015); the priority objectives set in the National Programme for adoption of the Acquis (NPAA); GRECO recommendations; the Southeast Europe Strategy 2020; research on the perception on corruption and conflicts of interest and sectoral qualitative analysis; and activities foreseen in the State Programme 2011-2015 which were not implemented but still relevant.

The State Programme reflected the following principles: rule of law; basic facts in planning, monitoring and evaluation of accomplished anti-corruption measures; comprehensiveness and inclusiveness; creation of a strong coalition for the prevention of corruption and conflicts of interest; transparency; orientation to results; flexibility and openness.

Monitoring the implementation of the States Programmes

SCPC has continuously monitored the implementation of the anti-corruption policies and activities, in particular those contained in the State Programmes through a special monitoring system. The competent institutions have been required to collect systematic data regarding the implementation of these activities every year and submit them through a web application. SCPC would then prepare reports on the implementation based on the data submitted. These reports are published on the website of SCPC at <https://dksk.mk/index.php?id=70&L=958>.

To encourage stronger impetus of the competent authorities to implement the State Programmes, SCPC has organized a regular annual conference to assess their implementation. At the conference, representatives of relevant institutions have had the opportunity to suggest tailored activities for the implementation of the State Programmes in accordance with the reform processes in the country.

In addition, the measurement of the implementation involves close cooperation with civil society organizations and contributions from international organizations. For this purpose, a number of projects or programmes were designed.

In 2012, SCPC implemented a project entitled “Promoting transparency and accountability in public institutions” in partnership with the OSCE Mission in Skopje and in cooperation with the Transparency International – Macedonia. This project included the development of a qualitative assessment of the implementation of the indicators in education and sports contained in the State Programme 2011-2015, and other indicators in public administration and media and civil society. A publication entitled “Promoting transparency and accountability in public institutions” was published in December 2012.

In 2013, SCPC continued the established partnership with the OSCE Mission and implemented the project entitled “Promoting the principles of good governance in the implementation of anti-corruption policy” that included the following components:

- 1) preparing three papers for qualitative analysis and evaluation of three sectors highlighted in the State Programme 2011-2015 based on the methodology of the system for national integrity,
- 2) preparing three thematic studies on perception of corruption in three sectors highlighted in the State Programme 2011-2015, and
- 3) promoting capacity building of SCPC and transparency and inter-agency cooperation. The thematic qualitative analysis and research reports contained recommendations for public institutions to prevent corruption. The results from the qualitative analysis and research on the perception of citizens regarding the political sector, the private sector and the local self-government were presented during round table meetings and public debates.

In 2014, the collaboration established in 2012 between SCPC and the OSCE Mission was extended under the project entitled “Promoting cooperation through good governance in the implementation of anti-corruption policy” that included the following activities:

- 1) preparing two qualitative assessments of the implementation of the State Programme 2011-2015 by the Department of Public Administration and the civil society sector. The qualitative analysis and research on the perception of corruption and conflicts of interest within the stated projects 2012-2014 constituted important source materials for preparing the new State Programme 2016-2019;
- 2) strengthening the capacity of local self-governments in developing strategies to manage corruption risks. A series of trainings were conducted for finance employees and internal auditors from local self-governments;
- 3) organizing an international conference on “Requirements and practices of the United Nations Convention against Corruption (UNCAC) in the implementation of the provisions of the preventive measures and asset recovery”.

Other anti-corruption programmes

In 2012, SCPC, in collaboration with UNDP, implemented the project “Support for strengthening the system of integrity at the national and local level”, directed at supporting SCPC in its work with institutions at central and local level so as to introduce and maintain effective solutions in detecting and reducing integrity risks and to encourage the engagement of civil societies. The project included the following components: reducing the risks of corruption at the local level by developing the concept of integrity and appropriate framework of interventions, while taking into account the legal and institutional arrangements; strengthening the dialogue on prevention of corruption and conflicts of interest by establishing systems for social accountability and open public space for an increased role of civil society sector, the private sector, the media and citizens abroad; strengthening the capacities of SCPC for monitoring and implementing the above components, and the development of a web application for the implementation of the State Programme 2011-2015. As a result of the project, ten pilot municipalities have adopted anti-corruption policy documents and appointed persons for reporting corruption in municipalities.

In 2014 and 2015, SCPC in collaboration with UNDP promoted the signing of the anti-corruption policy documents at the local level and by the time of the country visit, 47 municipalities have signed the anti-corruption policy documents. This activity was covered in the Third National Action Plan for Open Government Partnership 2016-2018 where SCPC was defined as a leading institution for the implementation of the policy “Preventing corruption and promoting good governance”.

In 2016, a policy of integrity was signed and published by the Minister of Local Self-Government at the central level. Moreover, the Ministry in cooperation with SCPC prepared an updated version of the policy of integrity in terms of assessment of corruption risks in accordance with the latest

legislative changes in the protection of reporting persons.

In 2015, under the IPA 2010 Twinning project entitled “Support to the efficient prevention and fight against corruption” implemented by the beneficiary SCPC and the implementing partner the Federal Office of Administration in Germany, a public survey was conducted. The survey served as a basis for a public awareness-raising campaign regarding the negative effects of corruption. In 2016, a publication under this project was developed entitled “Guidelines for corruption risk management - addendum to the Risk management guidelines”. The publication was published on the website of SCPC at

https://www.dksk.mk/fileadmin/user_upload/1_CORRUPTION_RISK_MANAGEMENT_-_Adendum.pdf

Cooperation between SCPC and other sectors

In 2007, SCPC initiated signing of the cooperation protocol for the prevention and suppression of corruption and conflicts of interest by 10 institutions. Another eight institutions joined the protocol in 2014. The signatories to this protocol have agreed to collaborate on the prevention and suppression of corruption and conflict of interests, in line with their competencies, in particular on exchanging information, conducting mutually agreed activities, and enhancing coordination.

In 2010, SCPC signed a memorandum for mutual support with regard to the prevention of corruption and conflicts of interest with 17 civil society organizations. In 2014, another five civil society organizations signed the agreement on accession to the memorandum. The memorandum covers cooperation between the signatories on exchanging information and initiatives on the prevention of corruption and conflicts of interest, holding meetings, maintaining cooperation in public debates, workshops, conferences, campaigns, analysis and research on corruption and conflict of interests, mutual professional cooperation in the anti-corruption education, mutual cooperation in vocational preparation of the regulation treats in this area, as well as cooperation in the realization of joint projects of interest in the fight against corruption and conflicts of interest.

In addition, SCPC and the Transparency International – Macedonia, in November 2017, signed a memorandum of cooperation with the objective of conducting activities that would fall under the project “Strengthening of the national integrity system in the Western Balkans Countries and Turkey as well as monitoring the development of anti-corruption reforms”. This project was supported by the European Union and the Embassy of Netherlands. The memorandum covers, inter alia, cooperation to strengthen the effective implementation of the law on whistle-blower protection.

Action plan related to the List of urgent reform priorities - 2015

Based on the recommendations of the Senior Experts Group (recruited by the European Commission) on issues of the rule of law relating to the communication interception revealed in spring 2015, the Government developed an action plan related to the list of urgent reform priorities - 2015. The action plan contained a sub-chapter of measures devoted to anti-corruption policies and legislation. Following the change of the Government, a new plan on urgent reform priorities was adopted, namely Plan 3-6-9.

Risk management and assessments

Conducting risk assessment is one of the obligations stipulated by the Law on Public Internal Financial Control, and the entities of central and local government implement this obligation by adopting strategies for risk management. Established in compliance with the international standards for internal control and internal audit as well as for conditions and manner of conducting the examination for certified internal auditor in the public sector, the public internal financial control system is regulated by the law to cover the financial management and control, internal audit and their harmonisation. Financial management and control, pursuant to the law, is applicable to budget

users in the field of legislative, executive and judicial authorities (central government), funds, the municipalities and the City of Skopje (local government). The new Law on Public Internal Financial Control was adopted in 2009 and its implementation started one year after its entry into force. The first Law on Public Internal Financial Control was adopted in 2007 and its validation ceased on the date of entry into force of the new Law.

All related bylaws have been adopted and adequate handbooks have been prepared and published. Pursuant to Chapter of “Undertaking measures against irregularities and frauds” under the Law on Public Internal Financial Control, heads of the public sector entities are obliged to prevent the risk of the irregularities and frauds and undertake activities against them.

On the basis of the annual risk assessments, the departments of internal audit draft the annual plans for their work.

Typology of Risks		
Main groups of risks		Areas which need to be considered during the process in which potential risks are determined
External	1. Risks related to external environment	- risks stemming from macro-environment (geopolitical, economy, natural disasters, etc.) - policy decisions and priorities made outside the budget user (Parliament, Government, European Commission, etc.) - external partners (citizens, other budget user, external service provider, consultants etc.)
Internal	2. Risks related to planning, processes and systems	- strategy, planning and policy, including policy decisions - operative processes (process design and description) - financial processes and allocation of funds - IT and other system supports
	3. Risks related to the employees and the organization	- employees, competency - ethics and conduct in the organization (tone of the top, fraud, conflict of interest etc.) - internal organization (management, roles and responsibilities, delegation etc.) - safety of employees, items and equipment
	4. Risks from the aspects of legality and rightness	- clarity, alignment and unification of current regulation and rules - other possible outcomes related to legality and rightness
	5. Risks related to communication and information	- methods and channels of communication - quality and timeliness of information

In accordance with the simplified Guidelines on Risk Management published by the Ministry of Finance in March 2015, eight categories of risks in the context of the activities of an organisation are defined:

- Strategic risk in relation to issues such as a lack of rules on monitoring policy, unclear strategies or objectives, unrealistic objectives, and a lack of defined and realisable objectives;
- Operative risk in relation to issues facing the organisation on daily basis, such as a lack of

secured IT system and timely external information, complex rules and performance tasks, and insufficient guidelines;

- Organizational risk in relation to issues such as the insufficient or lack of supervision, management, task delegation, and inadequate distribution of duties;
- Compliance risk in relation to issues such as data protection, lack of efficient regulation, insufficient legal instruments, contradicting work procedures, complex rules, acceptance of unacceptable requests as a result of unclear rules and legal acts;
- Efficiency risk in relation to issues such as a lack of objectives of the supervision or monitoring system;
- Financial risk in relation to issues such as the ineffective management and control of finances of the organisation that gives rise to fraud and irregularities, and the effect of the external factors like the currency exchange rate;
- Reputation risk in relation to issues such as negative external assessment; and
- Other risks.

In June 2017, the Ministry of Finance developed and published [Guidelines for risk management of fraud and corruption](#).

Data on corruption risk assessments conducted will be collected via the module devoted to the monitoring of the implementation of integrity elements within the system for collection and processing of statistical data on prevention and repression of corruption. Activities for full implementation of the system are ongoing.

North Macedonia is one of the beneficiaries of the regional programme implemented by the Regional Anti-corruption Initiative, under which activities will be implemented for provision of a specific IT tool developed based on agreed corruption risk assessment methodology.

The Law on introduction of Quality Management System and Common Assessment Framework for Assessment of the Performance and Delivery of State Service was adopted in 2013. The purpose of the Law is to establish standards of quality management system and common assessment framework in North Macedonia and thus to improve the quality of State services. This Law covers State and local governments as well as all other institutions established by the Constitution or by a law. The Law prescribes the starting date for initiating compulsory introduction of at least the basic standard ISO 9001 in State authorities and other authorities established by the Constitution (from 1 January 2014). It also prescribes the deadline for compulsory start of introduction of (at least) the basic standard ISO 9001 in ministries (by 1 January 2014). The same Law provides basis for introduction and establishment of the Common Assessment Framework (CAF) to be implemented through involvement of employees and self-assessment conducted in accordance with the guidelines prepared by the Ministry of Information Society and Administration which are already published. Conducting self-assessment in determining work processes, as required for introduction and establishment of the QMS and CAF, contributes to identifying vulnerability and exposes corruption risks stemming from organizational and managerial flaws.

Coordinative body formed by the Government monitors and annually reports the progress of the introduction and establishment of the standards for QMS and CAF in compliance with the Law.

As of September 2014, four units of local self-government, five ministries and the State Statistical Office completed the process of introduction of CAF whereby the standards have been established and implemented. SCPC, one ministry and one unit of local self-government initiated the process

of implementation of CAF. Forty-two institutions were ISO 9001:2008 certified, two institutions were ISO 17025 certified, the State Audit Office was INTOSAI certified, nine institutions were in the process of completion of the last stage of ISO certification, and forty-three started the process of ISO certification.

As of December 2016, 29 central level institutions and local level institutions completed the process of introduction of CAF by having the standards established and implemented, and nine central level institution and local level institutions were in the process of introduction of CAF. Out of 110 institutions, 35 institutions initiated activities to start process of ISO certification, 5 institutions were in the process of completion of the last stage in ISO certification and 51 institutions were ISO certified.

As of 2017, the level of implementation of ISO 9001 in the 110 public institutions was as follows: 51 institutions were certified, five institutions were in the last phase of certification process, 35 institutions started the procedure.

So far, the CAF model has been introduced in 29 institutions (17 institutions at central level and 12 institutions at local level).

TAIEX expert mission was held in the period between 25 and 29 January 2016 on the topic “Corruption risk assessment in the public sector”. In the report delivered by the expert engaged in the TAIEX expert mission, the expert concludes that, inter alia, adoption of specific/additional methodologies for corruption risk assessment is not necessary, considering that adequate legal framework is adopted and put in place; however, a gap between the legal framework and its implementation in practice has been identified (in 2016, approximately 50% of the total number of institutions at central level and 25% of the total number of institutions at local level drafted and adopted their strategies, registers and action plans for risk management).

The institutions which are obliged to conduct risk assessment in accordance with the Law on Public Internal Financial Control are currently not all equally advanced in the process of implementation of the obligation. Law enforcement authorities make special efforts to promote risk assessment (including assessment of corruptibility factors by different methodologies) after considering their risk susceptibility. The Customs Administration provides the best practices in this field. The identification, analysis and assessment of risks in the Customs Administration is a continuous process within the internal control system by which organizational elements that are susceptible to risks are specifically subjected to internal control procedures. All employees of the Customs Administration are actively involved in the process of risk identification and assessment. There are specific obligations for the employees of the Customs Administration to report corruption risk and non-compliance with laws and regulations in performing duties. Identification, assessment and monitoring of corruption risks are performed continuously by re-assessment of internal and external factors. The following basic risks are regularly assessed within the Customs Administration: regulatory risk, reputational risk, financial risk, and operational risk. The managerial staff of the Customs Administration has adopted descriptions of work processes and matrices for risk assessment in work processes for all different organisational units of the Customs Administration.

The established internal control systems are revised, upgraded and complemented by the following changes in activities of the organisational units annually.

The Internal Audit Unit, being an independent unit, high in organizational hierarchy, and accountable only to the director of the Customs Administration (Internal Audit Units in this manner are established as mandatory in all public sector entities that have average annual budget/financial plan above 50 million MKD in the last three years), has the following competences and obligations:

- a) establishing and updating records of processes and risks for all organisational units and generally for the Customs Administration;

- b) monitoring and assessing the efficiency and the effectiveness of the internal control system of the Customs Administration and drafting annual reports on this matter;
- c) providing the management of the Customs Administration with assessments and recommendations for improvement of the internal control systems and monitoring of the implementation of the given recommendations.

The Professional Liability Department of the Customs Administration within its competences has prepared a list of risk points in customs' work which is susceptible to corruption. The list is regularly re-assessed and updated. Following the internal controls, the heads of the organizational units submit to the Professional Liability Department their suggestions and proposals based on self-evaluation for the purposes of revising the determined risk points and list of risk-susceptible positions.

To strengthen the prevention of corruptive behaviour of employees to the greatest extent possible, the Customs Administration introduced automated work processes wherever possible, adopted clear and simple rules for conducting customs and excise procedure, and strengthened investigation, intelligence and other law enforcement activities and permanent investment in staff professionalism and promotion of established professional standards. The Customs Administration clearly stresses to all participants involved in any segment of the customs procedure that the corruption risks are institutionally addressed and thus minimizing the incentives and opportunities for risk events.

Effectiveness of public information on anti-corruption measures is seldom assessed and measured. For those available assessments, they are nevertheless seldom directly related to the provision of public information. As examples of the implementation of the article under review, North Macedonia has provided the following:

On 1 October 2015, SCPC organized a workshop for preparation and improvement of the draft text of the narrative part of the State Programme 2016-2019. This workshop was supported by OSCE Mission to Skopje and by the NGO Macedonian Centre for International Cooperation (Makedonski centar za megjunarodna sorabotka - MCMS). During this event, the draft text of the State Programme 2016-2019 was presented and discussed together with the expert opinion provided by international expert whose opinion was obtained under the USAID Programme for Fight against Organized Crime and Corruption implemented by the NGO MCMS. Representatives of State authorities, business associations and civil society organizations took part in the discussions, including representatives of the Assembly of the Republic, the Judicial Council of the Republic, the Council of Public Prosecutors, the Secretariat of the Government, the Ministry of Justice, the Ministry of Information Society and Administration, the Ministry of Finance, the Ministry of Internal Affairs, the Ministry of Economy, the Ministry of Local Self-government, the State Audit Office, the State Election Commission, the Public Revenue Office, the Public Procurement Bureau, the Agency for Audio and Audi-visual media services, the Head of the National Delegation to GRECO, the Association of Local Self-government Units (ZELS), and representatives of the civil society organizations MCMS and Centre for Civil Communication, as well as representatives of the business associations like the Chambers of Commerce of Macedonia and the Business Confederation of Macedonia. The proposals, the risk factors, and problems identified by the participating representatives served as a basis for defining measures and actions in the development of the Action plan for implementation of the State Programme 2016-2019.

After the collection of proposals, the second event was organized in November 2015 specifically for the development of the Action plan. The draft Action plan was developed by four working groups composed of nominated representatives of different State institutions, civil society organizations and business associations. Such composition is in line with the general directions on the methodological approach (the form of the Action plan) provided by SCPC. In the areas of

integrity and ethics, public procurement, concessions and public-private partnership, election process, financing political parties and election campaigns, access to information of public character, asset disclosure and conflict of interest, anti-corruption assessment of legislation and lobbying, two working groups worked on strategic objective 1 which is the strengthening of institutional system and legislation for the prevention of corruption and conflict of interest. The third working group, covering the areas of justice, law-enforcement and inter-institutional coordination and cooperation, worked on strategic objective 2 which is the strengthening of the repression of corruption and strategic objective 3 which is the strengthening of the capacities and independence of the institutions to implement the laws. The fourth working group, covering the areas of public awareness, education, role of the media and the role of the NGO sector, worked on strategic objective 4 which is the increase of the public's participation in the fight against corruption and conflicts of interest.

The CSOs conduct research and regularly keep track on delivered national and international recommendations related to anti-corruption.

The participation was meaningful and systematic (comments, opinions and suggestions were submitted by institutions involved and participating CSOs), especially regarding strategic objective 1 being the strengthening of the institutional system and legislation for prevention of corruption and conflicts of interest, areas 6.1.2 concerning public procurement, concessions and public-private partnership, and 6.1.3 concerning electoral process, political party and electoral campaign funding. Submitted suggestions and opinions served as a basis for identifying and defining measures for the Action plan of the State Programme 2016-2019.

The CSOs were involved in all phases of development of the latest Action plan of the State Programme 2016-2019 for Prevention of Corruption and Prevention and Reduction of Conflicts of Interest.

In accordance with the methodology on monitoring and evaluation of the implementation of the State Programme, SCPC will be conducting research to assess the effects of the activities foreseen in the State Programme 2016-2019 with the support of civil society organizations and international organizations. The research and reports on the implementation of these activities, together with the relevant opinions and recommendations, will reveal the areas in which progress has been made.

- Related documents regarding the implementation of the State Programme 2011-2015:

In December 2014, the OSCE Mission to Skopje of the Democratic Governance Unit, in partnership with SCPC, launched a project for conducting surveys and analysis on the promotion of cooperation through good governance in the anti-corruption policy implementation. The publication is available at <https://www.osce.org/files/f/documents/2/2/152986.pdf>.

The annual reports on the results from the implementation of the State Programme 2011-2015 were published on the [web-site of SCPC](#). These reports were discussed during annual conferences on the implementation of the State Programme.

Possibility to modify the State Programme 2016-2019 following internal and/or external analysis of its implementation is foreseen in accordance with the methodology for efficient coordination of anti-corruption activities, monitoring and evaluation of the implementation (see stage 3 of the strategic objective 5 concerning the evaluation of the implementation).

Report on the implementation of the State Programme 2016-2019 for the period January - December 2016 was published and can be accessed at https://dksk.mk/fileadmin/PDF/Izvestaj_2016-2019.pdf

As a result of the internal or external analysis of the implementation of the State Programme 2011-2015, the methodology on evaluation of implementation was improved.

The anti-corruption measures to be incorporated in the current State Programme were discussed

during working sessions of working groups comprising of representatives of State institutions and interested CSOs. A separate working group was formed for each strategic objective.

In the first stage of the State Programme development, all representatives of working groups were asked to submit proposals which were then circulated among the representatives and later discussed during a working session.

- Other discussions on anti-corruption measures:

Discussion on public consultation on draft-laws (Regulatory Impact Assessment Methodology and use of the Unique Electronic National Register of Legislation portal) and participation of civil society organizations in development of policies was held during two [Agora sessions](#) “Practicing participatory policy making” between May 2015 and March 2016 by the Institute for Democracy “Societas Civilis” - Skopje (IDSCS) which was financially supported by the British Embassy;

Discussion related to the introduction of compliance management systems and measures for prevention of corruption in private sector entities was held during the workshops of IPA 2010 Twinning Project “Support to efficient prevention and fight against corruption” (component 1, activity 1.5) for CSOs and business associations, and during the conference on 5 March 2016 concerning the topic “Compliant Management and Prevention of Corruption in the Private Sector” under the IPA 2010 Twinning Project which was supported by the Ministry of Justice;

Discussion on the possibilities for monitoring the financing of the political parties and the election campaigns was held during the workshop on Civic Control over the Financing of Political Parties and Election Campaigns on 27 May 2015 under the IPA 2010 Twinning Project “Support to efficient prevention and fight against corruption”;

Discussions were held during events and working sessions of the working groups on the priority of prevention of corruption and promotion of good governance and other related priorities incorporated in the National Action Plan on Open Government Partnership. See: [Third National Action Plan on OGP](#), page 6 onwards;

Discussions were held within the campaign/debate cycle “[EU talks](#)” on cooperation with civil society organizations coordinated by the Secretariat for European Affairs, especially with NGO Network 23;

The above discussions resulted in the introduction of new anti-corruption measures or improvement of anti-corruption measures already introduced.

Examples:

The president of the CSO Centre for Civil Communication, following the discussions and suggestions presented at the first workshop for preparation of the State Programme 2016-2019, on 8 October 2015 replied to the additional circular letter of request for proposals sent by the SCPC to State institutions and to CSOs. The suggestions and proposals of the President were discussed by the related working groups (the President of the CSO himself took part in the sessions of the working groups) as a result of which further issues and responding activities in the areas of public procurement and access to information of public character were identified. This is finally reflected in the following parts of the Action Plan for implementation of the State Programme: justification of the activities and defined activity indicators in the area 1.2. concerning public procurement, concessions and public-private partnership (related to monitoring and transparency of public procurement), and partially in the area 1.4. concerning free access to information of public character (due to the need for further analysis).

Recommendations delivered during the discussions held within debate cycle “EU talks - cooperation with civil society organizations” were reflected in the amendments to the Law on

Prevention of Corruption adopted in June 2015 (related to clarification of the obligation for publication of asset declarations and statements of interest submitted by a certain “category” of appointed persons).

Discussion related to introduction of compliance management systems and measures for prevention of corruption in private sector entities was held during the workshops under the IPA 2010 Twinning Project “Support to efficient prevention and fight against corruption” (component 1, activity 1.5). As a result, the interest of business entities and associations in the implementation of the Law on Whistleblower Protection and the related guidelines was improved.

In line with the State Programme for Prevention of Corruption and Prevention and Reduction of Conflicts of Interest 2011-2015, amendments and addenda to the Law on Prevention of Corruption (Official Gazette, No. 97/15) were adopted in June 2015 to introduce the Register of Elected and Appointed Persons as an instrument for consistent verification of compliance with the obligation of the submission of asset declarations and statements of interest to SCPC. Under the Twinning Project, software solution was developed for establishing the electronic register of elected and appointed persons. The Register is fully functional as of June 2016.

In the same period, in direction to further promote the efficiency of the Agency for Management of Confiscated Property, amendments and addenda to the Law on management of confiscated property, property benefit and seized items in criminal and misdemeanour procedure (Official Gazette, No. 97/15) were adopted in relation to electronic exchange of data with the Cadastre and to efficient enforcement of final judgments imposing confiscation measure (beyond the scope of the State Programme).

In line with the State Programme for Prevention of Corruption and Prevention and Reduction of Conflicts of Interest 2011-2015, to introduce specific internal and external channels for whistleblowing in public and private sector as well as systemic institutional whistle-blower protection, a draft law was prepared by the working group for analysis and preparation of amendments to the Law on Prevention of Corruption and to the Law on Prevention of Conflict of Interest. This draft was discussed during the negotiation process between major political parties represented in the Assembly. Following political negotiations in which international actors were involved, MPs proposed the draft Law on Whistleblower Protection in which the draft prepared by the Working group was largely reflected. The Assembly of the Republic passed the Law on Whistleblower Protection in November 2015. The bylaws related to the Law (published in Official Gazette, No. 46/16) were adopted by the Minister of Justice in March 2016. The implementation of the Law on Whistleblower Protection, as per its provisions, started in March 2016.

In August 2015, amendments and addenda to the Election Code (Official Gazette, No. 196/15) were adopted to introduce new prohibitions that apply during the period from the adoption of the decision on calling elections until the completion of elections. These amendments and addenda to the Election Code, inter alia, introduced the obligation of the State Audit Office to notify (within 24 hours) the State Election Commission and SCPC about each objection submitted referring to the violation of legal provisions on financing election campaign (beyond the scope of the State Programme).

In September 2015, the Specialized Public Prosecutor’s Office was established for prosecuting criminal acts related to or deriving from contents obtained by the unlawful communication interception 2008 - 2015. The Specialized Public Prosecutor’s Office is formed in accordance with the Law on Public Prosecutor’s Office for prosecuting criminal acts related to the content of the unlawful communication interception (Official Gazette, No.159/15) (beyond the scope of the State Programme).

On 22 September 2015, SCPC developed and adopted Methodology on Anti-corruption Assessment

of Legislation in order to foster its competence in providing opinions on draft laws. In the direction to incorporate best practices in the corruption proofing of legislation, the State Commission benefits from related activities implemented by the Regional Anti-corruption Initiative under the RAI-UNODC Regional Programme on Strengthening the Capacity of Anti-corruption Authorities and Civil Society to Combat Corruption and Contribute to the UNCAC Review Process.

In the period between November and December 2015, amendments and addenda to the Criminal Code (Official Gazette, No. 196/15 and 226/15) were adopted relating to Article 151 on “Unauthorized wiretapping and audio recording” and relating to other criminal offences, in the direction of the implementation of MONEYVAL recommendations given within the Fourth round of evaluation (beyond the scope of the State Programme).

During the implementation of the IPA 2010 Twinning Project “Support to Efficient Prevention and Fight against Corruption” between July 2014 and October 2016, various activities were conducted in eight components:

- o Component 1: Improving the anti-corruption legal and institutional framework

Activities for assessment of the key laws under the anti-corruption legal framework, provision of recommendations for their improvement, and preparation of related guidelines

- o Component 2: Improving the system of management of conflicts of interest

Activities for assessment of the system and provision of recommendations.

- o Component 3: Building capacity of institutions on prevention and repression

Training activities, workshops, seminars and study visits for representatives of SCPC, the Ministry of Justice, judiciary institutions and law-enforcement agencies.

- o Component 4: Developing legal institutional framework and IT system for collection and processing of corruption prevention and repression statistics.

Development and provision of IT tool for collection and processing of corruption prevention and repression statistics.

- o Component 5: Awareness raising

Survey conducted and report presented on the level and nature of corruption and the visibility and perception of the anti-corruption policy assessed.

Activities for development of e-learning tool for raising public anti-corruption awareness.

- o Component 6: Establishing consistent track record on asset declarations and statements of interests

Development of IT tools, provision of electronic register of elected and appointed persons.

- o Component 7: Improving the monitoring and auditing financing of political parties and electoral campaigns

Activities for assessment of the Electoral Code and the Law on Financing Political Parties, provision of recommendations and guidelines.

- o Component 8: Establishing effective management of confiscated property

Activities for assessment of the Law on Management of Confiscated Property, Property Benefit and Assets seized in Criminal and Misdemeanour Procedure and provision of recommendations and guidelines (in line and beyond the scope of the State Programme).

Risk management statistics (including number of entities that adopted risk management strategies and number of entities that adopted risk registers) are [published](#) (see response related to implementation of Article 9 paragraph 2 of the Convention).

Under the project “Oversight of the Work of the State Commission for Prevention of Corruption by the Public” which was supported by the British Government, NGO Macedonian Centre for International Cooperation (MCMS) conducted activities to assess the performance of SCPC and reported the result on the following executive summaries:

[Executive summary: Quarterly report No. 1 for oversight of the work of the State Commission for Prevention of Corruption \(SCPC\) Achievements in the period from October to December 2016](#)

[Executive summary: Quarterly report No. 2 for oversight of the work of the State Commission for Prevention of Corruption \(SCPC\) Achievements in the period from January to March 2017](#)

[Executive summary: Quarterly report No. 3 for oversight of the work of the State Commission for Prevention of Corruption \(SCPC\) Achievements in the period from April to June 2017](#)

[Executive summary: Quarterly report No. 4 for oversight of the work of the State Commission for Prevention of Corruption \(SCPC\) Achievements in the period from June to September 2017](#)

[Executive summary: Quarterly report No. 5 for oversight of the work of the State Commission for Prevention of Corruption \(SCPC\) Achievements in the period from October to December 2017](#)

Other examples of such assessment are surveys on general knowledge and awareness on prescribed rights or on certain laws, such as the survey commissioned by the Institute for Strategic Research and Education on the Law on Whistleblower Protection conducted between October and November 2016 under the project “[Will there be Whistle-blowers at the Universities? The Possibilities of the Law for Protection of Whistle-blowers and Prevention of Corruption in the Higher Education](#)”. The number of students being surveyed was 501 who came from the faculties of law from three state universities (Skopje, Bitola and Shtip) and one private university (SEE University - Tetovo).

The following is the excerpt from the results:

- 355 surveyed students were not informed about the Law and 7 surveyed students did not respond;
- 139 surveyed students were informed (50 of them had relevant detailed knowledge);
- 64% of the surveyed students considered that the law encourages the reporting of corruption.

Another example, related to the same law, was commissioned by Transparency International – Macedonia between 14 and 16 October 2016 (second survey on public opinion: opinions of employed citizens on reporting unethical, immoral and illicit conduct in firms and institutions, with results published in the publication “[Whistle-blower protection opportunities and practice](#)”, pages 59-72).

400 employees from 24 municipalities (58.2% employees in private sector, 39.1% employees in public sector, 2.7% owners of private businesses) were surveyed. The following is the excerpt from the results:

- 31.7% from the total number of surveyed persons were informed about the Law (32% from private sector, 31% from public sector, 27% from private owners)
- 66.6% from the total number of surveyed persons were not informed about the Law
- 1.7% from the total number of surveyed persons refused to answer

Effectiveness of educational measures on anti-corruption is measured as foreseen by the educational programme activities.

A good example of direct measurement of effectiveness of information and education measures on anti-corruption is the survey related to the project “Anticorruption education for primary school

students“. The methodology being used is the filling out of questionnaires by pupils at the beginning and at the end of the project.

The following are the results of the questionnaires:

Questions	At the beginning of the educational activities (%)	After the educational activities (%)
Have you ever heard about the term “corruption”?	79.6 %	100%
Is the corruption negative phenomenon?	85.9%	100%
Define corruption with your own words - proper answers	65%	93%
Do you think that societies should fight corruption?	87.2%	100%
Do you know how to recognize and how to protect yourself from corruption? And what would you do?	30%	89%

The results of the questionnaires indicate the success and relevance of the project activities. Given the positive results, the Ministry of Education and Science in September 2013 approved the continuation of the anti-corruption education and made it as an extracurricular activity in all primary schools in the country. The government is of the view that there is a need for such programme and that such need was proven by the questionnaires to be successfully addressed considering the raised awareness amongst the pupils.

(b) Observations on the implementation of the article

Under the overarching legal framework based on the Law on Prevention of Corruption (LPC) and the Law on Prevention of Conflicts of Interest (LPCI), the State Programme for Prevention and Suppression of Corruption and the State Programme for Prevention and Reduction of Conflict of Interest, originally separate but later combined, have been adopted as a national anti-corruption strategy. Corresponding action plans were constantly formulated to implement these State Programmes. The latest State Programme (2016-2019), in maintaining a continuity with previous programmes, has established fundamental strategic anti-corruption goals. New amendments to the LPC have been proposed and are to be adopted soon.¹⁰

All State programmes adopted by SCPC have undergone an extensive process of public discussions and review prior to adoption, and have been published on the website of SCPC. SCPC publishes regular and annual basis assessment reports of the implementation of the activities set out in the strategic anti-corruption documents.

Among others, the State Programme 2016-2019 includes objectives in the area of integrity and ethics, free access to information of public character, public procurement and cooperation in the

¹⁰ The authorities of North Macedonia reported that the Law on Prevention of Corruption and Conflicts of Interest of 17 January 2019 replaced the Law on Prevention of Corruption, and the Law on Prevention of Conflict of Interest, and that the new law would be applicable in relation to chapter II of the United Nations Convention against Corruption.

processing of corruption.

The outcome of the monitoring of the implementation of the State programmes has led to the review of legal reforms.

Paragraph 2 of article 5

2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The authorities of North Macedonia continuously implement and promote effective practices to prevent corruption.

I. National strategy and specialized institution with competencies for prevention of corruption on national level

The competencies of SCPC are stipulated in Article 49 of the Law on Prevention of Corruption and Article 21 the Law on Prevention of Conflict of Interest. SCPC also has powers of supervisory authority over the implementation of the Law on Lobbying which was adopted in 2008. Premised on the fact that effective practices include use of instruments and tools that own a preventive character, as well as monitoring and evaluation, SCPC adopts the national strategic anti-corruption documents “State Programmes for Prevention and Suppression of Corruption and State Programmes for Prevention and Reduction of Conflict of Interests” along with an action plan. The competence of SCPC regarding the implementation of the state programmes, as well as coordination and monitoring of the planned activities, is described in details in the response related to paragraph 1 of article 5 of the Convention.

- Corruption proofing of legislation

Please see information provided under paragraph 3 of article 5 of the Convention.

In accordance with its competencies, SCPC provides opinions on draft laws which are of importance for the prevention of corruption. The opinions provided by SCPC were issued upon the request of the authorized authority in relation to corruption and conflicts of interest, their interception and sanction.

SCPC representatives also take part in the working groups as members and are engaged in the preparation of new laws or amendments to laws in the areas essential to combat corruption and conflicts of interest.

In order to promote the competence of SCPC, the Government adopted Guidelines on the cooperation with SCPC by the state administration bodies, public enterprises, public institutions and other legal entities managing state capital. Pursuant to Article 8 of the Guidelines, when the State administration prepares legislative projects or initiates amendments that regulate certain relations, and if they have certain issues of importance for the prevention of corruption, the projects are required to be submitted to SCPC for an opinion.

- Initiatives for instigating procedures to determine liability

SCPC acts upon cases in which there is suspicion of corruption based on complaints/reports

received from citizens or institutions, or, at its discretion, on reports from relevant institutions and information published in the media. If there are reasonable grounds for suspicion, SCPC submits initiative for investigation of the proceedings before the competent authorities for determining criminal offense, disciplinary or other liability. To the Public Prosecutor of the Republic and the Public Prosecutor's Office for Organized Crime and Corruption, SCPC submits initiatives for criminal prosecution based on the findings of the existence of reasonable grounds for suspicion of committing corruption. In order to determine the facts of the cases, SCPC collects necessary information and documents from all relevant institutions which are obliged to submit requested information and documents in written form within determined deadlines. According to the competencies specified in item 5 of paragraph 1 of article 49 of the Law on Prevention of Corruption, SCPC initiates proceedings before the competent authorities for dismissal, assignment, removal or undertaking other measures of liability against elected or appointed persons, officials, or responsible persons in public enterprises, public institutions and other legal entities disposing of State capital (hereinafter: elected and appointed officials). Information regarding the initiatives raised by SCPC is published in the annual reports for the work of SCPC.

- Related to elections

The competencies of SCPC are set out in the Electoral Code which prescribes its active role during the electoral processes in the country. The State bodies, institutions and individuals, in order to intercept a violation of the law and ethical norms in the election process, may request an opinion from SCPC which will provide guidance on whether they may or may not undertake certain actions during the election period, such as the recruitment procedures for an indefinite and definite period, public procurement procedures, procedures for lease of State property and other forms of disposal of State property. In terms of the provisions of the Electoral Code, the participants of the campaign have an obligation to submit to SCPC, the State Audit Office and the State Election Commission financial statements for the designated account of the election campaign within the legal deadlines. SCPC publishes all financial statements submitted by the broadcasters and participants of the election campaign on its website. Information about the actions provided by SCPC during the election processes is published in the annual reports of SCPC.

- Asset declarations

SCPC is the competent authority to record and monitor the assets and changes in assets of elected and appointed officials in the manner prescribed by the Law on Prevention of Corruption and to keep a register of elected and appointed officials. More information about the system of recording and monitoring of assets and interests is provided in the response related to paragraph 5 of article 8 of the Convention. In June 2015, the Law amending the Law on Prevention of Corruption introduced the register of elected and appointed officials which began to apply one year after its entry into force. For the implementation of the Law, on 14 July 2015, SCPC adopted the form for submission of data for the Register and the Guidelines for filling in the form for the submission of data. In July 2015, SCPC adopted the Rulebook on the content, form and manner of keeping of the Register of elected and appointed officials. In 2016, as part of the software solution for the Register of elected and appointed officials, under the IPA2010 Twinning Project "Support to efficient prevention and fight against corruption", a software solution for electronic filing and submission of the forms of assets was developed and would be put in function after the adoption of the necessary legislative changes.

According to Article 33 of the Law on Prevention of Corruption, the elected and appointed person must, no later than 30 days from the date of election or appointment, fill out and submit an asset declaration with a detailed inventory of real estate, movable property of greater value, securities, claims and debts, as well as other property in his or her possession or ownership of his family members, by explaining the basis of title over the declared property along with a statement certified

by the notary public for revoking protection of banking secrecy with regard to all accounts in domestic and foreign banks. The mentioned persons are also obliged to fill out an asset declaration within 30 days after the termination of office. The asset declarations are submitted to SCPC and the Public Revenue Office. Elected or appointed person is obliged to report changes in assets or, within 30 days, to report any increase in his/her property or the property of a member of his/her family, such as building a house or other buildings, the purchase of real estate, securities, cars or other moving objects in the value that exceeds twenty times of average net wages in the previous quarter. The same obligations apply to officials employed in State bodies, municipal administration and the administration of the City of Skopje (Article 33-a of the Law on Prevention of Corruption), whose asset declarations and the report on the changes thereof are submitted to the body in which they are employed. Data from the Register, the asset declarations and the report on changes in assets represent public information and the declarations and applications submitted by elected and appointed officials are published on the website of SCPC with the exception of information which is protected by the Law on Personal Data Protection.

In respect of an elected or appointed person, and other official or responsible person in public enterprises, public institutions or other legal entities disposing with State capital, on the basis of Article 36 of the Law on Prevention of Corruption, upon the request submitted by SCPC, a procedure may be initiated by the Public Revenue Office for examining the property.

If the results from the examination procedure do not prove that the examined property is acquired or increased with reported and taxed revenues, the Public Revenue Office will make a decision on the personal income tax. The basis for calculating the tax is the difference between the value of the property at the time of acquisition and the proved amount of funds for its acquisition. The tax on undeclared earnings is calculated at the rate of 70%.

SCPC continuously and indiscriminately checks data from asset declarations in proceedings on submitted reports/complaints, as well as on its own initiative (ex officio), through regular checks and through systematic examination of the asset declarations, as prescribed by the criteria for the determination of examinable asset declarations, by a certain random ID number from the database. In accordance with Article 63 of Law on Prevention of Corruption, a fine of 500 to 1,000 euros in MKD equivalent shall be imposed on a person who does not submit a binding asset declaration and information about property, business, employment or other data provided for in Articles 22, 23, 24, 26, 27, 28, 29, 32, 33 and 34 of this law. Information about SCPC monitoring over the asset declarations of elected and appointed persons is published in the annual reports concerning the work of SCPC. The website of SCPC has a specially marked menu titled “Register of elected and appointed officials” and “Forms” and published data “Assets of elected and appointed officials” (information about elected officials). Users who are nominated persons from State institutions responsible for verification and/or election and appointment of officials are authorized to gain access to input data in the database of the [web-application of the Register of elected and appointed officials](#).

- Conflicts of interest

SCPC, in accordance with the Law on Prevention of Conflict of Interest, acts upon cases concerning the area of conflicts of interest. More information about the system for prevention of conflict of interest is provided in the response related to paragraph 4 of article 7 of the Convention. The procedure for determining conflicts of interest is implemented by SCPC ex officio, based on an application of another person, an anonymous report, or at the request of an official or the head of the authority/body where the official is employed. The term “conflict of interest” is defined by the Law on Prevention of Conflict of Interest as a situation of conflict between the public powers and duties in public interest and the private interest of a public official, in which the official has a private interest that affects or may affect the exercise of his/her public powers and duties. According to

Article 23 of the Law on Prevention of Conflict of Interest, if SCPC finds a conflict of interest, it is obliged to inform and request from the official to remove the conflict of interest within 15 days of submission of the decision. If the official responds by acting appropriately upon the recommendation, SCPC shall curtail the procedure. In case of failure to act in accordance with the recommendation, SCPC shall decide on whether a public reprimand is warranted, and if positive, such public reprimand shall be brought to the attention of the official. If, within 15 days of receipt of the decision, an official does not take actions to remove the conflict of interest and to inform SCPC, SCPC, before the competent authority, shall initiate termination of public office or duties, or shall submit an initiative for instigating a disciplinary procedure. Measures for public notice are published on the website of SCPC. According to Article 20-a of the Law on Prevention of Conflict of Interest, the President, members of the Assembly of the Republic, mayors, ambassadors and other persons appointed to positions abroad, elected and appointed persons in the Assembly and the Government, State administration and other State bodies, judiciary, public enterprises, institutions and other authorities of central and local government established by law, in taking the exercise of public powers and duties, within 30 days, are required to submit a statement on the existence or non-existence of conflicts of interest to SCPC. Civil servants and employees in State administration and other State bodies, judiciary, public enterprises, institutions and other legal entities of the central and local government established by law, and persons employed by temporary employment agencies with the authority, within 30 days, are required to submit a statement on the existence or non-existence of conflicts of interest in the authorities/bodies where they perform their duties and where they are employed (Article 20-b). The Law amending the Law on Prevention of Conflict of Interest effective in 2012 provides the competence of SCPC that it has the authority to check the statements of interest. In March 2012, the Government adopted the Decree on checking the contents of Statements of Interest whereby SCPC examines the content of the statements and adopts conclusions on existence or non-existence of conflicts of interest. Situations where a conflict has been found are cases of officials engaged in the conflict of interest in the accumulation of functions, or, in violation of Article 9 of the Law, by simultaneous execution of two or more functions. Information collected by SCPC on specific conflict of interest cases is published in the annual reports for the work of SCPC. In 2016, SCPC developed a unique form of declaration of nonexistence of conflict of interest for the needs of contracting authorities in the implementation of public procurement procedures in accordance with the Action Plan for implementing the strategic priorities of the Public Procurement Bureau.

- Education

SCPC has the competencies to undertake activities for education of institutions responsible for detecting and prosecuting corruption and other types of crime and to cooperate with other State authorities in preventing conflicts of interest. SCPC intensively and continuously implements training in the area of prevention of corruption and conflicts of interest with representatives of State bodies, State institutions and the judiciary. In this regard, SCPC delivered generic trainings on the topic "Anti-corruption measures and ethics in the Public Service" which were organized by the Ministry of Information Society and Administration. As part of its cooperation with the Academy of Judges and Public Prosecutors, SCPC has organized trainings for representatives of the judiciary. SCPC also implemented a series of trainings in collaboration with several ministries and State bodies, such as the Ministry of Defence, Ministry of Education and Science, Ministry of Labour and Social Policy, Public Revenue Office, etc. The topics of the trainings touch upon the prevention of corruption, conflicts of interest, and protection of whistleblowers. In cooperation with USAID, UNDP, OSCE, there were a number of trainings for representatives of local government on issues relating to the prevention of corruption, conflicts of interest, and integrity. In the first half of 2017, under the Memorandum of cooperation between SCPC and the Directorate for Execution of Sanctions, four trainings were held for employees of penitentiary institutions on topics of prevention

of corruption, conflict of interest and protection of whistleblowers.

Under the EU-funded project “Strengthening National Capacities for Combating Organized Crime and Corruption”, during May and June 2017, technical activities were conducted to finalize the operative development of the platform for E-learning which was initiated under the Twinning Project IPA 2010 “Support for effective prevention and combating corruption”. Information about all anti-corruption educational activities conducted by SCPC is provided in the annual reports and website of SCPC.

Since 2012, SCPC, in cooperation with the NGO Centre for Civil Communication and financial support of the Royal Norwegian Embassy, started the implementation of the project “Anti-corruption education of the pupils”. The project received positive expert opinion from the Bureau for Development of Education and the Ministry of Education and Sciences. Under this project, anti-corruption programme for education of primary schools students was developed and introduced into regular classes. After successfully completing the first Civil Education project for six elementary schools as an extra-curricular subject, a policy paper was prepared and submitted to the Ministry of Education and Sciences with recommendations for the introduction of anti-corruption educational content for all elementary schools within the regular school curriculum. The programme of anti-corruption education of pupils and the manual are published on the website of SCPC.

The importance of the introduction of anti-corruption content in secondary education is recognized in the implementation of a pilot project of anti-corruption education of students in secondary education as part of extracurricular activities under area 4.4. “Importance of education in combating corruption as a need in the State Programme for Prevention and Suppression of corruption and prevention and reduction of conflict of interest 2016-2019. For this purpose SCPC established cooperation with the Ministry of Education and Sciences.

In addition, during 2017, memoranda of cooperation in providing practical training for students and expanding scientific cooperation have been signed between SCPC and State universities in Skopje, Shtip and Bitola.

A positive example of the efforts undertaken by faculties of law is creating an anti-corruption legal clinic that will function as a modern and innovative programme incorporated in the curriculum of the faculty of law under the Higher Education Act and internal regulations. This project is supported by the OSCE Mission.

II. Lobbying, regulation and oversight

The Law on Lobbying, adopted in 2008, regulates the principles of lobbying, the criteria for becoming a lobbyist, registration of lobbyists, the register of lobbyists, rights and obligations of lobbyists, activities that are not considered lobbying, oversight of lobbying, and the measures that could be imposed on lobbyist for violating the provisions of this law. Articles 24 to 27 under chapters VII and VIII stipulate that oversight of the lobbying is carried out by SCPC and that applicable types of measures to be imposed on lobbyists are determined by SCPC in case of violation. The practice showed a general lack of awareness and use of this law in practice and there are no lobbyists registered in accordance with the Law based on recent data. Under component 1 of the IPA 2010 twinning project “Support to efficient prevention and fight against corruption”, an expert report has been prepared on the Law on Lobbying.

III. Whistleblower protection

The Law on Whistleblower Protection, adopted in November 2015, and the related bylaws are applicable from 18 March 2016. Information about the channels for protected reporting and system

for whistleblower protection is provided in the response under paragraph 4 of article 8 of the Convention. As one of the activities under IPA 2010 Twinning project “Support to efficient prevention and fight against corruption”, the [Handbook on Whistleblower Protection](#) was drafted and published on the website of SCPC.

SCPC is obliged to submit to the Assembly of the Republic special annual report on the number of whistleblower reports received, within the annual report on the performance of SCPC (Article 15 of the Law on Whistleblower Protection). Upon commencement of the implementation of the Law and bylaws thereof, institutions began submitting to SCPC information about designated authorized persons for the receipt of whistleblower reports. Acting in accordance with Article 2 (1) of the Regulation on protected internal reporting, a total of 29 public sector institutions submitted the notice of authorized person for the receipt of whistleblower reports in the public sector. Acting in accordance with the provisions of the Law on Whistleblower Protection and regulations, 42 public sector institutions submitted semi-annual reports on received whistleblower reports for the first reporting period - from 13 March to 30 June 2016, while for the second reporting period - from 1 July to 31 December 2016, 18 public sector institutions submitted such semi-annual reports. The analysis of the semi-annual reports concludes that in both periods there were no recorded whistleblower reports in public institutions. The published reports drafted by SCPC and the Ministry of Justice contain information about the implementation and recommendations for measures to be undertaken to promote the implementation of the Law on Whistleblower Protection.

IV. Risk management

Conducting Risk Assessment is one of the obligations stipulated by the Law on Public Internal Financial Control. Entities of central and local governments implement this obligation by adopting strategies for risk management. The typology of risks assessed includes corruption risks. Pursuant to the Law on Public Internal Financial Control (Chapter “Undertaking measures against irregularities and frauds”), heads of the public sector entities are obliged to prevent the risk of irregularities and frauds and to undertake activities against them. The risk assessment itself is carried out by the heads (managers) in coordination with a person designated (as coordinator) by the head of the budget user (the management structure). As risk management is part of the planned activities related to the establishment of financial management and control, the coordination of the activities for establishing the risk management processes is carried out by the Head of the Financial Affairs Unit. The internal audit recommendations contained in the audit reports are usually aimed at strengthening the existing control mechanisms or introducing new controls. The management structure is in charge of implementation of the recommendations.

In the development of its strategic and annual plans, the internal audit cooperates with the management structure for determining the systems and processes that need to be prioritized for revision (systems and processes that to the knowledge of the management structure and internal audit unit is related to certain risks). Although the internal audit provides support to the management structure in the risk management processes, the management structure is the ultimate structure responsible for managing the risks. The internal audit unit has access to the risk registers in order to assess the general functioning of the internal control. Representatives of the internal audit unit participate in the meetings of the management structure related to risk management. On the basis of the risk assessments, the internal audit unit drafts the strategic and annual plans for their work.

The introduction of the basic standard ISO 9001 in State authorities and other authorities which are established by the Constitution is by law compulsory. Conducting self-assessment in determining working processes, as required for the introduction and establishment of the QMS and CAF, contributes to identifying vulnerability and corruption risks stemming from organizational and managerial flaws.

More information is provided in the response related to implementation of paragraph 1 of article 5 of the Convention.

V. Limitation of discretionary powers

The Law on Prevention of Corruption stipulates that any elected, appointed or official person shall, in the exercise of discretionary powers, render decisions in good faith, taking into account all the facts and circumstances of the case and the principle of legality and justice. Serious risk of widespread and unlimited discretionary powers of individual positions is recognized and treated in strategic documents of SCPC. It was even recognized in the State Programme for Prevention and Suppression of Corruption and Reduction of Corruption 2011-2015 as a problem and risk factor. In January 2017, SCPC formed a working group to conduct an analysis of discretionary powers of public officials. The working group also included representatives of relevant authorities, such as the Ministry of Justice, the Legislation Secretariat and the Ministry of Information Society and Administration. For the purpose of a more organized process and unified analysis, the Working group adopted Methodology for conducting analysis of discretionary powers, with a unified self-assessment questionnaire to be completed by State administration authorities. In September 2017, the Methodology was considered and accepted by the Government. Until 30 October 2017, 33 State administration bodies submitted reports with self-completed questionnaires to SCPC. Following the analysis conducted by the Working group, SCPC informed the Government about the completion of the exercise with recommendations. This measure is related to corruption proofing of legislation.

b) Observations on the implementation of the article

SCPC has taken measures on a wide scope of issues for the prevention of corruption. The Commission publishes periodic assessment reports on the implementation of these measures and activities pursuant to the State Programme. The Commission also strives to cooperate with other national bodies and ensure public participation in the fight against corruption.

Among specific corruption prevention measures specified in the State Programme, two new mechanisms ensuring legal and institutional integrity are corruption proofing of legislation and corruption risk assessment. North Macedonia has also put in place regulations to collect and publish declarations of interests and assets from public officials.

In addition, SCPC delivers trainings in the field of prevention of corruption, whistleblowers and prevention of conflicts of interest to representative of State institutions. In this regard an E-learning platform was designed. North Macedonia has laws regulating lobbying and whistleblower protection, and is also taking steps towards the limitation of discretionary powers among public officials.

Paragraph 3 of article 5

3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Corruption proofing of legislation

SCPC has legal competencies to perform evaluation of legal instruments to determine whether they contain provisions which are appropriate and do not contain corruption risks. As already stated in the responses under paragraph 2 of this article of the Convention, SCPC has the competence to provide opinions on draft laws of importance to the prevention of corruption in order to approve the legislation from the anti-corruption aspect. SCPC also takes part in the working groups for preparation of new laws or amendments of the areas essential to combat corruption and conflicts of interest.

In September 2015, based on Strategy SEE 2020 Anti-corruption dimension measure reflected in the list of urgent reform priorities (June 2015), SCPC adopted a [Methodology for anti-corruption assessment \(corruption-proofing\) of legislation](#) and established the Department for anti-corruption assessment of legislation in which five people were employed on a temporary basis. Based on the recommendation given by the experts engaged by the Regional Anti-corruption Initiative (RAI), SCPC amended the Methodology to harmonize it with the Regional Methodology. The Methodology for anti-corruption assessment of legislation is an instrument that improves and methodologically upgrades the implementation of the competence of SCPC stipulated by the Law on Prevention of Corruption and the Law on Prevention of Conflict of Interest that SCPC is the competent authority to look into the proposed legislation, provide opinions and thus work on detecting and preventing risks of corruption and conflicts of interest that may derive from legislation. The [Methodology for anti-corruption assessment of the legislation](#) is published on the website of SCPC.

In February 2016, the Government amended paragraph 1 of article 68 of the Rules of Procedure which regulates the materials submitted to the Government for review and adoption, and stipulates that ministries and other State bodies must obtain opinion from SCPC (previous review) for all draft laws which are subject to regulatory impact assessment.

In 2016, SCPC conducted an in-depth analysis of the legislation based on the established methodology, produced and published on its website the [special reports on the conducted assessment](#), such as the reports on anti-corruption assessment of the Law on Weapons, the Academy of Judges and Public Prosecutors, the Law on State Market Inspectorate, the Law on Textbooks for Primary and Secondary Education, and the Law on Construction Products.

In order to promote the process of anti-corruption assessment of the legislation in the country and implementation of the RAI's methodology for anti-corruption assessment of legislation, trainings were organised by the RAI, in cooperation with SCPC and the Regional Cooperation Council, in November 2016 and in March 2017. The purpose of the trainings was to strengthen the capacity of relevant institutions and the civil society sector in the implementation of anti-corruption assessment of legislation at the national level.

As already stated in the responses related to paragraph 2 of this article of the Convention, SCPC started the process of analysing the discretionary powers of officials in State administrative bodies. The Government accepted a methodology for conducting analysis of discretionary powers and obliged the designated authorities of the State administration for the self-assessment of existing laws and regulations to prescribe their legal powers and to prepare reports to be submitted to SCPC in accordance with the Methodology.

All State programmes for prevention and suppression of corruption and conflict of interest with their action plans envisioned measures and activities which aimed at specific legislative changes, amendments or new laws in order to eliminate any prospects for emerging risks of corruption or conflicts of interest during their implementation. For example, the State Programme 2016-2019 envisioned activity for the adoption of amendments to the Law on Public Procurement which was

already implemented in September 2018.

SCPC regularly publishes annual reports to evaluate the achievement of the activities set out in the strategic anti-corruption documents-State programmes.

Legislative procedure of the Assembly of the Republic

Pursuant to the Rules of Procedure of the Assembly of the Republic, prior to its adoption, legislation proposals are subject to review and opinion in legislative procedure by the relevant working bodies and the Legislative Committee of the Assembly.

Governmental procedure and methodologies

The Legislation Secretariat is established by the Law on the Government as an independent expert service provider. In accordance with the Law on the Government, the Legislation Secretariat is competent for securing the consistency of the legal system, the harmonization of the laws and the other regulations with the Constitution and the international agreements ratified in accordance with the Constitution. In addition, the Legislation Secretariat performs its function in securing the methodological unity in the drafting of the laws and other regulations in view of their expert legal conceptualization of the law and other regulations, which should be consistent, harmonized and aligned with the legal system established by the Constitution, and the technical shaping of the texts of the laws and the other regulations drafted by the Ministries and the other State administration bodies by providing expert legal opinions to them. In that manner, the Legislation Secretariat:

- provides expert assistance for the State administration bodies and the administrative organizations and participates in the drafting of the laws and other regulations;
- studies issues of the legal system and provides expert opinions and proposals to the Government regarding those issues; and
- ensures the publication of the regulations and other acts of the Ministries and other State administration bodies and organizations in the “Official Gazette”.

In line with the efforts of North Macedonia devoted to the integration with the EU and the process of approximation of the national legislation with that of the EU, the Legislation Secretariat assumes an important role in assessing the level of approximation of the regulations drafted by the State administration with the legislation of the EU. In addition to the tasks of ensuring the consistency of the legal system and providing legal opinions regarding the approximation of the draft laws and other regulations with the Constitution and the ratified international agreements, the Legislation Secretariat was also delegated the competence to provide expert opinions regarding the approximation of the national legislation with that of the EU and the regulations of the municipalities upon request by the Ministry of Local Self-Government.

In the process of approximation of the national legislation with that of the EU, the role of the Legislation Secretariat includes analysing the existing national laws and the adequacy of regulations, directives, decisions and other regulations of the EU, providing opinion regarding the necessity of the changes or amendments of the laws or adopting new laws that have been adequately harmonized, and providing opinions about the possible manners of implementing the newly amended laws.

In 2008, the process of Regulatory Impact Assessment (RIA) was introduced with the adoption of the first Methodology on RIA. In 2009, the Government adopted the new Methodology on RIA. In 2010, the Methodology was upgraded to improve the established practices of 2009. This Methodology provides a clear view on all processes implemented by the Government to establish quality in the policy creation process. The latest version of the Methodology was adopted in 2013

and it is still applicable. The purposes of the Methodology are to define:

- the process of conducting RIA and the expected results from the RIA process;
- the process of involvement of stakeholders;
- the organization and management of the RIA process; and
- the roles and tasks of all participants in the process;

The implementation of the Methodology on RIA is supported by the information system E-Government and Unified National Electronic Register of Legislation (ENER). Pursuant to the Rules of Procedure of the Government, legislation proposal to be submitted for governmental review is subject to RIA with the exception of laws that are undergoing urgent procedure for adoption, laws on ratification of international agreements, amendments to laws for terminological harmonization with other laws, draft Budget of the Republic and the Law on the execution of the Budget of the Republic. Based on the results of the RIA analysis, the aims and the desired effects of the proposed laws are defined. The aims should be realistically achievable and related to the policies and the priorities of the Government and should be defined in concrete and measurable terms. The analysis conducted through the RIA process determines:

- Cost / profit for the budget;
- Costs for businesses, especially SMEs, other groups and citizens (depending on the application of the law proposal);
- Economic impact, social impact, environmental impact, health and other effects depending on the area;
- Costs and resources needed for the implementation, monitoring, control, and evaluation of each of the possible solutions;
- Possible acceptance/resistance during the implementation; and
- Negative side effects and influences.

Based on the comparison between the possible solutions (options), the best is one that would most effectively contribute to the achievement of the established aims of the law.

In 2013, methodology for ex-post assessment - Methodology for assessment of the implementation of the regulation was introduced. In September 2017, the Methodology on analysis of the discretionary powers of the officials with public authorisations was considered and accepted by the Government.

The following are the examples of the implementation of the provision under review:

- Anti-corruption assessment of Laws - methodology and the published reports ([MK](#));
- The published [reports](#) on anti-corruption assessment;
- The Brochure of the Regulations Governing Regulatory Impact Assessment ([MK](#)) (please note that pursuant to recent amendments to the Rules of Procedures of the Government, in order to obtain the opinions, suggestions and positions from all parties concerned, ministries shall publish the draft report and the draft text of the proposed legislation on the Single National Electronic Register of Regulations (ENER), within 20 days (extended from 10 days previously) prior to the submission of the report to the Ministry of Information Society and Administration. Upon receipt of the opinion of the Ministry of Information Society and Administration, the reporting ministry shall prepare a proposal report signed by the respective minister guaranteeing the accuracy and the quality of the implemented RIA. Together with the proposed legislation, the ministry shall submit the RIA proposal report and other papers to the General Secretariat of the Government;
- Single National Electronic Register of Regulations ENER ([MK](#)) ;
- The published methodology and handbook on assessment of the implementation of the regulation ([MK](#)).

(b) Observations on the implementation of the article

SCPC conducts proofing of legislation regarding corruption risks, which has been facilitated by mandatory obligations on other government bodies to submit draft legislation to SCPC for such review (Art. 68, Rules of Procedure of the Government). The Commission also adopted a Methodology for anti-corruption assessment (corruption-proofing) of legislation and established the Department for anti-corruption assessment of legislation.

Paragraph 4 of article 5

4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

North Macedonia has ratified all the relevant conventions, also including Council of Europe Civil Law Convention on Corruption (ratified in 2002) and Criminal Law Convention on Corruption (ratified in 1999).

SCPC has the competencies to cooperate with the relevant national authorities of other countries and with international organizations in the field of prevention of corruption. In demonstrating its legal competences, SCPC equally pays attention to developing regional and international cooperation with similar bodies and institutions through the participation in regional and international conferences and meetings, seminars and workshops on preventing and combating corruption and conflict of interest as well as the implementation of study visits, and to organizing regional and international workshops in the country. When participating in international events, SCPC presents the experiences and progress of implementation of the laws and the overall anti-corruption agenda of the country. Cooperation of this kind allows for the exchange of knowledge and experience with other countries on the fight against corruption and conflict of interest. In addition, many memoranda of understanding and cooperation have been signed with other anti-corruption bodies, organizations, initiatives and networks (listed below). SCPC established good relations and cooperation with the representatives of foreign and international institutions/organizations. In order to establish continuous cooperation with international institutions in the country and to implement joint projects, SCPC signed various cooperation instruments to achieve the purpose.

Drawing on its experiences and knowledge in international standards and practices, SCPC created strategic projects aimed at improving the overall legal, institutional and personal capacity to effectively combat corruption. Given that such projects involve the development of complex anti-corruption tools, in recent years, SCPC has established and maintained partnerships with leading international institutions and associations, such as the EU, UNDP, OECD, OSCE and embassies of different countries involved in anti-corruption projects.

North Macedonia is a member country of the Regional Anti-corruption Initiative (RAI) since 2007 and has been benefitting from activities conducted within its work plans and projects. North Macedonia is one of the priority beneficiary countries in the RAI - UNODC Southeast Europe

Regional Programme on Strengthening the Capacity of Anti-corruption Authorities and Civil Society to Combat Corruption and Contribute to the UNCAC Review Process, funded by the Austrian Development Agency.

As of 2010, SCPC is a member within the RAI established Integrity Experts Network on (IED). From May 2011 to May 2012, SCPC held the presidency of the IED network.

SCPC is a member of the Ethics and Integrity Network of ReSPA (Regional School of Public Administration). It is also the national coordinator in the Anti-corruption Network for Eastern Europe and Central Asia (ACN) OECD.

In addition, SCPC is an associate partner of Southeast European Leadership for Development and Integrity (SELDI) under the project "Civil Society for Good Governance and Anti-Corruption in South East Europe: Capacity building for monitoring, counselling and awareness rising". The implementation of the project started in May 2018.

North Macedonia has participated in the following activities:

RAI Summer School for Junior Anti-corruption Practitioners

<http://rai-see.org/summer-school-for-junior-ac-practitioners/>

RAI activities on corruption risk assessment

<http://rai-see.org/corruption-risk-assessment/>

RAI activities on corruption proofing of legislation

<http://rai-see.org/anti-corruption-assessment-of-laws/>

RAI activities on whistleblowing

<http://rai-see.org/whistleblowing/>

RAI activities on regional data exchange on asset disclosure and conflict of interest

<http://rai-see.org/regional-data-exchange-on-asset-disclosure-and-conflict-of-interest/>

RAI activities on asset recovery

<http://rai-see.org/asset-recovery/>

SCPC has signed several cooperation instruments, including the following:

- Memorandum of understanding with UNDP for the project "Fighting Corruption to Improve Governance" and for implementing a campaign to raise awareness for anti-corruption and promotion of the TV video clip titled "If there was no corruption ...";
- Memorandum of cooperation with UNDP towards the implementation of the project "Support for strengthening the system of integrity at the national and local level";
- Memorandum of understanding with USAID regarding the implementation of the intervention package for the State Commission that followed as a result of successful implementation of the memorandum of understanding with USAID for preparing the State Programme for Prevention and Suppression of Corruption. This support was adopted in the State Programme Action Plan 2007 – 2011. Guidelines were prepared for managing conflict of interest, trainings on conflict of interest were provided for the judicial authorities, and a strategic plan for the promotion of public relations SCPC and others was developed;
- Memorandum of understanding between UNDP Bratislava Regional Center and SCPC;
- Several memoranda of understanding for projects supported by the OSCE 2012 – 2014
- EU-funded project IPA 2010 Twinning Project "Support to efficient prevention and fight against corruption," in which SCPC was the main beneficiary institution and its partner was the

Federal Office of Administration in Germany. The project was implemented between July 2014 and October 2016. SCPC was the national coordinator in the Anti-corruption Network for Eastern Europe and Central Asia (ACN) OECD;

- Memorandum of understanding between the Crown Agents, the British Embassy and SCPC for the project “Support for the development of the system of whistleblowers in Macedonia”;
- Memorandum of cooperation between SCPC and the Agency for prevention of corruption in Montenegro;
- Memorandum of cooperation between SCPC and the Anti-Corruption of the Republic of Serbia; and
- Memorandum of cooperation between SCPC and the Anti-fraud Agency in Catalonia.

(b) Observations on the implementation of the article

North Macedonia participates in the Regional Anti-Corruption Initiative and the Ethics and Integrity Network of the Regional School of Public Administration. SCPC has also established cooperation with foreign anti-corruption authorities and maintains partnerships with several international or regional organizations, such as the European Union, the Organization for Economic Cooperation and Development and the Organization for Security and Cooperation in Europe, on corruption prevention issues.

Article 6. Preventive anti-corruption body or bodies

Paragraph 1 of article 6

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:

- (a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;
- (b) Increasing and disseminating knowledge about the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

SCPC is established by the Law on Prevention of Corruption (2002). SCPC came into operation on 12 November 2002 when its members were appointed by the Assembly of the Republic. The Law on Prevention of Corruption regulates prevention of corruption in the exercise of power, public authorizations, official duty and policy, measures and activities for prevention of conflicts of interest, measures and activities for prevention of corruption in performing matters of public interest by legal entities related to the exercise of public powers, as well as measures and activities for prevention of corruption in companies.

Manner of operation

SCPC performs its competencies at meetings attended by more than half of its members. Decisions are taken by a majority vote of the members. The Rules of Procedure determine the manner of the work of the Commission. When it comes to the review of certain issues, SCPC may request the

opinion of experts or invite such persons to participate in the meeting.

Informing the public

SCPC informs the public of the measures and activities and their results through annual reports, press conferences, press releases and its website. The determination of the informing method depends on the nature of the issues to be decided by SCPC.

Competencies

The competencies of SCPC are set out in Article 49 of the Law on Prevention of Corruption and Article 21 of the Law on Prevention of Conflict of Interest.

“Article 49, Law on Prevention of Corruption:

(1) The State Commission shall have the following competencies:

- adoption of a State Programme for Prevention and Suppression of Corruption and Action Plan for its implementation;
- adoption of annual programmes and plans for work of the State Commission;
- preparation of opinions on draft-laws relevant for prevention of the corruption;
- raising initiatives with competent bodies for conducting control of the financial and material operation of political parties, the union and citizens' associations and foundations;
- raising initiatives for instituting a procedure before competent bodies for dismissal, assignment, removal or undertaking other measures of liability against elected or appointed persons, officials or responsible persons in public enterprises or other legal entities disposing of state capital;
- raising initiative for criminal prosecution against elected or appointed persons, officials or responsible persons in public enterprises, public institutions and other legal entities disposing of state capital;
- acting in cases of conflict of public and private interests, defined by law;
- registration and monitoring of the assets and the change in assets of elected and appointed persons and responsible persons in public enterprises and other legal entities disposing of state capital, in the manner determined by this Law;
- keeping a register of elected and appointed persons, responsible persons in public enterprises, public institutions or other legal entities disposing of state capital;
- adoption of the Rules of Procedure;
- submission of the annual report on its operation and on the measures and activities undertaken to the Assembly of the Republic of Macedonia, and its delivery to the President of the Republic, the Government of the Republic of Macedonia and the public media;
- cooperation with other state bodies regarding the repression of corruption;
- cooperation with corresponding national bodies of other states and with international organizations in the field of repression of corruption;
- undertaking activities related to education of the bodies competent for discovering and prosecuting acts of corruption and other types of criminal;
- performance of other activities established by law; and
- adoption of documents with regard to internal organization and systematization of jobs in the Secretariat.

(2) The State Commission shall inform the public about the measures and activities undertaken and about their results.

Article 21, Law on Prevention of Conflict of Interest:

The State Commission has the following competences:

- Adopts the State Program with an Action Plan on Prevention and Reduction of Occurrences of Conflicts of Interest,
- Provides opinions on draft laws of significance to prevention of conflicts of interest,
- Reviews cases of conflicts between public and private interests as determined by this or other Law,
- Submits reports on its work and the undertaken measures and activities to the Assembly of the Republic of Macedonia and provides the report to the Government of the Republic of Macedonia and the mass-media,
- Co-operates with other state authorities in the prevention of occurrences of conflicts of interest,
- Undertakes educational activities with a view to detection of conflicts of interest pursuant to this and other laws,
- Imposes the measures specified by this law,
- Notifies the public of cases of conflict of interest, and
- Performs other activities as determined by this and other laws.”

More information on SCPC competencies is presented in the responses under paragraph 2 of Article 5 of the Convention.

SCPC owns supervisory authority over the implementation of the Law on Lobbying.

In accordance with the Law on Whistleblower Protection, SCPC is one of the institutions which a whistleblower may report to using the protected external reporting channel. In addition, SCPC is the competent authority to receive and act upon notifications from whistleblowers in case of a violation of their rights.

SCPC provides representatives of State bodies and institutions and the judiciary with trainings in the area of prevention of corruption and conflicts of interest. More detailed information on the implementation of anti-corruption education is provided in the responses related to the implementation of paragraph 2 of Article 5 of the Convention.

More information about the system of monitoring anti-corruption strategies and the activities for dissemination of knowledge about prevention of corruption and conflicts of interest, and awareness raising is provided in the responses on the implementation of paragraphs 1, 2 and 3 of Article 5 of the Convention.

Surveys and campaigns to raise public awareness against corruption

Since 2003, SCPC has been undertaking activities to raise public awareness on corruption. Brochures, manuals, posters, guides, and educational videos (in Macedonian, English and Albanian language) were issued by SCPC to inform the public of its competencies and related questions and requests that are commonly referred to SCPC.

Since 2003, SCPC, either with the support of international organizations or on its own, has been organizing workshops, debates and training on prevention of corruption and conflicts of interest, ethics, integrity, and protection of whistleblowers.

The first public opinion survey, which was requested by a public institution, on corruption in the country was conducted in 2006 by SCPC under the project PACO-Impact of the Council of Europe in which the issue of victimization by corruption was included. The Institute for Sociological,

Political and Juridical Research in Skopje was contracted for the implementation of this project. The aim of the research was to determine the public perception of the intensity and extent of corruption in the country and to identify areas vulnerable to corruption. The results of the survey serve to define the areas vulnerable to corruption and to establish specific measures to reduce the opportunities of corruption in such areas. This research covered the level of victimization, or victims of corruption (who was asked for a bribe or had given a bribe) in order to achieve certain goals, and whether and in how many cases the citizens reported corruption. This research included 1600 respondents and involved discussions with several focus groups from different areas, namely the health, justice and higher education sectors and civil servants. A research report entitled "Public opinion on corruption in the country" was produced.

Information on corruption surveys is given in the response related to the implementation of paragraph 1 of Article 5 of the Convention.

In September 2009, SCPC launched the campaign for raising public awareness of the negative effects of corruption and the role of the State Commission. SCPC prepared brochures, posters, radio and the music video called "Let's clear up corruption", and distributed the brochures and posters to State authorities, local government, courts, universities, clinical centre and in places where are most accessible to citizens in order to engage them in the campaign and enlist their support for the fight against corruption. Brochures were printed and 5,500 copies were distributed through three daily newspapers. Besides printed materials, video and radio spots were designed, developed and broadcasted under the media campaign on national and local TV and radio stations for free lasting 15 days involving 18 television stations and 12 radio stations. USAID provided financial assistance to implement the campaign.

The performance, transparency and accountability of SCPC was monitored under the project implemented by the NGO Macedonian Center for International Cooperation (MCMS) with financial support from the British Embassy. The project started in September 2016 and completed in March 2018.

In November 2017, SCPC and Transparency International Macedonia signed a Memorandum of Cooperation with the objective of carrying out activities of common interest under the collaboration project called "Strengthening of the national integrity system in the Western Balkans and Turkey and monitoring of the development of anti-corruption reforms".

Active participation in working groups

Representatives of SCPC participate in working committees and groups on drafting laws, bylaws, strategies and programmatic documents, such as the Working Group on drafting Strategy for reform of public administration, Working group on drafting a strategy to promote the positive context of the Law on Whistleblower Protection, Working group on amendments to the Law on Whistleblower Protection, Working group on review and update of the methodology for relevant statistical system for monitoring of anti-corruption policy, Working committee for integration to NATO and preparation of annual national programmes for NATO membership, Working group on analysis of discretionary powers of public officials, Working group on drafting the national strategy for preventing fraud and protecting the financial interests of the EU, Working group on drafting open government partnership national action plan related to priority 4 "Preventing corruption and promoting good governance principles" etc.

Examples:

- **In cooperation with the Bureau for Development of Education (BDE) and the Ministry of Education and Science (MES), SCPC successfully implemented the pilot activity on anti-corruption education for primary school pupils as an extracurricular activity, and has been**

continuing and expanding the initiatives by introducing anticorruption content in the curricula of the primary and secondary education system. The overall goal of the project is to achieve longstanding impact through adequate anti-corruption education programme suitable for pupils (Target group: 7th grade pupils). Under the Project, SCPC, in cooperation with foreign experts, conducted trainings for teachers in four primary schools in Skopje, Gostivar and Shtip in October 2012. The trainings contributed to successful methodological implementation of the anti-corruption education programme. The project produced a special handbook for teachers. The following are the content of the teaching programme for pupils:

- Lectures – Anti-corruption terminology, meanings, the possibilities for protection and preventive action to corruption activities;
- Interactive workshops – Anti-corruption education workshops where students are placed in a dilemma situation to decide on a particular course of action (life line game);

The following are the methods of conducting anti-corruption education:

- Crosswords with words related to corruption;
- Barometer (list of 10 statements and explanations);
- Awards for best anti-corruption educational works prepared by students such as competitions for best drawings, power point presentations, plays, informative texts, video clips etc.;
- Questionnaires to be filled out by pupils at the beginning and at the end of the project to measure the effect of the programme. The results of the questionnaires indicate the success and relevance of the project activities. Given the positive results, the Ministry of Education and Science approved the continuation of the anticorruption education as an extracurricular activity in all primary schools in the country in September 2013.

As the final report of the project, the policy paper containing the final observations and recommendations for the introduction of anti-corruption education as an extracurricular activity in all primary schools and as a regular section in citizen education was drafted. In September 2013, the Ministry of Education and Science approved the continuation of the anti-corruption education as an extracurricular activity in all primary schools in the country, and later approved its extension to high-schools. On the basis of this approval, activities to construct the educational programme for high-school students are planned to be implemented in accordance with the State Programme for Prevention and Suppression of Corruption and Prevention and Reduction of conflict of Interest under the Action plan 2016-2019.

Anti-corruption education programme for primary schools and related handbook are [published](#).

Total budget allocated for anti-corruption education for primary schools, for years 2012-2014: 10.000,00 Euros

Total budget allocated for anti-corruption education for high-schools (new programme under development for years 2016-2018) was 30.650,00 Euros.

- Generic trainings (within the annual programmes adopted by the Ministry of Information Society and Administration) on “anti-corruption measures in the public service” conducted by trainers from the State Commission for Prevention of Corruption and the Administration Agency (in 2013, 77 civil servants attended the training, in 2014, 52 civil servants attended training on the same topic, and in 2015, 52 civil servants were also trained on anti-corruption measures in the public service) were provided for civil servants. Under the Annual Programmes of the Ministry of Information Society and Administration on Generic Trainings for Administration (civil and public servants), trainings on the topic “Anti-corruption measures and ethics in state service” including the subject of Whistleblower Protection were conducted in cooperation with SCPC (29 administrative servants were trained in 2016 and 31 administrative servants were trained in 2017).

- In 2013, the Tax Academy (of the Public Revenue Office), in cooperation with SCPC, organized five trainings on the topic “Prevention of Corruption and Conflicts of Interest” covering tax enforcement officers, tax inspectors, tax controllers and desk employees.
- The following activities were organized by the State Commission for Prevention of Corruption under the IPA 2010 Twinning project “Support to efficient prevention and fight against corruption” 2014-2016:
 - Conference on Compliance Management Systems in the Private Corporate Sector was held on 10 March 2016 with the participation of more than 80 representatives from the private corporate sector and State institutions. The aim of the conference was to increase the awareness in the private sector on the importance of introduction of risk and compliance management systems in the corporate sector in order to prevent corruption. Through this conference, the corporate sector representatives acquired the understanding of the obligation to put in place the internal mechanisms in their companies for whistleblower protection and protected reporting of possible corrupt behaviour;
 - Conference about “Integrity in the Local Self - Government”, which was held on 5 May 2016, was visited by more than 60 mayors and representatives from the local self-government and central Government, the State Commission for Protection of Corruption, the EU Delegation and the Embassies of Germany and Slovenia;

Trainings on prevention and repression of corruption were implemented (target group identified, training needs assessment and training programme delivered, trainings conducted). The training needs of both prevention and repression were taken into consideration. A total of 36 trainings and workshops were provided for 347 participants consisting of judges, public prosecutors, agency for management of confiscated property, mayors and other relevant stakeholders. Training needs were evaluated for SCPC, Academy for Judges and Public Prosecutors, Customs, Ministry of Interior, Ministry of Justice. 27 trainers for future trainings were educated to provide trainings on “Integrity” based on their own experiences. The following are the details of the trainings:

- Four one-day seminars on the topic of “Integrity for Members of Parliament” joined by a total of 100 participants from the Assembly of the Republic between May 2015 and June 2016;
- One congress day entitled “Integrity Day” joined by 60 participants consisting of mayors and staff of local municipalities in May 2016;
- One congress day on the topic of “Compliance Management Systems” joined by five participants from business sector and 20 participants from non-governmental organizations in November 2015;
- One congress day on the topic of “Compliance Management” joined by 100 participants from private companies, chambers, and public institutions in March 2016;
- One two-day workshop on the topic of “Investigative Reporting on Corruption - Improved Cooperation between the Press and Public Information Officers and the Investigative Journalists” joined by ten government spokespersons and ten journalists in September 2015;
- Two two-day workshops on the topic of “Raising awareness of anticorruption by using and E - learning system” joined by 26 participants of SCPC in September 2016;
- One one-day workshop on the topic of “Civic control over financing of political parties and election campaigns” joined by 10 participants of non-governmental organizations in May 2015;

- One two-day workshop on the topic of “Financing political parties and elections” joined by 10 participants of state institutions and 10 participants from non-governmental organizations in December 2015;
- Four workshops lasting 38 days in total on the topic of “Development of two guidelines for auditing political parties and electoral campaigns” joined by staff of SAO between December 2015 and March 2016;
- One congress day on the topic of “Advanced methods of monitoring on the financing of political parties and electoral campaigns” joined by 60 participants from political parties, State institutions and non-governmental organizations in October 2016;
- One one-day workshop on the topic of “Financing of political parties - information day” joined by 20 participants from political parties and State institutions in May 2016;
- Two two-day workshops on the topic of “Inter-institutional Cooperation” joined by 16 participants from almost all cooperating institutions in January and February 2016;
- One congress - day on the topic of “Inter-institutional cooperation” joined by 20 participants from almost all cooperating institutions in April 2016;
- One workshop on the topic of “Best practices in conducting financial investigations” lasting three days joined by 11 participants from financial investigations and inter-institutional teams in April 2016;
- One workshop lasting three days on the topic of “Legal changes concerning proceeding against legal persons” joined by 15 participants consisting of judges, prosecutors, custom - officers and police - officers in April 2016;
- Two three-day workshops on the topic of “Guidelines for addressing non unified case - law” joined by 14 participants from courts in June and August 2016;
- One two-day workshop on the topic of “Financial frauds, tax evasion, usage of illegal funds for personal benefits” joined by 20 representatives of law enforcement institutions in October 2016;
- Four workshops lasting one to five days each on the topic of “Confiscating property” joined by participants consisting of judges, public prosecutors, members of SCPC, staff of the agency, police officers, financial police officers and customs officers in February, May and August 2016;
- One three-day workshop on the topic of “International cooperation in processing cases of corruption” joined by 23 participants from different law enforcement institutions in May 2016;
- Two five-day workshops on the topic of “New methods of protecting whistleblowers, informants, collaborators and undercover - agents” joined by 9 participants consisting of judges, prosecutors, police and financial police directorate in April and August 2016;

At the official closing conference, the project leaders, resident twinning advisers and component leaders gave a presentation on the project results, success and potential for sustainability to more than 90 invited representatives from different ministries, institutions, mass media and non-governmental organizations which are active in the field of prevention and fight against corruption. The conference also announced a number of guidelines and manuals which were elaborated by the project team to the public.

For training and awareness raising activities, funds were allocated and spent from the budget of IPA

2010 Twinning project 2014-2016: for Component 5 (Awareness raising) in the amount of 89.170,00 Euro and for Component 3 (Building capacity of institutions on prevention and repression - trainings) in the amount of 175.641,00 Euro.

➤ Other:

[Conference on the International Anti-corruption day, 2015](#)

[Programmes of the Academy for Judges and Public Prosecutors Initial training programme](#)

[Continuous professional development - Judges and prosecutors](#)

[Programme for administration in courts and public prosecutors offices](#)

In 2008 and 2009, SCPC launched a general campaign about the detrimental effects of corruption under which video-spot was broadcasted on national and local media, and posters and brochures on the competences of SCPC were distributed to institutions and disseminated to citizens. The video and the posters were published on the website of SCPC and available for download.

SCPC holds thematic conferences, which are public and open to all, to present the progress of the implementation of the State programmes.

Research on citizen's perceptions on corruption and qualitative analysis on anticorruption measures in different sectors were conducted in cooperation between SCPC and OSCE. Results were presented to the public in which non-governmental organizations were invited.

The following brochures were prepared and distributed to employees of State and public institutions (all available for download at the [web-site](#) of SCPC):

- Guide on conflicts of interest management;
- Handbook on conflicts of interest; and
- Handbook on conflicts of interest and integrity.

In cooperation with the Academy for Judges and Public Prosecutors, anti-corruption trainings are continuously conducted for representatives of the judiciary.

Numerous trainings are conducted for representatives of local self-government (in the period between 2011 and 2012 on the topic of conflicts of Interest and between 2013 and 2014 on integrity system).

In cooperation with the private sector (business community), the Code of Business Ethics is drafted and adopted. Following the adoption of the Code, trainings were provided for representatives of the private sector.

(b) Observations on the implementation of the article

SCPC was established in 2002. As an autonomous and independent national anti-corruption body, it is assigned a variety of preventive and repressive functions against corruption, including monitoring and promoting the implementation of the State Programmes and educating the authorities responsible for detection and prosecution of corruption (Art. 49, LPC and Art. 21, LPCI). In line with these competencies, SCPC has taken measures on a broad scope of issues for the prevention of corruption. This authority has organized trainings in various educational levels on the topic of prevention of and fight against corruption. In addition, SCPC has launched some campaigns to raise public awareness on the effects of corruption. SCPC strives to cooperate with other national bodies and ensure public participation in the fight against corruption.

The Commission publishes periodic assessment reports on implementation of these measures and activities pursuant to the State Programme. In addition, it conducts proofing of legislation regarding

corruption risks, which has been facilitated by mandatory obligations on other government bodies to submit draft legislation to SCPC for such review.

Paragraph 2 of article 6

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

SCPC, established in 2002, is an independent institution specialized for anti-corruption that has a central role in initiating preventive and repressive activities against corruption and conflict of interests in accordance with the Law on Prevention of Corruption. According to Article 47 of the Law on Prevention of Corruption, SCPC is autonomous and independent in carrying out the works defined by law, has the capacity of a legal entity, and is composed of seven members.

“Article 47, Law on Prevention of Corruption:

- (1) The State Commission shall be independent and autonomous in performance of the works defined by law and shall have a capacity of a legal entity.
- (2) The State Commission shall be composed of seven members.”

These seven members are appointed by the Assembly of the Republic for a term of four years, eligible for one reappointment. Among its members, SCPC elects its president for a term of one year with the right to another appointment (Art. 48 LPC).

“Article 48, Law on Prevention of Corruption:

- (1) The members of the State Commission shall be appointed by the Assembly of the Republic of Macedonia for a term of office of four years, with the right to one more re-appointment.
- (2) The State Commission shall elect a president from among the members appointed in accordance with paragraph 1 of this Article for a term of office of a year, with the right to one more re-appointment.”

Article 48-a of the LPC contains the requirements to be appointed as a member of the State Commission.

“Article 48-a, Law on Prevention of Corruption:

A person fulfilling the following requirements can be appointed a member of the State Commission:

- to be a citizen of the Republic of Macedonia and to have a permanent place of residence in the Republic of Macedonia, and
- to have a university education in the field of legal and financial activities and anti-corruption, to enjoy a reputation for performing the office and at least eight years of work experience.”

The process to advertise and hire the members is provided in Article 48-b of the LPC.

“Article 48-b, Law on Prevention of Corruption.

(1) The Assembly of the Republic of Macedonia shall publish the announcement for appointing the members of the State Commission in the “Official Gazette of the Republic of Macedonia” and in at least two daily newspapers, one being published in Macedonian language and one published in the language spoken by at least 20% of the citizens who speak an official language different than Macedonian language.

(2) The announcement referred to in paragraph (1) of this Article shall have duration of 15 days from the day of its publication in the “Official Gazette of the Republic of Macedonia”.

(3) The principle of equitable representation shall be taken into consideration when electing the members of the State Commission.

(4) The Commission on Election and Appointment Issues of the Assembly of the Republic of Macedonia shall prepare a draft list of applied candidates and shall submit it to the Assembly of the Republic of Macedonia.

(5) The labor relation of the member of the State Commission, provided that he/she is in labor relation, shall be in abeyance, as from the day of the appointment as a member of the State Commission up until the day of termination of the term of office.”

There is no prescribed appeal procedure against the decision of the Assembly on the appointment of SCPC members.

The salary and other benefits of the members of SCPC are determined in accordance with the law that prescribes salaries of elected and appointed officials. SCPC members belong to the category of the appointed officials. SCPC members report their work to the Assembly of the Republic.

The work of SCPC is supported by the services of its Secretariat which is established in accordance with the Law on Prevention of Corruption to perform professional, administrative and technical assisting activities for SCPC (Art. 48-h, LPC). The Secretariat is headed by the Secretary-General who is appointed and dismissed by the State Commission. The Secretary-General and the staff of SCPC Secretariat have the status of civil servants.

“Article 48-h, Law on Prevention of Corruption:

(1) A Secretariat as a professional service of the State Commission shall be established for the purpose of carrying out the professional, administrative and technical works of the State Commission.

(2) A general secretary appointed and dismissed by the State Commission shall manage the Secretariat.

(3) The general secretary and the employees in the Secretariat of the State Commission shall have the status of civil servants.”

In accordance with the Law on Prevention of Corruption, Articles 48-e and 48-f, the Assembly of the Republic shall dismiss SCPC member before the expiry of the term of office on proposal of the Commission on Election and Appointment Issues in certain cases.

“Article 48-e, Law on Prevention of Corruption:

(1) The Assembly of the Republic of Macedonia shall dismiss the member of the State Commission before the expiry of the term of office on proposal of the Commission on Election and Appointment Issues if:

- he/she requests so himself/herself;
- he/she is convicted of a criminal offense for which an effective sanction of imprisonment in

duration of more than six months is imposed, and

- he/she has permanently lost his/her ability for performance of the office.

(2) The State Commission shall determine the fulfilment of the requirements for dismissal referred to in paragraph (1) of this Article by majority of votes of the total number of members and shall submit an initiative for dismissal of a member of the State Commission to the Assembly of the Republic of Macedonia.

Article 48-f, Law on Prevention of Corruption:

When a member of the State Commission is dismissed in accordance with the provisions of Article 48-e of this Law, the Assembly of the Republic of Macedonia shall publish an announcement for appointment of a member of the State Commission who shall have a term of office until the expiry of the term of office of the dismissed member.”

SCPC determines the fulfilment of the above requirements for dismissal by majority of votes of the total number of members and submits an initiative for dismissal of a SCPC member to the Assembly of the Republic.

SCPC’s internal organization is adequately staffed with employees with experience of both public and private sectors. SCPC is supported by its own secretariat and is operated with an independent budget which is a special item in the Budget of the Republic. In 2014, in order to improve its operations through the implementation of international methods for assessing the quality of work and management, SCPC implemented ISO 9001: 2008 standard and acquired the CAF standard (common assessment framework).

The fourth round evaluation report of GRECO recommended that the financial and personnel resources of SCPC for the performance of its competencies in conflicts of interest, lobbying and asset declarations should be increased as a matter of priority. As a result of the recommendation, the budget increased and the staff capacity of SCPC improved. The Budget of SCPC in 2015 was increased by 45% as compared to previous years. SCPC is continuously making efforts for further increasing the budget in view of its real needs identified for the implementation of its increased responsibilities. Along with the amendment of the regulation on systematization of jobs in SCPC, its capacities in corruption proofing of legislation were increased following the formation of the unit for anti-corruption assessment of legislation in which five persons were employed on a fixed-term agreement. Following the expiration of the agreements, out of 51 envisaged post vacancy under the Act on systematization of jobs in the Secretariat of SCPC, 22 were filled as the administrative servants.

Every year SCPC identifies the need for staff training, after which preparation of the training programme that defines priority areas for training of the civil servants begins. The training for employees is mainly conducted as part of the annual programmes of generic trainings organized by the Ministry of Information Society and Administration. Activities aimed at strengthening the capacities of SCPC are incorporated in the State Programme 2016-2019. The members and employees of SCPC participated in numerous seminars, workshops, study visits and internships for gathering comparative knowledge and positive experience in the field of anti-corruption.

SCPC prepares annual reports on its performance and submits them to the Assembly of the Republic for review. The reports are sent to the President of the Republic, the Government, and the media (but only for their information). The annual reports are published on SCPC web-site. On the annual performance report, SCPC regularly informs the Assembly of the Republic of its staff and financial condition.

SCPC, as the main beneficiary institution of IPA 2010 Twinning Project “Support to efficient prevention and fight against corruption”, participated and benefited from over 40 activities which

were structured in eight project components aiming at the promotion of legal and institutional anticorruption framework, the strengthening of capacities and awareness through trainings and development of IT tools for keeping records, verifying asset declarations and statements of interest, and collecting and processing of statistical data for monitoring of anti-corruption policy. The project started in July 2014 and concluded successfully in October 2016.

Under IPA 2010 Twinning Project “Support to the efficient prevention and fight against corruption”, an analysis of the Law on Prevention of Corruption and Law on Prevention of Conflict of Interest with recommendations was delivered. In addition to that of the legal framework, an analysis of the institutional structure of SCPC with recommendations was undertaken to consider opportunities for certain changes regarding the model of the key institution for the prevention of corruption at national level.

SCPC needs additional financial and human resources in order to ensure efficient and smooth operation and to achieve broad competences as defined in the Law on Prevention of Corruption and Law on Prevention of Conflict of Interest. Due to the limited financial resources, the specialized training for employees is insufficient. The Budget of SCPC for 2017 was decreased by 13%.

The following table presents the budget of SCPC from 2005 to 2016.

Budget of the State Commission for Prevention of Corruption												
Year	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
in thousands MKD	12.120	11.293	21.719	22.424	16.910	14.073	18.114	22.333	22.856	21.776	32.049	34.822
Note: Supplementary Budget of SCPC for 2017 is decreased by 13%.												
Staff of the State Commission for Prevention of Corruption												
Year	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Members	7	7	7	7	7	7	7	7	7	7	7	7
Secretariat employees	6	12	10	14	13	16	17	17	18	17	21	23+5

Annual reports on SCPC performance that SCPC submits to the Assembly of the Republic are published at <https://www.dksk.mk/index.php?id=55>.

Under the project “Oversight of the Work of the State Commission for Prevention of Corruption by the Public”, NGO Macedonian Centre for International Cooperation (MCMS), supported by the British Government, conducted activities to assess the performance of SCPC. The following are the executive summaries published by MCMS:

[Executive summary: Quarterly report No. 1 for oversight of the work of the State Commission for Prevention of Corruption \(SCPC\) Achievements in the period from October to December 2016](#)

[Executive summary: Quarterly report No. 2 for oversight of the work of the State Commission for Prevention of Corruption \(SCPC\) Achievements in the period from January to March 2017](#)

[Executive summary: Quarterly report No. 3 for oversight of the work of the State Commission for](#)

[Prevention of Corruption \(SCPC\) Achievements in the period from April to June 2017](#)

[Executive summary: Quarterly report No. 4 for oversight of the work of the State Commission for Prevention of Corruption \(SCPC\) Achievements in the period from June to September 2017](#)

[Executive summary: Quarterly report No. 5 for oversight of the work of the State Commission for Prevention of Corruption \(SCPC\) Achievements in the period from October to December 2017](#)

(b) Observations on the implementation of the article

SCPC is an autonomous and independent anti-corruption body composed by seven members (Art. 47, LPC). The seven members of SCPC are appointed and can be dismissed by the National Assembly, and are subject to a four-year term with the possibility of reappointment for another term (Art. 48(1), LPC). The procedure of appointment includes a public announcement of the vacancy in the Official Gazette, as well as in two newspapers (Art. 48-b, LPC). Once appointed by the Assembly, there is no appeal procedure against this decision.

SCPC submits annual reports on its performance to the Assembly for solely information purposes.

SCPC has its own secretariat and its budget is separately presented within the National Budget. Though the budget allocated to SCPC is steadily increasing, its financial and human resources remain insufficient as the mandate of the Commission constantly expands. Shortage of specialized training for SCPC employees has also been identified. At the time of the country visit, SCPC was dysfunctional owing to collective resignation of its members.¹¹

It is recommended that North Macedonia take measures to ensure that SCPC has operational capacity and is allocated adequate resources to fulfil its broad mandates, including providing the trainings necessary for its staff to carry out their functions.

Paragraph 3 of article 6

3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

North Macedonia notified the Secretary General that the authority that may assist other States Parties in developing and implementing specific measures for the prevention of corruption is the State Commission for Prevention of Corruption.

(b) Observations on the implementation of the article

SCPC is the designated preventive authority under article 6, paragraph 3, of the Convention.

The information requested according to the article was provided to the Secretariat of the Conference

¹¹ The authorities of North Macedonia reported that the members of the State Commission for the Prevention of Corruption were appointed on 8 February 2019.

of the States Parties to the United Nations Convention against Corruption and published on the UNODC website. This would be sufficient to other State Parties for the identification of the competent authorities in specific anti-corruption activity areas.

Article 7. Public sector

Paragraph 1 of article 7

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:

(a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;

(b) That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;

(c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;

(d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The Law on Local Self-government regulates, inter alia, the competencies of the municipalities, the organization and work of the municipal authorities and the municipal administration. Municipal authorities are the council and the mayor.

The Council is the body that represents the citizens and makes decision pursuant to the competencies of the municipality. The Council is composed of citizens' representatives who are elected through general, direct and free elections with secret voting. The term of office of the members of the Council is four years. The membership of the Council cannot be revoked.

The mayor is elected every four years through general, direct and free elections with secret voting. The Law on Local Self-government contains provisions on preventing conflicts of interest which is in line with the provisions of the Law on Prevention of Conflict of Interest. The employees of the municipal administration are civil servants who perform professional, normative, legal, enforcement and administrative-supervisory tasks, and therefore the Law on administrative servants applies. For the employees of the municipality administration who perform technical and assisting tasks, the provisions of labour regulations apply.

The new Law on Public Sector Employees (LPSE), adopted in February 2014 and being in force from 13 February 2015, regulates the general principles, the classification of jobs, the records, the types of employment, the general rights, duties and obligations, the mobility, as well as other general issues regarding public sector employees (Art. 1, LPSE).

“Article 1 LPSE

This Law shall regulate the general principles, the classification of jobs, the records, the types of employment, the general rights, duties and obligations, the mobility, as well as other general issues regarding public sector employees.”

The LPSE covers the persons employed by public sector employers, i.e. the bodies of the State and local government and other State bodies established in accordance with the Constitution and law, and the institutions that perform activities in the field of education, science, health, culture, labour, social protection and child protection, sports, as well as other activities of public interest established by law, and organized as agencies, funds, public institutions, and public enterprises established by the Republic or the municipalities, the City of Skopje, as well as the municipalities in the City of Skopje (Art. 2, LPSE).

“Article 2 LPSE

(1) Public sector employers (hereinafter: the institutions), in accordance with this Law, shall be:

- the bodies of the state and local authority and the other state bodies established in accordance with the Constitution and law and
- the institutions that carry out activities in the field of education, science, health, culture, labour, social protection and child protection, sports, as well as other activities of public interest established by law, and organized as agencies, funds, public institutions, and public enterprises established by the Republic of Macedonia or the municipalities, the City of Skopje, as well as the municipalities in the city of Skopje.

(2) Public sector employees shall be the persons that are employed at any of the employers referred to in paragraph (1) of this Article.

(3) The functionaries, that is, the persons who got a mandate to carry out an office at presidential, parliamentary or local elections, the persons that have been given a mandate to carry out an office in the executive or judicial authority by way of election or appointment made by the Assembly of the Republic of Macedonia or by the bodies of the local authority, as well as the other persons who, in accordance with the law, are elected or appointed to carry out an office by the holders of the legislative, executive or judicial authority, in terms of this Law, shall not be deemed public sector employees.”

In this regard, persons who have received a mandate to perform a function in presidential, parliamentary or local elections, the persons who have received a mandate to perform their functions in the executive or judicial power through election or appointment by the Assembly of the Republic or by local government bodies, as well as other persons who, according to the law, are elected or appointed to the office of the legislative, executive or judicial authority, are not covered by LPSE.

Insofar as employment is concerned, issues that are not regulated by the LPSE or not prescribed by the LPSE for an explicit application of separate laws and collective agreement(s), the general regulations on labour relations shall apply. The exceptions are the military and civilian personnel serving in the Army of the Republic, the authorized officials in the Ministry of Defense, the Ministry of Interior, and the State administration bodies under the Ministry for internal affairs, as well as in the Intelligence Agency, who all fall under the governance of the provisions of chapters III

(Categorization of Job posts in public sector) and IV (Records of Public Sector Employees) of the LPSE.

Article 5 (Principle of equal conditions, equal access to work, adequate and equitable representation), and provisions of chapters III (Classification of Jobs in the Public Sector), IV (Records of Public Sector Employees), IV-a (Employment in the Public Sector) and VII (Mobility of Public Sector Employees) of the LPSE, shall apply to assistive-technical personnel. General labour regulations shall apply to other matters related to employment relations and collective agreements.

The Law on Administrative Servants (LAS) regulates the status, classification, recruitment, promotion, professional improvement and vocational training, performance measurement and other matters regarding the labour relations of the administrative servants (Art. 1(1), LAS).

“Article 1 LAS

(1) Subject of the Law herein shall be the status, classification, recruitment, promotion, professional improvement and vocational training, performance measurement and other matters regarding the labour relations of the administrative servants.”

This Law covers the administrative servants as defined in Article 3:

“Article 3 LAS

(1) An administrative servant shall be an individual employed for performing administrative activities in some of the following institutions:

- the state and local government authorities and other state authorities established in accordance with the Constitution and a Law,
- the institutions performing activities in the field of education, science, health, culture, labour, social protection and child protection, sport, as well as other activities having public interest laid down in a law, and are organized as agencies, funds, public institutions and public enterprises established in the Republic of Macedonia or the municipalities, the City of Skopje, and by the municipalities in the City of Skopje.

(2) Depending on the institution where the administrative servant is employed, he/she may be:

- a civil i.e. another type of servant as established by means of a special law servant in the institutions referred to in paragraph (1), indent 1 of this Article; or
- a public officer in the institutions referred to in paragraph (1), indent 2 of this Article.”

In accordance with Article 2 of the LAS, administrative affairs shall include administrative, expert-administrative, normative-legal, executive, statistical, administrative-supervising, planning, IT, human resource, material, financial, accounting, informative or other activities of administrative character.

The relevant standards in employment of public sector employees are set out in the LPSE as follows:

“Article 5 LPSE (Principle of equal conditions, equal access to work, adequate and equitable representation)

(1) The institutions, in accordance with the principle of equal conditions and equal access of all interested candidates to the jobs, shall have an obligation to announce the vacancies and the conditions for their fulfillment by way of an internal, that is, public announcement.

- (2) The institutions shall have an obligation to plan employment by way of annual plans in line with their needs, and based on a Methodology for Planning of Public Sector Employment in accordance with the principle of equitable representation.

[...]

Article 6 LPSE (Principle of expertise and competence)

- (1) The employment in the public sector shall be carried out by a public announcement and the most professional and most competent candidate for the job shall be selected in a transparent, fair and competitive selection procedure.
- (2) The promotion in the public sector shall be carried out by publishing an internal announcement and, based on the performance assessment, the professionalism and the competency of the candidates, the best candidate for the job from among the employees in the institution shall be selected in a transparent, fair and competitive selection procedure.
- (3) The selection procedure referred to in paragraphs (1) and (2) of this Article shall be determined by law and shall consist of examination of the submitted proofs for fulfillment of the requirements for the job, taking qualification tests in a paper or electronic form, organization of interviews, and/or other forms for examination of the candidates.

Article 9 LPSE (Principle of professional ethics, impartiality and objectivity)

- (1) In the course of carrying out the tasks and duties, the public sector employees shall retain high standards of personal integrity, professional ethics, and care for the protection of the public interest, and shall comply with the documents regulating those standards.
- (2) The public sector employees, in the course of carrying out the tasks and duties, shall ensure that the laws and other regulations are applied in impartial and objective manner and in a way that provides for protection and exercise of the citizens' and legal entities rights, but not to the detriment of other citizens and legal entities, nor contrary to the public interest established by law.
- (3) The public sector employees shall carry out the tasks and duties politically impartially, without the influence of their political beliefs and personal financial interests.
- (4) The public sector employees shall respect the goals, interests, reputation and integrity of the institutions in which they are employed.

Article 20-d LPSE (Public announcement and application for employment)

- (1) The institution shall be obliged to publish a public announcement for the purpose of filling a job in the public sector by way of employment.
- (2) The candidates for employment shall apply at the public announcement by filling in an application and attaching proofs for fulfillment of the requirements for the job.
- (3) The selection commission shall be obliged, within a period of three days as of the expiry of the deadline for applying at the announcement, to examine whether the candidates have submitted the mandatory proofs for fulfillment of the requirements under the announcement, unless otherwise regulated by a special law.

- (4) If the examination establishes that some of the proofs are missing, the institution shall be obliged to ask the candidate, within a period of three days, to complete the proofs, unless otherwise regulated by another law.
- (5) Upon the completion of the proofs, the selection commission shall examine the authenticity of the proofs.
- (6) If the commission suspects the authenticity of any of the proofs, it shall be obliged to submit a request for additional examinations to the body, that is, institution that has issued the proof, which shall be obliged to respond to the commission within a period of 10 days.
- (7) If it is established during the examination that the proof is fake, the commission shall reject the application and shall notify the Ministry of Information Society and Administration which keeps a Register of persons that have given fake data during employment in the public sector.

[...]

Article 20-e LPSE (Selection of candidates)

- (1) Upon the conducted procedure for selection determined by special laws, a ranking list of candidates who have successfully passed all the phases of the selection shall be composed for each different job of the public announcement.
- (2) As much best ranked candidates from the ranking list referred to in paragraph (1) of this Article that are members of a community for which new employments have been foreseen in the annual plan of the institution shall be selected as the number of agents that are sought for such jobs.
- (3) In the case where there are not enough candidates at the ranking lists referred to in paragraph (1) of this Article that are members of a community for which new employments have been foreseen in the annual plan of the institution as the number of agents that are sought for, the public announcement shall be repeated only for the jobs and for the number of agents that are lacking.
- (4) If there are not enough candidates on the ranking lists that are members of a community for which new employments have been foreseen in the annual plan of the institution as the number of agents that are sought for at the second repetition of the public announcement, a single ranking list shall be prepared where the candidates from all previously published announcements for that job shall be ranked and the best ranked candidates from this list shall be selected, regardless of their community affiliation.
- (5) If there are not enough candidates at the ranking lists referred to in paragraph (4) of this Article, the public announcement may be repeated in the current year until the jobs are filled and the best ranked candidates shall be selected in the future repetitions, regardless of their community affiliation.
- (6) If two or more candidates with the same number of points are the best ranked at the ranking list out of which the selection should be made, the candidate who has obtained the highest number of points in the phase of administrative selection shall be selected.”

The LAS broadly defines the horizontal scope of the civil service, taking into consideration the list of State administrative bodies presented in the Law on Organisation and Operation of the State Administrative Bodies. Some institutions have been excluded from the LAS. For example, some staff of the Ministry of Interior who were previously regarded as administrative servants are now considered “authorised officers in the area of security, defence and intelligence”. As such, these officers are regulated by the Law on Internal Affairs and the Law on Police. This is also the case for the Customs Administration under which some of its administrative employees are now considered customs officers.

Concerning the vertical scope of the public service, the highest officials under minister-state secretaries, general secretaries and other secretaries are considered Group A civil servants. Group B civil servants are recruited through open and merit-based competition. Secretaries are discretionally selected by ministers among Group B civil servants in the same institution.

The LPSE and the LAS limit the number of special (political) advisers working as cabinet officers. These positions can be filled by either civil servants or external employees who do not have a tenure in the civil service. Civil servants may apply for these positions through a mobility procedure whereby they can keep their status as civil servants while working as advisers in a cabinet. Legislation does not specifically exclude cabinet officers from participating in the promotion procedures or the performance appraisal system.

The LAS specifies several human resources processes in a detailed manner. While in certain cases, there are only the secondary legislation providing few additional procedural regulations concerning mainly the recruitment, performance appraisals, and disciplinary procedures.

The main political responsibility for the public service is clearly assigned to the Ministry of Information Society and Administration. The Ministry does not have direct command over all Human Resources Management (HRM) instruments. For example, the Agency of Administration (AA), being the recruitment authority for civil servants, is not accountable to the MISA but to the Assembly of the Republic.

The recruitment process described in the LAS and in the secondary legislation ensures an equal and merit-based treatment of all candidates. Annual staffing plans must be approved by the MISA, the Ministry of Finance (MoF) and the Secretariat for Implementation of the Ohrid Agreement (SIOFA). Prior to the approval of the annual staffing plan, agreement must be sought from MISA for the job-systematisation acts undertaken by various institutions whereby every job position must be described following a predefined model, weighted in accordance with the required tasks and required competences, and matched with one of the various levels or categories.

In accordance with the Constitution, public bodies are required to ensure equitable representation of different communities by calculating recruitment quotas to compensate specific imbalances in each institution. These quotas should be assigned to successful candidates who are ranked on merit basis. Shortlisted candidates are classified by different lists according to their community. The community quotas are included in the annual staffing plan, of which the approval from SIOFA needs to be sought. Positive discrimination in favour of individuals with special needs is possible, if it is specifically determined as an additional condition for filling a job position.

For each vacancy, the Director of the AA designates a selection commission comprising a president who should be a civil servant from the Agency, the head of the HR unit of the recruiting institution, the head of the organisational unit in which the vacancies are to be filled, and one representative from the SIOFA.

The selection process consists of the following phases:

1. Administrative selection;

2. Electronic two-part examination on professional knowledge and language proficiency in English, French or German organized and conducted by AA; and
3. Verification of the validity of documents presented for the application and interview.

Candidates who have not been selected can appeal the selection decision to the Committee Deciding in Second-Instance Complaints and Appeals of Administrative Servants (the Committee) within the AA and ultimately to the competent court (Art. 19, LAS).

“Article 19 LAS

- (1) The Agency within itself shall establish a Committee for deciding about second instance complaints and appeals of administrative servants (hereinafter referred to as “The Committee”).
- (2) The Committee shall act upon second instance complaints and second instance appeals of the administrative servants;
- (3) The Committee shall consist of a president and four members and their deputies who work as administrative servants in the Agency.
- (4) The Director of the Agency shall recruit the president and the members of the Committee and their deputies with a decision, based on the principles of expertise and competency and in accordance with the principle for appropriate and equitable representation of the members of the communities.
- (5) The president and the members of the Committee may not participate in the selection procedures as members of the Committee for selection of administrative servants.
- (6) The Committee shall make decisions based on the majority of votes of the total number of members.
- (7) The president and the members of the Committee may not abstain during the voting process
- (8) The Committee shall make a decision within eight working days as of the day of receiving the appeal, submitted by the first-degree authority
- (9) The first-degree authority is obliged to include the required documentation which is essential for a regular solving of the problem attached to the appeal to the Committee.
- (10) The appeal postpones the execution of the act passed by the first-degree authority.
- (11) In the decision-making process, the Committee may dismiss the appeal as untimely, incomplete or illegal; it may dismiss the appeal as groundless and therefore confirm the first-degree decision; it may accept the appeal and annul the first-degree decision and return the case to a new process or decide itself.
- (12) The Committee itself decides in cases when it acts upon a given appeal against an act which has been annulled and has been returned to a new process of decision.
- (13) In order to make a decision after a submitted appeal, the Committee shall notify the first-degree authority within three days of the adoption thereof.
- (14) The first-degree authority is obliged to submit the decision of Paragraph (13) of this Article no later than three days to the administrative servant.
- (15) If the complaint is accepted, the first-degree authority is obliged to act upon the decision of the Committee within 8 working days as of the day of its receipt.
- (16) A lawsuit against the decision of the Committee may be filed in a competent court within 15 days as of the day of its receipt by the administrative servant.

(17) If the Committee fails to adopt a decision within eight days as of the day of the appeal receipt, the candidate is entitled to file a lawsuit in a competent court within 15 days following the expiry of the eight-day period.

(18) For all employment-related questions for which the right to appeal has not be defined by Law, the administrative servant has the right to make an objection to the Agency within 8 days.

(19) The provisions of this Law which refer to the period and action for solving the appeal are appropriately enforced for the objection.

(20) The Director of the Agency shall establish rules of procedure regarding the work of the Committee.”

An administrative servant will be dismissed, as per law, in the following situations:

- loss of working ability determined by final decision;
- loss of the citizenship of the Republic;
- conviction of criminal offence related to abuse of office, determined by the final court decision;
- being imposed of a prohibition for the performance of profession, office or duty, determined by the final court decision;
- serving an imprisonment longer than 6 months;
- unjustifiable absence from work for three days consecutively in one month;
- if it is determined that the employee concealed the submission of false data purporting that the general and specific criteria and requirements for employment are fulfilled;
- received assessment grade “D” (lowest) two times consecutively or three times in five years;

The effect of the performance of the administrative servants is continuously monitored by the mid-annual review conducted by the indirect superiors, and by the annual assessment conducted via an assessment report prepared by six assessors (two administrative servants below the level of the assessed servant, two at the same level and two persons who are not employed at the institution of the assessed servant) selected by the administrative servant being assessed.

In cases of negative performance, the Law foresees the possibility of additional training or mentoring. Employees may appeal against the appraisal results to the AA and/or the competent court.

Group A positions are discretionally appointed from the pool of Group B administrative servants by a minister, head of institution or mayor, without undergoing the recruitment or promotion procedures. The term of office of Group A servants is equal to the term of office of the official who appointed the Group A servant. After the completion of the term of office of Group A servant, the servant returns to his/her previous job position (Group B). Group A positions are not subject to performance appraisals or the disciplinary regime.

Salary of Public Service and Human Resource Management servants are expressed in point scale. The value of the point is determined yearly by the Government. Each salary comprises a general component and, in certain cases, an exceptional component. The general component consists of three elements, namely the individual’s educational level, the position-related supplement (i.e. the value of the position), and the seniority supplement (i.e. work experience). The exceptional component includes (1) a special work condition-related supplement for hazardous jobs and for individuals working extended hours in cabinets, and (2) supplements for night work and shift work. Besides, overtime compensation is also considered as an exceptional component. These supplements are fair and straightforward, leaving no opportunities for eventual misuse. For certain jobs such as those related to information technology (IT), an additional salary supplement is

foreseen in order to ensure competitiveness in the labour market. This provision has not yet been applied because it must first be approved by a government decision. This remuneration system is fully applicable across the scope of the LAS, meaning that similar positions in different ministries are paid the same salary.

The LAS recognizes training as a right and a duty of civil servants. The MISA is the co-ordination body for the civil-service training policy. It collects the annual training plans from State administrative bodies, prepares and adopts an annual training programme for “generic competences” based on those plans. The MISA is in charge of organising those generic trainings for administrative servants. The LAS stipulates the creation of an “academy” within the MISA to perform those activities in lieu of a classical public administration school. Over the last two years, the MISA has invested in e-learning modules on generic competences as required by the LAS. The LPSE provides the regulatory basis for organizing mobility procedures which states that mobility is possible upon prior consent of the employee and the manager of the receiving institution. A transfer to other positions (within a radius of 50 kilometres from the present location) can also be imposed on public employees.

Candidates eligible for promotion should hold a position immediately lower than the position opened for competition. A specifically designated committee undertakes the promotion procedure that after checking the job requirements, the promotion committee scores qualified applicants according to their training, performance and mentorship records. It then conducts an oral interview and makes the final decision. As an exception to the aforementioned procedure, interviews for promotions to Group B positions are conducted by the secretary of the institution alone instead of the promotion committee. The results are communicated to the promotion committee which integrates them with other results (i.e. the candidates’ scores) and proposes the best candidate.

The LAS describes the basic principles governing the disciplinary procedure and distinguishes between disciplinary irregularities and disciplinary offences. Administrative servants have the opportunity to respond to the allegations levied against them. For disciplinary irregularities, the secretary alone makes a decision based on a written report submitted by the manager of the incriminated individual. For disciplinary offences, the secretary establishes a commission to analyse the case. Secondary legislation grants the administrative servant the right to be assisted by a lawyer or trade union representative. The maximum fine for minor violations is 20% of the individual’s monthly salary for three months.

For both disciplinary irregularities and offences, the civil servant can lodge an appeal with the AA and the court. Legal safeguards are in place that suspending civil servants from duty is only possible when criminal proceedings are brought against the civil servant for a crime committed at work or related to work, or a disciplinary procedure is initiated for an offence such that the civil servant’s presence in the workplace shall adversely affect the institution.

The legislation, including the relevant provisions in both the LAS and the LPSE, governing integrity in the public sector is quite strong. The Labour Law limits secondary employment to a maximum of 20 hours per week for all employees (including public employees and civil servants). Should the institution or public employee have doubts on the appropriateness of secondary employment, advice can be sought from SCPC.

Additional requirements with regard to the selection of officials for retention are prescribed for certain categories:

Ministry of Interior and the Police

The conditions and principles for employment, the selection procedure, the signing and types of employment contract, and the rights and obligations arising from the employment in the Ministry

of Interior are prescribed by the Law on Internal Affairs, the Law of Police, the Labour Law and the by-laws established pursuant to the Law on Internal Affairs on the manner of conducting selection of employees and assessing the performance of the employees, and the career system. When initiating employment procedure in the Ministry of Internal Affairs via public announcement, a commission for selection will be established by the Minister to proceed with the selection procedure.

Insofar as internal transfer is concerned, a current employee can be assigned through a transparent procedure to another position other than the one he previously worked. However, as an exception, the transparent procedure does not apply when deploying the employee out of the need by the Ministry or at the request of the employee. The deployment of the employee is carried out under the conditions of and in the manner defined by the Law on Internal Affairs, the Rulebook on the manner of realization of the career system in the Ministry, and the provisions of the Collective Agreement. There is also regulation governing the reasons under which the employee cannot be assigned to another job.

The promotion exercise is conducted through a transparent procedure in that the professional qualifications, work abilities, training history and past performance will be disclosed. gender, race, skin colour, political and religious beliefs and nationality will not be taken into account. As an exception, the transparent procedure does not apply to the promotion of employees at certain positions in the Ministry and the Bureau.

Procedure for deployment and promotion

Deployment or promotion of the employees in the Ministry is decided according to the Classification of Jobs, with the following being taken into consideration:

- The type of position from which the employee is deployed or promoted and the type of workplace where the employee is deployed or promoted;
- The type of organizational unit in which the workplace is systematized and from which the employee is deployed or promoted; and
- The type of the workplace level to which the deployment or promotion of the employee relates.

The by-law on the manner of conducting selection during deployment and promotion of the employees in the Ministry is adopted by the Minister.

Decision on the deployment and promotion of the employees in the Ministry is proposed by special commissions appointed by the Minister. On the basis of the decision of the commission, the Minister or an authorized employee decides for the deployment or promotion. The reasons for the deployment and promotion of the employee are stated in the Commission's decision.

The Ministry terminates employment contracts after 40 years of pensionable service by the employee regardless of the age. The pension amount is determined by law. The employee may, with a written statement to the Ministry, request that his/her employment contract be extended until completion of 45 years of service regardless of his/her age. On receipt of the written statement, the Ministry is obliged to extend as per the request.

The salary of the employee in the Ministry of Interior shall be paid from the funds of the Ministry in proportion to the work performed and in accordance with the conditions determined by law and the provisions of the collective agreement.

Components of the salary of an employee in the Ministry shall consist of:

- The basic component (which is the basic salary with an increase by 20% and 30% for authorized officials and career allowance)

- An exceptional component (which is the work performance allowance, working salary allowance and extraordinary work allowance (overtime)).

The determination of the basic salary takes into account the education and the complexity of the work the employee is tasked to complete, and his work experience. The work experience is valued at 0.5% and up to 20% of the basic salary, depending on the education and the complexity of the work which are valued in terms of points, with adjustments made at the beginning of each year. Together with the grouping of individual jobs based also on the education and the complexity of the work, the points are determined by the salary list which is approved by the Minister with prior opinion of the Union being sought. The salary list is a piece of information classified as "strictly confidential". The value of the points is determined by the Minister, with prior opinion of the Union being sought. Based on the type, nature and complexity of the tasks performed, as well as the complexity of the work and the special conditions under which it is performed, the basic salary is increased as follows:

- workers with status of authorized official persons performing professional or civil service duties, and the authorized security and counterintelligence officers who do not have police authorizations according to the Act on Systematization of Workplaces in the Directorate, an increase of 20% is made to the basic salary; and
- the authorized officials with status of police officers in accordance with the Law on Police, and employees with status of authorized security and counter intelligence officers according to the Act on Systematization of Jobs in the Administration are entitled to an increase of 30% on the basic salary pursuant to the police authorisations.

Work supplement for salary is paid for night work, week work, and work for holidays, as determined by law. Also paid is shift work, work under special working conditions and life threats, work of high risk in its execution, and tasks of workers in the organizational units as defined in the collective agreement. The following illustrates the salary calculation according to different categories of work:

- Shift work and work supplement for night work, work on Sunday, work during holidays determined by law, is calculated and paid to the basic component of the salary of the worker.
- Work allowance for special working conditions and life threat, the existence of a high risk in the performance of the duties and tasks of the authorized officials in the organizational units determined by a separate article in the collective agreement, is calculated and added to the basic component of the salary of the employee.
- For worker with special engagements and performance quality that significantly contributes to the achievement of the function of the Ministry, he/she may be entitled to a reward in accordance with a separate regulation passed by the Minister.

The training of the employees is carried out by the Ministry of Interior in the following cases:

1. upon receiving status of apprentice (training of an apprentice);
2. upon selection following the selection procedure for candidate as a police officer (basic training for a policeman);
3. to enable an employee to independently perform the duties at a certain job position;
4. for the continuous training of an employee.

The training in the Ministry is conducted in the presence of a mentor at the Training Centre of the Ministry and/or by engaging other persons and entities.

The manner of conducting the training, as well as the planning, preparation, managing, coordinating, monitoring and evaluating the activities related to the training of employees in the Ministry, is

prescribed in accordance with the provisions of the Law on Internal Affairs, the Rulebook on training in the Ministry and the provisions of the collective agreement. Under the training programme, the plan contains training modules covering all the issues related to specific works in an organizational unit in accordance with the competence of the organizational unit in which the employee is trained.

Specialised anti-corruption investigative bodies

The Anti-corruption Unit under the Central Police Services of the Department for Combating Organized and Serious Crime of the Public Security Bureau performs tasks with sophisticated techniques that includes expertise and technical and expert assistance at the level of all regional sectors and centres. As an authority under the Ministry of Interior, the Public Security Bureau is competent to perform police tasks (such as prevention of criminal acts and misdemeanours, detection and detention of perpetrators and undertaking of other measures directed to prosecution of perpetrators), and to render assistance and cooperation in the prevention and detection of criminal acts and misdemeanours. The organization and competences of the Public Security Bureau are prescribed by the Law on Police. Police officers, by virtue of their positions or upon order of a public prosecutor, court or other authority as determined by law, undertake measures and apply for police authorisations related to the detection of criminal acts and perpetrators when there are reasonable grounds for suspicion (that is based on criminalistics knowledge and police experience) that a criminal act is being prepared, perpetrated or committed. To detect criminal acts or misdemeanours, to discover and secure useful information, traces and objects that may serve as evidence, as well as to find the perpetrator and prevent the perpetrator from hiding or escaping, the Police undertakes criminal investigation by the application of police authorisations, operative-tactical measures and preventive measures in accordance with law. Police officers are obliged to receive complaints and reports on criminal activity and misdemeanours. On receipt of complaint or information containing grounds for suspicion on committed criminal act that is prosecuted ex officio, the police officer is obliged to inform the public prosecutor of such complaint or information.

The Anti-corruption Unit prepares annual work programme that fits the annual work programme of the Department for Combating Organized and Serious Crime. Statistical analysis of data and preparation of analytical products of the work of the Anti-corruption Unit is the responsibility of the Department for Criminal Intelligence Analysis for Organized and Serious Crime. The work, salary, selection and dismissal procedure of the inspectors in the anti-corruption department are regulated by law and by-laws. The Department owns records (database) in electronic and written form. The anti-corruption unit is fully operational and the majority of the employees have undergone trainings in the area of anti-corruption in the past two years.

The funding of the anti-corruption unit is provided under the budget of the Ministry of Interior whose funding originates from the budget of the Republic. The Minister of Interior decides on structure, staff and activities with prior consent of the Government.

The Central Police Services are managed by superintendent (head). Apart from general requirements, the head of the Central Police Services must also meet the following requirements of (i) completed university degree and (ii) minimum eight years of working experience that includes four years of managerial experience. The head of the Central Police Services is appointed among the pool of current personnel, and dismissed by the Minister of Interior via a transparent procedure. The head of the Central Police Services is directly accountable to the Director of the Public Security Bureau. Special procedure in accordance with the Law on Police for selection, appointment and dismissal is applicable for the head (director) of the Public Security. The director is appointed and dismissed by the Government upon proposal of the Minister of Interior. The term of office is four years. Apart from general requirements, candidate is required to have a completed university degree, fluency in English and a minimum of five years of work experience. In addition, the candidate must

not be imposed by a final court judgment for a sanction of prohibition to perform a profession, activity or duty. The Director may be dismissed at his request, on conviction of felony with final judgment that imposes an imprisonment of up to six months, or due to unprincipled and incompetent work performance. Since 2015, the Unit for fight against corruption is established by the Department for Economy Crime and Corruption of the Criminal Police Division of the Public Security Bureau. This unit performs coordinating functions and does not have investigative competencies.

General supervision is conducted by the Public Security Bureau once every four years. Professional supervision is conducted upon order of the director of the Public Security Bureau. The general and professional supervision are conducted via collecting and processing information, data and notification directly related to the performance of duties and working tasks by police officers. The objective of the general supervision is to ensure proper performance of working duties and tasks in accordance with the applicable law and by-laws related to the competencies of the Police, and to raise the level of professionalism and performance quality of the Police. On the other hand, the objective of the professional supervision is to ensure the coordinated performance of the operative tasks, the effectiveness and efficiency in the work of the organisational units of the Police, and the unification of the procedures in accordance with the unified methodology and applicable standards. Annual reports are submitted to the Minister of Interior and incorporated in the annual report of the Ministry of Interior.

The Minister of Interior submits to the Government, the Assembly of the Republic and its working bodies a written report on police performance at least once a year. The Ministry and the Police inform the general public on issues that fall within their competencies in accordance with law. The criminal investigations and professional standards is the control mechanism adopted by the Internal Control Department under the Interior Ministry on the work of the police and the Ministry, which is the basis of the powers of the Department for taking a wide range of measures and actions aimed at determining the unprofessional, illegal and unethical actions of employees of the Ministry of Interior, and for taking a series of preventive and repressive measures and activities.

In addition to the Code of Police Ethics, the Minister of Interior has adopted the Rulebook on works and activities that are in conflict with police activities and the Guidelines on the manner of conduct and the relations between the police officers.

Financial Police

The Financial Police Directorate is a legal entity under the Ministry of Finance. The Financial Police conducts its competencies inside the territory of the Republic and may, in accordance with the laws and ratified international agreements, perform certain activities within its competence outside the territory of the Republic.

Established in accordance with the Law on Financial Police, the Financial Police is a legal entity under the Ministry of Finance. The Financial Police is vested with specific powers under the Criminal Procedure Code which ensure the consistent application of regulations especially in the area of financial, tax and customs operations. One of the units established in the Financial Police is the Unit for detection of corruption and organized financial crime. It is an organisational unit under the Department for criminal intelligence analysis. Funds for working conditions, career promotion, modernisation and equipment of the financial police, as well as for motivation of financial police officers are allocated from the budget of the Financial Police (special indent under the National budget). Additional funds are obtained from returned taxes and enforced confiscation measures with a maximum amount capped at 25%. The Financial Police is managed by the Director who is assisted by a deputy director. The head of the Financial Police is appointed by the Government upon

proposal of the Minister of Finance with a term of office of 4 years. The director is accountable to the Minister of Finance and the Government. Apart from general requirements, the director is required to have a completed university degree, fluency in English and a minimum of five years of working experience. In addition, the candidate must not be imposed by a final court judgment for a sanction of prohibition to perform a profession, activity or duty. The director may be dismissed at his request or on conviction of felony by a final judgment that imposes an imprisonment of up to six months or a prohibition of performing duties.

The Financial Police is responsible for its work and accountable to the Ministry of Finance and the Government. The Financial Police office prepares annual reports on the performance of the Financial Police, which are submitted to the Government by the Ministry of Finance.

In the Financial Police, two categories of positions are established for authorized officials, namely senior officers and financial officers. The category of senior officers includes advisor-assistant to the director, head of department and head of unit. Under the category of financial officers, the levels of job positions are determined as independent inspector, senior inspector, inspector and junior inspector. In case of the absence of the Director, the Director is replaced by the Deputy Director who enjoys the same rights and duties. The director is assisted by an advisor-assistant to the director who is responsible for the timely performance of legal and qualitative tasks upon the order of the Director of the Directorate and is accountable to the director for his work. The work of the departments is managed by the heads of the departments who are accountable for their work to the heads of the sector who in turn are accountable to the director. For the processing and execution of complex tasks and tasks that cover multiple areas, the director can form working groups.

For permanent employment, a procedure is conducted in accordance with the Law on Financial Police, the LAS and the LPSE. The Minister of Finance decides on appointment, promotion, mobility (transfer, rotation, temporary transfer, etc.) and dismissal of a financial officer in accordance with the Law on Financial Police on the proposal of the Director. The procedure for the appointment, promotion and implementation of disciplinary procedures by the financial police officers is prescribed by the Law on Financial Police and the Rulebook on the manner and procedure for verification of the working ability for employment in the Financial Police. An appeal against such decisions may be lodged through the Financial Police to the State Commission for Decision-making in Administrative Procedure and Labour Relations Procedures of Second Instance. The criteria for selecting financial officers are precisely defined in the Law on Financial Police and are designed to guarantee equal opportunities for employment for men and women. Pursuant to the Law on Financial Police, when applying for employment in the Financial Police, the principle of adequate and equitable representation of citizens from all communities, the criteria of expertise and competence, and the principle of gender equality are respected.

Pursuant to the Law on Financial Police and the Rulebook on the manner and procedure for verification of the employment skills in the Financial Police, a person is eligible for an employment as a financial officer on conditions that, in addition to the general conditions, he/she fulfils the special conditions stipulated by Law and the systematization act of job posts and the act on the organization of the work in the Financial Police. A financial officer must a) be a citizen of the Republic; b) be psychologically sound (capable) and with the predisposition to perform the duties of a financial officer; c) have an appropriate level of qualifications in accordance with the workplace provided for in the Systematisation of Jobs; d) have active knowledge of computer programmes for office work; e) have knowledge of English; f) have working experience in the profession; and e) possess other special working competences for the job as defined in the act on systematization of jobs. In accordance with the Law on Financial Police, the Director may request from the competent state institutions data on a person who is undergoing the employment procedure of a financial officer, for the purpose of identifying candidates who may pose threats to the security of the

Financial Police. Based on the qualifications, expertise and knowledge of the candidates, the Director decides on the selection and proposes the same to the Minister of Finance. The health condition of the candidate is confirmed by laboratory testing, the anthropological examination, neuropsychiatric and psychological examinations, and senses examination. Performance evaluation of the financial police officers is carried out in accordance with the Law on Financial Police and the Rulebook on the manner and procedure for assessing the work of the financial police officers based on the monthly and annual reports submitted by the financial police officers. The evaluation is based on data related to the results of the work, the personal qualities showed during the work, the achieved results from the trainings and awards received, disciplinary measures and absences from the previous year of the financial police officer.

The evaluation of the results of the work is carried out on the basis of knowledge and application of the regulations, accomplishment of the tasks, timely and categorical performance of the work tasks and organization of the work. The assessment of personal abilities is carried out on the basis of professional knowledge and ability, capability in performing tasks and tasks, ability for cooperation and team work and communication skills.

The evaluation of the work of the financial officer is carried out by the immediate managerial financial officer. The evaluation should be objective and unbiased. The assessor continuously monitors the work of the financial police officer and collects data on initiated and completed cases, criminal charges and other actions that he/she undertakes during the work, taking into account the nature of the workplace, working conditions and attitude towards work. During the performance evaluation, the assessor of the financial officer gives instructions and advice on improvement of the work, indicates concrete details of the work and procedures that lead to successful operation and points out the shortcomings in his work.

At the end of the year, the assessor fills in the data on the assessment of the financial officer in a prescribed form, which is a rating sheet that is kept in the file of the financial officer. Pursuant to the Law on Financial Police, financial police officers are evaluated at least once a year by an immediate managerial financial officer. Financial police officers who have been legally absent from work for more than six months during the year (such as on sick leave, unpaid leave, etc.) will not be evaluated. The evaluation of financial police officers is based on data related to professional knowledge and skills in working, advocacy, achieved results, and creativity. Data are evaluated individually, numbered with a score of one to four and graded with one of the following classifications, namely "stand out", "satisfies", "partially satisfies" and "does not satisfy".

The financial police officer who is not satisfied with the grade may, within eight days from the date of evaluation, submit a request for review of the evaluation to the Commission for review of the performance evaluation established by the Director. The results of the evaluation serve as a basis for the promotion or redeployment. Pursuant to the Law on Financial Police and the need for redistribution depending on the increased or reduced working obligations, with the decision of the Director, it is possible that the employees in different departments and units may be rotated occasionally. No additional allowances are provided for financial officers.

The promotion of financial police officers is carried out in accordance with the analysis of the monthly and annual reports on the operation of the financial police officers by a commission established for this purpose. The commission gives a proposal to the director who makes decisions for promotion and then submits it as a proposal to the Minister of Finance. In deciding on the proposal for promotion, the director may not reject candidates proposed by the selection commissions without any explanation. If the Director determines that the selected candidate is not suitable for promotion, the Director may, with an explanation, return the minutes to the Commission to repeat the reviewing procedure.

The Financial Police Code of Conduct was adopted in 2009 and it is published on the official website of the Financial Police Directorate. Pursuant to the Law on Financial Police, the financial police officers are obliged to maintain the highest standards of integrity when performing all activities involving the public, the state administration bodies and other state bodies. The Code of Conduct describes the standard of the conduct of behaviour that should be observed by all financial police officers and provides guidelines for addressing ethical issues for those working in the Financial Police and those who co-operate and work with financial officers. Any breach of the Code of Conduct may be a ground for an imposition of disciplinary liability, including the termination of employment by dismissal. The Code of Conduct is adopted by the Minister of Finance on the proposal of the Director.

Customs Administration

The Customs Administration is a body under the Ministry of Finance with the status of a legal entity. As a state administration body, the Customs Administration is accountable to the Government and the Ministry of Finance for its work. The Law on the Customs Administration regulates the organization, the scope of work, the manner of performing the work and the management of the Customs Administration, the customs authorities, the classification of jobs, and the authorizations and responsibilities in collecting, recording, processing and protecting data related to the affairs of the Customs Administration. The Customs Administration is headed by the Director and the Deputy Director, who are both elected and appointed by the Government. The Director and the Deputy Director are appointed on the proposal of the Minister of Finance after a public announcement for selection is made. Besides general requirements, the candidate is required to have a completed university degree, fluency in English and a minimum of five years of working experience. An additional requirement for appointment is that the candidate for director must not be imposed on a sanction of prohibition to perform a profession, activity or duty by a final court judgment. For their work and the performance of the Customs Administration, the Director and the Deputy Director are personally directly accountable to the Government and the Minister of Finance. The procedure for employment in the Customs Administration is conducted in accordance with the LAS.

The Director of the Customs Administration adopts the decisions for employment, promotion, deployment, dismissal of a customs officer, and the appointment of heads of departments or all management posts as determined by the Rulebook on the systematisation of job posts at the Customs Administration.

For the management posts of assistant director of the department and manager of the Customs office, an opinion is also given by the Ministry of Finance, upon a proposal submitted by the Director of the Customs Administration.

The promotion of the customs officers is conducted in accordance with the Law on Customs Administration, the Rulebook on the manner of promotion of the customs officers and the Instructions for publishing an internal announcement.

The conditions prescribed by the Rulebook on the manner of promotion of the customs officers at the Customs Administration are:

- a vacant job post;

- conditions determined by the Law on Customs Administration and the Act on Systematization of Jobs;

- the candidate is rated three times in a row with a final grade of "exceptional" or "satisfied";
- and

- in the last year the candidate was not sanctioned for violation of the working order and

discipline or for failure to perform duties.

The reassignment of customs officers is usually decided on the proposal of the immediate manager, for filling up vacant job posts or due to a greater amount of work. The Director of the Customs Administration signs the decision for reassignment. The customs officer has a right to appeal against this decision through the Customs Administration of the Republic to the AA within eight days from the day of its delivery. The appeal does not delay the coming into effect of the decision. The Law on Customs Administration regulates the deployment and promotion of customs officers. The criteria for promotion are set out in the Rulebook on the manner of promotion of the customs officers at the Customs Administration. The Director may reject a candidate nominated by the selection commission, only if no choice is made within three days after submitting the report of the commission with an appropriate explanation. The promotion procedure is carried out by publishing an internal advertisement for a vacant job. The applicants must meet the requirements of the Rulebook on systematization of jobs for the specific job position, namely the possession of an appropriate internationally recognized certificate for knowledge of one of the three most commonly used languages of the European Union, active knowledge of computer programmes for office work, work experience and appropriate kind of education depending on the job post. The Human Resources Management Department submits to the Commission the dossier of the candidate extracted from the records in the LUCA system.

The first Customs Code of Conduct was adopted in 1999, which contains ten ethical principles of conduct. The Code has been amended several times. In paragraph 2 of Article 1 and paragraph 1 of Article 32 of the Code of Conduct of the Customs Officers, it is stated that the customs officers are obliged to respect and behave in accordance with the provisions of this Code, and that any action contrary to the provisions of the Code is subject to the determination of disciplinary accountability. Pursuant to paragraph 9 of Article 58, the Law on Customs Administration regulates the obligation of the customs officers to act in accordance with the Code of Conduct and the prescribed Rules of Order and Discipline of the Customs Administration.

The elements of all disciplinary procedures are of a binding nature, including the qualification of the action which is charged to the customs officer. The qualifications of the committed violations are prescribed by Article 73-a of the Law on the Customs Administration.

The direct managers and the Department for Professional Liability at the Customs Administration continuously monitor the correct application of the provisions of the Code of Conduct for Customs Officers. Controls are carried out based on the established Plan of Activities of the Sector for Professional Responsibility. In addition, controls are carried out upon written or oral complaints made by any real or legal person, as well as heads of organizational units and employees of the Customs Administration through the open customs hotline 197 or online module.

After undergoing the procedure for determining the liability of the employee, the Director of the Customs Administration issues the decision on cancellation of an employment contract for a violation of the order and discipline in the Customs Administration. In most cases, on the basis of a report submitted by the Department for Professional Liability, the direct manager submits a proposal for initiation of a disciplinary procedure that identifies irregularities in the actions of the customs officer. A commission will be established by the Director of the Customs Administration for determining disciplinary accountability, after which a proposal will be submitted to the director. As a legal remedy, a complaint against the decision can be lodged through Customs Administration of the Republic to the Agency for Administration within eight days from the date of the delivery of the decision. The complaint postpones the enforcement of the decision.

Positions especially vulnerable to corruption

With regard to identifying positions especially vulnerable to corruption, at a quarterly interval, a

registry of risk points in the customs dealing with corruption is prepared which contains clear and precisely defined risks, the explanation of the process they refer to, the source of the risk, the degree of the risk, the organizational unit to which they apply, and the proposed measures for overcoming them. At the same time, on a quarterly basis, a report on the application of the Registry of risk points is prepared by all organizational units at the Customs Administration.

Risk management is also monitored through the established internal control system in the Customs Administration as a continuous process involving all types of financial and other controls. The established internal control systems are upgraded and complemented at least once a year in accordance with the amendments to the legislation and the activities of the organizational units of the Customs Administration. A new tool for analysis and risk assessment and fight against fraud in the ATIS transit procedure has been introduced in cooperation with OLAF.

In carrying out their work tasks and duties, employees are obliged to avoid any actions that bring about a situation of conflict of interest. When employees come across circumstances that indicate a conflict of interest, they are obliged to immediately inform the immediate manager, to request for an exemption from and to stop the performance of the task. Customs officers may perform other activities only with the prior approval of the Director of the Customs Administration. The activities that are in conflict with the official duty of the customs officers shall be prescribed and indicated by a written act of the Director of the Customs Administration. The Unit for Integrity within the Department for Professional Liability assesses the corruption risks in the Customs Administration with the possible consequences, and identifies the degree of risk based on the analysis of:

- the sensitivity of certain job posts;
- the abuse of office arising from the reports of the Internal Investigation Department and the Internal Control Unit;
- the disciplinary and other measures being imposed;
- the criminal charge(s) brought against the employees of the Customs Administration;
- the court rulings; and
- the suggestions given by direct managers on self-assessment.

The register of risk points in customs dealing with corruption is applied in the performance of internal controls of the organizational units. In the last registry of risk points in customs, 37 corruption risks were identified, of which 28, eight and one were categorized as associating with a high, medium and low degree of risk respectively.

The performance evaluation of customs officers is a continuous process spanning across the year, which includes the determination of the work goals and activities, the monitoring and collection of data on the operations of the customs officer, and the provision of instructions and advice for improving the work.

The customs officers employed in the Department for Professional Liability are independent and autonomous in the exercise of their competencies that they cannot be called upon to account for their job, nor be assigned to another job or to be terminated the employment, due to the performance of duties and tasks which come within the purview of their competencies (prescribed by item 57 of the Guidelines on the work of the Department for Professional Liability No. 01-020301 / 14-0004 of 17.03.2017). The Department for Professional Liability is subject to internal control by the Internal Audit Department of the Customs Administration of the Republic, by means of which an evaluation can be carried out by the immediate manager of customs officer of managerial level upon the written approval by the Director of the Customs Administration. The assessment of the customs officer shall be conducted on the basis of the data obtained by applying the criteria related to professional knowledge and skills in the work, advocacy, results, initiative, creativity and conscientiousness in the performance of the official tasks, also taking into account the data on the

trainings, awards, disciplinary measures, findings determined by internal controls, audits and inspections, as well as absences during the assessment period.

The customs officer is assessed and self-assessed with grades of "stands out," "satisfies", "partially satisfies" and "does not satisfy". The employees are involved in the evaluation process and they have the right to object to the Director of the Customs Administration who shall issue a decision, against which the customs officer has the right to appeal to the Agency for Administration. Evaluation is performed regularly and once a year.

In the Customs Administration, there is a system of (general and individual) rotation of customs officers in accordance with the Guidelines for rotation. The general rotation means rotation by reassignment of several customs officers from the internal or border customs offices to other internal or border customs offices at the same level and in accordance with the conditions laid down in the Rulebook on systematization of the jobs at the Customs Administration. The individual rotation means rotation by reassignment of a customs officer from an inland or border customs office to another internal or border customs office at the same level and in accordance with the conditions laid down in the Rulebook on systematization of jobs at the Customs Administration.

The reasons for general rotation are the general reduction of the risk of the customs officer engaging in inappropriate behaviour or conflict of interest, the efficient and proper utilization of human resources in the Customs Administration, the development of the skills, capabilities and professionalism of the customs officers. A period of general rotation lasts 9 months.

The reasons for individual rotation are the efficient and rational utilization of the human resources in the Customs Administration, the improvement of skills, competence and team work, the professional development of the customs officers, the reduction of the risk associated with the engagement of the customs officers in inappropriate behaviour, disciplinary offense or a criminal offense and of the probability of engaging in corruptive behaviour and conflict of interest, a long period of work (at least 2 years) at the current job, the undergoing of the procedure for determining the disciplinary responsibility, criminal charges or initiated criminal proceedings, and the undergoing of an initiated internal investigation due to a reasonable suspicion of improper conduct, abuse of official duty or conflict of interest. The period of single rotation can last from 3 to 6 months. The rotation is directed according to the proposal plan of the managers of the Customs Offices, which is prepared by the Director. The rotated customs officers have the right to appeal to the AA. Rotation is cancelled during the election process. The basic gross annual salary is determined according to the defined points for the systematized jobs, and is increased by the past performance rating of the customs officer and dependent on the allowances received by the customs officer for accomplishing shift work (4%), night work (29 %), holiday work (42%), day of weekly rest (29%), and occasional overtime work. The salary of the customs officers varies by the workplace, which is classified in accordance with the Collective Agreement into three categories, nine groups and twenty-two subgroups, with the work complexity as an appropriate coefficient for adjustment. Pursuant to Article 64 of the Collective Agreement, in addition to the regular salary, the managers of the organizational units may, based on performance analysis, evaluate performance results as average or above average and may propose that the basic salary for their work or the work of their subordinates for the current month be increased in the amount of 5% to 15%. In addition, in 2016, the Rulebook on the system of remuneration of customs officials, which contains criteria for awarding a prize, has been amended. In the Customs Administration, the customs officers, who are reassigned to another work station that is more than 100 km away from the place of residence, are entitled to compensation for rent. This right has been determined in accordance with the Rulebook on the amount of rent and the manner of securing an apartment for lease and the Law on Customs Administration. If the workplace is more than 50 km away from the place of residence, the customs officials are compensated for costs of taking public transport from home to work and vice versa. At

the same time, the retirement pension is paid to the customs officers, the amount of which is calculated based on the average monthly net salary in the Republic published in the last three months according to the Law on Budget Execution. Also, compensation for assistance is provided in case of death of an employee in the amount of 30,000.00 MKD and a family member in the amount of 15,000.00 MKD in accordance with the Law on Budget Execution. The customs officials are also paid sick leave for more than 6 months in the amount of the average monthly gross salary per worker in the Republic in the last three months in accordance with the Law on Budget Execution. Article 60 of the Law on the Customs Administration provides that a prohibition was imposed on the customs officers to perform activities that are in conflict with their official duty.

In addition to this legal provision, the Customs Administration adopted internal acts related to the conflict of interest, such as:

- Guidance in case of conflict of interest and establishment of a supervision system for the prevention of conflict of interests, No. 01-035283/14-0001 from 09.06.2014;
- Direction for handling and determining the activities that are in conflict with the official duty of the customs officers, No. 01-040794/16-0001 of 13.06.2016 (the first direction in the form of operational instructions was adopted on 2 December 2004) which prescribes the cases and the conditions under which the customs officials may perform other activities.

The content of the basic training for customs officers covers the following topics:

- Concept of ethical behaviour, integrity and corruption;
- Legal regulations (legal framework);
- Causes of corruption and its effects in relation to the Customs Administration and society;
- Organizational aspect (system of integrity) for prevention of corruption and conflict of interests;
- Relevant documents regarding integrity and prevention of corruption and conflict of interest.

In addition to basic training, advanced training has been designed. In December 2016, the Customs Administration adopted a new Catalogue of Trainings for Professional Development and Improvement of the Customs Officers No. 01-011584/14-0003 that focuses on specialized competences, in addition to mandatory training on basic customs competences and other trainings on specific competencies.

Advanced training aims to further develop the knowledge of customs officers in the area of integrity and the prevention of corruption. This training covers the following topics:

- Presence of the cognitive element when making decision to participate in a corrupt act,
- The passive and active bribery and the existence of the legal framework,
- Duties of the Customs officer in a situation where he is offered, promised or given a bribe to abuse his official position,
- Tools used by the Customs Administration in the fight against corruption in accordance with the State Programme for Prevention of Corruption.

As part of the basic training for newly recruited customs officials, the Customs Administration provides training on ethics, integrity and prevention of corruption. The training lasts 8 hours and is carried out at the beginning of the basic post-employment training. The training is held at the premises of the Customs Administration or of the Customs Offices, depending on the territory in which the majority of employees is located. The advanced training lasts 8 hours and is intended for customs officers who had undergone basic training. The basic training is mandatory for every newly employed person in the Customs Administration and is held annually. Advanced training is also held at least once a year in groups consisting of 10 to 20 participants. The number of trainings on

Ethics, Integrity and Prevention of Corruption is determined by the requests submitted by the heads of organizational units, which are included in the Annual Training Plan and Professional Development and Improvement of the Customs Officers. In the latest annual plan for 2018, in addition to the basic training for newly recruited customs officials, it is planned to hold trainings on Ethics, Integrity and Prevention of Corruption for nine organizational units at the Customs Administration. The public is informed about the management of corruption risks and conflicts of interest, the ethical principles and the rules of conduct that apply to the customs officers and further reforms through the publication of information on the Customs Administration's website www.customs.gov.mk under the section "[Fight against corruption](#)" where the environment and the consequences from corruption are explained and the following internal documents are published:

- Strategy on integrity and fight against corruption in the Customs Administration 2015-2018;
- Ratified United Nations Convention against Corruption;
- Revised Arusha Declaration;
- Code of Conduct of Customs Officers;
- Rules of Order and Discipline at the Customs Administration; and
- Protocol on Cooperation for Prevention and Repression of Corruption and Conflict of Interest.

Applying the principle of transparent operation, the Customs Administration regularly publishes annual and quarterly reports on its activities on the web portal.

The Internal Control and Professional Standards Department within the Ministry of Interior, the Department for Professional Standards within Customs Administration, and the Department for Professional Standards within Public Revenue Office were established as the internal investigative units of the police, the customs and the tax administration respectively.

For further information regarding judges and public prosecutors, the responses related to the implementation of Article 11 of the Convention refer.

Retirement

On the basis of the constitutional provisions for social insurance, citizens have a basic right to pension and disability insurance.

The Law on Pension and Disability Insurance regulates the mandatory pension insurance of the employees and the physical persons performing the prescribed activity, the fundamentals of fully funded pension insurance, as well as the special conditions under which certain categories of insured persons exercise the rights of the pension and disability insurance.

Based on the principle of social justice and solidarity, pension and disability insurance provides material and social security upon retirement due to age, disability, or death of the insured, i.e. the beneficiary of the pension and the family members of the insured (in case of death of the insured person).

This law determines the bases and conditions under which the insured exercises the right to disability pension.

Rights arising from pension and disability insurance are:

- Right to old age pension;
- Right to disability pension;
- Right to professional rehabilitation;
- Right to family pension;
- Right to financial compensation for bodily harm; and
- Right to the lowest amount of pension.

The rights from the pension and disability insurance are acquired and realized depending on the length and the volume of the investments in the funds for the pension and disability insurance.

The pension reform introduces a three-pillar pension system that consists of:

- mandatory pension and disability insurance based on generational solidarity (first pillar);
- mandatory fully funded pension insurance (second pillar);
- voluntary fully funded pension insurance (third pillar).

The rights from the pension and disability insurance are realized in the national Pension and Disability Insurance Fund.

In accordance with the Law, the insured person shall acquire the right to old age pension when one reaches 64 years of age (for man) or 62 years of age (for woman), with the performance of at least 15 years of pensionable service.

In Chapter VII, the Law stipulates the conditions for acquiring and exercising the rights of certain categories, including the insured persons from the national defence sector, insured authorized persons performing internal affairs, the employees of the Ministry of Interior whose work ability is reduced due to the work conditions, and the authorized persons in penitentiary and correctional institutions.

The rights from the pension and disability insurance determined by this Law shall be acquired and realized from the day when the conditions are met, if the request is submitted within six months from the day the conditions were met. If the request was submitted after the expiry of that deadline, the rights will be acquired and realized starting from six months before the submission of the request..

The right to old age pension is realized after the termination of the insurance. The right to a disability pension shall be exercised no later than within three months from the date of validity of the decision for determining the disability.

For the pension beneficiary, while he/she is in employment or while performing an independent activity in the Republic or abroad, the payment of the pension ceases to be made, and for the pensioner the right to a pension for the disability pension ceases. The old age pension beneficiary may be given a new pension amount if he/she has completed at least one year of insurance after acquiring the right to old age pension, if it is more convenient for the user.

(b) Observations on the implementation of the article

The LPSE, the LAS and relevant secondary legislation regulate procedures on recruitment, retention, and retirement of public sector employees and administrative servants. The integrity of public sector is stipulated in the LPSE (Art. 9) and training sessions on corruption are regularly provided to public officials. In this regard, the LAS provided for the creation of an academy within MISA to perform the training activities, including through e-learning modules.

The recruitment of public sector employees must be conducted through transparent, fair and competitive selection procedure, including by announcing vacancies publicly and using open competition (arts. 5 and 6, LPSE). Rules on mobility and rotation of positions are in place under the LPSE (Ch. VII).

Remuneration for public sector employees is calculated by points system. Salaries are comprised of the so-called general component and, in certain cases, also of an exceptional component. Similar positions in different ministries are paid the same salary.

Similar recruitment rules apply to administrative servants, including civil servants, where the Agency of Administration (AA) is designated as the main recruitment authority. Unsuccessful candidates for positions of administrative servants may appeal to the AA and, beyond, to the competent courts (Art. 19, LAS). Nevertheless, no appeal mechanism regarding the recruitment of other categories of public officials was reported.

Additional measures for selection and retention are available for certain categories of officials, such as Police, Financial Police and Customs Administration. However, there is no clear definition or reference regarding public positions that may be vulnerable to corruption.

It is recommended that North Macedonia:

(1) consider introducing an appeal mechanism for unsuccessful candidates applying for public positions other than positions of administrative servants; and

(2) consider adopting a clear definition of public positions considered especially vulnerable to corruption and providing rules on the rotation of such officials where appropriate.

Paragraph 2 of article 7

2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Relevant provisions are prescribed by the Electoral Code, as follows:

“Equal electoral right

Article 3 Electoral Code

(1) The President of the Republic, the Members of the Assembly of the Republic, the members of the Councils and the Mayor of the municipality is elected in general, direct and free elections, by secret ballot.

(2) No voter can be held accountable for their vote, nor required to say who he/she voted for or why he/she did not vote.

The right to vote and stand for election

Article 7 Electoral Code

(1) A candidate for President of the Republic may be a person who fulfils the conditions for election of President of the Republic determined by the Constitution.

(2) A candidate for a Member of the Assembly of the Republic, a member of a council and a mayor may be a citizen of the Republic Macedonia who:

- has turned 18 years of age and
- has business ability.

(3) A candidate for a Member of the Assembly of the Republic, a member of the council and mayor shall not be a person who:

- has been sentenced with a final court decision to an unconditional prison sentence of over six months, whose subsistence has not yet begun and
- is serving a prison sentence for committed crime.

(4) In addition to the conditions laid down in paragraph (2) of this Article, a candidate for council member and mayor may be a citizen with permanent residence in the municipality and the City of Skopje where the election is performed.

Incompatibility of the office of the President of the Republic, Member of Parliament, Mayor and Member of Council

Article 8 Electoral Code

(1) The function of Member of the Assembly of the Republic, a member of the council and a mayor is incompatible with the function of President of the Republic, President of the Government of the Republic of Macedonia, Minister, Judge, Public prosecutor, public attorney, ombudsman and other holders of functions elected or appointed by the Assembly of the Republic of Macedonia (hereinafter: the Assembly) and the Government of the Republic of Macedonia (hereinafter: the Government).

(2) The function of a Member of the Assembly is incompatible with the function of a mayor and a council member in the municipality and the city of Skopje.

(3) The function of Member of the Assembly and mayor is incompatible with:

- performing professional and administrative work in the bodies of the state administration,
- carrying out commercial or other profitable activities;
- membership in management boards of public enterprises, public institutions, funds, agencies, offices and in other legal entities, as well as with the election of a representative of state and social capital in the trade companies.

(4) The function mayor of the City of Skopje and the function of a member of the Council of the City of Skopje is incompatible with the function of mayor of the municipality and function as member of the council of the municipality on the territory of the City of Skopje.

(5) On the day of verification of the mandate of a Member of the Assembly, member of the Council and Mayor of the holders of the functions referred to in paragraphs (1) and (2) of this Article shall terminate their function.

(6) On the day of verification of the mandate of a Member of the Assembly and mayor of the persons referred to in paragraph (3) line 1 of this Article, the employment relation is suspended.

(7) On the day of verification of the mandate of a Member of the Assembly and mayor of the persons referred to in paragraph (3) line 2 and 3 of this Article, the employment relation in the commercial or other profit activity is suspended, and membership in management boards of public enterprises, public institutions, funds, agencies, institutions in other legal entities, as well as representatives of state and social capital in trade companies it ceases.

(8) On the day of verification of the mandate of a member of the council of persons employed in the municipality administration of the municipality and the administration of the City of Skopje, their labour relationship is suspended in accordance with the law.

Article 8-c Electoral Code

(1) From the day of issuing the decision for announcing elections, the political parties

participants in the election process, sign a Code of Fair and Democratic Elections.

(2) With the Code from paragraph (1), participants in the election process unambiguously commit themselves that they will not exert any pressure or attempt to pressure public and state employees administration, in other institutions or institutions financed by the Budget of the Republic of Macedonia, the budgets of the municipalities and the City of Skopje, as well as in trade companies and enterprises with state capital.

(3) With the Code from paragraph (1), the participants in the election process also unambiguously commit that no employed person or citizen will be subject to any a threat in terms of their employment and social security as a result of their own support or non-support of any political party or candidate.

Professionalism and irrevocability of office

Article 10 Electoral Code

- (1) The members of the Assembly cannot be revoked.
- (2) The function of member of the Assembly and mayor shall be carried out professionally.

Procedure of submitting a list

Article 67 Electoral Code

- (1) The State or the Municipal Election Commission, or the Election Commission of the city Skopje referred to in Article 66 of this Code after receiving the list of candidate or candidates it shall determine whether it has been submitted within the time limit set and drawn up in accordance with the provisions of this Code.
- (2) If the State or Municipal Election Commission or Election Commission of the city Skopje found that there are certain irregularities in the list, it will be called by the authorized person representative of the submitter of the list, that is, the first signed member of the Assembly on the list of candidates, to eliminate the irregularities within 48 hours of the receipt of the lists.
- (3) If the State or Municipal Election Commission or Election Commission of the city Skopje determined that the list was submitted within the determined deadline and was compiled in accordance with the provisions of this Code, that is, the established irregularities or omissions are removed within the deadline specified in paragraph (2) of this Article, shall confirm the submitted list with a decision.
- (4) If the State or Municipal Election Commission or Election Commission of the city Skopje found that the lists were submitted untimely, that is, the established irregularities or omissions are not removed within the deadline specified in paragraph (2) of this Article, shall reject the submitted list by a decision within 24 hours of the receipt of the lists.
- (5) Against the decision of the Municipal Election Commission or the Election Commission of the city Skopje referred to in paragraph (4) of this Article an appeal may be filed to the Administrative Court, within 24 hours from the receipt of the decision.
- (6) Against the decision of the State Election Commission referred to in paragraph (4) of this Article may be filed a complaint to the Administrative Court of the Republic of Macedonia through the State Election Commission in within 24 hours of receipt of the decision.
- (7) The Administrative Court is obliged to make a decision within 24 hours from the receipt of the appeal.
- (8) Submitting an objection and a lawsuit by mail is not permitted.

(9) The submission of an objection and a lawsuit for voting abroad shall be carried out exclusively by electronic means, personally or through an authorized representative. As the time of filing the appeal is considered the time when the citizen sent the e-mail to the State Election commission.”

Related provisions of the Constitution:

“Article 80 Constitution

The President of the Republic is elected in general and direct elections, by secret ballot, for a term of five years. A person may be elected President of the Republic two times at most. The President of the Republic shall be a citizen of the Republic of Macedonia. A person may be elected President of the Republic if over the age of at least 40 on the day of election. A person may not be elected President of the Republic if, on the day of election, he/she has not been a resident of the Republic of Macedonia for at least ten years within the last fifteen years.

Article 81 Constitution

A candidate for President of the Republic can be nominated by a minimum of 10,000 voters or at least 30 Representatives.

A candidate for President of the Republic is elected if voted by a majority of the total number of voters. If in the first round of voting no candidate wins the majority required, voting in the second round is restricted to the two candidates who have won most votes in the first round.

The second round takes place within 14 days of the termination of voting in the first round. A candidate is elected President if he/she wins a majority of the votes of those who voted, provided more than 40% of the registered voters voted.

If in the second round of voting no candidate wins the required majority of votes, the whole electoral procedure is repeated.

If only one candidate is nominated for the post of President of the Republic and he/she does not obtain the required majority of votes in the first round, the whole electoral procedure is repeated.

The election of the President of the Republic takes place within the last 60 days of the term of the previous President.

Should the term of office of the President of the Republic be terminated for any reason, the election of a new President takes place within 40 days from the day of termination.

Before taking up office, the President of the Republic makes a solemn declaration before the Assembly of his/her commitment to respect the Constitution and the laws.

Article 83 Constitution

The duty of the President of the Republic is incompatible with the performance of any other public office, profession or appointment in a political party. The President of the Republic is granted immunity. The Constitutional Court decides by a two-thirds majority vote of the total number of judges on any case for withholding immunity and approving of detention for the President of the Republic.”

(b) Observations on the implementation of the article

Criteria for elected public officials and financing of elections are governed by the Electoral Code (EC). Article 8 of the Electoral Code provides for the requirements to stand for elections as a President of the Republic, Member of the Assembly or members of the council. The same legal

body also regulates the incompatibilities to hold certain offices and the irrevocability of the members of the Assembly (arts. 8 and 10). In addition, the Constitution also contains provisions on the requirements to be elected as President of the Republic (arts. 80, 81 and 83).

Paragraph 3 of article 7

3. Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Relevant provisions are stipulated by the Election Code and Law on Financing Political Parties.

Relevant provisions of the Electoral Code:

“8. Financing the elections

Article 83

(1) The election campaign shall not be financed by:

- funds from the Budget of the Republic of Macedonia, except the funds determined in Article 86 paragraph (2) of this Code,
- funds from the budgets of the municipalities and the City of Skopje, except the funds determined in Article 86 paragraph (2) of this Code,
- funds from public enterprises and public institutions,
- funds from citizens' associations, religious communities, religious groups and foundations,
- funds from foreign governments, international institutions, bodies and organizations of foreign countries and other foreign entities,
- funds from enterprises with mixed capital where the foreign capital prevails; and
- funds from unidentified sources.

(2) The election campaign may be financed by:

- the membership fee of the political party,
- individuals in the amount of 3,000 euros in MKD equivalent and
- legal entities in the amount of 30,000 euros in MKD counter value.

(3) The election campaign can be financed by donations from individuals and legal entities in the form of money, goods and services the value of which must not exceed the amount determined in paragraph 2, indents 2 and 3 of this Article.

(4) If the amount of the donation that exceeds the amount determined in paragraph (2) lines 2 and 3 of this Article, the participant in the election campaign is obliged, within a period of five days from the day of receiving the donation, to transfer the difference between the allowable

and the donated value to the Budget of the Republic of Macedonia.

(5) If the origin of the donation cannot be determined, the participant in the election campaign is obliged, within five days from the day of receiving the donation, to transfer the donated value to the Budget of the Republic of Macedonia.

Article 83-a

(1) As a donation referred to in Article 83 of this Law shall also be considered the following:

- provision of free services to the participant in the election campaign,
- provision of services to the participant in the election campaign paid by a third party and
- sale of goods or provision of services to the participant in the election campaign at prices lower than the market prices.

(2) The seller of the goods, i.e. the service provider is obliged to notify the participant in the election campaign for the market price of the goods sold or the service provided and shall submit an invoice thereof.

(3) The difference between the market value and the invoiced value shall be considered a donation.

(4) Public enterprises are obliged to offer equal prices for their services to all participants of the campaign through official price lists.

Article 83-b

(1) The participant in the election campaign during the election campaign shall keep a register of donations with the following data:

- the name, i.e. the name of each donor individually,
- the type and value of the donation and
- the date of receiving the donation.

(2) The donation register shall contain data for paid donations of entities that are directly or indirectly connected with or under the control of a political party.

(3) The register of donations shall be kept on a form prescribed by a rulebook adopted by the Minister of Finance, which shall determine the form, the content and the manner of keeping the register of donations.

Article 84

In the financing of the election campaign, the participant in the election campaign can spend up to 110 MKD per registered voter in the electoral unit, that is, the municipality for which he has submitted a list of candidates, i.e. candidate list in the first and second round of voting.

Article 84-a

From the day of announcing the elections, until the election day, the state bodies and the bodies of the municipalities and the City of Skopje may not publish advertisements financed from the Budget of the Republic of Macedonia, that is, from the budgets of the municipalities and the City of Skopje.

Article 84-b

(1) The participant in the election campaign shall be obliged on the 11th day after the election campaign day to submit the financial report with the specification of the revenues and expenses on the transaction account dedicated to the election campaign from the day of its opening until

the end of the tenth day of the election campaign.

(2) A participant in the election campaign shall be obliged, one day before the second round of voting, to submit a financial report specifying the revenues and expenditures on the transaction account for the election campaign for the second round of voting.

(3) The participant in the election campaign shall be obliged, one day after the completion of the election campaign, to submit a financial report specifying the expenses for the election campaign expenses for the second half of the election campaign.

(4) The reports referred to in paragraphs (1) and (2) of this Article shall be submitted on a template prescribed by the Minister of Finance containing the data on the name of the donor, type and value of donations, date of receiving donations and expenditures for each donation and revenue and expenditure during the election campaign, as well as data on donations received by a third party.

(5) An integral part of the template referred to in paragraph (4) of this Article shall be the Instructions on the manner of filling in the template of the report.

(6) The reports shall be submitted to the State Election Commission, the State Audit Office and the State Commission for the Prevention of Corruption, which are obliged to publish them on their web sites.

(7) The political entities shall be obliged to publish the reports submitted by under paragraph (6) on their web pages.

9. Financial Report

Article 71 paragraphs (1), (10) and (11)

(1) For the raising of the funds for financing of the election campaign, the political party, coalition, holder of the independent list of a group of voters or persons with intent to become candidates, before the competent authority shall mandatorily provide unique tax number with designation "for election campaign" and at holder of payment operations in the Republic of Macedonia to open a transaction account with designation "for election campaign" and the aforementioned number and account cannot be used for other purposes.

(10) The transaction account referred to in paragraph 1 of this article shall be closed in the period of 3 months from the day of the publishing of the final election results of the presidential and parliamentary elections.

(11) The transaction account referred to in paragraph 1 of this article shall be closed in the period of 9 months from the day of the publishing of the final election results of the elections for members of municipalities' councils and the council of the city of Skopje, the elections of municipality mayors and mayor of the city of Skopje.

Article 83

(1) The election campaign may not be financed from:

- funds from the Budget of the Republic of Macedonia, except the funds defined in Article 86, paragraph (2) of this Code;
- funds from the budget of municipalities and the City of Skopje, except the funds defined in Article 86, paragraph (2) of this Code;
- funds from public enterprises and public institutions;
- funds from citizens' associations, religious communities, religious groups, and foundations;

- funds from foreign governments, international institutions, bodies and organizations of foreign states and other foreign entities;
- funds from joint ventures with dominant foreign capital; and
- funds from unidentified sources.

(2) The election campaign may be financed from:

- the membership fee of the political party;
- private persons in the amount of up to 3,000 Euro in MKD equivalent; and
- legal entities in the amount of up to 30,000 Euro in MKD equivalent.

(3) The election campaign may also be financed from donations of private persons and legal entities in the form of money and goods and services whose value that may not exceed the amount determined in paragraph (2), indents 2 and 3 of this article.

(4) If the amount of the donation is higher than the amount determined in paragraph (2), indents 2 and 3 of this article, the election campaign participant shall be required to transfer the difference in the permitted and donated amount to the Budget of the Republic of Macedonia, within five days of receiving the donation.

(5) If the origin of the donation cannot be determined, the election campaign participant is required to transfer the donated value to the Budget of the Republic of Macedonia within five days from the receipt of the donation.

Article 76-e

(1) For the fulfilment of the legal obligations of the broadcasters, print media and electronic media (portals) in the part of publishing of paid political advertising, funds will be secured from the Budget of the Republic of Macedonia, to be paid on a special account of the Ministry of Finance.

(2) These funds are intended exclusively for financing of broadcasters, print media and electronic media (portals) in the part for the publishing of the paid political advertising of the participants in election process.

(3) If the approved fund are higher than realistically made expenses in the sense of paragraph 2 of this article, the Ministry of Finance is obliged to return to the account of the Budget of the Republic of Macedonia the rest of the funds.

(4) The Ministry of Finance pays the expenses for the published public advertising based on invoice submitted by broadcasters, print media and electronic media (portals). Annex of the submitted invoice is a media plan and reports on realized services confirmed by broadcasters, print media, electronic media (portals) and by the participant in the election campaign.

Article 85

(1) The participant in the election campaign shall be obliged to submit a total financial report for the election campaign immediately or at the latest within 30 days from the day of closing the transaction account referred to in Article 71 paragraph (10) and (11).

(2) The financial report for the election campaign shall be submitted on the form referred to in Article 84-b paragraph (3) of this Code.

(3) The financial report shall be submitted to the State Election Commission, the State Audit Office, the State Commission for the Prevention of Corruption and the Assembly of the Republic of Macedonia, and for the local elections also to the council of the municipality and the council of the City of Skopje.

(4) The State Election Commission, the State Audit Office and the State Commission for Prevention of Corruption shall publish the financial report referred to in paragraph (3) of this Article on their web pages.

(5) The participant in the election campaign of a group of voters shall give as a gift the surplus of collected funds for charity.

(6) The State Audit Office shall, within 60 days from the day of submitting the report from the paragraph (1) of this Article is obliged to conduct an audit. The audit is conducted from the date of the opening of the transaction account for the election campaign until the completion of the transactions on that account.

(7) If the State Audit Office finds irregularities in the financial report of the participant in the election campaign that contravene the provisions of this Code, the State Audit Office shall request for initiation of a misdemeanour procedure or shall submit a report to the competent public prosecutor within 30 days from the day of determining the irregularities.

(8) The State Audit Office is entitled to request additional explanations and data when conducting the audit of the financial report of the participant in the election campaign in order to fully determine any irregularities in it.

(9) The State Election Commission, the State Audit Office and the State Commission for Corruption shall conclude a Memorandum of Cooperation concerning the implementation of the provisions for the financing of the election campaign for the exchange of information on identified irregularities in relation to the submitted financial statements and the measures taken by their side towards the subject under supervision.

Article 85-a

(1) Broadcasters and print media and electronic media (electronic portals) in the Republic of Macedonia shall be obliged to submit a report on the advertising space used by each of the participants in the election campaign and the funds that are paid or are demanded on that basis.

(2) The report referred to in paragraph (1) of this Article shall be submitted no later than 15 days after the day of completion of the election campaign.

(3) The report referred to in paragraph (1) of this Article shall be submitted to the Ministry of Finance, the State Election Commission, the State Audit Office and the State Commission for the Prevention of Corruption, which shall be obliged to publish it on its web sites.

(4) The report referred to in paragraph (1) of this Article shall be submitted in a template prescribed by the Minister for Finance.

Article 85-b

Audit reports from the audited financial statements of the participants in the election campaign shall be published by the State Audit Office on its website within the deadline determined by law.

(5) The Ministry of Finance pays the expenses for the paid political advertising to the broadcasters, print media and electronic media (portals), on the 12-th day from the day of the election campaign and 10 days after the end of the election.

XIV. PENALTIES AND MISDEMEANOR PROVISIONS

Article 177-a

(1) Notwithstanding the misdemeanour liability, for non-compliance with the provisions of this Code that are referring to the limitation of election campaign costs and the delivery of the

financial statements for financing the election campaign, to a participant in the election campaign is determined:

- partial loss of compensation for election campaign expenses,
- full loss of compensation for election campaign expenses; or
- ban the payment of the election campaign expenses.

(2) A participant in the election campaign shall be assigned a partial loss of compensation to election campaign costs in case they exceed the allowable amount of costs for the election campaign, in accordance with Article 84 of this Code;

(3) The partial loss of the compensation for the costs of the election campaign in the cases referred to in paragraph (2) of this Article, consists in reducing the amount of compensation for campaign costs for as much as the permissible limit for spending in the election campaign has been exceeded. If the amount of funds that exceeds the allowed spending limit in election campaign is greater than the amount for the compensation of expenses in the election campaign, will a total loss of compensation for the costs of the election campaign was determined.

(4) A participant in the election campaign shall be appointed a prohibition on the payment of the fee to election campaign costs in cases when they do not submit within the prescribed deadline and content the financial statements in accordance with Article 84-b paragraphs (1) and (2) and Article 85 of this Code.

(5) The ban on the payment of the election campaign expenses in the cases from paragraph (4) of this Article shall last until the proper fulfilment of the obligation in accordance with Article 84-b paragraphs (1) and (2) and Article 85 of this Code.

(6) The decision for partial or complete loss of the compensation of the election expenses campaign referred to in paragraphs (2) and (3) of this Article, as well as the decision to suspend the payment referred to in paragraph (4) of this Article shall be taken by the State Election Commission upon proposal of the State Audit Office.

(7) An administrative dispute may be initiated against the decision referred to in paragraph (6) of this Article that is final.

(8) The decision referred to in paragraph (7) of this Article shall be published in the "Official Gazette of the Republic of Macedonia".

Article 178

(1) For prevention of elections and voting; for violation and abuse of the right to vote; for violation of the freedom of voters' determination; for bribery in elections and voting; for the destruction of the electoral documents, for actions contrary to Article 8-a of this Code and for an election fraud, the perpetrator shall be punished according to the provisions of the Criminal Code.

(2) The attempt of the criminal offenses referred to in paragraph (1) of this Article shall be punishable.

(3) The procedure is urgent for the crimes referred to in paragraph (1) of this Article.

Article 188-a

(1) A fine in the amount of 9.000 euros in MKD counter-value shall be imposed for a misdemeanour a political party, a coalition or an independent candidate if they do not return to the donors unspent donations within the foreseen deadline, in proportion to the donated amount, at case of not submitting or not confirming the list of candidates (Article 71, paragraph 7).

(2) Fine in the amount of 30% of the measured fine for the political party, the coalition

respectively the independent candidate will be pronounced to the authorized person of the political party, the coalition or the independent candidate for the misdemeanour referred to in paragraph (1) of this Article.

(3) A fine in the amount of 900 to 1.350 euros in MKD counter-value shall also be imposed to a person who intended to become a candidate for the misdemeanour referred to in paragraph (1) of this Article.

Article 189

(1) A fine in the amount of EUR 9,000 in MKD counter value shall be imposed for a misdemeanour to a political party, a coalition or an independent candidate if they do not submit a report on financing of the election campaign referred to in Article 85 of this Code, or when financing of the election campaign funds have been used in accordance with Article 83 of this Code.

(2) A fine in the amount of 9.000 euros in MKD counter value shall be imposed to a political party or a coalition or an independent candidate for spent more funds in the election campaign than is stipulated in Article 84 of this Code.

(3) Fine in the amount of 30% of the measured fine for the political party, the coalition respectively the independent candidate will be pronounced to the authorized person of the political party, the coalition or the independent candidate for the misdemeanour referred to in paragraph (1) of this Article.”

The Law on Financing of Political Parties regulates the manner and procedure for providing funds, disposal of the funds for the ongoing operation and activities of the political party, as well as the manner of controlling the financing and financial and material operations of the political parties. Relevant provisions stipulated by the Law are the following:

“Article 4

The financing of the political parties shall be public and transparent. The financing of the political parties shall be performed transparently, the citizens and the competent body for control of the financial and material operations having a complete insight thereof.

The sources of financing the political parties, as well as their expenditures, shall be public and transparent and shall be subject to control of the state bodies competent for financial and material operation.

Article 5

Any citizen or member of the political party shall be entitled to equal access to the insight into the financing of the political party.

Any citizen or member of the political party shall be entitled to prevent or report a procedure that constitutes an abuse or infringement of this Law.

II. PROPERTY AND SOURCES OF FINANCING POLITICAL PARTIES

Article 6

The political parties shall have the right of ownership on business premises, land, equipment, stationery, means of transportation and other movable property necessary for fulfilling the aims and carrying out the activities set out by the statute of the party and by law.

Article 8

The public sources for financing the political parties shall be the funds envisaged in the Budget

of the Republic of Macedonia.

Article 9

The total funds for annual financing of the political parties shall amount to 0,15% of the total source incomes of the Budget of the Republic of Macedonia.

The funds referred to in paragraph 1 of this Article shall be planned in their determined amount in the Budget of the Ministry of Justice for every fiscal year.

The political parties may use the funds referred to in paragraph 1 of this Article solely for achieving their aims defined by law, statute and other acts of the party.

Article 10

The funds for financing the political parties, in the amount of 30% provided by the Budget of the Republic of Macedonia shall be allocated equally to all political parties that have won at least 1% of the votes of the turnout at the last elections for representatives in the Assembly of the Republic of Macedonia, at national level, or at the last held local elections in the self-government unit.

The funds for financing the political parties, in the amount of 70% provided by the Budget of the Republic of Macedonia shall be allocated to political parties whose candidates are elected as representatives in the Assembly of the Republic of Macedonia, proportionally to the number of elected representatives, and to political parties whose candidates are elected counsellors at the last held local elections, proportionally to the number of counsellors elected.

The funds referred to in paragraphs 1 and 2 of this Article shall be allocated to the political parties with a decision from the Minister of Justice.

The State Election Commission shall submit to the Ministry of Justice a list of the political parties that have won at least 1% of the votes of the turnout at the last held elections for representatives in the Assembly of the Republic of Macedonia, on national level, or at the last held local elections in every municipality and in the City of Skopje, on municipal level, i.e. on level of the City of Skopje.

The State Election Commission shall submit to the Ministry of Justice a list ordered by number of elected representatives in the Assembly of the Republic of Macedonia per political party, on national level, and ordered by the number of elected counsellors at the last local elections on national level.

Article 10-a

In addition to the funds referred to in Article 9 of this Law, funds in the amount of EUR 280,000.00 in MKD equivalent shall be provided in the Budget of the Republic of Macedonia, for annual financing of the Party research and analytical centres established in accordance with the law as part of the internal organization of the political party.

The funds referred to in paragraph 1 of this Article shall be planned in the Budget of the Ministry of Justice for each fiscal year. The allocation of the funds referred to in paragraph 1 of this Article shall be performed in accordance with the law.

2. Private sources of financing political parties

Article 13

Private sources of financing the political parties shall be:

- membership fee,
- credit,

- donations, gifts, contributions, grants, sponsorships (hereinafter: donations),
- legates,
- sale of promotional and advertising material and
- own incomes in accordance with this Law.

Article 14

Membership fee, in terms of this Law, shall be considered the regular amount of funds that the member of the political party pays annually in accordance with the acts of the party.

The amount of the membership fee, for one year period, for each member individually, must not be higher than the average net salary paid in the Republic in the previous year, published by the State Statistical Office.

Article 15

The political parties may receive donations in the form of money, tangible assets or services.

The political parties may receive non-monetary donations if they, in accordance with their statute, may be used for their activities.

The provision of free of charge services for a political party, as well as provision of services for political parties paid by a third party, in terms of this Law, shall be considered as donation.

The service provider shall be obliged to notify the political party of the value of the provided service. In terms of this Law, the sale of goods and provision of services to political parties for prices lower than the market prices shall be considered donation.

The seller of goods, i.e. the service provider shall be obliged to notify the political party of the market value of the sold goods, i.e. provided service.

The difference between the market value and the paid price shall be considered as donation.

The conditions and limitations referred to in this Law shall apply to all types of donations (monetary assets, equipment and services).

If the donation is received by the entities listed in Article 20 of this Law, the political parties shall be obliged, within ten days from the day of receiving the donation, to notify the donor of rejecting the donation and to return it within 30 days.

Article 16

The total amount of the individual donation must not exceed the amount of 60 average net salaries of legal entities and 30 average salaries of natural persons in the Republic, paid in the previous month and published by the State Statistical Office.

This amount must not be cumulated more than once in a year. If the amount of the donation exceeds the amount determined in paragraph 1 of this Article, the political party cannot use it and shall be obliged to immediately, and at latest within 15 days from the day of receiving the donation, return the difference between the allowed and donated value to the donor.

If the origin of the donation cannot be confirmed, the political party shall be obliged to immediately, and within 15 days from the receiving of the donation at latest, to transfer the donated amount to the Budget of the Republic of Macedonia.

The register referred to in paragraph 1 of this Article shall contain data on the paid donations of entities that are directly or indirectly connected with or under the control of the political party. The political parties are obliged to publish on their website a register of donations every six months for the past six-month period, within 15 days from the date of the expiration of the six-month period or make it available to the public in another appropriate manner.

Article 18

The political parties by a legate may acquire the funds envisaged in Article 6 of this Law only. If the political party is given assets not defined in Article 6 of this Law, they shall be sold at court auction and the monetary value realized by the auction shall be transferred to the transactions-account of the political party.

The limitations of the amount of the donations referred to in Article 16 of this Law shall also apply to the amount of the legate.

Article 19

The political parties are prohibited from performing an economic activity.

The political parties cannot acquire other types of income, except the following:

- interest on bank deposit,
- rent, i.e. leasing movable and immovable property of the party,
- incomes from sale of printed, audio and visual and digital publications and advertising materials and other publications where the name or some of the marks of the political parties are affixed, as well as incomes from copyrights and
- incomes from tickets sale for attending manifestations organized for party purposes, where the name or some of the marks of the political party must be affixed to the tickets.

The political parties shall use the incomes referred to in paragraph 2 of this Article solely for performing activities in accordance with law and the acts of the party.

The political parties must not use the incomes referred to in paragraph 2 of this Article for making profit.

Article 20

The political parties cannot be financed by:

- governments, international institutions, bodies and organizations of foreign states and other foreign persons,- state and local bodies with funds other than the ones envisaged in the Budget of the Republic of Macedonia, except the funds envisaged in this Law and the laws on elections,
- public institutions, public enterprises, public funds or other legal entities that manage state capital,
- public enterprises, public institutions and public funds established by the municipalities,
- enterprises that have at least 20% participation of state-owned capital, public institutions and institutions including those that have initiated the process of privatization,
- private enterprises that provide public services for state bodies or public institutions, enterprises and funds by an agreement at the moment of giving the contribution for the political party,
- citizens' associations (non-governmental organizations), religious communities or religious groups,
- funds of enterprises with mixed capital where a dominant owner is a foreign investor and
- anonymous or unidentified sources.

If the political parties do not act in accordance with Article 15 paragraph 6 of this Law regarding the funds received by the entities referred to in paragraph 1 of this Article, then these funds shall be transferred from the transactions account of the political parties to the Budget of the Republic of Macedonia and shall be used for financing humanitarian activities.

The political parties, which acquire and illegally use funds from the sources referred to in paragraph 1 of this Article, as well as the funds that they do not record in the register of donations, shall lose the right to financing from the Budget of the Republic of Macedonia for the following year.

Article 21

The political parties are prohibited from having funds in foreign banks or other financial institutions outside the Republic of Macedonia.

Article 22

Any kind of pressure to legal entities and natural persons for the purpose of raising financial funds for the political party shall be forbidden.

Promising privileges and personal benefit or benefit to a legal entity of any kind to the donator of the political party shall be forbidden.

Any person that finds out about issues referred to in paragraphs 1 and 2 of this Article shall be obliged to notify the State Commission for Prevention of Corruption which shall carry on the procedure by submitting a motion to the competent bodies, provided it assesses that there is a criminal or misdemeanour liability.

III. CONTROL OF FINANCING OF POLITICAL PARTIES

Article 23

The political parties are obliged to keep accounting for the financial and material work of the party. Revenues and expenditures of the political party are public. Political parties maintain accounting under the provisions of the Accounting Law for non-profit organizations.

Article 24

The statute or other act of the political parties regulates the manner of performing the internal control of the financing of the political party.

The political party is obliged by statute or other act to determine the right to inform each party member of the party's income and expenditures.

The political party is obliged by a statute or other act to determine a body competent for the financial performance of the party. The statute of the political party shall determine the person and the manner of appointment, i.e. the determination of the body competent for the financial performance of the party.

Article 25

The political party shall prepare a report on the received donations.

The report on the received donations shall contain the data from the register of donations.

The political party shall submit the report referred to in paragraph 2 of this Article at the latest by 31 March for the previous year, together with the annual financial statement referred to in Article 27 of this Law, to the State Audit Office.

The political party shall submit the report referred to in paragraph 2 of this Article at the latest

by 31 March for the previous year, to the Public Revenue Office.

The State Audit Office and the Public Revenue Office shall be obliged to publish the obtained reports on their websites.

Article 26

The supervision over the financial and material operations of the political parties shall be carried out annually for the previous year by the State Audit Office, under law.

The political parties may have only one transactions-account.

When the political party performs its financing by obtaining funds from a commercial bank credit, besides the basic account, the political party may additionally have one special account for funds obtained by a credit.

The political party has the right to transfer funds between its accounts.

The research and analytical center of the political party has a special account.

In cases referred to in paragraphs 2, 3, 4 and 5 of this article, the political parties are obliged to submit financial reports on the material and financial activity of the party.

The political parties, in accordance with the legal regulations, shall submit the annual balance sheet for the financial operation to: the Public Revenue Office, the Central Register and the State Audit Office, and shall be obliged to announce them on their web sites.

Article 27

The political parties, until 31 March at the latest, shall prepare the annual financial statement for the previous year in accordance with law. The statement shall contain the financial operation of the account or the accounts of the political party.

The annual financial statement shall as well contain data for:

- the total income including the data for the total amount of donations, gifts, contributions, donations, sponsorship, credit, money, material assets, equipment, services, personal incomes, membership fee, legates and other and
- the total expenditures.

The annual financial statement shall be submitted to the State Audit Office within the time period determined in paragraph 1 of this Article.

If the State Audit Office establishes irregularities in the annual financial statement of the political party which are contrary to the provisions of this Law, it shall file a motion for initiation of a misdemeanour procedure or shall file a report to the competent public prosecutor in a period of 30 days as of the establishment of the irregularities.

The template, form, content and manner of keeping the financial statement shall be prescribed by the Minister of Finance. An integral part of the template referred to in paragraph 5 of this Article is the Guidelines on the manner of filling in the annual financial report.

The Ministry of Finance conducts at least annually the training of political parties on the material and financial operations and the manner of completing the financial report.

Article 27-a

The political party is obliged to publicly publish the annual financial report on the political party's website no later than April 30 of the current year for the previous year.

Article 27-b

Regardless of the misdemeanour liability, suspension of funds for regular annual financing from the Budget of the Republic of Macedonia shall be imposed to the political party that will not submit an annual report to the State Audit Office within the prescribed deadline in accordance with Article 27 of this Law and if it acts contrary of Articles 16, 25 and 26 paragraph 3 of this Law.

The payment of the funds for regular annual financing from the Budget of the Republic of Macedonia shall be suspended and suspended for the political party that will not publish the data on the donations received during the year in accordance with Article 17 of this Law.

The suspension of the payment referred to in paragraph 1 of this Article shall last until the due fulfilment of the obligations pursuant to Articles 16, 25, 26, 3 and 27 of this Law, and the termination of the payment referred to in paragraph 2 of this Article lasts until the proper fulfilment of the obligations in accordance with Article 17 of this Law.

The decision to stop (suspension) the payment of funds for regular annual financing from the Budget of the Republic of Macedonia on a proposal of the State Audit Office shall be adopted by the Minister of Justice.

An administrative dispute may be initiated against the decision referred to in paragraph 4 of this Article, which is final.

The decision referred to in paragraph 5 of this Article shall be published in the "Official Gazette of the Republic of Macedonia.

Article 27-c

Regardless of the misdemeanour liability, the political party which within the prescribed deadline will not publish the annual financial report in accordance with Article 27-a of this Law, loses the right to regular annual financing from the Budget of the Republic of Macedonia for a period of three months.

A decision for losing the right to regular annual financing from the Budget of the Republic of Macedonia for a period of three months, in accordance with paragraph 1 of this Article, shall be adopted by the Minister of Justice on a proposal of the State Audit Office.

An administrative dispute may be initiated against the decision referred to in paragraph 2 of this Article, which is final.

The decision referred to in paragraph 3 of this Article shall be published in the "Official Gazette of the Republic of Macedonia".

Article 28

Fine in the amount of Euro 1.000 to 2.000 in MKD counter-value shall be imposed to a natural person for a misdemeanour, while fine in the amount of Euro 5.000 to 10.000 in MKD counter-value shall be imposed for misdemeanour to the legal entity, should they act against the provisions referred to in Article 16 paragraph 1 of this Law.

Fine in five to ten times the amount of the difference between the allowed and donated value shall be imposed to the political party for misdemeanour, should it act against Article 16 paragraph 2 of this Law.

Fine in ten to twenty times the amount of the donated value shall be imposed for misdemeanour to the political party, should it act against Article 16 paragraph 3 of this Law.

Article 29 paragraph 2

Fine in the amount of Euro 5.000 to 10.000 in MKD counter-value shall be imposed for

misdeemeanour to the political party that acts against Articles 25, 26 paragraph 3, 27 and 27-a of this Law.

Article 31

Competent body for acting upon the misdemeanours determined by this Law, shall be the basic court according to the head office of the political party.

Article 32

In case if the political parties more often than twice a year commit a misdemeanour, as stipulated by this Law, the same shall not be awarded budget funds in accordance with this Law in duration of one year.”

(b) Observations on the implementation of the article

Criteria for elected public officials and financing of elections are governed by the Electoral Code (EC), which also contains rules on financial reporting and auditing (Art. 85). Participants in the election campaign shall keep register of certain information regarding the donations such as name of the donor, value of the donation or date (Art. 83-a). A separate bank account should be created for the sole purpose of the campaign and financial reports on the revenues and expenses of this account shall be submitted to the State Election Commission (Art. 71(1), 85, EC).

Election campaigns are subject to a financing ceiling of 3,000 Euro and to a ceiling of 30,000 Euro on donations from each individual and each legal entity respectively (Art.83, EC).

Penalties and misdemeanour procedures may be applied (chap. XIV, EC) in case of non-compliance with the provisions of the Electoral Code. Penalties including partial or full loss of compensation for election campaigns expenses, as well as ban of the payment of the election campaign expenses.

The Law on Financing of Political Parties also regulates the procedure for providing and disposing funds for activities of the political parties, including relevant reporting requirements.

Paragraph 4 of article 7

4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

In accordance with the Law on Prevention of Conflict of Interest, the procedure for determining the existence of a conflict of interest is initiated and implemented by SCPC ex officio at the request of an official based on a report/complaint of another person, or at the request of the head of the authority/body where the official is employed, or on the basis of an anonymous report. The aim is to ensure the prevention of misuse of public authorisations and duties of the official for the private benefit of themselves or close relatives, and to ensure the prevention of the possibility that the private interest of the official endangers the public interest. According to Article 23 of the Law on Prevention of Conflict of Interest, if SCPC detects a conflict of interest, it is obliged to inform the official and request him/her to remove the conflict of interests within a period of 15 days from the submission of SCPC decision containing the recommendations.

If the official acts upon the recommendation, SCPC shall stop the procedure and inform the official and the applicant. In case the official did not act pursuant to SCPC recommendations, SCPC shall decide on imposing the measure of public reprimand, which shall be delivered to the official.

If an official against whom the measure of public reprimand has been imposed did not take actions to remove the conflict of interest and to inform SCPC thereof within a period of 15 days from the receipt of the decision, SCPC shall start an initiative for termination of the public authorisations or duties of the official or an initiative for instigating a disciplinary procedure for determining a disciplinary liability before the competent authority.

“Article 23 Law on Prevention of Conflict of Interest

(1) If the State Commission concludes that there exists a conflict of interest, then it shall be obligated to inform the official person and to ask him/her to remove the conflict of interest within 15 days from the day when he/she received the decision.

(2) If the official person acts in accordance with the instruction, the State Commission shall stop the procedure and shall inform the official person as well as the entity that submitted the allegations.

(3) If the official person fails to act in accordance with paragraph (1) of this article, the State Commission shall enact a decision to impose a measure public warning which shall be submitted to the official person.

(4) If the official person which has a public warning measure imposed against him/her, fails to undertake actions to remove the conflict of interest and to inform the State Commission within 15 days after he/she received the decision, then the State Commission shall start an initiative for termination of the public authorizations or duties or an initiative for instigating a disciplinary procedure to determine the existence of a disciplinary violation, before the competent authority.”

The measures of public reprimand are published on the website of SCPC.

According to Article 20 of the Law on Prevention of Conflict of Interest, the President of the Republic, the members of the Assembly of the Republic, the mayors, the ambassadors and other persons appointed by the Republic abroad, and elected and appointed persons in the Assembly and the Government, state administration and other state bodies, judiciary, public enterprises, institutions and other authorities of central and local self-government established by law, in the exercise of their public authorisations and duties, are required to submit a statement on the (non)existence of conflicts of interest to the State Commission within a period of 30 days from the appointment.

Civil servants and employees in state administration and other state bodies, judiciary, public enterprises, institutions and other legal entities of the central and local government established by law, and persons employed by temporary employment agencies with the authority, are required to, within 30 days, submit a statement on the existence or non-existence of conflict of interests in the authorities/bodies where they perform their duties, i.e. where they are employed (Article 20 b).

“Article 20-a

The President of the Republic of Macedonia, the members of parliament, the mayors, the ambassadors and the other persons appointed by the Republic of Macedonia abroad, the persons elected or appointed to or by the Parliament of the Republic of Macedonia and the Government of the Republic of Macedonia, the state administration authorities and other state authorities, the judicial authorities, the public enterprises, institutions and other authorities of the central government and the local authorities specified by law, when assuming the performance of public

authorizations and duties, shall be obligated, within 30 days, to submit a statement referring to the existence or non-existence of a conflict of interest to the State Commission.

Article 20-b

The civil servants and employees in the state administration authorities and other state authorities, the judicial authorities, the public enterprises, institution, other legal entities of the central and local governments specified by law, as well as persons employed through agencies for temporary employment with authorization, shall be obligated, within 30 days, to submit a statement referring to the existence or non-existence of conflicts of interest, to the authorities where they perform their duties, i.e. where they are employed.

Article 20-c

If, while performing public authorizations and duties, an official person finds himself/herself in a state of conflicting interests, then he/she shall be obligated, within 30 days from the time when the change occurred to inform the State Commission.

If an official person finds employment in a company or another legal entity in the private sector within a time period of three years, then he/she shall be obligated, within 30 days, to inform the State Commission thereof.

Article 20-d

The form and the content of the form of the statement of interests stipulated in articles 20-a and 20-b of this law shall be prescribed by the State Commission.

Article 20-e

In the event when there is a reasonable doubt or if there is evidence that suggests that a conflict of interest exists, then the State Commission, within the meaning of this law, shall verify the statements referring to the existence/non-existence of conflicts of interests given in accordance with the Law on Public Procurement.”

Pursuant to the Law amending the Law on Prevention of Conflict of Interest from 2012 (“Official Gazette ”, No. 6/2012 from 13.01.2012) SCPC has the authority to check the statements of interest. In March 2012, the Government adopted a Decree on checking the contents of the Statements of Interest (“Official Gazette ”, No. 42/2012 from 28.03.2012). In accordance with Article 20 of the Law on Prevention of Conflict of Interest, SCPC checks the content of the statements of interests that are submitted to SCPC, and concluded that the conflicts of interest among officials usually occur as accumulation of functions, i.e. simultaneous exercise of two or more functions and hence the violation of article 9 of the Law on Prevention of Conflict of Interest.

Information about actions of SCPC in preventing conflicts of interests are regularly published in the annual reports of SCPC.

In 2016 SCPC developed a unique form of declaration of non-existence of a conflict of interest for the needs of the contracting authorities in the implementation of public procurement. The Statement of Interest form requires the following data:

1. Personal engagements - “do you execute another public authorization or duty (elected, appointed, employed) besides the one you report in point 2 of this form?”
2. Companies - Are you owner, founder, co-owner, member of assembly, supervisory board, management board or management in a company or are you an authorized person in a company? If the answer is “yes”, state the name of the company as well as the percentage of the state capital in the trade company.
3. Are you a member of an association of citizens or foundation? If the answer is “yes”, state

the name of the association of citizens or foundation as well as your function and the wage you receive?

4. Do your close persons execute public authorization or duty/ (as elected, appointed, employed officials). If the answer is “yes”, state the name of the person, the name of the institution or body as well as the working position and the date of the election/appointment.

5. Are your close persons owners, founders, co-owners, members of association of supervisory board or authorized persons in trade companies? If the answer is “yes”, state the name of the person, the name of the company, the status of the person as well as the percentage of his/her capital in the company.

6. Are you close to persons members of associations of citizens or foundations? If the answer is “yes”, state the name of the person, the name of the association or foundation, and your relation with the person named and his/her status in the association or foundation.

Public access to submitted statements of interest is provided upon a request submitted in accordance with the Law on Free Access to Public Information.

Relevant provisions regarding limitations after leaving office and membership in management and supervisory bodies are stipulated by the Law on Prevention of Conflict of Interest as follows:

“VII. LIMITATIONS AFTER LEAVING OFFICE

Article 17

(1) An official person, within a time period of three years after the termination of public authorizations or duties, or after the termination of the employment shall not get employment in a company where he/she performed supervision or had established a contractual relationship whilst performing the public authorizations or duties.

(2) An official person, within a time period of three years after the termination of public authorizations or duties, or after the termination of the employment shall not acquire in any way shares or parts in the legal entity where he/she worked or performed supervision.

(3) If an official person, within the time period stipulated in paragraph (2) of this article, does acquire shares or parts by way of inheritance, then he/she shall be obligated to report this to the State Commission.

(4) An official person, within a time period of three years after the termination of public authorizations or duties, or after the termination of the employment shall not be able to represent natural persons or legal entities from the authority where he had previously worked, if he/she participates in the making of a decision on a specific case.

VIII. MEMBERSHIP IN MANAGEMENT AND SUPERVISORY AUTHORITIES

Article 18

(1) An official person may not be a member in a management or a supervisory board of a company, public enterprise, agency, fund as well as all other organizational forms with dominant state capital, unless otherwise specified by law.

(2) Notwithstanding paragraph (1) of this article, a civil servant or a person with special duties and authorizations specified by law can be a member of the management board or the supervisory authority of a company.

Laws prescribing public functions of officials to be performed professionally, also contain legal provisions prescribing incompatibilities of performing other functions.

Many laws contain provisions prohibiting performance of functions or activities in line with the provisions of the Law on Prevention of Corruption, as well as specific criteria for selection of officials in order to prevent (even potential) conflict of interest.”

Relevant publications:

[Managing Conflict of Interest Guidelines](#), September 2016 (prepared within EU funded IPA 2010 Twinning Project "Support to efficient prevention and fight against corruption", implemented by SCPC);

[Handbook on Integrity and Conflict of Interest](#), 2013 (prepared in collaboration with UNDP);

Trainings:

SCPC has conducted generic trainings organized by the Ministry of Information Society and Administration on the topic "Anti-corruption measures and ethics in the Public Service" that included lectures on conflict of interest.

As part of its cooperation with the Academy of Judges and Public Prosecutors, SCPC has conducted trainings for representatives of the judiciary comprising judges and public prosecutors, lay judges and court administration. SCPC also implemented a series of trainings in collaboration with several ministries and state bodies (Ministry of Defence, Ministry of Education and Science, Ministry of Labour and Social Policy, Public Revenue Office, etc.). The training topics are prevention of corruption, conflict of interest and whistleblower protection.

In the first half of 2017, under the Memorandum of Cooperation between SCPC and the Directorate for Execution of sanctions, four trainings organized by the Directorate for Execution of Sanctions for the employees of penitentiary institutions were held on topics concerning prevention of corruption, conflict of interest and whistleblower protection.

Under the EU-funded project "Strengthening National Capacities for Combating Organized Crime and Corruption", SCPC is one of the beneficiary institutions. Initiated under the Twinning project IPA 2010 "Support for effective prevention and combating corruption", activities for technical and content finalization of the platform for e-learning were carried out during May-June 2017.

Transparency

SCPC held 15 public meetings attended by journalists and representatives of media, and a number of press conferences in which questions were answered by the President of SCPC and SCPC members.

The decisions of the public sessions SCPC are published on its website. SCPC regularly publishes press releases on the website www.dksk.mk under the section "Information for the public" and subsection "Announcements".

During 2016, 62 information announcements were published on the website of SCPC about the operation of SCPC in cases of corruption and conflict of interest. In addition, one press conference and three interviews of the President of SCPC were held, three statements were given to the media by the spokesman of SCPC, and 25 answers were given to the questions posed by journalist via e-mail in relation to corruption, conflict of interests, as well as the monitoring of the assets of the officials. In 2016, SCPC held 3 conferences and 3 workshops that were covered by the media during and in addition to his speeches, the President of SCPC likewise gave statements for the media.

During 2017, 57 information announcements were published on the website of SCPC about the operation of SCPC. In the same year, SCPC attended three workshops, three conferences, one round table, one forum and one debate show.

SCPC is a publicly accessible institution for every citizen who can file a complaint to SCPC in three manners, namely in writing via post or electronic mail, personal delivery of written complain to the office of SCPC, or verbally where the complaint is recorded by SCPC official in the presence of the person filing the complaint.

Contact information, including office phone numbers of the employees in SCPC Secretariat, are published on the website and regularly maintained.

In accordance with its legal competencies, SCPC submits an annual report on its work and the undertaken measures and actions to the Assembly of the Republic, and also to the President of the Republic, the Government and the media for their information. All reports of SCPC are published on the website of SCPC.

All state programmes for prevention and suppression of corruption and reduction of conflict of interests adopted by SCPC are published on the website of SCPC. The reports on the assessment of the implementation of the activities set out in these strategic anti-corruption documents are also published.

The decisions for imposing public reprimand are published on the website of SCPC. Therein, the Register of elected and appointed officials and information on the assets of elected and appointed officials (submitted asset declarations to SCPC) are published and regularly maintained.

The methodology for anti-corruption assessment of the legislation and reports drafted in accordance with the Methodology are published on the website of SCPC.

SCPC is a holder of information in accordance with the Law on Free Access to Public Information.

The preparation for the adoption of amendments to the Law on Free Access to Public Information is envisioned under the State programme 2016-2019.

To improve transparency and standards in the publication of information by the ministries, the Government obliged all ministries and agencies reporting to the Government to publish and regularly update information under the listed specific categories.

The Law on Public Sector Data Use enables use of innovation and creation of new information, content and applications through combination and data mashing, new services, jobs and social inclusion, advocate for the improved accountability, transparency and data quality in the public sector, and strive for economic growth, competitiveness and development of the information society in the country (<http://www.otvorenipodatoci.gov.mk>).

The participation in the Open Government Partnership is continuous, in efforts to improve transparency of the institutions. Relevant measures are envisaged under the State programmes adopted by SCPC, the OGP Action Plan, the draft Strategy on public administration reform, and the Strategic plan on implementation of zero tolerance for improper treatment policy with standard operative procedure on records and reporting in penitentiary institutions.

The following are the examples of the implementation of the provision under review:

In the period between 1 January 2016 and 31 December 2016, SCPC initiated a total of 78 new cases in the area of conflict of interest, of which 57 cases were resolved.

The newly-opened cases in SCPC stemmed from requests for opinion submitted by officials, their superiors or officials of state bodies, anonymous applicants, or from applications submitted by other interested persons. Also, SCPC opens cases on its own initiative (ex officio) based on its own findings. In addition, in the same year, SCPC further acted upon a total of 81 cases received and opened in previous years, out of which 53 cases were resolved while 28 cases are ongoing.

With regards to the measures imposed, in accordance with Article 25 paragraph 1 indent 1, in

conjunction with Article 23, paragraph 3 of the Law on Prevention of Conflict of Interests, SCPC imposed a total of 20 public warnings to officials who were in conflict of interest due to violation of provisions of the Law and did not act upon the recommendations of SCPC nor renounce the execution of the cumulative functions that they simultaneously performed.

Regarding the initiatives undertaken, SCPC submitted 12 initiatives for the initiation of a procedure for dismissal of public authorisations and duties of officials who acted contrary to the provisions of the Law on Prevention of Conflict of Interest and the Law on Prevention of Corruption, i.e. who violated the limits of their authorisations and duties and who placed their personal interest before the public interest or abused the activities of public interest to achieve personal benefit. Six of the abovementioned initiatives were submitted against officials who perform two or more functions and who did not rectify the situation of conflict of interest following the issuance of the public reprimand. On the other hand, other initiatives for initiating a procedure for dismissal are submitted against elected/appointed officials who acted contrary to the provisions of the Law on Prevention of Conflict of Interest and the Law on Prevention of Corruption by procuring employment opportunities for their close relatives. The subject persons of the initiatives are two directors of elementary schools, a director of public high school, a director of a public health institution, a director of an Institute, and a Dean of Faculty.

In 2016, a total of 627 statements of interests have been received, of which 193 are from local-self-government officials, 58 from Justice officials and 376 from officials of the state administrative authorities. Out of the total number of submitted statements of interests in this period, SCPC concluded that 39 officials acted against the provisions of the Law on Prevention of Conflict of Interest and that these persons were required to rectify the situation. In 16 cases, the procedure is completed because the officials have acted in accordance with SCPC's request and have rectified the situation of the conflict of interests.

Since the coming into effect of the Law on Prevention of Conflict of Interest in 2009 whereby the obligation for the submission of statements of interest was established, by the end of 2016, there are a total of 7803 statements of interest being submitted to SCPC. In 2016, SCPC, in accordance with its legal competencies, submitted requests for initiating misdemeanour proceedings for failure to submit statements of interest against three elected officials to the competent court. Based on the abovementioned data (newly formed cases, cases formed in previous years, cases of declarations of interest, requests for initiation of procedures), in 2016, SCPC acted upon a total of 201 cases concerning the conflict of interest and resolved 126 of them.

Published manuals/guidelines are accessible via the following hyperlinks:

[Managing Conflict of Interest Guidelines](#), published in September 2016; and

[Handbook on Integrity and Conflict of Interest](#), published in 2013.

(b) Observations on the implementation of the article

Preventing conflicts of interest is envisaged in the LPCI, according to which every public official is required to submit a statement on conflicts of interest at the beginning of the service and when changes occur, subject to further verifications by SCPC (Art. 20 a-e). SCPC has the authority to check the statements of interests. In addition, the procedure for deciding the existence of a conflict of interest is initiated by SCPC, and disciplinary and other measures can be taken in case of violations (Art. 23, LPCI).

In 2016 SCPC developed a form for declaration of interests that gathers information on the contractors in order to analyse potential conflicts of interests.

The Law on Prevention of Conflict of Interest contains limitations for public officials after leaving office (Arts. 17 and 18).

In the area of prevention of conflict of interests, trainings with touching upon this topic were conducted.

Article 8. Codes of conduct for public officials

Paragraph 1 of article 8

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

North Macedonia promotes and includes integrity, honesty, responsibility as well as other ethical values and principles in its laws, ethical codes and codes of conduct for all categories of public officials.

The practice of prescribing and promoting integrity, honesty, responsibility, reliability, transparency, professionalism, accountability and ethical behaviour, in general, is widely adopted, and hence the ethical codes for all categories of public officials being in place in many branches, institutions and enterprises in the public and private sector. These ethical codes, in general, are prepared by taking into consideration the international standards and documents prescribing ethical values and the relevant comparative experiences.

Bodies subordinated to ministries, especially those whose employees are of status different from that of administrative servants, have adopted specialized code of conduct/ethical codes. Examples are:

- The [Code of Conduct of the Customs Officers](#) and the [Rules of order and discipline in the Customs Administration](#) are adopted by the Customs Administration, as a body within the Ministry of Finance with a status of separate legal entity;
- [The Code of Conduct of the Employees of the Public Revenue Office](#) is adopted by the Public Revenue Office, as a body within the Ministry of Finance with a status of separate legal entity;
- [The Code of Conduct of the Financial Intelligence Officers](#) is adopted by the Ministry of Finance and is applicable to the Financial Intelligence Office, as a body within the Ministry of Finance with a status of separate legal entity;
- The [Code of Police Ethics](#) is adopted by the Ministry of Interior; and
- Specialized [Code of Conduct of the Financial Police Officers](#) is adopted by the Ministry of Finance and is applicable to the Financial Police Directorate, as a body within the Ministry of Finance with a status of separate legal entity.

General codes of conduct for certain categories, such as inspectors and internal auditors (who are employees of various inspectorates or departments within ministries), were adopted, such as the

[Ethical Code of Inspectors](#) of the Inspection Council and the [Rulebook prescribing the Ethical Code of Internal Auditors](#) of the Ministry of Finance.

The Code of Administrative Servants, adopted by the Ministry of Information Society and Administration, is applicable to all administrative servants as a general code. Administrative servants, as defined by Law, is a person employed to perform administrative tasks in authorities of state and local government and in other state bodies established by the Constitution and Law, and in institutions that are organized as agencies, funds, public institutions and public enterprises established by the Republic or by municipalities or the city of Skopje to perform activities in the area of education, science, health, culture, social protection, child protection, sports, as well as other services of public interest as per Law. As defined by the Law on Administrative Servants, administrative tasks include expert-administrative, normative-legal, executive, statistical, administrative-supervisory, planning, information, personnel, material, financial, accounting, information and other tasks of administrative nature.

The State Audit Office has adopted its [Code of ethics](#) and implements the related international standards, such as the Lima Declaration of Guidelines on Auditing Precepts and the INTOSAI Code of Ethics.

For the high-rank governmental officials, [the Ethical Code of the Members of the Government of the Republic of Macedonia and the Holders of Public Functions appointed by the Government of the Republic of Macedonia](#) is applicable.

For the members of the Assembly of the Republic, [the Code of Ethics of Members of the Assembly of the Republic of Macedonia](#) is applicable.

Specialized codes of ethics are adopted in different sectors, such as:

- justice sector: [Code of Judicial Ethics](#); [Ethical Code of Public Prosecutors of the Republic of Macedonia](#); [Ethical code of the Judicial Council of the Republic of Macedonia](#); [Ethical Code of the employees of the judicial service](#); [Code of professional ethics of the lawyers, the associates of lawyers and the trainees at the Chamber of Lawyers of the Republic of Macedonia](#); [Code of Professional Ethics of the Enforcement Agents](#); [Code of conduct of the official persons in performing tasks in the penitentiary and correctional institutions](#);
- local self-government: Ethical code of elected and appointed persons in local self-government units and the public enterprises, institutions and other organizations established by local self-government units;
- health sector: Code of Medical Deontology adopted by the Chamber of Medical Doctors; Code of professional ethic duties and rights of the health professionals with high education in the area of pharmacy adopted by the Pharmacy Chamber; Rule of Hospital Culture adopted by the Ministry of Health;
- education sector: Teacher Core Professional Competencies and Standards; Student Support Staff Core Professional Competences and Standards; Professional Competences for Primary and Secondary School Directors; Ethical codes developed and adopted by public primary and secondary schools; Ethical codes adopted by the state universities of [Skopje](#), [Shtip](#) and [Bitola](#), as well as some private schools and universities;
- financial sector: Decision on the basic principles of corporate bank management adopted by the National Bank of the Republic; Ethical codes developed and adopted by many banks;
- agro-ecological sector: Code of good agricultural and hygienic practice adopted by the Ministry of Agriculture, Forestry and Water-supply;
- media and broadcasting sector: [Code of Journalists](#) adopted by the Association of Journalists

of Macedonia; [Self-regulatory ethical code of good professional practices in the digital publishing on the territory of the Republic of Macedonia](#) adopted by IAB Macedonia;

Many associations and chambers of different sectors, including commerce, have adopted specialized ethical codes or codes of good practices.

In addition, in line with the direction of the promotion of integrity, honesty and responsibility, the state has long and very well established practise for declaration of assets and declaration of interests, outside activities, employments and investments. Prohibitions are prescribed for accepting gifts and other benefits and influences. This is all regulated in the frames of the Law on Prevention of Corruption adopted and applied since 2002, and of the Law on Prevention of Conflict of Interest adopted and applied since 2007. In addition, the State Programme for Prevention and Suppression of Corruption and Prevention and Reduction of Conflict of Interest, together with Action Plan 2016 - 2019, introduces and promotes policy of integrity.

In addition, some specialized bodies are in charge of supervising the implementation of certain code of conduct:

- For the consistent application of the principles of the Code of Judicial Ethics, the Code prescribes that the advisory committee consisting of six members is established within the frames of Judges Association, which, upon request by the judges, shall issue opinions in response to questions regarding ethical conduct, appropriate performance of judicial duties and avoidance of conflict of interest. The opinion of the Advisory Committee shall be preventive in nature that it is indicative to the judges who can refer it as an example that certain behaviour constitutes a breach of the Ethical code and may form a basis for initiating disciplinary procedure or procedure for determining unprofessional and unethical behaviour. The Advisory body for judicial ethics was established on 25 January 2018.

Further information about this can be found in the answer to paragraph 6 of Article 8 of the Convention.

- The Ethical Code of Public Prosecutors of the Republic of Macedonia stipulates, inter alia, the establishment of the Ethical council. Following its establishment, the internal rules, such as Rules of procedure and Guidelines, are already drafted and first meeting was convened. The body has an advisory role.

- The Code of Ethics of Members of the Assembly of the Republic of Macedonia determines, inter alia, that the Committee for procedural and mandate-immunity affairs of the Assembly of the Republic shall act as a disciplinary body and shall determine the violation of the provisions of the Code.

- Some other ethics committees were formed within various chambers of professions that have adopted the relevant ethical codes.

(b) Observations on the implementation of the article

The integrity, honesty and responsibility of its public officials are promoted through the existence and implementation of several code of conducts and ethics. In addition, some bodies have been created to supervise the compliance and implementation of the different codes of conduct in some of the areas.

Paragraph 2 and 3 of article 8

2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.

3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

North Macedonia promotes and includes integrity, honesty, responsibility as well as other ethical values and principles in ethical codes and codes of conduct for all categories of public officials:

- Code of ethics of members of the Assembly of the Republic of Macedonia (“Official Gazette”, No. 109/2018);
- Ethical Code of the members of the Government of the Republic of Macedonia and the holders of public functions appointed by the Government (“Official Gazette”, No. 60/2010);
- Ethical Code of elected and appointed persons in local self-government units and the public enterprises, institutions and other organizations established by local self-government units adopted by the Association of the local self-government units;
- Code for Administrative Servants (“Official Gazette”, No. 183/2014);
- Code of Judicial Ethics adopted by the Association of judges on 20 June 2006 and Code of Judicial Ethics adopted in 2014;
- Ethical Code for the members of the Judicial council of the Republic of Macedonia (“Official Gazette”, No. 62/2010);
- Ethical Code of the Public Prosecutors of the Republic of Macedonia (“Official Gazette”, No. 183/2014);
- Code of professional ethics of the lawyers, the associates of lawyers and the trainees at the Chamber of Lawyers of the Republic of Macedonia adopted by the Chamber of lawyers;
- Code of Police Ethics (“Official Gazette”, No. 72/2007);
- Code of conduct for the Financial Police (“Official Gazette”, No. 127/2014);
- Code of Conduct of the Customs Officers adopted in 2016 by the Customs Administration;
- Strategy for integrity and fight against corruption of the Customs Administration 2015-2018 adopted by the Customs Administration;
- Ethical code of the inspectors (“Official Gazette”, No. 108/2014);
- Rulebook for the Ethical Code of the internal auditors (“Official Gazette of Republic of Macedonia”, No.136/2010);
- Ethical Code of bankruptcy trustees (“Official Gazette”, No. 34/2006);

- Policy of integrity of the Ministry of local self-government adopted on 15 June 2016;
- Other ethical codes/codes of conduct for many branches, institutions and enterprises in the public and private sector.

References to further Code of Ethics and Conduct can be found under paragraph 1 of Article 8.

The International Code of Conduct for Public Officials, contained in the annex to General Assembly resolution 51/59 of 12 December 1996, is mainly used as a tool in preparation of the codes of ethics of the different categories of public officials in North Macedonia.

The general principles established by this code, such as acting in public interest, loyalty, efficiency, effectiveness, integrity, responsible management of the public resources, attentiveness, fairness, and impartiality are all generally included in the codes of ethics of the public officials in North Macedonia.

Disclosure of assets, acceptance of gifts, conflict of interest as well as political activities and dealing with confidential information are generally included in the codes of ethics of the different categories of public officials. On top of the codes of ethics, the Law on Prevention of Corruption and the Law on Prevention of Conflict of Interest contain provisions regulating such matters. These laws are applicable to all categories of public officials.

Specifically for the administrative servants, there are relevant provisions in the Law on Administrative Servants that regulate the abovementioned principles established under the UN International Code of Conduct for Public Officials.

All the codes introduce standards of ethical behaviour, including correct, honourable and proper performance of the public functions.

For example, Article 3 of the Ethical Code of the members of the Government of the Republic of Macedonia and the holders of public functions appointed by the Government sets out the basic principles in the execution of function as follows:

- Realization of the public interest, according to the Constitution and the laws;
- Expertise, conscientiousness, honesty and responsibility in the execution of functions in the interest of the citizens of the Republic and other subjects in realization of their rights, obligations and interests;
- Devotion to the function as their only duty;
- Providing equal treatment to the citizens and the legal entities in realization of their rights and interests and impartiality in making decisions;
- Avoiding conflict of the public and private interests;
- Avoiding situations and actions that may cause damage to the interest and the reputation of the Government and other state bodies and institutions established by the Government;
- Avoiding use of the status or influence for private financial or personal interests, or interests of the members of their families or their political party;
- Avoiding all kinds of unethical and incorrect behaviour, performance or speech, including requesting and accepting personal gifts or services by citizens or legal entities who need certain right, service or assistance;
- Establishing relations of mutual trust and cooperation with the citizens and other legal entities,

and showing understanding, decency and will to help and not to obstruct realization of their rights and interests;

- Respecting the principle of fairness due to realization of the discretionary rights.

The Code for administrative servants prescribes the following ethical standards and rules of behaviour of the administrative servants:

- Legality;
- Professionalism;
- Impartiality;
- Democratic values and social rights;
- Non-discrimination;
- Political neutrality;
- Personal integrity;
- Advocacy of the public interest.

This Code also provides for:

- Misuse of the status administrative servant;
- Handling with information;
- Behaviour in the working place, private life and the public;
- Handling with objects and documents;
- Treatment of parties;
- Treatment of colleagues and superiors;
- Decent clothing;
- Use of resources;
- Signing of statement (Statement for accepting the Code and as a declaration for the common mission of the employees in the public sector at the end of the Code).

The Code also prescribes in Article 2 that administrative servants who disrespect (break) the provisions will be subject to a disciplinary procedure, according to the Law on administrative servants.

The Code of Judicial Ethics also determines principles which intend to establish standards of ethical conduct for judges:

- Independence;
- Impartiality;
- Integrity;
- Decency;
- Equality;
- Competence and diligence;
- Conflict of interests and corruption (each judge shall recognize and protect himself or herself from such cases where conflict of interests and corruption arises).

Table 1. Examples of specialized codes of conduct and their conformity with the principles and values provided in paragraph 2 and 3 of Article 8 of Chapter II of the Convention

	Government and the holders of public functions appointed by the Government	Administrative servants	Code of Judicial Ethics
Acting in public interest	Principle of acting in the public interest	Declaration for the common mission in the public sector	A judge must not use the reputation of the judicial office to satisfy the private interests or the interests of a member of the family or any other. The judge must not leave others the impression that someone is in a special position inappropriately influencing him in the performance of judicial duties.
Impartiality	Principle of Equal treatment; Provision of equal treatment to the citizens and the legal entities ... and impartiality in making decisions	Acting impartially, with no prejudices and with no intention to provide personal benefit or ambition	Principle of impartiality; Performing judicial duties without favour, bias or prejudice; Exemption from participating in any proceedings in which the Judge is unable to decide the matter impartially
Conflict of Interests	Avoiding conflict of interests and abuse of authorizations in execution of function	Avoiding the position of conflict of private and public interest	Avoiding conflict of interest and corruption
	Avoid use of status/influence for personal interest	Provisions on misuse of status	
Confidential information	Compliance with the regulations for classified information regarding all the government documents which include classified information No revelation of the content of the discussions in the frames of the government sessions nor the personal opinions stated by members of the Government	Respecting the system of grading of classified information	The confidential information which the judge has obtained during the execution of the judicial function must not be used for any purpose except for the goals connected with the judicial duties.
Administering the public	Maximal effective and economic management and	Provisions on the use	The exercise of judicial function on the part of the

resources in effective and efficient manner	use of material means, equipment and other objects to be performed conscientiously, responsible and not to be used in party or private goals	of resources	judges in a hardworking, efficient, fair and reasonably effective manner
Acceptance of gifts	Must not request, receive or allow another person, in their name or to their benefit, to request or receive a gift... in relation to the execution of function which could influence their decisions	No specifically related provisions. However, paragraph 1 of Article 12 should be considered that the administrative servant does not bring himself/herself into a state of conflict of the personal and public interests, and opposes any dishonest, unethical and misconduct in the service	A judge and the members of his/her family must not accept/ request for any gifts... relating to the performance of judicial duties, except for presents under the prescribed value
Political activities	Cannot request or expect presence or participation of administrative servant in a political party	Political Neutrality The administrative servant performs its tasks with political neutrality, without giving personal value judgment of established policies. The Administrative servant does not represent and express his/her political belief in the performance of official tasks and does not carry out political activities which can undermine the confidence of citizens in the administration and in the public sector institutions. The administrative servant does not emphasize or impose on others his/her political orientation.	Independence of the court from political pressure and influences

Behaviour	Avoiding unethical and incorrect behaviour	Behaviour in the workplace, private life, and public	Principles of: - Independence - Impartiality - Integrity - Decency - Equality - Professionalism and conciseness
Advisory/supervisory body	No related provisions – violation of the provisions of the Ethical Code is to be reported to a competent authority depending on the violation (Art. 22).	No specifically related provisions – violation of the provisions is grounds for instigating disciplinary procedure in accordance with the Law on Administrative Servants.	Advisory Committee (preventive opinions)

(b) Observations on the implementation of the article

Ethical codes and codes of conduct for all categories of public officials have been adopted to promote integrity, honesty and responsibility. These include not only general codes for high-level officials and administrative servants, but also sector-specific codes taking into account various corruption risks. Among others, some codes of conduct applicable to different sectors are: the Code of Administrative Servants; the Code of ethics of members of the Assembly of the Republic; the Code of Judicial Ethics; Ethical Code of Public Prosecutors. However, some codes are not enforceable.

Although the International Code of Conduct for Public officials contained in the annex to general Assembly resolution 51/59 of 12 December 1996 is not directly applicable, it is used as a tool in preparation of the codes of ethics of the different categories of public officials in North Macedonia.

Paragraph 4 of article 8

4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

North Macedonia has a comprehensive legal framework whereby a wide range of protections can be provided for persons who give a statement or for witness in a procedure for corruption offence.

The relevant legislation in North Macedonia is the Law on Whistleblower Protection (LWP) which was adopted in November 2015. Previously, fragmented provisions were dispersed in different laws on the protection of reporting persons (Law on Prevention of Corruption; Criminal Code; Law on

Labour Relations; Law on Protection from Harassment on Workplace). The Law on Public Sector Employees, which was adopted in 2014, introduced relevant provisions, yet concern only employees in the public sector (Art. 30 - Right of protection of employees who report suspicion or knowledge for criminal act or for illegal or impermissible behaviour).

“Article 30 Law on Public Sector Employees

Protection in accordance with the law shall be provided to the public sector employees who have, orally or in writing, reported suspicion or knowledge that a crime against the official duty or another illegal or unallowed actions which endanger the public interest, the security and the defense have been committed, or are being committed, or is likely to be committed and they shall be guaranteed anonymity and confidentiality to the extent and until the moment they require so.”

The LWP introduces protected reporting and determines the rights of the whistleblowers, the procedures and the duties of the institutions, i.e. legal persons related to protected disclosure as well as the protection of the whistleblowers.

Under the LWP, protected disclosure is any disclosure under which reasonable suspicion or information is reported about punishable activity already performed, being performed or there is a probability that will be performed, or about any other unlawful or disallowed activity that violates or threatens the public interest.

According to the LWP, the whistleblowers may make disclosures anonymously or confidentially and they are not obliged to prove their good faith and the veracity of the information disclosed. Besides, they are guaranteed the confidentiality up to the degree and period which is requested by them. The right to confidentiality of the whistleblowers may be limited only by a court order in the case when the revelation of the identity of the whistleblower is necessary and needed for conducting legal procedure before a competent authority. In cases of such court order, the whistleblowers are immediately and accordingly informed.

The following categories of person fall within the definition of whistleblowers under the LWP:

- Persons who are full-time or part-time employees at the institution, i.e. legal person about which they are making the disclosure;
- Job applicants, applicants for volunteering or for internship at the institution, i.e. the legal person about which they are making the disclosure;
- Persons who have been volunteers or interns at the institution, i.e. the legal person about which they are making the disclosure;
- Persons who have been engaged on any grounds to perform activities at the institution, i.e. the legal person about which they are making the disclosure;
- Persons who on any grounds have or have had any business relations or who have or have had any other types of cooperation with the institution, i.e. the legal person about which they are making the disclosure;
- Persons who use or have used services of the institution, i.e. the legal person about which they are making the disclosure.

Out of these legal provisions it can be clearly seen that the LWP applies equally to the public and the private sector.

Another important fact for this legislation is that it introduces three types of reporting:

1. Protected internal disclosure refers to the situation where a disclosure is made within the

institution, i.e. legal person.

2. Protected external disclosure refers to the situation where a disclosure is made with the Ministry of Interior, the competent Public Prosecutor's Office, the State Commission for the Prevention of Corruption, the Ombudsman or with other in-line institutions, i.e. legal persons. It is applied in situation where:

- the disclosure goes directly or indirectly against the managing officer of the institution, i.e. legal person about which the disclosure is made;
- the whistleblower has not received any information about measures undertaken within the time limit set forth under the LWP;
- the whistleblower is not satisfied with the measures undertaken or has suspicion that no measures will be undertaken; or
- the disclosure shall cause negative consequences for whistleblower himself/herself or for persons close to him/her.

3. Protected public disclosure is made by making available the information to the public in accordance with the provisions of the LWP.

“Protected Internal Disclosure

Article 4

(1) Whistleblowers shall make a disclosure within the institution, i.e. legal person about which they have suspicions or knowledge that punishable activity has already been performed, that punishable activity is being performed or that a punishable activity will be performed or that any other unlawful or unallowed activity that violates or threatens the public interest has been, is or will be performed (hereinafter referred to as: protected internal disclosure).

(2) Whistleblowers shall make the protected internal disclosure verbally, upon which a report shall be made, or in a written form, with the person authorized by the managing officer of the institution, i.e. legal person about which they are making the disclosure (hereinafter referred to as person authorized to receive disclosures from whistleblowers).

(3) At institutions, i.e. legal persons that do not have designated person authorized to receive disclosures from whistleblowers, protected internal disclosures shall be made with the managing officer of the institution, i.e. legal person, in a manner and in a form set forth in paragraph (2) of this Article.

(4) The person authorized to receive disclosures from whistleblowers, the managing officer of the institution, i.e. the legal person referred to in paragraph (3) of this Article shall be obliged:

- To act upon the disclosure referred to in paragraph (1) of this Article, while respecting procedures set forth under bylaws on internal disclosure;
- To protect personal data of whistleblowers, i.e. data that may be used to detect the identity of whistleblowers who request to be anonymous or make the disclosure in a confidential manner, in line with regulations on protection of personal data;
- To inform known whistleblowers about measures undertaken with respect to the disclosure, without any delays, i.e. within 15 days from the date of receipt of the disclosure at the latest;

(5) Protected internal disclosure at public sector institutions shall be regulated under secondary legislation, which, upon the proposal of the State Commission for the Prevention of Corruption, shall be adopted by the Minister of Justice.

(6) Protected internal disclosure in the private sector shall be regulated under bylaws of legal persons, which employ at least 10 persons.

(7) Internal documents referred to in paragraphs (5) and (6) of this Article shall be published and made public in another manner for all employees at the institution, i.e. the legal person.

(8) The Minister of Justice shall prescribe the guidelines for the adoption of internal documents referred to in paragraph (6) of this Article.

Protected External Disclosure

Article 5

(1) Whistleblowers may make protected disclosures with the Ministry of the Interior, the competent Public Prosecutor's Office, the State Commission for the Prevention of Corruption, the Ombudsman or with other in-line institutions, i.e. legal persons, provided that:

- The disclosure referred to in Article 4 of this Law goes directly or indirectly against the managing officer of the institution, i.e. legal person about which the disclosure is made; or
- Whistleblowers have not received any information about measures undertaken within the time limit set forth under Article 4, paragraph (4), sub-paragraph 3 of this Law or provided that measures have not been undertaken, or
- in case whistleblowers are not satisfied with the measures undertaken or have suspicions that no measures will be undertaken or that the disclosure referred to in Article 4, paragraph (1) of this Law shall cause negative consequences for whistleblowers or for persons close to them (hereinafter referred to as protected external disclosure).

(2) Whistleblowers may make protected external disclosures verbally, upon which a report shall be made, or in a written form with an authorized officer, or with the managing officer at the institution, i.e. the legal person with which whistleblowers make the disclosure.

(3) Bodies, institutions, i.e. legal persons with which the whistleblowers have made protected external disclosure shall be obliged to act within their competences and process the disclosure referred to in paragraph (1) of this Article, then to protect personal data of whistleblowers, i.e. data that may be used to detect the identity of whistleblowers who request to be anonymous or make the disclosure in a confidential manner, in line with regulations on protection of personal data and to inform whistleblowers about measures undertaken with respect to the disclosure, without any delays, i.e. within 15 days from the date of receipt of the disclosure at the latest.

(4) Protected external disclosure shall be regulated under secondary legislation, which shall be adopted by the Minister of Justice.

(5) In cases in which the body with which the disclosure has been made has no competence to act upon the disclosure, such a body shall convey the disclosure to the competent body within eight days from the date of receipt of the disclosure, and shall accordingly inform whistleblowers.

(6) The competent body referred to in paragraph (5) of this Article shall be obliged to apply protection measures, which have been provided for whistleblowers by the body to which the disclosure has been conveyed.

(7) Upon the request of whistleblowers, the authorized body shall be obliged to inform whistleblowers about the course of activities undertaken in the procedure and to enable whistleblowers to inspect the case-file documents, in accordance with the law.

(8) Upon the completion of the procedure, the authorized body shall be obliged to inform whistleblowers about the outcome of the procedure referred to in paragraph (1) of this Article,

in accordance with the law.

Protected Public Disclosure

Article 6

(1) Whistleblowers may make protected disclosures by making available to the public information indicating that punishable activity has already been performed, that punishable activity is being performed or that there is a probability for a punishable activity to be performed, which violates or threatens the life of whistleblowers or of persons close to them, the health of people, the security, the environment, or which involve large scale damages, and in case of imminent danger that evidence thereof shall be destroyed.

(2) Whistleblowers who shall make disclosures by making available to the public information in a manner which contravenes this Article and without previously making a disclosure with an officer authorized to receive disclosures from whistleblowers, or with a competent institution in line with Articles 4, 5 and 6 paragraph (1) of this Law, shall not have the right to protection provided under Articles 8, 9 and 10 of this Law.

(3) Whistleblowers making protected public disclosures in accordance with this Law by making information available to the public shall be obliged to respect the presumption of innocence of the person who is subject of the disclosure, the right to protection of personal data of the person, and not to jeopardize the conduct of the court procedure.”

Besides the whistleblowers, the LWP also introduces another new category of persons, namely authorized officers responsible for receiving disclosures from whistleblowers. According to the LWP and the law regulating the protection of personal data, the officers authorized to receive disclosures from whistleblowers are obliged to protect data about whistleblowers, especially those relating to the identity or may reveal the identity of the whistleblowers, unless whistleblowers agreed with the disclosure of such data.

The LWP also contains provisions for the protection of the whistleblowers and associated persons as well as the protection afforded to them at court. The right to protection, according to the LWP, also covers the persons for whom there is a suspicion that they are the possible whistleblowers. Protection of the whistleblowers and the other abovementioned persons, according to the LWP, shall be provided by the institution, i.e. the legal person within which the disclosure has been made, which shall undertake activities for the prevention of violations of labour rights or any other rights of whistleblowers against retaliation in relation to the disclosure made by the whistleblower. In case whistleblowers have not been provided with protection, they shall accordingly report this to the State Commission for the Prevention of Corruption, the Ombudsman, the Inspection Council, the Ministry of Interior and the Public Prosecutor’s Office of the Republic, which shall immediately undertake activities within their respective competencies. If it is established that the institution or legal entity against which the disclosure was made violated the right of the whistleblower, a member of his or her family or a person close to him or her, then the above mentioned institutions shall, without delay, submit a written request to the competent institutions and bodies for taking urgent measures for offering protection to the whistleblower by terminating the activities or eliminating the shortcomings by which the rights of the whistleblower are violated. Despite the activity being undertaken by these institutions, should the violation of the right of the whistleblower, a member of his or her family, or a person close to him or her persist, the institutions shall, without delay and not later than eight days, launch an initiative for instituting a procedure for criminal prosecution, i.e. an initiative for instituting a procedure before the competent bodies for dismissal, reassignment, replacement or undertaking other measures of liability of elected or appointed officials, officers or persons in charge at public enterprises and other legal entities that have state capital.

Shortly after adoption of the LWP, the following three by-legal acts were adopted:

- 1.Regulation on protected internal whistleblowing within the public sector institutions;
- 2.Regulation on protected external whistleblowing; and
- 3.Regulation on directions for adopting internal acts managing the protected internal whistleblowing within the legal entities in the private sector.

Under the IPA 2010 Twinning project “Support for efficient prevention and fight against corruption”, a Handbook for protection of the whistleblowers was prepared and published on the website of SCPC. Although it is intended for the use of the employees in the public sector, citizens who are in everyday contact with the public administration can also make use of it. Application of the LWP and its bylaws started on 18 March 2016. To achieve full-fledged functioning and implementation of the system for protection of the whistleblowers, the issue is already integrated as part of all relevant strategic documents, such as the State programme for prevention and suppression of corruption and prevention and reduction of conflict of interest, and the Strategy for reform of the public administration. Under Activity 1.2 of the EU funded project "Strengthening the national capacities for fight against organized crime and corruption", the public awareness strategy for development of whistleblowing culture in the country is being developed.

In December 2017, the Ministry of Justice, following a broad public consultations process, proposed the Government make amendments to the LWP. The purpose of the proposal is to further align the LWP with the international standards and good practices, especially those concerning protected public disclosure, taking into account the Council of Europe - Venice Commission opinion No. 829/2015, 15 March 2016. The proposed amendments to the LWP were adopted by the Assembly of the Republic and were in force as of February 2018, whereby limitations prescribed for protected disclosure are abolished, oversight of the implementation of the LWP is introduced, and the text of the LWP is further improved.

Under the amended LWP, the whistleblower can make protected public disclosure by making information publicly available, if:

- the protected internal and protected external disclosure is disabled due to unestablished disclosing procedure or procedure for receiving disclosure reports according to law; or
- the whistleblower, in connection with the completed protected internal and external disclosure, does not receive information for the undertaken measures within the legally determined deadline; or
- no measures have been undertaken or there is an easily recognizable danger of destruction of evidence or concealment of responsibility.

A whistleblower who makes protected public disclosure must not make publicly available the following:

- personal data of the entity that are not relevant to the protected disclosure;
- data or information that are determined as classified information in accordance with the law and the regulations for classified information, as well as data or information endangering the performance of criminal, misdemeanor or civil procedure, if it is directly and easily recognizable;
- data or information whose public access violates or threatens the national security, the defence of the independence or territorial integrity of the Republic.

A whistleblower who makes a disclosure by making publicly available information contrary to the Article 6 of the LWP shall not have the right to protection provided in accordance with Articles 8, 9 and 10 of the LWP.

“Provision of Protection for Whistleblowers

Article 8

- (1) Whistleblowers and persons close to them shall be provided with protection against any type of violations of their rights, against any detrimental activity or against any threat of detrimental activity in retaliation for protected internal, external, and public disclosures made.
- (2) Protection referred to in paragraph (1) of this Article shall be provided by the institution, i.e. the legal person with which the disclosure has been made, which shall undertake activities for the prevention of violations of labour rights or of any other rights and for the refrainment from activities that violate or threaten any rights of whistleblowers in retaliation for their disclosure.
- (3) In case whistleblowers have not been provided with protection referred to in paragraph (2) of this Article, whistleblowers shall accordingly report this with the State Commission for the Prevention of Corruption, the Ombudsman of the Republic of Macedonia, the Inspection Council, the Ministry of the Interior and the Public Prosecutor’s Office of the Republic of Macedonia, which shall immediately undertake activities within their respective competencies.
- (4) The right to protection under this Article shall also cover persons who are able to create the probability that the person subject of the disclosure could suspect that such persons have made disclosures against him/her.

Article 9

- (1) Upon receiving the disclosure referred to in Article 8, paragraph (3) of the present Law, the institutions referred to in Article 8, paragraph (3) of the present Law shall, without delay, request notification from the institution or legal entity against which the disclosure was made concerning the existence of any kind of violation of a right of the whistleblower or members of his or her family stemming from the disclosure.
- (2) The legal entity or institution shall process the request referred to in paragraph (1) of the present article without delay and shall deliver a notification without delay and not later than eight days.
- (3) If it is established that the institution or legal entity against which the disclosure was made violated a right of the whistleblower, a member of his or her family or a person close to him or her, the institutions referred to in paragraph (1) of the present article shall without delay submit a written request to the competent institutions and bodies for taking urgent measures for protection of the whistleblower by terminating the activities or eliminating the shortcomings by which the rights of the whistleblower are violated.
- (4) The institutions referred to in paragraph (1) of the present article shall inform the whistleblower without delay about the activities undertaken and the findings made relating to paragraphs (1), (2) and (3) of the present article.
- (5) If, despite the activity undertaken by the institutions referred to in paragraphs (1), (2) and (3) of the present article, the violation of the right of the whistleblower, a member of his or her family or a person close to him or her continues, the institutions shall, without delay and not later than eight days, launch an initiative for instituting a procedure for criminal prosecution, i.e. an initiative for instituting a procedure before the competent bodies for dismissal, reassignment, replacement or undertaking other measures of liability of elected or appointed officials, officers or persons in charge at public enterprises and other legal entities that have state capital.

(6) If the whistleblower has disclosed a crime against the state, a crime against humanity or international law or organized crime punishable under the Criminal Code by a prison sentence of at least four years the substantiation of which involves disproportionate difficulties or cannot be done without a statement of the whistleblower, who does not agree to give a statement as a witness due to the potential danger of being subjected to intimidation, threat of reprisal or danger to his or her life, health, freedom, physical integrity or property to a larger extent, the institutions shall, upon obtaining written consent from the whistleblower, submit:

- an initiative for submitting a written request for putting forward a proposal for inclusion in the Protection Programme in compliance with the Law on Witness Protection to the Ministry of the Interior or a competent public prosecutor or

- an initiative for putting forward a proposal for inclusion in the Protection Programme in compliance with the Law on Witness Protection to the Public Prosecutor of the Republic of Macedonia.

Court Protection

Article 10

(1) The whistleblower shall be entitled to court protection before a competent court in accordance with the law.

(2) The whistleblower may with a lawsuit before a competent court request:

- a finding that a harmful activity has been undertaken or a right has been violated due to whistleblowing;

- ban on doing a harmful activity or violating a right and repeating a harmful activity or violation of a right;

- annulling an act under which the harmful activity has been done or a right has been violated;

- eliminating the consequences from a harmful activity or violation of a right;

- compensation for material and non-material damage.

(3) The proceedings brought under the lawsuit referred to in paragraph (2) of the present article shall be urgent.

(4) The proceedings for court protection relating to disclosure may be revised.”

In 2018, for the purposes of raising awareness of the whistleblower protection amongst the public sector employees, the publication “Protection of public interest by whistleblowing” was created and published by SCPC.

Specialized hot-lines for reporting irregularities and corruption have been put into operation:

- On special national hot-line
- Special phone lines for reporting corruption have been set up in four major municipalities

- Special phone lines for reporting irregularities have been set up in the following institutions/authorities:

- Ministry of Interior;

- Ministry of Defence and the Army of the Republic;

- Department for Execution of Sanctions under the Ministry of Justice;

- Department for Keeping Registries under the Ministry of Justice;

- Ministry of Labour and Social Policy;

- Customs Administration under the Ministry of Finance ;
- The customs' hotline 197 is put into operation in November 2003. The hotline is managed by the Centre for customs' duty and is established for reporting smuggling and corruption in the Customs Administration. The task of the Centre is to perform 24/7 reception and processing of information, and to manage the system for video surveillance, recording and transmission through which live surveillance over all customs dispersed units is performed round the clock;
- Public Revenue Office under the Ministry of Finance;
- Food and Veterinary Agency;

Suspicious of corruption or conflict of interest may be reported in written or oral form to SCPC by any natural or legal person, either by disclosing their identity or anonymously. In order to encourage the reporting of incidents of corruption, SCPC guarantees the anonymity, discretion and non-selectivity when taking actions.

Irregularities and suspicions for frauds or corruption may be reported to specially authorized persons in public sector entities pursuant to Article 50 of the Law on Public Internal Financial Control. Heads of public sector entities are obliged to appoint a person to receive reports on irregularities and suspicions for frauds or corruption and to independently undertake the following activities. After the receipt of report on existence of irregularities or suspicions of frauds or corruption, the persons in charge of irregularities are obliged to undertake the necessary measures and to inform the Public Prosecutor's Office of the Republic and the Financial Police and Financial Inspection of the Public Sector under the Ministry of Finance, and within 15 days he/she has to inform in writing the person reporting the irregularities or frauds of the undertaken measures, except in case of an anonymous report.

“VII. UNDERTAKING MEASURES AGAINST IRREGULARITIES AND FRAUDS

Article 50

- (1) The head of the public sector entity shall be obliged to both prevent the risk of irregularities and frauds and to undertake activities against irregularities and frauds.
- (2) The head of the public sector entity shall appoint a person reporting on irregularities and suspicions for frauds or corruption and shall independently undertake activities referred to in paragraph (5) of this Article.
- (3) All employees, including the internal auditors shall inform the head of the public sector entity or the person in charge of irregularities or suspicions of frauds or corruption.
- (4) If the Internal Auditor has suspicion of fraud or corruption during the performance of the audit, he shall inform the Head of Internal Audit Unit, being obliged to submit written information to the head of the public sector entity and the person in charge of irregularities thereon.
- (5) After the received report on existence of irregularities or suspicions of frauds or corruption, the person in charge of irregularities shall undertake the necessary measures and shall inform the Public Prosecutor's Office of the Republic of Macedonia and the Ministry of Finance – Financial Police Office and Financial Inspection of the Public Sector thereon,, and within 15 days he/she shall inform in writing the person pointing out to the irregularities or frauds on the undertaken measures, except in case of an anonymous report.
- (6) If the persons referred to in paragraph (3) of this Article are not informed on the appropriately undertaken measures, they shall inform the bodies referred to in paragraph (5) of this Article. The Central Harmonisation Unit shall not be body in charge of irregularities and

frauds.

(7) Employees including the internal auditors reporting irregularities or suspicions of frauds shall be provided with protection on the identity and the acquired employment related rights pursuant to law.

(8) The Government of the Republic of Macedonia, upon proposal by the Minister of Finance, shall prescribe the procedure for preventing irregularities, the manner of mutual cooperation, the form and, the contents, the deadlines and the manner of informing on the irregularities”

Other simple and easily accessible means for reporting irregularities are:

- Completion and submission of specialized form for evaluation of services “Gragjanski dnevnik” (Citizens’ log), which is a simple questionnaire. The citizens submit completed forms to special case-boxes which are easily accessible and visibly placed in the premises of all institutions. The submitted forms are directly forwarded to the Government.

Special persons are designated within institutions and units of local self-government for receiving phone calls reporting corruption and other irregularities. All calls/reports (be it anonymous or not), no matter whether in written or oral form, are received and separately noted in a special register. Reports about reasonable suspicion are referred to relevant law enforcement and/or prosecution authority in a secured manner.

Banners containing the special hotlines that promotes and encourages the reporting of irregularities are published on the web-sites of the respective institutions and units of local self-government.

Under the Annual Programmes of the Ministry of Information Society and Administration on Generic Trainings for Administration (civil and public servants), trainings were conducted in cooperation with SCPC on the topic “Anti-corruption measures and ethics in state service”, including the subject of Whistleblower Protection. In 2016 and 2017, 29 and 31 administrative servants were trained respectively.

Under the IPA 2010 “Support to efficient prevention and fight against corruption”, the following activities were conducted:

- 2-day workshop on the topic of “Investigative Reporting on Corruption - Improved Cooperation between the Press and Public Information Officers and the Investigative Journalists” with the participation of ten spokespersons and ten journalists in September 2015.
- Conference on Compliance Management Systems in the Private Corporate Sector was held in March 2016. This visibility event was visited by more than 80 representatives from the private corporate sector and state institutions. The aim of the conference was to increase the awareness in the private sector on the importance of introduction of risk and compliance management systems in the corporate sector in order to prevent corruption. Moreover, the corporate sector representatives became acquainted with the obligation to put in place internal mechanisms in their companies for whistleblower protection and protected reporting of possible corrupt behaviour.

The [Handbook on the protection of whistleblowers](#) and the publication guide “[Protection of public interest by whistleblowing](#)” are published.

Other examples are provided under the implementation of the article above.

(b) Observations on the implementation of the article

The Law on Whistleblower Protection (LWP) aims to provide for a wide range of protections for

reporting persons, including reporting by public officials. The scope of the LWP goes beyond public officials and includes members of the private sector.

There are mechanisms in place to report violations of the protection to whistleblowers.

Specialized hotlines for reporting are in place, and authorized persons have been designated in the public-sector entities to receive reports on irregularities and corruption conduct (Art. 50, Law on Public Internal Financial Control; Arts. 4 and 5, LWP). Suspicions of corruption may also be reported directly to SCPC, including anonymously.

(c) Successes and good practices

The adoption of a specific law, the LWP, for the protection of whistleblowers was considered a good practice.

Paragraph 5 of article 8

5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The Law on Prevention of Conflict of Interest and the Law on Prevention of Corruption regulate the requirements of this provision of the Convention. Some of the elements named above are required to be declared by the public officials in the Statement of Interest.

The relevant provisions of the Law on Prevention of Conflict of Interest regulating the obligation of submitting the Statement of Interest form are as follows:

“IX-a. STATEMENT OF INTEREST

Article 20-a

The President of the Republic of Macedonia, the members of the Assembly of the Republic of Macedonia, the mayors, the ambassadors and the other persons appointed by the Republic of Macedonia abroad, the persons elected or appointed to or by the Assembly of the Republic of Macedonia and the Government of the Republic of Macedonia, the state administration authorities and other state authorities, the judicial authorities, the public enterprises, institutions and other authorities of the central government and the local authorities specified by law, when assuming the performance of public authorizations and duties, shall be obligated, within 30 days, to submit a statement referring to the existence or non-existence of a conflict of interest to the State Commission.

Article 20-b

The civil servants and employees in the state administration authorities and other state authorities, the judicial authorities, the public enterprises, institution, other legal entities of the

central and local governments specified by law, as well as persons employed through agencies for temporary employment with authorization, shall be obligated, within 30 days, to submit a statement referring to the existence or non-existence of conflicts of interest, to the authorities where they perform their duties, i.e. where they are employed.”

The Statement of Interest form requires the following data:

1. Personal engagements - do you execute another public authorization or duty (elected, appointed, employed) besides the one you report in point 2 of this form?
2. Companies - Are you owner, founder, co-owner, member of assembly, supervisory board, management board or management in a company or are you an authorized person in a company? If the answer is “yes”, state the name of the company as well as the percentage of the state capital in the trade company.
3. Are you a member of an association of citizens or foundation? If the answer is “yes”, state the name of the association of citizens or foundation as well as your function and the wage you receive?
4. Do your close persons execute public authorization or duty/ (as elected, appointed, employed officials)? If the answer is “yes”, state the name of the person, the name of the institution or body as well as the working position and the date of the election/appointment.
5. Are your close persons owners, founders, co-owners, members of association, of supervisory board or are authorized persons in trade companies? If the answer is “yes”, state the name of the person and the company, the status of the person as well as the percentage of his/her capital in the company.
6. Are you close persons members of associations of citizens or foundations? If the answer is “yes”, state the name of the person, the name of the association or foundation, and your relation with the person named and his/her status in the association or foundation.

Some of the elements named above are required to be declared by the public officials, in accordance with the Law on Prevention of Corruption.

The following provisions of the Law on Prevention of Corruption regulate who (which categories) are obliged to submit an Asset declaration form:

“Obligation to declare assets

Article 33

(1) An elected or appointed official, responsible person in a public enterprise, public institution or other legal entity disposing of state capital, upon election or appointment and within a period of 30 days from the day of election or appointment the latest, shall fill in an asset declaration containing detailed description of the immovable property, movable property of higher value, securities, and claims and debts, as well as other property in his/her ownership or in ownership of members of his/her family, stating the grounds the reported assets have been acquired on, and shall deposit a statement, certified by a notary, renouncing the protection of banking secrecy with regard to all domestic and foreign bank accounts.

(2) The person referred to in paragraph (1) of this Article shall be obliged to fill in an asset declaration in a period of 30 days from the day of termination of the office.

(3) The person referred to in paragraph (1) of this Article shall submit the asset declaration referred to in paragraphs (1) and (2) of this Article and the statement referred to in paragraph (1) of this Article to the State Commission and the Public Revenue Office.

Article 33-a

(1) An official shall fill in the asset declaration at employment in state bodies, municipality administration and administration of the City of Skopje within a period of 30 days from the day of employment giving a detailed description of the immovable property, movable property of higher value, securities, claims and debts, as well as other property in his/her ownership or in ownership of a member of his/her family, stating the grounds the reported assets have been acquired on.

(2) The person referred to in paragraph (1) of this Article shall be obliged to fill in an asset declaration within a period of 30 days from the day of termination of the employment in the bodies referred to in paragraph (1) of this Article.

(3) The official referred to in paragraph (1) of this Article shall submit the asset declaration referred to in paragraphs (1) and (2) of this Article to the body he/she is employed at.

(4) The body where the official is employed at shall be obliged to submit the asset declaration to the State Commission upon its request.

(5) The Minister of Justice shall adopt a decision on the manner of treatment of the asset declaration referred to in this Article.

Reporting changes in assets

Article 34

(1) An elected or appointed person, official or responsible person in a public enterprise or other legal entity disposing of state capital shall be obliged, within a period of 30 days, to report any increase of his/her assets, that is the assets of a member of his/her family, such as construction of a house or other facilities, purchase of immovable property, securities, a car or other movable property having value in excess of twenty average salaries paid in the economy in the previous three-month period.

(2) An agreement or other document on the basis of which the assets are put at disposal, as well as a document on the manner of effectuated payment shall be attached to the report submitted to the State Commission and the Public Revenue Office.”

The asset declaration form requires data under the following items:

- PERSONAL INFORMATION
- FAMILY MEMBERS WHO OWN PROPERTY
- PROPERTY/REAL ESTATE
- MOVABLE PROPERTY
- SECURITIES AND EQUITY
- RECEIVABLES
- OTHER REVENUES
- BANK DEPOSITS
- PAYABLES
- OTHER PROPERTY

In addition, the data contained in the asset declaration is published in the website www.dksk.mk according to article 35 of the Law on Prevention of Corruption.

“Article 35

(1) The data contained in the asset declaration and the report for assets change shall be public information, except the data protected by law.

(2) The data contained in the asset declarations and the reports for assets change, except the

data protected by law with regard to the persons referred to in Articles 33 paragraph (1) of this Law, shall be published at the web page of the State Commission.”

In case of non-compliance with the obligations to submit the asset declaration, it is possible to initiate misdemeanour proceedings pursuant to article 36 of the Law on Prevention of Corruption.

“Article 36

(1) A procedure for examination of assets can be brought against an elected or appointed person, as well as against other official and responsible person in a public enterprise, public institution or other legal entity disposing of state capital if the person failed to submit the asset declaration, or in the asset declaration referred to in Article 33 of this Law:

- has not given data;
- has given incorrect or incomplete data;
- or if he/she has not reported any change in assets, that is gave incorrect and incomplete data in the report referred to in Article 34 of this Law.

(2) A procedure shall be brought against the person referred to in paragraph (1) of this Article if it is established that his/her assets or the assets of a member of his/her family have been increased in disproportion to his/her regular revenues in the form of salaries, dividends or other income derived from performance of an activity or property during his/her term of office, that is execution of duty or during the employment.

(3) The Public Revenue Office shall initiate the procedure referred to in paragraph 1 of this Article.

(4) The State Commission can also file a motion to initiate the procedure.

(5) Concurrently with the initiation of the procedure, the Public Revenue Office shall submit a proposal to the competent first instance court for temporary measure prohibiting the disposal of the assets.

(6) The person, in the procedure referred to in paragraph 1 of this Article, shall be obliged to produce evidence so as to prove the financial sources the property has been acquired with and the funds the person and the members of his/her family dispose of.

(7) The state bodies, the bodies of the local self-government units, the institutions executing payment operations, and other natural persons and legal entities, on request of the Public Revenue Office and within a period that it shall determine, shall be obliged to produce all the information necessary for ascertaining the actual situation and that are essential for examination of the assets and the asset status.”

Elected and appointed person, official person or responsible person in public enterprise, public institution or other legal entity disposing with state capital are prohibited from receiving personal gifts or promise for giving a gift, with the exception of promotional gifts such as books, souvenirs or similar items of value determined by the law (Article 30 of the Law on Prevention of Corruption, Articles 5 and 15 of the Law on Prevention of Conflict of Interest, and Article 73(11) of the Law on Administrative Servants).

“Article 30 Law on Prevention of Corruption

An elected or appointed person, official and responsible person in a public enterprise or other legal entity disposing of state capital must not receive personal gifts or promises of gifts, except occasional gifts such as books, souvenirs and alike having value determined by law.

Article 5 Law on Prevention of Conflict of Interest

(1) In discharging the public authorizations and duties, the Official must not be steered by personal, family, religious, political or ethnical interests, pressures or promises from his/her superiors.

(2) The Official must not:

- accept or solicit benefits in return for discharging his/her duties,
- exercise or gain rights by transgressing the principle of equality before the law,
- abuse the rights arising from the discharge of the authorizations,
- accept awards or other benefits in return for performing the operations concerning the public authorizations and duties,
- solicit or accept awards or services in order to vote or not to vote or to influence the adoption of a decision by a body or person so as to gain benefits for him/herself or benefits for persons in close affiliation with him/her,
- promise employment or realization of some other rights by accepting a gift or a promise for a gift, and
- influence the decision making on public procurements or in any other way to use his/her position in order to influence an adoption of a decision with a view to accomplishing private interests or benefits for him/herself or for persons in close affiliation with him/her.

Article 15 Law on Prevention of Conflict of Interest

An official person shall not receive any gifts while performing public authorizations or duties, with the exception specified by the Law on Usage and Management of Assets Used and Managed by Government Bodies.

Article 73 Law on Administrative Servants

(1) Disciplinary offense means a significant violation of the official duties, the work discipline, the reputation of the institution and the reputation of the administrative servant, i.e.:

- 1) non-performance, unconscientiously, untimely or negligent performance of the official duties;
- 2) indecent behaviour of the administrative servant in the course of performing work and work assignments;
- 3) expressing and advocating political beliefs when performing the work assignments; participation in election activities and other public events of similar nature during working hours, putting in question its status of administrative servant with the conduct of party activities, wearing or displaying party symbols in the work premise;
- 4) refusing to provide or providing incorrect data to the state bodies, to the citizens and legal entities, if the provision of providing data is prescribed by law;
- 5) unlawful disposal of material and financial assets;
- 6) refusing to perform the work assignments related to the job he/she is assigned;
- 7) refusal of written order given for performing of assignments related to the work of the institution issued by the immediate superior administrative servant, the secretary, i.e. the managing person in the institution, in case of urgent need;
- 8) failing or incomplete undertaking of the prescribed measures to ensure the safety of the

work entrusted assets;

- 9) causing material damage with intent or serious negligence;
- 10) repetition of disciplinary irregularity more than twice in the current year;
- 11) receiving gifts or other benefits;
- 12) violation of the status of administrative servant;
- 13) abuse of the powers entrusted in the performance of work related tasks;
- 14) abuse of sick leave;
- 15) abuse of personal data;
- 16) abuse of confidential data
- 17) disclosing of classified information with a degree of secrecy established by law;
- 18) introduction and use as well as performance under the influence of alcohol or drugs;
- 19) failure to comply with the regulations for protection against disease, safety and health at work, fire, explosion, harmful action of toxins and other harmful substances and with the regulations for environmental protection;
- 20) setting a personal financial interest in conflict with the position and status of the administrative servant;
- 21) abusive or violent behaviour in the workplace;
- 22) behaviour which is contrary to the Code;
- 23) unjustified refusal to participate in the work of the bodies in which he/she is chosen for the implementation of the electoral procedure, inventory and other procedures prescribed by law;
- 24) prevention of elections and voting, violation of the right to vote and the freedom of determining of voters, bribery at elections, violation of the secrecy of voting, destroying electoral documents, or electoral fraud as a member of an electoral body, committed by the administrative servant;
- 25) failure to comply with the obligation for assessment of an administrative servant.
- 26) He/she does not ask for evidence and data in administrative procedure within the deadline prescribed by the Law;
- 27) He/she does not submit evidence and data which are required by official duty; and
- 28) He/she does not solve cases in administrative procedure within the period of time prescribed by the Law.”

Based on the Law on Employees in the Public Sector, in 2014, the Government adopted the Decree on the manner of disposal of the received gifts and the manner of management of the records of received gifts and other issues related to receiving gifts.

Based on the Law on the Use and Disposal of State-owned Goods and Municipal property, in 2015, the Government adopted a new Decree on the criteria, the manner of giving, receiving and declaring gifts, the method of assessing gifts, the manner of payment for a personal gift, and the use, keeping and recording of items that became state-owned property by a gift.

Codes of conduct cover the issues of personal liability, acting in accordance with the Law, impartiality, public relations, actions when gifts and other benefits are offered, avoiding conflicts of interest, political neutrality in performing work activities, behaviour with money related matters, confidentiality and use of official information, use of operational tools and means of identification, and behaviour in private life. Any action contrary to the Codes of conduct is subject to disciplinary procedure.

The declarations are checked by SCPC on a random basis and when processing concrete cases with allegations of corruption.

Examples of asset declarations

According to the 2016 Annual report of SCPC, in 2016 SCPC has received 676 asset declarations upon election and appointment and 315 asset declarations upon termination of function (based on Art. 33 of the LPC). It has also received 362 asset declarations for change of the property situation (based on Art. 34 of the Law on Prevention of Corruption). SCPC continuously processes the new asset declarations and updates the changes in the property situation, as a result by the end of July 2018, 6505 asset declarations of public officials executing public functions (according to the Art. 35 of the Law) are published on its web-page.

Examples of conflict of interest declarations

According to the 2016 Annual report of SCPC, the most frequent form of conflict of interest that arises in the country is the cumulation of functions, i.e. execution of two or more functions by one person at the same time. In 2016, 627 statements of interest in total were received, out of which 193 are statements of official persons working in the local self-government, 58 statements came from officials working in the judiciary and 376 statements are statements of official persons working in the central state bodies. Out of the 627 statements of conflict of interest received, in 39 of them SCPC had determined a situation of conflict of interest and thus calling the officials in question to remove the conflict of interest. Out of these 39 officials, 16 of them have managed to remove the situation of conflict of interest, generally by withdrawal from one of the functions. The total number of Statements of interest submitted to SCPC since the adoption of the amendments of the Law on Prevention of Conflict of Interest in 2009 up to the end of 2016, based on Article 33 of the Law, is 7803.

(b) Observations on the implementation of the article

North Macedonia has an asset declaration system for elected and appointed officials, responsible persons in public entities dealing with State funds, and officials in State bodies and municipal administrations, including judges and prosecutors. The obligated personnel are required to submit asset declarations to designated offices upon taking and leaving office and whenever a change in assets occurs that exceeds twenty average salaries (Arts. 33, 33-a, 34, LPC). The declarations are checked by SCPC on a random basis and when processing concrete cases of allegations of corruption. The asset declarations submitted by elected and appointed persons to SCPC are open to the public on SCPC website www.dksk.mk (Art.35, LPC).

Measures have also been undertaken for SCPC to connect to the national interoperability system. A software for electronic filing of asset declarations will be put in place in the future.

Misdemeanour procedure in relation to asset declarations may be applied in non-compliance cases (Art. 36, LPC).

Acceptance of gifts is generally prohibited for public officials, with exceptions on low-value protocol and occasional gifts (Art. 30, LPC; Art. 73, LAS).

It is recommended that North Macedonia continue enhancing the asset declaration system, including through the use of electronic means and methods.

Paragraph 6 of article 8

6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The Law on Administrative Servants contains relevant provisions on disciplinary procedures, including a definition of what is considered a disciplinary offence:

“Article 71

(1) The administrative servant shall be disciplinary liable for disciplinary irregularity and disciplinary offence.

Disciplinary offence

Article 73

(1) Disciplinary offence means a significant violation of the official duties, the work discipline, the reputation of the institution and the reputation of the administrative servant, i.e.:

(...)

(22) Behaviour which is contrary to the Code.

Article 74

(1) Based on a decision for a determined disciplinary irregularity, one of the following measures could be pronounced to the administrative servant:

- written reprimand;
- a fine in the amount of 20% of the monthly salary paid net in the last month before the disciplinary irregularity was committed, with a duration of one to three months.

(2) Based on a decision for a determined disciplinary offence, one of the following measures could be pronounced to the administrative servant:

- a fine in the amount of 30% of the monthly salary paid net in the last month before the disciplinary offence was committed, with a duration of one to six months;
- deployment in an immediately lower working level;
- termination of employment when there are adverse consequences for the institution, while there are no extenuating circumstances set for the administrative servant who committed the offense.

(3) When pronouncing of disciplinary measures referred to in paragraphs (1) and (2) of this Article, the following shall be considered: the severity of the injury, the consequences of the injury, the degree of responsibility of the administrative servant, the circumstances under which the violation occurred, his/her former behaviour and performance of activities and other mitigating and aggravating circumstances relevant for the pronouncing of the disciplinary measure.

(4) The sum of the fines pronounced to administrative servant in one month for disciplinary irregularity and disciplinary offence cannot exceed 30% of the total amount of his net salary for that month.

(5) In the decisions of Paragraphs (1) and (2) of this Article, the date when these are implemented must be noted.”

In addition, certain categories of public officials have specific laws governing the breaches of their duties. The Law on Courts contain the following provisions:

“Dismissal of a judge

Article 74

1. The judge shall be dismissed from the judicial office:
 - due to serious disciplinary offence that makes him/her discreditable to exercise the judicial office prescribed by law and
 - due to unprofessional and neglectful exercise of the judicial office under the conditions defined by law.
2. Decision on dismissal of the judge shall be adopted by the Judicial Council of the Republic of Macedonia.
3. As of the day of entry into force of the decision on dismissal of the judge by the Judicial Council of the Republic of Macedonia on the grounds referred to in paragraph (1) of this Article, the judge’s right to salary shall cease.

Unprofessional and neglectful exercise of the judicial office

Article 75

Unprofessional and neglectful exercise of the judicial office shall include insufficient professionalism or negligence of the judge that affect the work quality and efficiency, that is:

- if, during two regular consecutive assessments fails to meet the criteria for successful working due to the judges fault with no justified reasons, therefore receiving two negative assessment, and pursuant to the procedure set by the Law on the Judicial Council of the Republic of Macedonia,
- unconscientious, untimely or neglectful exercise of the judicial office in the conduct of the court procedure in particular cases,
- biased conduct of the court procedure particularly with regard to the equal treatment of the parties,
- acting upon cases contrary to the principle of trying within a reasonable period of time, that is, postponement of the court procedure without having a legal basis,
- unauthorized disclosure of classified information,
- public disclosure of information and data about court cases for which no legally valid decision is adopted,
- intentional violation of the rules of fair trial,
- abuse of the position or exceeding the official powers,
- violation of the regulations or in any other manner disturbance of the judge’s independence in trying,
- severe violation of the rules of the Court Code that ruins the image of the judicial office, and
- if a decision is adopted by the European Court of Human Rights that confirms violation of Articles 5 and 6 of the European Convention on Human Rights.

Serious disciplinary offence

Article 76

1. A serious disciplinary violation for which a procedure for establishing disciplinary liability of a judge shall be initiated as grounds for dismissal shall be considered the following:

- Membership in a political party (Article 52 paragraph 5);
- Hindering supervision by a higher court over the work of the judge;
- Taking advantage of his office and the reputation of the court to accomplish own personal interests;
- More severe disturbance of the public order and peace causing harm to the reputation of the court and his own reputation, established by a final court decision;
- Achieving non-satisfactory assessment within two consecutive regular assessments, carried by the Judicial Council of the Republic of Macedonia which shall be deemed as non-professional and negligent exercise of the judicial office;
- Holding another public office, carrying out work or activity that is incompatible with the exercise of the judicial office;
- Accepting gifts and other benefits related to the judicial office;
- When deciding, failing to apply the views expressed in final judgments of the European Court of Civil Rights;
- Disclosing (revealing) confidential information that he became aware of acting upon cases or exercising his judicial office;

2. For the disciplinary violation of paragraph 1 items 1), 3), 4), 6), 7), 8), and 9) of this Article, The President of the court is obliged to notify the Judicial Council of the Republic of Macedonia in writing, within eight days upon realization of the fact the violation has been committed, not longer than three months upon the day of the violation committed.

3. For the disciplinary violation of paragraph 1 item 4 of this Article, the President of the court, where the final court decision has been adopted is obliged to notify the Judicial Council of the Republic of Macedonia as well as the President of the court where the judge is exercising his judicial office, immediately upon entrance into force of the said decision.”

The Code of Judicial Ethics prescribes the following:

“ADVISORY COMMITTEE ON JUDICIAL ETHICS

9.1 The opinions of the Advisory Committee determining breach of the principles of the Code of Ethics have a preventive significance, which indicates that a disciplinary procedure or a procedure for unethical and unprofessional performance of judicial duties can be initiated, in cases in which the conditions are met to consider certain conduct as a parallel breach of the provisions of this Code of Ethics, as well as basis for disciplinary breaches and unethical and unprofessional performance of judicial duties prescribed by Law.”

Relevant legal provisions are prescribed in the Law on Public Prosecution Office:

“2. Termination of office and dismissal of public prosecutors

Article 68

(1) Public prosecutors shall be dismissed from their duties:

- because of a serious disciplinary infringement that makes them unworthy of the public prosecutorial office prescribed by the law; and
- because of unconscious and unprofessional performance of the public prosecutorial function under conditions stipulated by the law.

(2) The proposal for initiation of the procedure for establishment of liability as referred to in paragraph (1) of this Article shall be submitted with 30 days of ascertaining the facts, but not later than two years from the day of the actual violation.

Disciplinary infringements

Article 69

The following shall be considered as a serious disciplinary infringement that entails a procedure for disciplinary liability of a public prosecutor:

- serious violation of the public order and peace, thus undermining the repute of the public prosecutors and Public Prosecution Offices;
- serious violation of the rights and lack of respect for the honour and dignity of the parties and other participants in the proceedings, thus undermining the repute of the public prosecutorial function;
- unworthy behaviour towards individuals, state institutions or other legal entities in relation to the execution of their duties or apart;
- violation of the non-discrimination principle on any grounds; and
- precluding the Higher Public Prosecution Office from exercising an oversight of the work of public prosecutors.

Article 70

The following shall be considered as a disciplinary infringement that entails a procedure for disciplinary liability of a public prosecutor:

- unworthy and behaviour unbecoming at public places;
- not wearing togs;
- receiving gifts and other conveniences in relation to the public prosecutorial function;
- involvement in party and political activities or another public function, work or activity that is incompatible with the public prosecutorial office (Article 62);
- provoking a serious disruption of the relations at the Public Prosecution Office that has a significant influence on the exertion of the public prosecutorial functions;
- unjustifiable rejection or non-fulfilment of educational and mentor-like obligations;
- serious violation of rights related to absence from work; and
- non-fulfilment of the duty for professional education and development.

Article 71

(1) The following shall be considered as non-professional exertion of the public prosecutorial office:

- insufficient professionalism and speciality that influences the quality of work;

- ignorance for the laws, ratified international agreements and other regulations;
and

- low quality in the preparation of prosecutorial decisions and other written documents.

(2) The following shall be considered as unconscious exertion of the public prosecutorial office:

- severe violation of the norms from the public prosecutorial Code of Ethics, thus undermining the repute of the Public Prosecution Office;

- unlawful, untimely or negligent exertion of the public prosecutorial functions;

- partiality in proceeding in individual cases;

- unauthorised disclosure of classified information;

- unauthorized presentation of information and data related to prosecution cases;
and

- unjustifiable refusal or failing to act upon instructions issued pursuant to the provisions of this Law.”

Declaration of assets and interest occupies most part of the codes of ethics of different categories of public officials. In this regard, procedures can be brought against the person who violates the duty and accordingly sanctions can be imposed (Articles 36 and 63 of the Law on Prevention of Corruption; Articles 23 and 25 Law on Prevention of Conflict of Interest).

“Article 36 Law on Prevention of Corruption

(1) A procedure for examination of assets can be brought against an elected or appointed person, as well as against other official and responsible person in a public enterprise, public institution or other legal entity disposing of state capital if the person failed to submit the asset declaration, or in the asset declaration referred to in Article 33 of this Law:

- has not given data;

- has given incorrect or incomplete data;

- or if he/she has not reported any change in assets, that is gave incorrect and incomplete data in the report referred to in Article 34 of this Law.

(2) A procedure shall be brought against the person referred to in paragraph (1) of this Article if it is established that his/her assets or the assets of a member of his/her family have been increased in disproportion to his/her regular revenues in the form of salaries, dividends or other income derived from performance of an activity or property during his/her term of office, that is execution of duty or during the employment.

(3) The Public Revenue Office shall initiate the procedure referred to in paragraph 1 of this Article.

(4) The State Commission can also file a motion to initiate the procedure.

(5) Concurrently with the initiation of the procedure, the Public Revenue Office shall submit a proposal to the competent first instance court for temporary measure prohibiting the disposal of the assets.

(6) The person, in the procedure referred to in paragraph 1 of this Article, shall be obliged to produce evidence so as to prove the financial sources the property has been acquired with and the funds the person and the members of his/her family dispose of.

(7) The state bodies, the bodies of the local self-government units, the institutions executing payment operations, and other natural persons and legal entities, on request of the Public Revenue Office and within a period that it shall determine, shall be obliged to produce all the information necessary for ascertaining the actual situation and that are essential for examination of the assets and the asset status.

Article 63 Law on Prevention of Corruption

Fine in the amount of Euro 500 to 1.000 in Denar counter-value shall be imposed for a misdemeanor on the person who shall fail to submit the obligatory report, that is declaration of assets, activity, employment or other data, stipulated in Articles 22, 23, 24, 26, 27, 28, 29, 32, 33 and 34 of this Law.

Article 23 Law on Prevention of Conflict of Interest

(1) If the State Commission concludes that there exists a conflict of interest, then it shall be obligated to inform the official person and to ask him/her to remove the conflict of interest within 15 days from the day when he/she received the decision.

(2) If the official person acts in accordance with the instruction, the State Commission shall stop the procedure and shall inform the official person as well as the entity that submitted the allegations.

(3) If the official person fails to act in accordance with paragraph (1) of this article, the State Commission shall enact a decision to impose a measure public warning which shall be submitted to the official person.

(4) If the official person which has a public warning measure imposed against him/her, fails to undertake actions to remove the conflict of interest and to inform the State Commission within 15 days after he/she received the decision, then the State Commission shall start an initiative for termination of the public authorizations or duties or an initiative for instigating a disciplinary procedure to determine the existence of a disciplinary violation, before the competent authority.

Article 25 Law on Prevention of Conflict of Interest

(1) One of the following measures shall be imposed against the official person:

- public warning,
- initiative for instigating a disciplinary procedure to determine the existence of a disciplinary violation and
- initiative for dismissal of the official person from the position where he/she performs public authorizations or duties.

(2) The public warning measure and the recommendation for dismissal shall be published in the public information media.”

Statistics with source from the 2016 Annual Report of the State Commission for Prevention of Corruption):

- Asset declarations

In 2016, SCPC, on the basis of its legal competences, submitted requests for initiation of misdemeanour procedure for the failure of submitting asset declarations and reporting changes of property situation. In this period, the court has handed down 18 decisions of these and other initiated cases. During 2016, based on Article 36 of the Law on Prevention of Corruption, the SCPC has submitted eight requests to the Public Revenue Office for initiation of procedure for investigation of property and property status of elected and appointed officials.

- Statement of interest

In 2016, 78 new cases concerning conflict of interest are initiated by SCPC, out of which 57 are completed. The newly opened cases in SCPC are initiated, on one hand, upon reports and requests for opinion submitted by (i) anonymous reports or (ii) official persons and their superiors, or public officials chairing some state bodies; some other cases, on the other hand, are initiated upon requests by interested parties and upon findings of SCPC. In the current year, SCPC decided on 81 cases received and opened in previous years, out of which 53 cases are completed and 28 cases are ongoing. In addition, in 2016, SCPC submitted requests for initiation of misdemeanour procedure against 3 elected and appointed persons to the competent court for the failure of submitting the statement of interest.

(b) Observations on the implementation of the article

The Law on Administrative servants contains a definition of what constitutes a disciplinary offense including, among others, behaviours that breach the Code (Art. 73(22)). In case of non-compliance with the Code, certain measures can be imposed, including the termination of employment (Art. 74(2)).

With regard to judges, the Law on Courts provides for their dismissal in case of serious disciplinary offense or unprofessional and neglectful exercise of the office (Art. 74, 75 and 76, Law on Courts). A judge incurs in the latter if he severely violates the rules of the Judicial Code of Ethics. The Advisory Committee created pursuant Article 9.1 of the Code of Judicial Ethics can initiate the disciplinary procedure. Public prosecutors can be dismissed in similar situations (Arts. 68, 69 and 70, Law on Public Prosecution Office).

The duty to submit declarations of assets or conflict of interest is regulated by a number of Codes of Conducts. In this regard, its violation is regulated by the Law on Prevention of Corruption and the Law on Prevention of Conflict of Interest (Arts. 36 and 63 LPC and 23 and 25 LPCI).

It is recommended that North Macedonia consider strengthening enforcement mechanisms for the ethical codes or relevant behaviour standards for public officials.

Article 9. Public procurement and management of public finances

Paragraph 1 of article 9

1. Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:

(a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;

(b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;

(c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;

(d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;

(e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The basic principles of transparency and competition in public procurement are set out in the Law on Public Procurement (LPP), which has provided that any economic operator shall have the right to participate in the contract award procedure (Arts. 2 and 40).

"Article 2

This Law shall in particular ensure:

- competition among economic operators;
- equal treatment and non-discrimination of economic operators;
- transparency and integrity in the process of awarding public procurement contracts, and
- rational and efficient use of funds in contract award procedures.

Article 40

(1) Any economic operator shall have the right to participate, individually or as a member in a group of economic operators, in the contract award procedure.

(2) As an exception to paragraph (1) of this Article, economic operator with one or several negative references in a period of one year as of the day of publication of the last negative reference, in accordance with the requirements referred to in Article 47 and 48 of this Law, shall not have right to participate in a contract award procedure.

(3) The submitted data on negative references shall be available to the public on Electronic System for Public Procurement (ESPP)."

The ESPP is a simple and user-friendly web-based system of the Public Procurement Bureau. It enables public procurements to be conducted in electronic form. The ESPP enables electronic trading between contracting authorities in North Macedonia, and domestic and foreign economic operators. The ESPP eliminates paper work and ensures efficiency and cost-effectiveness of the contract award procedures.

The LPP provides for various types of procurement procedures, including open procedure, restricted procedure, competitive dialogue, negotiated procedure with or without a prior publication of a contract notice, simplified competitive procedure, and open design contest (Chapter V). The period for potential tenderers to prepare and submit their tenders are stipulated in the LPC depending on different procurement methods, except for the negotiated procedure that does not have a prior publication of a contract notice. In case of low value procurement, it is required, *mutatis mutandis*, to provide economic operators with reasonable notification and preparation period.

"Article 52

(1) The contracting authority may publish a prior indicative notification, provided it applies the provisions referred to in Article 65 paragraph (2) or Article 75 paragraph (2) of this Law.

(2) The publication of the prior indicative notification shall not oblige the contracting authority

to conduct the procedure.

(3) The prior indicative notification shall be published on ESPP.

Article 53

The contracting authority shall publish a contract notice when:

- it conducts an open procedure, a restricted procedure, a competitive dialogue or a negotiated procedure with a prior publication of a notice, or
- it conducts a design contest.

Article 54

(1) The contract notice for open procedure, restricted procedure, competitive dialogue, negotiated procedure with prior publication of a notice and design contest shall be delivered for publication on ESPP and in the “Official Gazette of the Republic of Macedonia”.

(2) If the estimated value of the public procurement contract, excluding VAT, exceeds Euro 500.000 in Denar counter-value for goods and services, i.e. Euro 2.000.000 in Denar counter-value for works, the contract notice shall be also mandatorily published in the Official Journal of the European Union or in a respective business publication or technical or specialized newspaper available to the broad international expert and other public.

(3) The contracting authority may also publish the contract notice in accordance with this paragraph even if the estimated value of the public procurement contract is below the amounts prescribed by this paragraph.

(4) The “Official Gazette of the Republic of Macedonia” and the Bureau shall be obliged to publish the contract notice within a time period of 5 working days as of the day of receipt of the contract notice.

Open procedure

Article 65

(1) The closing date for submission of tenders shall not be less than 45 days as of the date of publication on the ESPP if the estimated value of the public contract, excluding VAT, exceeds:

- 130,000 euro in MKD equivalent for supplies and services and 4,000,000 euro in MKD equivalent for works with the contracting authorities referred to in Article 4 paragraph (1) points a), b) and c) of this Law; or
- 200,000 euro in MKD equivalent for supplies and services and 4,000,000 euro in MKD equivalent for works with the contracting authorities referred to in Article 4 paragraph (1) points d) and e) of this Law.

...

Article 66

If the estimated value of the public contract is below the amount referred to in Article 65 paragraph (1) of this Law, the time limit for the receipt of tenders shall not be less than 20 days as of the date of publication on the ESPP.

Restricted procedure

Article 69

(1) The time limit for the receipt of requests to participate shall not be less than 30 days as of the date of publication on the ESPP, if the estimated value of the public contract, excluding VAT,

exceeds:

- 130,000 euro in MKD equivalent for supplies and services and 4,000,000 euro in MKD equivalent for works with the contracting authorities referred to in Article 4 paragraph (1) points a), b) and c) of this Law; or
- 200,000 euro in MKD equivalent for supplies and services and 4,000,000 euro in MKD equivalent for works with the contracting authorities referred to in Article 4 paragraph (1) points d) and e) of this Law.

...

Article 70

If the estimated value of the public contract is below the amount referred to in Article 69 paragraph (1) of this Law, the time limit for the receipt of requests to participate shall not be less than 15 days as of the date of publication on the ESPP.

Competitive dialogue

Article 80

The time limit for the receipt of requests to participate shall not be less than 30 days as of the date of publication on the ESPP if the estimated value of the contract, excluding VAT, exceeds 130,000 euro in MKD equivalent for supplies and services and 4,000,000 euro in MKD equivalent for works with the contracting authorities referred to in Article 4 paragraph (1) points a), b) and c) of this Law.

Article 81

If the estimated value of the public contract is below the amount referred to in Article 80 of this Law, the time limit for the receipt of requests to participate shall not be less than 15 days as of the date of publication on the ESPP.

Negotiated procedure with prior publication of a contract notice

Article 90

(1) The time limit for the receipt of requests to participate shall not be less than 30 days as of the date of publication on the ESPP if the estimated value of the public contract, excluding VAT, exceeds:

- 130,000 euro in MKD equivalent for supplies and services and 4,000,000 euro in MKD equivalent for works with the contracting authorities referred to in Article 4 paragraph (1) points a), b) and c) of this Law; or
- 200,000 euro in MKD equivalent for supplies and services and 4,000,000 euro in MKD equivalent for works with the contracting authorities referred to in Article 4 paragraph (1) points d) and e) of this Law.

(2) As an exception to paragraph (1) of this Article, due to reasons of urgency requiring execution of the contract within time limits less than the ones determined in paragraph (1) of this Article, the contracting authority may accelerate the procedure by reducing the time limit for 15 days, at the most.

Article 91

If the estimated value of the public contract is below the amount referred to in Article 90 paragraph (1) of this Law, the time limit for the receipt of requests to participate shall not be less than 12 days as of the date of publishing the contract notice on the ESPP.

Simplified competitive procedure

Article 100

(1) The contracting authority may conduct a simplified competitive procedure with publication of a contract notice on the ESPP when the estimated value of the public supply and service contract is up to 20,000 euro in MKD equivalent, and for public works contracts up to 50,000 euro in MKD equivalent, VAT excluded.

(2) The provisions of this Law shall accordingly apply when conducting simplified competitive procedures, unless otherwise regulated by this Section.

(3) The time limit for the receipt of tenders in case of a simplified competitive procedure shall not be less than:

- five days as of the date of publication of the contract notice on the ESPP, when the estimated value of the public contract is up to 5,000 euro in MKD equivalent, VAT excluded; and
- ten days as of the date of publication of the contract notice on the ESPP, when the estimated value of the public supply and service contract is up to 20,000 euro in MKD equivalent, and for public works contracts up to 50,000 euro in MKD equivalent, VAT excluded.

Open design contest

Article 108

(1) The time limit for the submission of plans or projects shall not be less than 35 days as of the date of dispatch of the contract notice for publication in the “Official Gazette of the Republic of Macedonia” and on the web page of the Bureau.

(2) The content of the plans and projects submitted shall remain confidential until the expiry of the time limit for their submission.”

The criteria for determining the qualification of an economic operator is provided in Section 2 of the LPP (Determining the qualification, Arts. 143-158), where the contracting authorities are required to state the minimum requirements of economic and financial standing and technical or professional ability to be fulfilled by the economic operator in the tender documents. Under the LPP, awarding criteria shall be specified in advance (Art. 159) and contracts are generally awarded to the most economically advantageous tender or the lowest priced tender (Art. 160). A point system is used for the determination of the economically most favourable tender. The elements include price, quality characteristics, technical and functional characteristics, environmental characteristics, operational costs, cost-effectiveness, post-sales services and technical support, delivery or execution time, or other significant elements for evaluation of the tenders (Art. 161).

“Article 143

The following shall be criteria for determining the qualification of the economic operators:

- personal standing;
- qualification to perform a professional activity;
- economic and financial standing;
- technical or professional ability;
- quality assurance standards, and
- environmental management standards.

Article 159

The contracting authority shall be obliged to specify in the notice for awarding the public procurement contract the contract award criterion, which once determined, cannot be changed

throughout the contract award procedure.

Article 160

(1) A contract award criterion may be:

- economically most favourable tender or
- the lowest price.

(2) As an exception to paragraph (1) of this Article, if the public procurement contract is awarded using the competitive dialogue procedure, the contract award criterion shall be the economically most favourable tender.

Article 161

(1) When the contract award criterion is the economically most favourable tender, the most favourable tender shall be the one that receives the highest points from the different elements which carry relevant number of maximum points.

(2) The elements of the criterion economically most favourable tender referred to in paragraph (1) of this Article may be the price, quality characteristics, technical and functional characteristics, environmental characteristics, operational costs, cost-effectiveness, post-sales services and technical support, delivery or execution time, or other significant elements for evaluation of the tenders.

(3) The elements of the criterion economically most favourable tender, as well as the maximum number of points for each element separately, shall have to be clearly defined in the contract notice, specifically related to the subject-matter of the public procurement contract and, after being determined, they cannot be changed throughout the duration of the contract award procedure.

(4) The contracting authority shall be obliged, in the tender documentation, to provide explanation how it intends to score and apply the elements of the criterion economically most favourable tender.

(5) The methodology for expressing the contract award criteria into items shall be prescribed by the Minister of Finance.”

The notification to candidates or tenders is also regulated in the Law on Public Procurement as follows:

“Article 167

(1) The contracting authority, depending on the type of applied contract award procedure, shall notify the candidates, i.e. the tenderers, in writing, about the decisions made in connection with the conducted pre-qualification, the award of the public procurement contract, the conclusion of the framework agreement or the cancellation of the contract award procedure. The notification shall be sent within a time period of three days as of the day of adoption of the respective decision.

(2) A copy of the respective decision shall be enclosed to the notification.

(3) The notification referred to in paragraph (1) of this Article shall be sent in a written form.

(4) The form and content of the notification referred to in paragraph (1) of this Article shall be prescribed by the Minister of Finance.

Article 168

Depending on the type of applied contract award procedure, the contracting authority shall be obliged, in the notification referred to in Article 167 paragraph (1) of this Law, to inform the

tenderer or tenderers whose tender has been selected as most favourable, as well as the candidates or tenderers who have been rejected or those whose tender has not been selected as most favourable, about the reasons for adopting the decision, as follows:

- each candidate that has not been selected, about the reasons for dismissing its request to participate;
- a tenderer whose tender has been dismissed, about the reasons for dismissing its tender with a detailed explanation why the tender is unacceptable, and
- a tenderer who has submitted an acceptable tender that was not selected as most favourable, about the name of the selected tenderer or tenderers and the reasons for the selection.”

Regarding the permissible grounds for the rejections of tenders, the LPP states the following:

"Article 136

- (1) The opening of tenders in the open procedure, the second phase of the restricted procedure and the phase of submission of tenders in the competitive dialogue shall be public.
- (2) The public opening of tenders shall commence at a place and time determined in the tender documentation as a deadline for submission of the tenders, except for the procurement of consultant services.
- (3) No tender shall be rejected in the course of the public opening of tenders, except the ones submitted after the time period for submission of the tenders.
- (4) Prior to the commencement of the opening of the tenders, the commission shall determine the number of received tenders, check the authorizations of the authorized representatives, and shall determine the amendments, replacements or withdrawals of the tenders, as well as their timely and duly submission of the tenders.
- (5) While reading the tenders, the following shall have to be mandatorily read:
 - the reference number of the contract notice;
 - the name of the tenderer;
 - the tender price and the currency in which the tender is expressed;
 - the possible discount, and
 - the offered guarantee.
- (6) The contracting authority may, in the tender documentation, define other elements which shall have to be read during the public opening.

Article 140

- (1) Tenders which have not been opened on the public opening of tenders cannot be subject to evaluation.
- (2) In regard to the open procedure, the commission, prior to the evaluation of the tenders, shall check the completeness and the validity of the documentation for determining the qualification of the tenderer.
- (3) When checking the completeness and validity of the documentation for determining the qualification of the tenderer and during the evaluation of the tender, the commission may require from the tenderers to clarify or complete their documents, should there be minor deviations from the required documentation. By using the requested clarifications or additions to the documentation, the contracting authority must not create advantage in favour of a certain economic operator.
- (4) The tenderer shall submit the requested clarification in writing within the time period

determined by the contracting authority.

(5) No changes to the tender, except correction of arithmetical errors, may be required, offered or allowed by the commission or the tenderer.

(6) The commission may directly require from the tenderer, for the purpose of clarifying the tender, to translate the part of the tender connected with the technical documentation for which it allowed, in the tender documentation, to be prepared in a foreign language, and to determine a reasonable time period for completion of such requirement.

(7) The commission shall not evaluate the unacceptable tenders.

(8) The evaluation of the tenders shall be conducted only by applying the criteria stated in the tender documentation and published in the contract notice.

(9) The commission, following the conducted evaluation, shall rank the tenders and prepare a proposal regarding the selection of the most favourable tender.

(10) The members of the commission who do not agree with the proposal for selection of the most favourable tender, shall state their opinion in writing prepared as a comment attached to the report of the conducted procedure.”

Article 37 of the LPP governs that the information relating to procurement procedures and contracts are publicly distributed and available.

“Article 37

1) The contracting authority shall make the tender documentation available to any interested economic operator:

- by using electronic means for the purpose of providing direct and full access to the tender documentation, or
- in hard copy or by using magnetic medium for all economic operators that have submitted a request thereon, or the ones that have been sent an invitation to submit a tender.

(2) In the cases referred to in paragraph (1) line 2 of this Article, the contracting authority, within a time period of three days as of the day of receipt of the request, shall send the tender documentation to all economic operators that have requested so, and if a fee for obtaining the tender documentation is stipulated in the contract notice, the tender documentation shall be delivered immediately after the economic operator pays the fee.

(3) The fee for obtaining the tender documentation shall only cover the costs for copying and/or delivery of the tender documentation.

Article 38

(1) The contracting authority, within the time period referred to in paragraph (3) of this Article, on its own initiative or on the basis of questions for clarification by the economic operators, may amend or modify the tender documentation.

(2) The contracting authority, according to the amendments and modifications to the tender documentation, may extend the time period for submission of the tenders or the requests to participate.

(3) The contracting authority, no later than 6 days before the expiry of the time period for submission of the tenders or requests to participate, i.e. three days in case of a simplified competitive procedure, shall send free of charge the amendments and modifications to the tender documentation to all economic operators that have obtained the tender documentation;

or, if it is published by using electronic means for the purpose of direct and full access, it shall publish the amendments and modifications in the same manner as it has published the tender documentation.”

The contracting authority shall make the tender documentation available to any interested economic operator by using electronic means for the purpose of providing direct and full access through the ESPP simultaneously with the publication of the contract notice. The forms of the tender documentation shall be attached in a format that could be directly used by the economic operators.

The contracting authority shall make the tender documentation available in hard copy or by using magnetic medium only when the ESPP does not support the format type in which the tender documentation or a part thereof is prepared, and it shall fill in an explanation on the ESPP.

When publishing a contract notice for a public private partnership. No fee shall be charged for obtaining the tender documentation.

When conducting the contract award procedure, if the contractor fail to follow the applicable laws, regulations and procedures including those regarding publication, the public contract shall be considered null and void.

In accordance with Article 14 of the LPP, the Public Procurement Bureau is responsible for determining irregularities of the received notices. It immediately informs the contracting authorities, and if necessary, the competent authorities of such irregularities. Other institutions are also responsible for supervision under special material regulations:

- According to the Law on Public Internal Financial Control (Official Gazette, 90/09 and 188/13), the internal audit units also conduct the supervision of public procurement procedures as an independent activity in order to improve the effectiveness of the risk management processes, control and management in the public sector entities.
- Pursuant to the Law on Financial Inspection in the Public Sector (Official Gazette, No. 82/2013 and 43/14), the Financial Police, as an ex post activity, controls the regularity of the transactions and other activities in the field of financial management within the entities which are subject to inspection.
- The State Audit Office also performs control of the use of procurement funds as an ex post activity in accordance with the Law on State Audit (Official Gazette, No. 66/10.145/10.12/14 and 43/14), and is in charge of auditing the public revenue and public expenditure in the public sector entities.

It should be noted that the State Audit Office (SAO), in accordance with its competencies, performs an ex post audit of state institutions and users of public funds in order to determine and disclose irregularities, cases of unlawful conduct and possible cases of corruption and abuse of official duties. Within that framework, an insight into the manner of planning, implementation and realization of public procurement procedures with recommendations for elimination of the identified irregularities is yielded.

Although the Law on Public Procurement was not the subject of alignment with UNCITRAL Model Law on Procurement of Goods, Construction and Services (2011), it is mostly aligned with Directives 2004/18/EC and 2004/17/EC with a lower degree of compliance, however, in some parts due to the recent amendments (for example, regarding the application of the most economically advantageous tender criterion). At the moment of the country visit, a new law was being drafted pursuant to which new Directives on classical and utilities procurement EU/2014/24 and EU/2014/25 would be transposed. Experience of some of the EU Member States in transposing the Directives on classical and utilities procurement EU/2014/24 and EU/2014/25 in their national legislations will be considered.

According to Article 37, the procedures and content required regarding the public distribution of invitations to tender are made available to any interested economic operator by using electronic means for the purpose of providing direct and full access through the ESPP and Official Gazette.

Information on the procedures, rules and regulations for review of the procurement process, including the system of appeal and available legal recourse or remedies

The LPP establishes the institutional structure and the mechanism for acting upon appeals in accordance with Directive 89/665/EEC and 92/13/EEC and certain parts of them comply with Directive 2007/66/EC which amends two previous directives, such as "stand still period". The procedures, rules and regulations are defined in Articles 200 – 231 of the Law on Public Procurement.

State Appeals Commission is an independent body which is responsible for carrying out review in the country. The requirements of the *acquis* on the right to appeal stipulates the legal capacity for the application of remedies in public procurement contract award procedures.

“Article 200

(1) State Appeals Commission (hereinafter: State Commission) shall be competent to resolve appeals in the contract award procedures prescribed by this Law, as well as appeals in the procedures for awarding contracts for concessions and public private partnership, regulated by law.

(2) The State Commission shall decide on the legality of the actions and the omissions to undertake actions, as well as the decisions as individual legal acts adopted in the procedures referred to in paragraph (1) of this Article, as well as other activities in accordance with the law.

(3) The State Commission shall also decide upon other requests allowed to be submitted in the review procedure, by the parties to the procedure.

(4) The provisions of this Chapter shall accordingly apply in the provision of legal protection in the contract award procedures for concessions and public private partnership.

Article 201

(1) The State Commission shall be a state authority, which is independent in its operations and shall have capacity of a legal entity.

(2) The State Commission shall have an expert service. The provisions of the Law on Civil Servants shall apply to the persons employed in the expert service.

(3) The State Commission shall be financed from the Budget of the Republic of Macedonia.

Article 207

(1) Any economic operator having legal interest in the contract award procedure, and which has suffered or could suffer damage by possible violation of the provisions of this Law, may initiate an appeals procedure against the decisions, actions and omissions to undertake actions by the contracting authority in the contract award procedure.

(2) The state attorney of the Republic of Macedonia may also initiate an appeals procedure when he/she protects the interests of the state or the public interest.

Effect of the appeal and continuation of the contract award procedure

Article 217

(1) The filed appeal shall suspend the signing of the public procurement contract and its implementation until the decision of the State Commission becomes final.

(2) As an exception to paragraph (1) of this Article, upon a request of the contracting authority, the State Commission may approve the continuation of the contract award procedure.

(3) The public procurement contract signed contrary to paragraphs (1) and (2) of this Article shall be null and void.

Court protection and subsidiary application of the regulations

Article 230

(1) An administrative dispute may be initiated before a competent court for resolving administrative disputes against the decision of the State Commission.

(2) The competent court for resolving administrative disputes shall resolve the cases concerning public procurement in an urgent procedure.”

The fees prescribed by the provisions of the Law on Public Procurement are proportionate and do not present an obstacle for the usage of the instruments of the legal protection.

Information of the selection of personnel responsible for procurement, including declarations of interest and potential conflicts in particular cases (manner and required disclosures), screening procedures and training requirements (at induction and ongoing) and curricula, rotation of personnel

In Article 29 of the Law, the duties of the officer (or of the organisational form) are precisely defined, and therefore, the specific roles and responsibilities of these individuals are well known.

The Public Procurement Bureau has made great efforts for improving and strengthening the capacities of the contracting authorities which is indicated in the data of trainings conducted for public procurement officers. The Public Procurement Bureau conducts trainings as a strategic measure prescribed by the Law on Public Procurement, based on the Annual Public Procurement Education Programme.

The Public Procurement Bureau continuously maintains four types of trainings on public procurement, including trainings of trainers for public procurement, training of persons for public procurement and training of economic operators. Given that the certificates for person for public procurement and trainer for public procurement have a validity date, the Public Procurement Bureau organises trainings for refreshing the knowledge every two or three years.

The Law on Public Procurement contains provisions on the prevention of conflict of interest. Article 62 of the Law stipulates the obligation of the president, the members and deputy members in the Public Procurement Commission, as well as the responsible person to sign a statement for non-existence of conflict of interest. The statements are part of the dossier for the procurement procedure carried out. In case of a conflict of interest with the president, his/her deputy, the members and their deputies in the Public Procurement Commission, they shall be withdrawn from their official duty in the Commission and be substituted by other persons. In case of a conflict of interest with the responsible person, he/she shall by a special decision authorise another person from the officials or employees at the contracting authority to adopt the appropriate decisions and to sign the contract. In the public procurement contract award procedures, the provisions of the Law on Prevention of Conflict of Interest are also applicable.

Public officials who are involved in public procurement are also bound by the general provisions set forth by the Law on Prevention of Conflict of Interest, including the obligation to submit declaration of general conflicts of interest. In accordance with Article 63 of the Law, the contractor shall not hire persons involved in the evaluation of the tenders submitted in the respective public

procurement contract award procedure, within the duration of the contract. In that case, the public procurement contract shall be considered null and void.

“Article 62 Law on Public Procurement

(1) The provisions of the Law on Prevention of Conflict of Interest shall accordingly apply to the contract award procedures for the purpose of preventing a conflict of interests.

(2) In the contract award procedure, the president, deputy president, members and deputy members of the public procurement commission, as well as the responsible person shall sign a statement for non-existence of conflict of interests that shall be a part of the dossier for the implemented procedure.

(3) In case of conflict of interests with the president, the deputy, the members and their deputies in the public procurement commission, they shall withdraw from the work in the commission and shall be substituted by other persons.

(4) In case of conflict of interests with the responsible person, the same shall by a special decision authorize another person from among the officials or employees at the contracting authority to adopt the appropriate decisions and to sign the contract.

Article 63

When implementing the public procurement contract, the contractor cannot hire persons involved in the evaluation of tenders submitted in the respective contract award procedure, in the duration of the contract. In that case, the public procurement contract shall be considered null and void.”

By conducting the public procurement, other material regulations are also properly applied. The Public Procurement Bureau does not have statistics on signed statements of interest because the statements are relevant only during the procurement procedure and are kept by the contracting authority responsible for the specific procurement procedure. The members of the Public Procurement Commission and responsible person have the obligation to sign this statement in every tender procedure. The statements of interest submitted by the members of the Commission and by the responsible person from the contracting authority are part of the tender documentation.

In the country there is no risk indicator system that signals potential integrity problems in the procurement process.

The new draft of Public Procurement Law contains provisions for contracting authorities to award the contracts in order to ensure compliance with the principles of transparency and equal treatment of economic operators, quality, continuity, accessibility, affordability, availability and comprehensiveness of the services, the specific needs of different categories of users including disadvantaged and vulnerable groups, the involvement and empowerment of users, and innovation. In the course of drafting of the new Law, the new EU directives on classical and utilities procurement EU/2014/24 and EU/2014/25 are taken into consideration. The draft is undergoing inter-agency consultations and the public consultations are still open as of September 2018. As proposed by the new draft, the contracting authority shall ensure transparency when conducting procurement procedures. Before launching a procurement procedure, contracting authorities may conduct market consultations for the purpose of informing economic operators of their procurement plans and requirements. In the notice and the tender documentation, the contracting authority is obliged to announce relevant information regarding the awarding of the contract. When contracting authorities intend to purchase works, supplies or services, they need to announce to the public the award criteria and the contract performance conditions, as well as the right of legal protection on economic operators. Chapter IX Articles 172-180 contains provisions regarding administrative control and revision on public procurement procedure before announcement of the decision for

awarding the contract or decision for rejection. Chapter VIII Articles 130-172 contains provisions regarding legal protection in public procurement.

Statistics regarding (i) the extent to which the system of public procurement is used, including cases that illustrate procurement decisions taken on the basis of transparent, competitive and objective criteria; and (ii) the number of public procurement processes conducted, the subject matter of the procurement processes, the number and diversity of tenders and the outcomes and award decisions can be found in the following link: http://www.bjn.gov.mk/ghodishni_izvieshtai-en.nspix

Internal or external assessment reports regarding the effectiveness of the system of public procurement and the extent to which it is based on transparency, competition and objective criteria in decision-making can be found in the following links: <http://sigmaweb.org/publications/Monitoring-Methodology-2016.pdf> and http://www.bjn.gov.mk/razni_analizi-en.nspix

The following are the examples of invitations to tender, and descriptions of the media through which those invitations were published:

Standard bidding documents for tender submission can be found in the following link: http://www.bjn.gov.mk/tiendierska_dokumentatsija-en.nspix

Guidelines on the conduct of tender procedures can be found in the following link: http://www.bjn.gov.mk/prirachnitsi_za_javni_nabavki-en.nspix
<https://e-nabavki.gov.mk/PublicAccess/home.aspx#/user-manual>

Cases involving a successful appeal or challenge to a procurement process can be found in the following link: <http://reshenija.dkzjn.gov.mk>

Statistics on the number of procurement officers trained, including applicable curricula, guidance manuals and other materials can be found here: <http://www.bjn.gov.mk/izvieshtai.nspix> (in Macedonian).

(b) Observations on the implementation of the article

Public procurement is decentralized and regulated by the Law on Public Procurement (LPP)¹². The LPP provides for clear rules on various types of contract award procedures, including open procedure (Ch. V). The basic principles for public procurement transparency and competition are contained in Article 2 LPP. Any economic operator shall have the right to participate in the contract award procedure (Art. 40, LPP) and the contract shall be awarded according to the criteria contained in Article 143 of the LPP.

Documentation relating to the tender shall be made available any economic operator through the Electronic System for Public Procurement. Only under certain circumstances other means of communication are allowed (Art. 37, LPP).

The contracting authorities are required to publish the contract invitation through the Electronic System for Public Procurement and the Official Gazette, except in cases of negotiated procedure without prior publication of a notice (Art. 53, LPP). Reasonable time is established for the preparation and submission of tenders under different procurement procedures (Ch. V, LPP). The contract is generally awarded to the most economically advantageous or the lowest priced tender

¹² The authorities of North Macedonia indicated that a revised Law on Public Procurement was adopted on 28 January 2019, and the amended provisions would be applicable in relation to article 9 of the Convention.

(Art. 160, LPP). It is mandatory to notify the award decision to all tenderers, including refusal reasons for the non-selected parties (Arts. 167 and 168, LPP).

The State Appeals Commission is a specialized and independent authority assigned to review public procurement award procedures (Arts. 200 and 201, LPP). An aggrieved party having relevant legal interest or the State attorney may appeal to the Commission (Art. 207, LPP). The Commission may suspend the procurement process and its decisions are subject to review by administrative courts (Arts. 217 and 230, LPP).

The Public Procurement Bureau is mainly designated to supervise the public procurement process, including undertaking trainings for procurement staff. The key personnel in each public procurement commission of the contracting authorities bear the obligation to submit a declaration on conflicts of interest, which may lead to potential recusals (Art. 62, LPP). In addition, contracting parties are prohibited from hiring persons previously involved in the tender evaluation (Art. 63, LPP).

The provisions of the Law on Prevention of Conflict of Interest are applicable to the procurement procedures for the purpose of prevent conflict on interests (Art. 62, LPP, Arts. 62 and 63, LPCI).

Paragraph 2 of article 9

2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:

- (a) Procedures for the adoption of the national budget;*
- (b) Timely reporting on revenue and expenditure;*
- (c) A system of accounting and auditing standards and related oversight;*
- (d) Effective and efficient systems of risk management and internal control; and*
- (e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.*

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

In accordance with the Budget Law, the preparation of the National Budget starts early in the fiscal year. The Budget Law prescribes the procedure for the budget preparation, adoption and its execution.

The basis for the budget preparation are the Government Strategic Priorities, the medium term Fiscal Strategy and Strategic Plans of the budget users which are the line ministries and their subordinate agencies and bodies (Art. 14, Budget Law).

“Article 14

(1) Basis for the preparation of the budgets shall be the strategic priorities of the Government, the Fiscal Strategy, the draft strategic plans of the budget users and the budget policy, as well as the priorities of the municipalities.

(2) The Minister of Finance shall be responsible for the preparation of the Budget of the Republic of Macedonia and for its submission to the Government.

(3) The Mayor shall be responsible for the preparation of the municipal budget and for its submission to the Council of the municipality.”

The Government defines and adopts Government Strategic Priorities by 15th April of the current year at the latest. Those priorities are integral part of the programmes and sub-programmes of the Strategic Plans of the budget users, which contain quantified programmes, activities, objectives and priorities (Art. 15, Budget Law).

“Article 15

(1) The Government of the Republic of Macedonia shall determine the strategic priorities for the next year by April 15th of the current year at the latest.

(2) Budget users of the central government and the Funds shall mandatorily include the strategic priorities of the Government of the Republic of Macedonia, as a sum of goals and initiatives, in their budgets through government programmes and sub-programmes.

(3) Budget users shall prepare three-year strategic plan covering programmes and activities for realization of the strategic priorities of the Government, as well as the goals and the priorities of the budget user for that period.”

Based on the Strategic Priorities and Strategic plans, the Ministry of Finance prepares Medium Term Fiscal Strategy (MTFS) by 31st of May at the latest, which define macroeconomic, fiscal and public debt management policy. This strategic document defines the main targets, level of budget deficit and public debt, revenue and expenditures projections and possible resources for financing the deficit (Arts. 16 and 17 of the Budget Law). The Ministry of Finance also prepares maximum limits of the expenditures per budget user for the next three years (Art.18, Budget Law).

“Fiscal Strategy

Article 16

(1) The Ministry of Finance shall prepare a mid-term (three-year) fiscal strategy, proposing directions and objectives of the fiscal policy, and shall determine the amounts for the main categories of the estimated revenues and appropriations for that period.

(2) The Fiscal Strategy shall be adopted by the Government by May 31st of the current fiscal year at the latest.

Contents of the Fiscal Strategy

Article 17

Fiscal Strategy shall contain the following:

1. Basic economic assumptions and directions for preparing the Draft Budget of the Republic of Macedonia;
2. Estimate of the amount of revenues, expenditures and financing of the Budget of the Republic of Macedonia for the current fiscal year;
3. Medium-term (three-year) estimate of the amount of revenues, expenditures and financing of the Budget of the Republic of Macedonia; and
4. Other necessary data.

Determining the Maximum Amounts of Appropriations

Article 18

(1) The Ministry of Finance, on the basis of the Fiscal Strategy, shall propose to the

Government of the Republic of Macedonia appropriation limits for the next three fiscal years by budget users of the central government and the funds.

(2) The Government of the Republic of Macedonia shall determine the maximum amounts of funds referred to in paragraph 1 of this Article, by end-May of the current fiscal year at the latest.”

Based on the fiscal strategy and maximum limits of the expenditures, the Ministry of Finance sends the funds instructions in the form of a budget circular to the budget users no later than 15th of June (Art.19).

“Budget Circular

Article 19

(1) Based on the adopted fiscal strategy and the determined appropriation limits, the Ministry of Finance shall, not later than June 15, submit to the budget users of the central government and the funds instructions in the form of a Budget Circular (hereinafter: Circular) for submitting requests for the preparation of the draft budget.

(2) The head of the budget user shall submit the Circular to the spending units.

(3) The Ministry of Finance shall submit the Circular to the Mayor of the municipality by September 30th at the latest.”

The budget users prepare budget request for their activities in accordance with the budget circular instruction for the core budget, budget of loans, budget of donations and budget of self-financing activities, at latest 1st of September (Art. 22).

“Submission of Budget Requests

Article 22

(1) The budget users from the central government and the funds shall prepare draft budget request for their activities covered in programmes and sub-programmes in accordance with the instructions and guidelines contained in the Circular for the base budget, the budget of donations, the budget of loans and the budget of self-financing activities.

(2) The budget users of the executive authority and the funds shall prepare a development programme plan in accordance with the instructions and guidelines contained in the Circular.

(3) The budget users' programmes and sub-programmes from the development programme plan which were approved by the Government shall be included in the draft budget request.

(4) The heads of the budget users shall submit the draft budget requests to the Ministry of Finance, not later than September 1st in the current year.

(5) For the central government budget users and the funds who have not submitted budget request within the deadline envisaged in paragraph (4) of this article, the Ministry of Finance shall prepare the budget request on their behalf.”

The Ministry of Finance sends the Draft National Budget to the Government by 1st of November at the latest for adoption (Art. 29).

“Draft Budget of the Republic of Macedonia

Article 29

(1) The Ministry of Finance shall submit the Draft Budget of the Republic of Macedonia to the Government of the Republic of Macedonia for adoption until November 1st of the current year at the latest.

(2) The Budget of the Republic of Macedonia consists of general, special and development part.

- The general part consists of the total revenues and other inflows and the total expenditures and other outflows of the budget for the fiscal year, as well as global projection of the revenues, inflows, expenditures and outflows for the next two years and other data.

- The special part consists of a plan of appropriations of the budget users and the funds by programmes, sub-programmes and items for the fiscal year.

- The development part consists of the budget users' development programme plans.

(3) The development programme plan includes the mid-term projections of appropriations by:

- different budget users;
- different budget programmes and sub-programmes;
- years when they will be implemented and
- sources of financing, i.e. budgets.

(4) The development programme plan from paragraph (3) of this article shall be revised each year.”

The Government sends the Draft Budget to the Assembly of the Republic together with the Fiscal Strategy by 15th of November at the latest in the parliamentary procedure.

The Assembly Commissions review and discuss the Draft Budget for the year after the country visit and Fiscal strategy and would adopt it by 31st of December at the latest of the year of the country visit.

The project of the Ministry of Finance “Strengthening the mid-term budgeting for effective public management” financed by IPA Funds has been finalised. The implementation of this project lasted for two years (from 1 December 2015 to 20 November 2017) and its main goal was to ensure sustainability and improve efficient management of public finances. The activities under this project were mainly performed to improve the programme budget classification of expenditures, develop appropriate indicators for the success of the programmes, and strengthen the capacity for medium-term budget planning and reporting according to the European Methodology ESA 2010.

Under the project, the Manual for Programme Classification, Manual for Medium-Term Budget Planning, Manual for ESA methodology and New Procedure for Preparation of Fiscal Strategy have been prepared as a solid base for the implementation of future budget reforms. In addition, a draft version of a new Budget Law has been prepared, which includes all these reforms such as a new timeframe for budget preparation and Fiscal Strategy, fiscal rules and Fiscal Council. The implementation of all those budget reforms in the future as a main strategic priority will provide an improvement of the quality of public finances management.

To ensure budgetary transparency and to promote public participation, the Ministry of Finance on its web-site regularly publishes [statistical data in open data format](#) and [publications](#) on budgetary revenues and expenses, as well as relevant [announcements](#). Key information from draft budget submitted to the Government is presented in the publication called “Citizen Budget”, which is designed to be simple and understandable to all citizens. The Citizen Budget was used for the first

time related to the State Budget 2017 (based on data from supplementary budget) and [the 2018 Citizen Budget](#) is the second publication. The Ministry of Finance organized public debates where the main points of State Budget were presented. The aim of Citizen Budget is to increase transparency and accountability and to increase the participation of citizens during the creation of government programmes and policies.

Information such as the [statistics](#) and [annual reports](#) about the application of the Public Financial Control System is also regularly published on the web-site of the Ministry of Finance.

Pursuant to Article 2 of the Public Internal Financial Control Law, the Minister of Finance is responsible for coordinating the development, establishment, implementation and maintenance of the public internal financial control system, and the Central Harmonisation Unit of Public Internal Financial Control System (CHU) is put in charge on behalf of the Minister of Finance. The competences of CHU are defined in Article 48 of the PIFC Law. CHU regularly keeps records of each institution and monitors the development of PIFC.

“Article 2 Public Internal Financial Control Law

(1) The Minister of Finance shall be in charge of the coordination of the development, the establishment, the implementation and the maintenance of the public internal financial control system, and on his behalf the Central Harmonisation Unit of the Public Internal Financial Control System within the Ministry of Finance (hereinafter: Central Harmonisation Unit).

(2) The coordination referred to in paragraph (1) of this Article shall be executed by the Minister of Finance through:

- harmonisation and supervision of the financial management and control;
- harmonisation and supervision of the internal audit; and
- preparation and issuance of bylaws, manuals and directives.

VI. CENTRAL HARMONISATION UNIT

Article 48 Public Internal Financial Control Law

(1) The Central Harmonisation Unit shall be in charge of the following:

- Preparation of laws and by-laws in the field of the financial management and control and the internal audit;
- Preparation of methodology and working standards for the financial management and control and the internal audit;
- Coordination of the trainings for the heads and employees involved in the financial management and control and the internal audit;
- Coordination during the establishment and the development of the internal financial control system;
- Preparation of approval for redeployment and dismissals of internal auditors referred to in Article 33, paragraph (7) of this Law;
- Establishment and maintenance of databases for the internal audit units and the adopted charters;
- Establishment and maintenance of registry of certified internal auditors who took the exam for internal auditor in the public sector and who have internationally recognised audit certificate.
- Cooperation with institutions responsible for public internal control affairs in the country and abroad and exchange of information for the development of the public

internal financial control;

- Supervision of the quality of the financial management and control system;
- Supervision of the quality of the operations of the Internal Audit Units; and
- Preparation of an Annual Report on the Functioning of the Public Internal Financial Control System on the basis of the Annual Financial Report referred to in Article 47 of this Law, the Ministry of Finance shall submit to the Government of the Republic of Macedonia by the end of July in the current year for the previous year at the latest;
- Organisation of ad hoc audits to be performed by internal auditors from certain public sector entities, when the subject of such audit goes beyond the scope i.e. the competence of the certain entity or the subject of the audit has such a nature that the multidisciplinary approach of the internal audit is more beneficial. The findings and recommendations of this type of audit shall be discussed with the audited entities and the final report submitted to the involved entities.”

The Annual Report prepared by the CHU on the functioning of the public internal financial system shows the progress and weaknesses of the system. The Government reviews and adopts the Annual Report during a closed session. The general part of the report is published on the website of the Ministry of Finance. The CHU prepares a self-assessment on its own activities as part of the annual review. The CHU acts primarily in the role as the provider of methodological guidance and the coordinator of development of financial management and control (FMC) and internal audit (IA) in the public sector.

There is a legal framework for FMC which establishes the operational framework regarding the budget users of the legislative, executive and judicial area, funds, municipalities and the City of Skopje, in accordance with a COSO (Committee of Sponsoring Organisations) model.

The legal framework specifically facilitates the development of managerial accountability through appropriate delegation and reporting. Pursuant to Article 8 of the PIFC Law, the head of the entity can by an act give an authorisation (generally or specifically) to one or more managers who are hierarchically or directly subordinated to him. The manner of giving authorisation is prescribed in the Rulebook on the Manner of Granting Authorisations (Mandates).

“Article 8

- (1) The head of the entity may, by an act give a mandate (general or special) to one or more managing officials being hierarchically placed directly subordinated to him.
- (2) By a mandate act a sub-mandate may be given.
- (3) The mandate or sub-mandate act may include conditions for using the authorisation.
- (4) On the basis of mandate or sub-mandate, decisions with an important political or financial impact shall not be reached without prior approval by the Head of the entity.
- (5) Heads of Internal Organisational Units within the Entity, who have received a authority with mandate or sub-mandate can act only within the framework of the limits determined by the mandate or submandate act and they shall be responsible to the mandate giver for the usage of the mandate.
- (6) Decisions regarding the mandate shall be made and signed on behalf of the head of the entity. The head of the entity shall, after the given mandate continue to be responsible for all reached decisions also including the decisions referring to financial management and control.
- (7) The Minister of Finance shall closely stipulate the manner for granting mandates.”

The centralised budget inspection function is set up and regulated in a way ensuring that, firstly, it is concerned with compliance; secondly, it is based on complaints and clear indication of irregularities; and thirdly, it focuses on potential risks of fraud, corruption or major financial abuse and does not overlap with the objective of internal audit. For the purpose of implementation of the Law on Financial Inspection in Public Sector, a Department for Financial Inspection in the Public Sector is established in the Ministry of Finance. The Department carries out financial inspection when managing the public assets upon request, information or application from legal entity or physical persons substantiated by evidence.

FMC and risk management are incorporated in the regular management and governance processes rather than being treated as a separate compliance exercise. Most of the budget users at central and local level have adopted strategies for risk management and they are keeping risk registers.

Where subordinate or second-level organisations exist, each second-level organisation shall meet FMC requirements prescribed according to its type and size, and its relationship with the higher or first-level organisation shall be clearly defined in a regulation or similar written document. This is regulated by the Law on Organisation and Operation of the State Administrative Bodies. Pursuant to Article 38 of this Law, supervision over the operations of state administration includes supervision over the legality and effectiveness of their work. Supervision is performed over the public enterprises, public services and facilities, as well as physical persons and legal entities which are entrusted by law to perform public authorisations. Pursuant to Article 40 of this Law, supervision is performed by a higher state administration body, unless the law stipulates otherwise.

In addition, the state owned enterprises including municipal enterprises are subject to robust governance arrangements by their “owner” first-level organisations. Pursuant to Article 16 of the Law on Public Enterprises bodies, public enterprises are the management board, the board for control of the material financial operations, and the general manager. Pursuant to Article 22 of the same Law, the Government, the municipality, or the City of Skopje upon proposal by the minister in charge of the relevant area, can give general directions to the Management Boards (MB) regarding the performance of certain tasks of the Board stipulated in Article 19 of this Law.

“Article 16 Law on Public Enterprises

The bodies of a public enterprise are: the management board, the supervisory board for control of the material and financial operations and the general manager.

A management board of directors can be established in the public enterprise having the status of a ruling enterprise, and in other public enterprises that are associated on the interest or functional basis within the group of public enterprises.

The founder can prescribe with the Establishing Act that management bodies will not be established, but instead an agreement will be concluded with natural and legal entities for undertaking own responsibility for managing the public enterprise.

The founder shall conclude the management agreement with the person who shall offer the best quality programme for operation and development of the public enterprise.

Article 22 Law on Public Enterprises

The minister responsible for the activities within the relevant area can give to the management board of the public enterprise general directions regarding the performance of certain activities within the competence of the management board, as defined in article 19 of this Law, which the minister considers to be activities of interest for the Republic of Macedonia. The management board is obliged to act in accordance with the general directions issued by the responsible minister, and if the board considers that it is contrary to its obligations determined with the law and the statute of the public enterprise, it shall demand, without any delay,

explanation by the Government of the Republic of Macedonia.

The general directions from paragraph 1 of this article cannot refer to the everyday management of the public enterprise.”

Pursuant to Article 27 of the same Law, for the purpose of performing the control activities, the Supervisory Control Board (SCB) is allowed to inspect all documents and records of public enterprise on the spot. The SCB may invite experts to examine the documents and records of the public enterprise during the supervision. The SCB may attend the meetings of the Management Boards. SCB compulsorily reviews the annual accounts and report on operations of the public enterprise and gives opinion to the MB. The MB cannot adopt the annual accounts and report on the operations of the public enterprise if it does not receive positive opinion from the SCB.

The SCB may give approval to the acts adopted by the MB if it is determined by the statute of the public enterprise.

The SCB submits the examination report on annual accounts and the report on the operations of the public enterprises with its opinion to the Minister of Finance. By means of the report submitted to the Minister of Finance, the SCB informs him about the state of the public enterprise which performs control over the operations. The SCB submits a copy of the report to the Minister in charge of the particular activity. The SCB compulsorily meets at least four times a year.

In addition, the CHU organises trainings, workshops and meetings with the institutions in order to prepare them to respond to identified risks.

All the policy proposals initiated by the institutions include an estimate on budgetary costs. Pursuant to paragraph 2 of Article 5 of the Rulebook for the manner of performance of the functions of Financial Affairs Unit, the Head of the Unit gives opinion about the budgetary and financial implications that may be caused by the draft decisions.

Pursuant to paragraph 1 of Article 26 of the Budget Law, when proposing regulations and other acts, users shall submit the filled-in form for assessment of the fiscal implication to the Government.

“Article 26

(1) When proposing regulations and acts, budget users shall mandatorily submit to the Government of the Republic of Macedonia filled-in Form for assessment of fiscal implications.

(2) On the basis of the Form referred to in paragraph 1 of this Article, the Ministry of Finance shall submit opinion to the Government of the Republic of Macedonia on the proposed regulations and acts.

(3) The provisions from the laws that cause increase in expenditures or decrease in revenues, which were adopted after the adoption of the Budget of the Republic of Macedonia, shall be implemented after the amendments and modifications to the Budget of the Republic of Macedonia or the Budget of the Republic of Macedonia for the next year enter into force.”

Pursuant to paragraph 2 of Article 7 of the Budget Law, budget users may not undertake commitments which arise in the current year or to incur expenditures exceeding the appropriations of the State Budget and the municipal budget. Fine in the amount of EUR 330 to 820 in MKD equivalent value will be imposed on the responsible person or the head of the budget user if the undertaken commitments exceeds the limit of the approved funds of the Budget.

“Article 7

(1) Budgets referred to in Article 2 of this Law shall include the appropriations broken down by budget users and determined purposes pertaining to funding the current, capital and other

expenditures of the budget users and their spending units for performing the activities shown as programmes and sub-programmes.

(2) Budget users shall not make commitments that are due in the current year or incur expenditures exceeding the appropriations of the Budget of the Republic of Macedonia and the municipal budget.

(3) Unused appropriations shall cease to be valid on December 31st of the current fiscal year, unless it is otherwise regulated in this law.”

Pursuant to Article 37-c of the Budget Law, budget users and individual users are required to use funds as earmarked. Fine in amount of EUR 330 to 820 in MKD equivalent value will be imposed on responsible person or the head of the budget user if appropriations are used inappropriately.

“Execution of Expenditures and other Outflows

Article 37-c

(1) Budget users and spending units are responsible for execution of expenditures and other outflows in accordance with the appropriations.

(2) Budget users and spending units must use the appropriations purposefully.

(3) Each expenditure and outflow from the budget must be based on reliable accounting documentation that shall prove the liability.”

Pursuant to Article 50 of the PIFC Law, the head of the public sector entity is obliged to prevent the risk of irregularities and fraud, appoint a person to report about irregularities and suspicions of fraud or corruption, and independently undertake measures. All employees, including the internal auditors, shall inform the head of the public sector entity or the person responsible for irregularities or suspicions of fraud or corruption.

“Article 50

(1) The head of the public sector entity shall be obliged to both prevent the risk of irregularities and frauds and to undertake activities against irregularities and frauds.

(2) The head of the public sector entity shall appoint a person reporting on irregularities and suspicions for frauds or corruption and shall independently undertake activities referred to in paragraph (5) of this Article.

(3) All employees, including the internal auditors shall inform the head of the public sector entity or the person in charge of irregularities or suspicions of frauds or corruption.

(4) If the Internal Auditor has suspicion of fraud or corruption during the performance of the audit, he shall inform the Head of Internal Audit Unit, being obliged to submit written information to the head of the public sector entity and the person in charge of irregularities thereon.

(5) After the received report on existence of irregularities or suspicions of frauds or corruption, the person in charge of irregularities shall undertake the necessary measures and shall inform the Public Prosecutor’s Office of the Republic of Macedonia and the Ministry of Finance – Financial Police Office and Financial Inspection of the Public Sector thereon, and within 15 days he/she shall inform in writing the person pointing out to the irregularities or frauds on the undertaken measures, except in case of an anonymous report.

(6) If the persons referred to in paragraph (3) of this Article are not informed on the appropriately

undertaken measures, they shall inform the bodies referred to in paragraph (5) of this Article. The Central Harmonisation Unit shall not be the body in charge of irregularities and frauds.

(7) Employees, including the internal auditors, reporting irregularities or suspicions of frauds shall be provided with protection on the identity and the acquired employment related rights pursuant to law.

(8) The Government of the Republic of Macedonia, upon proposal by the Minister of Finance, shall prescribe the procedure for preventing irregularities, the manner of mutual cooperation, the form and, the contents, the deadlines and the manner of informing on the irregularities.”

Pursuant to article 54 of the PIFC Law, the head of public sector entity will be fined in the amount of EUR 1000 to EUR 2000 in MKD equivalent for a committed misdemeanour, if he fails to take the necessary actions against irregularities and fraud and fails to appoint a person responsible for irregularities.

“Article 54

Fine in the amount of EUR 1.000 to 2.000 in denars equivalent shall be imposed to the head of the public sector entity for perpetrated misdemeanour if:

...

5. he/she fails to undertake the necessary activities against irregularities and frauds. (Article 50 paragraph (1));

6. He/she fails to appoint a person in charge of irregularities. (Article 50 paragraph (2));

7. He/she fails to provide protection of the identity and the acquired employment related rights to an employee or an internal auditor, in cases of report on irregularities and suspicions of fraud or corruption, (Article 50 paragraph (7));”

There is a legal framework in place for internal audit (IA) which is consistent with the Institute of Internal Auditors’ International Standards for the Professional Practice of Internal Auditing - International Professional Practices Framework. The legal framework is composed of the PIFC Law and the following bylaws:

- Rulebook on the Manner of carrying Out Internal Audit and the Manner of Audit Reporting
- International Standards on professional Practice of Internal Auditing
- Rulebook on Internal Audit Charter
- Rulebook on the Code of Ethics of Internal Auditors
- Rulebook on the Form and the Contents of Reports and Statement on Quality and the Status of Internal Controls under the Annual Financial Report
- Internal Audit manual - Guidelines on the Internal Audit Methods and Techniques.

Internal audit function is established by founding internal audit units or when the audit is performed based on an agreement. There is also an external audit performed by the SAO under the State Audit Law.

According to Article 18 of the State Audit law, the state audit is conducted in compliance with the auditing standards of the International Organisation of Supreme Audit Institutions (INTOSAI) and the rules of INTOSAI Code of Ethics. In addition, the SAO has the authority to conduct regularity audit and performance audit.

The state audit shall comprise all the operations carried out with public funds and all the entities from the public sector (Article 19 of the SAL). According to the same article of the SAL, the state audit includes also examination and assessment of reports of conducted internal control and public

internal financial control, examination and assessment of the financial management and control system.

“Article 3

- (1) State Audit Office shall perform state audit duties.
- (2) State Audit Office shall be a state authority of the Republic of Macedonia.
- (3) State Audit Office shall have the capacity of a legal entity.
- (4) State Audit Office shall be independent in its operation.
- (5) State Audit Office seat shall be in Skopje.

Article 18 State Audit Law

- (1) State audit shall be conducted in compliance with the auditing standards of the International Organization of Supreme Audit Institutions (INTOSAI) and the rules of INTOSAI Code of Ethics published by the Minister of Finance in the “Official Gazette of the Republic of Macedonia”.
- (2) The State Audit Office shall conduct regularity audit and performance audit.

Article 19 State Audit Law

State audit, in the context of this law, shall include:

- 1) examination of documents, papers and reports, accounting and financial procedures, electronic data and information systems and other records, as to ascertain whether financial statements truly and objectively present the financial position and the results of the financial operations in accordance with the accepted accounting principles and accounting standards;
- 2) examination and assessment of reports of conducted internal control and public internal financial control, examination and assessment of the financial management and control system;
- 3) examination of financial transactions that are public revenue and public expenditure, in relation to legal and earmarked use of funds;
- 4) assessment of the use of funds in relation to achieved economy, efficiency and effectiveness; and
- 5) assessment of measures taken by auditees concerning identified shortcomings and recommendations given in the final audit report.”

Regularity audit comprises financial audit (an inspection of the accuracy and completeness of accounting records and financial statements) and compliance audit (a procedure for determining and assessing the compliance of auditee’s operation with the laws, bylaws and internal acts).

Performance audit is an assessment of the economy, efficiency and effectiveness of the operations and the use of funds in a defined area of activities or programmes.

The national legislation is aligned with the Convention on the Protection of EU’s Financial interests (PFI Convention) and its three protocols which aim to create a common legal basis for the criminal law protection of the EU financial interests.

The Criminal Code prescribes the criminal offence of fraud to the detriment of the funds of the European Community:

“Article 249-a

(1) A person who with the use or disclosure of false, inaccurate or incomplete statements or documents, or by failing to provide data, illegally appropriates, maintains or causes detriment to the funds of the European Community, to the funds managed by the European Community and or managed on its behalf shall be punished with imprisonment from six months to five years.

(2) The sentence of paragraph 1 of this article shall apply to the person who has used the funds under paragraph 1 of this article shall be used contrary to the approved purpose.

(3) The sentence of paragraph 1 of this article shall be punished/apply to the person who with the use or presentation disclosure of false, inaccurate or incomplete statements or documents, or by failing to provide data, unlawfully illegally reduces the funds of the European Community, the funds managed by the European Community or managed on its behalf.

(4) If the offence prescribed in this Article is committed by a legal person, he/she shall be punished with a fine.”

Effective, proportionate and dissuasive criminal penalties for the principle offenses of fraud (both in revenue and expenditure), passive corruption, and active corruption are defined and prescribed in Articles 278-a (customs fraud) and 279 (tax evasion) of the Criminal Code, Article 275-a (violation of rights deriving from securities) of the Criminal Code, Articles 358 and 358-a of the Criminal Code (active corruption), and Articles 357 and 359 of the Criminal Code (passive corruption).

According to the Decree for the procedure for preventing irregularities, the manner of mutual cooperation, the form, the contents, the deadline, and the manner of reporting on the irregularities in the Financial Police was established by the Anti-Fraud Coordination Unit (AFCOS), which is a unit responsible for coordination of the system to prevent irregularities and fraud, as well as receiving, controlling, taking measures and reporting on irregularities in the management and use of public funds, EU funds and funds from other domestic and foreign resources. According to Article 11 of the Decree, AFCOS is defined as the contact point with OLAF. By 2018, 67 persons at central level had been appointed for being responsible for reporting irregularities and 60 at local level. The procedure is regulated in paragraph 5 of Article 50 of the PIFC Law (see article above) and in Articles 12 and 13 of the Decree for the procedure for preventing irregularities, the manner of mutual cooperation, the form, the content, the deadline, and the manner of reporting on the irregularities.

In order to strengthen and improve the public finance system and to promote transparency, accountability, fiscal discipline and efficiency in finance management, the Sectoral Working Group for Public Finance Management, in cooperation with experts from SIGMA, drafted the Public Financial Management Reform programme 2018-2021 which was published on the web-site of the Ministry of Finance. The [Public Financial Management Reform programme 2018-2021](#) builds on a thorough analysis of the situation and a process that involves all stakeholders, both donors and users, in identifying priorities to address key weaknesses in the public finance sub-systems, determining expected results and resources requirements, and establishing adequate management and coordination of the institutions involved. Priorities cover revenue administration and collection, fiscal forecasting, budget preparation, budget execution, public procurement, accounting and reporting, debt management, public internal financial control, and external audit.

The Customs Administration in its annual and quarterly reports presents information about risk management.

The Ministry of Finance publishes statistical information on the number of institutions that adopted risk management strategies and prepared risk registers.

Annual reports on the functioning of PIFC system are published with the relevant information as follows:

As stated in the 2016 Report on the functioning of PIFC system:

- 1,061 recommendations in relation to internal audits conducted on central level were delivered in 2016, out of which 36.3% were implemented, 15.1% were partially implemented, and 47.2% were not implemented, including those recommendations with unexpired implementation deadline (33.3%), and 1.4% with information not provided.
- 772 recommendations in relation to internal audits conducted on local level were delivered, out of which 50.7% (391) were implemented, 15.7% were partially implemented, 23.8% were not implemented, including those recommendations with unexpired implementation deadline (13.6%), and 9.8 % with information not provided.

Available statistics:

State of the system for Internal Audit

Source: <https://finance.gov.mk/en/node/959>

Development and results of internal audit on central level

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Jan. 2018	April 2018
Established internal audit units	24	35	46	58	64	71	73	76	78	84	88	88	89	89
Internal auditors	52	68	81	90	111	120	133	137	142	145	146	144	145	147
Heads of Internal Audit Units	/	/	27	34	34	35	44	47	47	51	53	54	54	55
Internal audit reports	142	204	222	252	245	241	242	226	275	221	207			
Recommendations	1472	1502	1262	1672	1688	1534	1211	1031	1114	1016	1061			
Percent of implemented recommendations	39	44	47	54	56	53	56	55,5	51	53	36,1			

Development and results of internal audit on local level

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Jan. 2018	April 2018
Established internal audit units	0	17	32	40	49	59	64	65	71	71	71	70	70	70
Internal auditors	15	27	33	35	44	52	60	64	67	68	69	71	71	71
Heads of Internal Audit Units	/	/	15	18	19	18	22	21	18	20	20	21	21	21
Internal audit reports	88	107	134	132	172	176	147	183	163	143	138			
Recommendations	455	626	707	815	1033	1355	905	1382	981	966	772			
Percent of implemented recommendations	60	68	69	58	72	49	61	65	54	54	50,7			

Activities for establishment of financial management and control

Source: <https://finance.gov.mk/en/node/967>

Financial Management and Control on central level

	2009	2010	2011	2012	2013	2014	2015	2016	2017	Jan. 2018	March 2018	May 2018
1. Number of institutions that established Financial Affairs Unit	14	32	39	46	66	66	71	78	79	79	79	79
2. Number of appointed Heads of Financial Affairs Units	0	20	30	36	42	45	53	56	58	58	58	58

3. Number of Institutions that adopted Decision for internal distribution of the total approved budget	0	0	0	49	65	73	53	70	71	53	73	74
4. Number of institutions that adopted Decisions for general authorization	0	0	0	29	51	47	31	44	45	31	47	49
5. Number of institutions that appointed Irregularities Persons	31	44	56	59	61	64	76	81	81	81	80	80
6. Number of institutions that adopted annual plans for the development of financial management and control	0	0	0	0	0	0	44	42	20	0	9	18
7 .Number of institutions that adopted Risk management strategy	0	0	0	0	0	0	42	63	63	63	63	63
8. Number of institutions that prepared Risk register	0	0	0	0	0	0	36	48	50	50	50	50
9. Number of institutions that adopted a Rulebook internal act/procedure/ rules for the implementation of FMC	0	0	0	0	0	0	31	40	42	42	42	42

Financial Management and Control on local level

	2009	2010	2011	2012	2013	2014	2015	2016	2017	Jan. 2018	March 2018	May 2018
1. Number of institutions that established Financial Affairs Unit	1	14	27	39	40	46	58	62	62	62	62	62
2. Number of appointed Heads of Financial Affairs Units	0	10	22	33	35	38	44	45	45	45	45	45
3. Number of Institutions that adopted Decision for internal distribution of the total approved budget	0	0	0	55	63	65	53	56	57	45	53	55
4. Number of institutions that adopted Decisions for general authorization	0	0	0	19	32	32	33	37	35	24	29	30
5. Number of institutions that appointed Irregularities Persons	34	49	55	58	58	59	66	66	66	66	66	66
6. Number of institutions that adopted annual plans for the development of financial management and control	0	0	0	0	0	0	38	31	10	2	4	11

7. Number of institutions that adopted Risk management strategy	0	0	0	0	0	0	22	32	34	34	34	35
8. Number of institutions that prepared Risk register	0	0	0	0	0	0	16	26	28	28	28	29
9. Number of institutions that adopted a Rulebook internal act/procedure/rules for the implementation of FMC	0	0	0	0	0	0	20	25	25	25	25	25

Information about the implementation of the recommendations delivered by the State Audit Office is regularly presented in the annual reports on the performance of the State Audit Office, which are published on the [web-site of the State Audit Office](#).

Following the audits conducted in accordance with the annual programme of the State Audit Office for 2016, the State Audit Office delivered 670 recommendations. For 431 delivered recommendations, adequate measures were undertaken (64%). Source: [Annual report on the performance of the State Audit Office, 2017](#).

(b) Observations on the implementation of the article

The procedure for preparation and adoption of the budget is provided in the Organic Budget Law (OBL). The MOF is responsible for coordinating policies on the public internal control, including organizing trainings and meetings to help governmental agencies cope with risks identified. A risk management system is also put in place in most government agencies. The OBL and the Law on Reporting and Recording Liabilities set out rules on timely reporting on revenue and expenditure.

The State Audit Office has the authority to conduct audit on financial reports and transactions relating to government expenditures (Arts. 3, 18 and 19, State Audit Law). The head of each public-sector entity is obliged to appoint a person responsible for reporting on irregularities and to take necessary actions against irregularities and fraud, subject to fines in case of failures (Arts. 50 and 54, Law on Public Internal Financial Control).

It is recommended that North Macedonia consider establishing effective risk management systems in all government agencies.

Paragraph 3 of article 9

3. Each State Party shall take such civil and administrative measures as may be necessary, in accordance with the fundamental principles of its domestic law, to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

North Macedonia regulates the maintenance period for accounting documents depending on their

types in the Law on Accountancy of the Budget and the Budget Beneficiaries. The relevant provisions are as follows:

“Article 1

This Law shall regulate keeping the accounting, business book, accounting documents and data processing, recognizing revenues and expenditures, assessing the balance sheet positions, revaluation, financial reports, submitting and financial reports and other issues related to the accounting of the Budget of the Republic of Macedonia, the budgets of the units of the local self-government, budgets and funds, beneficiaries and the budgets’ funds beneficiary units, as well as other legal entities wherefore the funds for performing the fundamental activities are obtained from the budgets (hereinafter: budgets and budget beneficiaries).

Article 10

(1) The budgets and budget beneficiaries at the end of the fiscal year shall close and link the business books. The register and main book shall be signed by an authorized person and the responsible accountant of the budget and the budget beneficiary or a person authorized by him/her. The signature shall confirm the accuracy and harmonization with the legal provisions.

(2) If the accounting data are processed in electronic way, after the register and main book are closed, the budgets and budget beneficiaries shall be obliged to print them and link them thereon.

(3) The business books shall be kept at least:

- the register and main book for ten years,
- the auxiliary books (analytic records) for five years.

(4) The time period for keeping the business books shall begin as of the first date of the fiscal year they refer to.

Article 13

(1) The accounting documents shall be kept in their original form or as transferred by some of the media in automatic or micrographic processing of data or in another corresponding manner.

(2) The accounting documents, according to their type, shall be kept in the following time periods:

- annual accounts with their annexes – final accounts of employees’ salaries and pay off lists of employees’ salaries, should they contain important data for the employees, permanently;
- accounting documents on the bases of which the data have been entered in the business books, five years;
- documents referring the payment operations, three years;
- selling and control blocks, additional calculations and similar documents, two years.

(3) The Minister of Finance shall prescribe the type, content, control and movement of the accounting documents.”

The business books at the end of the fiscal year are locked up and bound. The authorized person and the accountant in charge or other appointed person signs the Book of original entry (The Journal) and the General ledger. The signature denotes the accuracy and compliance with the legal provisions. If the accounting data are processed by a computer, after the Book of original entries and the General ledger are locked up, these business books are printed and bound. The business books must be kept at least:

- ten years for the Book of original entry and the General ledger; and
- five years for additional books (analytical evidence).

The legislation of North Macedonia also contains relevant provisions regarding the protection of accounting data integrity in the Law on Archive Materials and the Decree on Office and Archive Operations. The decree was enacted by the Government of the Republic.

The basic financial reports must be kept permanently and in authentic form. The Law on Accountancy of the Budget and the Budget Beneficiaries prescribes fines for the authorized person and the accountant in charge if they fail to keep business books, the accounting documents, documentation and financial reports in a suitable and proper manner up to the period set by the Law (Arts. 30 and 30-a).

“Article 30

Fine in the amount of Euro 500 to 800 in Denar Counter Value shall be imposed for misdemeanor on the responsible person of the budgets and budget beneficiaries in case if he:

- 1) does not separately keep the accounting for the funds realized in the budget on other basis (Article 3);
- 2) does not provide individual data per budget beneficiary for all types of revenues and other incomes, on expenditures and other outflows, as well as for the condition of the assets, obligations and funds’ resources (Article 4 paragraphs (1) and (3));
- 3) does not keep the accounting in a manner prescribed with this Law or with a regulation adopted on its basis (Article 5);
- 4) does not keep the business books up until the time period prescribed with this Law (Articles 10 paragraph (3));
- 5) performs the entry of data in the business books on the basis of unduly and unauthentic documentation (Article 12 paragraph 1);
- 6) does not keep the accounting documents up until the time period prescribed with this Law (Article 13, paragraph (2));
- 7) does not assess the balance positions in a manner and according to the procedure prescribed by this Law or with a regulation adopted thereon (Article 19 paragraph (2));
- 8) does not perform the re-evaluation according to the provisions of this Law (Article 20);
- 9) does not harmonize the claims and obligations with the condition of the assets and their sources declared to the accounting in their factual conditions being confirmed by the listing on 31st December (Article 21);
- 10) does not compose the basic financial reports (Article 22 paragraphs (1) and (7));
- 11) does not keep the basic financial reports up until the time period prescribed with this Law (Article 22 paragraph (6));
- 12) does not submit the final account of the budget to the Ministry of Finance in the legally determined deadline (Article 24 paragraph 3 and Article 27 paragraph 3), and
- 13) does not submit the deliver the final accounts to the Register of final accounts within the Central Register and to the State Audit Institute within the legally determined period (Articles 29).
- 14) does not publish the final accounts on its website within the set deadline (Article 29 paragraph 2)

Article 30-a

Fine in the amount of Euro 1.000 to 1.600 in Denar Counter Value shall be imposed for misdemeanor on the responsible accountant of the budgets and budget beneficiaries in case if he:

- 1) does not separately keep the accounting for the funds realized in the budget on other basis (Article 3);
- 2) does not provide individual data per budget beneficiary for all types of revenues and other incomes, on expenditures and other outflows, as well as for the condition of the assets, obligations and funds' resources (Article 4 paragraph (1));
- 3) does not keep the accounting in a manner prescribed with this Law or with a regulation adopted on its basis (Article 5);
- 4) does not keep the business books up until the time period prescribed with this Law (Articles 10 paragraph (3));
- 5) performs the entry of data in the business books on the basis of unduly and unauthentic documentation (Article 12 paragraph 1);
- 6) does not assess the balance positions in a manner and according to the procedure prescribed by this Law or with a regulation adopted thereon (Article 19);
- 7) does not keep the accounting documents up until the time period prescribed with this Law (Article 13, paragraph (2));
- 8) does not perform the re-evaluation according to the provisions of this Law (Article 20);
- 9) does not harmonize the claims and obligations with the condition of the assets and their sources declared to the accounting in their factual conditions being confirmed by the listing on 31st December (Article 21);
- 10) does not compose the basic financial reports (Article 22 paragraphs (1) and (7));
- 11) does not keep the basic financial reports up until the time period prescribed with this Law (Article 22 paragraph (6));
- 12) does not submit the final account of the budget to the Ministry of Finance in the legally determined deadline (Article 24 paragraph 3 and Article 27 paragraph 3), and
- 13) does not submit the deliver the final accounts to the Register of final accounts within the Central Register and to the State Audit Institute within the legally determined period (Articles 29).
- 14) does not publish the final accounts on its website within the set deadline (Article 29 paragraph 2)."

The Law on Archive Materials regulates the protection, storage, processing and use of archive material, inspection supervision and the competences of the State Archive of the Republic. In addition, the Decree on Office and Archive Operations regulates the office and archive operations of the state authorities and institutions, public institutions and services, public enterprises, trade companies founded by the state or in which the dominant capital is the state, the units of local self-government and the City of Skopje, legal entities and physical persons to whom by law are entrusted with public authorizations. The Decree covers the conventional types of documents/records observed on paper base, microfilm, and similar and unconventional species such as electronic and digitized document/records.

In addition, Article 280 of the Criminal Code prescribes that a person who enters false data or does not enter some important data in a business document, book or paper, which he is obliged to maintain based on a law or some other regulations, or who with his signature or stamp verifies a business document, book or paper with false contents, or who with his signature or stamp makes possible to prepare a document, book or paper with false contents, shall be punished with a fine, or with imprisonment of up to three years. The punishment shall also apply to a person who uses a false business document, book or paper as if it were real, or who destroys, covers up, damages or in some other way makes unusable a business document, book or paper.

“Article 280

(1) Whosoever enters false data or does not enter some important data in a business document, trade book, financial report, book or paper, which he is obliged to maintain based on a law or some other regulation, or who with his signature or stamp verifies a business document, book or paper with false contents, or who with his signature or stamp makes it possible to prepare a document, book or paper with false contents, shall be fined or sentenced to imprisonment of up to three years.

(2) The sentence referred to in paragraph 1 shall also be imposed to whosoever uses a false business document, trade book, financial report, book or paper as if it were real, or whosoever destroys, covers up, damages or in some other way makes unusable a business document, book or paper.

(3) If the crime referred to in this Article is committed by a legal entity, it shall be fined.”

(b) Observations on the implementation of the article

The different periods of keeping accounting books and records are specified in the Law on Accountancy of the Budget and the Budget Beneficiaries (Arts. 10 and 13). Business books must be kept three or five years, depending on its type. In addition, accounting documents shall be kept two years, three years, five years or permanently according to its content. Violations of these rules lead to fines (Art. 30, Law on Accountancy of the Budget and the Budget Beneficiaries). The documents must be kept in their authentic form.

The falsification of data and documents is criminalized under Article 280 of the CC with up to three years of imprisonment.

Article 10. Public reporting

Subparagraph (a) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

(a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, and information on the organization, functioning decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The free access to information is enshrined in the Constitution.

“Article 16 Constitution

The freedom of personal conviction, conscience, thought and public expression of thought is guaranteed. The freedom of speech, public address, public information and the establishment of institutions for public information is guaranteed. Free access to information and the freedom of reception and transmission of information are guaranteed. The right of reply via the mass media is guaranteed. The right to a correction in the mass media is guaranteed. The right to protect a source of information in the mass media is guaranteed. Censorship is prohibited.”

The Law on Free Access to Information of Public Character (LFAI) contains provisions that ensure publication of public information by information holders, such as line ministries and public bodies. Any legal entity or individual can file a Request for access to public information, including foreign legal and natural persons. The LFAI specifies ways of realising this right and the responsibility of state organs to give or offer public information to interested parties. Public information is defined broadly in the LFAI, and entities classified as “public information holders” include not only public bodies but private bodies that perform public functions (Art. 3). Each public information holder is required to designate an official for information mediation to facilitate the process of requesting public information. Applicants do not need to provide a reason for seeking public information, and the information must be disclosed in the requested format.

“Article 3

Certain expressions in the present Law shall have the following meanings:

- “information holders” shall refer to state administration bodies and to other bodies and institutions specified by law, municipal bodies, bodies of the City of Skopje and to municipalities comprising the City of Skopje, public institutions and services, public enterprises, and to legal and natural persons performing public competencies and activities of public interest determined by law;
- “information of public character” shall refer to information in any form whatsoever, created and disposed by an information holder i.e. disposed by the information holder only in line with its competencies (hereinafter referred to as “information”);
- (...)

Article 4

- (1) Free access to information shall be enjoyed by all legal and natural persons.
- (2) Free access to information shall also be enjoyed by foreign legal and natural persons in accordance with the present Law and other laws.

Article 10

- (1) The holder of information is obligated to inform the public about:
 - the elementary contact information for the holder of information: name, address, telephone number, fax number, e-mail address and web page address;
 - the procedure for submitting request for access to information;
 - the acts related to the competencies of the holder of information, connected to the register of acts published in the Official gazette;

- the proposal-programmes, programmes, strategies, positions, opinions, studies and other similar documents, which concern the competencies of the holder of information;
- all of the public announcements in the procedure for public procurements and the tender documentation as established by law;
- the information about its competencies established by law;
- the organization and the expenses of working, as well as of providing services to the citizens in the administrative procedure and about their activities;
- the issuing of information bulletins and other forms of informing and
- web-page where decisions, acts and measures that have an effect on the life and work of the citizens are published, and
- other information that emerge from the competencies and the work of the holder of information.

(2) Every holder of information is obligated to enable a cost-free access to information from paragraph 1.

(3) As means of informing the public about its work, information holders need to:

- publish the laws and by-laws on the official website of the institution,
- issue press releases to the public about the activities undertaken by them in accordance with the legal competences,
- publish statistical data on their work,
- publish the reports on the work they submit to the authorities competent for the implementation of control and supervision; and
- otherwise envisaged by law to make available all public information.

Article 11

In order to provide for free access to information, the responsible person with the information holder shall be bound to provide to information requesters premises in which the latter may have insight to information requested, and officials in charge of information mediation shall be bound to assist information requesters in their requesting information in accordance with the present Law and with other laws.”

The LFAI prescribes exceptions to the free access to information (Art. 6). A compulsory harm test is used to limit relevant discretionary power on the refusal of the requests to information, where the interest being protected shall be smaller than the public interest to be maintained with the publication of such information.

“Article 6

(1)The holders of information can reject a request for access to information in accordance to law, if the information concerns:

1. information which according to a law represents a classified information with a certain degree of secrecy;
2. personal data which revealing would represent damage to the protection of private information;
3. information on the archival working which has been determined as confidential;
4. information who’s issuing would represent damage to the confidentiality of the tax procedure;
5. information obtained or constructed for aims of investigation, criminal or infringement procedure, executive and civil procedure, and which issuing would have harmful consequences

for the process of the procedure;

6. information concerning commercial and other economic interests, including the interests of the monetary and fiscal politics and which issuing would have harmful consequences in the fulfilment of the function;

7. information from a document which is still in preparation procedure and is still in process of harmonization by the holder of information, and which issuing would generate misunderstanding of the content;

8. information that endangers the rights to industrial or intellectual property (patent, model, scheme, production and service stamp, feature for the origin of the product).

(2) Information listed in paragraph (1) hereunder shall become available once the reasons for its being unavailable shall cease to exist.

(3) Under exception to paragraph (1) hereunder, information holders shall allow access to information should, in case such information is published, consequences to the interest being protected be smaller than the public interest to be maintained with the publishing of such information.”

Partial access is also allowed pursuant to Article 7 of the LFAI, for example, if a document or any part thereof contains information to which access should be refused (in accordance with Article 6, paragraph (1) of the LFAI), the information holder shall separate such information if possible (without jeopardizing its overall security) from the document and inform the requester on the contents of the remaining part of the document.

“Article 7

If a document or any part thereof contains information mentioned in Article 6, paragraph (1) of the present Law, which may be separated from the document in question without jeopardizing its overall security, the information holder shall separate such information from the document and shall inform the requester on the contents of the remaining part of the document.”

As to the procedure to request the information, the request shall be submitted on a form determined by the Commission for Protection of the Right to Free Access to Public Information (available at www.komspi.mk). Electronic submission of a request for access to public information is possible via this electronic portal (Imam Pravo da znam/I have a right to know) <http://www.slobodenpristap.mk/>. A request may also be submitted on a blank sheet of paper, but the applicant is obliged to state that it is a Request on the basis of the Law on Free Access to Public Information (LFAI). Such Request shall include the name of the information holder, name and surname of the applicant, the firm or legal entity, data on a possible representative / proxy, the information with which he / she wishes to become acquainted, the way in which he / she wishes to receive the information. The address should also include the address, telephone, contact or email to the information requester. The applicant has the right to submit an oral request. Relevant information (standard forms for a request for access to public information and appeal, the regulations, brochures, lists of public information holders with contact information of the designated officials for information mediation) is published on the web-page of the Commission for Protection of the Right to Free Access to Public Information.

The procedure following a request of information is regulated in Articles 20 and 21 of the LFAI. In case of rejection of the request, the decision issued by the information holder shall contain the reasons of it.

“Article 20

(1) If the information holder positively responds to a request, it shall compile a report thereon.

(2) If the information holder decides to fully or partially reject a request, it shall adopt an appropriate decision thereto.

(3) In cases mentioned in paragraph (2) hereunder, the decision shall contain an elaboration of the reasons due to which the request in question has been rejected.

(4) If the information holder fails to enable the requester access to information within the time period determined in Article 21 of the present Law, and if it fails to provide the requester with the decision mentioned in paragraph (2) hereunder, the request shall be considered rejected, after which a relevant complaint may be filed.

Article 21

(1) The information holder shall be bound to answer the requester's request immediately, or within 30 days following the date of information holder's receipt of such request at latest.

(2) The information holder shall provide the information in the form requested, unless the information requested already exists in a pre-determined form and is available to the public, and unless it is more desirable that the information be issued in a form other than the requested one; in such cases, the information holder shall justify its reasons for such information issuing."

If the submitter of a written request for access to information of public character considers that the holder acted contrary to the LFAI, he/she can lodge an appeal to the Commission for Protection of the Right to Free Access to Public Information (Art. 28, LFAI).

The submitter has the right to file an appeal against a decision by which the holder completely or partially refused the request; if the information holder within 30 or 40 days in cases when the deadline has been extended (Art. 22), or within 15 days following the date of the requester's receipt of the relevant decision, did not enable the submitter to access the information and if he did not deliver and did not provide the applicant with a complete solution or partial denial of access (silence of administration). An appeal may also be filed against the conclusion of the holder for termination of the procedure (when the holder finds that he does not have the requested information); as well as against the decision to reject the request. The appeal is submitted directly to the Commission, but it can also be submitted through the information holder.

Article 22

(1) If the information holder should need a time period longer than the one prescribed in Article 21 of the present Law to enable partial access to certain information, in line with Article 7 of the present Law, or due to the large scope of the document requested, it may extend the time period needed, yet the time period for issuing information may not, as a whole, exceed the period of 40 days following the date of receipt of an information request.

(2) The information holder shall be bound to inform the requester in written form on the extension of the time period mentioned in paragraph (1) hereunder, as well as on the justification of the reasons for the extension, which must be done three days at latest prior to the expiring of the time period set out in Article 21 of the present Law.

(3) The information requester shall have the right to initiate a complaint in front of the Commission for Protection of the Right to Free Access to Information of Public Character, should the information holder fail to act within the time period mentioned in paragraph (1) hereunder.

Article 28

(1) The requester shall have the right to initiate a complaint in front of the Commission for Protection of the Right to Free Access to Information of Public Character, against the decision

in which the information holder has rejected its request, within 15 days following the date of the requester's receipt of the relevant decision.

(2) The requester shall have the right to submit complaint to the Commission for Protection of the Right to Free Access to Information of Public Character, in case the information holder has failed to act in accordance with Article 20, paragraph (4), Article 24, paragraph (4), and Article 26, paragraph (1) of the present Law.

(3) The Commission for Protection of the Right to Free Access to Information of Public Character shall decide upon the requester's complaint within 15 days following the date of complaint receipt.

(4) If the Commission for Protection of the Right to Free Access to Information of Public Character fails to decide upon the requester's complaint against the first instance decision within the time period mentioned in paragraph (3) of this Article, or fails to decide upon it within seven days after the repeated request, the requester shall have the right to initiate an administrative dispute procedure.”

The independent Commission for Protection of the Right to Free Access to Public Information (the Commission) supervises implementation of the right to access public information, and its 2016 annual report shows a sharp increase in requests for public information from information holders (7365 requests, 50% more than in 2015); at the same time, granting access has risen from 93% to 98%. According to the 2017 Balkan Barometer survey, 47% of citizens and 60% of businesses are satisfied with the timeliness of responses to public information requests, while 50% of citizens and 60% of businesses are satisfied with the pertinence and completeness of the information. The figures for citizen satisfaction are close to the average for Western Balkan countries, while those for business satisfaction are high for the region.

There are no monetary barriers to accessing information, as it is generally supposed to be provided free of charge (Art. 29, LFAI). However, if fulfilling the request requires additional work or expense on the part of the government body, fees will be calculated to take this into account.

“Article 29

(1) Insight to information requested shall be provided free of charge.

(2) For the obtained transcript, photocopy or electronic records, the information requester shall pay a fee to the amount of material costs to be covered.

(3) The Government of the Republic of Macedonia shall, upon proposal from the Ministry of Finance, adopt an act specifying the reimbursement of material costs of information providing by information holders.

(4) The information holder shall publish the amount of the fee mentioned in paragraph (3) hereunder in an appropriate manner (in the official bulletin of the information holder, on its website, on an information board, etc.), and shall make this amount known to any requester before it submits its request.

(5) Should the request relate to information of larger scope, the information holder may ask the requester to in advance pay the fee to cover the costs of information obtaining.”

Overall, the 2017 Balkan Barometer survey indicates that 43% of citizens and 49% of businesses agree that public information is provided at a reasonable cost.

The Commission for Protection of the Right to Free Access of Public Information (the Commission) plays a major role in protecting the right to public information access that it has the authority to review decisions of information holders and acts as the internal administrative appellate board. If a

party to the review is not satisfied with the Commission's judgement, the case may go to the administrative court for judicial review. It is also responsible for organising and providing training for civil servants in the field of public information access, and for promoting proactive disclosure of public information.

The LFAI also imposes fines on responsible persons for violation of Article 10 paragraph 2 and Article 11.

“Article 39

A fine of 1,000 to 2,000 Euros in denar equivalent shall be imposed for an offense to the responsible person i.e. the official with the information holder having failed to act in accordance with Article 2 paragraph (2) and Article 6 paragraph (3) of this Law. (provide information of public character in accordance with the provisions of the Law).”

The Law on Classified Information stipulates the following:

“Article 20

Information that has been given a level of classification shall not be considered as classified information if it is concealing a criminal activity, an overstepping or misuse of official function or any other illicit act or action.”

In line with the Open Government Partnership Action Plan, the Commission issued a recommendation and published guidelines for pro-active approach of the institutions in provision of public information.

To improve transparency and standards in the publication of information by the ministries, the Government obliged all ministries and agencies reporting to the Government to publish and regularly update information under listed specific categories.

All holders of public information are legally obliged to publish a list of public information, the form of the request and the contact information of the designated person to communicate the requested information.

The Law on the Use of Public Sector Data supports the provision of datasets to the public. It has resulted in 154 datasets being provided by 27 institutions that can be downloaded from the Ministry of Information Society and Administration operated [central webpage](#). Option to submit an e- request for open data sets is available on the same web-page.

The State Programmes 2016-2019 adopted by SCPC envisage activities directed to improvement of the access to public information. Analysis of the current system is ongoing and drafting amendments to the LFAI is planned to further align the Law with international standards in terms of scope of exceptions and the competencies of the Commission.

The following is the relevant provision of the Criminal Code:

“Prevention of access to a public information system

Article 149-a

- (1) Whosoever without authorization prevents or limit another's access to a public information system shall be fined or sentenced to imprisonment of up to one year.
- (2) If the crime stipulated in paragraph 1 is committed by an official person while performing the duty or a responsible person within a public information system, this person shall be fined or sentenced to imprisonment from three months to three years.
- (3) If the crime referred to in this Article is committed by a legal entity, it shall be fined.

(4) The prosecution shall be undertaken on the basis of a private lawsuit.”

(b) Observations on the implementation of the article

Free access to information is enshrined in the Constitution (Art. 16) and regulated by the Law on Free Access to Information of Public Character (LFAI). Access may be refused on grounds provided by Article 6 of the LFAI. A compulsory harm test is used in this regard. However, these grounds were considered to be too wide and the compulsory harm test provided for under this article may not sufficiently limit the discretion to reject access to information.

If a request for information is refused, an appeal can be made to the Commission for the Protection of the Right to Free Access to Public Information, and then to the Administrative Court (Arts. 28 and 35, LFAI).

North Macedonia adopted an Open Government Partnership National Action Plan 2018-2020. The public institutions are required to inform the public of various information and designate personnel in dealing with relevant requests, otherwise the responsible persons may be subject to fines (Art. 39, LFAI). The prevention of access to a public information system is also criminalized (Art. 149-a, CC).

It is recommended that North Macedonia narrow the grounds on denial of access to information, with a view to facilitating the contribution of the public to decision-making processes.

Subparagraph (b) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The most important development since 2015 is the new Law on General Administrative Procedures (LGAP), which became effective in August 2016. The new Law unifies administrative procedures through government structures and reflects all principles of good administrative behaviour, respecting most of SIGMA’s recommendations based on the previous version of the Law. By the end of March 2016, before the new LGAP had even entered into force, 169 special material laws had already been harmonised with it.

The Ministry of Information Society and Administration (MISA) has developed an interoperability framework, consisting of semantic, organisational and technological interoperability, applicable to all levels for data exchange. So far, 22 institutions have become part of the framework, nine as active users providing and receiving information. The MISA has also compiled an initial database of administrative services, based on 28 laws, to serve as a source of information for further administrative simplification. Public service accessibility for businesses has continued to improve.

Successful provision of business oriented services through one-stop shops, intermediaries and digital channels is testified to in business satisfaction surveys, which disclose the second-highest administrative services satisfaction rate in the Western Balkan region: 56% of respondents are mostly or completely satisfied. The World Bank Doing Business 2017 report confirms this information, citing that it is very easy to start a business (the country is ranked 4th of 189 countries in the World Bank's global ranking), to declare and pay corporate taxes (9th), and to apply for construction permits (11th). A new and fully digital application and processing process for construction permits has been put into operation. Businesses benefit from being highly digitalised, with access to online services for company registration, construction permits, customs declarations, value-added tax (VAT) and corporate income tax (CIT) payments, and annual filing of balance sheets. The most recent successful development was digitalisation of the entire construction permit applications and processing system, provided by the Association of the Units of Local Self-Government and involving all 80 local self-governments and the City of Skopje.

The 2017 Balkan Barometer survey of the population in the country shows that 44% of respondents are satisfied with administrative services for businesses and 56% of respondents are satisfied with digital services for businesses. Citizens rely on a relatively dense network of service points throughout the country for their main interactions with public offices and, in remote locations, the Ministry of Interior and the Public Revenue Office provide regular mobile services. 48% of respondents who have been in contact with central government services are mostly or completely satisfied with them, ranking second highest in the Western Balkan region. One of the new elements of the Law simplifies procedures for citizens and businesses by requiring that government bodies seek previously collected information from other government bodies before requesting it from the party concerned ('data once only' policy). Due to the statutory requirement of the Law on the Introduction of a System of Quality Management, quality management frameworks are widely applied among the institutions in the form of ISO 9001 and Common Assessment Framework (CAF) models.

Several web-applications for electronic submissions/requests for services and simplification of administrative procedures are available for the following services:

- [ENER](#) portal (MK) – Single National Electronic Register of Regulations – central portal where draft regulation is published together with RIA documents and discussed within RIA process
- [Slobodenpristap.mk](#) - Access to public information
- [www.otvorenipodatoci.gov.mk](#) - Access to open data
- [Service info.](#) (MK) - questions and answers, description of administrative procedures for services
- [e-concessions](#)
- <http://e-presudi.finance.gov.mk/> - database of judgments rendered in tax and customs administrative procedure cases
- <https://e-aukcii.finance.gov.mk/> - electronic auctions
- <http://www.exim.gov.mk/EILWeb/startPageForExim.jsf> - one stop shop system for permits for import, export and transit of goods and tariff quotas
- <https://e-nabavki.gov.mk/PublicAccess/Home.aspx> - e-public procurement
- E-cadastre services:
 - <https://ossp.katastar.gov.mk/OSSP/>
 - <http://status.katastar.gov.mk/Login.jsp> - track the status of the submission for a service
 - <http://web01.katastar.gov.mk/prebkzuid2/login.aspx?ReturnUrl=%2fprebkzuid2%2findex.aspx> - electronic insight into the data of land cadastre
 - <http://web01.katastar.gov.mk/prebmkzel/> (electronic view of cadastre parcels)

- [Services of the health insurance fund](#)
- <https://www.gradezna-dozvola.mk/Account/Login?ReturnUrl=%2f> - e-construction permit
- <http://www.gradezno-zemjiste.mk/home.aspx> - electronic auctions for building land sales
- <http://www.liniskiprevoz.gov.mk/Login.aspx?ReturnUrl=%2f> - electronic registration of traffic lines
- <http://www.deloven-prostor.mk/> - electronic bidding for business space sales and lease
- <http://62.220.210.66:8080/auction/> - electronic auctions for agricultural land sales
- <https://www.e-urbanizam.mk/najava.nspx> - the system for electronic procedures for urban plans aims to facilitate the process for adopting procedures for urban plans. Depending on the role in which the user is logged, there is an opportunity to review the opinions given for a given procedure by a selected external institution, as well as an overview of the process for making a strategic assessment
- <http://etax.ujp.gov.mk/eTaxServices/> - e-tax services
- <http://customs.gov.mk/index.php/mk/e-carina> - e-customs services

The above list of e-services is not exhaustive.

In 2017, there were 37 reported CAF users and 101 owners of or applicants for ISO certificates, including non-executive bodies

(b) Observations on the implementation of the article

A new Law on General Administrative Procedures (LGAP) was enacted that unifies administrative procedures allowing for a simplification of those procedures. In addition, the Ministry of Information Society and Administration (MISA) has also developed an interoperability framework applicable to all levels of the administration for data exchange and web-applications for electronic submissions/requests for services and simplification of administrative procedures are available.

The MISA has created an initial database of administrative services, with a view to enhancing future administrative simplification for public access to information and government service delivery.

It is recommended that North Macedonia continue efforts to facilitate public access to information and government services.

Subparagraph (c) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Information concerning corruption is regularly published in the annual reports of SCPC, the annual

report of the Public Prosecutor's Office, the annual and quarterly reports of the Customs Administration, the reports published by the Public Security Bureau, and open data-sets published by the Ministry of Interior.

Most of the information published is in the form of statistics and analysis of statistical data. Information about specific incidents (for example, information published in the daily bulletin of the Ministry of Interior and information about cases presented in the annual reports of SCPC) is published without personal data and revealing information having regard to the concern for presumption of innocence, provisions of the Criminal Code and the Criminal Procedure Code, national security or *ordre public* or of public health or morals.

In its annual and quarterly reports, the Customs Administration presents information about risk management. The Ministry of Finance publishes statistical information on the number of institutions which have adopted risk management strategies and prepared risk registers. The statistical information is available at <http://finance.gov.mk/en/node/967>.

Description of measures undertaken to publish information is provided in the responses related to implementation of Article 10 subparagraphs (a) and (b) of the Convention.

(b) Observations on the implementation of the article

Information concerning corruption risks is regularly published by several institutions.

Article 11. Measures relating to the judiciary and prosecution services

Paragraph 1 of article 11

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Independence of Judiciary

The provisions of Amendment XXVIII of the Constitution determine the role of the Judicial Council as an independent judicial body that ensures and guarantees the independence of the judicial power. Article 8 of the Constitution, provides the separation of powers as one of the fundamental constitutional values.

“Article 8 Constitution

The fundamental values of the constitutional order of the Republic of Macedonia are:

(...)

- the division of state powers into legislative, executive and judicial;

(...)

Anything that is not prohibited by the Constitution or by law is permitted in the Republic of Macedonia.”

Part III of the Constitution, entitled Organisation of State Authority, ensures the independence of the judiciary. Item 4 regulates the matter for the judiciary as part of the state authority. Amendment XXV of the Constitution sets out that judicial authority is exercised by the courts, which are independent and autonomous (Art. 98).

“4. The Judiciary

Article 98

Judiciary power is exercised by courts. Courts are autonomous and independent. Courts judge on the basis of the Constitution and laws and international agreements ratified in accordance with the Constitution. There is one form of organization for the judiciary. Emergency courts are prohibited. The types of courts, their spheres of competence, their establishment, abrogation, organization and composition, as well as the procedure they follow are regulated by a law adopted by a majority vote of two-thirds of the total number of Representatives.”

Article 100 of the Amendment XXVII of the Constitution provides and guarantees the independence of judges by granting them immunity. A judge cannot be held criminally responsible for an opinion and decisions of judicial decisions. A judge cannot be detained without the approval of the Judicial Council, unless found committing a criminal offence which is punishable with imprisonment for a period of at least five years. The judicial function is incompatible with membership in a political party or another public function or profession determined by law. Any political organisation and activity in the judiciary is forbidden.

“Article 100

Judges are granted immunity. The Assembly decides on the immunity of judges. The performance of a judge’s office is incompatible with other public office, profession or membership in a political party. Political organization and activity in the judiciary is prohibited.

Article 102

Court hearings and the passing of verdicts are public. The public can be excluded in cases determined by law.

Article 103

The court tries cases in council. The law determines cases in which a judge can sit alone. Jury judges take part in a trial in cases determined by law. Jury judges cannot be held answerable for their opinions and decisions concerning their verdict.”

The principle of independence of courts and judges in the legislation is also enshrined in the Law on Courts (Chapter I, Basic Principles). Article 1 provides that the judicial power is exercised by the courts in the country, and the courts are independent bodies. Article 2 provides that the courts adjudicate and bring their decisions to justice on the basis of the Constitution, laws and international agreements ratified in accordance with the Constitution, and the judges by applying the law, protect human rights and freedoms. In addition, Article 11 of the Law provides the independence of the judge:

“Article 1

- (1) The judicial power shall be exercised by the courts in the Republic of Macedonia.
- (2) The courts shall be autonomous and independent state bodies.

Article 2

- (1) The courts shall rule and establish their decisions on the basis of the Constitution, laws and international agreements ratified in accordance with the Constitution.
- (2) In the application of law, the judges shall protect the human freedoms and rights.

Article 11

- (1) The judge shall decide impartially by applying the law on the basis of free evaluation of the evidence.
- (2) Any form of influence on the independence, impartiality and autonomy of the judge in the exercise of the judicial office on any grounds and by any entity shall be prohibited.”

Coercion against judges is criminalized in the Criminal Code with fine or imprisonment (Art. 375).

“Article 375

- (1) Whosoever by force or by serious threat coerces a judge, a lay judge, a public prosecutor, an ombudsman or their deputy, to do, not to do, or to endure something, shall be fined or sentenced to imprisonment of up to three years.
- (2) If during the commission of the crime the persons from paragraph 1 or their close related persons have suffered a bodily injury, the offender shall be sentenced to imprisonment of one to three years.
- (3) If during the commission of the crime the persons from paragraph 1 or their close related persons, have suffered a severe bodily injury the offender shall be sentenced to imprisonment of one to ten years.
- (4) The attempt of the crimes stipulated in paragraph 1, 2 and 3 is punishable.”

Furthermore, the adoption of the Law on Judicial Budget provides full financial independence of the courts. The financial independence of the judiciary is reflected in planning, spending and control of resources allocated to the courts. The Court Budget Council plays a key role in this process. The Law on Judicial Budget regulates the procedure for the preparation, adoption and management of funds for financing the judiciary. In terms of the Budget of the Republic, the judicial authority is a first line budget user. The Judicial Council of the Republic, the courts, and the Academy for Judges and Public Prosecutors are funded by the Judicial Budget.

Court Budget Council is responsible for the preparation of the judicial budget and is consisted of the president and nine members.

The budget of the judicial authority includes two programmes, namely (i) Programme 20 - Judicial Administration which finances the Judicial Council of the Republic, the Supreme Court, the Higher Administrative Court, the Administrative Court, all Appellate Courts and all Basic Courts in the Republic, and (ii) the Programme 30 - Academy of Judges and Public Prosecutors, which finances the operations of the Academy. The total budget of the judiciary is divided into four categories as follows: Category 40 - Salaries and allowances where the funds for payment of salaries of all employees of the judiciary are provided (members of the Judicial Council of the Republic, judges, court clerks, judicial police, public servants and other employees in the judiciary power); Category 42 - Goods and services (travel expenses, utilities, office and PPA materials, repairs and maintenance, defenders ex officio, expert evidences, judges acting as jurors and other running costs); Category 46 - Subsidies and transfers (payment after decisions for violation of the right to trial within a reasonable time and payment of executive decisions); and Category 48 - (capital expenditures for the purchase of buildings, purchase of equipment and machinery, IT equipment and software required, etc).

In terms of staffing, the Judicial Council has 30 staff.

Court procedures

Court procedures are regulated by law and based on the principles of legality and legitimacy, equality of the parties, the trial within a reasonable time, fairness, publicity and transparency, contradiction, double instance, convention, volubility, immediacy, the right of defence or representation, free evaluation of evidence and cost-efficiency. The laws on certain procedures more closely regulate the principles of procedures, manners of their realisation and possible exemption for certain principles.

Article 13 of the Law on Courts stipulates that judicial decisions are pronounced on behalf of the citizens of the Republic. Final judgement has undisputed legal effect. Court decision may be altered or revoked only by a competent court in a procedure prescribed by law. Court decisions are binding for all legal and natural persons and have greater force than the decisions of any other authority. Everyone is obliged to respect the final and enforceable court decision, otherwise he/she is subject to legal sanctions. Everyone is obliged to refrain from doing or omitting to act that obstructs the adoption or enforcement of the court decision. Each state authority is obliged, when it is placed in their jurisdiction, to ensure the enforcement of the court decision.

“Article 13

- (1) The court decisions shall be pronounced in the name of the citizens of the Republic of Macedonia.
- (2) The legally valid court decision shall have undisputed legal effect.
- (3) The court decision may only be amended or abolished by a competent court in a procedure prescribed by law.
- (4) The court decisions shall be binding for all legal entities and natural persons and shall have greater legal force with regard to the decision of any other body.
- (5) Everyone shall be obliged to obey the legally valid and enforceable court decision under threat of legal sanctions.”

Organisation of judiciary

Courts make their judgement on the basis of the Constitution and laws and international agreements ratified in accordance with the Constitution. Emergency courts are prohibited. The types, competence, establishment, abrogation, organisation and composition of the courts, and the procedure they follow are regulated by a law adopted by a two-thirds majority of the total number of members of the Assembly of the Republic (Amendment XXV of the Constitution).

As of 31 December 2016, the number of professional judges sitting in different levels of courts is as follows:

- Total number of professional judges: 566 (228 males and 338 females)
- Number of first instance professional judges: 435 (168 males and 267 females)
- Number of second instance (court of appeal) professional judges: 106 (48 males and 58 females)
- Number of supreme court professional judges: 25 (12 males and 13 females)

The Law on Courts clearly defines the authority and the types of courts in the Republic . In the judiciary of the Republic, the judicial power shall be exercised by the basic courts, appellate courts, the Administrative Court, the Higher Administrative Court and the Supreme Court.

Article 101 of the Constitution defines the Supreme Court as the highest court in the country, providing uniformity in the application of the laws by the courts. It exercises the judicial power over the entire territory of the Republic.

“Article 101

The Supreme Court of the Republic of Macedonia is the highest court in the Republic, providing uniformity in the implementation of the laws by the courts.”

North Macedonia has four appellate courts, namely Appellate Court in Skopje, Appellate Court in Bitola, Appellate Court in Shtip and Appellate Court in Gostivar. The Appellate courts are courts of second instance. They are competent for deciding on appeals against the decisions of the basic courts. North Macedonia has 27 basic courts functioning as courts of first instance and they are competent to decide in the first instance in judicial cases in criminal, civil, extrajudicial works, enforcement and security, misdemeanours and other matters. The basic courts are established as courts with basic competence and courts with enhanced competence. In the Basic Court Skopje I – Skopje, a specialised court department responsible for prosecuting cases of organised crime and corruption for the whole territory of the Republic is established (since 2008).

In accordance with Article 32(1) of the Law on Courts, the specialized court department is competent to try:

- “- crimes committed by a structured group of three or more persons that exists for a certain period of time and acts for the purpose of committing one or several crimes for which an imprisonment sentence of minimum four years is anticipated by law, with intent to obtain financial or other benefit directly or indirectly,
- crimes committed by a structured group or criminal organization on the territory of the Republic of Macedonia or other countries or when the crime is prepared or planned on the territory of the Republic of Macedonia or in another country,
- crimes committed by a police officer, authorized official person for security and counterintelligence with police authorisations, members of the financial police, as per law authorized persons of the Customs Administration who work on detection of crimes and authorized persons of the Ministry of Defence who work on detecting and investigating crimes or members of prison police, for crime committed in the course of official activity or outside official service with the use of serious threat, force or means of coercion consequenting in death, severe bodily injury, bodily injury, unlawful deprivation of liberty, torture and other cruel, inhuman or degrading treatment and punishment if a law provides for criminal prosecution ex officio,
- crimes for abuse of official position and power referred to in Article 353 paragraph 5, accepting bribe of significant value referred to in Article 357 and illegal mediation referred to in Article 359, all referred to in the Criminal Code, committed by an elected or appointed functionary, official or responsible person within the legal entity, and
- crimes for illegal manufacturing and distribution of narcotic drugs, psychotropic substances and precursors referred to in Article 215 paragraph 2, money laundering and other incomes from punishable crime of substantial value referred to in Article 273, terroristic threat to the constitutional order and security referred to in Article 313, offering bribe of greater value referred to in Article 358, illegal influence on witnesses referred to in Article 368-a, criminal association referred to in Article 394, terrorist organization referred to in Article 394-a, terrorism referred to in Article 394-b, crimes involving human trafficking referred to in Article 418-a, crimes involving smuggling migrants referred to in Article 418-b, trafficking juveniles referred to in Article 418-d, and other crimes against humanity and the international law referred to in the Criminal Code, regardless of the number of offenders.”

Election and dismissal of judges

The system of selection of judges is based on objective criteria, which aims to select candidates who possess the highest professional and moral qualities.

An additional guarantee for the selection of judges is the introduction of initial training at the Academy for Judges and Prosecutors, whereby entering into the judiciary is guaranteed only to candidates who have successfully completed the training. According to the existing legislation in terms of promotion of judges, a career and assessment system has been set up. Under the system, only a judge of a lower court who has been objectively evaluated over other candidates based on measurable criteria with the highest success can be chosen as a judge in higher court.

North Macedonia has established a fully functional Judicial Council of the Republic. According to Amendment XXVIII of the Constitution and Article 2 of the Law on the Judicial Council, it is defined as an independent and autonomous judicial body whose main function and purpose is to guarantee the independence of the judiciary. The Judicial Council exercises its functions under the Constitution and the laws of the Republic, including the Law of the Judicial Council of the Republic and the Rules of Procedure of the Judicial Council of the Republic. The selection and dismissal of judges, jurors and court presidents is in the exclusive competence of the Judicial Council and is based on criteria stipulated by the Law on Courts in Articles 45 and 46. In addition to these responsibilities, the Judicial Council is responsible for determining the disciplinary responsibility and evaluating the work of judges.

The Judicial Council is composed of 15 members out of whom eight members are elected by the judges from their ranks. Three of them belong to the communities that are not the majority in the Republic, observing the principle of equitable representation of citizens belonging to all communities. Three members are elected by the Assembly of the Republic with majority of the total number of the MPs, whereby with a majority of votes of MPs belonging to the non-majority. From the sectors of university law professors, lawyers, and other prominent jurists, two members of the Council are proposed by the President of the Republic and elected by the Assembly, with one of whom being a member of the non-majority communities in the Republic.

The following amendments to the Constitution provide for the conditions under which the term of office of a judge ceases and which a judge is discharged, as well as the composition and functions of the Judicial Council.

“AMENDMENT XXVI

1. The term of office of a judge ceases

- if he/she so requests;
- if he/she permanently loses the capability of carrying out a judge 's office, which is determined by the Judicial Council of the Republic of Macedonia;
- if he/she fulfils the conditions for retirement;
- if he/she is sentenced for a criminal offence to a prison term of a minimum of six months;
- if he/she is elected or appointed to another public office, except when his/her judicial function rests under conditions determined by law;

A judge is discharged

- when he/she commits a serious disciplinary offense which makes him/her unsuitable to perform a judge 's office prescribed by law; and
- he/she performs her judicial duty unprofessionally and unethically under conditions stipulated by law.

2. Clause 1 of this amendment replaces paragraph 3 of Article 99 of the Constitution of the Republic

of Macedonia.

AMENDMENT XXVIII

1. The Judicial Council of the Republic of Macedonia is an independent and autonomous institution of the judiciary. The Council shall ensure and guarantee the independence and the autonomy of the judiciary. The Judicial Council is composed of fifteen members. The President of the Supreme Court of the Republic of Macedonia and the Minister of Justice are ex officio members of the Judicial Council. Eight members of the Council are elected by the judges from their own ranks. Three of them shall belong to the communities that are not majority in the Republic of Macedonia, insuring that equitable representation of citizens belonging to all communities shall be observed. Three members of the Council are elected by the Assembly of the Republic of Macedonia with majority votes of the total number of MP's, and with majority votes from the total number of MP's who belong to the communities that are not majority in the Republic of Macedonia. Two members of the Council are proposed by the President of the Republic of Macedonia and are elected by the Assembly of the Republic of Macedonia, and one of them shall belong to the communities that are not majority in the Republic of Macedonia.

The members of the Council elected by the Assembly of the Republic of Macedonia, on a proposal of the President of the Republic of Macedonia shall be from among University law professors, lawyers and other prominent jurists. The members of the Council are elected for a term of six years, with the right to one re-election. The criteria and manner of election, as well as the basis and the procedure for termination of the mandate and dismissal of a member of the Council shall be determined by law. The office of a member of the Council is incompatible with membership in political parties and with performance of other public offices and professions determined by law.

2. This amendment replaces Article 104 of the Constitution of the Republic of Macedonia.

AMENDMENT XXIX

1. The Judicial Council of the Republic of Macedonia

- elects and dismisses judges and lay judges;
- determines the termination of a judge's office;
- elects and dismisses Presidents of Courts;
- monitors and assesses the work of the judges
- decides on the disciplinary accountability of judges;
- has the right to revoke the immunity of judges;
- proposes two judges for the Constitutional Court of the Republic of Macedonia from among the judges; and
- performs other duties stipulated by law.

On the election of judges, lay judges and court presidents, equitable representation of citizens belonging the all communities shall be observed. The Council shall submit an annual report for its work to the Assembly of the Republic of Macedonia in from, content and manner determined by law.

2. This amendment replaces Article 105 of the Constitution of the Republic of Macedonia and deletes line 15 of paragraph 1, Article 68 of the Constitution of the Republic of Macedonia.”

Judges are elected without restriction of their terms of office (Art. 99, Constitution) but they can be

dismissed due to serious disciplinary offence or inappropriate exercise of the judicial office (Art. 74, Law on Courts). Among others, the Republican Council is responsible for the election and discharge of judges and the decision on the disciplinary proceedings against them (Arts. 104 and 105, Constitution; Arts. 41 and 42, Law on Courts).

The Law on Courts ensures that a judge cannot be transferred from one to another court or from one to another judicial department without his consent. However, in accordance with Article 39 of the Law on Courts, the judge may, as an exception, be assigned to another court department against his will under particular conditions.

“Constitution

Article 99

A judge is elected without restriction of his/her term of office.

A judge cannot be transferred against his/her will.

A judge is discharged:

- if he/she so requests;
- if he/she permanently loses the capability of carrying out a judge’s office, which is determined by the Republican Judicial Council;
- if he/she fulfils the conditions for retirement;
- if he/she is sentenced for a criminal offence to a prison term of a minimum of six months;
- owing to a serious disciplinary offence defined in law, making him/her unsuitable to perform a judge’s office as decided by the Republican Judicial Council; and
- owing to unprofessional and unethical performance of a judge’s office, as decided by the Republican Judicial Council in a procedure regulated by law.

AMENDMENT XXVI

1. The term of office of a judge ceases

- if he/she so requests;
- if he/she permanently loses the capability of carrying out a judge 's office, which is determined by the Judicial Council of the Republic of Macedonia;
- if he/she fulfils the conditions for retirement;
- if he/she is sentenced for a criminal offence to a prison term of a minimum of six months;
- if he/she is elected or appointed to another public office, except when his/her judicial function rests under conditions determined by law;

A judge is discharged

- when he/she commits a serious disciplinary offense which makes him/her unsuitable to perform a judge 's office prescribed by law; and
- he/she performs her judicial duty unprofessionally and unethically under conditions stipulated by law.

2. Clause 1 of this amendment replaces paragraph 3 of Article 99 of the Constitution of the Republic of Macedonia.

Law on Courts

Article 39

(...)

(3) The judge cannot be transferred from one to another court against his/her will.

(...)

(8) As an exception, the judge may be transferred to another court division against his/her will by a written, explained decision of the president of the court, upon previously obtained opinion from the general session of the Supreme Court of the Republic of Macedonia, when it is required by the increased workload and the subject of work of the court, but for a period of one year at the most.

(9) As an exception, the judge of a court of appeal and a basic court may be temporarily, and at the most for a period of one year, transferred to another court in the same or lower instance or from one to another specialized division when due to prevention or recusal of a judge, or due to significantly increased workload, reduced efficiency, or due to the complexity of the cases the day-to-day operation of the court comes into question.

(10) The temporary transfer of a judge referred to in paragraph (9) of this Article shall be made by the Judicial Council of the Republic of Macedonia and it shall immediately notify the president of the court from which the judge is transferred and the president of the court to which the judge is temporary transferred.

(11) The judge may file a complaint against the decision referred to in paragraphs (4) and (7) of this Article within a period of three days to the general session of the Supreme Court of the Republic of Macedonia, which is obliged to decide upon the complaint within a period of seven days.

(12) The judge may file a complaint against the decisions referred to in paragraphs (8) and (9) of this Article within a period of three days to the Judicial Council of the Republic of Macedonia, which shall be obliged to decide upon the complaint within a period of seven days. The decision of the Judicial Council of the Republic of Macedonia shall be final.

1. Election of judges and lay judges

Article 41

(1) The judges and presidents of the courts shall be elected and dismissed by the Judicial Council of the Republic of Macedonia under the conditions and in the procedure defined by law.

(2) The election, that is, dismissal of the judges and the presidents of the courts shall be published by the Judicial Council of the Republic of Macedonia in the "Official Gazette of the Republic of Macedonia" within a period of 15 days as of the day the election, that is, dismissal is completed.

Article 42

(1) Lay judges shall be elected and dismissed by the Judicial Council of the Republic of Macedonia under the conditions and in the procedure set by the law.

(2) Every adult citizen of the Republic of Macedonia who has completed at least secondary education, who is fluent in Macedonian language, has a reputation for exercising this function and is not older than 60 years, may be elected as a Lay judge.

(3) A juvenile trial Lay judge is elected from persons with experience in upbringing and education of young people.

(4) Upon completion of the election, the Lay judges shall mandatorily attend specialized training, organized by the Academy for Judges and Public Prosecutors, after which the Academy shall issue a certificate for completed training to them.

(5) The content, duration and the delivery of the training referred to in paragraph (4) of this Article shall be defined by specialized programme for training of lay judges by the Academy

for Judges and Public Prosecutors.

Article 43

(1) Discrimination on grounds of gender, race, color of the skin, national and social background, political and religious belief, material and social position shall be prohibited in election of judges and lay judges.

(2) Equitable representation of the citizens from all communities shall be ensured when electing judges and lay judges without disturbing the criteria prescribed by law.

(3) A person who is related in vertical or horizontal line up to third degree or is a spouse of a judge or lay judge cannot be elected judge or lay judge in the same court.

(4) A person who is related in vertical or horizontal line up to third degree or is a spouse of a member of the Judicial Council of the Republic of Macedonia cannot be elected judge or lay judge.

Article 45

A person meeting the following requirements may be elected judge:

- to be a citizen of the Republic of Macedonia,
- to actively use the Macedonian language,
- to have capability for work and to have good general health condition, which is assessed by medical check-ups,
- to be a law graduate who has completed a four year higher education in law or a law graduate who has 300 credits acquired according to the European Credit Transfer System (ECTS), or who holds a validated diploma for acquired 300 credits from a foreign faculty of law,
- to have passed the judicial exam in the Republic of Macedonia,
- to be fluent in one of the three languages of the European Union that are used most often (English, French or German),
- to work with computers, and
- to have reputation, integrity in the exercise of the judicial office and social skills for exercising the judicial office, for which integrity and psychological tests are conducted.

[...]

2. Dismissal of judges

Article 74

(1) A judge is dismissed from judicial function:

- due to serious disciplinary breaches that makes him/her unfit to exercise the judicial function as provided by law.
- due to unprofessional exercise of the judicial function and conduct in bad faith, under conditions determined by law, and

(2) The decision for dismissing a judge is made by the Judicial Council of Republic of Macedonia.

(3) On the day of effectiveness of the decision for termination of the judicial function that is determined by the Judicial Council in respect to paragraph 1 of this article, the right to the judge's salary will cease."

Supervision over the execution of court decisions is done by the court in accordance with law. The execution of a final and enforceable court decision is carried out in the quickest and most efficient way possible, and cannot be hindered by the decision of any other state authority.

Article 2 of the Law on the Judicial Council of the Republic sets out the purpose of the establishment of the Judicial Council, which is an independent judicial body. The Council ensures and guarantees the independence of the judiciary through the exercise of its functions under the Constitution and the laws.

Being completely independent of the executive and legislative powers, the Judicial Council is the key institution guaranteeing the independence of the judiciary.

Liability of Judges and disciplinary procedures

In North Macedonia, the responsibility of judges is regulated with the Constitution, the Law on Courts and the Law on the Judicial Council of the Republic.

The grounds for termination of judicial function and the grounds for dismissal of a judge are prescribed in the Amendment XXVI.

The Constitutional Amendment XXVI is operationalised in the Law on Courts and the Law on the Judicial Council of the Republic. The responsibility of judges is divided into three levels: unprofessional and neglectful exercise of the judicial office, serious disciplinary violation, and disciplinary violation. A mandatory dismissal of the judge is provided for the first two grounds, while for the third a possibility to impose other disciplinary measure is allowed, such as written notice, public reprimand or reduction of salary in the amount of 15% to 30% of the monthly salary of the judge for a period of one to six months.

“Article 78

(1) The Council may impose the following disciplinary measures for an established disciplinary offence by a judge:

- written warning,
- public reprimand,
- referral to additional hours of professional training at the Academy for Judges and Public Prosecutors of the Republic of Macedonia, at least three hours within a period of three months and
- salary decrease of 15% to 30% from the monthly salary of a judge for a period of one to six months.

(2) If, by a decision that has entered into force, a judge is imposed a disciplinary measure – referral to professional training or decrease of the salary from 15% to 30% of the monthly salary, a judge may not be elected to a higher court, elected as a member of the judicial Council or a director of the Academy of Judges and Public Prosecutors, during the period of the imposed measure.”

Article 75 of the Law on Courts states defines the element of unprofessional and neglectful exercise of the judicial office.

“Article 75

(1) Unprofessional and neglectful exercise of the judicial office shall include insufficient professionalism or negligence of the judge that affect the work quality and efficiency, that is:

- if, during two regular consecutive assessments fails to meet the criteria for successful working due to the judges fault with no justified reasons, therefore receiving two negative

assessment, and pursuant to the procedure set by the Law on the Judicial Council of the Republic of Macedonia,

- unconscientious, untimely or neglectful exercise of the judicial office in the conduct of the court procedure in particular cases,
- biased conduct of the court procedure particularly with regard to the equal treatment of the parties,
- acting upon cases contrary to the principle of trying within a reasonable period of time, that is, postponement of the court procedure without having a legal basis,
- unauthorized disclosure of classified information,
- public disclosure of information and data about court cases for which no legally valid decision is adopted,
- intentional violation of the rules of fair trial,
- abuse of the position or exceeding the official powers,
- violation of the regulations or in any other manner disturbance of the judge's independence in trying,
- severe violation of the rules of the Court Code that ruins the image of the judicial office, and
- If a decision is adopted by the European Court of Human Rights that confirms violation of Articles 5 and 6 of the European Convention on Human Rights.”

Article 77 prescribes the procedure for determining the disciplinary liability of a judge in case of disciplinary violations:

“Article 77

(1) The following shall be deemed as disciplinary violation for which a disciplinary procedure is initiated to determine the disciplinary liability of a judge:

- 1) Violation of the rules of Judicial Code of Ethics causing disturbance of the reputation of the judicial office;
- 2) Causing severe disturbance of the courts' relations that significantly influences the exercise of judicial office;
- 3) Failing to fulfill mentoring obligations and professional qualification of associates;
- 4) Serious violation of the rights for absence from work;
- 5) Failure to fulfill the duty for continuous training;
- 6) Not wearing a judge's robe;
- 7) Failure to schedule the court sessions for no justified reasons on cases distributed to him that in work or in other manner shall stall the procedure or shall not consider the case for work due to which the criminal prosecution of the case shall become absolutely obsolete, or the execution of the criminal sanction for the offence shall become obsolete;

(2) For the disciplinary violation of paragraph 1 of this Article, the President of the court is obliged to notify the Judicial Council of the Republic of Macedonia in writing, within eight days upon realization that the violation has been conducted, not later than three months of the conducted violation.”

Article 76 prescribes the procedure for establishing the disciplinary liability of a judge in case of serious disciplinary violations:

"Article 76

(1) A serious disciplinary violation for which a procedure for establishing disciplinary liability of a judge shall be initiated as grounds for dismissal shall be considered the following:

- 1) membership in a political party;
- 2) preventing the judicial performance supervision conducted by the superior court;
- 3) abuse of office and the reputation of the court for acquiring personal private interest;
- 4) severe violation of public peace and order with which the reputation of the court and his/her reputation determined by final court decision;
- 5) unsatisfactory assessment following two regular consecutive evaluations made by the Judicial Council of the Republic of Macedonia which is considered as unprofessional and reckless performance of the judicial function;
- 6) performing other public function, work or profession that is incompatible with the performance of judicial function;
- 7) receiving gifts and other benefits related to the judicial function;
- 8) non-application of the positions/views expressed in the final judgments of the European court of human rights, in decision making and
- 9) revealing classified information acquired in acting upon cases or during performance of judicial function.

(2) For the disciplinary violation of paragraph 1 items 1), 3), 4), 6), 7), 8), and 9) of this Article, The President of the court is obliged to notify the Judicial Council of the Republic of Macedonia in writing, within eight days upon realization of the fact the violation has been committed, not longer than three months upon the day of the violation committed.

(3) For the disciplinary violation of paragraph 1 item 4 of this Article, the President of the court, where the final court decision has been adopted is obliged to notify the Judicial Council of the Republic of Macedonia as well as the President of the court where the judge is exercising his judicial office, immediately upon entrance into force of the said decision.”

The Law on the Judicial Council prescribes the procedure for determining unprofessional and unethical performance of the judicial office:

“Article 54

The procedure for determination of liability of a judge or a president of a court (hereinafter: procedure), shall be initiated within a period of six months as of the day of discovering the committed violation, but not longer than three years as of the day of commission of the violation.

The procedure shall be urgent and confidential, shall be conducted without the presence of the public and by respecting the reputation and dignity of the judge or the president of the court, at the same time taking care to protect the personal data on the judge or the president of the court in accordance with the regulations on personal data protection.

Upon a request of the judge or the president of the court, the Council shall decide the procedure to be public.

Upon a request of the judge or the president of the court, a representative from the Association of Judges may also attend the session.

Article 56

The application filed for the establishment of responsibility of a judge or president of a court shall be communicated to the Council member-rapporteur (hereinafter: rapporteur) who assesses whether the application is timely and complete.

If the application is untimely and incomplete the rapporteur shall, with a proposed decision, submit it to the Council for further consideration which shall reject the untimely or incomplete application with a decision, and if the application is timely and complete the Council shall, from the members with a voting right by drawing lots, form a Commission for establishment of responsibility of a judge or president of a Court (hereinafter: the Commission) composed of a chairperson and two members, taking into account the composition of the Commission to include members of the Council elected by the judges and by the Assembly of the Republic of Macedonia.

If a Council member is the applicant, he/she may not be a rapporteur or member of the Commission referred to in paragraph 2 of this Article.

If the Council establishes the responsibility of a judge or president of a court who belongs to the communities that are not a majority in the Republic of Macedonia, the Commission must include one member who belongs to the communities that are not a majority in the Republic of Macedonia.

Article 56-b

The Commission shall obtain data and evidence that are of interest for establishing the situation related to the determination of liability of the judge or the president of the court by a request.

If the data and the evidence referred to in paragraph 1 of this Article are found within a state body, a body of the local self-government unit or a natural person or a legal entity entrusted with public powers, they shall be obliged to submit them to the Council free of charge within the deadline set in the request referred to in paragraph 1 of this Article.

Hearing regarding the request

Article 56-c

The Commission shall schedule a hearing within a period of seven days as of the day of receipt of the response to the request from the judge or the president of the court.

The Commission shall work in plenary sessions and shall be headed by the president.

Report from the Commission

Article 56-g

The Commission, within a period of 15 days as of the day of ending the hearing, shall submit a report for the established situation on the request together with a proposal to the Council to decide on:

- stopping the procedure,
- imposing a disciplinary measure or
- dismissing the judge or the president of the court due to committed severe disciplinary violation which makes him/her unworthy for the judicial office or unprofessional and negligent exercise of the judicial office under the conditions determined by law.

The report should contain all documents and acts that, during the procedure, the Commission has have at disposal, the statement of the judge or the president of the court, the description of the actions taken, as well as the elaborated proposal for making a decision by the Council.

All documents related to the case must be available to the members of the Council.

Decisions of the Council

Article 60-a

After the discussion is over, the Council may decide:

- to stop the procedure,
- to impose a disciplinary measure or
- to dismiss the judge or the president of the court due to committed severe disciplinary violation which makes him/her unworthy for the judicial office prescribed by law or unprofessional and negligent exercise of the judicial office under the conditions determined by law.”

In 2015, one judge was dismissed following the decision of the Court Council. On appeal, the decision was upheld by the Supreme Court and became final in 2016. In 2016, disciplinary proceedings were initiated against judges for professional inadequacy and sanctions were imposed on one judge.

Code of judicial ethics

In 2014, the Association of Judges adopted a new Code of Judicial Ethics, which fully incorporates the principles of judicial ethics provided in the principles of Bengalor elaborating issues of independence, impartiality, integrity, propriety, equality, competence and ethics of judges, conflicts of interest, corruption and violation of principles. The Advisory Council for judicial ethics gives an advisory opinion for the implementation of the principles and the ensuring of their compliance by judges.

Pursuant to paragraph 1 of Article 75 of the Law on Courts, the gross violation of the rules of the Judicial Code that tarnishes the reputation of the judicial office constitutes the basis for the dismissal of a judge.

Training

In 2006, the Academy for Judges and Public Prosecutors (AJPP) had been established and become fully operational. It is responsible for initial and continuous training of judges and prosecutors.

The AJPP conducts training for the professional, ethical and competent execution of the work tasks of the professional service in the judiciary and public prosecution as well as training of other entities involved in the implementation of the laws related to the judiciary, i.e. the civil servants of the Ministry of Justice working on the preparation and execution of laws related to the judiciary.

The AJPP, as part of the continuous training of judges and public prosecutors, provides compulsory training for dealing with economic and corruption crimes with topics spanning across tax evasion, money laundering, confiscation, corruption in public procurement, bribery, financial investigations, fight against corruption, etc. Annually, on average about 27 percent of the judges and 45 percent of public prosecutors are provided with the compulsory training. For example, in 2015, 10 trainings in the area of economic crime and corruption were conducted for 96 judges and 100 public prosecutors.

In 2016, the AJPP, in cooperation with domestic and foreign partners, conducted 11 trainings for dealing with crimes in the area of financial crime and corruption, involving 54 judges and 55 public prosecutors and representing 10% of the judges and about 25% of the public prosecutors:

- 2 training on the topic of “Code of Judicial Ethics”, with a total number of 53 participants (43 judges, 9 public prosecutors and 1 notary public);

- 1 training for judges of all criminal departments from all appellate regions on the topic of “The role of the judge/Judicial Ethics and impartiality”, with a total number of 26 participants (19 judges, 4 public prosecutors and 3 judicial associates);
- 1 training for judges of all criminal departments and public prosecutors of all appellate regions on the topic of “The US law against international corruption”, with a total number of 21 participants (3 judges, 5 public prosecutors, 4 judicial associates and associates of public prosecutors, 2 representatives of the Ministry of Interior, 3 representatives of the Financial Police, 3 representatives of the Financial Intelligence Office and 1 representative of the US Embassy);
- 1 training on the topic of “Criminal law aspects of corruption/Comparative practices from Croatia and the European Court of Human Rights”, with a total number of 37 participants (22 judges, 5 public prosecutors, 2 judicial associates, 2 lawyers, 3 representatives of SCPC and 3 representatives of the Ministry of Justice);
- 2 trainings for newly-elected public prosecutors, in cooperation with WINPRO III Project, on the topic of “Strengthening of the protection of the witnesses in the fight against organised crime, terrorism and corruption”, with a total number of 32 participants (16 public prosecutors and 16 judicial associates and associates of public prosecutors);
- 1 training on the topic of “Criminal law aspects of corruption/Comparative practices of the European court of human rights”, with a total number of 33 participants (10 judges, 9 public prosecutors, 10 judicial associates and associates of public prosecutors, 2 lawyers and 2 representatives of the Bureau for representation of the Republic before the European Court of Human Rights);
- 1 training for 9 lay judges from different first instance courts on the topic of “Conflict of interest /Anti-corruption measures /Ethics and ethical code”; and
- 2 trainings on the topic of “Prevention of corruption and conflict of interest, Good governance, integrity and ethics”, with a total number of 58 participants (29 judicial associates and 29 associates of public prosecutors).

In 2017, the AJPP, in accordance with the recommendations of GRECO in 2017, organized a total of 19 trainings in cooperation with SCPC for the purpose of promoting the preventive mechanisms for corruption. The following provides the details of the trainings:

- 1 training on the topic of “Ethics and integrity / Conflict of interests”, which was attended by a total of 33 participants consisting of 25 judges and 8 public prosecutors;
- 2 trainings in cooperation with EIPA (European Institute for Public Administration Luxembourg) on the topic of "Ethics", which were attended by a total of 34 participants consisting of 8 presidents of courts, 7 public prosecutors of public prosecutor’s offices, 2 judges, 9 court administrators and 8 prosecutors;
- 2 trainings on the topic of "Prevention of Corruption and Conflicts of Interest, Good Governance, Integrity and Ethics", which were attended by 32 participants from all appellate regions consisting of 16 court officials and 16 prosecutors; and
- 14 trainings on the topic of "Conflict of interests / Anti-Corruption Measures / Ethics and Code of Ethics", which were attended by a total of 188 lay judges consisting of 71 participants from the appellate region of Skopje, 34 participants from the appellate region of Shtip, 63 participants from the appellate region of Bitola, and 20 participants from the appellate region of Gostivar.

Under the framework of the implementation of the activities envisaged by the NPAA, the following

trainings were also organized:

- 2 trainings on the topic of "Criminal offenses in the field of financial crime: tax evasion, money laundering and corruption", which were attended by 16 judges, 13 public prosecutors and 11 expert associates;
- 1 training on the topic of "Financial Investigations: how is money laundered" in cooperation with the APPRM, which was attended by 9 prosecutors and 10 expert associates;
- 2 trainings on topics associated with confiscation, extended confiscation and illegal acquisition of property, which were attended by 18 judges, 19 public prosecutors and 9 expert associates;
- 1 training on the topic of "Criminal liability of legal entities / Bribery", which was attended by 8 judges, 12 public prosecutors and 1 expert associate; and
- 3 trainings on the measure of detention, which were attended by 35 judges, 17 public prosecutors and 14 expert associates.

Source: [AJPP's annual report 2017](#)

Conflict of interest

According to the procedural laws, the Law on Civil Procedure and the Criminal Procedure Code provide for clear criteria of disqualification of judges in particular litigation. Conflict of interests among judges has been regulated in two ways – through the rules of exemption and the rules of incompatibility of the judicial function with other functions. In accordance with the Law on Prevention of Corruption and the Law on Prevention of Conflict of Interest, judges are obliged to submit asset declarations and statements of interest. The provisions applicable for elected and appointed persons are applicable for judges as well. More information about the general provisions on declaration of assets and conflict of interest can be found in the answer to Article 7(4) of the Convention.

The allocation of cases in court is decided according to the Law on Courts, Law on Management of the case flow and the Rule of procedure of the Courts. In this regard, Article 7 of the Law on Courts provides that:

Article 7

The cases that come before the court for decision shall be distributed electronically among the judges according to the time of receipt of the case in the court, excluding any influence on the manner of distribution by the president of the court, the judge or the court administration, through the automated computer system for the management of court cases, in accordance with the law.

An Automated Court Case Management Information System (ACCMIS) that provides recording and connects external documents in relation to the appropriate court cases has been introduced in all courts. The ACCMIS must be used for the case flow management in the courts by the president of the court, court administrators, judges and court officials throughout the court procedure, i.e. from the date of receipt of the written judgement to the date of archiving cases. It allows equal case allocation to judges in all courts under the defined criteria of working body for standardization in the Supreme Court. The criteria was established by the President of the Supreme Court for the use and promotion of ACCMIS to achieve unification and standardization of the proceeding in all courts. Cases are assigned to the judge on a random basis. Articles 174 to 181 of the Rules of Procedure of the Court prescribe the procedure and manner of cases allocation.

In addition, Article 58 of the Law on Courts provides the following:

“Article 58

The judge cannot accept gifts or enjoy privileges and conveniences during the exercise of the judicial office.”

Strategy for the Reform of the Sector of Judiciary

In November 2017 the Government adopted the Strategy for the Reform of the Sector of Judiciary. The new Strategy gives instructions and directions for improving the judicial system by overcoming the existing normative and institutional deficiencies permeating the system. The Strategy takes into account the main issue of the interference of the executive power and the partisanism as causes of the regression and dysfunctionality of the judicial sector. The Strategy represents a roadmap to ensure that all the preconditions within its competence to create an independent, impartial, efficient, high-quality and transparent judiciary, which is responsible for the protection of individual rights and freedoms of citizens as well as the public interest, are met. The Strategy also sets out guidelines for creating legal conditions and an environment for the judiciary to properly apply the principle of liability at work. The main objectives of the Strategy are to promote unity and set down the phases of the elimination of the weaknesses identified in the judiciary, and to ensure the alignment with the European and international standards and the stable functioning as the main pillar of the democratic state of the rule of law. The following are the details of the Strategy:

- Establishment of the principle of the rule of law as a top political and legal principle in regulating the relations among the three holders of power, with due respect to the autonomy, independence and integrity of the judicial power;
- Removal from the legal order of the laws threatening the autonomy, independence and impartiality of the judges and the autonomy of the public prosecutor's office;
- Removal from the legal order and modification of the legal decisions that block the exercise of the judicial control function over the legality of the conduct of the executive power and the state administration;
- Re-examination of the functioning of certain institutions, in particular the Judicial Council and the Council of Public Prosecutors, whose constitutional and legal competence are the guarantees for ensuring the independence and efficiency of the judiciary and the public prosecutor's office;
- De-professionalisation and setup of criteria and procedure for liability of the members of the Judicial Council and the Council of Public Prosecutors;
- Reform of the administrative judiciary for the purpose of efficient realisation of its function of control over the acts of the executive power and the state administration;
- Strengthening of the functioning of the SPPO as an autonomous institution within the PPO in dealing with offences within its competence and prosecution of high-profile corruption criminal offences;
- Re-examination of the judicial system and the public prosecution system from the aspect of the network and the competence of the institutions, their personnel and material capabilities;
- Creation of financial, personnel, information and other preconditions, with urgent increases in budgetary investments, in order to increase the efficiency of the judiciary and the public prosecutor's office;
- Re-examination of the system for evaluation of the quality and efficiency of the work of judges and public prosecutors;

- Simplification of the access to justice by strengthening mediation, reviewing free legal aid, court fees, attorneys' fees and costs for enforcement of judgments;
- Extension of the functions of the judicial and public prosecution information system;
- Reinforcement of the system of continuous education of judges, court associates, public prosecutors and their associates and attorneys;
- Reinforcement of the mechanisms of transparency, accountability and liability of judges and public prosecutors through the system of self-regulation of their professional associations; and
- Europeanisation of the judiciary and the public prosecutor's office through the introduction of European institutional, procedural, legal, managerial and other standards in the functioning of the judiciary, public prosecutor's office and the attorneyship; the preparation of judges and public prosecutors for their functioning in the single European area of justice and for the consistent application of the European Convention on Human Rights and other international conventions on human rights and freedoms; and the harmonisation of the substantive and procedural laws with EU law and laws of other EU Member States.

(b) Observations on the implementation of the article

The independence of the judiciary is established in the Constitution (Art. 98). The organization of courts, selection and dismissal of judges are governed by the Law on Courts and the Law on Judicial Council (LJC). The courts make use of professional as well as lay judges (Part III, Law on Courts). A Code of Judicial Ethics was adopted in 2014. The independent National Judicial Council may apply disciplinary and other measures against judges (Art. 78, LOC; Art. 60-a, LJC). In addition, the LOC provides for rules on prohibition of gifts (Art. 58), case assignment and distribution (Art. 7).

Paragraph 2 of article 11

2. Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The reform of the judicial system started in 2005. The autonomy of the Public Prosecutor's Office is provided for under the constitutional and legal provisions.

According to Amendment XXX of the Constitution, the Public Prosecutor's Office performs its functions on the basis of the Constitution, laws, and international agreements ratified in accordance with the Constitution. The function of the Public Prosecutor's Office is performed by the Public Prosecutor of the Republic and other public prosecutors.

“Constitution

AMENDMENT XXX

1. The Public Prosecutor 's Office performs his/her duties on the basis of the Constitution and law and the international agreements ratified in accordance with the Constitution. The function

of the Public Prosecutor's Office is performed by the Public Prosecutor of the Republic of Macedonia and by the public prosecutors. The competences, establishment, termination, organization and functioning of the Public Prosecutor's Office is stipulated by law adopted by a two-thirds majority vote of the total number of MP's. The Public Prosecutor of the Republic of Macedonia is appointed and dismissed by the Assembly of the Republic of Macedonia for a term of six years with the right to re-election. The public prosecutors are elected by the Council of Public Prosecutors and their term of office shall have no restrictions. In the election of public prosecutors, equitable representation of citizens belonging to all communities shall be observed. The Council decides on dismissal of public prosecutors. The competences, composition and structure of the Council, the term of office of its members, as well as the basis and the procedure for termination of the mandate and for the dismissal of a member of the Council is stipulated by law. The basis and the procedure for termination of the mandate and dismissal of the Public Prosecutor of the Republic of Macedonia and OF the public prosecutors are determined by law. The function of the Public Prosecutor of the Republic of Macedonia and of a public prosecutor is incompatible with membership in a political party or with performance of any other public functions and professions stipulated by law. Political organization and activity in the public prosecution is prohibited.

2. This amendment replaces paragraphs 2 and 3 of Article 106 of the Constitution of the Republic of Macedonia and deletes Article 107 of the Constitution of the Republic of Macedonia.”

The competence, establishment, abrogation, organisation and functioning of the Public Prosecutor’s Office are regulated by the Law on the Public Prosecutor’s Office adopted by a two-thirds majority of the total number of MPs.

The Public Prosecutor of the Republic is appointed by the Assembly of the Republic for a period of six years with a right of reappointment. Public prosecutors are elected by the Council of Public Prosecutors without limitation of their mandate.

According to the Amendment, the decision for the dismissal of the public prosecutors rests with the Council of Public Prosecutors of the Republic. The competence, composition and structure of the Council, the mandate of its members, and the basis and procedure for termination and dismissal of a member of the Council are regulated by the Law on the Council of Public Prosecutors.

Grounds and procedure for termination and dismissal of the Public Prosecutor of the Republic and other public prosecutors are regulated by law.

In order to guarantee the independence of the Public Prosecutor’s Office, it is prescribed that the position of Public Prosecutor of the Republic and public prosecutor is incompatible with membership in a political party or other public functions and professions stipulated by law. It also prohibits political organisation activity in the Public Prosecutor's Office.

Article 5 of the Law on Public Prosecutor's Office prescribes the obligation on the part of public prosecutors:

“Article 5

(1) The public prosecutor shall exercise the office in a lawful, impartial and objective manner, showing respect and protecting human rights and freedoms of the citizens and the rights of other legal entities and within its competencies, shall take due care of the efficiency of the criminal justice system on behalf of the society.

(2) In the course of performing his or hers functions, the public prosecutor shall ensure equality of all citizens before the law, regardless of gender, race, skin colour, national or social origin, political or religious beliefs and property and social standing.

(3) While performing his or her duties, nobody shall influence the independence and impartiality of the public prosecutor.”

Paragraph 2 of Article 6 of the Law on Public Prosecutor's Office emphasizes the independence and accountability of the public prosecutors in the performance of their functions:

“Article 6

(1) The Public Prosecution Office shall be organized in accordance with the principles of hierarchy and subordination, pursuant to the law.

(2) The respect of the principles referred to in paragraph (1) of this Article shall not endanger the independence and accountability of the public prosecutors in the performance of their functions.”

Organisation

In accordance with the Law on Public Prosecutor's Office, the public prosecutors' offices are organised as Public Prosecution Office of the Republic, Higher Public Prosecution Office, Basic Public Prosecution Office for Prosecution of Organized Crime and Corruption and Basic Public Prosecution Office.

In 2008, the Basic Public Prosecutor's Office for Prosecution of Organised Crime and Corruption was established for the entire territory of the Republic. It acts before the Basic Court Skopje 1.

The basic competence of the Basic Public Prosecutor's Office for Prosecution of Organised Crime and Corruption is to act on the entire territory of the Republic and in accordance with Article 31 of the Law on Public Prosecutor's Office which sets out all criminal acts falling under its purview. This Basic Public Prosecutor's Office is accountable to the Public Prosecutor of the Republic and the Council of Public Prosecutors, which increases its autonomy in the hierarchical structure. This Basic Public Prosecutor's Office is understaffed as there is a current shortfall of three public prosecutors.

As of 31 December 2016, the number of public prosecutors working at different levels is as follows:

Total number of prosecutors: 110 (51 males and 59 females)

Number of prosecutors at first instance level: 76 (32 males and 44 female)

Number of prosecutors at second instance (court of appeal) level: 24 (12 males and 12 females)

Number of prosecutors at supreme court level: 10 (7 males and 3 females)

In order to be eligible for the position of public prosecutor in the Basic Public Prosecutor's Office for Prosecution of Organised Crime and Corruption, the candidate is required to possess at least six years of work experience as a public prosecutor in the public prosecutor's organization. After getting onboard, the public prosecutor is required to attend various on-the-job topical trainings as both lecturers and participants. Public prosecutors are therefore sufficiently trained to handle cases in relation to organised crime.

Public prosecutors also participate in the preparation of manuals and standard operational procedures that seeks to simplify the system of communication with other state authorities. Under the Basic Public Prosecutor's Office, public prosecutor is directly involved in all stages of the procedures, in particular the pre-criminal one, of the prosecution of organised crime and corruption.

In September 2015, [Specialized Public Prosecutor's Office](#) was established in accordance with the Law on Public Prosecutor's Office for prosecuting criminal acts related to or deriving from contents obtained with the unlawful interception of communication conducted during the period 2008 - 2015.

At the same time, according to the Criminal Procedure Code, as well as the international

conventions ratified by North Macedonia, there are sufficient mechanisms for public prosecutors' exchange of information and cooperation with other bodies and organs. International cooperation is important because organised crime groups often carry out transborder criminal acts, and hence the need for exchange of evidence and information.

The Council of Public Prosecutors of the Republic is the key body that provides and guarantees the independence of prosecutors in the execution of their duties. It was established in August 2008. The Council is composed of 11 members, of which the ex officio member of the Council is the Public Prosecutor of the Republic; one member is elected by the prosecutors in the Public Prosecutor's Office of the Republic among its members; one member is elected by the prosecutors from higher Public Prosecutors' Offices (Bitola, Gostivar, Skopje and Stip) among their ranks; one member coming from a non-majority community in the Republic is elected by all public prosecutors among their ranks; and four members are elected by the Assembly of the Republic among university professors of law, lawyers and other eminent jurists with two of them being members of the non-majority communities in the Republic.

The Council is competent to give an opinion to the Government upon receipt of the proposal for the appointment and dismissal of the Public Prosecutor of the Republic. The Council also (i) elects and dismisses the public prosecutors, (ii) determines the termination of the function of a public prosecutor, (iii) determines in second instance in a procedure for the disciplinary responsibility of the public prosecutors, (iv) determine the unprofessional and unethical performance of the public prosecutor, (v) follows up the work of public prosecutors based on the assessment of their performance in accordance with the Law on the Public Prosecutor's Office, (vi) decides on the temporary suspension of the public prosecutor, (vii) acts upon complaints and appeals of citizens and legal persons for the work of public prosecutors, (viii) determines, by the end of February, the number of prosecutors in the Public Prosecutors' Offices, (ix) determines the number of the free posts in the Public Prosecutors' Offices for the next two years and submits the decision to the Academy for Judges and Public Prosecutors, (x) reviews and assesses the annual reports of Public Prosecutors' Offices, (xi) adopt Rules of Procedure, (xii) adopts a decision of putting on hold the function of the public prosecutor, (xiii) issues and revokes the official papers of the public prosecutors, (xiv) keeps personal list for the public prosecutors, (xv) submits a report on its work, (xvi) gives opinions on laws regulating the scope of the work of the Council, (xvii) gives opinions on the programmes of the Academy for Judges and Public Prosecutors, (xviii) publishes an announcement and conducts a procedure for selection of a public prosecutor for temporary referral in other Public Prosecutor's Office, and (xix) performs other duties prescribed by law.

Any political organisation and activities in the Council of Public Prosecutors shall be forbidden. The members of the Council in performing the functions of the Council must not undertake any political activity. The function of an elected member of the Council of Public Prosecutors is incompatible with membership in a political party or another public function and profession.

The Minister of Justice is not a member of the Council of the Public Prosecutors and does not participate in the work of the Council.

In accordance with the Law on Prevention of Corruption and the Law on Prevention of Conflict of Interest, public prosecutors are obliged to submit asset declarations and statements of interest. The provisions applicable for elected and appointed persons are applicable for public prosecutors as well. More information about related legal provisions is presented in the responses under Article 5 paragraph 2 and Article 8 paragraph 5 of the Convention.

The Criminal Procedure Code prescribes the rules of exemption of public prosecutors and other participants in the procedure as follows:

“Exclusion of public prosecutors and other participants in the procedure

Article 38

(1) The exclusion provisions for judges and lay judges shall also be equally applicable for the public prosecutors, with the exception of the grounds as referred to in Article 33, paragraph 1, items 4 and 5 of this Law.

(2) The exclusion provisions for judges and lay judges shall be equally applicable for the record keepers, interpreters or translators and other professional staff, as well as for the expert witnesses, unless there are other provisions referring to them (Art. 238 of this Law).

(3) The public prosecutor in charge of the public prosecution office shall rule on the motions for exclusion of the public prosecutors from that public prosecution office. The public prosecutor in charge of the immediate higher public prosecution office shall rule on the motions for exclusion of public prosecutors in charge of the lower public prosecution offices.

(4) The entity that conducts the procedure shall rule on any motions for exclusion of record keepers, interpreters or translators and expert witnesses.”

Accordingly, a public prosecutors must not exercise his or her obligations:

- 1) if he or she has suffered any damage as a result of the crime;
- 2) if the accused, his counsel, the prosecutor, the injured party, his legal counsel or attorney is his or hers marital i.e. illegitimate spouse or a blood relative according to the law regardless of the degree of kinship, a distant relative to the fourth degree and an in-law to the second degree;
- 3) if, with the accused, his counsel, the plaintiff or with the injured party he or she has a relationship of a guardian, a person under guardianship, one who adopts, an adopted child, foster parent or a foster child;

Apart from the situations referred above, public prosecutor may also be excluded from performing his or her obligations if there are any circumstances that would cast doubts on his or her impartiality.

The selection of public prosecutors is made in accordance with the Law on the Council of Public Prosecutors and the Law on Public Prosecution, and is not subject to any political influence. The Council of Public Prosecutors shall, upon the consent of the public prosecutor, decide a transfer of a public prosecutor to take charge of another public prosecution for a period up to six months due to increased workload and lack of staff in the public prosecution.

In order to recruit high calibre candidates for the positions of judge and public prosecutor, the Law on Academy for Judges and Public Prosecutors prescribes the following admission criteria:

- (i) a graduated lawyer with undergraduate or postgraduate law degree with a grade point average of at least 8.00;
- (ii) passing the bar exam and possessing at least two years of work experience in legal matters following the pass of the bar exam; and
- (iii) possessing an internationally recognised certificate of proficiency in a foreign language and practical computer skills.

The promotion of public prosecutors is transparent in that it is based upon the past job evaluations and the assessment of the Council of Public Prosecutors. It is the responsibility of the Council of Public Prosecutors for making all career related decisions.

More information on the AJPP and its previously conducted training is provided in the response of the implementation of Article 11 paragraph 1 (Training).

The first Code of Ethics for public prosecutors was adopted by the Association of Public Prosecutors on 15 November 2004. According to the GRECO recommendations, the Public Prosecutor of the

Republic made the decision whereby a new Code of Ethics for Public Prosecutors entered into force on 12 January 2014.

According to item 4 of paragraph 3 of Article 21 of the Law on Public Prosecutor's Office, the supervision of work and handling of individual cases shall be carried out in order to detect and establish any serious violation of the norms of the Public Prosecutor's Code of Ethics. The manner of the supervision is prescribed in a Rulebook adopted by the Council of Public Prosecutors. According to Article 68 of the Law, the Public Prosecutor shall be dismissed from office:

- For a serious disciplinary offence which makes him/her unworthy of being Public Prosecutor and
- Because of unprofessional and negligent performance of his/her function as a public prosecutor, and under conditions specified by law.

The Law on Public Prosecutor's Office defines a serious disciplinary offence, disciplinary offence, and malfeasant performance of the public prosecutor. In the event that a disciplinary violation of the public prosecutor is established, the most severe measure is a dismissal from the function as public prosecutor.

According to Article 72 of the Law on Public Prosecutor's Office, the procedure for determining the disciplinary violation and the malfeasance in the performance of the function of the public prosecutor is conducted by the Committee, which is composed of five members and appointed by the Public Prosecutor of the Republic. On appeal, the Council of Public Prosecutors of the Republic rules on the decision of the Commission. Against the decision of the Council of Public Prosecutors, the public prosecutor has the right to initiate administrative proceedings before the competent court.

“Article 72

- (1) The proceedings for establishment of the disciplinary infringement and non-professional and unconscious exertion of the public prosecutorial office shall be led by a Committee, composed of five members, established by the Public Prosecutor of the Republic of Macedonia.
- (2) Upon appeal, the Council of Public Prosecutors of the Republic of Macedonia shall rule in second instance on the decision by the Committee, as referred to in paragraph (1) of this Article.
- (3) The public prosecutor shall have to right to initiate an administrative dispute before the competent court against the decision made by the Council of Public Prosecutors of the Republic of Macedonia.
- (4) The Council of Public Prosecutors of the Republic of Macedonia shall enact a Rulebook on the procedure for establishment of liability of public prosecutors.”

According to the Law on Council of Public Prosecutors, if the public prosecutor is removed from office, when a criminal proceedings disciplinary action or proceeding for unprofessional performance of the public prosecutor has been initiated against him/her, he/she has the right to appeal to the Council against the decision for removal from office within three days of receipt of the decision. Council may confirm, cancel or change the decision. Against the decision of the Council of Public Prosecutors, the public prosecutor has the right to initiate administrative proceedings before the competent court.

Pursuant to Article 24 of the Code of Ethics of the Public Prosecutors, the Ethical Council is established and has the authority to supervise the application of the Code of Ethics on the public prosecutors. Article 25 of the Code of Ethics stipulates that the procedure for determining violation of the principles of the Code is regulated by the Ethics Council with a Rulebook, and the working procedure of the Council is regulated by the Rules of Procedure.

Article 26 of the Code of Ethics stipulates that the Ethics Council gives opinions and recommendations on the complaints about the behaviour of public prosecutors that the applicants consider to be contrary to the Code, on its own initiative, as well as on the proposal of the superior public prosecutor. The public prosecutor to whom the complaint relates shall be given a right to reply within eight days. The Ethical Council shall notify the superior public prosecutor in the prosecution office where the suspected public prosecutor performs the function, as well as the higher level public prosecutor for the complaints he/she considers to be grounded. If it is a matter of grounded complaints against a Public Prosecutor of a Basic Public Prosecution Office, than public prosecutor of the Basic Public Prosecution Office for Prosecuting Organized Crime and Corruption and public prosecutor of the Higher Public Prosecution Office, shall notify the Public Prosecutor of Republic.

Article 27 of the Code of Ethics provides that the action of the Ethical Council does not prevent the implementation of the measures under the jurisdiction of the Public Prosecutor of Republic and the Council of Public Prosecutors in relation to the responsibility of the public prosecutors for violation of the duty, nor other prescribed forms of responsibility of the public prosecutors determined with internal supervision, when as a result of an individual behavior the assumptions for implementing those measures are met.

In 2016, there is no disciplinary proceeding initiated and sanction pronounced against public prosecutors.

Budget of the Public Prosecutor's Office

The Public Prosecutor's Office of the Republic is a direct first line budget user. The Budget of the Public Prosecutor's Office of the Republic is divided into various programmes and sub-programmes. The budget for prosecution offices per inhabitant is EUR 3.51. The annual budget of the Public Prosecutor's Office of the Republic is as follows:

- Year 2011 - 299.644.00,00 MKD or EUR 4.872.260,16,
- Year 2012 - 339.700,00 MKD or EUR 5.523.577,23,
- Year 2013 - 406.890.000,00 MKD or EUR 6.616.097,56,
- Year 2014 - 445.955.000,00 MKD or EUR 7.251.300,81,
- Year 2015 - 431.981.000,00 MKD or EUR 7.024.081,30,
- Year 2016 - 470.052.980,00 MKD or EUR 7.618.363,00,
- Year 2017 - 442.702.000,00 MKD or EUR 7.175.073,00.

Strategy for the reform of the Sector of Judiciary

The Strategy for the reform of the Sector of Judiciary and the Action plan for its implementation contain a set of measures and activities aiming to improve the functioning of the Public Prosecution Office and the Council of public Prosecutors. Please see the Annex for the Strategy for the reform of the Sector of Judiciary.

Misdemeanour proceedings against prosecutors

SCPC launched misdemeanour proceedings against three prosecutors in 2015 for failing to submit asset declarations.

(b) Observations on the implementation of the article

The PPO is an autonomous body (Art. 106, Constitution). The organization of the PPO, including selection and dismissal of prosecutors, is regulated by the Law on the Public Prosecutor's Office. The competence of the Council of Public Prosecutors responsible for ensuring the autonomy of public prosecutors in carrying out their functions is governed by the Law on Council of Public Prosecutors. The Council is competent to give an opinion to the Government upon the proposal for the appointment and dismissal of the Public Prosecutor of the Republic. In addition, it elects and dismisses public prosecutors and decides in second instance on disciplinary procedures.

In certain circumstances, public prosecutors must not exercise their obligation with a view to preserving their impartiality (Art. 38, Criminal Procedure Code).

A new Code of Ethics for Public Prosecutors entered into force in 2014, according to which an Ethical Council was established to monitor compliance with the Code (Art. 24 of the Code).

Article 12. Private sector

Paragraphs 1 and 2 of article 12

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.

2. Measures to achieve these ends may include, inter alia:

(a) Promoting cooperation between law enforcement agencies and relevant private entities;

(b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;

(c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;

(d) Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;

(e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;

(f) Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

In the Law on Prevention of Corruption, sections of "Limitation in cooperation with legal entities" and "misuse of public procurement" under Chapter III, "Invalidity of legal acts and damage compensation" under Chapter IV, and "Preventing corruption in companies" under Chapter VI prescribe the provisions relating to the prevention of corruption in the private sector with preventive and repressive character.

According to Article 22 (restriction on cooperation with legal entities):

“An elected or appointed person, as well as other official or responsible person in a public enterprise, public institution or other legal entity disposing of state capital cannot, during the performance of his/her office, that is service, establish business relationships with a legal entity founded by him/her or by a member of his/her family, or in which a member of his/her family is the responsible person, and if such business relationships have been established earlier, he/she shall be obliged to exclude himself/herself from any decision-making and to notify the State Commission thereof.”

According to Article 32 (abuse of public procurement):

“(1) An elected or appointed person, official or responsible person in a public enterprise, public institution or other legal entity disposing of state capital must not exert any influence on the body or legal entity deciding about offers received on the basis of publicly announced competition, announcement or bidding for public procurement or other public orders and works.

(2) The provision referred to in paragraph (1) of this Article shall be also applied when deciding on granting approvals, concessions, contingents or permits for performance of a business activity or other profitable activity on the basis of a public competition, announcement or bidding.”

According to Article 46 (annulment of legal documents and compensation of damages):

“(1) Legal acts resulting from corruption are invalid. Anyone who has a legal interest may request their voiding by submitting a final court decision as evidence with which the existence of corruption is established.

(2) Anyone who is aggrieved by an act of corruption has the right to seek compensation for the damage (actual damage and lost profit) according to the principles of joint and several liability from the offender, qualified as an act of corruption by a final court decision, and from the body or public enterprise and other legal entity disposing with state capital in which that person has been exercising its function or duty at the time of the crime.”

According to Article 59 (prevention of corruption in trade companies):

“(1) A responsible person in a company or other legal entity shall not use his position to receive a reward or any other benefit or promise thereof for themselves or for another purpose:

- creating monopolies at the market;
- discrimination against other companies or other legal persons;
- distortion of the market and
- causing damage to another person or other legal entity that is not a result of a fair market competition.

(2) A company or other legal entity may not establish relations of business cooperation with a company or other legal entity when there is a conflict of interest.

(3) Contracts and other legal acts that are a result of corruption of the responsible person and contracts that are a result of corruption or an unlawful benefit for the legal entity shall be null and void.

(4) The appearance of the consequence referred to in paragraph 1, 2 and 3 of this article is the basis for filing a lawsuit by the injured person for damage compensation (actual damage and lost profit).

(5) If there is a reasonable doubt in the veracity of the annual balance sheet submitted by the legal person or of other business books and financial documents the Public Revenue Office will conduct an audit of the material and financial operations at the request of the State Commission.

(6) If there is reasonable doubt in the veracity of the data on the material and financial operations of the company or other legal entity, the competent authorities shall conduct an audit of the material and financial operations of the entity at the request of the State Commission.

(7) If the supervision referred to in paragraph (6) of this Article reveals irregularities, the Public Revenue Office shall initiate a procedure for investigation of the assets against the responsible person in the company and other legal entity, or members of the management body of the legal entity. The procedure is conducted under the provisions of Article 36 and Article 36-a of this law.”

Fines for offences in relation to Articles 22, 32 and Article 59, paragraph 4 are provided for by the penalty and misdemeanour provisions under Chapter VII.

“Article 62

Fine in the amount of Euro 500 to 1.000 in Denar counter-value shall be imposed for a misdemeanor on the person that shall fail to comply with the prohibitions referred to in Articles 20, 21, 22 and 27 of this Law.

Article 63

Fine in the amount of Euro 500 to 1.000 in Denar counter-value shall be imposed for a misdemeanor on the person who shall fail to submit the obligatory report, that is declaration of assets, activity, employment or other data, stipulated in Articles 22, 23, 24, 26, 27, 28, 29, 32, 33 and 34 of this Law.

Article 67

(1) Fine in the amount of Euro 5.000 in Denar counter-value shall be imposed for a misdemeanor on the legal entity that does not report of foreign accounts or makes payments abroad contrary to Article 59 paragraph (4) of this Law, except if there are elements of a criminal offense.

(2) Fine in the amount of 30% of the determined fine for the legal entity shall be imposed for a misdemeanor referred to in paragraph (1) of this Article on the responsible person in the legal entity.”

The Law on Whistleblower Protection was adopted in November 2015, following which in March 2016, all bylaws deriving from the Law on Whistleblower Protection (Rules for protected internal reporting institutions in the public, Rules for protected external reporting and the Regulation on guidelines for the adoption of internal acts on protected internal reporting in the legal entity in the

private sector) were also adopted. The application of the Law on Whistleblower Protection and the related bylaws started on 18 March 2016.

Under the framework of IPA 2010 Twinning project "Support to efficient prevention and fight against corruption", a manual for protection of whistleblowers was prepared. Although the manual is intended for the work in public administration, it may also be useful for the general public and citizens who are in daily contacts with the administration. The manual is published on the website of SCPC.

Upon commencement of the implementation of the Law and its bylaws, institutions started to submit to SCPC notice about the designated authorized persons for the receipt of whistleblower reports. In accordance with Article 2(1) of the regulation on the protected internal reporting, a total of 29 public sector institutions submitted notice with contact details of the authorized person for receipt of whistleblower reports in the public sector. Although the Law does not prescribe an obligation for the private sector to submit the notice about authorized person to SCPC, a total of 20 entities followed suit. On 9 December 2011, SCPC signed a memorandum of cooperation for the prevention of corruption and conflict of interest with nine associations from the private sector. The memorandum provides a framework for mutual cooperation in exchanging information, conducting training and implementing specific projects. The State Programme for Prevention and Suppression of Corruption and Prevention and Reduction of Conflict of Interest and Action Plan for 2011-2015 specifically includes the private sector and devotes a separate chapter for it.

In the private sector, four risk factors for corruption and conflict of interest were identified, namely underdeveloped measures to prevent corruption and strengthen the integrity of the private sector, lack of knowledge about corruption and conflict of interest in the private sector, lack of information on the Law on Protection of Competition, and insufficient capacity of the Commission for Protection of Competition, law enforcement and insufficient transparency of sponsorships that breeds the opportunity of corruption. Towards the direction of increasing the protection of competition, in particular by increasing the possibility of obtaining information about the existence of prohibited agreements, a Guide on unlawful agreements in public procurement was published. SCPC covered in its latest report on the implementation of the State Programme 2011-2015 the implementation of activities dedicated to the private sector.

Consistent with the strategic orientation to introduce anti-corruption standards and measures in the private sector, which was the first time for it to be treated as a separate sector in the State Programme 2011-2015, a memorandum of cooperation was signed with the Business Confederation of Macedonia. As a result of this cooperation, the Business Code of Ethics was developed as a guide for the business community in the country. As the next step, together with the Business Confederation of Macedonia, a forum on "Business Ethics - preventing corruption through the establishment of ethical business practices" was organised with the financial support from the British Embassy. Several forums and workshops were also held to discuss the ethical management in enterprises, the implementation of the national agenda for corporate social responsibility in the country, rules and codes of business conduct, dialogue with employees and external parties, introduction of management standards, the specifics of governance and management, and the benefits of transparent and ethical management.

Under the project "Promote the principles of good governance in the implementation of anti-corruption policy", on 29 May 2013, SCPC and OSCE conducted a round table with representatives of associations and institutions involved in the preparation, monitoring and implementation of the activities of private sector pursuant to the Action Plan of the State Programme for Prevention and Suppression of Corruption and Prevention and Reduction of Conflict of Interest 2011-2015. Under activity 1.5 of the IPA 2010 Twinning Project "Support to efficient prevention and fight against corruption", a conference and seminars were held on the topic of compliant management and

prevention of corruption in private sector.

The Criminal Code equally covers corruption offences in private sector. (See Annex: Incriminations). The procedure for determining conflict of interest shall be implemented by SCPC ex officio, at the request of the officer, based on the report of another person and at the request of the head of the concerned or based on an anonymous report. The purpose of this procedure for the implementation of the Law on Prevention of Conflict of Interest is to ensure the prevention of misuse of public powers and duties of the officer for the pursuit of personal or close relatives' goals, and to ensure the prevention of the possibility of subordinating the private interest of the official to the public interest. Relevant provisions are stipulated by the Law on Prevention of Conflict of Interest as follows:

“VII. LIMITATIONS AFTER LEAVING OFFICE

Article 17

(1) An official person, within a time period of three years after the termination of public authorizations or duties, or after the termination of the employment shall not get employment in a company where he/she performed supervision or had established a contractual relationship whilst performing the public authorizations or duties.

(2) An official person, within a time period of three years after the termination of public authorizations or duties, or after the termination of the employment shall not acquire in any way shares or parts in the legal entity where he/she worked or performed supervision.

(3) If an official person, within the time period stipulated in paragraph (2) of this article, does acquire shares or parts by way of inheritance, then he/she shall be obligated to report this to the State Commission.

(4) An official person, within a time period of three years after the termination of public authorizations or duties, or after the termination of the employment shall not be able to represent natural persons or legal entities from the authority where he had previously worked, if he/she participates in the making of a decision on a specific case.

VIII. MEMBERSHIP IN MANAGEMENT AND SUPERVISORY AUTHORITIES

Article 18

(1) An official person may not be a member in a management or a supervisory board of a company,

public enterprise, agency, fund as well as all other organizational forms with dominant state capital, unless otherwise specified by law.

(2) Notwithstanding paragraph (1) of this article, a civil servant or a person with special duties and authorizations specified by law can be a member of the management board or the supervisory authority of a company.”

Law enforcement authorities cooperate with private sector entities to prevent and fight against corruption. Financial Police, Financial Intelligence Office and Customs Administration are bound by provisions of their respective material laws to cooperate with private sector financial institutions or providers of financial services, commerce chambers and business associations.

Public procurement is subject to internal and state audit. The Law on Trade Companies also contains provisions on internal audit and appointment of auditors. Sanctions can be imposed in case of violation of the rules.

“Appointment certified auditor

Article 229

- (1) A Shareholder, that is, the co-partners whose contributions together comprise at least one tenth of the basic capital, have the right to appoint a certified auditor to perform a special audit on the last annual account and the financial reports.
- (2) If the company refuses to perform the audit referred to in paragraph (1) of this Article by the certified auditor, the court may, at the proposal of any shareholder of the company, appoint a certified auditor to perform a special audit.
- (3) The member, that is the members referred to in paragraphs (1) and (2) of this Article, at the time when the audit is conducted transfer their shares without the company’s consent.
- (4) The compensation for the work conducted by the authorized auditor appointed by the court shall be determined by the court. The court can be contingent upon the proposal for appointing authorized auditor by providing assurance from the members, that is members requesting the audit to cover the auditing expenses.
- (5) If the audit confirms the regularity of the annual account, that it is determines that the trade books have been properly maintained, the expenses shall be encumbered upon the member, that is the members that have requested the audit.
- (6) If with the audit it is not confirmed that the annual account objectively presents the condition and the successfulness of the company, the expense shall be encumbered by the company.

SECTION 6-a Internal Audit Service

Article 415-a

- (1) The supervisory body of the joint stock company, is obliged to organize internal audit service as an independent organizational unit in the company.
- (...)

Tenth PART Misdemeanour Sanctions

Article 598

- (1) Fine in the amount of 1.000 euros in MKD counter-value shall be imposed for a misdemeanour to a sole proprietor if:
 - 1) registers more than one company (Article 14 paragraph (4));
 - 2) the transfer of the firm to a third party is conducted contrary to the provisions of this Law (Article 16 paragraph (2)) and it does not register it in the Trade Registry (Article 16 paragraph (4));
 - 3) does not report the termination of the work to the public revenue authority (Article 17 paragraph (1)) and does not submit an application for deleting the entry in the trade register (Article 18 paragraph (2));
 - 4) start performing an activity before being registered in the trade register (Article 14 paragraph (1));
 - 5) start performing the activity before receiving approval from the competent authority for the fulfilment of the prescribed conditions for performing the activity (Article 63 paragraph (1));

- 6) undertake legal affairs and activities outside the scope of work, registered in the trade register (Article 64 paragraph (1));
- 7) fails to keep or keep the trading books in proper manner (Articles 471 paragraph (1) and 472 paragraph (3));
- 8) does not keep the trade and other documents in an appropriate and proper manner (Article 474) and
- 9) does not compile, publish or submit annual accounts (Articles 476 paragraph (1) and 477 paragraphs (1), (4) and (5)).

Article 598-a

Misdemeanour sanction Prohibition of performing activity for one to three years, counting from the day the decision becomes final, the sole proprietor will be pronounced for the misdemeanour referred to in Article 598 paragraph (1) items 5, 6, 7, 8 and 9 of this Law.

Article 599

(1) A fine in the amount of 3,000 euros in MKD counter-value shall be imposed for a misdemeanour to a trade company if: 1) commence business activity prior to enrolling in the trade register and before receiving an approval from a competent body for fulfilling the prescribed conditions for performing that activity, if it is determined by law (Article 63); 2) does not make the information available in accordance with Article 10 of this Law; 3) does not use the firm in its operations as it is registered in the trade register (Article 52, paragraph (1)) or uses the abbreviated name of the firm, and it is not registered in the trade register (Article 52 paragraph (3)); 4) without the explicit consent of the exit partner or his successors, use the old firm (Article 53); 5) fails to report the change of the head office in the trade register (Article 61 paragraph (3)) and 6) does not compile, not publish and submit annual accounts, that is, consolidated annual accounts, financial statements and consolidated financial statements when they have an obligation to do so with this Law (Articles 476 paragraph (1), 477 paragraph (1), (4), (5), (8) and (12), 482 paragraphs (1) and (2), 504 and 506 of paragraphs (4) and (5)); 7) does not pay dividend within the deadline determined in Article 487 paragraph (5) of this Law; 7-a) the decision for payment of dividend does not contain the data prescribed by Article 490 paragraph (1) of this Law; 8) fails to pay the monetary investment within the deadline determined by this Law (Article 186 paragraph (5)) and (9) does not select a manager, ie a management or supervisory body within the deadline determined by this Law (Article 233 paragraph (2)).

(2) A fine in the amount shall be imposed on the responsible person in the trade company for the actions from paragraph (1) of this Article.

(2) A fine in the amount of 30% of the determined fine for the trade company shall be imposed on the responsible person in the trade company for the actions from paragraph (1) of this Article.

Article 599-a

(1) Misdemeanour sanction Prohibition of performing activity for one to three years counting from the day the legality of the decision becomes effective, shall be imposed on the company for the misdemeanour referred to in Article 599 paragraph (1) items 1, 3, 5, 6 and 7 of this Law.

(2) A misdemeanour sanction prohibition of performing a duty for a period of one year, counting from the day the decision becomes effective, shall be imposed on the responsible

person in the company for the misdemeanour referred to in Article 599 paragraph (1) items 1, 3, 5, 6 and 7 of this Law.

Article 601

(1) A fine in the amount of 3,000 euros in MKD counter-value shall be imposed for a misdemeanour of the limited liability company if:

1) the costs and rewards for participation in the establishment of the company are not paid out of the profit in accordance with Article 180 paragraph (3) of this Law;

2) does not register any change in the data, any accession and expulsion of a partner from the company, for registration in the Trade Registry with an application (Article 182 paragraph (4));

3) the property of the company, which is required for the maintenance of the basic capital, is paid to the co-owner (Article 192 paragraph (2));

4) does not keep a book of shares, in accordance with Article 195 paragraph (1) of this Law, ie it does not keep the book of shares diligently and accurately (Article 195 paragraph (2));

5) on the basis of a decision of the court, within three days from the day of receipt of the decision, fails to execute the decision and does not enter the entry in the share book (Article 196 paragraph (4));

6) fails to submit the audit report from certified auditors to the shareholders' meeting (Article 230, paragraph (3));

7) the management body is composed contrary to Article 231 of this Law;

8) does not prepare annual account, financial report and annual report on the operation of the company from the previous business year or if they are prepared and not submitted at the meeting of the partners or the assembly within the deadlines stipulated by this Law (Article 240, paragraph 2));

9) the supervisory board or the controller is composed contrary to Article 246 of this Law;

10) mentions in its business announcements and regulations the increase in the basic capital before the announcement of the decision in the trade register (Article 257, paragraph (4));

11) make payment of the partners on the basis of reduction of the basic capital before the entry of the amendments to the contract for the company in the trade register (Article 264 paragraph (1));

12) fails to register for the registration in the trade register termination of the company (Article 269 paragraph (1)) and

13) fails to file an application for entry in the trade register of the transformation of the company from one form to another (Article 514, paragraph (1));

14) was left without a manager, and the partners of the company did not hold a meeting of partners and have not elected a manager of the company within the deadline determined in Article 233 paragraph (2) of this law.(2) A fine in the amount of 30% of the determined fine for the limited liability trade company shall be imposed on the responsible person in the trade company for the activities for the activities referred to in paragraph (1) of this Article.

Article 601-a

(1) Misdemeanour sanction Prohibition of performing activity for one to three years counting from the day the decision becomes effective, shall be imposed on a limited liability company for a misdemeanour referred to in Article 601 paragraph (1) items 2, 6, 8 and 12 of this Law.

(2) Misdemeanour sanction Prohibition of performing activity for one year counting from the day the decision becomes effective, shall be imposed on the responsible person in the company for misdemeanour referred to in Article 601 paragraph (1) items 2, 6, 8 and 12 of this Law.

Article 602

(1) A fine in the amount of 3,000 euros in MKD counter-value shall be imposed for a misdemeanour of a joint stock company if:

1) before the registration of the incorporation of the company in the trade register issued shares (Article 302 paragraph (1));

2) fails to keep the acts and documents in the company's headquarters, provided for in Article 319 of this Law;

3) deprives the shareholders of the right to information (Article 320);

4) promise or pay interest to the shareholders (Article 328 paragraph (2));

5) the notification on the redemption of the shares is not published in the "Official Gazette of the Republic of Macedonia" (Article 339 paragraph (5));

6) it does not declare the decision of the assembly for election of a board of directors or a supervisory board for registration in the trade register (Article 344 paragraph (5));

6-a) the members of the board of directors, ie the supervisory board did not act in accordance with Article 347 paragraph (2) and paragraph (3) of this Law.

7) it fails to perform the obligation in the event of loss, reimbursement or incapacity for payment in accordance with Article 354, paragraph 4 of this Law;

8) does not submit an application for entry in the trade register of recalled or elected members of the board of directors or supervisory board (Article 363 paragraph (5));

9) the management board did not submit an application for entry in the trade register of members of the management board authorized to represent the company (Article 377 paragraph (3));

9-a) the shareholder does not receive notification in accordance with Article 406 paragraph (1) of this Law;

9-b) the invitation, ie the public call does not contain the data from article 388 paragraph (1) of this Law and

9-c) the materials are not available to the shareholders in accordance with Article 388 paragraph (3) of this Law.

10) the managing body does not submit to the court the final decision for registration in the trade register (Article 415 paragraph (1));

11) fails to report the increase in the basic capital due to the entry in the trade register (Articles 433 paragraph (1), 435 paragraph (2), 438 paragraphs (1) and (2) and 441 paragraph (1));

12) fails to report the decision for reduction of the basic capital and the reduction of the basic capital for entry in the trade register (Article 444 paragraph (1) and 451 paragraph (1));

13) fails to file an application for the entry in the trade register of the decision for termination of the company (Article 453, paragraph (1)); and 14) failed to file an application for entry in the trade register of the transformation of the company from one form to another (Article 514 paragraph (1)).

(2) A fine in the amount of 30% of the determined fine for the joint stock company shall be imposed on the responsible person in the trade company for the activities referred to in paragraph (1) of this Article.

Article 602-a

(1) A misdemeanour sanction prohibition for performing an activity for a period of one to three years counting from the day the decision becomes final, shall be imposed on a limited liability company for a misdemeanour referred to in Article 602 paragraph 1 items 1, 2, 3, 4, 7, 13 and 14 of this Law.

(2) A misdemeanour sanction ban on performing an activity for a period of six months to one year counting from the day the decision becomes effective shall be pronounced to the responsible person of the company for misdemeanour referred to in Article 602 paragraph (1) items 1, 2, 3, 4, 7, 13 and 14 of this Law.

Article 605-c

(1) A fine in the amount of Euro 5,000 in MKD counter value shall be imposed on the joint stock company that has realized a transaction with an interested party before receiving an opinion from a certified auditor for the same, contrary to the provisions of Article 460-a paragraph (3) of this Law.

(2) The Securities and Exchange Commission may file a request for initiation of a misdemeanour procedure for the misdemeanour referred to in this Article.”

Relevant provisions of the Criminal Code:

“Chapter six-a SENTENCING A LEGAL ENTITY

Main sentence

Article 96-a

(1) A fine shall be imposed as main sentence for crimes of legal entities.

(2) The fine shall be imposed in an amount that cannot be less than 100.000 MKD nor more than 30 million MKD.

(3) For crimes committed out of covetousness, as well as from crimes wherefore benefit is acquired or damage to greater extent is caused, a fine double the amount of the maximum of this fine can be imposed or in proportion with the amount of the caused damage, i.e. acquired benefit, but at most up to ten times their amount.

Secondary sentences

Article 96-b

Under the conditions determined by this Code, the court, as soon as it assesses that the legal entity has abused its activity and that there is risk for it to repeat the crime in the future, it can impose one or more of the following secondary sentences:

1) prohibition to obtain a permit, license, concession, authorization or other right determined by separate law;

- 2) prohibition to participate in procedure for open calls, awarding public procurement agreements and agreements for public and private partnership;
- 3) prohibition to founding new legal entities;
- 4) prohibition to use subventions and other favourable loans;
- 5) prohibition to use the funds from the Budget of the Republic of Macedonia for financing political parties;
- 6) revoking of a permit, license, concession, authorization or other right determined by separate law;
- 7) temporary prohibition to perform certain activity;
- 8) permanent prohibition to perform certain activity and
- 9) termination of the legal entity.

Conditions for imposing secondary sentences

Article 96-c

- (1) If it assesses that imposing of one or more secondary sentences corresponds to the gravity of the committed crime and by that the legal entity will be prevented to commit such crimes in the future, the court can impose the sentences referred to in Article 96-b items 1 through 5 of this Code, in addition to the fine.
- (2) The court shall determine the duration of the sentences referred to in paragraph (1) of this Article which cannot be shorter than one, or longer than five years.
- (3) If the circumstances of the crime results in abuse of the given permit, license, concession, authorization or other right for its commission, the court shall impose revoking of the permit, license, concession, authorization or other right determined with separate law in addition to the fine.
- (4) If during the performance of the activity of the legal entity, a crime has been committed wherefore a fine or imprisonment sentence up to three years has been prescribed for the natural person, and from the manner of committing the act comes a risk of repeated commission of such or similar act, the court shall impose temporary prohibition for performing certain activity in duration of one to three years, in addition to the fine.
- (5) If a crime wherefore an imprisonment sentence of at least three years is prescribed for the natural person , and from the manner of committing the act comes a risk of repeated commission of such or similar crime, the court shall impose permanent prohibition for performing certain activity from among the activities performed by the legal entity, in addition to the fine.
- (6) The court shall impose the sentence referred to in paragraph (5) of this Article also when a crime is committed after previous legally valid verdict wherefore the legal entity has been imposed temporary prohibition for performing activity.
- (7) If a crime has been committed wherefore an imprisonment sentence of minimum five years is imposed against the natural person, and from the manner of committing the act comes a risk of repeated commission of such or similar crime, the court shall impose a sentence termination of the legal entity, in addition to the fine.
- (8) The court shall impose a sentence referred to in paragraph (7) of this Article also when a crime is committed after previous legally valid verdict wherefore the legal entity has been imposed permanent prohibition for performing certain activity.

(9) The sentence temporary or permanent prohibition to perform certain activity and termination of the legal entity cannot be imposed to a legal entity founded by law, as well as to a political party.

(10) Based on a legally valid verdict wherefore a sentence termination of the legal entity has been imposed, the court shall by a law initiate a procedure for dissolution of the legal entity in a period of 30 days as of the day of the legal validity of the verdict.

Abuse of a public call procedure, procedure for awarding public procurement agreement or public and private partnership

Article 275-c

(1) Whosoever knowingly violates the regulations on public call procedure, procedure for awarding public procurement agreement or public and private partnership, by submitting untrue documents, by dealing with other possible participants for the purpose of manipulating the procedure for awarding public procurement agreements, by not fulfilling the obligations from the agreement with the intent to manipulate it or in any other manner to intentionally violate the rights of such procedure, and thus obtains greater property benefit for himself or for another, or causes significant damage, shall be fined or sentenced to imprisonment of up to three years, unless the characteristics of other more grave crime are met.

(2) If the offender, by committing the crime referred to in paragraph (1) of this Article, has obtained for himself or for another significant property benefit or has caused significant damage, he shall be sentenced to imprisonment of at least four years.

(3) If the offender, by committing the crime referred to in paragraph (1) of this Article, has obtained for himself or for another property benefit, of greater extent or has caused damage of greater extent, he shall be sentenced with at least five years of imprisonment.

(4) If the crime referred to in this Article is committed by a legal entity, it shall be fined.

(5) The attempt of the crime from paragraph (1) of this Article is punishable.

(6) The court shall impose the offender, referred to in paragraphs (1), (2) and (3) of this Article, prohibition to perform profession, activity or duty, under the conditions from Article 38-b of this Code.

(7) Apart from the fine, the court shall impose the legal entity prohibition to participate in procedures for awarding public procurement agreements.

Abuse of authorization in the economy

Article 287

(1) A responsible person who with the intent to acquire unlawful property benefit for the legal entity where he works or for some other legal entity: creates or keeps non-allowed funds in the country or abroad or composes a document with false contents, with a false financial statement, evaluation or inventory, or with some other false presentation or by covering up facts shows untruthfully the situation and the flow of funds and the results from work, therefore misleading the management bodies in the legal entity when making decisions, shall be sentenced to imprisonment of one to five years.

(2) The sentence stipulated in paragraph 1 shall be imposed to the responsible person in the legal entity which has a contract for housing of the reserves, which uses the goods without authorization, or transfers them or changes their purpose or the warehouse, or in other way disposes the goods, contrary to the provisions of the contract.

(3) If a significant property benefit was acquired through the crime referred to in paragraph 1, the offender shall be sentenced to imprisonment of one to ten years.”

Several web-applications are available to simplify the administrative procedures and improve their transparency (See examples provided in respect of the implementation of Article 10 subparagraph (b) of the Convention).

In order to promote transparency among private entities, relevant provisions about the use and access to (transparency) data from the registers of corporate entities are stipulated in the Law on Trade Companies, the Law on one-stop shop system and for the management of the trade register and register of other legal entities, the Law on Prevention of Money Laundering and Financing of Terrorism, and the Law on Central Registry.

The following are the relevant provisions from the Law on Trade Companies:

“Principle of publicity

Article 85

- (1) The data entered in the trade register shall be public.
- (2) Any person may, at his own expense, request that a photocopy or a certified copy of the data recorded in the registry file be issued to him.
- (3) Anyone can submit a request to inspect the collection of attachments or to provide a photocopy of the articles in the collection at his own expense, except in the collection of contributions of the public company and the joint-stock company. An insight into the collection of contributions of these companies may be carried out by any co-owner and a person having a legal interest.
- (4) For the data in the registration file for the subject of registration, at the request of the interested party, a certificate shall be issued that it has been registered and that it has been deleted.
- (5) Upon request of any person, a certificate shall be issued that he has no entry in the trade register.
- (6) All or some of the data entered in the trade register, at the option of the applicant, may be issued only in electronic form through the one-stop-shop system in accordance with the System for e-Registration, the Law on the Central Registry of the Republic of Macedonia and the regulations for the one-stop-shop system.”

The following are the relevant provisions from the Law on One-Stop Shop system and for the management of the trade register and register of other legal entities:

“Article 25

- (1) The data from the performed entries in the registries in accordance with the law may be used by all natural and legal persons in the manner defined by the Law on the Central Registry, or by other law.
- (2) The Central Registry provides continuous access to the data recorded in the registries through its website.

Availability and use of data entered in the register in electronic form

Article 31

- (1) The data entered in the register in electronic form shall be public and available in the conditions determined by this or other law.
- (2) The data recorded in the register in electronic form at the expense of the applicant shall be issued in the form of information, confirmation, printout of scanned records and the like.
- (3) Against the issued information in the form of information, confirmation, imprint of scanned records, the client may file a complaint. The complaint shall be submitted to the Central Registry within eight days from the receipt of the information, the certificate or the fingerprint of the scanned record.
- (4) The organizational part of the Central Registry decides upon the objection.
- (5) The decision on the objection shall be adopted by the Central Registry, within 15 days from the date of receipt of the complaint.
- (6) An administrative dispute may be initiated before a competent court against the decision referred to in paragraph (5) of this Article.”

The following are the relevant provisions from the Law on Prevention of Money Laundering and Financing of Terrorism:

“Register of beneficial owners

Article 26

- (1) In order to ensure the transparency of the ownership structure of the legal entities, entities shall establish a register of real owners (hereinafter: registry).
- (2) The Central Registry of the Republic of Macedonia (hereinafter: administrator of the registry) establishes, keeps, maintains and manages the registry.
- (3) The legal entities referred to in Article 25 paragraph (1) of this Law, with the exception of sole proprietors and independent business executives, enter their data on beneficial owners in the register within eight days of the registration of the establishment of the business entity in the appropriate register or within eight days of the change of data for the beneficial owner. The registrar or administrator of the register in the enrollment procedure is obliged to inform the legal entity about the obligation for the compulsory registration of the beneficial owner data.
- (4) The provisions of paragraphs (1) and (2) of this Article shall not apply to legal entities which are companies whose shares are listed on an organized securities market and which are obliged to comply with the requirement for publishing the data on beneficial owners ensuring adequate transparency of information about ownership according to the relevant international standards.

Access to data on beneficial owners

Article 29

- (1) Data entered in the register directly and on the basis of electronic access are available to the Financial Intelligence Office, competent state prosecution authorities, courts, the bodies that supervise the procedure referred to in Article 146 of this Law and the entities referred to in Article 5 of this Law.
- (2) The data from the register on the personal name, month and year from the date of birth, citizenship, country of residence, ownership stake or other form and type of title or control are

publicly available and used with a fee paid in accordance with the tariff of the administrator of the registry.”

The following are the relevant provisions from the Law on Central Registry:

“Using the data

Article 14

The data from the Central Registry can be used by the state administration bodies, all natural and legal persons, domestic and foreign, unless for some of them otherwise determined by law or by contract.

Article 16

Interested users can receive information and a certified transcript from the data entered in the registers.

The information referred to in paragraph 1 of this Article may be obtained in person and by electronic means, with the exception of the certified transcript which is obtained solely in person.

Fees of the Central Registry

Article 18-a

(1) For the performed services in the scope of its work, which is determined by this or other law, which refer to the record, entry, processing, unification, classification, selection, storage, storage and use of data in the Central Registry, as well as the distribution of the data to the interested users, the Central Registry charges an appropriate fee, which is determined by the Tariff of the Central Registry adopted by the Management board of the Central Registry upon given consent by the Government of the Republic of Macedonia.

(...)”

The Central Registry can issue information/certificate in respect of the following categories of data:

- Bankruptcy proceedings;
- Liquidation procedure;
- Registered activity;
- Statement of Balance Sheet and Income Statement;
- Prohibition to perform a profession, activity or duty - a legal entity;
- Temporary prohibition to perform a particular activity - sanction;
- Prohibition of participation in public call procedures, awarding public procurement contracts and public-private partnership agreements;
- Temporary prohibition to perform certain activity - punishment;
- Permanent ban on performing a particular activity;
- Information on the economic and financial situation of the entity. Document required on other grounds (credit, leasing, work permit, visa, business partner information, etc.) - textual form;
- Listing from the processed annual account (balance sheet and profit and loss account);
- Listing from the processed annual account and cash flows;
- Listing from the processed annual account and cash flows in English;
- Brief statement of annual accounts;

- Brief statement of annual accounts with an assessment of the operation of the entity;
- Analysis of cash flow and changes in equity;
- Assessment of liquidity with opinion;
- Information on revenue structure by activity;
- Other information from the Annual Accounts register;
- Information from the Security registry;
- Information from the Leasing Register;
- Registered activity;
- Insight into the registry;
- Photocopy of the decision from the registration file;
- Photocopy of attachments to the decision;
- Photocopy of attachments (documents and evidence);
- Verification of a photocopy of a solution with attachments and a collection of documents;
- Manager;
- Owner;
- Address;
- Tax number;
- Account history;
- Current situation;
- History with changes;
- Confirmation that the main penalty (criminal) has not been entered;
- Prohibition of obtaining a license, concession, authorization or other right determined by a special law;
- Prohibition of the establishment of new legal entities;
- Prohibition of using subsidies and other favorable loans;
- Revocation of a license, concession, authorization or other right determined by a special law;
- Termination of the legal entity;
- Information on a misdemeanor court decision;
- Information on a criminal court decision;
- Information / confirmations from the Register of direct investments;
- Information / certificates from the Real Estate Rights Register;
- Information / confirmations from the Register of Debtors;
- Information / certificates from the Sales Register withholding the right to ownership;
- Information / certificates from the Fiduciary Register;
- Integrated information from the pledge register, the lease register, the fiduciary register and the sales register with the retention of the right to ownership.

Free release of information can be requested under the condition that the data obtained will be used exclusively for research activity and will not be reproduced, modified, sold, resold and/or commercially exploited in any way, partially or completely, whether processed or unprocessed, and that all principles and necessary measures will be respected and applied, in accordance with the legal regulations for securing confidentiality and protection of personal data.

Initiatives for initiating a criminal prosecution proceedings, initiated in accordance with Article 49, paragraph 1, line 6 of the Law on Prevention of Corruption:

1. Pursuant to Article 49, paragraph 1, line 6 of the Law on Prevention of Corruption, the Electoral Code and the Law on financing political parties, SCPC to the Basic Public Prosecutor's Office for Prosecuting Organized Crime and Corruption and the Public Prosecutor of the Republic submitted

an Initiative for the initiation of a proceedings for criminal prosecution of two (2) responsible persons - managers with unlimited powers in the internal and external revenue of the legal entities - a private TV and a private production company, due to reasonable suspicion that on the occasion of the early parliamentary elections held on 5 June 2011 the persons committed the crime of abuse of funds for financing the election campaign of Article 165-a paragraph 2 and paragraph 3 of the Criminal Code, by providing incomplete and false data on given donations and by providing illicit funds for the election campaign.

2. Pursuant to Article 49, paragraph 1, line 6 of the Law on Prevention of Corruption, acting on cases formed in relation to the privatization of one (1) legal entity, SCPC before the Public Prosecutor's Office of the Republic and the Basic Public Prosecutor's Office for Prosecuting Organized Crime and Corruption submitted an initiative for initiating proceedings for prosecution of - responsible parties - members of the management bodies of a legal entity in the period 2005-2012, as well as against that persons conducted works of public interest, officials and others because there is reasonable doubt that by abusing his official authority and by using his official position and authority in the process of transformation and privatization, in lease and sale of the capital of the legal person for himself or for another person, he obtained significant material gain at the expense of state capital of the Republic in this trade company, by which he committed criminal acts Abuse of official position and authorization referred to in paragraphs 3, 4 and 5 of Article 353 and Reckless operation in the service referred to in paragraph 4 in conjunction with paragraph 1 of Article 353-c of the Criminal Code.

3. Pursuant to Article 49, paragraph 1, item 6 of the Law on Prevention of Corruption, acting on a case formed on the basis of the final report by the authorized state auditor for the audit of financial statements, together with a compliance audit of one (1) legal entity in state ownership in 2010, SCPC submitted before the Basic Public Prosecutor's Office for Organized Crime and Corruption and the Public Prosecutor's Office of the Republic an initiative for the initiation of a procedure for criminal prosecution of officials - Chairman of the Board - General Director, members of the Management Board and Supervisory Board members, President and members of the Committees for public procurement that acted in the conducting of public procurement procedures for the legal entity during 2010 and other responsible - officials, employees of the same, due to reasonable suspicion that during 2010 they have committed crimes of Abuse of official position and authorization referred to in Article 353, paragraph 3 and paragraph 5 in connection with paragraph 1 of the same article and Reckless operation in the service referred to in Article 353-c of the Criminal Code, whereby in the management and disposition of company funds through the financial transactions carried out during the period audited, in management and in the supervision and implementation of public procurement procedures for the legal entity by exploiting their official position and powers they have caused significant damage to the legal person and to the National Budget and created the opportunity to obtain for themselves or for another, a considerable profit.

In this case the initiative for initiating a criminal procedure is based on the conclusions and findings contained in the report of the State Audit Office that showed abuse and improper conduct, above all, privileging of economic operators, enabling proceeds of operators who do not meet the requirements or enabling operators proceeds without conducting public procurement procedures.

In fact, in 2010, contrary to the Public Procurement Law, a legal person - of the economic operator acting as a service provider, after the signing of three contracts that did not contain provisions for the provision of a bank guarantee by the economic operator in the amount of the approved advance, paid advances that exceed the legally prescribed limit of 20% of the contract value. It paid advances in the amount of 32,361,000.00 MKD more than the legally permitted ones, that is:

- under contract X from 10.03.2010, approved an advance in the amount of 13,000,000.00 MKD, which is 9,932,000.00 MKD more than the legally permitted 3,068,000.00 MKD;

- under contract XX from 23.09.2010, approved an advance of 12,000,000.00 MKD, which is 8,596,000.00 MKD more than the legally permitted 3,404,000.00 MKD
- under contract XXX from 12.03.2010, approved an advance of 19,000,000.00 MKD, which is 13,833,000.00 MKD more than the legally permitted 5,167,000.00 MKD, while at the same time, the company, as of 31.12.2010 had an unclosed advance remained in the amount of 16.258 million MKD and in total, with such actions, the amount of overpaid advances an interest-free financing was paid by the economic operator at the expense of the company.

In the implementation of the procurement procedures, i.e. the realization of the concluded public procurement contracts, with a total amount of the purchases of 81,000,000.00 MKD, it was acted against the legal person a contrary to the provisions of the Public Procurement Law in different ways and on different grounds, namely:

- a procurement procedure was not conducted for the procurement of services of insurance of passengers and insurance against accidents and
- a contract was concluded and payments were made on invoices in the total amount of 728,000.00 MKD, and
- at the end of 2010 a procurement procedure was conducted for insurance of passengers which refers to 2011;

In an open public procurement procedure for 2010, contrary to the Public Procurement Law, a contract was selected as the most favourable and concluded. The contract was realized in the amount of 944.000,00 MKD with a bidder whose document referring to the economic and financial capacity was expired. With this selection and implementation, instead of the offer from the bidder that was deemed unacceptable because it did not fulfil the requirements for the full capability of the bidder. Serious violation of the law were committed, from the evaluation of the offer remain; in an open public procurement procedure for 2010, contrary to the Public Procurement Law, was selected as the best and was concluded, and that agreement was implemented, the amount of 2.000.000,00 MKD, the bidder who had submitted one of the mandatory documents determining the technical capability - a list of main deliveries in the last three years. With this selection and implementation of the procurement actions were contrary to the provisions of the Public Procurement Law under which the contracting authority shall select the winning bid if the bidder whose offer best meets the prescribed criteria for determining the ability, and in this particular case, and because of the absence of a mandatory documents this was not possible to determine;

In several procurement procedures - the procedures were carried out in some parts of procurement without tender documents to be defined the necessary amounts of goods that they had been given a single measure, and in so undefined conditions in parts of the supplies were contracts worth 8,153,000.00 MKD with twelve (12) economic operators from the private sector, and in this particular case, because of the absence of one of the mandatory documents, this was not possible to determine;

In several procedures for the procurement of various types of goods and services in the amount of purchases 29,340,000.00 MKD in parts of the procurement proceedings were conducted amid vague definition of quality as a criterion for purchase, and have been implemented in certain parts of purchases - with more holders of purchases.

In case of a tendering procedure requesting the publication of a notice for the procurement of goods, a contract worth MKD 1,230,000.00 was signed for the bid selected as the most suitable, contrary to the provisions of the Public Procurement - the same day that the decision was taken for selection when notification has been submitted for the selection.

In some procedures implemented during 2010, amounting to 2,149,000.00 MKD, in a procedure

for requesting bids without announcement, economic operators who were evaluated did not submit documents to establish the ability to perform professional activity and that document was obtained following the selection of a particular bidder;

In case of shared procurement - in agreement with a term of one year with the supplier was signed Annex agreement that extended the validity of the original contract until exhausting the agreed quantities, the more the performance of the contract and the annex contract for the period 2008-2010 exceeded quantities stipulated by the contract worth 34,000,000.00 MKD.

In some of the procurement procedures carried out in 2010 totalling 2.456.000,00 MKD, in a procedure for tenders without announcement, commissions for public procurement didn't prepare clear and accurate technical documentation and a simplified procedure was conducted without clearly established subject of the procurement.

(b) Observations on the implementation of the article

Apart from criminal penalties, the LPC contains provisions regarding corruption in the private sector of a preventive and repressive character (Arts. 22, 32, 46 and 59). These provisions impose restriction on cooperation among legal and public entities under certain circumstances; prevent influences on public entities competent for making decisions on public procurement; invalidate legal acts resulting from corruption and the compensation for the damages caused by them; and prevent corruption in trade companies. The violation of some of these provisions could lead to sanctions.

The abuse of public procurement procedures and public-private partnerships are criminalized (Art. 275-c, CC).

Whistle-blower protection under LWP also applies to reporting in the private sector.

In order to prevent potential conflicts of interest, former public officials are prohibited from employment or having a business interest in certain private entities for three years after the termination of their public functions (Art. 17, LPCI).

The Company Law (CL) requires the registration of private entities in the commercial register (Art. 99). North Macedonia has also introduced a register of beneficial owners of legal entities, which is publicly available (Arts. 26 and 29, AML Law)¹³. The Company Law also regulates the appointment of certified auditors and the internal audit in the private sector (Arts. 229 and 415-a, CL).

SCPC has signed memorandums of understanding for the prevention of corruption with nine associations from the private sector and, as a result of such cooperation, a Business Code of Ethics was developed in 2012.

(c) Successes and good practices

SCPC has established wide cooperation with the private sector and civil service organizations by signing memorandums of cooperation for the prevention of corruption and conflict of interest.

North Macedonia has established a Register of Beneficial Ownership Information.

¹³The authorities of North Macedonia reported that the implementation of the Register would start by the end of 2019.

Paragraph 3 of article 12

3. In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:

- (a) The establishment of off-the-books accounts;
- (b) The making of off-the-books or inadequately identified transactions;
- (c) The recording of non-existent expenditure;
- (d) The entry of liabilities with incorrect identification of their objects;
- (e) The use of false documents;
- (f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

According to Articles 471 and 472 of the Law on Trade Companies, each commercial entity shall keep trade books that reflects all its business and legal operations, as well as the conditions of its assets, liabilities, capital, revenues and expenditures. The trade books shall clearly present how the business transactions of a commercial entity are commenced, conducted and completed. All data registered in the trade books shall be full and complete, timely, updated and presented in a chronological order. To preserve the data integrity, it is contrary to the law if a registered data in the trade books is amended in a manner that the originally registered contents are indistinguishable.

“Obligation to keep trade books

Article 471

Each commercial entity, in accordance with the principles for proper keeping of accounting, shall keep trade books in a manner that visibly reflects all business and legal operations, the condition of the assets, liabilities, capital, revenues and expenditures. The trade books shall be kept in a manner that enables any third party - expert when reviewing the trade books to gain general review and insight into the operations of the commercial entity, as well as the financial condition and financial result of the company. The trade books shall clearly present how all of the business transactions of the commercial entity have been commenced, conducted and completed.

The commercial entity shall be obligated to save one copy of each business letter sent. The saved copy shall be identical to the forwarded original.

The trade books shall be kept in accordance with the double accounting system.

The trade books, kept in accordance with the double accounting system, shall include a register, a main book and analytical records.

Keeping the trade books

Article 472

The commercial entity shall keep the commercial books in the Macedonian language, using Arabic numerals and values expressed in Denars. Should abbreviations, codes, signs or symbols be used, the commercial entity shall be obliged to explain their meaning.

The commercial entity with a head office in a local self-government unit, where at least 20% of the population uses an official language other than the Macedonian language, shall keep its commercial books in Macedonian language and can also keep them in the other language.

All data registered in the trade books shall have to be full and complete, timely, updated and presented chronologically, that is accurately reflect the time sequence of their occurrence.

The trade books shall be kept on the basis of reliable accounting documents.

A registered data in the trade books cannot be amended in a manner that shall later disable determination of the originally registered content. Amendments made in a manner that prevents distinguishing the original and initially entered (registered) contents from the later amendment shall be contrary to this Law.

The trade books can be kept in hard copy (in separate or bind sheets) or in electronic form, thereby adhering to the principles of proper accounting keeping. The commercial entity shall be obliged, regardless of the method of keeping and storing the trade books, to provide, at any time and within a reasonable time period, access to the commercial books, to keep and protect within the determined time period, and to guarantee that they can be presented at any time.

The trade books kept under the double accounting system shall be kept by applying basic accounts as prescribed by an accounting plan. Unless otherwise determined by law, the accounting plans shall determine the accounts obligatory for all trade companies.

The commercial entity, according to its needs, breaks down the accounts from the accounting plan of analytical accounts (in its analytical accounting plan).

The Minister of Finance shall prescribe the accounting plans.”

Article 469 of the Law on Trade Companies prescribes the obligation on the part of the commercial entity to keep the accounting in accordance with the international accounting standards. In addition, special regulations on accounting keeping are promulgated by the Minister of Finance. Article 478 provides that prescribed categories of commercial entities shall be subject to audit whereas Article 479 stipulates that financial reports of the said categories of commercial entities cannot be approved if they have not been audited by an authorized auditing company. Sanctions regarding violation of accounting and reporting obligations by various categories of commercial entities are provided for in Articles 598, 599, 601 and 602 respectively.

“Accounting obligation

Article 469

(1) Each commercial entity shall be obliged to keep the accounting in the manner determined in this Law and the accounting regulations, and:

1) each large and medium size commercial entity, the commercial entities determined by law

performing bank activities, insurance activities, the commercial entities listed on the exchange-stock market, as well the commercial entities whose financial reports are included in the consolidated financial reports of the above mentioned commercial entities, shall be obliged to keep the accounting in accordance with the adopted international standard for financial notification published in the “Official Gazette of the Republic of Macedonia”, and

2) other commercial entities shall have an obligation to keep accounting in accordance with the international accounting standards for financial notification for small and medium size entities.

(2) The international accounting standards for financial notification and the international standards for financial notification for small and medium size entities shall be updated on annual basis for the purpose of being harmonized with the current standards, as revised, amended or adopted by the International Accounting Standards Board.

(3) The provisions of this Law in respect to accounting, classifying the commercial entities, the trade books, the annual statements and the financial reports shall be appropriately applied to the legal entities with a head office in the Republic of Macedonia performing an activity determined with the National Classification of Activities, not being considered as commercial entities in accordance with this Law and other regulation, unless otherwise determined by other law.

(4) Unless otherwise determined by other law, the provisions of this Law, regulating the accounting, the trade books and annual statements shall also apply to the sole proprietor and other natural persons performing an activity,

(5) The Minister of Finance shall with special regulations prescribe the manner of keeping the accounting referred to in paragraph (1) of this Article.

(6) The Minister of Finance shall closely prescribe the manner and the conditions for submitting the annual account in electronic form.

Financial reports audit

Article 478

(1) The following commercial entities shall be subject to an audit:

1) large and medium size commercial entities registered as joint-stock companies;

2) companies whose stocks are listed on the stock exchange, and

3) large and medium size commercial entities organized as limited liability companies.

The company shall be obliged to have an audit opinion regarding the financial reports one month prior to holding the meeting of the partners, that is the assembly, at the latest.

Selection of an authorized auditor

Article 479

The financial reports, which in accordance with Article 478 of this Law are subject to audit, cannot be approved if they have not been audited by an authorized auditing company, or an authorized auditor-sole proprietor (hereinafter: sole proprietor).

The authorized auditor shall be selected by the meeting of the stockholders, that is the assembly.

The authorized auditor company shall be selected prior the expiration of the business year that

is subject to the audit.

The executive members of the board of directors, that is the members of the managing board, or the administrator of the company, shall be obliged to enable the authorized auditor an insight in the documentation, including what is considered to be a business secret.

The authorized auditor shall be obliged to request from the persons referred to in paragraph (4) of this Article explanations and proof needed for proper review of the financial reports.

The authorized auditor of the financial reports shall submit a report on the audit performed, in accordance with the International Accounting Standards (IAS) published in the “Official Gazette of Republic of Macedonia” updated annually for the purpose of harmonization with the current standards amended and adopted by the International Federation of Accountants (IFAC).

Tenth PART

Misdemeanour Sanctions

Article 598

(1) Fine in the amount 1.000 euros in MKD counter-value shall be imposed for a misdemeanour to a sole proprietor if:

- 1) registers more than one company (Article 14 paragraph (4));
- 2) the transfer of the firm to a third party is conducted contrary to the provisions of this Law (Article 16 paragraph (2)) and it does not register it in the Trade Registry (Article 16 paragraph (4));
- 3) does not report the termination of the work to the public revenue authority (Article 17 paragraph (1)) and does not submit an application for deleting the entry in the trade register (Article 18 paragraph (2));
- 4) start performing an activity before being registered in the trade register (Article 14 paragraph (1));
- 5) start performing the activity before receiving approval from the competent authority for the fulfilment of the prescribed conditions for performing the activity (Article 63 paragraph (1));
- 6) undertake legal affairs and activities outside the scope of work, registered in the trade register (Article 64 paragraph (1));
- 7) fails to keep or keep the trading books in proper manner (Articles 471 paragraph (1) and 472 paragraph (3));
- 8) does not keep the trade and other documents in an appropriate and proper manner (Article 474) and
- 9) does not compile, publish or submit annual accounts (Articles 476 paragraph (1) and 477 paragraphs (1), (4) and (7)).

Misdemeanour sanction

Article 598-a

Prohibition of performing activity for one to three years, counting from the day the decision becomes final, the sole proprietor will be pronounced for the misdemeanour referred to in Article 598 paragraph (1) items 5, 6, 7, 8 and 9 of this Law.

Article 599

(1) Fine in the amount of the Euro 3.000 in Denar counter value shall be imposed on the trade company for a misdemeanour if it:

- 1) commences its business operations prior to the entry in the trade register and prior to getting an approval by the authorized body for fulfilling the prescribed conditions for performing a certain activity, provided it is determined by law (Article 63);
- 2) does not make available the information in accordance with Article 10 of this Law;
- 3) does not use the business name as it is entered in the trade register (Article 52, paragraph (1)) or uses an abbreviated name of the business name and the same is not entered into the trade register (Article 52, paragraph (3));
- 4) without strict agreement of the stepping out partner or his/her inheritances uses the old business name (Article 53);
- 5) does not report the change of the head office in the trade register (Article 61, paragraph (3));
- 6) does not prepare, publish and deliver annual account, that is consolidated annual accounts, financial reports and consolidated financial reports, if there is an obligation for that in this Law (Article 476, paragraph (1); Article 477, paragraphs (1),(4), (5), (8) and (12); Article 482, paragraphs (1) and (2); Article 504 and Article 506, paragraphs (4) and (5));
- 7) does not pay the dividend in the time period determined in Article 487 paragraph (5) of this Law;
- 7-a) the decision on payment of dividends does not contain the data prescribed by Article 490 paragraph (1) of this Law;
- 8) does not pay the monetary share within the deadline set out by this Law (Article 186 paragraph (5)); and
- 9) does not select an administrator, that is, a management or supervisory body within the deadline set out by this Law (Article 233 paragraph (2)).

(2) Fine in the amount of 30% of the determined fine for the trade company shall be imposed on the responsible person in the trade company for the activities referred to in paragraphs (1) of this Article.

Article 599-a

(1) Misdemeanour sanction Prohibition of performing activity for one to three years counting from the day the legality of the decision becomes effective, shall be imposed on the company for the misdemeanour referred to in Article 599 paragraph (1) items 1, 3, 5, 6 and 7 of this Law.

(2) A misdemeanour sanction prohibition of performing a duty for a period of one to three years, counting from the day the decision becomes effective, shall be imposed on the responsible person in the company for the misdemeanour referred to in Article 599 paragraph (1) items 1, 3, 5, 6 and 7 of this Law.

Article 601

(1) A fine in the amount of 3,000 euros in MKD counter-value shall be imposed for a misdemeanour of the limited liability company if:

- 1) the costs and rewards for participation in the establishment of the company are not paid out of the profit in accordance with Article 180 paragraph (3) of this Law;

2) does not register any change in the data, any accession and expulsion of a partner from the company, for registration in the Trade Registry with an application (Article 182 paragraph (4));

3) the property of the company, which is required for the maintenance of the basic capital, is paid to the co-owner (Article 192 paragraph (2));

4) does not keep a book of shares, in accordance with Article 195 paragraph (1) of this Law, ie it does not keep the book of shares diligently and accurately (Article 195 paragraph (2));

5) on the basis of a decision of the court, within three days from the day of receipt of the decision, fails to execute the decision and does not enter the entry in the share book (Article 196 paragraph (4));

6) fails to submit the audit report from certified auditors to the shareholders' meeting (Article 230, paragraph (3));

7) the management body is composed contrary to Article 231 of this Law;

8) does not prepare annual account, financial report and annual report on the operation of the company from the previous business year or if they are prepared and not submitted at the meeting of the partners or the assembly within the deadlines stipulated by this Law (Article 240, paragraph 2));

9) the supervisory board or the controller is composed contrary to Article 246 of this Law;
10) mentions in its business announcements and regulations the increase in the basic capital before the announcement of the decision in the trade register (Article 257, paragraph (4));

11) make payment of the partners on the basis of reduction of the basic capital before the entry of the amendments to the contract for the company in the trade register (Article 264 paragraph (1));

12) fails to register for the registration in the trade register termination of the company (Article 269 paragraph (1)) and

13) fails to file an application for entry in the trade register of the transformation of the company from one form to another (Article 514, paragraph (1));

14) was left without a manager, and the partners of the company did not hold a meeting of partners and have not elected a manager of the company within the deadline determined in Article 233 paragraph (2) of this law.

(2) A fine in the amount of 30% of the determined fine for the limited liability trade company shall be imposed on the responsible person in the trade company for the activities referred to in paragraph (1) of this Article.

Article 601-a

(1) Misdemeanour sanction Prohibition of performing activity for one to three years counting from the day the decision becomes effective, shall be imposed on a limited liability company for a misdemeanour referred to in Article 601 paragraph (1) items 2, 6, 8 and 12 of this Law.

(2) Misdemeanour sanction Prohibition of performing activity for one year counting from the day the decision becomes effective, shall be imposed on the responsible person in the company for misdemeanour referred to in Article 601 paragraph (1) items 2, 6, 8 and 12 of this Law.

Article 602

(1) A fine in the amount of 3,000 euros in MKD counter-value shall be imposed for a misdemeanour of a joint stock company if:

- 1) before the registration of the incorporation of the company in the trade register issued shares (Article 302 paragraph (1));
- 2) fails to keep the acts and documents in the company's headquarters, provided for in Article 319 of this Law;
- 3) deprives the shareholders of the right to information (Article 320);
- 4) promise or pay interest to the shareholders (Article 328 paragraph (2));
- 5) the notification on the redemption of the shares is not published in the "Official Gazette of the Republic of Macedonia" (Article 339 paragraph (5));
- 6) it does not declare the decision of the assembly for election of a board of directors or a supervisory board for registration in the trade register (Article 344 paragraph (5));
- 6-a) the members of the board of directors, ie the supervisory board did not act in accordance with Article 347 paragraph (2) and paragraph (3) of this Law;
- 7) it fails to perform the obligation in the event of loss, reimbursement or incapacity for payment in accordance with Article 354, paragraph 4 of this Law;
- 8) does not submit an application for entry in the trade register of recalled or elected members of the board of directors or supervisory board (Article 363 paragraph (5));
- 9) the management board did not submit an application for entry in the trade register of members of the management board authorized to represent the company (Article 377 paragraph (3));
- 9-a) the shareholder does not receive notification in accordance with Article 406 paragraph (1) of this Law;
- 9-b) the invitation, ie the public call does not contain the data from article 388 paragraph (1) of this Law and
- 9-c) the materials are not available to the shareholders in accordance with Article 388 paragraph (3) of this Law.
- 10) the managing body does not submit to the court the final decision for registration in the trade register (Article 415 paragraph (1));
- 11) fails to report the increase in the basic capital due to the entry in the trade register (Articles 433 paragraph (1), 435 paragraph (2), 438 paragraphs (1) and (2) and 441 paragraph (1));
- 12) fails to report the decision for reduction of the basic capital and the reduction of the basic capital for entry in the trade register (Article 444 paragraph (1) and 451 paragraph (1));
- 13) fails to file an application for the entry in the trade register of the decision for termination of the company (Article 453, paragraph (1)); and
- 14) failed to file an application for entry in the trade register of the transformation of the company from one form to another (Article 514 paragraph (1)).

(2) A fine in the amount of 30% of the determined fine for the joint stock company shall be imposed on the responsible person in the trade company for the activities referred to in paragraph (1) of this Article.

Article 602-a

(1) A misdemeanour sanction prohibition for performing an activity for a period of one to three years counting from the day the decision becomes final, shall be imposed on a limited liability company for a misdemeanour referred to in Article 602 paragraph 1 items 1, 2, 3, 4, 7, 13 and 14 of this Law.

(2) A misdemeanour sanction ban on performing an activity for a period of six months to one year counting from the day the decision becomes effective shall be pronounced to the responsible person of the company for misdemeanour referred to in Article 602 paragraph (1) items 1, 2, 3, 4, 7, 13 and 14 of this Law.

Article 605

Fine in the amount of Euro 3.000 in Denar counter value shall be imposed for a misdemeanour on the foreign trade company, provided that it conducts an activity on the territory of the Republic of Macedonia without incorporating a subsidiary and has been obliged to incorporate it in accordance with Article 581 paragraph (2) of this Law.

Fine in the amount of 30% of the determined fine for the foreign trade company shall be imposed on the responsible person in the company for the activity referred to in paragraph (1) of this Article.

Article 605-c

(1) A fine in the amount of Euro 5,000 in MKD counter value shall be imposed on the joint stock company that has realized a transaction with an interested party before receiving an opinion from a certified auditor for the same, contrary to the provisions of Article 460-a paragraph (3) of this Law.

(2) The Securities and Exchange Commission may file a request for initiation of a misdemeanour procedure for the misdemeanour referred to in this Article.”

The Criminal Code contains various provisions prohibiting criminal activities, such as tax evasion (Art. 279), counterfeiting or the destruction of business books (Art. 280), frauds (Arts. 278a-b, 249, 249a and 250), and money laundering (Art. 273), all of which are often associated with the committing of offences established in accordance with the Convention. In addition, Articles 28a-c and 96a-m provide the legal basis of sentencing legal entities for crimes. Specifically, Article 96j allows an exemption from the sentence on condition that the legal entity voluntarily turns the offender in, returns the crime proceeds, or compensates for the harm done by the crime. On the other hand, Article 96k provides that if a legal entity fails to pay the fine within a time period determined by the court, the local and overseas property of the legal entity shall be confiscated for this purpose.

“Article 28-a

(1) In the cases determined by law, the legal entity shall be liable for the crime committed by a responsible person within the legal entity, on behalf, for the account and for the benefit of the legal entity.

(2) The legal entity shall be liable as well for a crime committed by its employee or by a representative of the legal entity, wherefore a significant property benefit has been acquired or significant damage has been caused to another, if:

- 1) the execution of a conclusion, order or other decision or approval of a governing body, managing body or supervising body is considered commission of a crime or
 - 2) the commission of the crime resulted from omitting the obligatory supervision of the governing body, managing body or supervising body or
 - 3) the governing body, managing body or supervising body has not prevented the crime, or has concealed it or has not reported it before initiating a criminal procedure against the offender.
- (3) Under the conditions of paragraphs (1) and (2) of this Article, criminally liable shall be all the legal entities with the exception of the state.
- (4) The units of the local self-government shall be only liable for crimes committed apart from their public authorizations.
- (5) Under the conditions of paragraphs (1) and (2) of this Article, foreign legal entity shall be criminally liable if the crime has been committed on the territory of the Republic of Macedonia, regardless whether it has its own head or branch office performing the activity on its territory.

Liability limits of the legal entity

Article 28-b

- (1) The liability of the legal entity does not exclude the criminal liability of the natural person as offender of the crime.
- (2) Under the conditions of Article 28-a paragraphs (1) and (2) of this Article, the legal entity shall be liable for a crime even when there are factual or legal obstacles for determining the criminal liability of the natural person as offender of the crime.
- (3) If the crime is committed out of negligence, the legal entity shall be liable under the conditions of Article 28-a of this Code, unless a law anticipated sentencing for a crime committed out of negligence (Article 11 paragraph 2).

Liability in case of bankruptcy and change of the legal entity's status

Article 28-c

- (1) The legal entity in bankruptcy shall be liable under the conditions of Article 28-a of this Code for the crime committed before adopting a determination on opening a bankruptcy procedure, if the crime has acquired it a significant property benefit or has caused another a significant damage.
- (2) If merging, joining, dividing or other status change in accordance with a law wherefore the legal entity loses its status occurs before the completion of the criminal procedure against the referred legal entity, the criminal procedure shall continue against its legal successor or successors.

Chapter six-a

SENTENCING A LEGAL ENTITY

Main sentence

Article 96-a

- (1) A fine shall be imposed as main sentence for crimes of legal entities.
- (2) The fine shall be imposed in an amount that cannot be less than 100.000 Denars nor more than 30 million Denars.

(3) For crimes committed out of covetousness, as well as from crimes wherefore benefit is acquired or damage to greater extent is caused, a fine double the amount of the maximum of this fine can be imposed or in proportion with the amount of the caused damage, i.e. acquired benefit, but at most up to ten times their amount.

Secondary sentences

Article 96-b

Under the conditions determined by this Code, the court, as soon as it assesses that the legal entity has abused its activity and that there is risk for it to repeat the crime in the future, it can impose one or more of the following secondary sentences:

- 1) prohibition to obtain a permit, license, concession, authorization or other right determined by separate law;
- 2) prohibition to participate in procedure for open calls, awarding public procurement agreements and agreements for public and private partnership;
- 3) prohibition to founding new legal entities;
- 4) prohibition to use subventions and other favourable loans;
- 5) prohibition to use the funds from the Budget of the Republic of Macedonia for financing political parties;
- 6) revoking of a permit, license, concession, authorization or other right determined by separate law;
- 7) temporary prohibition to perform certain activity;
- 8) permanent prohibition to perform certain activity and
- 9) termination of the legal entity.

Conditions for imposing secondary sentences

Article 96-c

(1) If it assesses that imposing of one or more secondary sentences corresponds to the gravity of the committed crime and by that the legal entity will be prevented to commit such crimes in the future, the court can impose the sentences referred to in Article 96-b items 1 through 5 of this Code, in addition to the fine.

(2) The court shall determine the duration of the sentences referred to in paragraph (1) of this Article which cannot be shorter than one, or longer than five years.

(3) If the circumstances of the crime results in abuse of the given permit, license, concession, authorization or other right for its commission, the court shall impose revoking of the permit, license, concession, authorization or other right determined with separate law in addition to the fine.

(4) If during the performance of the activity of the legal entity, a crime has been committed wherefore a fine or imprisonment sentence up to three years has been prescribed for the natural person, and from the manner of committing the act comes a risk of repeated commission of such or similar act, the court shall impose temporary prohibition for performing certain activity in duration of one to three years, in addition to the fine.

(5) If a crime wherefore an imprisonment sentence of at least three years is prescribed for the natural person, and from the manner of committing the act comes a risk of repeated commission of such or similar crime, the court shall impose permanent prohibition for performing certain activity from among the activities performed by the legal entity, in addition to the fine.

(6) The court shall impose the sentence referred to in paragraph (5) of this Article also when a crime is committed after previous legally valid verdict wherefore the legal entity has been imposed temporary prohibition for performing activity.

(7) If a crime has been committed wherefore an imprisonment sentence of minimum five years is imposed against the natural person, and from the manner of committing the act comes a risk of repeated commission of such or similar crime, the court shall impose a sentence termination of the legal entity, in addition to the fine.

(8) The court shall impose a sentence referred to in paragraph (7) of this Article also when a crime is committed after previous legally valid verdict wherefore the legal entity has been imposed permanent prohibition for performing certain activity.

(9) The sentence temporary or permanent prohibition to perform certain activity and termination of the legal entity cannot be imposed to a legal entity founded by law, as well as to a political party.

(10) Based on a legally valid verdict wherefore a sentence termination of the legal entity has been imposed, the court shall by a law initiate a procedure for dissolution of the legal entity in a period of 30 days as of the day of the legal validity of the verdict.

Entry and obliteration of sentences

Article 96-d

(1) The main and secondary sentences referred to in Articles 96-a and 96-b of this Code shall be entered in electronic form in the Register of Sentences for committed crimes of legal entities kept in the Central Register of the Republic of Macedonia.

(2) The main sentence of Article 96-a of this Code shall be obliterated, ex officio, from the referred Register after three years from the day of the enforced or time-barred sentence.

(3) The secondary sentences of Article 96-b items 1 through 6 of this Code shall be obliterated, ex officio, from the referred Register after the expiry of the time wherefore they have been imposed.

(4) Providing data from the Central Register shall be performed in accordance with Article 106 of this Code.

Public announcing of a legally valid court verdict

Article 96-e

(1) On a request of the damaged party, the court can decide, burdened on the convicted person, to announce the imposed legally valid court decision or its part in the "Official Gazette of the Republic of Macedonia" and in two daily newspapers, one of which is in the language of the communities not being majority in the Republic of Macedonia.

(2) On a request of the legal entity acquitted from the charges or against which the procedure is terminated with a legally valid court decision, the court shall decide, on burden of the Court Budget to publish the verdict or part of it in the "Official Gazette of the Republic of Macedonia" and in two daily newspapers, one of which in the language of the communities not being majority in the Republic of Macedonia.

Meting out a sentence

Article 96-f

(1) When meting out the sentence the court shall consider the balance sheet and the income statement of the legal entity, the type of activity, the nature and the gravity of the committed

crime.

(2) If the court determines a fine for two or more crimes in concurrence, the single sentence cannot be as high as the sum of the individually specified sentences, nor can it exceed the legal maximum of the sentence prescribed for the legal entity.

Calculating a fine

Article 96-g

(1) For crimes wherefore a fine or an imprisonment sentence of up to three years is prescribed, the legal entity shall be fined with 500.000 Denars or, if the crime has been committed out of covetousness or a damage has been caused to greater extent, at most double the amount of the caused damage or acquired benefit.

(2) For crimes wherefore an imprisonment sentence of at least three years is prescribed, the legal entity shall be fined with at most one million Denars, or if the crime has been committed out of covetousness or a damage has been caused to a greater extent, at most five times the amount of the caused damage or acquired benefit.

(3) For crimes wherefore an imprisonment sentence of at least five years has been prescribed, the legal entity shall be fined with at least one million Denars or, if the crime has been committed out of covetousness or a damage has been caused to a greater extent, up to ten times the amount of the caused damage or acquired benefit.

Imposing a more mitigative fine

Article 96-h

The court can impose the legal entity a more mitigative fine from the one prescribed in Article 96-f of this Code, if:

- 1) the Code anticipates more mitigative sentencing;
- 2) the Code anticipates the possibility for sentence acquittal, yet the court does not acquit the legal entity from a sentence and
- 3) it assesses that there are particularly alleviating circumstances and that the aim of the sentencing will be achieved as well with a more mitigative sentence.

Limits for imposing a more mitigative fine

Article 96-i

(1) When the conditions for imposing a more mitigative fine than the one referred to in Article 96-g of this Code, the court shall impose a more mitigative sentence within the following limits:

- 1) for a crime wherefore the legal entity can be imposed a fine of 500.000 Denars or double the amount of the benefit or the damage, a more mitigative fine of 100.000 can be imposed;
- 2) for a crime wherefore the legal entity can be imposed a fine of one million Denars or up to five times the amount, a more mitigative fine of up to 200.000 Denars can be imposed or double the amount of the benefit or the damage and
- 3) for a crime wherefore the legal entity can be imposed a fine of at least one million Denars or up to ten times the amount of the benefit or the damage, a more mitigative fine of up to 300.000 Denars or up to five times the amount of the benefit or the damage can be imposed.

(2) If the court is authorized to acquit the legal entity from a sentence, it can impose a more mitigative sentence regardless of the limits referred to in paragraph (1) of this Article, up to the lowest amount of the fine.

Acquittal from a fine

Article 96-j

The legal entity can be acquitted from a fine if the responsible person within the legal entity, the governing, managing or supervising body, voluntarily report the offender of the crime, after it has been committed, or if they return the property benefit or remove the harmful consequences from the crime, or in any other manner they compensate for the harmful consequences of the crime.

Enforcement of a fine

Article 96-k

(1) If the convicted legal entity fails to pay the fine within a time period determined by the court, which cannot be less than 15 nor more than 30 days as of the day the verdict becomes legally valid, it shall be coercively enforced.

(2) If the fine cannot be enforced from the property of the legal entity, because the legal entity has no such property or has ceased to exist before the enforcement of the fine, the fine shall be enforced from its legal successor, and if there is no legal successor from the property of the founder or the founders of the legal entity, in proportion to their invested shares, i.e. in the cases determined by law at a trade company from the property of the stockholders, i.e. partners, in proportion to their shares, provided that they have prevented or hindered the enforcement of the fine by their decisions or actions.

(3) The fine for foreign legal entities shall be enforced from property confiscated in the Republic of Macedonia or by applying an international agreement ratified in accordance with the Constitution of the Republic of Macedonia from the property abroad.

Conditional postponement of enforcement of a fine

Article 96-l

(1) The court can appoint conditional postponement of enforcement of a fine or sentences that consist of prohibitions or revoking of permit, license, concession, authorization or other right determined by separate law in a period of one to three years when a crime, wherefore a fine or imprisonment sentence of up to three years is prescribed, has been committed, should the legal entity ensure enforcement of a fine in case of revoking the conditional conviction.

(2) The conditional conviction shall be revoked if within the control period another crime has been committed, or if an earlier committed crime by the legal entity is revealed or if the legal entity in the determined time period by the court does not ensure enforcement of the fine.

(3) The conditional conviction can be revoked during the control period, and if the legal entity during that period commits another crime being confirmed by a verdict after the expiry of the control period, the conditional conviction can be revoked at latest within a period of one year as of the day the control period has expired.

Confiscation of property and property benefit and seizing objects

Article 96-m

(1) For confiscation of property and property benefit obtained with a crime by the legal entity, the provisions of Articles 97 through 100 of this Code shall be properly applied.

(2) If no property or property benefit can be confiscated from the legal entity since it has ceased to exist before the confiscation, the legal successor, i.e. successors, and in case there are no legal successors, the founder or the founders of the legal entity, i.e. the stockholders or partners

in a trade company in the cases determined by law shall jointly oblige to pay the monetary amount that corresponds to the acquired property benefit.

(3) The provisions of Article 101-a of this Code shall be properly applied to seizing objects from the legal entity.

Tax evasion

Article 279

(1) Whosoever with the intent, for himself or for another, to avoid the complete or partial payment of tax, contribution, or some other fee, which he is bound to by law, gives false information about his revenues, or the revenues of the legal entity, objects or other facts of influence on the determination of the amount of this type of obligations, or whosoever with the same intent in case of mandatory application does not report the income, that is an object or some other fact of influence for determination of such obligations, and the amount of the obligation is of greater value, shall be sentenced to imprisonment of six months to five years and shall be fined.

(2) If the amount of the obligation referred to in paragraph 1 is significant, the offender shall be sentenced to imprisonment of at least four years and shall be fined.

(3) If the crime stipulated in paragraph 1 is performed by a legal entity, it shall be fined.

Counterfeiting or destructing of business books

Article 280

(1) Whosoever enters false data or does not enter some important data in a business document, trade book, financial report, book or paper, which he is obliged to maintain based on a law or some other regulation, or who with his signature or stamp verifies a business document, book or paper with false contents, or who with his signature or stamp makes it possible to prepare a document, book or paper with false contents, shall be fined or sentenced to imprisonment of up to three years.

(2) The sentence referred to in paragraph 1 shall also be imposed to whosoever uses a false business document, trade book, financial report, book or paper as if it were real, or whosoever destroys, covers up, damages or in some other way makes unusable a business document, book or paper.

(3) If the crime referred to in this Article is committed by a legal entity, it shall be fined.

Customs fraud

Article 278-a

(1) Whosoever with the intent for himself personally or for another to avoid complete or partial payment of fees and taxes paid at import or export being bound to by law, gives the customs body false data on goods and other facts that influence the calculation for payment or return of the fees and taxes, or does not fulfil an obligation according to a law that has influence on the calculation of the fees and taxes paid during import or export or in other way misleads the customs body, and the amount of the fees and taxes paid during import and export is of greater value, shall be sentenced to imprisonment of six months to three years and shall be fined.

(2) If the amount of the duties and taxes paid at import or export are of significant value, the offender shall be sentenced to imprisonment of one to ten years.

(3) Deleted

(4) The attempt of the crime stipulated in paragraph (1) is punishable.

(5) If the crime referred to in this Article is performed by a legal entity, it shall be fined.

Covering of goods that are subject to smuggling and customs fraud

Article 278-b

(1) Whosoever buys, sells, disseminates, receives as a gift, hides, receives for keeping, uses or accepts storing goods with greater value on any basis and for which he knows or was obliged to know that are subject to the crime stipulated in Article 278 and Article 278-a, shall be fined or sentenced to imprisonment of up to three years.

(2) The attempt of the crime stipulated in paragraph 1 is punishable.

(3) If the crime referred to in this Article is committed by a legal entity, it shall be fined.

Fraud in receiving credit or some other benefit

Article 249

(1) Whosoever with the intent to obtain credit, investment funds, subvention or other benefit for himself or for another to perform an activity as creditor, or who provides the competent person for approving such benefit with untruthful or incomplete data regarding the property state or other data relevant for approving credit or other benefit, shall be fined or sentenced to imprisonment of up to three years.

(2) If the crime referred to in this Article is committed by a legal entity, it shall be fined.

Fraud to the detriment of the European Community funds

Article 249-a

(1) Whosoever by using or showing false, incorrect and incomplete statements or documents, or by omitting to give data, unlawfully adopts, keeps or causes damage to the European Community funds, to the funds managed by the European Community or to funds managed on its behalf, shall be sentenced to imprisonment of six months to five years.

(2) The sentence referred to in paragraph (1) of this Article shall be imposed to whosoever uses the funds from paragraph (1) of this Article against the approved purpose.

(3) The sentence referred to in paragraph (1) of this Article shall be imposed to whosoever uses or shows false, incorrect and incomplete statements or documents, or by omitting to give data, unlawfully decreases the funds of the European Community, the funds managed by the European Community or the funds managed on its behalf.

(4) If the crime referred to in this Article is committed by a legal entity, it shall be fined.

Insurance fraud

Article 250

(1) Whosoever, with the intention of collecting insurance from an insurance company, destroys or damages an insured object, shall be fined or sentenced to imprisonment of up to three years.

(2) The sentence referred to in paragraph 1 shall also be imposed to a person who, with the intent to collect insurance from the insurance company for bodily damage, bodily injury or damage to the health, causes such a damage, body injury or damage to the health.

(3) Prosecution shall be undertaken upon a proposal.

(4) If the crime referred to in this Article is committed by a legal entity, it shall be fined.

Money laundering and other income from crimes

Article 273

(1) Whosoever brings into circulation or trade, receives, takes over, exchanges or changes money or other property being obtained through a punishable crime or whosoever is aware it has been obtained through a crime, or whosoever by conversion, exchange, transfer or in any other manner covers up their origin from such source or its location, movement or ownership, shall be sentenced to imprisonment of one to ten years.

(2) The sentence stipulated in paragraph (1) of this Article shall be imposed to whosoever holds or uses property of object being aware to have been obtained by commission of a punishable crime or by forging documents, by not reporting facts or to whosoever in any other manner covers up their origin from such source, or covers up their location, movement and ownership.

(3) If the crime stipulated in paragraphs 1 and 2 is performed in banking, financial or other type of business activity or if he, by splitting of the transaction, avoids the obligation for reporting in the cases determined by law, the offender shall be sentenced to imprisonment of at least three years.

(4) Whosoever performs the crime stipulated in paragraphs 1, 2 and 3, yet he was obligated and in position to know that the money, the property and the other incomes from a punishable act were obtained through a crime, shall be fined or sentenced to imprisonment of up to three years. (5) Whosoever commits the crime stipulated in paragraphs 1, 2 and 3 as a member of a group or other association that is dealing with money laundering, illegal obtaining of property or other incomes from a punishable act, or with the assistance of foreign banks, financial institutions or persons, shall be sentenced to imprisonment of at least five years.

(6) Official person, responsible person in a bank, insurance company, company for organization of games of chance, exchange office, stock exchange or other financial institution, attorney-at-law, except when in role of an attorney, notary or other person performing public authorizations or activities of public interest, who shall enable or allow transaction or business relation against his legal obligation or who shall perform transaction against a prohibition pronounced by a competent body or a temporary measure appointed in court or who shall fail to report laundering money, property or property benefit, for which he became aware during the performance of his function or duty, shall be sentenced to imprisonment of at least five years.

(7) Official person, responsible person in a bank or other financial institution, or a person performing activities of public interest, who according to law is an authorized entity for applying measures and activities for prevention of money laundering and other incomes from a punishable act, who shall without authorization reveal to a client or to an uninvited person data referring to the procedure for examining suspicious transactions or to applying other measures and activities for prevention of money laundering, shall be sentenced to imprisonment of three months to five years.

(8) If the crime is committed out of covetousness or for the purpose of using data abroad, the offender shall be sentenced to at least one year imprisonment.

(9) If the crime referred to in paragraph (7) of this Article is committed out of negligence, the offender shall be fined or sentenced to imprisonment of up to three years.

(10) If there are factual or legal obstacles for confirming a previously punishable act and prosecuting its offender, the existence of such act shall be confirmed based on the factual circumstances of the case and the existence of well-founded suspicion that the property has been obtained through such crime.

(11) The awareness of the offender, i.e. the duty and possibility to know that the property has

been obtained through a punishable act can be confirmed based on the objective factual circumstances of the case.

(12) If the crime referred to in this Article is committed by a legal entity, it shall be fined.

(13) The income from a punishable crime shall be seized, and if seizing it from the offender is not possible, other property corresponding to its value shall be seized.”

(b) Observations on the implementation of the article

Auditing and accounting standards and requirements are regulated in the CL (Arts. 469 and 479), according to which commercial entities must keep proper accounting books and records.

Sanctions are provided regarding violation of accounting and reporting obligations by various types of companies (Arts. 598, 599, 601, 602, 605).

In addition, criminal provisions on counterfeiting or the destruction of business books may apply (Art. 280, CC). The corporate criminal liability is provided in the CC (Arts. 28-a to 28c and 96-a to 96-m).

Paragraph 4 of article 12

4. Each State Party shall disallow the tax deductibility of expenses that constitute bribes, the latter being one of the constituent elements of the offences established in accordance with articles 15 and 16 of this Convention and, where appropriate, other expenses incurred in furtherance of corrupt conduct.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Material tax regulations do not allow tax deductibility of expenses that constitute bribes. Provisions of material laws regulating tax deductibility are provided in the Annex. However, there is not an explicit prohibition of these deductions.

Bribery is incriminated and in accordance with Article 97, paragraph (1) of the Criminal Code, no one may retain the indirect or direct property benefit obtained through a crime.

(b) Observations on the implementation of the article

Prohibition on tax deductibility of expenses that constitute bribes is not provided in the tax regulation.

It is recommended that North Macedonia adopt an explicit provision disallowing the tax deductibility of expenses that constitute bribes.

Article 13. Participation of society

Paragraph 1 of article 13

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

- (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
- (b) Ensuring that the public has effective access to information
- (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;
- (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:
 - (i) For respect of the rights or reputations of others;
 - (ii) For the protection of national security or ordre public or of public health or morals.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Regarding subparagraph (a) of enhancing the transparency and promoting the contribution of the public to decision-making processes

Article 2 of the Constitution sets out the origin of the sovereignty in the Republic:

“Article 2

Sovereignty in the Republic of Macedonia derives from the citizens and belongs to the citizens. The citizens of the Republic of Macedonia exercise their authority through democratically elected Representatives, through referendum and through other forms of direct expression.”

The Law on Referendum and other forms of direct vote of the citizens regulates the manner and procedure of announcing and conducting referendum, initiating civil initiative, calling for and holding a meeting of citizens, as well as other issues related to the direct expression of the citizens. Public consultation on regulatory measures is mandatory and is conducted in accordance with the Rules of Procedure of the Government, the Rules of Procedure of the Assembly of the Republic and the Regulatory Impact Assessment Methodology, and the Codex on good practices for participation of the Civil Sector in the process of policy making.

Public consultations are conducted on the development of strategies and policies such as the State Programme for Prevention and Suppression of Corruption and Prevention and Reduction of Conflict of Interest, reform strategies such as Strategy on Judicial Reforms, Strategy on Public Administration reform, as well as development of the governmental policies. Under the General

Secretariat of the Government of the Republic, an organizational unit was established and dedicated to cooperate with non-governmental organizations. The web-site of this unit is <http://www.nvosorabotka.gov.mk>. Proposals submitted by civil society organizations for new or amendments to governmental policies were published online in the original at <http://www.nvosorabotka.gov.mk/?q=node/77>.

A Council for cooperation between the Government and the Civil Sector was established pursuant to the Decision establishing the Council for cooperation between the Government and the Civil Sector. In addition, the Government has adopted a Strategy for cooperation of the Government with the Civil Society 2012-2017.

The following relevant codices and guidelines were adopted:

[Codex on good practices for participation of the Civil Sector in the process of policy making](#) (MK)

[Codex on good practices for financial support of associations of citizens and foundations](#) (MK)

The following manual for stakeholders was adopted:

[Consultations in the process of policy making of the Government of the](#) (MK)

Hyperlinks of relevant citizens discussion and information portals:

[Services](#) info. (MK)

ENER portal (MK)

[Brochure Regulations Governing Regulatory Impact Assessment](#) (MK)

Pursuant to recent amendments to the Rules of Procedures of the Government, in order to collect the views, suggestions and positions from all parties concerned, ministries shall publish the draft report and the draft text of the proposed legislation on the Single National Electronic Register of Regulations (ENER) within 20 days (extended from the previously established period of 10 days) prior to the submission of the report to the Ministry of Information Society and Administration. Upon receipt of the opinion of the Ministry of Information Society and Administration, the reporting ministry shall prepare a proposal report, signed by the respective minister for guaranteeing the accuracy and the quality of the implemented Regulatory Impact Assessment (RIA). Together with the proposed legislation, the ministry shall then submit the RIA proposal report and other papers to the General Secretariat of the Government.

In accordance with the RIA Methodology, all comments and suggestions received during the consultations regarding a draft law should be noted in the RIA Report. The RIA Report should include information about which and how comments and suggestions are incorporated/ accepted or why comments and suggestions received are rejected.

Regarding subparagraph (b) of ensuring that the public has effective access to information

The constitution guarantees the following freedoms:

“Article 16 of the Constitution

The freedom of personal conviction, conscience, thought and public expression of thought is guaranteed. The freedom of speech, public address, public information and the establishment of institutions for public information is guaranteed. Free access to information and the freedom of reception and transmission of information are guaranteed. The right of reply via the mass media is guaranteed. The right to a correction in the mass media is guaranteed. The right to protect a source of information in the mass media is guaranteed. Censorship is prohibited.”

The Law on the Use of Public Sector Data supports the provision of datasets to the public. As a result of the law, 154 datasets were provided by 27 institutions. The datasets can be downloaded from the central webpage of the Ministry of Information Society and Administration

(<http://www.otvorenipodatoci.gov.mk/Templates/Pages/BoxPage.aspx?page=51>). Options to submit an electronic request for open datasets are available on the webpage.

The State Programmes 2016-2019 adopted by SCPC contain activities for the improvement of the access to public information.

The Law on Free Access to Public Information (LFAI) provides transparency in the work of information holders and enables natural and legal persons, including those from foreign states, to exercise their right to free access to public information, which is protected by the Commission for the Protection of the Right to Free Access to Public Information. Request for access to public information can also be submitted electronically. Appeals from the persons who have requested access to public information and considered that the information holder acted contrary to the Law are received by the Commission.

Each public information holder is required to designate an official for information mediation to facilitate the process of requesting public information, and to publish the contact information.

The LFAI prescribes the scope of exceptions to the rule that information held by public bodies. Public information requests may also be rejected if they concern documents that are still under preparation and may thus confuse the public.

The Commission for the Protection of the Right to Free Access to Public Information is also responsible for organizing and providing training for civil servants in the field of public information access, and for promoting proactive disclosure of public information.

Analysis of the current system is ongoing. In addition, the drafting of amendments to the LFAI is planned to further align the law with international standards in terms of scope of exceptions and the competencies of the Commission.

The following are the relevant provisions of the Criminal Code:

“Prevention of access to a public information system

Article 149-a

- (1) Whosoever without authorization prevents or limit another’s access to a public information system shall be fined or sentenced to imprisonment of up to one year.
- (2) If the crime stipulated in paragraph 1 is committed by an official person while performing the duty or a responsible person within a public information system, this person shall be fined or sentenced to imprisonment from three months to three years.
- (3) If the crime referred to in this Article is committed by a legal entity, it shall be fined.
- (4) The prosecution shall be undertaken on the basis of a private lawsuit.”

Regarding subparagraph (c) of undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula:

Project of "Anti-corruption education of the pupils"

Since the beginning of 2012, SCPC, in cooperation with the Center for Civil Communications and financial support of the Royal Norwegian Embassy, started the implementation of the project "Anti-corruption education of the pupils". Based on the project goals and the positive expert opinion from

the Bureau for Development of Education, the Ministry of Education and Sciences supported and gave consent to the implementation of the project. The project aimed to develop an anti-corruption programme for the education of pupils, and to affirm the need to introduce these programmes into regular classes. After the successful implementation of the project first in six elementary schools and later in the whole country, a report entitled "Policy paper" has been prepared and submitted to the Ministry of Education and Sciences with recommendations for the introduction of anti-corruption programme to the civic education curriculum in the regular classes of all schools. The anti-corruption programme and the manual for this project are published on the website of SCPC.

Project of "Anticorruption education of secondary school students"

The purpose of this project is to raise awareness among young people about corruption and to strengthen their knowledge of corruption, forms of corruption, tools for combating corruption, and the importance of building personal and institutional integrity. There has been continuous funding for the implementation of the project. The importance of the introduction of anti-corruption content to secondary education is recognized as a need in Area 4.4 of the State Programme for Prevention and Suppression of Corruption and Prevention and Reduction of Conflict of Interest 2016-2019. In January 2016, SCPC held a working meeting with representatives of the Ministry of Education and Sciences for the implementation of the aforementioned activity.

Anti-corruption education at universities

SCPC has signed the following memoranda of cooperation with universities and faculties:

- Memorandum of Cooperation with Goce Delchev University in Shtip dated 24 February 2017 – the purpose of the Memorandum is to establish cooperation for providing practical training for students, planning and jointly organizing scientific meetings, conducting public debates, workshops, conferences and campaigns to raise public awareness of corruption.
- Memorandum of Cooperation with the St. Clement of Ohrid University of Bitola dated 16 March 2017 – the aim of the Memorandum is to improve and expand the cooperation with scientific and educational institutions in the country.

SCPC launched a procedure for signing Memorandum of Cooperation with the Iustinianus Primus Faculty of Law. The efforts undertaken by faculties of law, among others, include the creation of a legal clinic for anti-corruption that will function as a modern and innovative programme incorporated in the curriculum of the faculty of law under the Higher Education Act and internal regulations. This project is supported by the OSCE Mission.

Four representatives of North Macedonia from academic society (consisting of three professors and one researcher; and 1 PhD. candidate) are members of the ACAD initiative (<https://www.unodc.org/unodc/en/corruption/education.html>). They actively participated in the relevant events held in Qatar, Tirana and Moscow, as a result of which the cooperation between universities in the region concerning the awareness raising at universities was strengthened.

Universities have been working on initiatives for developing new courses or lecture contents in relation to international and national anti-corruption policies and legal measures.

The course "Corruption and organized crime" is a separate academic discipline at the Faculty of Security - Skopje. During 2015 and 2016, the Faculty adopted the initiatives for accreditation of new study programmes and re-accreditations of old programmes for the first and second cycle of studies. Therefore, at the time of the country visit, the subject "Corruption and organized crime" was already a compulsory course within three study programmes of the first cycle of studies and is being prepared for being one of the elective courses of all study programmes of the second and third cycle of studies. A new study programme in Criminology and Criminal Policy is proposed for undergoing accreditation, in which the subject "Corruption and organized crime" is envisaged to be

a separate module. Additionally, a new textbook on the theme "Systemic Corruption and Crime" has been prepared and published.

Under the State Programme with Action Plan 2011-2015, as a strategic anti-corruption document, for the first time a special focus was put on the problems and risk factors of corruption and conflict of interests in education and sports, which were separated as the special sectors with direct and specifically targeted intervention measures and activities. The perceived risks of corruption and conflicts of interest in education and sports are generally expressed through the lack of a system of regular inspections which should be carried out by the competent institutions; insufficient transparency and undue influence in the employment and selection of academic staff, and insufficient education and technical assistance; lack of system controls in the procedures of licensing and accreditation of educational services providers; lack of a licensing system in the field of sports; insufficient application and transparency standards for the preparation and selection procedure of textbooks; lack of transparency in the allocation of beds in dormitories; selling textbooks to students as a condition for taking the exam; insufficient public awareness of the need for involvement in the fight against corruption in education and sports; and the absence of transparency in the financing of sports clubs and "purchase and sale" of athletes.

Under the State Programme with an Action Plan 2016-2019, the initiative of "Importance of education in the fight against corruption" was proposed to strengthen the awareness of the need and possibilities to promote good governance and integrity as integral parts of the fight against corruption. This requires creating and establishing relevant educational contents in the educational system.

North Macedonia is a Party to the Agreement for the establishment of the International Anti-corruption Academy as an international organisation, which was signed in Vienna in September 2010.

In October 2013, the Government started the implementation of the concept "Menadzherent etika" (Management ethics) which represents a model of mobilization of all heading (management) structures in the administration whereby all members of the administration will be covered in order to promote the reforms in this area and to unify the information regarding the measures, activities, visions and goals that are achieved or envisioned, for the purposes of improving state service quality to the citizens and companies.

The implementation started with a meeting of the President of the Government with 3,000 head officials of administration, including ministers, directors of state and public institutions, managers of public enterprises, trade companies, and members of steering and supervisory boards and heads of departments in institutions. Through this meeting, the willingness to focus upon ethics, openness, transparency and idea sharing for advanced results to be achieved through productivity, efficiency and effectiveness was publicly expressed. Managerial principles such as service-oriented administration, commitment, honour and respect in conduct were emphasized as values that guarantee success in the prevention and combating of corruption. Special meetings were held with representatives of the private sector and business communities. The main goal of the model of the concept of management ethics is to raise awareness, to encourage commitment to the aforementioned values, to encourage resistance to and intolerance for unethical, illegal and corruptive behaviour, and to promote the joint action of the public and private sector to continue reforms for the continuous general development in the country. The Government determines and publishes its annual strategic priorities. Prevention and fight against corruption and organised crime consistently remains as one of the top strategic priorities.

In 2009, the Government started a wide anti-corruption campaign for public officials, business and civil society on the negative impact of corruption and on actions to protect the rights and interests

of individual citizens from bribery. The publicity of the campaign includes billboards, video and radio spots broadcasting on national and local media, and publishing and dissemination of printed campaign materials, such as leaflets, posters, and stickers.

The Customs Administration runs continuous campaigns against corruption. The online survey on the quality of customs services is available on its web-page at <http://www.customs.gov.mk/index.php/en/anketi-km-2>.

Billboards and information about the free hotline for reporting corruption is available at cross-border terminals.

Cooperation with civil society

SCPC established cooperation with the Platform of NGOs to fight corruption. A total of 15 civil society organizations take part in the platform.

Civil organizations actively participated in the preparation and implementation of the State programmes for the prevention and suppression of corruption and prevention and reduction of the appearance of a conflict of interest. On December 2010, SCPC signed a memorandum of cooperation for the prevention of corruption and conflict of interest with 17 civil society organizations. The memorandum of cooperation regulated the manner of cooperation, coordination and conducting of joint activities agreed between the signatories, with a view to preventing more effectively corruption and conflicts of interest in the country. In February 2014, another five civil organizations joined by signing the Agreement on Accession to the Memorandum. The memorandum covers the cooperation between the signatories towards the exchange of available information, the initiatives in the field of corruption and conflict of interest, the holding of work meetings, the cooperation in the implementation of public debates, workshops, conferences and campaign for raising the public awareness, the analysis and research of corruption and conflicts of interests, the mutual professional cooperation in the process of anti-corruption education, the mutual expert cooperation in the drafting of the regulation concerning this topic, and the cooperation in the realization of joint projects of interest for the fight against corruption and conflict of interest. SCPC established cooperation with the NGO Macedonian Centre for International Cooperation (MCMS) in the project "Monitoring of the operation of SCPC" funded by the British Embassy. In addition, SCPC established cooperation with the Center for Civil Communications in the programme of "anti-corruption education of the pupils".

SCPC also established cooperation with Transparency International Macedonia by signing a memorandum of cooperation on specific projects in order to implement activities of common interest. The cooperation is the result of the programme for mutual collaboration via the project "Strengthening of the national integrity system in the Western Balkans and Turkey and monitor the development of anti-corruption reforms", which was supported by the European Union and the Dutch Embassy. The cooperation focuses on activities for strengthening the effective application of the Law on Whistleblower Protection.

On 9 December 2011, SCPC signed a memorandum of cooperation for the prevention of corruption and conflict of interest with nine associations from the private sector. This memorandum provides a framework for mutual cooperation to exchange information, conduct training, and implement specific projects.

Regarding subparagraph (d) of respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption

Information concerning corruption is regularly published in the annual reports of SCPC and the

Public Prosecutor's Office of the Republic, the reports of the Public Security Bureau, and open data-sets of the Ministry of Interior. Most of the information published is statistics alongside with their analysis. Information about specific incidents (for example information published in the daily bulletin of the Ministry of Interior and information about cases presented in the annual reports of SCPC) is published without revealing the personal data, having regard to the principle of presumption of innocence, the provisions of the Criminal Code and the Criminal Procedure Code, and the national security or ordre public or of public health or morals. In accordance with the LFAI, access to public information concerning corruption may be provided within the permissible scope.

(b) Observations on the implementation of the article

The Government has adopted a Strategy for cooperation of the Government with the Civil Society 2012-2017. In addition, a Council for Cooperation between the Government and the Civil Sector has been created.

Public consultation on draft legislation is mandatory, whereby the draft report and legislation text must be published on the Single National Electronic Register of Regulations.

Civil society organizations (CSO) have taken an active part in the preparation for and implementation of anti-corruption policies and measures. SCPC also signed memorandums of cooperation for the prevention of corruption and conflict of interest with many such organizations.

There are nationwide projects for primary and secondary schools and individual projects for tertiary schools on anti-corruption education.

Information concerning corruption is regularly published by SCPC, the Public Prosecutor's Office of the Republic, the Public Security Bureau and the Ministry of Interior.

It is recommended that North Macedonia:

- (1) narrow the grounds on denial of access to information, with a view to facilitating the contribution of the public to decision-making processes; and**
- (2) consider developing systematic and nation-wide public education programmes for tertiary education that contribute to non-tolerance of corruption.**

(c) Successes and good practices

SCPC has established wide cooperation with the private sector and civil service organizations by signing memorandums of cooperation for the prevention of corruption and conflict of interest.

Paragraph 2 of article 13

2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The application of the Law on Whistleblower Protection ("Official Gazette" No. 196/2015 of

11/10/2015) and its bylaws commenced on 18 March 2016. The law regulates protected reporting, the rights of the whistleblowers, as well as the actions and responsibilities of the institutions or legal entities related to the protected reporting and the provision of protection for the whistleblowers.

The protected reporting is the protected internal reporting, protected external reporting or protected public disclosure. The whistleblower carries out the protected internal reporting in the institution or legal entity where they have suspicions or knowledge that a punishable activity has already been performed, is being performed or will be performed, or other unlawful or unacceptable conduct that infringes or threatens the public interest. The whistleblower may make a protected external reporting to the Ministry of Interior, the competent Public Prosecutor's Office, SCPC, the Ombudsman or other competent institutions or legal entities as provided by law. The authorized person, manager of institutions or legal entities in the public sector to which the reporting is made, are obliged to submit semi-annual reports to the SCPC on the reports received from whistleblowers. SCPC then submits to the Assembly of the Republic an annual report on received whistleblower reports (Art. 15, para. 2). In November 2017, SCPC submitted an annual report on received whistleblower reports in 2016 to the Assembly of the Republic. Following the submission of the aforementioned report by SCPC, in January 2018, the Ministry of Justice submitted to the Assembly of the Republic a report on received whistleblower reports with recommendations for amendments to the Law on Whistleblower Protection and for measures for improving its implementation. Whistleblowers are protected from any harmful or disadvantaged action in retaliation for a protected disclosure. Information about reporting channels and protection of reporting persons is provided in the responses related to Article 8 paragraph 4 of the Convention.

Furthermore, the Law on Prevention of Corruption covers protection for anti-corruption professionals and collaborators to justice and witnesses.

“Protection of persons involved in eradication of corruption

Article 20

(1) Persons working in the bodies for detection and eradication of corruption shall be provided with full protection and independence, with a view to efficient execution of their authority and duty and no pressure whatsoever may be exerted on them in their work or in their undertaking of concrete actions.

(2) About any event of exerted pressure in work or in undertaking concrete actions, the persons referred in paragraph (1) of this article inform the State Commission.

(3) About any event of exerted pressure in their work or in undertaking concrete actions the members of the State Commission inform the Assembly of the Republic of Macedonia.

Protection of collaborators to justice and witnesses

Article 19

(1) A person that has discovered data that suggest existence of corruption cannot be criminally prosecuted or held liable in any manner.

(2) A person that has given a statement or testimony in a procedure for an act of corruption shall be given protection in accordance with law. The person shall have the right to compensation of damage he/she or other member of his/her family may suffer due to the given statement or testimony.

(3) The request for compensation of damage referred to in paragraph (2) of this Article shall be filed with the competent body.

(4) The compensation referred to in paragraph 2 of this Article shall be paid from the Budget of the Republic of Macedonia.”

As a mechanism for monitoring of the work of SCPC, the project “Monitoring the work of the State Commission for Prevention of Corruption by the public” was implemented by the NGO Macedonian Center for International Cooperation (MCIC) with financial support from the British Embassy. The project covered monitoring of the implementation of the legal obligations, performance, transparency and accountability of SCPC in the fight against corruption. The period of implementation was from 1 September 2016 to 31 March 2018. The project was successfully implemented by attaining the overall objective of the increase of the transparency, accountability, and public awareness about the competencies of SCPC.

SCPC has held 15 press conferences attended by journalists and representatives of the media during which the President of SCPC and SCPC members provided immediate responses to questions raised thereat. The decisions made at the public sessions are published on the website of SCPC. Press releases are regularly sent by SCPC to the media and are made publicly available on the website at www.dksk.mk under the section “Information for the public announcements”.

In 2016, 62 information articles concerning the current operation of SCPC on cases of corruption and conflict of interest were published on the website of SCPC. Besides, one press conference was held; three interviews of the President of SCPC were made; three statements for the media were given by the spokesman of SCPC; 25 answers were provided in response to the questions posed by the journalists via e-mail in relation to corruption, conflict of interests, and monitoring of the assets of the officials. Also, in 2016, SCPC held 3 conferences and 3 workshops that were covered by the media and in addition to his speeches, the President of SCPC likewise gave statements for the media.

In 2017, 57 information articles concerning the current operation of SCPC were published on the website of SCPC. Besides, SCPC attended 3 workshops, 3 conferences, 1 round table, 1 forum, and 1 debate show. In order to enhance transparency, SCPC strives to provide immediate response to all questions posed by journalists and to inform the public of the same. SCPC is a publicly accessible institution to all citizens.

A complaint can be filed to SCPC in three manners, namely by mail, personal delivery to the archives, or e-mail. Data on the employees in the Secretariat of SCPC are published on the website so as to allow for maintaining daily contact with the citizens.

(b) Observations on the implementation of the article

Anyone may report corruption directly to SCPC by mail or email or in person.

SCPC, through the implementation of the project “Monitoring the work of the State Commission for Prevention of Corruption by the public” has raised public awareness on the functions of SCPC.

Article 14. Measures to prevent money-laundering

Subparagraph 1 (a) of article 14

1. Each State Party shall: (a) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer and, where

appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions;

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The Law on Prevention of Money Laundering and Financing of Terrorism (AML Law) determines the measures and activities for detection and prevention of money laundering, associated predicate offences and financing of terrorism (hereinafter: ML/FT) and determine the competence of the Financial Intelligence Office (FIO).

Measures and activities for ML/FT prevention prescribed by the AML Law (Art. 5) are implemented by entities, such as:

- Financial institutions and subsidiaries, branch offices and business units of foreign financial institutions performing activity in North Macedonia in accordance with law (such as banks, saving houses, exchange offices, brokerage houses, fast money transfer services providers and subagents, insurance companies, investment funds management companies, mandatory and voluntary pension funds management companies and other legal entities and natural persons perform activities related to credit approvals, electronic money issuance, credit cards issuance and administration, financial leasing, factoring, forfeiting, providing services of investment advisor, mediation in micropayment and other financial activities);
- Legal entities and natural persons who perform the following services: mediation in real estate transactions, audit and accounting services, tax advising, investment advisory services, organizations and implementation of auctions, notaries, lawyers and law firms which provide services in relation to sale and purchase of real estate, shares or stocks, property trading and management, opening and possession of bank accounts, safe-deposit boxes and other financial products, establishing or participating in legal entities' management and operation, representing clients in financial transactions etc.
- Notaries, lawyers and law firms that perform public authorisations in accordance with law;
- Organizers of games of chance in gaming house (casino) and internet casinos;
- Service providers for trusts or legal entities;
- Central securities depository, and
- Legal entities who receive movable objects and real estate as pledge.

Measures and activities for ML/FT prevention prescribed by the AML Law (Art. 8) are:

- ML/FT risk assessment and its update on regular basis;
- client due diligence;
- reporting and providing data, information and documentation to the FIO in accordance with the AML Law and its bylaws;
- collecting and keeping of data;
- designation of authorised person and his/her deputy and/or establishing AML and AFT unit;
- establishing internal control;
- introduction and application of programmes for efficient reduction and management of the identified ML/FT risks; and
- other measures as per the AML Law.

Reporting obligation is prescribed by the AML Law and applies in the following cases:

- when they have suspicions and grounds to suspect that a money laundering and/or financing of terrorism has been committed or attempted, regardless of the amount of the transaction; the property is a proceed of crime, and the property is related to financing of a terrorist act, a terrorist organization or terrorist or person who finances terrorism (Art. 54) ;
- In case of single or several obviously interconnected cash transaction in the amount of EUR 15,000 or more, in MKD counter value (Art. 52);
- Bank loans given or received in the amount of EUR 5,000 or more (Art. 53, para. 3);
- Fast transfer of money services in the amount of EUR 1,000 or more (Art. 53, para. 4);
- Life insurance policies concluded in the amount of EUR 15,000 or more (Art. 53, para. 5);
- Purchase of new vehicles in the amount of EUR 15,000 or more (Art. 53, para. 6);
- Purchase or payment of casino chips in the amount of more than EUR 1,000 (Art. 53, para. 7);
- Payment of profit and/or deposit by other organizers of games of chance when the transaction is worth EUR 1000 or more (Art. 53, para. 8).

The supervision of the implementation of the AML/CFT measures and actions are performed by (Art. 146):

- The National Bank of the Republic for the banks, saving houses, exchange offices, and the fast money transfer services providers.
- The Insurance Supervision Agency for insurance companies, insurance brokerage companies, insurance agencies, insurance brokers and insurance agents.
- The Securities and Exchange Commission of the Republic for the brokerage companies, the persons giving services to investment advisers and companies for managing investment funds.
- The Agency for Supervision of Fully Funded Pension Insurance for the companies managing voluntary pension funds;
- The Public Revenue Office for the organizers of games of chance, legal entities and natural persons performing the following services: mediation in beneficial estate transactions, tax advising, and the receipt of pledge of movable items and beneficial estates;
- The Postal Agency for the post offices and the legal persons performing telegraphic transfers or delivery of valuable packages.
- Commissions of Notaries and Lawyers within the Notary Chamber and Bar Association respectively for their members.

The FIO, independently or in cooperation with the abovementioned authorities, shall supervise the implementation of the measures and activities determined by the AML Law.

In respect of the implementation of ML/FT National Risk Assessment (NRA), competent authorities and representatives of private sector involved in AML/CFT System conducted NRA and prepared a NRA Report which was adopted by the Government in 2016. Based on the conclusions of the NRA Report, the government adopted the National Strategy Against ML/FT in November 2017.

The AML Law (Art.12) imposes an obligation for entities to conduct client due diligence (CDD) in the following cases:

- a) when establishing business relationship with the client;

- b) when executing one or more related transactions in the amount of EUR 15,000 or more in MKD equivalent;
- c) when an occasional transaction is carried out which constitutes a transfer of cash assets in value more than EUR 1,000;
- d) for games of chance in case of deposit and payment of winning profits, as well as for the purchase or payment of chips in the amount of EUR 1,000 or more, regardless of whether the transaction is executed as a single transaction or several transactions that appear as interconnected and for which the total value is EUR 1,000 or more;
- e) when there is a suspicion for the veracity or adequacy of previously received data about the identity of the client or the beneficial owner; and
- f) when there is suspicion for money laundering or financing of terrorism, regardless of any exception or amount of assets.

According to Article 14 of the AML Law,

(1) The client due diligence referred to in Article 12 of the Law includes:

- a) identification of a client and verification of his/her identity using documents, data and information from reliable and independent sources;
- b) identification of the principal and verification of his/her identity using documents, data and information from reliable and independent sources;
- c) identification of beneficial owner and undertaking reasonable measures to verify his/her identity, such that the entity is satisfied that it knows who the beneficial owner is, by using documents, data and information from reliable and independent sources;
- d) obtaining information on the purpose and intended nature of the business relationship; and
- e) ongoing monitoring of the business relationship and the transactions undertaken throughout the course of the established business relationship with the client, to ensure that these transactions are consistent with the client's risk profile and business, including, where necessary, the sources of funds.

(2) When the client is a legal entity, the entity shall undertake measures in order to determine the nature of its business activity and the ownership and management structure of that client.

(3) The entities shall apply each measure of the client due diligence procedure, and its volume depends on the risk assessment of the client.

In relation to the "Holders of public functions", the AML Law (Art. 2) defines all natural persons who are, or have been, entrusted with public function in the Republic or in another country, such as:

- a) heads of States and governments, ministers and deputy or assistant ministers, b) members of the Assembly of the Republic, c) judges of supreme and constitutional courts or other holders of high judicial functions who render decisions which, except in exceptional cases, are not subject to legal remedies, d) members of management bodies in State audit institution and members of the highest board of central bank, e) ambassadors, f) high rank officers in armed forces (ranks higher than colonel), g) elected and appointed persons pursuant to law and members of the management bodies of State-owned enterprises, h) persons holding functions in political parties (members of the political parties' bodies), i) persons who are or have been entrusted with prominent function in international organization, such as directors, deputy directors, members of management and supervisory boards or other equivalent functions, and j) mayors and municipality council presidents.

The term "holders of public functions" shall also include: a) family members (spouse or other

person with whom the holder of public function is in extramarital community, children and their spouses or other persons with whom the children live in extramarital community and parents), and b) persons who are considered as close associates (any natural person who is known to have joint ownership of a legal entity and has concluded agreements or established other close business relations with holder of public function, and persons who is the only beneficial owner of a legal entity or arrangement know to have been established legal entity for the benefit of the holders of public functions).

The persons under the items a) to j) shall be considered as holders of public functions for at least two years after the termination of the public function, based on previously conducted risk assessment by the entities.

According to Article 36 of the AML Law, when the obliged entities execute transactions or enter into business relationship with holders of public functions, they shall be obliged to undertake the following enhanced due diligence measures:

- a) based on previously established procedure for risk assessment to determine whether the client and/or the beneficial owner is holder of public function or to obtain a statement from him;
- b) to obtain an approval from the management structures for establishing business relationship with the client and/or the beneficial owner as well as to provide a consent for extending the business relationship with an existing client who became a holder of public function;
- c) to undertake appropriate measures in order to determine the source of the property of the client and/or beneficial owner who is a holder of public function; and
- d) to perform increased monitoring of the business relationship.

In 2016, the FIO conducted regular supervision over the implementation of the measures and actions at 54 entities and afterwards conducted education procedure at 4 entities (3 accountants and 1 real estate agency) because of an irregularity (referred to in Art. 114 and 115 of the former AML Law) made by the entity for the first time. In 2017, the FIO conducted regular supervision over 23 entities and afterwards conducted education procedure at 4 entities (1 real estate agency, 2 exchange offices, 1 notary).

Regarding the implementation of AML Law provisions, the table below shows the number of suspicious transaction reports (STR) divided by entities.

ENTITIES	No. of submitted STR in 2016	No. of submitted STR in 2017
Banks	124	179
Car dealers	8	2
Notaries	25	21
Lawyers	3	2
Casinos	2	/
Agents and subagents for fast money transfer	64	83
Accountants	1	/

Real estate agencies	1	/
Total	228	287

Regarding the implementation of the AML Law provisions, the table below shows the number of reports with suspicion for ML/FT or notifications for other criminal act disseminated to the competent national authorities by the FIO.

YEAR	Reports for ML/FT	Notification for other criminal act
2016	28	212
2017	9	131
Total	37	343

The table below presents data of submitted criminal charges, indictments, convictions and final convictions for ML/FT.

YEAR	2016		2017	
	cases	persons	cases	persons
Criminal charges	4	8	2	12
Indictments	1	1	2	12
Convictions	2	12	/	/
Final convictions	2	6	1	3

According to the NRA Report, the table below shows the key findings:

Treats:	
Criminal acts with high ML risk:	<ul style="list-style-type: none"> · Misuse of official position · Tax evasion · Illegal drug trade · Illegal trade with migrants
Vulnerability:	

National vulnerabilities:	<ul style="list-style-type: none"> · Informal economy · International cooperation in criminal matters · International cooperation for confiscation · Transparency of legal entities
Financial sector:	<ul style="list-style-type: none"> · Banking sector
Nonfinancial sector:	<ul style="list-style-type: none"> · Accountants

Based on the key findings of the NRA Report, the Government adopted National Strategy Against ML/FT in November 2017. The strategic objective is that an AML/CFT system should be in place for the prevention of ML/FT, be harmonized with the FATF Recommendations (from 2012) and the provisions of the IV EU AML/CFT Directive, and effectively protect the integrity of the financial sector and economy from the ML/FT threats and contribute to the strengthening of national security. The strategic objective will be reached by the implementation of 11 specific objectives, such as:

- The formulation of policies by the government and the undertaking of coordinated measures which are adequate to the ML/FT risks by the competent institutions;
- Strengthening international co-operation;
- Establishing a system for maintaining statistical data at the national level;
- Harmonization of the legal framework for the prevention and prosecution of ML/FT with international standards;
- Supervision over the ML/FT prevention system for its adequacy in response to the ML/FT risk;
- Increased efficiency in the implementation of measures for ML/FT prevention;
- Protection of the system from the misuse of the legal persons for ML/FT purposes;
- Preparation of reports and notifications by the FIO for the competent law enforcement to use in prosecution of ML/FT cases;
- Increased efficiency in detection, prosecution and sanctioning of ML perpetrators;
- Confiscation of proceeds of crime and instrumentalities;
- Increased efficiency in the detection, prosecution and sanctioning of FT perpetrators.

(b) Observations on the implementation of the article

The AML Law came into force in March 2002 (with revisions in 2004, 2008, 2014 and 2018) and established a list of financial and non-financial institutions subject to that regime as well as professions (art. 5, AML Law). The AML Law also lists categorized supervisory authorities of those professions (art. 146), as well as details on risk management by obliged entities (arts. 10 and 11).

The AML Law in its Article 2 also establishes and defines “close associate of the holder of public function” as a natural person who is known to have a common legal or beneficial ownership of a legal entity, has concluded contracts or established other close business relationships with the holder of public function, or is the only beneficial owner of a legal entity or legal arrangement known to have been established in order to provide benefit for the holder of public function.

In addition, Article 62 of the AML Law enhances the obligations and powers of the obliged entities and their employees to report suspicious transactions by exempting them from any responsibility for “giving away corporate secret” of their customers in reporting the suspicious transactions to the FIO.

In 2016, the State party under review finalized a national risk assessment with the assistance of the World Bank, which was designed to identify, assess and understand the money-laundering and terrorism financing risks within its jurisdiction. Consequently, the State party under review adopted a risk-based approach in accordance with the National Strategy Against Money-Laundering and Financing of Terrorism in November 2017.

Subparagraph 1 (b) of article 14

1. Each State Party shall: ...

(b) Without prejudice to article 46 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The AML Law determines the competence of the FIO, including competences of the FIO to exchange information domestically and internationally.

The FIO cooperates with the entities, Ministry of Interior, Financial Police, State Foreign Exchange Inspectorate, Securities and Exchange Commission of the Republic, National Bank of the Republic, Agency for Supervision of Fully Funded Pension Insurance, State Commission for Prevention of Corruption and other State authorities and institutions as well as other organizations, institutions and international bodies for combating ML/FT.

To perform its competencies, the FIO requests data or documents from the State authorities, the financial institutions or other legal entities or natural persons. The requested persons are obliged to submit to the FIO the requested data within ten business days of the date of receipt of the request. If the FIO requests for data immediately, the requested persons are obliged to provide the data within four hours. FIO can exchange information with the authorities for conducting an investigation and with the supervision authorities due to the prevention of ML/FT. The FIO drafts and submits a report to the State authorities which decide for the further actions whenever there are reasonable grounds for suspecting that ML/FT is committed. The FIO drafts and submits written notification to the State authorities when there are grounds for suspecting that crimes other than ML/FT are committed.

For promoting the inter-institutional cooperation, the Government formed a Council for Combating Money Laundering and Financing Terrorism. The work of the Council is led by the Director of the FIO whilst its members shall be managing and authorized persons from the Ministry of Interior, the Ministry of Justice, the Ministry of Finance, the Public Prosecutor's Office for Organized Crime and Corruption, the Financial Police, the Customs, the Public Revenue Office, the National bank of the Republic, the Securities and Exchange Commission, the Insurance Supervision Agency, the Agency for Supervision of Fully Funded Pension Insurance, the Postal Agency, as well as representatives of the Bar Association, Notary Chamber, the Institute of Certified Auditor and the Institute of Accountants and Chartered Accountants. In respect of international cooperation, the FIO exchanges data spontaneously or upon request and on condition of reciprocity with authorised

bodies and organizations of other States, as well as to international organizations concerning ML/FT prevention. In addition, the FIO concludes agreements for cooperation with authorised bodies of other States as well as with international organizations that are responsible for combatting ML/FT. The FIO has signed 59 MoUs with FIUs of 54 states. The FIO is a member of the EGOMNT Group.

The Financial Police has the authority to detect and conduct criminal investigations of criminal offenses prosecuted ex officio such as money laundering and other proceeds of a criminal offense referred to in Article 273, prohibited trade referred to in Article 277, smuggling referred to in Article 278, tax evasion referred to in Article 279 of the Criminal Code and other criminal offenses of unlawful property gain of significant value. The Financial Police has the authority to apprehend and report the perpetrators of the aforementioned crimes, to provide evidence as well as to undertake other measures and activities on its own initiative or at the order of the public prosecutor; and through the enforcement of the judicial police competencies in accordance with the law, to ensure smooth conduct of the criminal procedure.

The Financial Police collects and analyses data on cash transactions, undertakes pre-investigative and other measures when there are grounds for suspicion of committed criminal offenses, monitors the money trail in order to detect punishable acts determined by law, inspects and reviews accounting data and records in computer systems in the presence of a responsible person or a person authorized by him and performs other activities in accordance with the law.

The Financial Police performs a forensic computer analysis of the temporarily seized computer systems and other electronic devices and submits criminal charges to the competent public prosecutor for criminal offenses under its competence which are prosecuted ex officio.

The Financial Police submits an initiative for initiating tax and other procedure for determining and collecting public duties before the competent authority, coordinating, giving initiative, filing criminal charges, exchanging information and organizing trainings for the persons involved in the system of irregularities in order to protect the financial interests of the Republic and the European Union. It also drafts and submits a proposal for a strategy for the protection of the financial interests of the Republic and the European Union and performs other activities determined by law.

In performing the activities within its competence, the Financial Police cooperates with the Public Prosecutor's Office, the Ministry of Interior, the Public Revenue Office, the Customs Administration, the FIO, the State Commission for Prevention of Corruption, the State Audit Office, the State Foreign Exchange Inspectorate, the State Market Inspectorate and other State authorities.

The Financial Police has concluded cooperation agreements and protocols. In 2005, the Protocol on Cooperation for Prevention of Organized and Other Types of Financial Crimes was signed between the Customs Administration, Public Revenue Office, FIO and the Financial Department Police. In 2007, a Protocol for Cooperation in Preventing and Combating Organized Crime was signed between the Public Security Bureau of the Ministry of Internal Affairs and the Directorate of the Ministry of Finance. In 2011, a Memorandum of Cooperation was signed on the manner of achieving international cooperation with the Ministry of Interior, the Ministry of Justice, the Customs Administration and the Public Prosecutor's Office. Also signed were the Memorandum of Cooperation on the exchange of data and information between the Intelligence Agency and the Financial Police, the Memorandum of cooperation with the Employment Agency of the Republic, the Memorandum of cooperation with the Pension and Disability Insurance Fund, and the Memorandum of cooperation between the Ministry of Interior, Customs Administration, Financial Police and the National Bank of the Republic.

(b) Observations on the implementation of the article

The country established a financial intelligence office in March 2002 (art. 64, AML Law). Specifically, the article states that the FIO “executes agreements for cooperation and exchange of data and information with financial intelligence units of other countries and international organizations involved in the fight against money laundering and financing of terrorism” and it also cooperates with the entities and authorities mentioned in the summary.

The Office is a member of the Egmont Group of Financial Intelligence Units and has concluded several cooperation agreements with national and international institutions to share information received domestically as well as internationally (art. 127, AML Law).

Paragraph 2 of article 14

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The AML Law regulates issues related to detection and monitoring of the movement of cash and appropriate negotiable instruments across borders.

More specifically, regarding this provision of the Convention, Article 126 of the AML Law prescribes the following obligations:

- The Customs Administration shall register each and every entry and exit of money and negotiable instruments through the customs line of Republic, if the amount, by law or other regulation, exceeds the allowed maximum.
- During the registration referred to in the preceding paragraph, the Customs Administration shall collect data on:
 - the identity of the person who, for him/herself or for another person, enters or exits money and negotiable instruments on his/her name and surname, date and place of birth, passport number and nationality;
 - the identity of the owner of the money or the negotiable instruments;
 - the identity of the beneficial owner;
 - the amount and currency of the money and negotiable instruments entered or exited through the customs line;
 - origin statement for the money and negotiable instruments, signed by the person who exits or enters them;
 - the purpose for entering or exiting the money and negotiable instruments, and
 - the place and time of passing the customs line.
- The Customs Administration shall, electronically or by telecommunication means (telephone, fax), and in case that is not possible, by other written means, report the entering and exiting of money or negotiable instruments for payment of over EUR 10,000 in MKD counter value, within

three business days from the recording.

· The Customs Administration shall notify the FIO in writing the entering and exiting money and negotiable instruments regardless of the amount, whenever there is a suspicion for ML/FT within 24 hours.

The Customs Administration is obliged to keep all data on entry and exit of money and negotiable instruments through the customs line 10 years from the date of the transfer.

If residents and non-residents enter or transfer payment means in excess of EUR 10,000, the customs officials at the border crossings immediately register these assets in the application for foreign currency controlling authorities (ADK), which contains all the data prescribed by the AML Law. In addition, the customs officials require also a written declaration on the origin of cash or securities from natural persons.

In the application, data are also entered for registered means of payment by residents and non-residents and a confirmation in the form of a prescribed form is simultaneously issued. Non-residents are obliged to present the certificate to the customs authority at the exit of the Republic. If the customs authority determines that the person carries payment facilities in a smaller amount than the one that is registered at the entrance, the customs authority records the data in the ADK and reports to the Control and Investigation Sector of the Customs Administration.

The ADK aims to provide records of the entered and deposited funds through the customs line and to enable communication and cooperation between the Customs Administration and the FIO.

When determining a foreign currency offense in case of failure to report payment means, the customs authority shall enter data in the ADK, send electronically to the FIO, provide all necessary evidence, and initiate a procedure for a foreign currency offense in accordance with the Law on Misdemeanours. The procedure for the detection of foreign currency offense is carried out by the Commission on Offense Procedures and Sanctions within the Customs Administration of the Republic.

The customs officer shall inform the FIO in cases where the subject of the misdemeanour is domestic and foreign money, checks and monetary gold in amounts or values exceeding EUR 10,000. If the amount of the payment means exceeds EUR 100,000, the customs officer shall also notify the duty customs centre as well as the Investigation Department of the Sector for Control and Investigation of the Customs Administration, which undertakes activities for determining the origin of the funds in accordance with their legal competences due to suspicion of illegal operation of natural and legal persons, and shall forward the information to the competent domestic institutions, namely the Ministry of Internal Affairs, FIO, and the Financial Police. In the cases of importing and exporting means of payment greater than stipulated by the positive legal regulations, the customs officers shall act in accordance with the following internal acts adopted by the Customs Administration:

- Procedure for the detection of undeclared cash and valuables and determining their origin no. 01-012057 / 14-0002 from 08.07.2014;
- Guidelines for working with the application for foreign currency control no. 01-073430 / 11-0003 of 17.12.2013;
- EAP-CUSTOMS Handbook: FX Application;
- Procedure for dealing with detection of a misdemeanour and further implementation of misdemeanour procedure no. 01-061511 / 15-0002 of 28.05.2018; and
- Guidelines for the work of the Investigation Unit no. 01-010295 / 11-0005 of 27.04.2018.

Sanctions for undeclared, false or incomplete information to the customs authority are provided by Article 29 of the Law on Foreign Exchange Operations which provides:

“The Government of the Republic of Macedonia shall prescribe the terms and the maximum amount of cash foreign currency and checks permitted to be taken in or out of the Republic of Macedonia.

The National Bank of the Republic of Macedonia shall prescribe the terms and the amount of the cash domestic currency and checks and monetary gold permitted to be taken in or out of the Republic of Macedonia.

The National Bank of the Republic of Macedonia shall prescribe the terms under which the authorized banks may take in or out of the Republic of Macedonia cash foreign currency from or on their accounts abroad.

When crossing the state border, residents and nonresidents shall be obliged to declare to the customs authorities the amount of the cash domestic or foreign currency, checks or monetary gold taken in or out of the Republic of Macedonia, which exceeds the limits stipulated in the by-laws under paragraphs 1 and 2 of this Article.

Foreign and domestic currency and checks shall be reported on forms prescribed by the Minister of Finance.

The forms referred to in paragraph 5 of this Article shall particularly contain:

- personal data about the person who takes in or out foreign and domestic currency and checks (name and surname, date and place of birth, passport or ID card number),
- data about the owner of foreign and domestic currency and checks (name and surname of a natural person or name of a legal entity, identification number and address),
- data on foreign currency and domestic currency and checks (type, amount and currency),
- origin and purpose of foreign and domestic currency and checks,
- data about the vehicle and the route of transport of the foreign and domestic currency and checks, and
- signature of the reporting person.

The forms referred to in paragraph 5 of this Article shall be available in the customs offices at border crossings, the website of the Ministry of Finance and the website of the Customs Administration.”

Article 56-a, paragraph 1, item 22 provides:

“The legal entity i.e. sole proprietor, resident or nonresident, shall be fined with Denar equivalent of Euro 10,000 for committing a misdemeanour, if it:

22. takes cash domestic and foreign currency, checks and monetary gold in and out, contrary to the conditions determined by the Government of the Republic of Macedonia and the National Bank of the Republic of Macedonia (Article 29).”

Article 57-b, paragraph 3 provides:

“For the misdemeanours referred to in Article 56-a paragraph 1 item 22 and 28 of this Law, misdemeanour procedure shall be conducted and misdemeanour measure shall be imposed by the Customs Administration (hereinafter: misdemeanour Authority).”

(b) Observations on the implementation of the article

Article 126 of the AML Law establishes an obligation to declare the import or export of cash or negotiable instruments of an amount equivalent to 10,000 euros. CA is responsible for centralizing, collecting, registering and processing the information contained in the declarations (art. 126, AML Law). Information gathered during the declaration and disclosure process is sent to FIO (art. 126, para. 4).

The Customs Administration, by a protected electronic route, and in case when it is not possible, in writing, is obliged to submit to the FIO the entry and exit of money and physically transferable funds for payment of more than 10,000 Euros in MKD counter value, within three working days from the recording.

In addition, the Customs Administration shall report to the FIO the entry and exit of money and physical transferable funds for payment irrespective of the amount, whenever there is a basis for suspicion of ML/FT, no later than 24 hours from the knowledge of the suspicion of the entry or exit of money and physically transferable means of payment.

The manner of acting by the customs officers in the cases of importing and exporting means of payment greater than defined in the positive legal regulations is regulated by several internal acts adopted by the Customs Administration:

- Procedure for the detection of undeclared cash and valuables and determining their origin no. 01-012057 / 14-0002 from 08.07.2014;
- Guidelines for working with the application for foreign currency control no. 01-073430 / 11-0003 of 17.12.2013;
- EAP-CUSTOMS Handbook: FX Application;
- Procedure for dealing with detection of a misdemeanour and further implementation of misdemeanour procedure no. 01-061511 / 15-0002 of 28.05.2018;
- Guidelines for the work of the Investigation Unit no. 01-010295 / 11-0005 of 27.04.2018.

Sanctions for undeclared, false or incomplete information to the customs authority are provided for under the Law on Foreign Exchange Operations (arts. 29, 56-a and 57-b).

Paragraph 3 of article 14

3. States Parties shall consider implementing appropriate and feasible measures to require financial institutions, including money remitters:

- (a) To include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator;*
- (b) To maintain such information throughout the payment chain; and*
- (c) To apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.*

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The AML Law regulates issues related to detection and monitoring of the movement of cash and appropriate negotiable instruments across borders, including the measures on obtaining and forwarding of information relating to the payer and receiver in cases of money transfer (Art. 43), exchange operations (Art. 44), as well as due diligence obligations of money remitters (Arts. 53(4) and 57):

“Article 43

- (1) For the purpose of international payment operations, in cases of deposits of 1,000 euros or more in denar equivalent based on the average exchange rate of the National Bank of the Republic of Macedonia on the day of the payment, the financial institutions shall obtain data on:
 - a) the payer – data from which the identity can be determined and verified, specifically:
 - name and surname or the title of the payer,
 - the account number, or if the account number is missing or cannot be obtained, the transaction's unique identifying designation which allows tracking and
 - address and the number of national identification document or the client's identification number or the date and place of birth.
 - b) the receiver – data from which the identity can be determined and verified, specifically:
 - name and surname or the title of the receiver,
 - the account number, or if the account number is missing or cannot be obtained, the transaction's unique identifying designation which allows tracking.
- (2) The financial institutions, in cases of domestic payment deposit of 1,000 euros or more in denar equivalent based on the average exchange rate of the National Bank of the Republic of Macedonia on the day of the payment, shall obtain the payer's data from which his identity can be determined and verified. If, for technical reasons, the data provided cannot be forwarded, only the data for the account number or the transaction's unique identification number is forwarded.
- (3) The financial institutions referred to in paragraph (2) of this Article, at the request of the financial institution making the payment or request from the competent authorities, shall provide the data referred to in paragraph 1 of this Article within three working days after the submission of the request.
- (4) The financial institutions who act as intermediaries in cases of international payment transfers of 1,000 euros or more in denar equivalent based on the average exchange rate of the National Bank of the Republic of Macedonia on the day of the payment, shall forward the data for the payer referred to in paragraph (1) of this Article to the financial institution that will make the payment of the funds.
- (5) During payments of international transfers in the amount of international payment transfers of 1,000 euros or more in denar equivalent based on the average exchange rate of the National Bank of the Republic of Macedonia on the day of the payment, the financial institutions shall obtain the payer's identification data from the financial institution of the payer and within their internal acts to determine if any data referred to in paragraphs (1), (2) and (4) of this Article are missing and the method of handling such transfers. The entities have to request the missing data or to refuse the execution of the transfer.
- (6) Financial institutions may restrict or terminate the business relationship with financial institutions that do not provide or forward the referred to in paragraphs (1), (2), (4) and (5) of this Article.
- (7) The provisions of this Article shall not apply to the following types of transfers:
 - when using bank cards which are used for withdraw of funds from a bank account, ATMs or through terminals and for payments in the retail trade,
 - during transfers and settlements where both the payer and the receiver are the banks that perform the transfer in their own name and for their own account, and
 - during payment of taxes, fines and other public fees.

Article 44

The entities which are licensed for currency exchange operations, in addition to the measures described in Article 14 of this Law, shall determine the client's identity in accordance with Article 16 of this Law before any transaction involving an amount greater than 500 euros in denar equivalent based on the average exchange rate of the National Bank of the Republic of Macedonia.

Article 53

(4) The providers of money remittance services (fast money transfer), will submit to the Office in electronic form at the end on the day for transactions performed the previous business day, the data on transactions with amount of 1,000 euros or more in denar equivalent based on the average exchange rate of the National Bank of the Republic of Macedonia on the day of execution of the transaction.

Article 57

- (1) The entities shall appoint authorized person and deputy.
- (2) If more than 50 persons are employed in the entity, in addition to the obligation referred to in paragraph (1) of this Article, the entity shall establish a separate department for prevention of money laundering and financing of terrorism.
- (3) At least four persons will be employed in the department referred to in paragraph (2) of this Article if the employee employs 50 to 300 people and the number of employees in the department will be increased by one person for every 100 employees.
- (4) The entity may, on the basis of the results of the risk assessment, employ more persons in department referred to in paragraph (2) of this Article, than the number of persons referred to in paragraph (3) of this Article.
- (5) The authorized person will be in charge of the operations of the department referred to in paragraph (2) of this Article.
- (6) The authorized person, the deputy, as well as the employees in the department have to meet the following conditions:
 - a) they are not convicted of crimes against property, crimes against public finances, payment operations and the economy, crimes against official duty, criminal offenses against public order and crimes against humanity and international law and others,
 - b) have a university degree, appropriate professional knowledge and experience in the tasks from the area of prevention of money laundering and financing of terrorism and
 - c) has a good knowledge of the business process and the work processes of the entity.
- (7) The authorized person, the deputy, as well as all personnel employed in the department referred to in paragraph (3) of this Article, are subjects to security checks in accordance with the regulations on security of classified information and must possess security certificate for "confidential" level. A person who according to the regulations on security of classified information cannot be issued with security certificate for "confidential" level, cannot be

appointed as authorized person, deputy and employee in the department referred to in paragraph (3) of this Article.

- (8) For the purpose of efficient performance of the authorized person, his deputy and the employees in the department, the entity shall fulfil the following minimum conditions:
- separation of the activities of the authorized person and the department, from other business activities of the entity which are not related to the activities of prevention of money laundering and financing of terrorism and control of compliance of the operations in accordance with the regulations;
 - independence of the authorized person and the department in the implementation of the measures and activities for detection and prevention of money laundering and financing of terrorism in accordance with this Law;
 - the right of direct access to electronic databases and timely access to all information necessary for uninterrupted implementation of the program and the provisions of this law and
 - establishing of direct communication with the entity's management bodies and others.
- (9) Banks and money remittance service providers (fast money transfer) shall appoint authorized duty officer and deputy, who in the event of an emergency (terrorist act, threats from a terrorist act) immediately, and within three hours, will be available to the Office. The authorized duty officer and the deputy must fulfil the condition of paragraph (7) of this Article.
- (10) Banks and money remittance service providers shall provide the necessary working conditions for performance of the obligations of the authorized duty officer and the deputy referred to in paragraph (9) of this Article.
- (11) The entity shall define measures with which it will ensure that the employees who perform tasks in the field of prevention and detection of money laundering and financing of terrorism in accordance with this Law are familiarized with the provisions of this Law, including the appropriate measures for data protection. The measures must be proportionate to the type and size of the entity and the estimated risk of money laundering and financing of terrorism.
- (12) The entity shall provide regular occupational training for all employees in the field of prevention and detection of money laundering and financing of terrorism in accordance with this Law.”

See examples/statistics provided in relation to Article 14 subparagraph 1 (a) of the Convention.

(b) Observations on the implementation of the article

North Macedonia has various requirements for electronic transfers and money remitters. These include provisions on obtaining and forwarding information relating to the payer and receiver in cases of money transfer (art. 43, AML Law), exchange operations (art. 44, AML Law), as well as due diligence obligations of money remitters (arts. 53, para. 4, and 57, AML Law).

Paragraph 4 of article 14

4. In establishing a domestic regulatory regime and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The AML Law implements the Financial Action Task Force (FATF) Recommendations and EU AML/CFT Directives. Compliance of the AML/CFT system with FAFT recommendation and its efficiency is evaluated by the Moneyval Committee of the Council of Europe.

(b) Observations on the implementation of the article

The AML Law implements the Financial Action Task Force (FATF) Recommendations and European Union anti-money-laundering/combating the financing of terrorism Directives. Compliance of the anti-money-laundering/combating the financing of terrorism system with FATF recommendations and its efficiency are evaluated by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism in the framework of the Council of Europe.

Paragraph 5 of article 14

5. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

North Macedonia has put in place a regulatory and institutional framework and has concluded many bilateral agreements that provide for the international exchange of information for purposes of law enforcement.

The national law enforcement authorities have channels of communication through, inter alia, INTERPOL and EUROPOL. Furthermore, the FIO is a member of the Egmont Group and the Moneyval Committee of the Council of Europe. The FIO participates in regional conferences of the FIUs organized each year hosted by one of the following countries: Slovenia, Bosnia and Herzegovina, Croatia, Serbia, Montenegro, Kosovo and Albania. North Macedonia is one of the host countries for the regional conference of the FIUs as well. The FIO was the host of the Regional Conference in 2014.

The FIO has signed 59 MoUs with FIUs of 54 states.

North Macedonia is an observer in CARIN since July 2014. Also it is a member-state of the

European Partnership against Corruption (EPAC) since 2009. The Public Revenue Office is a full member of the Intra-European Organization of Tax Administrations (IOTA) since 1997. As a tax authority, the Public Revenue Office has concluded a number of bilateral agreements on avoiding double taxation and protection from fiscal evasion, which also serve as bases for exchange of relevant information.

The Customs Administration actively participates in the work of all international organizations dealing with customs operations, such as the World Customs Organization (WCO) inclusive of its Regional Intelligence Liaison Offices (RILO), the World Trade Organization (WTO), UN working bodies, and SELEC. The cooperation with foreign customs serves to promote electronic exchange of customs data which aims at preventing customs fraud, smuggling and crime, improving cooperation between customs officers at operational level, facilitating trade, and ensuring that security at regional and international level be based on signed agreements for bilateral cooperation on mutual assistance in customs matters with 24 countries.

List of bilateral agreements on international legal assistance can be found at <http://www.customs.gov.mk/index.php/mk/za-nas-mk/megunarodna-i-meguinstitucionalna-sorabotka/bilateralna-carinska-sorabotka-2>

List of signed international conventions on mutual legal assistance can be found at <http://pravda.gov.mk/mpd-page>

List of international agreements on avoiding double taxation can be found at <http://ujp.gov.mk/mk/regulativa/pregled/tr/md>

(b) Observations on the implementation of the article

North Macedonia has put in place a regulatory and institutional framework and has concluded many bilateral agreements that provide for the international exchange of information for purposes of law enforcement and effective prevention and detection of ML/FT.

V. Asset recovery

Article 51. General provision

Article 51

1. The return of assets pursuant to this chapter is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Legal Framework

The legislation regulating confiscation in North Macedonia is in line with international standards in this sphere. The following documents were taken into account when devising the legal framework:

- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Gain from Crime (ETS No. 141);
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Gain from Crime and on the Financing of Terrorism (ETS No. 198);
- Criminal Law Convention on Corruption (ETS No. 173);
- Recommendation REC(2001)11 of the Committee of Ministers to member states concerning guiding principles on the fight against organized crime;
- Recommendation REC(96)8 of the Committee of Ministers to member states concerning criminal policy in Europe at the time of change;
- Documents of the European Union (Directive 2014/42/EU of the European Parliament and of the Council from 03.04.2014 on the freezing and confiscation of objects and the gain from crime in the European Union);
- Joint action for money laundering, investigations, freezing, seizure or confiscation of property or property gain from crime 98/669/PUP;
- Framework Decision of the European Council on money laundering, identification, finding, seizure and confiscation of assets and gain from crime 2001/500/PUP;
- Framework Decision of the European Council for the execution of orders for the freezing of property or evidence in the European Union 2003/577/PUP;
- Framework Decision of the European Council on the Separation of property gains, assets and property acquired with the crime 2005/212/PUP;
- Framework Decision of the European Council on the application of the principle of mutual recognition of confiscation orders 2006/783/PUP;
- Instruments of the United Nations (special attention was paid to the incorporation of the standards contained in the Palermo Convention).

Special attention was paid to the jurisprudence of the European Court of Human Rights in respect of all segments connected with confiscation, in particular the free enjoyment of property (Art. 1, Protocol 1 of the ECHR), the prohibition of the retroactive effect of the Criminal Code (Art. 7 of the ECHR), and the right to a fair trial and presumption of innocence (Art. 6, para. 1 and 2 of the ECHR).

The legislation in North Macedonia has adopted the model of confiscation in criminal proceedings and is governed by the Criminal Code, the Criminal Procedure Code and the Law on Managing Confiscated Property, Property Gain and Confiscated Items in Criminal and Misdemeanour Procedure. Meanwhile, new mechanisms (such as extended confiscation) and criminal offences (such as “unlawful acquisition and concealment of property”) have been introduced in the criminal law, which contain certain elements of confiscation in civil proceedings.

In addition, since confiscation is a special misdemeanour measure under the misdemeanour law, the relevant provisions for confiscation are stipulated in the Law on Misdemeanours and in numerous substantive laws concerning misdemeanour liability.

The concept of confiscation in the Criminal Code is based on the principle that “injustice couldn’t be justice”. Thus, Article 97(1) of the Criminal Code stipulates that “no one can retain the indirect or direct property benefit obtained through a crime” which is the condition for taking confiscation measure. In this context, Article 97(2) stipulates that the property gain will be confiscated with a court decision determining the commission of the crime. In addition, the court may also make a

decision on confiscation when it is not possible to initiate criminal proceedings against the perpetrator of the criminal act because of factual or legal obstacles. In this regard, legal obstacles refer to the situations when the perpetrator is available and known to the prosecuting authorities, yet criminal proceedings cannot be instituted against him/her for reasons such as obsolescence of the prosecution, amnesty or pardon, immunity, or age (for example a child under the age of 14). Factual obstacles to the conducting of the criminal procedure include when the perpetrator fled or died.

An important novelty in the penal legislation lies in the provision related to the confiscation of indirect property gain. This provision was adopted as per Article 5 of the Warsaw Convention. In accordance with Article 97 of the Criminal Code, the indirect property gain consists of:

- 1) the property in which the gain acquired from a criminal act is transformed or converted;
- 2) the property acquired from legal sources if the gain acquired from a criminal act is intermingled, completely or partially, with such property up to the estimated value of the intermingled gain acquired from a criminal act; and
- 3) the revenue or other gain arising out of the gain acquired from a criminal act, from property in which the gain acquired from a criminal act is transformed or converted, or from property in which the gain acquired from a criminal act is intermingled, up to the estimated value of the intermingled gain acquired from a criminal act.

The typology of confiscation is regulated in Article 98 of the Criminal Code. The “real confiscation” implies the confiscation of “the immediate and indirect property gain acquired from a criminal act consisting of money, movable or immovable items in value, as well as any other ownership, property or assets, tangible or intangible rights”. “Value confiscation” is applied if it is not possible to carry out the actual confiscation. In this regard, other property corresponding to the value of the acquired gain should be confiscated from the perpetrator.

The Criminal Code also provides that the immediate and indirect property gain shall also be confiscated from third parties if it is obtained by committing the criminal act. In this context, the provision stipulates that the property gain is confiscated from the family members of the perpetrator to whom it is transferred, if it is obvious that they do not provide compensation corresponding to the value of the acquired property gain, or from third parties unless they prove that they have given counter-compensation that corresponds to the value of the acquired property gain.

A special confiscation regime is prescribed for items proclaimed as cultural heritage or natural rarities, as well as for those with whom the injured party is personally connected. These items are confiscated from third parties irrespective of whether they have been transferred with or without appropriate compensation. These cases constitute an exception for confiscating property gain from third parties. The reason for introducing this exception in the Criminal Code is the insistence on the protection of cultural monuments and other natural rarities that cannot be transferred in private ownership. Furthermore, this exception protects the injured party when the party is personally connected to a particular item that has been stolen and sold to a third party for appropriate monetary compensation.

One of the most important innovations introduced by the Criminal Code 2009 is the incorporation of extended confiscation in the criminal justice system. This provision has fully implemented the standards contained in the Framework Decision of the Council of Ministers of the European Union since 2005, which stipulates that the confiscation is not confined only to the property gain acquired in the criminal act subject to prosecution and conviction, but also the gain acquired by the perpetrator accused of participating in a criminal enterprise. Pursuant to this provision, the court can pronounce the extended confiscation when the value of the defendant’s property is disproportionate to his/her legal income and when he/she cannot prove the origin of the property.

In these cases, the burden of proof in relation to the origin of the property is transferred to the defendant.

The extended confiscation applies to several categories of offences stipulated in the Special Part of the Criminal Code:

- a criminal act committed within a criminal association for realising a property gain and for which a sentence of at least 4 years of imprisonment is prescribed;
- a criminal act on terrorism referred to in Articles 313, 394a, 394b, 394c and 419 of the Criminal Code for which a sentence of imprisonment of 5 years or more is prescribed or is related to the criminal act of money laundering for which a prison sentence of at least 4 years is prescribed.

In these cases, the property acquired in the time period, determined by the court in accordance with the particular circumstances of the case, shall not be longer than five years before committing the criminal act. In ordering so, on the basis of all circumstances, the court shall be convinced that the property exceeds the legal income of the perpetrator and originates from that criminal act or similar acts for which the perpetrator cannot prove the legal origin of the property.

The application of the extended confiscation also extends to property obtained by the commission of the crime and held by third parties. The property shall be confiscated from third parties if they cannot prove that counter-compensation is given corresponding to the value of the item or property. It is also stipulated that the property of the family members of the perpetrator to whom it is transferred could also be confiscated when it is obvious that the family members have not given counter-compensation corresponding to the value of the property.

Responsibility of a legal entity is established in the Criminal Code 2004, which is aimed at a more efficient suppression of the “corporate” crime. The criminal legal liability of the legal entities inevitably entails the need for prescribing provisions for confiscation from a legal entity. This was done by the amendments to the Criminal Code 2004 whereby Article 96-e of the Criminal Code prescribes that for the confiscation of property and property gain acquired by criminal offence committed by a legal entity, the provisions on confiscation of Articles 98 to 100 of the Criminal Code are applied (in the latest version of the Criminal Code 2018, Article 96-m refers to the application of Articles 97 to 100). According to Article 100 of the Criminal Code, “if a legal entity acquires property benefit from the crime of the offender, this benefit shall be confiscated from it”. Regarding the criminal legal responsibility of the legal entities, paragraph 2 of Article 96-m provides that “if no property or property benefit can be confiscated from the legal entity since it has ceased to exist before the confiscation, the legal successor, i.e. successors, and in case there are no legal successors, the founder or the founders of the legal entity, i.e. the stockholders or partners in a trade company in the cases determined by law shall jointly oblige to pay the monetary amount that corresponds to the acquired property benefit”.

The confiscation procedure is regulated in details in the Criminal Procedure Code in Chapter XXXIV “Procedure for application of safeguarding measures, forfeiture of property and crime proceeds, seizure of objects and revocation of suspended sentences”. In addition, the issue of “Temporary Security and Confiscation of Items or Property” is regulated in detail in subchapter 2 of Chapter XVII Measures for locating and safeguarding persons and objects in the same law.

The Law on International Cooperation in Criminal Matters is a comprehensive special law on international cooperation in criminal matters with provisions on all modalities of international cooperation in criminal matters. International cooperation should be governed by this Law unless otherwise specified by an international agreement ratified in accordance with the Constitution or other legal act which governs the criminal proceedings of an international court whose jurisdiction

is accepted.

In accordance with Article 15 of this Law, international legal assistance includes:

- enforcement of procedural actions such as delivery of documents, written evidence and acts related to the criminal proceedings in the sending State;
- delivery of spontaneous information;
- exchange of certain information and notifications;
- temporary transfer of persons deprived of freedom;
- cross-border observation;
- controlled delivery;
- using persons with hidden identity;
- joint investigation teams;
- monitoring communications;
- interrogation through video conference;
- interrogation through telephone conference;
- searching of premises and persons;
- temporary security of items, property or means related to the criminal offence;
- temporary freezing, confiscation and retention of assets, bank accounts and financial transactions or incomes from a criminal offence;
- confiscation of property and property benefits;
- deprivation of items;
- protection of personal data;
- criminal and civil liability of officials, and
- delivery of extracts from criminal records.

In this Law, dedicated provisions are in place for regulating the disposal and transfer of seized and confiscated property and property benefits in a procedure of international legal assistance. The relevant provisions are as follows:

“Confiscation of property and property benefits

Article 27

(1) The confiscation of property and property benefits in a procedure of international legal assistance shall be made in accordance with the provisions of the Criminal Code, Criminal Procedure Code and international agreements.

(2) The money obtained from the enforcement of the property confiscation order shall be at the disposal of the Republic of Macedonia as follows:

- 1) if the amount obtained from the enforcement of the confiscation order is lower than 10,000 EUR or equal to that amount, the amount shall flow into the Budget of the Republic of Macedonia, and
- 2) in all other cases the Republic of Macedonia shall transfer 50% of the amount obtained from the enforcement of the confiscation order to the foreign state.

(3) The other property apart from money obtained from the enforcement of the confiscation order shall be placed at disposal in one of the following ways upon decision of the domestic competent authority:

- 1) the property can be sold and in that case the income from the sales shall be placed at a disposal in accordance with paragraph (2) of this article, and

- 2) the property can be transferred to a foreign state, and if the confiscation order includes money, the property can be transferred to the foreign state when it gives its consent.

Transfer of seized objects and property benefits

Article 28

(1) The objects and the property benefits seized in order to protect them can be transferred to the foreign competent authority at its request.

(2) The objects and the property benefits from paragraph (1) shall include the following:

- 1) objects the criminal offence was committed with;
- 2) objects that resulted from the committed criminal offence or their equivalent value, the incomes from the criminal offence or their equivalent value, and
- 3) the presents given in order to stimulate the committing of criminal offence, as well as the rewards for the criminal offence or their equivalent value

(3) The transfer of the objects and the property benefits from paragraph (1) of this article can be realised on the basis of an effective and enforceable decision by the foreign competent authority. (4) The objects and the property benefits from paragraph (1) of this article shall be permanently kept in the Republic of Macedonia if:

- 1) those represent goods under temporary protection or cultural inheritance or if they are natural rarities of the Republic of Macedonia;
- 2) the injured party is has its residence or domicile in the Republic of Macedonia and they shall be returned to him/her;
- 3) the domestic competent authority emphasises the right of the Republic of Macedonia to them;
- 4) the person has his or her residence or domicile in the Republic of Macedonia and did not participate in committing the criminal offence, or proves that it didn't know and couldn't know that the object or the property benefits have been acquired through committing a criminal offence in the Republic of Macedonia or abroad;
- 5) they are required for the implementation of a criminal proceeding that is in progress in the Republic of Macedonia;
- 6) they are required for introduction of the measure for confiscation of property and property benefits and seizure of the objects, and
- 7) those represent objects that must be seizure according to the Criminal Code.

Temporary measures

Article 29

(1) At the request of the foreign competent authority the domestic judicial authority shall introduce temporary measures for collecting evidence material and for security of the collected evidence or for protection of the endangered legal interests.

(2) The domestic judicial authority can act partially upon the request from paragraph (1) of this article or it may temporary limit the implementation of the letter rogatory.”

In accordance with the Law on International Cooperation in Criminal Matters, Article 25 concerning the delivery of spontaneous information provides that the domestic judicial authority

has the right under the principle of mutuality and without receiving previous letter rogatory to deliver to the foreign competent authority information related crimes which has been collected during its own investigations if it considers that the delivery of such information might help to initiate or conduct an investigation or court proceeding or it might lead to sending letter rogatory for international legal assistance. The domestic judicial authority shall ask the foreign competent authority to which the spontaneous information has been delivered to submit a report on all activities that have been undertaken on the basis of this information, as well as to deliver transcript of all decisions that have been reached.

The conduct of joint investigation teams is regulated in Article 38 of the Law on International Cooperation in Criminal Matters:

“Joint investigation teams

Article 38

(1) The domestic competent authorities for detection and prosecution of organised crime and corruption can be part of the joint investigation teams with the foreign competent authorities, formed for a particular purpose and with limited duration and possibility for its extension if both states that formed the team agree to the extension.

(2) The States that formed the team from paragraph (1) of this article shall determine the composition of the team by mutual consent and the team shall be formed in the territory of one of the states.

(3) The joint investigation team may be formed when within the investigative procedure complex investigative actions for mobilisation of significant resources have to be implemented, as well as when a coordinated action of the interested parties is necessary because of the complexity of the case.

(4) The joint investigation team shall implement its operations in accordance with the legislation of the State in whose territory the operations are implemented. The responsible person of the team shall be the representative of a competent authority which participates in the criminal investigation of the state in whose territory the team implements its operations. The required organisational conditions for the implementation of the operations of the team shall be provided by the state in whose territory the team implements its operations.

(5) If the joint investigation team needs assistance from a state which didn't participate in the forming of the team, the request for legal assistance may be sent to that state.”

Institutional framework

The public prosecutor, competent to conduct investigation in the criminal procedure, undertakes the burden of proof and is obliged to collect evidence, ensure confiscation of illegally acquired assets, and propose interim measures. In case of urgency, confiscation of such assets may be conducted by the judicial police who is obliged to immediately inform the public prosecutor thereof. A decision on interim measures during the investigation is issued by the judge in charge of preliminary procedure. After the indictment is issued, the trial judge will be responsible for it. Confiscation is carried out within 30 days of the pronouncement of the court decision.

According to the Law on Management of Forfeited Property, Proceeds and Seized Items in Criminal and Misdemeanour Proceedings (Article 6), the Agency for Management of Seized Property is competent to:

- manage the confiscated property, property benefit and seized assets in criminal and misdemeanour procedure;

- handle the confiscated property in accordance with the principle of a good host and a good proprietor and undertake all measures for keeping and maintaining the temporarily seized movable and immovable property;
- keep and store the seized property, assess its market value, keep records of the total seized property;
- implement a procedure for the sale of seized movable and immovable property through an electronic public bidding and pay the proceeds from the sale to the Budget of the Republic;
- with the prior consent of the court, may take a decision and conduct a procedure for selling the temporarily seized movable property if it assesses that the custody of the item decreases its value or the costs for its storage are disproportionately large;
- transfer without deduction confiscated assets with an effective decision of other State bodies, upon prior consent of the Government of the Republic;
- provide certain items such as food, clothing and soft drinks without compensation to State bodies, associations of citizens and foundations, for which informs the Government of the Republic;
- deal with items that are outside the legal market: seized narcotic drugs, psychotropic substances and precursors, seized weapons, ammunition and explosive material;
- destroy assets that cannot be sold due to health, veterinary, phytosanitary, safety and other reasons, as well as tobacco, alcohol and other products for which there is no declaration or are forged;
- give opinions to other State authorities regarding the application of the law and the confiscation of property, proceeds and confiscated assets.

North Macedonia has put in place a regulatory and institutional framework and has concluded many bilateral agreements that provide for the international exchange of information for purposes of law enforcement.

The national law enforcement authorities have established various communication channels with external organizations. Details were elaborated in the response to paragraph 5 of Article 14 of the Convention above.

In August 2018, upon the proposal of the Public Prosecutor of the Republic, liaison prosecutor to EUROJUST was designated. The liaison prosecutor comes from the Public Prosecutor's Office for Prosecuting Criminal Offences Related to and Arising from the Content of the Illegally Intercepted Communication, known as the Special Prosecutor's Office.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

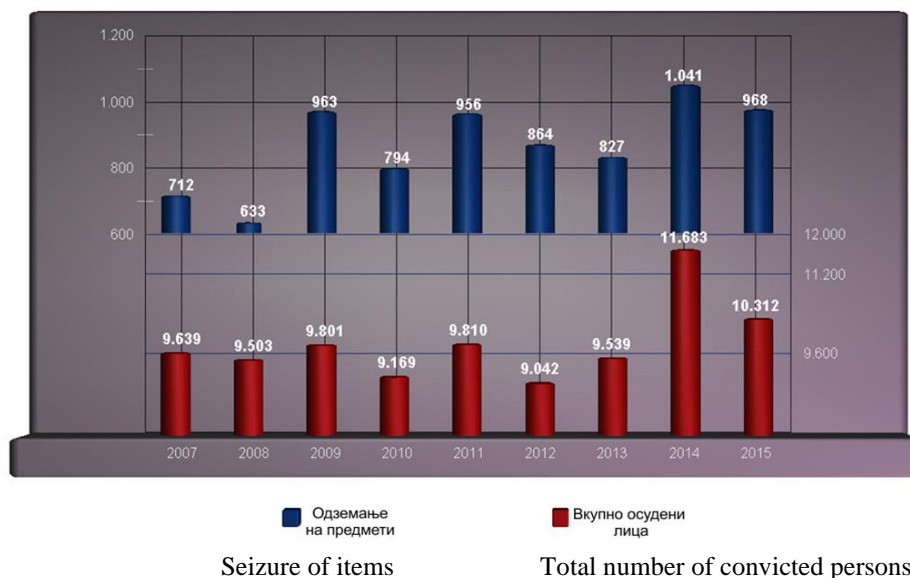
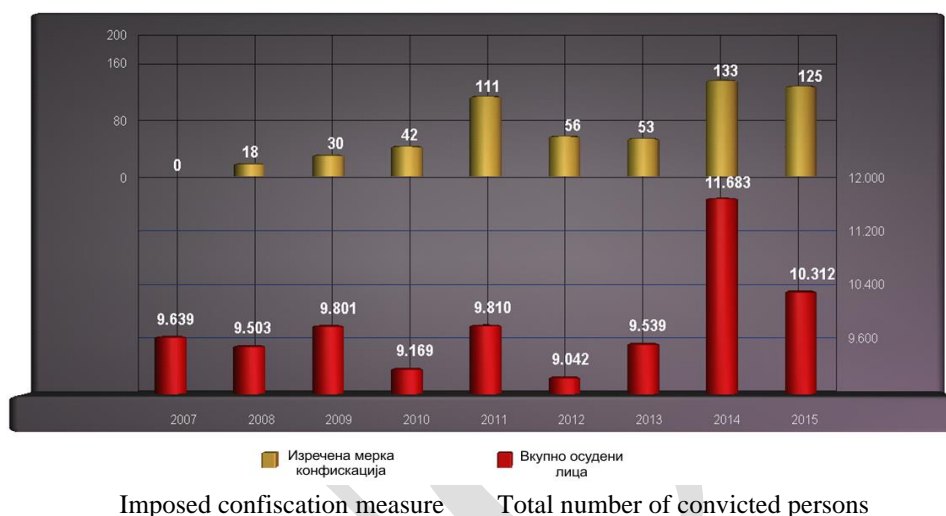
Statistics:

The data on the pronounced measures for confiscation and confiscated objects were presented by the State Statistic Office in its annual publications. Based on the data from 2007 to 2015, insofar as the total number of convicted persons is concerned, there are annually about 9,500 convicted persons in all basic courts in the Republic from 2007 to 2013. This number increased to 11,683 and 10,312 in 2014 and 2015. Prior to the adoption of the Criminal Code 2009, there were a limited number of confiscation measures being imposed. The results of the adoption of the Criminal Code are especially obvious in 2011 when the number of imposed confiscation measures increased from

42 in 2010 to 111 in 2011. However, in 2012 and 2013, the number decreased whereas the number of perpetrators of criminal offenses remained approximately the same.

The following table presents the total number of convicted persons, confiscation measures imposed and seizure of objects by years (2007-2015):

	2007	2008	2009	2010	2011	2012	2013	2014	2015
1. Convicted persons	9639	9503	9801	9169	9810	9042	9539	11683	10312
2. Confiscation measure imposed	0	18	30	42	111	56	53	133	125
3. Seized objects	712	633	963	794	956	864	827	1041	968



Regarding the seizure of objects, an increasing trend is noticeable (from 712 in 2007 to 827 in 2013). In 2014, a peak of 1,041 seizure of objects was reached, with a slight decrease to 968 in 2015. A similar movement is also seen in the number of convicted persons.

See annexes:

List of agreements as of before the independency

List of bilateral agreements on international legal assistance

List of signed international conventions on mutual legal assistance

All lists are available at http://pravda.gov.mk/mp_instrumenti

The list of international agreements on avoiding double taxation can be found at: <http://ujp.gov.mk/mk/regulativa/pregled/tr/md>

Manual of international legal cooperation in criminal matters prepared in the framework of Twinning light Strengthening the judicial cooperation in civil and criminal matters (MK 12 IB JH 01 TWL) can be found at:

[http://prosecutorsnetwork.org/uiimages/Manual%20International%20Legal%20Cooperation%20in%20Criminal%20Matters%20\(GTMF\).pdf](http://prosecutorsnetwork.org/uiimages/Manual%20International%20Legal%20Cooperation%20in%20Criminal%20Matters%20(GTMF).pdf)

General statistics:

Year	Judicial cooperation in criminal matters	
	Incoming	Outgoing
2011	2,142	467
2012	2,235	597
2013	1,809	1,303
2014	2,252	2,856
2015	1,418	1,137
2016	1,637	1,228
2017 - First half	776	628

(b) Observations on the implementation of the article

The asset recovery regime is currently in its infancy in North Macedonia. The asset recovery framework is comprised of the Criminal Code, the Criminal Procedure Code, the Law on Management of Confiscated Property, Proceeds and Objects Seized Items in Criminal and Misdemeanour Proceedings, the Law on International Cooperation in Criminal Matters, and the AML Law. The Convention may be directly applied. Its application is however difficult in practice given the absence of clear domestic policy and procedure. Legislative amendments are currently pending in order to fill the identified gaps.

A number of law enforcement, financial and judicial institutions play a role in the asset recovery process, including the PPO, the courts, the MOI, the MOF, the PRO, the CA, the Agency for Management of Seized Assets, the SCPC, and the FIO. There is no national institution specialized in the tracing, securing and the confiscation of assets. The overlapping asset recovery mandates of the above institutions engaged in asset recovery and their means of collaboration on the asset recovery process are not clear.

It is recommended that North Macedonia take steps to clarify institutional roles of different offices in the asset recovery process given the overlapping mandates and continue efforts.

Article 52. Prevention and detection of transfers of proceeds of crime

Paragraph 1 of article 52

1. Without prejudice to article 14 of this Convention, each State Party shall take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Such enhanced scrutiny shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions from doing business with any legitimate customer.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Article 2(20) of the AML Law provides that beneficial owner refers to any natural person(s) who ultimately owns or controls a client and/or natural person(s) on whose behalf and for whose account a transaction is being conducted. The term also includes natural person(s) who executes ultimate and effective control over a legal entity or foreign legal arrangement.

Article 2(22) further provides the definition of high-risk profile person which, in the language of the AML Law, is the holder of public functions including the domestic and foreign politically exposed persons (PEPs).

Article 37 provides that in case of clients from high-risk countries, the entity shall take the following measure(s) during the establishment of the business relationship or during the execution of transaction: (1) providing additional information about the client and/or the beneficial owner, its business, the nature of the business relationship, the purpose of the announced or executed transaction, the source of the assets and the source of the client's property; (2) frequent updating of documents and data for the client and the beneficial owner; (3) obtaining approval from the higher management to establish a new business relationship or for the continuation of the existing business relationship; or (4) enhanced monitoring of the business relationship and the activities within. In addition, the FIO regularly publishes the list of high-risk countries on its official website.

In accordance with Article 26 of the AML Law (adopted in June 2018 and in force from July 2018), the register of beneficial owners has been established.

The following legal entities are obliged to submit data on their beneficial owners within 8 days from registration of the incorporation of the legal entity in the appropriate register, or within 8 days from the change of the beneficial owner data (Art. 25(1) of the AML Law):

1. Companies, sole proprietors, self-employed persons, subsidiaries and branches of foreign companies and foreign sole proprietors;
2. Associations, unions, foundations, chambers, syndicates, political parties, cooperatives, religious communities or other organizations; and

3. Notaries, lawyers and other persons performing public authorizations,

The FIO, the competent prosecutorial institutions, the courts and the authorities which are competent to conduct supervision over the implementation of the measures and actions stipulated by the AML Law, as well as the entities who have obligation to undertake measures and actions to detect and prevent ML/FT, have direct access to the Register.

In accordance with the Law on Banks, the Public Revenue Office (which is competent to perform the checking of the asset declarations) may have access to the documents, data and information acquired in performing banking or other financial activities of individuals, as well as transactions and deposits made by individuals. SCPC may receive necessary information through cooperation with the institutions that have specific access in accordance with the Law on Banks.

Regarding the establishment of the appropriate mechanism to verify the identity of the customers (Art. 12), to scrutinize accounts sought or maintained by or on behalf of individuals entrusted with prominent public functions, their family members and close associates (Arts. 2 and 12), and to report to competent authorities about suspicious transactions (Arts. 52 and 54), please refer to the information provided in the response to Article 14 of the Convention.

On international front, the Law on International Cooperation in Criminal Matters provides for international cooperation in various aspects, thereby facilitating, among others, the disposal and transfer of seized and confiscated property and property benefits pursuant to the procedure of international assistance. Details were set out in the response to Article 51 of the Convention.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

See annexes:

List of agreements as of before the independency

List of bilateral agreements on international legal assistance

List of signed international conventions on mutual legal assistance

A list of international agreements on avoiding double taxation can be found at: <http://ujp.gov.mk/mk/regulativa/pregled/tr/md>.

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2016	1,637	1,228
2017 - First half	776	628

(b) Observations on the implementation of the article

Customer due diligence is required under article 12 of the AML Law, while beneficial owners are defined under its article 2 (20). The framework for a beneficial ownership register is established under its article 26. The FIO, the competent prosecutorial institutions, the courts and the authorities who are competent to conduct supervision over the implementation of the measures and actions stipulated by the AML Law, as well as the entities who have obligation to undertake measures and actions to detect and prevent money laundering and financing of terrorism, have direct access to the beneficial ownership register.

The AML Law provides a definition of high-risk profile person, in particular of domestic and foreign politically exposed persons (art. 2, para. 22). The entities concerned must, in addition, focus particularly on business relationships or operations that involve a person from a country representing a high risk of money-laundering (art. 37, AML Law).

In accordance with the Law on Banks, the Public Revenue Office may access the documents, data and information acquired in performing banking or other financial activities of individuals, as well as transactions and deposits made by individuals. SCPC may receive necessary information through cooperation with the institutions that have specific access in accordance with the Law on Banks.

It is identified as a good practice that North Macedonia has established a Register of Beneficial Ownership Information.

Subparagraph 2 (a) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

(a) Issue advisories regarding the types of natural or legal person to whose accounts financial institutions within its jurisdiction will be expected to apply enhanced scrutiny, the types of accounts and transactions to which to pay particular attention and appropriate account-opening, maintenance and record-keeping measures to take concerning such accounts; and

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

In accordance with Article 33 of the AML Law, in case there is a high risk of ML/FT determined on the basis of the risk analysis, the entities should apply enhanced client due diligence, such as:

- obtaining additional data for the client;
- more frequent updating of the clients' documents and data;

- obtaining additional data about the nature of the client's business relationship and transactions;
- obtaining additional data about the source of assets and wealth of the client;
- obtaining information about the reason of the planned and executed transactions;
- obtaining approval from the management board for establishing new or continuing business relationship;
- increased monitoring of the business relationship, and/or
- requiring the first payment to be made through client's bank account in Republic.

For the enforcement of the abovementioned measures, the entity is obliged to document and to make the documentations available to the supervisory authorities (The National Bank of Republic for the banks, saving houses, exchange offices, and the fast money transfer services providers; Agency for Supervision on Insurance for insurance companies, insurance brokerage companies, representing companies for insurance, insurance brokers and insurance agents; the Securities Commission of the Republic for the brokerage companies, the persons giving services to investment advisers and companies for managing with investment funds; the Agency for Supervision of Fully Funded Pension Insurance for the companies managing voluntary pension funds; the Public Revenue Office for the organizers of games of chance in a gaming house (casino), internet casinos, as well as for the legal and natural persons performing the following services: real-estate turnover, audit and accounting services, giving advice in the field of taxes or giving consultant services, legal persons receiving pledged movables and real-estates; the Postal Agency for the post offices and the legal persons performing telegraphic transfers or delivery of valuable packages and Commissions within Bar and Notary Chambers for their members.)

The MOF has published the following guidelines for the credit institutions to comply with:

Handbook for application of measures and activities for prevention of money laundering and financing terrorism: <https://ufr.gov.mk/wp-content/uploads/2020/05/priracnik-za-perenje-na-pari.pdf>.

Instructions for procedure against financial restrictive measures against terrorism and proliferation (for implementation of the Law on Restrictive Measures "Official Gazette, No.190/2017" <https://ufr.gov.mk/wp-content/uploads/2020/05/URM.pdf>.)

Insofar as the preparation of risk assessment of ML/FT is concerned, Article 10(6) of the AML Law provides that the entity shall, prior to making significant changes in its business activities and processes that may influence the measures for prevention of ML/FT, as well as when introducing a new product, service, activity or distribution channel, and in case of introduction of new technologies, carry out a risk assessment in order to determine and assess how the changes affect the exposure to the risk of ML/FT and it shall take appropriate measures for mitigation and effective risk management.

In addition, Article 14(1)(e) of the AML Law requires the financial institutions to perform client due diligence by means of ongoing monitoring of the business relationship and the transactions that are executed within the established business relationship in order to ensure that these transactions are consistent with the risk profile and the client's business, in case when it is necessary to determine the sources of funds, during which the documents and the data which the entity has must be updated. In actual operation, different criteria, including whether the client being a foreign politically exposed person or pronounced to be a subject person by the United Nations Security Council Resolutions, will be employed as the screening tools.

(b) Observations on the implementation of the article

MOF publishes guidelines for credit institutions. These institutions take measures to prevent risks related to the use of new technologies (art. 10, para. 6, AML Law). Moreover, financial institutions subjected to AML measures use ongoing monitoring for profiling clients. Foreign politically exposed persons and Security Council resolutions are included in the set of screening tools (art. 14-e, AML Law).

Subparagraph 2 (b) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

...

(b) Where appropriate, notify financial institutions within its jurisdiction, at the request of another State Party or on its own initiative, of the identity of particular natural or legal persons to whose accounts such institutions will be expected to apply enhanced scrutiny, in addition to those whom the financial institutions may otherwise identify.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

North Macedonia has put in place a system to notify financial institutions of the identity of high-risk persons. There are legal provisions prescribing criteria used to determine to whose accounts such enhanced scrutiny should be applied. Financial institutions notified accordingly need to report on enhanced scrutiny to such accounts.

Relevant provisions are stipulated by the AML Law, as follows:

**“Client due diligence
Article 12**

The entities shall conduct client due diligence in the following cases:

- a) when establishing business relationship with the client;
- b) when a transaction in the amount of 15,000 euros or more, in denar equivalent based on the average exchange rate of the National Bank of the Republic of Macedonia, is executed, regardless if it is executed as one or several transactions that appear as interconnected;
- c) when an occasional transaction which is a transfer of cash in the amount greater than 1,000 euros in denar equivalent based on the average exchange rate of the National Bank of the Republic of Macedonia, is executed,
- d) for games of chance in case of deposit and payment of winning profit, as well as during purchase or payment for chips in the amount of 1,000 euros in denar equivalent based on the average exchange rate of the National Bank of the Republic of Macedonia, regardless if it is executed as one or several transactions that appear as interconnected

and for which the total value is 1,000 euros or more in denar equivalent based on the average exchange rate of the National Bank of the Republic of Macedonia,

- e) when there is a suspicion of the veracity or adequacy of the previously obtained information about the identity of the client or the beneficial owner and
- f) when there is suspicion of money laundering or financing of terrorism, regardless of any exception or amount of funds.

Client due diligence measures

Article 14

- (1) The client due diligence referred to in Article 12 of this Law includes:
 - a) client identification and verification of his identity by using documents, data and information from reliable and independent sources;
 - b) identification of the proxy and verification of his identity by using documents, data and information from reliable and independent sources;
 - c) beneficial owner identification and undertaking appropriate measures to verify the identity by using documents, data and information from reliable and independent sources in order for the entity to be satisfied that it knows who the beneficial owner is;
 - d) providing information about the purpose and the intended nature of the business relationship and
 - e) ongoing monitoring of the business relationship and the transactions that are executed within the established business relationship in order to ensure that these transactions are consistent with the risk profile and the client's business, in case when it is necessary to determine the sources of funds, during which the documents and the data which the entity has must be updated.
- (2) When a client is a legal entity or a legal arrangement, the entity shall take measures in order to determine the nature of its business activity and the ownership and control structure.
- (3) The entities execute each measure of the client due diligence, and its scope depends on the client risk assessment.
- (4) The entities shall have the client risk assessment documents available for the supervisory authorities referred to in Article 146 of this Law in order to verify that the specified risk of money laundering and financing of terrorism is appropriate and that the scope of the executed measures is in line with the client's risk.
- (5) The entities shall implement the client due diligence measures to both the existing clients and their business relationship, based on the risk assessment, for a certain period of time in accordance with the prepared risk assessment, taking into account the client due diligence which was previously executed and the change of the circumstances which are of importance for the implementation of the provisions of this Law.

Identification and verification of the identity of the client

Article 16

- (1) When the client is natural person, identification and verification of the identity is done with submission of original and valid identification which is issued by competent authority or a notarized copy.

(2) Based on the identification referred to in paragraph (1) of this Article, the verification includes the name, surname, date and place of birth, place and address of the place of residence or temporary residence, unique personal identification number or identification number and number of the identification document, the issuing authority and the date of validity.

(3) When the client is a legal entity or a legal arrangement, identification and verification of the identity is done thru original or notarized copy of the document of registration issued by competent authority from the country where the legal entity is registered or with the articles of association of the legal arrangement. The document of registration or incorporation is submitted in paper and/or electronic version. The documents of registration issued by a competent authority of a foreign country must be translated into Macedonian language by authorized court interpreter.

(4) Based on the document referred to in paragraph (3) of this Article, the verification includes the name, legal form, address, tax number or other registration number of the legal entity or legal arrangement, the founder(s), trustee(s), beneficiary or group of beneficiaries of the trust, the legal representative, the managing authority and persons authorized to enter into a business relationship on behalf of the client.

(5) For the purpose of identification, it is mandatory for the entities to keep copy in paper and/or electronic version from the documents referred to in paragraph (1) and (3) of this Article, whilst implementing the technical and organizational measures in accordance with the regulations on personal data protection.

(6) The entities may also require other data, information and documents from the client and/or from reliable and independent sources for verification of the identity of the client.

Identification and verification of the identity of the authorizer

Article 17

(1) The entities shall determine whether the client acts in the name and on behalf of a third party.

(2) In the cases referred to in paragraph (1) of this Article, the entities shall identify and verify the identity of the person performing the transaction (the proxy), the holder of the rights (the authorizer) and the power of attorney.

Identification and verification of the identity of the beneficial owner

Article 18

(1) The entities shall be obliged to identify the beneficial owner.

(2) The entities shall verify the identity of the beneficial owner based on data and information from reliable and independent sources, to the extent adequate to the conducted risk assessment, in order to be satisfied who the beneficial owner is.

(3) The entities shall obtain the data on the beneficial owner from the original or certified documentation from a commercial, judicial or other public register and which is not older than six months. The entities shall verify the data of the beneficial owner from the register of beneficial owners, however they must not rely exclusively on the data entered in the register.

(4) If the entities cannot obtain all the information on the beneficial owner of the client from the commercial, judicial or other public register or the register of beneficial owners, the

necessary data should be obtained by checking the original or certified documents and business records submitted by the legal representative of the client or person authorized by him.

(5) If the client is not subject to registration in appropriate register and the entities cannot obtain the necessary data for the beneficial owner in the manner described in paragraphs (2), (3) and (4) of this Article, the entities shall provide the data directly, with a written statement under full moral and material responsibility certified by a notary issued by the legal representative or person authorized by him.

(6) If during the determination of the beneficial owner, the entities doubt the reliability of the submitted data or the reliability of the documents or other business documentation, they shall request a written statement under full moral and material responsibility certified by a notary, issued by the legal representative or by person authorized by the legal representative, before establishing a business relationship or before making a transaction.

(7) In the cases referred to in paragraphs (5) and (6) of this Article, the entities shall apply one or more measures for enhanced analysis in accordance with the provisions of this Law.

(8) The Director of the Office shall determine the method of identification of the beneficial owner through manual.

Identification and verification of the identity

Article 15

(1) The entities shall execute the identification and verification of the identity of the client, the authorizer or the beneficial owner, prior to entering into business relationship or prior to executing occasional transaction.

(2) On exception of paragraph (1) of this Article, the entities can confirm the identity of the client, the authorizer or the beneficial owner during the process of establishing business relationship in order to not disturb the business process and when there is low risk of money laundering or financing of terrorism.

(3) In activities related to life insurance, it is permitted to verify the identity of the client, the authorizer or the beneficial owner of the policy, after the business relationship has been established. In this case, the confirmation of the identity must be completed before or during the payment of the policy or before or during the time when the beneficiary intends to exercise the rights arising from the policy.

Continuous monitoring of business relationships

Article 31

(1) The entity shall monitor the business activities and transactions that are performed within the business relationship with the client closely, in order to verify that they are in accordance with the purpose and intention of the business relationship, the client's risk profile, its financial condition and its sources of financing.

(2) The entity shall perform regular checks and updates of the documents and the data for the clients, the beneficial owners and the risk profile of the clients with whom it has established a business relationship.

Obtaining and forwarding of information in cases of money transfer

Article 43

(1) For the purpose of international payment operations, in cases of deposits of 1,000 euros or more in denar equivalent based on the average exchange rate of the National Bank of the

Republic of Macedonia on the day of the payment, the financial institutions shall obtain data on:

a) the payer – data from which the identity can be determined and verified, specifically:

-name and surname or the title of the payer,

-the account number, or if the account number is missing or cannot be obtained, the transaction's unique identifying designation which allows tracking and

-address and the number of national identification document or the client's identification number or the date and place of birth.

b) the receiver – data from which the identity can be determined and verified, specifically:

-name and surname or the title of the receiver,

-the account number, or if the account number is missing or cannot be obtained, the transaction's unique identifying designation which allows tracking.

(2) The financial institutions, in cases of domestic payment deposit of 1,000 euros or more in denar equivalent based on the average exchange rate of the National Bank of the Republic of Macedonia on the day of the payment, shall obtain the payer's data from which his identity can be determined and verified. If, for technical reasons, the data provided cannot be forwarded, only the data for the account number or the transaction's unique identification number is forwarded.

(3) The financial institutions referred to in paragraph (2) of this Article, at the request of the financial institution making the payment or request from the competent authorities, shall provide the data referred to in paragraph 1 of this Article within three working days after the submission of the request.

(4) The financial institutions who act as intermediaries in cases of international payment transfers of 1,000 euros or more in denar equivalent based on the average exchange rate of the National Bank of the Republic of Macedonia on the day of the payment, shall forward the data for the payer referred to in paragraph (1) of this Article to the financial institution that will make the payment of the funds.

(5) During payments of international transfers in the amount of international payment transfers of 1,000 euros or more in denar equivalent based on the average exchange rate of the National Bank of the Republic of Macedonia on the day of the payment, the financial institutions shall obtain the payer's identification data from the financial institution of the payer and within their internal acts to determine if any data referred to in paragraphs (1), (2) and (4) of this Article are missing and the method of handling such transfers. The entities have to request the missing data or to refuse the execution of the transfer.

(6) Financial institutions may restrict or terminate the business relationship with financial institutions that do not provide or forward the referred to in paragraphs (1), (2), (4) and (5) of this Article.

(7) The provisions of this Article shall not apply to the following types of transfers:

-when using bank cards which are used for withdraw of funds from a bank account, ATMs or through terminals and for payments in the retail trade,

-during transfers and settlements where both the payer and the receiver are the banks that perform the transfer in their own name and for their own account, and

-during payment of taxes, fines and other public fees.

Entrusting client due diligence obligations to third parties

Article 42

(1) In cases when the entities implement the measures referred to in Article 14 of this Law, they may, under the conditions determined by this Law, entrust the implementation of the measures and activities referred to in Article 14, paragraph (1), items a), b), c) and d) of this Law to third parties.

(2) In cases referred to in paragraph (1) of this Article, in relation to the third parties, the entities must:

a) immediately obtain the necessary information for the third party in accordance with Article 14, paragraph (1), items a), b), c) and d) of this Law;

b) at their request, without delay, to obtain the necessary documentation for the client due diligence which was executed and

c) to verify that the third person is licensed for the activity performed and is subject to control by a competent authority and meets the measures for client due diligence and for storing the data in accordance with this Law.

(3) The entities may entrust the implementation of the measures and activities referred to in Article 14, paragraph (1), items a), b), c) and d) to third parties from the same financial group if the financial group implements the requirements for client due diligence, data storage and internal programs for prevention of money laundering and financing of terrorism, enhanced analysis of the holders of public functions in accordance with international standards.

(4) The entity shall check whether the third party referred to in paragraphs (1) and (3) of this Article meets the requirements of Article 14 of this Law. In the event that the third party is from another country, the entity should take into account the degree of risk of money laundering and financing of terrorism in the country. It is not permitted to entrust the performance of the measures and activities referred to in Article 14, paragraph (1), items a), b), c) and d) of this Law to a third party from a country that does not apply the standards for prevention of money laundering and financing of terrorism or to a shell bank.

(5) The responsibility for implementation of the client due diligence measures in the cases referred to in paragraph (1) of this Law shall remain with the entity that entrusted the execution of the measures and activities referred to in Article 14, paragraph (1), items a), b), c) and d) of this Law to third parties.

(6) A third party may be a bank, notary, investment fund management company and investment fund, mandatory and voluntary pension funds management company and insurance company that carries out life insurance activities.

(7) The entity may, within its group, entrust the performance of the measures and activities referred to in Article 14, paragraph (1), items a), b), c) and d) of this Law to a third party which is part of the group under condition that:

1. the group implements the measures and activities referred to in Article 14, paragraph (1), items a), b), c) and d) of this Law and follows the obligations related to the storage of data and has introduced and implements a program for prevention of money laundering and financing of terrorism which includes elements in accordance with the provisions of this law and

2. the implementation of the obligations at group level is subject to supervision by the competent supervisory authorities referred to in Article 146 of this Law or by the competent supervisory authorities of the third country.

(8) Service providers for the entities or agents with whom the entities have services contract, as well as entities established in high-risk countries, are not considered as third parties.

Simplified client due diligence

Article 32

(1) The entities may apply simplified measures for analysis of the client when, in accordance with the provisions of Article 10 of this Law, they have determined that there is a low risk of money laundering and financing of terrorism.

(2) When deciding on the application of simplified measures for client due diligence, the entities shall also take the results of the national risk assessment into account.

(3) Measures of simplified client due diligence may be:

- confirmation of the identity of the client or the beneficial owner after the establishment of the business relationship;

- reduction of the update frequency for the documents and the data of the clients and/or

- reduction of the monitoring degree of the business relationship and the transactions of the client.

(4) The entities shall provide appropriate documentation on the basis of which it can be verified that the simplified client due diligence is approved and that the simplified client due diligence measures are appropriate to the risk, as well as to have that documentation available to the supervisory authorities referred to in Article 146 of this Law.

(5) Simplified client due diligence is not permitted when there is suspicion of money laundering or financing of terrorism related to the client, the transaction, the business relationship or the property, when specific scenarios of high risk of money laundering or financing of terrorism are applied and in cases of complex and unusual transactions.

(6) The Minister of Finance shall define the method of implementation of the measures for simplified client due diligence.

Enhanced client due diligence

Article 33

(1) In cases where there is a high risk of money laundering or financing of terrorism, determined in accordance with Article 10 of this Law or on the basis of the national risk assessment referred to in Article 3 of this Law or in case of suspicion of money laundering or financing of terrorism, the entity apart from the measures for client due diligence referred to in Article 14 of this Law, shall execute one or more of the following measures:

- obtaining additional data for the client;

- more frequent updating of the documents and the data for the client;

- obtaining additional data on the nature of the business relationship and the transactions of the client;

- obtaining additional data on the source of the assets and the source of the property of the client;

- obtaining information on the reason for the planned or executed transactions;

- obtaining approval from the higher management to establish new or to continue the business relationship;

- more frequent monitoring of the business relationship and/or
- requesting the first payment to be made through a client account in a bank in the Republic of Macedonia.

(2) The entity shall document the implementation of the measures of enhanced analysis referred to in paragraph (1) of this Article to have that documentation available to the supervisory authorities referred to in Article 146 of this Law.

Complex and unusual transactions

Article 38

(1) The entity shall pay special attention to all complex and unusually large transactions, as well as to any transaction carried out in an unusual manner, which does not have obvious economic justification or legal purpose or deviates from the usual or expected business operation of the client and in cases when there is still no basis for suspicion of money laundering or financing of terrorism in relation to those cases.

(2) The entities shall pay special attention to business relationships and transactions with non-profit organizations.

(3) Regarding the transactions referred to in paragraphs (1) and (2) of this Article, the entity shall, within the framework of the enhanced client due diligence, take the following measures:

1. to collect and verify additional data for:
 - a) the client's business activity and
 - b) the nature of the business relationship with the client
2. to collect and verify data for the purpose of the announced or executed transaction
3. to update the client's and the beneficial owner's identification data and
4. to collect and verify data on the source of funds for the transaction.

(4) In relation to the transactions referred to in paragraphs (1) and (2) of this Article, the entity shall keep the results of the analysis referred to in paragraph (3) of this Article in written form and have them available upon request by the supervisory authorities referred to in Article 146 of this Law.

(5) After the concluded analysis referred to in paragraph (3) of this Article, if the entity determines that there are basis for suspicion of money laundering or financing of terrorism, it shall submit a report to the Office in accordance with Article 54 of this Law.

Refusal of business relationship and transaction

Article 39

(1) When the entity is unable to implement the client due diligence measures referred to in Article 14 of this Law, it shall refuse the establishment of a business relationship or to not execute the transaction or to terminate the business relationship with the client.

(2) In case when the beneficial owner of the legal entity referred to in Article 27 of this Law has not been entered or updated in the register of beneficial owners, the entity shall postpone the establishment of a business relationship or postpone the execution of the transaction until the data are entered in the register.

(3) In cases referred to in paragraph (2) of this Article, the entity shall inform the Office immediately.

(4) In cases referred to in paragraph (1) of this Article, the entity shall determine the need to submit a report to the Office in accordance with Article 54 of this Law.

Financial Intelligence Office
Article 64

(1) The Office is financial intelligence unit of the Republic of Macedonia, established for the purpose of collecting and analyzing reports of suspicious transactions and other information of importance for the prevention and detection of money laundering and financing of terrorism and delivering the results of the analysis and other additional relevant information to the competent authorities when there is basis for suspicion of money laundering and financing of terrorism.

(2) The Office is a government organization within the Ministry of Finance, with the capacity of a legal entity.

(3) The Office has the following competencies:

- collect, process, analyze, store and submit data obtained on the basis of this Law;
- collects data, information and documents necessary for the performance of its competences;
- prepares and submits reports to the competent government authorities, whenever there is basis for suspicion of committed criminal offence money laundering or financing of terrorism;
- prepares and submits notification to the competent government authorities on basis for suspicion of other criminal offense committed;
- issues a written warrant to the entity with which it temporarily keeps the transaction;
- submits a request for submission of proposal for determining interim measures to the competent public prosecutor;
- submits a warrant to the entity for monitoring of business relation;
- issues a misdemeanour payment warrant;
- submits a request for initiating a misdemeanour procedure before the competent court;
- prepares strategic analyzes for determining the trends and typologies of money laundering and financing of terrorism;
- cooperates with the entities referred to in Article 5 of this Law, with the Ministry of Interior, Ministry of Defense, Ministry of Justice, Ministry of Foreign Affairs, Public Prosecutor's Office of the Republic of Macedonia, Intelligence Agency, Financial Police Office, Customs Administration, the Public Revenue Office, State Foreign Exchange Inspectorate, Securities and Exchange Commission of the Republic of Macedonia, National Bank of the Republic of Macedonia, Agency for Supervision of Fully Funded Pension Insurance, Insurance Supervision Agency, State Commission for Prevention of Corruption, State Audit Office, Central Registry of the Republic of Macedonia and other government authorities and institutions, as well as with other organizations, institutions and international authorities for combating money laundering and financing of terrorism;
- executes agreements for cooperation and exchange of data and information with financial intelligence units of other countries and international organizations involved in the fight against money laundering and financing of terrorism;
- independently or in cooperation with the supervisory authorities of this Law, supervises the entities on the implementation of the measures and activities determined by this Law;
- participates in the implementation of a national risk assessment of money laundering and financing of terrorism and conducts risk assessment on certain categories of entities;

- initiates initiatives or gives opinion on laws and bylaws related to the prevention of money laundering and financing of terrorism;
- may assist in the professional development of the authorized persons and employees in the department for prevention of money laundering and financing of terrorism in the entities referred to in Article 5 of this Law;
- establishes lists of indicators for recognizing suspicious transactions in cooperation with the entities and bodies supervising their operations and regularly updates them;
- plans and conducts trainings events for training and development of the employees in the Office;
- carries out activities for raising the awareness of the non-government sector on the risks of their possible abuse for the purposes of financing of terrorism;
- provides clarification in the application of the regulations on prevention of money laundering and financing of terrorism;
- keeps records, as well as comprehensive statistics, for the purpose of evaluating the effectiveness of the system for combating money laundering and financing of terrorism;
- acts in accordance with the provisions of the Law regarding restrictive measures and the bylaws adopted on its basis;
- performs other activities determined by law.

(4) For the purpose of performing its competencies, the Office has timely direct or indirect electronic access to data, information and documentation which are owned by entities, state bodies and institutions and other legal entities or natural persons in accordance with the provisions of this Law.

(5) The Office performs the duties of its competence in accordance with the law and the ratified international agreements that regulate the prevention of money laundering and financing of terrorism.

(6) Personal data collected for the purposes of this Law are used in accordance with this Law and the regulations for personal data protection.

(7) The Office, once per year, shall prepare a report on the activities within its competencies and work program for the following year and submit it to the Minister of Finance and to the Government of the Republic of Macedonia. The Office can also submit other report at the request of the Minister of Finance or the Government of the Republic of Macedonia.

Warrant for monitoring of business relationship

Article 119

(1) When there is suspicion of money laundering and/or financing of terrorism, the Office may submit to the entity, a written warrant for monitoring of the client's business relationship.

(2) The entity shall notify the Office on transactions that are performed or to will be performed within the framework of a business relationship, in accordance with the instructions given in the warrant.

(3) In the warrant referred to in paragraph (1) of this Article, the Office shall determine the deadlines in which the entity is obliged to submit the data for the transactions referred to in paragraph (2) of this Article.

(4) If, due to objective circumstances, the entity fails to notify the Office within the deadlines referred to in paragraph (3) of this Article, it shall immediately inform the Office after the removal of the circumstances and explain the reason for not submitting the notification within the specified deadline.

(5) The monitoring of the business relationship referred to in paragraph (1) of this Article may be in effect no longer than three months, while in justified cases the duration of the measure may be extended for one more month, whilst the monitoring of the business relationship may be in effect for maximum of six months.

(6) With the exception of paragraph (5) of this Article and for the purpose of preventing financing of terrorism, the duration of the measure may be extended as long as there is a need in accordance with the purpose for which the measure is being implemented.”

The FIO is a member of the EGMONT Group and actively participates in the Moneyval Committee.

(b) Observations on the implementation of the article

In compliance with the AML Law and circulars from supervisory authorities, it is required to put in place enhanced due diligence mechanisms relating to transactions carried out by high-risk customers (art. 33, AML Law). When there is suspicion of money-laundering or financing of terrorism, the Office may submit to the entity (financial institution) a written warrant for monitoring the client’s business relationship (art. 119, para. 1, AML Law).

Paragraph 3 of article 52

3. In the context of paragraph 2 (a) of this article, each State Party shall implement measures to ensure that its financial institutions maintain adequate records, over an appropriate period of time, of accounts and transactions involving the persons mentioned in paragraph 1 of this article, which should, as a minimum, contain information relating to the identity of the customer as well as, as far as possible, of the beneficial owner.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

In accordance with the AML Law, the reporting entities (financial institution included) are obliged to store copies of the documents which determine and verify the identity of the client, authorizer and real owner. The documents include the implemented due diligence procedures of client or real owner, the realized or attempted transactions, client file and business correspondence. The document shall be kept for at least ten years following the executed transaction. If there are several transactions, the last transaction should be used to determine the compliance with the five-year rule. Relevant provisions of the Law are cited below:

“Data storage

Article 51

(1) The entities shall maintain copies of the documents with which they determine and verify the identity of the client, the authorizer and the beneficial owner, copies on conducted procedures for client due diligence or the beneficial owner analysis and copies of the executed transactions or attempted transactions, the client’s file and the business correspondence, for ten years in electronic version or paper form after the transaction, counted from the last transaction.

- (2) The entities shall maintain copies from the analysis in accordance with Article 38 of this Law, in electronic version or paper form, for ten years.
- (3) The entities shall be obliged to keep the data in the manner which they reported to the Office, for ten years from the date of delivery. After the expiration of this period, the entities are obliged to erase the personal data of the client.
- (4) The financial institutions shall keep the data for the payer and the recipient of wire (non-cash) transfer of funds referred to in Article 43 of this Law, ten years after the transfer.
- (5) The register referred to in Articles 44 and 47 of this Law must be kept for ten years from the last registered data.
- (6) The entities shall keep copies of the documentation referred to in Article 58 of this Law for ten years.
- (7) In case of dissolution of the entity, the obligation to store the data within the deadline specified in paragraph (1) of this Article shall be transferred to the legal successors of the entity.
- (8) If there are no legal successors of the legal entity, the obligation to store the data referred to in paragraph (1) of this Article shall be transferred to its founders.
- (9) The entities shall provide the documents referred to in paragraph (1) of this Article upon request of the supervisory authorities referred to in Article 146 of this Law.
- (10) At the request of the Office, the entities shall keep the data referred to in paragraph (1) of this Article longer than ten years.

**Electronic access to data, information and documentation by
the Office
Article 116**

(1) In order to perform the competencies defined by this Law, the Office has electronic access and uses data from the databases, free of charge, from:

1. Ministry of the Interior:

- data register of personal identification numbers,
- data register of citizens of the Republic of Macedonia,
- data register of the citizens of the Republic of Macedonia who have acquired citizenship of the Republic of Macedonia, and who have their citizenship of the Republic of Macedonia ended,
- data register of issued ID cards,
- data register of passports of citizens of the Republic of Macedonia,
- data register, card and alphabet of citizens who have reported that they are going abroad,
- data register of missing, lost and wrong passports,
- data records of personal identification number for foreigner,
- data records of issued ID cards for foreigners,
- data records of entry and exit from the country,
- data on criminal records,
- data records of issued weapons permits,

- data records of issued weapons carrying permits,
- data records of collector's weapons approvals,
- data records of submitted applications for registration of collector's weapons,
- data records of collector's weapons licenses,
- data records of collectors,
- data records of confiscated, found, handed over weapons and ammunition,
- data records of granted approvals for trading with weapons / ammunition and weapon parts,
- data records of detectives who have been granted a license for performing detective activity,
- data records of registered motor vehicles (list of vehicles owned by a natural person or legal entity, list of owners of motor vehicles),
- data records of registered floating craft,
- data register of households, etc.

2. Ministry of Justice

- data records of monitoring cases of corruption,
- data records of cases for international legal assistance (from the system for electronic processing of cases for international legal assistance),

3. Pension and disability insurance fund:

- data from the records of persons insured according to the regulations on pension and disability insurance and status,
- data records of years of service,
- data records of pensioner and pensioner's status.

4. Health Insurance Fund:

- data records of persons insured in accordance with the regulations on compulsory health insurance.

5. Public Revenue Administration:

- data records of unique personal identification number and unique tax number,
- data records of tax registry,
- data records of revenues from annual tax applications for individuals,
- data records of monthly tax applications in relation to VAT,
- data records of refund of higher or wrongly collected tax,
- data records of VAT refund,
- data records of conducted tax audits and investigations,

- data records of registered activities that make cash payments,
- data records of certified accountants for legal entities.

6. Employment Agency:

- data records of employed persons (historical M1 / M2 form) employed in a particular company,
- data records of unemployed persons and other jobseekers,
- data records of foreign nationals and persons without citizenship who are employed in the Republic of Macedonia.

7. Agency for Beneficial Estate Cadastre:

- data register of spatial units
- data register of property lists,
- data register of prices and leases,
- data for movement of ownership of property.

8. Central Securities Depository:

- data register of securities,
- data register of securities owners,
- data register of settlements of trade transactions,
- data register of non-trade transfer of securities,
- data register of borrowed securities.

9. Data from a unique register of transaction accounts - Clearing House "KIBS" AD Skopje:

- data registers of transaction accounts.

10. Data from credit bureau:

- data from moj.mkb.mk portal.

11. Central Registry:

- trade register and register of other legal entities,
- data register of annual accounts,
- data from the register of pledges,
- data from the lease register,
- data register of investments in beneficial estate,
- data register of beneficial estate rights,

- data register of direct investments of residents abroad,
- data register of direct investments of non-residents in the Republic of Macedonia,
- data register of natural persons and legal entities who have been sanctioned with restriction for performing a profession, activity or duty and temporary restriction for performing particular activity,
- data register of secondary verdicts for committed criminal offences by legal entities,
- data register of security by transfer of ownership of objects and transfer of rights (fiduciary register),
- data register of sales of movable items with retention of ownership right.

12. Customs Administration of the Republic of Macedonia:

- data records of customs declarations from natural person,
- data records of customs declarations from legal entity,
- data records of executed import and export,
- data register of excise bonds,
- data records of single customs document,
- data records of foreign currencies and securities carried in and out,
- data records of filed criminal charges and misdemeanour procedures.

13. Financial Police Office:

- data records of filed criminal charges.

14. Courts:

- data records of criminal proceedings against a certain person,
- data from the penal records,
- data records of a served restrictions on performing an activity of a certain person,
- data records of confiscated or limited business ability of persons.

15. Ministry of Justice - Office for management of registers of births, marriages and deaths:

- data from the birth registers,
- data from the marriage registers,
- data from the registers of deceased persons,
- data records of parents/guardians of a certain person,
- data records of relationship between persons.

16. Ministry of Labor and social policy:

-data records of social assistance beneficiaries.

17. State Audit Office:

-data records of executed audits,

-data from the electronic system for audit management.

18. Stock Exchange of Macedonia:

-data records contained in MB NET,

-data records of concluded transactions, including block transactions.

19. Public Prosecutor's Office of the Republic of Macedonia

-data records of received criminal charges,

-data records of filed charges,

-data records of measures for securing property during procedure,

-data records of inter-prosecutor cooperation.

20. Ministry of Economy

-data register of concluded concession agreements.

21. State Statistical Office

-statistics by fields: general and regional statistics, population and social statistics, revenues, consumption and prices, economy and finance, industry, construction and energy, foreign trade, transport, tourism, trade and other services and multidimensional statistics.

(2) The type, the access and the method of using the data from the databases of the entities referred to in paragraph (1) of this Article shall be regulated by memorandums of cooperation signed between the Office and the competent entity referred to in paragraph (1) of this Article.”

In accordance with the following provisions of the AML Law, the FIO is also obliged to keep the specified documents such as suspicious activity reports for a specified period of time. The relevant provisions are as follows:

“Article 139

(1) The Office shall keep records on:

1) persons for which a suspicious activity report has been submitted;

2) persons for which a cash transaction report of 15,000 or more euros in denar equivalent was submitted, regardless of whether it is a single transaction or several obviously interconnected transactions;

3) persons for which a notary report for a notary public act, a certified private document and a certified signature of a contract has been submitted;

- 4) persons for which a report on paid credit has been submitted;
 - 5) persons for which a report for given and/or received loan has been submitted;
 - 6) persons for which a report for transaction through fast money transfer has been submitted;
 - 7) persons for which a report on establishment of life insurance policy has been submitted;
 - 8) persons for which a report on sale and purchase of vehicles has been submitted;
 - 9) persons for which a report on purchase or payment of chips in a gaming house (casino) has been submitted;
 - 10) persons for which a report on payment of profit, deposit or cancellation of the deposit and/or in all cases with other organizers of games of chance has been submitted;
 - 11) persons for which a report for suspicion of money laundering and financing of terrorism has been submitted to the competent authorities;
 - 12) persons for which notification of suspicion of another crime has been submitted to the competent authorities;
 - 13) persons for which a warrant for monitoring of business relationship has been issued;
 - 14) persons for which a warrant for implementation of provisional measures has been issued;
 - 15) persons for which initiative and request has been submitted by the competent authorities in the Republic of Macedonia;
 - 16) persons for which data were exchanged with financial intelligence units of other countries;
 - 17) persons who transferred money or physically transferable means for payment through the customs line of the Republic of Macedonia;
 - 18) persons for which misdemeanour payment warrants have been issued;
 - 19) persons for which education has been conducted and
 - 20) persons for which data between the supervisory authorities were exchanged.
- (2) The records referred to in paragraph (1) of this Article shall contain personal data in accordance with this Law and other data and information for the personal data holder and for a third party.

Article 140

The records referred to in Article 139 of this Law may be structured and managed as follows:

- 1) records of submitted reports for suspicious activity;
- 2) records of submitted reports for cash transaction of 15,000 or more euros in denar equivalent, regardless of whether it is a single transaction or several obviously interconnected transactions;
- 3) records of submitted notary reports for a notary public act, a certified private document and a certified signature of a contract;
- 4) records of submitted reports for paid credit;
- 5) records of submitted reports for given and/or received loan;
- 6) records of submitted reports for transaction through fast money transfer;
- 7) records of submitted reports for establishment of life insurance policy;

- 8) records of submitted reports for sale and purchase of vehicles;
- 9) records of submitted reports for purchase or payment of chips in a gaming house (casino);
- 10) records of submitted reports for payment of profit, deposit or cancellation of the deposit and/or in all cases with other organizers of games of chance;
- 11) records of submitted reports to the competent authorities for suspicion of money laundering and financing of terrorism;
- 12) records of submitted reports to the competent authorities for suspicion of another crime;
- 13) records of issued warrants for monitoring of business relationship;
- 14) records of issued warrants for implementation of provisional measures;
- 15) records of submitted initiatives and requests by competent authorities in the Republic of Macedonia;
- 16) records of data which were exchanged with financial intelligence units of other countries;
- 17) records of submitted reports for transferred money or physically transferable means for payment through the customs line of the Republic of Macedonia;
- 18) records of completed audits on the entities referred to in Article 5 of this Law;
- 19) records of completed audits on the legal entities referred to in Article 25 of this Law;
- 20) records of issued misdemeanour payment warrants;
- 21) records of conducted education and
- 22) records of data exchanged between the supervisory.

Article 145

The data from the records referred to in Article 139 and Article 140 of this Law shall be kept for ten years from the day of their receipt.”

(b) Observations on the implementation of the article

Entities are required to keep files and records for at least 10 years from the day of receipt (art. 145, AML Law). Records are currently kept within each institution in electronic and hard copy format.

Paragraph 4 of article 52

4. With the aim of preventing and detecting transfers of proceeds of offences established in accordance with this Convention, each State Party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight bodies, the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group. Moreover, States Parties may consider requiring their financial institutions to refuse to enter into or continue a correspondent banking relationship with such institutions and to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence and that are not affiliated with a regulated financial group.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Financial institutions are prohibited to enter into or to extend business relationship with a shell bank and to begin or continue correspondent business agreement with a bank for which the financial institutions are aware of the fact that bank allows opening and operation with accounts of a shell bank. In addition, shell banks shall be prohibited to perform any financial activities in the Republic.

Relevant provisions are stipulated by the AML Law as follows:

According to item 29 of paragraph 1 of Article 2, shell bank is financial institution which has no business premises, employees and management bodies in the country where it is registered, and it is not a member of a banking or other type of group that is subject to supervision on a consolidated basis.

Article 49 also provides that “(1) It is forbidden for financial institutions to establish or to continue the business relationship with shell banks and to start or continue a correspondent business relationship with a bank they know it is allowing opening and operating of accounts with shell banks; and (2) It is forbidden for shell banks to conduct financial operations in any way in the Republic of Macedonia”.

(b) Observations on the implementation of the article

The establishment of “shell banks” is prohibited (art. 49, AML Law). Financial institutions shall also refrain from establishing or maintaining correspondent banking relationships with any fictitious financial institution (art. 49, AML Law).

Paragraph 5 of article 52

5. Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties when necessary to investigate, claim and recover proceeds of offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The Law on Prevention of Conflict of Interest regulates the categories of persons who are obliged to submit a statement of interest form:

“IX-a. STATEMENT OF INTERESTS

Article 20-a

The President of the Republic of Macedonia, the members of parliament, the mayors, the ambassadors and the other persons appointed by the Republic of Macedonia abroad, the persons elected or appointed to or by the Parliament of the Republic of Macedonia and the Government of the Republic of Macedonia, the state administration authorities and other state

authorities, the judicial authorities, the public enterprises, institutions and other authorities of the central government and the local authorities specified by law, when assuming the performance of public authorizations and duties, shall be obligated, within 30 days, to submit a statement referring to the existence or non-existence of a conflict of interest to the State Commission.

Article 20-b

The civil servants and employees in the state administration authorities and other state authorities, the judicial authorities, the public enterprises, institution, other legal entities of the central and local governments specified by law, as well as persons employed through agencies for temporary employment with authorization, shall be obligated, within 30 days, to submit a statement referring to the existence or non-existence of conflicts of interest, to the authorities where they perform their duties, i.e. where they are employed.

The Statement of Interest form requires the following data:

- “1. Personal engagements - “do you execute another public authorization or duty (elected, appointed, employed) besides the one you report in the point 2 of this form?”
2. Companies - Are you owner, founder, co-owner, member of assembly, supervisory board, management board or management in a company or are you an authorized person in a company? If the answer is “yes”, state the name of the company as well as the percentage of the state capital in the trade company
3. Are you a member of an association of citizens or foundation? If the answer is “yes”, state the name of the association of citizens or foundation as well as your function and the wage you receive?
4. Do your close persons execute public authorization or duty/ (as elected, appointed, employed officials). If the answer is “yes”, state the name of the person, the name of the institution or body as well as the working position and the date of the election/appointment.
5. Are your close persons owners, founders, co-owners, members of association, of supervisory board or are authorized persons in trade companies? If the answer is “yes”, state the name of the person, the name of the company, the status of the person as well as the percentage of his/her capital in the company.
6. Are you close to persons who are members of associations of citizens or foundations? If the answer is “yes”, state the name of the person, the name of the association or foundation, and your relation with the person named and his/her status in the association or foundation.”

In addition, the Law on Prevention of Corruption also regulates which categories of persons are obliged to submit an asset declaration form:

“Obligation to declare assets

Article 33

(1) An elected or appointed person, responsible person in a public enterprise, public institution or other legal entity disposing of state capital, upon election or appointment and within a period of 30 days from the day of election or appointment the latest, shall fill in an asset declaration containing detailed description of the immovable property, movable property of higher value, securities, and claims and debts, as well as other property in his/her ownership or in ownership of members of his/her family, stating the grounds the reported assets have been acquired on, and shall deposit a statement, certified by a notary, renouncing the protection of banking secrecy with regard to all domestic and foreign bank accounts.

(2) The person referred to in paragraph (1) of this Article shall be obliged to fill in an asset declaration in a period of 30 days from the day of termination of the office.

(3) The person referred to in paragraph (1) of this Article shall submit the asset declaration referred to in paragraphs (1) and (2) of this Article and the statement referred to in paragraph (1) of this Article to the State Commission and the Public Revenue Office.

Article 33-a

(1) An official shall fill in the asset declaration at employment in state bodies, municipality administration and administration of the City of Skopje within a period of 30 days from the day of employment giving a detailed description of the immovable property, movable property of higher value, securities, claims and debts, as well as other property in his/her ownership or in ownership of a member of his/her family, stating the grounds the reported assets have been acquired on.

(2) The person referred to in paragraph (1) of this Article shall be obliged to fill in an asset declaration within a period of 30 days from the day of termination of the employment in the bodies referred to in paragraph (1) of this Article.

(3) The official referred to in paragraph (1) of this Article shall submit the asset declarations referred to in paragraphs (1) and (2) of this Article to the body where he/she is employed.

(4) The body where the official is employed shall be obliged to submit the asset declaration to the State Commission upon its request.

(5) The Minister of Justice shall adopt a decision on the manner of treatment of the asset declaration referred to in this Article.”

The Asset declaration form requires the following data:

- personal information
- family members who own property
- property/real estate
- movable property vi. Securities and equity
- receivables
- other revenues
- bank deposits
- payables
- other property

According to Article 33 of the Law on Prevention of Corruption, the elected and appointed person, as well as responsible person of a public enterprise, public institution or other legal entity disposing of State capital, must no later than 30 days from the day of election or appointment fill the questionnaire with a detailed inventory of real estate, movable property of greater value, securities, claims and debts, as well as other property in his or her possession or ownership of his family members, by explaining the basis of title over the declared property, along with a statement certified by the notary public for revoking protection of banking secrecy with regard to all accounts in domestic and foreign banks. The mentioned persons are obliged to also fill out an asset declaration within 30 days after the termination of office. The asset declarations are submitted to SCPC and the Public Revenue Office. SCPC keeps a register of elected and appointed officials who are obliged to submit asset declarations in accordance with the same provision.

The same obligation applies to officials employed in state bodies, municipal administration and the

administration of the City of Skopje (Art. 33-a, LPC) whose asset declarations are submitted to the body in which they are employed.

Elected or appointed person, official or responsible person in public enterprise or other legal entity disposing of State capital is obliged to report changes in assets or within 30 days to report any increase in his/her property or the property of a member of his/her family, such as building a house or other buildings, the purchase of real estate, securities, cars or other moving objects in the value exceeding twenty average wages paid in the previous quarter. Data from the asset declarations and the application for a change in assets represent public information and the declarations and applications submitted by elected and appointed officials are published on the website of SCPC with the exception of information which is protected by the Law on Personal Data Protection.

Against an elected or appointed person, as well as other official or responsible person in public enterprise, public institution or other legal entity disposing of State capital, Article 36 of the Law on Prevention of Corruption provides that a procedure may be initiated for examining the property by the Public Revenue Office. A motion to initiate the procedure for examining the assets may also be filed by SCPC.

According to Article 36-a of the Law on Prevention of Corruption, if in the course of the procedure for examination of the assets and the asset status it has not been proven that the assets have been acquired or increased as a result of regular revenues that are reported and taxed, the Public Revenue Office shall adopt a decision on taxation by imposing the personal income tax. The base for calculating the tax shall be the difference between the value of the property at the time of acquiring and the proved amount of funds for its acquiring. The tax on unreported revenues shall be calculated by a rate of 70%.

SCPC continuously and indiscriminately checks data from asset declarations in proceedings on reports/complaints of corruption, on its own initiative, through regular checks and through systematic examination of the content of the asset declarations, as with prescribed by the criteria for the determination of asset declarations to be examined and by a certain ID number from the database.

A fine of EUR 500 to 1,000 in MKD equivalent shall be imposed on a person who does not submit a binding asset declaration and information about property, business, employment or other data provided for in Articles 22, 23, 24, 26, 27, 28, 29, 32, 33 and 34 of the Law on Prevention of Corruption. (Art. 63, LPC)

Information about the monitoring by SCPC over the asset declarations of elected and appointed persons is published in the annual reports for the work of the SCPC. The website of SCPC has a specially marked menu titled "Register of elected and appointed officials" and "Forms" and published data "Assets of elected and appointed officials" (information about elected officials). Users who are nominated persons from State institutions responsible for verification and/or election and appointment of officials are authorized to gain access to the [web-application of the Register of elected and appointed officials](#).

According to Article 20a of the Law on Prevention of Conflict of Interest, the President of the Republic, the members of parliament, the mayors, the ambassadors and the other persons appointed by the Republic abroad, the persons elected or appointed to or by the Parliament of the Republic and the Government, the state administration authorities and other state authorities, the judicial authorities, the public enterprises, institutions and other authorities of the central government and the local authorities specified by law, when assuming the performance of public authorizations and duties, shall be obligated, within 30 days, to submit a statement referring to the existence or non-existence of a conflict of interest to SCPC.

Article 20b further provides that the civil servants and employees in the State administration authorities and other State authorities, the judicial authorities, the public enterprises, institution, other legal entities of the central and local governments specified by law, as well as persons employed through agencies for temporary employment with authorization, shall be obligated, within 30 days, to submit a statement referring to the existence or non-existence of conflicts of interest, to the authorities where they perform their duties, i.e. where they are employed.

The Law amending the Law on Prevention of Conflict of Interests from 2012 (“Official Gazette” No. 6/2012 from 13 January 2012) provides the competence for SCPC to check the statements of interest.

Asset declarations of elected and appointed persons registered in the Register are publicly available. Access to asset declarations, in general, may be requested via request submitted in accordance with the provisions of the Law on Free Access to Public Information. Data will be made available as permitted in accordance with the provisions of the aforementioned law and in accordance with the provisions of the Law on Private Data Protection.

Governmental authorities may have access to such information in order to, among others, share such information with competent authorities in other States parties as requested or via instruments within their competencies. The Public Revenue Office, as a tax authority, has concluded a number of bilateral agreements on avoiding double taxation and protection from fiscal evasion, which also serve as bases for the exchange of relevant information. The following hyperlink is the official website of the Public Revenue Office: <http://ujp.gov.mk/mk/regulativa/pregled/tr/md>.

The Public Revenue Office is a full member of the Intra-European Organization of Tax Administrations (IOTA) since 1997. The following hyperlink is the official website of the IOTA: <https://www.iota-tax.org>.

Regarding the competencies of the Public Revenue Office with regard to checking asset declarations, please also refer to information available at: <http://ujp.gov.mk/en/vodic/category/530>.

North Macedonia, under the Regional Anti-corruption Initiative, participates in the development of International Treaty on Exchange of Data for the Verification of Asset Declarations. Further information is available at: <https://www.rai-see.org/what-we-do/regional-data-exchange-on-asset-disclosure-and-conflict-of-interest/>.

(b) Observations on the implementation of the article

The national system of asset declarations provides for a fine of between 500 and 1,000 euros for non-compliance (art. 63, LPC). Taxes on undeclared earnings in the declarations are also calculated at 70 per cent of their value (art. 36-a, para. 1, LPC). It is not clear whether declarations may be shared with competent authorities in other jurisdictions.

It is recommended that North Macedonia consider permitting the sharing of asset declarations with competent authorities in other States parties.

Paragraph 6 of article 52

6. Each State Party shall consider taking such measures as may be necessary, in accordance with its domestic law, to require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts. Such measures shall also provide for appropriate sanctions for non-compliance.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Pursuant to Article 23 of the Law of Foreign Exchange Operations, residents may open and hold accounts abroad, unless otherwise stipulated by the Law. The National Bank of the Republic shall stipulate the method and the conditions under which the residents other than authorized banks may open and hold accounts abroad. In case of a resident opening and having accounts abroad contrary to the conditions prescribed as per Article 23, the legal entity i.e. sole proprietor, resident or non-resident, shall be fined with EUR 10,000 for committing a misdemeanour under Article 56-a of the Law of Foreign Exchange Operations.

Insofar as recording and monitoring of assets and interests are concerned, SCPC is the competent authority to record and monitor the assets and changes in assets of elected and appointed officials and responsible persons in public enterprises and other legal entities managing with State capital, in the manner prescribed by the Law on Prevention of Corruption and to keep a Register of elected and appointed officials.

More information about the system of recording and monitoring of assets and interests are provided under paragraph 5 of Article 8 of the Convention. In June 2015, the Law amending the Law on Prevention of Corruption introduces the Register of elected and appointed officials.

The provisions relating to the Register began to be applied one year after the entry into force of this Act. For the implementation of the law, SCPC, on 14 July 2015, adopted the form of the data selected and the Guidelines for filling in the form. In addition, in July 2015, SCPC adopted the Rulebook on the content, the form and manner of keeping the Register of elected and appointed officials. In 2016, as part of software solution for the Register of elected and appointed officials within the IPA 2010 Twinning Project “Support to efficient prevention and fight against corruption”, a software solution for electronic filing and submission of the forms of assets has been developed and would be put in function after the adoption of the necessary legislative changes.

According to Article 33 of the Law on Prevention of Corruption, the elected and appointed person, as well as responsible person of a public enterprise, public institution or other legal entity disposing of State capital, must no later than 30 days from the date of election or appointment, fill the questionnaire with a detailed inventory of real estate, movable property of greater value, securities, claims and debts, as well as other property in his or her possession or ownership of his family members, by explaining the basis of title over the declared property, along with a statement certified by the notary public for revoking protection of banking secrecy with regard to all accounts in domestic and foreign banks. The mentioned persons are obliged to also fill out an asset declaration within 30 days after the termination of office. The asset declarations are submitted to SCPC and the Public Revenue Office.

The same obligation applies to officials employed in State bodies, municipal administration and the administration of the City of Skopje (Art. 33-a, LPC) whose asset declarations are submitted to the body in which they are employed.

Elected or appointed person, official or responsible person in public enterprise or other legal entity disposing of State capital is obliged to report changes in assets or within 30 days to report any increase in his/her property or the property of a member of his/her family, such as building a house or other buildings, the purchase of real estate, securities, cars or other moving objects in the value exceeding twenty average wages paid in the previous quarter.

Data from the asset declarations and the application for a change in assets represent public information and the declarations and applications submitted by elected and appointed officials are

published on the website of SCPC with the exception of information which is protected by the Law on Personal Data Protection.

Against an elected or appointed person, as well as other official or responsible person in public enterprise, public institution or other legal entity disposing of State capital, Article 36 of the Law on Prevention of Corruption provides that a procedure may be initiated for examining the property by the Public Revenue Office. A motion to initiate the procedure for examining the assets may also be filed by SCPC.

According to Article 36-a of the Law on Prevention of Corruption, if in the course of the procedure for examination of the assets and the asset status it has not been proven that the assets have been acquired or increased as a result of regular revenues that are reported and taxed, the Public Revenue Office shall adopt a decision on taxation by imposing the personal income tax. The base for calculating the tax shall be the difference between the value of the property at the time of acquiring and the proved amount of funds for its acquiring. The tax on unreported revenues shall be calculated by a rate of 70%.

SCPC continuously and indiscriminately checks data from asset declarations in proceedings on reports/complaints of corruption, on its own initiative, through regular checks and through systematic examination of the content of the asset declarations, as with prescribed by the criteria for the determination of asset declarations to be examined and by a certain ID number from the database.

A fine of EUR 500 to 1,000 in MKD equivalent shall be imposed on a person who does not submit a binding asset declaration and information about property, business, employment or other data provided for in Articles 22, 23, 24, 26, 27, 28, 29, 32, 33 and 34 of the Law on Prevention of Corruption. (Art. 63, LPC)

In accordance with paragraphs (5) and (6) of Article 36-a of the Law on Prevention of Corruption, if it is established that the property is increased by large amounts, the Public Revenue Office shall file criminal charges against the person with the competent public prosecutor's office. The Public Revenue Office shall notify SCPC about the undertaken activities referred to in paragraphs (1) and (5) of Article 36-a.

Illicit enrichment and concealment of property are criminalized in the Criminal Code:

“Article 359-a of the Criminal Code

(1) Official person or responsible person in a public enterprise, public institution or other legal entity having at its disposal state capital, who against the legal obligation to report the material condition or its change provides false or incomplete data regarding its property or the property of the members of his family, which in significant amount exceeds his legal revenues, shall be sentenced to imprisonment of six months to five years and shall be fined.

(2) The sentence referred to in paragraph (1) of this Article shall be imposed to an official person or responsible person in a public enterprise, public institution or other legal entity having at its disposal state capital which provides false data or covers its true sources, when in legally regulated procedure it is confirmed that during the performance of its function or duty, he or a member of his family has obtained property that in significant amount exceeds its legal revenues.

(3) If the crime referred to in paragraphs (1) and (2) of this Article has been committed against a property which in greater extent exceeds its legal revenues, the offender shall be sentenced to imprisonment of one to eight years and shall be fined.

(4) For the crimes referred to in paragraphs (2) and (3) of this Article, the offender shall not be

sentenced if during the procedure he gives in court acceptable explanation regarding the origin of the property.

(5) The property exceeding the legally obtained revenues by the offender, wherefore he has provided false or incomplete data or has not provided any data or covers its true sources of origin shall be confiscated, and if such confiscation is not possible, another property corresponding to its value shall be confiscated from the offender.

(6) The property referred to in paragraph (5) of this Article shall be as well confiscated from the members of the offender's family for whom it has been obtained or to whom it has been transferred, should it be obvious that they have not given counter-compensation corresponding to its value, as well as from third parties unless they prove to have given counter-compensation corresponding to the value of the object or the property.”

Information about the monitoring by SCPC over the asset declarations of elected and appointed persons is published in the annual reports for the work of SCPC. The website of SCPC has a specially marked menu titled “Register of elected and appointed officials” and “Forms” and published data “Assets of elected and appointed officials” (information about elected officials). Users who are nominated persons from state institutions responsible for verification and/or election and appointment of officials are authorized to gain access to the web-application of the Register of elected and appointed officials.

As the competent institution for the implementation of the Law on Prevention of Conflict of Interest, SCPC acts upon cases from the area of conflict of interest. More information about the system for prevention of conflict of interest is provided under paragraph 4 of Article 7 of the Convention and paragraph 5 of Article 52 of the Convention.

(b) Observations on the implementation of the article

Residents of North Macedonia may open bank accounts abroad under specific conditions prescribed by decision of the National Bank (art. 23, Law on Foreign Exchange Operation). Those granted exceptions are required to provide details and records of those accounts. A fine in the amount of 10,000 Euro shall be imposed for a misdemeanour to a legal entity or a sole proprietor resident if it opens and has an account abroad contrary to the conditions. (art. 56-a, Law on Foreign Exchange Operation).

It is recommended that North Macedonia consider establishing clear procedures on the reporting of accounts held in foreign jurisdictions.

Article 53. Measures for direct recovery of property

Subparagraph (a) of article 53

Each State Party shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention;

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

In North Macedonia, the regime of the entitlement of natural and legal entities to initiate civil action, sue for compensation, and be recognized as legitimate owners of property acquired through an offence established in accordance with the Convention is made up of several legislation, including the Law on International Cooperation in Criminal Matters, the Criminal Code, the Criminal Procedure Code and the Law on Ownership and Other Real Rights.

The definition of legal entity is provided in paragraph 6 of Article 122 of the Criminal Code where a legal entity refers to the Republic, units of the local self-government, political parties, public enterprises, trade companies, institutions, associations, foundations, unions and organizational types of foreign organizations, sports associations and other legal entities in the field of sports, funds, financial organizations, and other organizations specified by law and registered as legal entities and other associations and organizations being recognized the capacity of a legal entity.

It is further provided that a foreign legal entity refers to a public enterprise, institution, fund, bank, trade company or any other form of organization in accordance with the laws of a foreign country pertaining to the performance of economic, financial, banking, trade, service or other activities, with head office in another country or a branch office in the Republic or founded as an international association, fund, bank or institution.

Insofar as the entitlement of foreign natural persons and legal entities to the right to ownership of property, the Law on Ownership and Other Real Rights provides the following:

**“Ownership of movable items
Article 242**

Foreign natural persons and legal entities can acquire right to ownership of movable items in the same manner as domestic persons.

**Ownership of immovable items
Article 243**

Foreign natural persons nationals of states that are not EU and OECD member states, may by inheritance acquire ownership rights over immovable items on the territory of the Republic of Macedonia under conditions of reciprocity, as well as the citizens of the Republic of Macedonia, unless otherwise determined by an international agreement.

Foreign natural persons, nationals of the Member States of the European Union and the OECD, may by inheritance acquire ownership rights over immovable property on the territory of the Republic of Macedonia with inheritance on the basis of a will.

Foreign legal entities may, under conditions of reciprocity, acquire ownership rights over immovable property on the territory of the Republic of Macedonia with inheritance on the basis of a will.

**Acquisition of ownership rights of apartment building and office space
Article 244**

Foreign natural and legal persons residents of the members states of the European Union and the OECD may acquire the right to own the apartment, apartment building and business premises on the territory of the Republic of Macedonia under the same conditions as the

citizens of the Republic of Macedonia.

Foreign natural and legal persons residents of countries that are not members of the European Union and the OECD can acquire the right to own an apartment, apartment building and business premises on the territory of the Republic of Macedonia, as well as citizens of the Republic of Macedonia under the same conditions of reciprocity.

Acquisition of real rights to construction land

Article 245

Foreign natural and legal persons residents in the member states of the European Union and the OECD may acquire the right of ownership and the right to long-term lease of construction land on the territory of the Republic of Macedonia under the same conditions as domestic legal and natural persons nationals of the Republic of Macedonia.

Foreign natural and legal persons residents of non-EU and OECD countries may acquire the right to ownership and long-term lease of construction land on the territory of the Republic of Macedonia under conditions of reciprocity.

Acquisition of real rights on agricultural land

Article 246

Foreign natural and legal persons cannot acquire the right to ownership of agricultural land on the territory of the Republic of Macedonia.

Foreign natural and legal persons can, under conditions of reciprocity, acquire the right to long-term lease of agricultural land on the territory of the Republic of Macedonia, on the basis of the consent of the Minister of Justice, upon previously obtained opinion of the Minister of Agriculture, Forestry and Water Economy and the Minister of Finance.

Article 247

The existence of reciprocity provided for in this Law shall be determined by the Minister of Justice, under conditions and procedure determined by law.

Article 248

Foreign countries may for the needs of their diplomatic and consular missions, as well as organizations and specialized agencies of the United Nations and the Council of Europe, with the prior consent of the Minister of Foreign Affairs, acquire the right to ownership of buildings and apartments, as well as construction land for the construction of such buildings.

Article 249

If for acquiring the real rights of real estate it is necessary to obtain the consent of the Minister of Justice, the legal action for acquiring these rights does not produce a legal effect without this consent.

Article 250

A foreign person cannot be an owner of an immovable property, which, due to the protection

of the interests and security of the Republic of Macedonia, is declared by law a region in which foreign persons do not have the right to own property, unless otherwise stipulated by law.”

The Law on International Cooperation in Criminal Matters provides, among others, the scope of international legal assistance and the manner in which confiscation of property and property benefits can be carried out. The relevant provisions are as follows:

**“Article 15
(Concept)**

The international legal assistance shall include:

- enforcement of procedural actions such as delivery of documents, written evidence and acts related to the criminal proceedings in the sending state;
- delivery of spontaneous information;
- exchange of certain information and notifications;
- temporary transfer of persons deprived of freedom;
- cross-border observation;
- controlled delivery;
- using persons with hidden identity;
- joint investigation teams;
- monitoring communications;
- interrogation through video conference;
- interrogation through telephone conference;
- searching of premises and persons;
- temporary security of items, property or means related to the criminal offence;
- temporary freezing, confiscation and retention of assets, bank accounts and financial transactions or incomes from a criminal offence;
- confiscation of property and property benefits;
- deprivation of items;
- protection of personal data;
- criminal and civil liability of officials, and
- delivery of extracts from criminal records.

**Article 27
(Confiscation of property and property benefits)**

(1) The confiscation of property and property benefits in a procedure of international legal assistance shall be made in accordance with the provisions of the Criminal Code, Law on Criminal Proceedings and international agreements.

(2) The money obtained from the enforcement of the property confiscation order shall be at the disposal of the Republic of Macedonia as follows:

1) if the amount obtained from the enforcement of the confiscation order is lower than 10,000 EUR or equal to that amount, the amount shall flow into the Budget of the Republic of Macedonia, and

2) in all other cases the Republic of Macedonia shall transfer 50% of the amount obtained from the enforcement of the confiscation order to the foreign state.

(3) The other property apart from money obtained from the enforcement of the confiscation order shall be placed at disposal in one of the following ways upon decision of the domestic competent authority:

- 1) the property can be sold and in that case the income from the sales shall be placed at a disposal in accordance with paragraph (2) of this article, and
- 2) the property can be transferred to a foreign state, and if the confiscation order includes money, the property can be transferred to the foreign state when it gives its consent.”

Regarding the manner of confiscation and the protection of the damaged party, Articles 98 and 99 of Criminal Code provide that:

“Article 98

Manner of confiscation

- (1) The indirect and direct property benefit obtained with a crime and consisting of money, movables or immovables of certain value, as well as any other ownership, property or active, material or non-material rights shall be confiscated from the offender, and if their confiscation is not possible other property corresponding to the value of the obtained benefit shall be confiscated from the offender.
- (2) The indirect and direct property benefit shall be as well confiscated from third parties wherefore it has been obtained by committing the crime.
- (3) The property benefit referred to in paragraph (1) shall be as well confiscated from members of the offender's family to whom it has been transferred, should it be obvious that they have not provided any compensation corresponding to the value of the obtained property benefit, or from third parties unless they prove that they have given counter-compensation for the object or the property which corresponds the value of the obtained property benefit.
- (4) The objects declared as cultural heritage and natural rarities, as well as those to which the damaged party is personally attached, shall be confiscated from third parties, regardless of whether these objects have been transferred to the third parties with or without an appropriate compensation.
- (5) The confiscated goods are returned to the damaged party, and if there is no damaged party, they become the state property.
- (6) If during the criminal procedure, the damaged person is adjudged a property and legal claim, the court shall pronounce confiscation of property benefit in case if this exceeds the amount of this claim.

Article 99

Protection of the damaged party

- (1) The damaged party who has been referred to a litigation in the criminal procedure in regard to his property and legal claim, may demand to settle this from the confiscated value, if the litigation is initiated within six months after the day the decision with which he was referred to a litigation comes into effect, and if within three months from the day of coming into effect of the decision with which his claim was determined, he claims the settling of the confiscated value.
- (2) The damaged person who has not reported a legal and property claim in the criminal procedure, may demand the settling from the confiscated value if he has started a litigation for determining his claim within a time frame of three months as of the day he finds out about the sentence with which the property benefit is confiscated, and at the latest within two years after the decision for confiscating the property benefit comes into effect, and if within three months from the day the decision with which his claim was determined comes into effect he requests

the settling of the confiscated value.”

The Criminal Procedure Code provides the scope of an injured party and the procedural-related matters concerning legal and property claims.

“Article 21

Meaning of terms

5) An injured party, apart from the victim, shall also be any other individual whose personal or property rights have been violated or endangered by a criminal offense and who participates in the criminal procedure by joining the criminal prosecution or for the purpose of effectuating a property loss claim.

Article 110

Deliberations of legal and property claims and their case

(1) Any legal and property claims that result from a committed crime shall be deliberated upon proposal by the authorized persons in the criminal procedure, if that does not mean a significant delay of the procedure.

(2) A legal and property claim may refer to a claim for damages, returning objects or nullification of a certain legal affair.

(3) In an insurance case, any legal and property claim as referred to in paragraph 2 of this Article, may be filed by the injured party against the insurance company.

Article 111

Authorized persons who can file legal and property claims

(1) A legal and property claim in a criminal procedure may be filed by a person who is authorized for litigation for such a dispute.

(2) When the claim as referred to in paragraph 1 of this Article is filed by the victim of the crime, the victim shall indicate in the application if any compensation was already awarded or if the claim is filed in accordance with Article 53, paragraph 1 of this Law.

Article 119

Returning objects

(1) If the objects in question undoubtedly belong to the injured party, and they do not serve as evidence in the criminal procedure, such objects shall be returned to the injured party even before the completion of the procedure.

(2) If several injured parties are in a dispute over the ownership of the objects, they shall be referred to litigation, and the court in the criminal procedure shall only rule on the safeguarding of the objects as a provisional security measure.

(3) Any objects serving as evidence shall be temporarily seized and returned to their owner following the completion of the procedure. If such an object is of an essential importance to the owner, it may be returned even before the completion of the procedure, with an obligation for the object to be made available whenever necessary.

Article 114
Ruling on legal and property claims

- (1) The court shall rule on any legal and property claims.
- (2) In the verdict in which the court convicts the accused, the court shall rule on the legal and property claim partially or in full, and it shall advise the injured party to claim the remainder of the legal and property claim through litigation. If the evidence in the criminal procedure does not provide sufficient ground for full or partial ruling on the legal and property claim, and if their additional collection might mean unjustified delay of the criminal procedure, the court shall refer the injured party to litigation with regards to the legal and property claim.
- (3) When the court reaches a verdict whereby the charges against the defendant are dropped or the indictment is overruled, or when it terminates the criminal procedure with a decision, it shall refer the injured party to litigation with regards to the legal and property claim. If the court declares itself incompetent for the criminal procedure, it shall advise the injured party to apply for the legal and property claim in the criminal procedure that is going to be initiated or continued before the competent court.”

(b) Observations on the implementation of the article

Natural and legal entities are entitled to initiate civil action and be recognised as legitimate owners of property acquired through an offence established in accordance with the Convention (arts. 110, 111 and 114, CPC). Whether foreign States are entitled to initiate civil action is not explicitly regulated, and North Macedonia has also never had a case involving a foreign State as a civil party.

It is recommended that North Macedonia ensure that another State party is allowed to initiate civil action, sue for compensation and be recognized as legitimate owner of property acquired through the commission of an offence established under the Convention.

Subparagraph (b) of article 53

Each State Party shall, in accordance with its domestic law: ...

(b) Take such measures as may be necessary to permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and

(a) Summary of information relevant to reviewing the implementation of the article

Please refer to the information provided under subparagraph (a), art. 53 of the Convention. North Macedonia has also provided the following information in the implementation of the provision under review.

The Law on International Cooperation in Criminal Matters sets out the basis of international cooperation, the provision of international cooperation in criminal and misdemeanour proceedings, and the confiscation of property and property benefits:

“Article 2

The international cooperation shall be provided in accordance with the provisions of this Law unless otherwise specified by an international agreement ratified in accordance with the Constitution of the Republic of Macedonia (herein after referred to as: international agreement) or other legal act which governs the criminal proceedings of an international court whose jurisdiction is accepted by the Republic of Macedonia.

Article 3

(1) An international cooperation shall be provided for all proceedings related to criminal offences whose prosecution is under jurisdiction of a judicial authority in the requesting state at the time of the submission of the letter rogatory for international legal assistance in criminal matters or the request for international cooperation in criminal matters.

(2) The international cooperation shall be also provided in misdemeanour proceedings that have been conducted before the misdemeanour authorities for acts for which misdemeanour sanctions are foreseen under the regulations of Republic of Macedonia and in cases where a proceeding can be initiated before the court that is actually competent for the criminal matter after a decision has been delivered.

(3) The international cooperation shall be provided in proceedings before the European Court of Human Rights, European Court of Justice, International Criminal Court, and if regulated by an international agreement, before other international organisations in which the Republic of Macedonia is a member.

(4) The provisions of this Law shall also be applied on international cooperation in proceedings against minors.

Confiscation of property and property benefits

Article 27

(1) The confiscation of property and property benefits in a procedure of international legal assistance shall be made in accordance with the provisions of the Criminal Code, Criminal Procedure Code and international agreements.

(2) The money obtained from the enforcement of the property confiscation order shall be at the disposal of the Republic of Macedonia as follows: 1) if the amount obtained from the enforcement of the confiscation order is lower than 10,000 EUR or equal to that amount, the amount shall flow into the Budget of the Republic of Macedonia, and 2) in all other cases the Republic of Macedonia shall transfer 50% of the amount obtained from the enforcement of the confiscation order to the foreign state.

(3) The other property apart from money obtained from the enforcement of the confiscation order shall be placed at disposal in one of the following ways upon decision of the domestic competent authority: 1) the property can be sold and in that case the income from the sales shall be placed at a disposal in accordance with paragraph (2) of this article, and 2) the property can be transferred to a foreign state, and if the confiscation order includes money, the property can be transferred to the foreign state when it gives its consent.”

The Criminal Procedure Code stipulates the rights of the victim and several protections afforded to them:

**“Article 53
Victim’s rights**

- (1) The victim of a crime shall have the following rights:
- 1) to participate in the criminal procedure as an injured party by joining the criminal prosecution or for the purpose of a legal-property claim for damages;
 - 2) to get special care and attention by the bodies and entities that participate in the criminal procedure; and
 - 3) to get an effective psychological and other professional assistance and support by bodies, institutions and organizations that provide for help to crime victims.
- (2) The police, the public prosecutor and the court shall act with special care towards the victims of criminal offenses, advising them of their rights as referred to in paragraph 1 of this Article and Articles 54 and 55 of this Law and they shall take care of their interests when making decisions for criminal prosecution the accused, i.e. when undertaking actions during the criminal procedure when the victim has to be present in person, when they have to draft an official note or record.
- (3) In accordance with the special regulations, any victim of a crime, which entails a prison sentence of at least four years, shall have the right to:
- 1) get a councillor paid by the state budget before giving a statement, i.e. declaration or filing the legal-property claim, if the victim has serious psycho-physical impairment or if there are serious consequences as a result of the crime; and
 - 2) be compensated for material and non-material damages from a state fund, under conditions and in a manner as prescribed in a separate law, if the damage caused cannot be compensated from the convicted person.

**Article 54
Special rights of victims of vulnerable categories of victims**

- (1) The victims shall have the right to special measures of process protection when giving statement or being interrogated during all stages of the procedure:
- 1) if, at the time when giving the statement, the victim is less than 18 years of age;
 - 2) if giving a statement or an answer to a certain question would mean exposing themselves or another close person to a serious threat for their life, health or physical integrity (endangered victims);
 - 3) if, because of their age, the nature and consequences of the crime, the physical or psychological disability or another significant health condition, the social or cultural history, family circumstances, religious beliefs and the ethnic affiliation of the victim, the behaviour of the defendant, members of the defendant’s family or friends towards the victim, there might be harmful consequences for their psychological or physical health or if it has a negative effect on the quality of the statement provided (especially vulnerable victims).
- (2) The special measures of process protection shall be determined by the court, upon proposal from the public prosecutor or the victim, or upon its own initiative, when it is necessary to protect the endangered and especially vulnerable victims.
- (3) When deciding on the determination of the special measures of process protection referred to in paragraph 2 of this Article, the court shall have to take into account the victim’s will.

(4) The court shall have to assign special measures of process protection in the cases as referred to in paragraph 1, item 1 of this Article:

- 1) when a child victim has a need for special care and protection; or
- 2) when the child is a human trafficking victim, victim of violence or sexual abuse.

(5) In cases as referred to in paragraph 4, individually or along with another special measure of protection, the court has to ask for a video and audio recording of the statement and interrogation of the child, so that it can be used as evidence in the procedure. In exceptional cases, because of newly established circumstances in the case, the court may order additional interview of the child victim, once more at the most, through the use of technical means of communication.

(6) The manner of implementation of the special measures of process protection of child victims is regulated with a separate law.

Article 55

Special rights of victims of crimes against gender freedom and gender morality, humanity and international law

(1) Apart from the rights established in Article 53, the victim of crimes against gender freedom and gender morality, humanity and international law, shall also have the following rights:

- 1) before the interrogation, to speak to a counsellor or a proxy free of charge, if he or she participates in the procedure as an injured party;
- 2) to be interrogated by a person of the same gender in the police and the public prosecution office;
- 3) to refuse to answer questions that refer to the victim's personal life, if those are not related to the crime;
- 4) to ask for an examination with the use of visual and audio means in a manner established in this Law; and
- 5) to ask for an exclusion of the public at the main hearing.

(2) The court, the Public Prosecutions Office and the police shall be obliged to advise the victim of his or her rights referred to in paragraph 1 of this Article, prior to the very first examination at the latest and to prepare an official note or record accordingly.

Article 56

Victim not informed of the right to participate in the procedure as an injured party

(1) The victim who has not been informed of his or her right to participate in the procedure in the capacity of an injured party shall have the right to report to the police or to the Public Prosecution Office as an injured party until the moment when the indictment is raised, and to report to the court prior to the completion of the main hearing.

(2) The application of the victim as an injured party shall be rejected if it is obviously unjustified or untimely.

Article 57
Rights of the injured party

The injured party shall have the following rights in the criminal procedure:

- 1) to be advised of his or her rights;
- 2) to use his or her language and alphabet and the right to be assisted by an interpreter, i.e. a translator if he or she does not understand the language used during the procedure;
- 3) to put forward a motion for a legal or property claim;
- 4) to have a legal representative;
- 5) to indicate facts and propose evidence;
- 6) to be present at the evidentiary hearing;
- 7) to be present at the main hearing and to participate in the evidentiary procedure, as well as to comment on the legal or property claim and the legal and criminal event;
- 8) after the investigation has been completed, to review the files and items that are going to be used as exhibits and evidence;
- 9) to file an appeal under the conditions prescribed in this Law;
- 10) to file a motion for prosecution and personal legal action in accordance with the provisions of the Criminal Code;
- 11) to be informed about any lack of action or waiver of criminal prosecution rights by the public prosecutor;
- 12) to appeal to the higher Public Prosecutor against the decision of the Public Prosecutor to waive his or her prosecution rights, under the conditions prescribed in this Law;
- 13) to ask for the return of the previous state of affairs;
- 14) to ask for an observance of his or her right to privacy;
- 15) to participate in the mediation process, in a manner and under conditions as prescribed in this Law.

Article 110 Deliberations of legal and property claims and their case
(cited above under art. 53(a) of the Convention) ”

The Criminal Procedure Code provides the scope of an injured party and the procedural-related matters concerning legal and property claims.

(b) Observations on the implementation of the article

Natural and legal entities are entitled to sue for compensation or damages who have been harmed by offences established in accordance with the Convention (arts. 110, 111 and 114, CPC). In addition, the CPC provides for specific provisions on the rights of victims (arts. 53-57). However, whether foreign States are entitled to initiate civil action is not explicitly regulated, and North Macedonia has also never had a case involving a foreign State as a civil party.

It is recommended that North Macedonia ensure that another State party is allowed to initiate civil action, sue for compensation and be recognized as legitimate owner of property acquired through the commission of an offence established under the Convention.

Subparagraph (c) of article 53

Each State Party shall, in accordance with its domestic law: ...

(c) Take such measures as may be necessary to permit its courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Please refer to the information provided under subparagraph (a), art. 53 of the Convention. North Macedonia has also provided the following information in the implementation of the provision under review.

According to Article 15 of the Law on International Cooperation in Criminal Matters, international legal assistance shall include, among others, temporary security of items, property or means related to the criminal offence, temporary freezing, confiscation and retention of assets, bank accounts and financial transactions or incomes from a criminal offence, and confiscation of property and property benefits.

In Article 27, the law provides the details of the return of property and property benefits being confiscated to foreign states:

**“Confiscation of property and property benefits
Article 27**

(1) The confiscation of property and property benefits in a procedure of international legal assistance shall be made in accordance with the provisions of the Criminal Code, Criminal Procedure Code and international agreements.

(2) The money obtained from the enforcement of the property confiscation order shall be at the disposal of the Republic of Macedonia as follows:

1) if the amount obtained from the enforcement of the confiscation order is lower than 10,000 EUR or equal to that amount, the amount shall flow into the Budget of the Republic of Macedonia, and

2) in all other cases the Republic of Macedonia shall transfer 50% of the amount obtained from the enforcement of the confiscation order to the foreign state.

(3) The other property apart from money obtained from the enforcement of the confiscation order shall be placed at disposal in one of the following ways upon decision of the domestic competent authority:

1) the property can be sold and in that case the income from the sales shall be placed at a disposal in accordance with paragraph (2) of this article, and

2) the property can be transferred to a foreign state, and if the confiscation order includes money, the property can be transferred to the foreign state when it gives its consent.”

(b) Observations on the implementation of the article

Natural and legal entities are entitled to be recognized as legitimate owners of property acquired through an offence established in accordance with the Convention (arts. 110, 111 and 114, CPC). Whether foreign States are entitled to initiate civil action is not explicitly regulated, and North Macedonia has also never had a case involving a foreign State as a civil party.

It is recommended that North Macedonia ensure that another State party is allowed to initiate civil action, sue for compensation and be recognized as legitimate owner of property acquired through the commission of an offence established under the Convention.

Article 54. Mechanisms for recovery of property through international cooperation in confiscation

Subparagraph 1 (a) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Article 4 of the Law on International Cooperation in Criminal Matters provides that international cooperation in criminal matters includes: 1) international legal assistance; 2) assumption and assignment of criminal prosecution; 3) extradition; and 4) enforcement of criminal sentences and transfer of sentenced persons. Article 15 further elaborates on the extent of international legal assistance which includes temporary freezing, seizure and withholding of funds, bank accounts and financial transactions or proceeds from a criminal act, and confiscation of property and property benefits.

According to Article 27, the confiscation of property and property benefits in a procedure of international legal assistance shall be made in accordance with the provisions of the Criminal Code, Criminal Procedure Code and international agreements. In addition, Articles 28 and 29 provide the avenue for the transfer of seized objects and property benefits to foreign competent authority and the available temporary measures.

Articles 82 and 83 of the Law on International Cooperation in Criminal Matters, provide for the regime of domestic enforcement of the decision of foreign courts.

“Rendering a judgement

Article 83

(1) In the disposition of the judgement from Article 82 of this Law, the domestic competent court shall include the complete disposition from the foreign judgement and the court’s name. In the

explanation of the judgement the domestic competent court shall list all the reasons considered for the imposition of the sanction.

(2) The domestic competent court shall render a judgement in the Judicial Council in accordance with the provisions of the Criminal Procedure Code. The competent public prosecutor and the counsel shall be duly notified about the council meeting.

(3) If the type and weight of the sanction imposed by the foreign court are not in accordance with the national legislation provisions, the domestic competent court shall impose a sanction in accordance with domestic law, already proposed for the same criminal offense for which the judgement was rendered.

(4) Time spent in detention and time spent serving the sanction in the foreign State shall be calculated in the sanction imposed by the domestic competent court.

(5) The competent public prosecutor, the sentenced person or the counsel may appeal the judgement under paragraph (1) in accordance with the provisions of the Criminal Procedure Code.

Subject of enforcement

Article 82

At the request of a foreign competent authority, the domestic competent authority shall enforce a final criminal judgement regarding the sanction imposed by a foreign or international court, with a verdict which shall impose a sanction under the Criminal Code of the Republic of Macedonia and an appropriate sanction imposed by the foreign court, but it may not aggravate the one imposed by the foreign court.”

As to the grounds for confiscation, they are stipulated by the Criminal Code as follows:

“Article 97

Grounds for confiscation

(1) No one may retain the indirect or direct property benefit obtained through a crime.

(2) The property benefit referred to in paragraph 1 shall be confiscated with the court decision determining the commission of the crime, under the conditions envisaged by this Code.

(3) The decision to confiscate shall be adopted by the court in a procedure specified by law also in the case when, due to factual or legal reasons, it is impossible to conduct the criminal procedure against the offender of the crime.

(4) In accordance with the conditions specified in a ratified international agreement, the confiscated property may be returned to another country.

Manner of confiscating

Article 98

(1) The indirect and direct property benefit obtained with a crime and consisting of money, movables or immovables of certain value, as well as any other ownership, property or active, material or non-material rights shall be confiscated from the offender, and if their confiscation is not possible other property corresponding to the value of the obtained benefit shall be confiscated from the offender.

(2) The indirect and direct property benefit shall be as well confiscated from third parties wherefore it has been obtained by committing the crime.

(3) The property benefit referred to in paragraph (1) shall be as well confiscated from members of the offender's family to whom it has been transferred, should it be obvious that they have

not provided any compensation corresponding to the value of the obtained property benefit, or from third parties unless they prove that they have given counter-compensation for the object or the property which corresponds the value of the obtained property benefit.

(4) The objects declared as cultural heritage and natural rarities, as well as those to which the damaged party is personally attached, shall be confiscated from third parties, regardless of whether these objects have been transferred to the third parties with or without an appropriate compensation.

(5) The confiscated goods are returned to the damaged party, and if there is no damaged party, they become the state property.

(6) If during the criminal procedure, the damaged person is adjudged a property and legal claim, the court shall pronounce confiscation of property benefit in case if this exceeds the amount of this claim.”

(b) Observations on the implementation of the article

North Macedonia does not require a treaty to engage in international cooperation, and articles 97 and 98 of the CC provide the basis for confiscation. The legislation of North Macedonia allows for the direct enforcement of foreign judgements and orders of confiscation after recognition by a domestic court (arts. 82 and 83, Law on International Cooperation in Criminal Matters).

It is recommended that North Macedonia consider enforcing foreign confiscation orders emanating from civil proceedings.

Subparagraph 1 (b) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of such property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

In addition to information provided regarding the implementation of subparagraph 1(a) of Article 54 of the Convention (the same applies for this provision), other relevant provisions are stipulated by the Criminal Code as follows:

**“Money laundering and other income from crimes
Article 273**

(1) Whosoever brings into circulation or trade, receives, takes over, exchanges or changes

money or other property being obtained through a punishable crime or whosoever is aware it has been obtained through a crime, or whosoever by conversion, exchange, transfer or in any other manner covers up their origin from such source or its location, movement or ownership, shall be sentenced to imprisonment of one to ten years.

(2) The sentence stipulated in paragraph (1) of this Article shall be imposed to whosoever holds or uses property of object being aware to have been obtained by commission of a punishable crime or by forging documents, by not reporting facts or to whosoever in any other manner covers up their origin from such source, or covers up their location, movement and ownership.

(3) If the crime stipulated in paragraphs 1 and 2 is performed in banking, financial or other type of business activity or if he, by splitting of the transaction, avoids the obligation for reporting in the cases determined by law, the offender shall be sentenced to imprisonment of at least three years.

(4) Whosoever performs the crime stipulated in paragraphs 1, 2 and 3, yet he was obligated and in position to know that the money, the property and the other incomes from a punishable act were obtained through a crime, shall be fined or sentenced to imprisonment of up to three years.

(5) Whosoever commits the crime stipulated in paragraphs 1, 2 and 3 as a member of a group or other association that is dealing with money laundering, illegal obtaining of property or other incomes from a punishable act, or with the assistance of foreign banks, financial institutions or persons, shall be sentenced to imprisonment of at least five years.

(6) Official person, responsible person in a bank, insurance company, company for organization of games of chance, exchange office, stock exchange or other financial institution, attorney-at-law, except when in role of an attorney, notary or other person performing public authorizations or activities of public interest, who shall enable or allow transaction or business relation against his legal obligation or who shall perform transaction against a prohibition pronounced by a competent body or a temporary measure appointed in court or who shall fail to report laundering money, property or property benefit, for which he became aware during the performance of his function or duty, shall be sentenced to imprisonment of at least five years.

(7) Official person, responsible person in a bank or other financial institution, or a person performing activities of public interest, who according to law is an authorized entity for applying measures and activities for prevention of money laundering and other incomes from a punishable act, who shall without authorization reveal to a client or to an uninvited person data referring to the procedure for examining suspicious transactions or to applying other measures and activities for prevention of money laundering, shall be sentenced to imprisonment of three months to five years.

(8) If the crime is committed out of covetousness or for the purpose of using data abroad, the offender shall be sentenced to at least one year imprisonment.

(9) If the crime referred to in paragraph (7) of this Article is committed out of negligence, the offender shall be fined or sentenced to imprisonment of up to three years.

(10) If there are factual or legal obstacles for confirming a previously punishable act and prosecuting its offender, the existence of such act shall be confirmed based on the factual circumstances of the case and the existence of well-founded suspicion that the property has been obtained through such crime.

(11) The awareness of the offender, i.e. the duty and possibility to know that the property has been obtained through a punishable act can be confirmed based on the objective factual

circumstances of the case.

(12) If the crime referred to in this Article is committed by a legal entity, it shall be fined.

(13) The income from a punishable crime shall be seized, and if seizing it from the offender is not possible, other property corresponding to its value shall be seized.

Confiscation of indirect property benefit

Article 97-a

Beside the direct property benefit, the indirect property benefit consisted of the following shall be confiscated from the offender:

- 1) the property in which the benefit obtained with the crime has been transformed or turned into;
- 2) the property obtained from legal sources, in case if the benefit obtained from the crime is completely or partially mixed with such property, up to the assessed value of the mixed benefit obtained by the crime and
- 3) the income or other benefit resulting from the benefit obtained with a crime, from a property wherefore the benefit obtained from a crime is transformed or turned into, or from a property where the benefit obtained from the crime is mixed, up to the assessed amount of the mixed benefit obtained with the crime.

Manner of confiscating

Article 98

(1) The indirect and direct property benefit obtained with a crime and consisting of money, movables or immovables of certain value, as well as any other ownership, property or active, material or non-material rights shall be confiscated from the offender, and if their confiscation is not possible other property corresponding to the value of the obtained benefit shall be confiscated from the offender.

(2) The indirect and direct property benefit shall be as well confiscated from third parties wherefore it has been obtained by committing the crime.

(3) The property benefit referred to in paragraph (1) shall be as well confiscated from members of the offender's family to whom it has been transferred, should it be obvious that they have not provided any compensation corresponding to the value of the obtained property benefit, or from third parties unless they prove that they have given counter-compensation for the object or the property which corresponds the value of the obtained property benefit.

(4) The objects declared as cultural heritage and natural rarities, as well as those to which the damaged party is personally attached, shall be confiscated from third parties, regardless of whether these objects have been transferred to the third parties with or without an appropriate compensation.

(5) The confiscated goods are returned to the damaged party, and if there is no damaged party, they become the state property.

(6) If during the criminal procedure, the damaged person is adjudged a property and legal claim, the court shall pronounce confiscation of property benefit in case if this exceeds the amount of this claim.

Enlarged confiscation
Article 98-a

(1) The property obtained in the time period, determined by the court according to the case's circumstances which shall not be longer than five years before the commission of the crime, prior to the conviction, when based on all the circumstances the court is well asserted that the property exceeds the legal incomes of the offender and originates from such crime, shall be confiscated from the offender of a crime committed within a criminal association wherefore a property benefit for which an imprisonment sentence of at least four years is prescribed, as well as a crime in relation with the terrorism referred to in Article 313, 394-a, 394-b, 394-c and 419 of this Code for which an imprisonment sentence of minimum five years or more has been prescribed or which is related to a money laundering crime wherefore an imprisonment sentence of at least four years is prescribed.

(2) The property referred to in paragraph (1) of this Article shall be as well confiscated from third parties for which it has been obtained by committing the crime.

(3) The property referred to in paragraph (1) of this Article shall be as well confiscated from members of the offender's family to which it has been transferred should it be obvious that they have not provided counter-compensation corresponding to its value, or from third parties unless they prove that they have provided counter-compensation for the object or the property, corresponding to their value.

Confiscating from a legal entity
Article 100

If a legal entity acquires property benefit from the crime of the offender, this benefit shall be confiscated from it.”

As for predicate offences to money-laundering, North Macedonia has adopted an all-crime approach, covering any criminal act, committed within the national territory or abroad. Ancillary offences to money laundering, including attempt (Art. 19), instigation (Art. 23) and conspiracy to commit a crime (Art. 393) are also covered pursuant to the general provisions of the Criminal Code. It is sufficient to establish the criminal nature of the proceeds without the need to identify the predicate offence for a money laundering conviction. The concealment or continued retention of criminal proceeds is criminalized as a separate offence pursuant to article 261 of the Criminal Code.

(b) Observations on the implementation of the article

The confiscation of property by adjudication of an offence of money-laundering is provided in the CC (arts. 97, 97-a, 98, 100 and 273), without distinguishing the origin of the property.

Subparagraph 1 (c) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

In accordance with paragraph 1 of Article 27 of the Law on International Cooperation in Criminal Matters, confiscation of property and property benefits in a procedure of international legal assistance shall be made in accordance with the provisions of the Criminal Code, Criminal Procedure Code and international agreements.

In order to provide mutual legal assistance pursuant to Article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, current legislation allows confiscation of such property without a criminal conviction in cases where the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases. Relevant provisions are stipulated by the Criminal Code and the Criminal Procedure Code.

Relevant provisions of the Criminal Code:

**“Confiscation of property and property benefit and seizing objects
Article 96-m**

(1) For confiscation of property and property benefit obtained with a crime by the legal entity, the provisions of Articles 97 through 100 of this Code shall be properly applied.

(2) If no property or property benefit can be confiscated from the legal entity since it has ceased to exist before the confiscation, the legal successor, i.e. successors, and in case there are no legal successors, the founder or the founders of the legal entity, i.e. the stockholders or partners in a trade company in the cases determined by law shall jointly oblige to pay the monetary amount that corresponds to the acquired property benefit.

(3) The provisions of Article 101-a of this Code shall be properly applied to seizing objects from the legal entity.

**Grounds for confiscation
Article 97**

(1) No one may retain the indirect or direct property benefit obtained through a crime.

(2) The property benefit referred to in paragraph 1 shall be confiscated with the court decision determining the commission of the crime, under the conditions envisaged by this Code. (3) The decision to confiscate shall be adopted by the court in a procedure specified by law also in the case when, due to factual or legal reasons, it is impossible to conduct the criminal procedure against the offender of the crime. (4) In accordance with the conditions specified in a ratified international agreement, the confiscated property may be returned to another country.

**Confiscation of indirect property benefit
Article 97-a**

Beside the direct property benefit, the indirect property benefit consisted of the following shall

be confiscated from the offender:

- 1) the property in which the benefit obtained with the crime has been transformed or turned into;
- 2) the property obtained from legal sources, in case if the benefit obtained from the crime is completely or partially mixed with such property, up to the assessed value of the mixed benefit obtained by the crime and
- 3) the income or other benefit resulting from the benefit obtained with a crime, from a property wherefore the benefit obtained from a crime is transformed or turned into, or from a property where the benefit obtained from the crime is mixed, up to the assessed amount of the mixed benefit obtained with the crime.

Manner of confiscating Article 98

- (1) The indirect and direct property benefit obtained with a crime and consisting of money, movables or immovables of certain value, as well as any other ownership, property or active, material or non-material rights shall be confiscated from the offender, and if their confiscation is not possible other property corresponding to the value of the obtained benefit shall be confiscated from the offender.
- (2) The indirect and direct property benefit shall be as well confiscated from third parties wherefore it has been obtained by committing the crime.
- (3) The property benefit referred to in paragraph (1) shall be as well confiscated from members of the offender's family to whom it has been transferred, should it be obvious that they have not provided any compensation corresponding to the value of the obtained property benefit, or from third parties unless they prove that they have given counter-compensation for the object or the property which corresponds the value of the obtained property benefit.
- (4) The objects declared as cultural heritage and natural rarities, as well as those to which the damaged party is personally attached, shall be confiscated from third parties, regardless of whether these objects have been transferred to the third parties with or without an appropriate compensation.
- (5) The confiscated goods are returned to the damaged party, and if there is no damaged party, they become the state property.
- (6) If during the criminal procedure, the damaged person is adjudged a property and legal claim, the court shall pronounce confiscation of property benefit in case if this exceeds the amount of this claim.

Enlarged confiscation Article 98-a

- (1) The property obtained in the time period, determined by the court according to the case's circumstances which shall not be longer than five years before the commission of the crime, prior to the conviction, when based on all the circumstances the court is well asserted that the property exceeds the legal incomes of the offender and originates from such crime, shall be confiscated from the offender of a crime committed within a criminal association wherefore a property benefit for which an imprisonment sentence of at least four years is prescribed, as well as a crime in relation with the terrorism referred to in Article 313, 394-a, 394-b, 394-c and 419

of this Code for which an imprisonment sentence of minimum five years or more has been prescribed or which is related to a money laundering crime wherefore an imprisonment sentence of at least four years is prescribed.

(2) The property referred to in paragraph (1) of this Article shall be as well confiscated from third parties for which it has been obtained by committing the crime.

(3) The property referred to in paragraph (1) of this Article shall be as well confiscated from members of the offender's family to which it has been transferred should it be obvious that they have not provided counter-compensation corresponding to its value, or from third parties unless they prove that they have provided counter-compensation for the object or the property, corresponding to their value.

Confiscating from a legal entity Article 100

If a legal entity acquires property benefit from the crime of the offender, this benefit shall be confiscated from it.

Conditions for seizure of objects Article 100-a

(1) Nobody can keep or adopt the objects that have occurred through a commission of a crime.

(2) Objects that were intended or have been used to commit a crime shall be confiscated from the offender, regardless of whether they belong to the offender or to a third party, if this is required by the interest of general safety, health of the people or moral reasons.

(3) The objects used or intended to be used to commit a crime may be confiscated if there is a threat that they may be used to commit another crime. Objects, which are the property of a third party, shall not be confiscated, except if the third party knew, could have known and was obliged to know that these objects have been used or were intended to be used to commit a crime.

(4) The court shall adopt a decision to confiscate the objects within the framework of a procedure specified by law in the case when, due to factual or legal obstacles, it is impossible to conduct the criminal procedure with respect to the offender of the crime.

(5) The application of this measure does not interfere with the right of third parties to compensation of damages from the offender of the crime.

(6) Under the conditions stipulated in ratified international agreements, the objects may be returned to another country.”

Relevant provisions of the Criminal Procedure:

“Article 540

Special procedure for forfeiture of assets and crime proceeds and seizure of objects

(1) When there are factual and legal impediments for conducting a criminal procedure against a perpetrator of a crime, upon a motion by the public prosecutor, the court shall conduct a special procedure for forfeiture of assets and crime proceeds and seizure of objects, if the conditions provided for in the Criminal Code are met.

(2) In the procedure as referred to in paragraph 1 of this Article, upon proposal by the public prosecutor, the necessary evidence shall be presented. By means of a decision, the court shall

order the measure of forfeiture of assets and crime proceeds and seizure of objects if it is proven that the assets and the property have been obtained with the commission of a criminal offense or that the objects have been used to commit the criminal offense or have resulted from it, or that they have to be forfeited according to the provisions of the Criminal Code.

(3) The person whose assets and property have been forfeited may appeal the decision of the court referred to in paragraph 2 of this Article within eight days, with the immediate superior court.

Article 202

Temporary seizure of property or objects for their safeguarding

(1) At any time in the course of the proceedings, the court may render, upon request by the public prosecutor, a temporary measure of seizure of property or objects which should be seized according to the Criminal Code, a measure for confiscation or another necessary temporary measure in order to prevent the use, transfer or managing of that property or objects.

(2) The request by the public prosecutor referred to in paragraph 1 of this Article shall contain the following:

- a short description of the criminal offence and its legal designation;
- description of the property or objects which originate from a committed crime;
- information on the person who owns that property or objects;
- evidence on which the suspicion that the property or the objects originate from a criminal offense is based, and
- reasons for the probability that the seizure of property or object shall be made especially difficult or impossible until the end of the criminal proceedings.

(3) Before the beginning and during the preliminary procedure, the preliminary procedure judge shall rule on the request by the public prosecutor as referred to in paragraph 1 of this Article, and after the indictment has been raised, by the Court that is going to hold the hearing. The preliminary procedure judge shall rule immediately on the request by the public prosecutor, and no later than within 12 hours from the receipt of the request. If the preliminary procedure judge does not accept the request by the public prosecutor, he or she shall ask the Trial Chamber referred to in Article 25, paragraph 5 to render a decision without any delay. The Trial Chamber shall render a decision within 24 from the receipt of the request.

(4) In the decision on the measures referred to in paragraph 1 of this Article, the court shall designate the value and the type of property, or object, and the time period for which it is seized.

(5) An appeal may be filed within 24 hours against the decision of the preliminary procedure judge, establishing the measures referred to in paragraph 1 of this Article. The Trial Chamber referred to Article 25, paragraph 5 shall rule on the appeal. The appeal shall not prevent the enforcement of the decision.

(6) If there is danger of procrastination, the members of the Judicial Police may temporarily seize property or objects as referred to in paragraph 1 of this Article, confiscate them or take other necessary temporary measures in order to prevent any use, transfer and managing thereof. The public prosecutor shall have to be immediately informed on the measures taken, and the measures must be approved by the preliminary procedure judge within 72 hours from the moment of their implementation.

(7) If the preliminary procedure judge does not give an approval, the undertaken measures referred to in paragraph 6 of this Article shall be stopped, and any temporarily seized property

or objects shall be immediately returned to the person they were seized from.

(8) The measures referred to in paragraph 1 of this Article may last until the completion of the criminal proceedings before the first instance court at the latest.

(9) If the measures referred to in paragraph 1 of this Article are established during the preliminary procedure, they shall be cancelled ex-officio if the investigative procedure does not begin within 3 months from the day when the decision establishing them was rendered.

(10) Before the expiration of the deadlines referred to in paragraph 9 of this Article, the measures may be cancelled ex-officio by the Court or upon request by the public prosecutor, i.e. by any interested person, if it becomes evident that they are not necessary or justified in view of the severity of the crime, the financial circumstances of the person they refer to or the circumstances of the persons, whom this person is obliged by law to support and the circumstances pointing to the fact that the seizure of property or objects shall not be precluded or made especially difficult prior to the completion of the criminal proceedings.

(11) All the actions upon the property and the objects that are subject of safekeeping, and that have been undertaken upon submitting the request from paragraph 1 of this article, are of no value.

(12) The request from paragraph 1 of this article and the decision for issuing the measures prescribed in paragraph 1 of this article, will be send without a delay in an electronic format to all the bodies that are competent for documenting the property and the objects, whose safekeeping was requested and was approved.

Article 529 **Seizure of objects**

(1) Any objects that have to be seized according to the Criminal Code shall also be seized even in the event when the criminal procedure has not ended with a conviction of the defendant.

(2) The entity before which the procedure was being conducted at the moment when the procedure was completed i.e. discontinued shall enact a separate decision thereof.

(3) The decision for seizure of the objects as referred to in paragraph 1 of this Article shall be enacted by the court, even if the verdict of conviction does not provide for such a decision.

(4) A certified copy of the decision for seizure of objects shall be delivered to the owner of the objects, if known.

(5) The owner of the objects shall have a right to appeal against the decision as referred to in paragraphs 2 and 3 of this Article, due to lack of legal grounds for the seizure of the objects. If the decision as referred to in paragraph 2 of this Article was not passed by the court, the appeal shall be ruled on by the Trial Chamber referred to in Article 25, paragraph 5 of this Law, of the court that was competent for adjudicating in the first instance.

Article 530 **General provisions on forfeiture of assets and crime proceeds**

(1) Any assets and crime proceeds that originate from the crime shall be established in a criminal procedure.

(2) During the procedure, the public prosecutor shall be obliged to collect evidence and inspect all circumstances, which are important for the establishment of assets and crime proceeds and to propose any measures as referred to in Article 202, paragraph 1 of this Law.

(3) If the injured party claimed any damages in view of returning the objects obtained with the criminal offense, i.e. in view of the amount that is equivalent to the value of the objects, the crime proceeds shall be established only for the part that is not covered with the legal or property claim.

Article 531

Procedure for forfeiture of assets and crime proceeds

(1) When performing forfeiture of assets and crime proceeds, the person to whom the crime proceeds have been transferred, as well as the representative of the legal person shall be summoned to be heard during the preliminary procedure and at the main hearing. In the summons, they shall be forewarned that the procedure shall be also conducted in their absence.

(2) Any representative of a legal person shall be examined at the main hearing after the defendant. It shall be proceeded in the same manner in reference of the person to whom the crime proceeds have been transferred, if he or she has not been summoned as a witness.

(3) Any person that the property interest has been transferred to, as well as any representative of a legal person, in reference to the establishment of the crime proceeds, shall be authorized to tender evidence and upon authorization of the Presiding Judge of the Trial Chamber to question the defendant, the witnesses and expert witnesses.

(4) Any exclusion of the public from the main hearing shall not refer to the person that the assets and crime proceeds have been transferred to and to the representative of the legal person.

(5) If, during the main hearing, it is established that forfeiture of assets and crime proceeds is possible, the public prosecutor shall propose for the main hearing to be adjourned and summon the person that the assets and crime proceeds have been transferred to, as well as the representative of the legal person.

Article 532

Establishing the amount of the value of the assets and crime proceeds

(1) In collecting the required evidence for the establishment of the correct amount of the assets and crime proceeds, the public prosecutor may ask for any necessary information from other state entities, financial institutions, other legal persons and citizens who shall be obliged to submit them without any delay.

(2) If there are any suspicions that the assets have been moved abroad, the court shall be obliged to issue an international warrant or notification.

Article 533

Extended forfeiture

(1) The court shall provide for an extended forfeiture under the terms prescribed in the Criminal Code, if the defendant cannot prove that he has lawfully acquired the assets or property within one year as of the day of the commencement of the main hearing.

(2) If the court reaches a judgment in the first instance regarding the criminal offense within a term shorter than the one stipulated in paragraph 1 of this Article, when the legal conditions for the measure of extended forfeiture are met, the court shall provide for such a measure with a supplementary judgment that may be appealed in accordance with the provisions of this Law.

Article 534

Issuing a measure of extended forfeiture against a third party

- (1) The court shall also order the measure of extended forfeiture against a third party by means of a decision under the terms prescribed in the Criminal Code, if within two years as of the day of commencement of the specific forfeiture procedure, the person cannot prove that he or she has indemnified the asset or property according to their value.
- (2) The procedure for the measure of extended forfeiture shall be conducted upon a motion by the public prosecutor.
- (3) The person shall have a right to file an appeal against the decision referred to in paragraph 1 of this Article within eight days, with the immediate superior court.

Article 535

Providing temporary safeguarding measures

- (1) When the conditions for forfeiture or extended forfeiture of assets and crime proceeds are met, the court, upon a motion by the public prosecutor, shall order temporary safeguarding measures as provided for in Article 194 of this Law.
- (2) The court may order the measures as referred to in paragraph 1 of this Article, against third parties, who are suspected recipients of assets and property resulting from a criminal offense, without appropriate reimbursement.
- (3) One may appeal the decision of the court ordering temporary safeguarding measures, within 8 days.
- (4) The immediate superior court shall rule on the appeal within a period of 8 days.”

(b) Observations on the implementation of the article

North Macedonia provides for non-conviction-based forfeiture, with respect to natural persons and legal entities that have committed crimes, including where a suspect is deceased, has absconded or is otherwise unavailable (art. 540, CPC).

Subparagraph 2 (a) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article;

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The Law on International Cooperation in Criminal Matters sets out the basis and scope of international cooperation. It also provides for the transfer of seized objects, documents and property benefits to foreign competent authority:

“Article 2

The international cooperation shall be provided in accordance with the provisions of this Law unless otherwise specified by an international agreement ratified in accordance with the Constitution of the Republic of Macedonia (herein after referred to as: international agreement) or other legal act which governs the criminal proceedings of an international court whose jurisdiction is accepted by the Republic of Macedonia.

Article 3

(1) An international cooperation shall be provided for all proceedings related to criminal offences whose prosecution is under jurisdiction of a judicial authority in the requesting state at the time of the submission of the letter rogatory for international legal assistance in criminal matters or the request for international cooperation in criminal matters.

(2) The international cooperation shall be also provided in misdemeanour proceedings that have been conducted before the misdemeanour authorities for acts for which misdemeanour sanctions are foreseen under the regulations of Republic of Macedonia and in cases where a proceeding can be initiated before the court that is actually competent for the criminal matter after a decision has been delivered.

Article 15

The international legal assistance shall include:

- enforcement of procedural actions such as delivery of documents, written evidence and acts related to the criminal proceedings in the sending state;
- delivery of spontaneous information;
- exchange of certain information and notifications;
- temporary transfer of persons deprived of freedom;
- cross-border observation;
- controlled delivery;
- using persons with hidden identity;
- joint investigation teams;
- monitoring communications;
- interrogation through video conference;
- interrogation through telephone conference;
- searching of premises and persons;
- temporary security of items, property or means related to the criminal offence;
- temporary freezing, confiscation and retention of assets, bank accounts and financial transactions or incomes from a criminal offence;
- confiscation of property and property benefits;
- deprivation of items;
- protection of personal data;
- criminal and civil liability of officials, and
- delivery of extracts from criminal records.

Transfer of temporary seized objects, documents and property benefits

Article 26

(1) The objects, documents and property benefits that were temporary seized, as well as the records and the decisions for temporary seizure, shall be transferred to the foreign competent authority at its request after the termination of the proceeding for international legal assistance in the Republic of Macedonia.

(2) The objects, documents and property benefits from paragraph (1) of this article shall be transferred to the foreign competent authority if:

- the foreign competent authority guarantees their return without reimbursement after the termination of the procedure of taking evidence;
- the third person proves that he or she was not notified and couldn't know that the object, the document or the property benefits have been acquired with a criminal offence; and
- the injured party with residence or domicile in the Republic of Macedonia or the state authority emphasises its right to the submitted items, documents and property benefits.

(3) In case of criminal proceedings in progress before a domestic judicial authority the transfer shall be adjourned until the effective termination of the proceedings.

Temporary measures

Article 29

(1) At the request of the foreign competent authority the domestic judicial authority shall introduce temporary measures for collecting evidence material and for security of the collected evidence or for protection of the endangered legal interests.

(2) The domestic judicial authority can act partially upon the request from paragraph (1) of this article or it may temporary limit the implementation of the letter rogatory.

Transfer of seized objects and property benefits

Article 28

(1) The objects and the property benefits seized in order to protect them can be transferred to the foreign competent authority at its request.

(2) The objects and the property benefits from paragraph (1) shall include the following:

- 1) objects the criminal offence was committed with;
- 2) objects that resulted from the committed criminal offence or their equivalent value, the incomes from the criminal offence or their equivalent value, and
- 3) the presents given in order to stimulate the committing of criminal offence, as well as the rewards for the criminal offence or their equivalent value.

(3) The transfer of the objects and the property benefits from paragraph (1) of this article can be realised on the basis of an effective and enforceable decision by the foreign competent authority.

(4) The objects and the property benefits from paragraph (1) of this article shall be permanently kept in the Republic of Macedonia if:

- 1) those represent goods under temporary protection or cultural inheritance or if they are

natural rarities of the Republic of Macedonia;

2) the injured party is has its residence or domicile in the Republic of Macedonia and they shall be returned to him/her;

3) the domestic competent authority emphasises the right of the Republic of Macedonia to them;

4) the person has his or her residence or domicile in the Republic of Macedonia and did not participate in committing the criminal offence, or proves that it didn't know and couldn't know that the object or the property benefits have been acquired through committing a criminal offence in the Republic of Macedonia or abroad;

5) they are required for the implementation of a criminal proceeding that is in progress in the Republic of Macedonia;

6) they are required for introduction of the measure for confiscation of property and property benefits and seizure of the objects, and

7) those represent objects that must be seizure according to the Criminal Code.

Mutuality Article 12

(1) The domestic competent authority shall act upon a request by a foreign competent authority that the Republic of Macedonia has not concluded an agreement for international cooperation with, only if the foreign competent authority provides a guarantee in writing that it shall also act upon such request by the domestic competent authority.

(2) The guarantee in writing from paragraph (1) of this article shall be immediately delivered by the foreign competent authority to the domestic competent authority.

(3) The guarantee in writing from paragraph (1) of this article shall not be requested for enforcement of delivery of court decisions, petitions and other documents.”

The Criminal Procedure Code also prescribes the procedures of the seizure of property or objects and the corresponding safeguarding measures:

“Article 202

Temporary seizure of property or objects for their safeguarding

(1) At any time in the course of the proceedings, the court may render, upon request by the public prosecutor, a temporary measure of seizure of property or objects which should be seized according to the Criminal Code, a measure for confiscation or another necessary temporary measure in order to prevent the use, transfer or managing of that property or objects.

(2) The request by the public prosecutor referred to in paragraph 1 of this Article shall contain the following:

- a short description of the criminal offence and its legal designation;
- description of the property or objects which originate from a committed crime;
- information on the person who owns that property or objects;
- evidence on which the suspicion that the property or the objects originate from a criminal offence is based, and
- reasons for the probability that the seizure of property or object shall be made especially difficult or impossible until the end of the criminal proceedings.

(3) Before the beginning and during the preliminary procedure, the preliminary procedure

judge shall rule on the request by the public prosecutor as referred to in paragraph 1 of this Article, and after the indictment has been raised, by the Court that is going to hold the hearing. The preliminary procedure judge shall rule immediately on the request by the public prosecutor, and no later than within 12 hours from the receipt of the request. If the preliminary procedure judge does not accept the request by the public prosecutor, he or she shall ask the Trial Chamber referred to in Article 25, paragraph 5 to render a decision without any delay. The Trial Chamber shall render a decision within 24 from the receipt of the request.

(4) In the decision on the measures referred to in paragraph 1 of this Article, the court shall designate the value and the type of property, or object, and the time period for which it is seized.

(5) An appeal may be filed within 24 hours against the decision of the preliminary procedure judge, establishing the measures referred to in paragraph 1 of this Article. The Trial Chamber referred to Article 25, paragraph 5 shall rule on the appeal. The appeal shall not prevent the enforcement of the decision.

(6) If there is danger of procrastination, the members of the Judicial Police may temporarily seize property or objects as referred to in paragraph 1 of this Article, confiscate them or take other necessary temporary measures in order to prevent any use, transfer and managing thereof. The public prosecutor shall have to be immediately informed on the measures taken, and the measures must be approved by the preliminary procedure judge within 72 hours from the moment of their implementation.

(7) If the preliminary procedure judge does not give an approval, the undertaken measures referred to in paragraph 6 of this Article shall be stopped, and any temporarily seized property or objects shall be immediately returned to the person they were seized from.

(8) The measures referred to in paragraph 1 of this Article may last until the completion of the criminal proceedings before the first instance court at the latest.

(9) If the measures referred to in paragraph 1 of this Article are established during the preliminary procedure, they shall be cancelled ex-officio if the investigative procedure does not begin within 3 months from the day when the decision establishing them was rendered.

(10) Before the expiration of the deadlines referred to in paragraph 9 of this Article, the measures may be cancelled ex-officio by the Court or upon request by the public prosecutor, i.e. by any interested person, if it becomes evident that they are not necessary or justified in view of the severity of the crime, the financial circumstances of the person they refer to or the circumstances of the persons, whom this person is obliged by law to support and the circumstances pointing to the fact that the seizure of property or objects shall not be precluded or made especially difficult prior to the completion of the criminal proceedings.

(11) All the actions upon the property and the objects that are subject of safekeeping, and that have been undertaken upon submitting the request from paragraph 1 of this article, are of no value.

(12) The request from paragraph 1 of this article and the decision for issuing the measures prescribed in paragraph 1 of this article, will be sent without a delay in an electronic format to all the bodies that are competent for documenting the property and the objects, whose safekeeping was requested and was approved.

Article 517
Safeguarding measures

(1) During the proceedings, upon a motion by the public prosecutor, the court may impose one or more temporary measures in accordance with the provisions on temporary safeguarding or seizure of objects or property as referred to in Articles 194, 195, 196, 197, 198, 199, 200, 201, 202, 203 and 204 of this Law, as well as a prohibition of performing certain activities or all activities of the legal person until the completion of the proceedings and a ban on any statutory changes at the legal person. Any prohibitions shall be recorded in the registry of the court or other registries.

(2) Any prohibitions as referred to in paragraph 1 of this article shall be imposed with a decision, which may be appealed by the representative of the legal person within 3 days with the trial Chamber as referred to in Article 25, paragraph 5 of this Law. Any appeal shall not prevent the enforcement of the decision.

Procedure for seizure of objects and forfeiture of assets and crime proceeds

Article 529
Seizure of objects

(1) Any objects that have to be seized according to the Criminal Code shall also be seized even in the event when the criminal procedure has not ended with a conviction of the defendant.

(2) The entity before which the procedure was being conducted at the moment when the procedure was completed i.e. discontinued shall enact a separate decision thereof.

(3) The decision for seizure of the objects as referred to in paragraph 1 of this Article shall be enacted by the court, even if the verdict of conviction does not provide for such a decision.

(4) A certified copy of the decision for seizure of objects shall be delivered to the owner of the objects, if known.

(5) The owner of the objects shall have a right to appeal against the decision as referred to in paragraphs 2 and 3 of this Article, due to lack of legal grounds for the seizure of the objects. If the decision as referred to in paragraph 2 of this Article was not passed by the court, the appeal shall be ruled on by the Trial Chamber referred to in Article 25, paragraph 5 of this Law, of the court that was competent for adjudicating in the first instance.

Article 564

Issuing an international arrest warrant and public notice and issuing an arrest warrant and public notice upon request by a foreign entity

(1) If it is likely that the person against whom an arrest warrant has been issued is located abroad, the Ministry of Interior may also issue an international arrest warrant, after it has received a declaration by the entity that has issued the order for the arrest warrant, confirming that if the person is found, his or her extradition shall be sought after.

(2) If it is likely that the property and crime proceeds or the objects are located abroad, an international public notice shall be issued, accompanied by a declaration, confirming that if they are found, temporary measures for freezing or forfeiture of property and crime proceeds or seizure of objects shall be sought after.

(3) At the request of a foreign authority, the Ministry of Interior may also issue an arrest warrant for a person who is believed to be staying in the Republic of Macedonia, if such a request

contains a declaration confirming that if the person is found, his or her extradition shall be sought after.”

(b) Observations on the implementation of the article

Article 202 of the CPC allows the public prosecutor and the criminal police to temporarily seize and freeze assets until a court order is issued. A competent authority of a foreign State party may request the direct enforcement of interim measures in North Macedonia. In that case, the request is implemented by the domestic judicial authority, although the direct enforcement of interim measures relating to civil matters is not clear (arts. 28 and 29, Law on International Cooperation in Criminal Matters). The request is presented to court by the public prosecutor, who should provide, inter alia, reasons for the probability that the seizure of property shall be made especially difficult or impossible following criminal proceedings (art. 202, CPC). In addition, articles 517 and 529 of the CPC can be applicable.

Subparagraph 2 (b) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a request that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article; and

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The Law on International Cooperation in Criminal Matters provides the basis of international cooperation and the regime of criminal proceeding in North Macedonia:

“Article 2

The international cooperation shall be provided in accordance with the provisions of this Law unless otherwise specified by an international agreement ratified in accordance with the Constitution of the Republic of Macedonia (herein after referred to as: international agreement) or other legal act which governs the criminal proceedings of an international court whose jurisdiction is accepted by the Republic of Macedonia.

Article 3

(1) An international cooperation shall be provided for all proceedings related to criminal offences whose prosecution is under jurisdiction of a judicial authority in the requesting state at the time of the submission of the letter rogatory for international legal assistance in criminal matters or the request for international cooperation in criminal matters.

(2) The international cooperation shall be also provided in misdemeanour proceedings that

have been conducted before the misdemeanour authorities for acts for which misdemeanour sanctions are foreseen under the regulations of Republic of Macedonia and in cases where a proceeding can be initiated before the court that is actually competent for the criminal matter after a decision has been delivered.

Article 15

The international legal assistance shall include:

- enforcement of procedural actions such as delivery of documents, written evidence and acts related to the criminal proceedings in the sending state;
- delivery of spontaneous information;
- exchange of certain information and notifications;
- temporary transfer of persons deprived of freedom;
- cross-border observation;
- controlled delivery;
- using persons with hidden identity;
- joint investigation teams;
- monitoring communications;
- interrogation through video conference;
- interrogation through telephone conference;
- searching of premises and persons;
- temporary security of items, property or means related to the criminal offence;
- temporary freezing, confiscation and retention of assets, bank accounts and financial transactions or incomes from a criminal offence;
- confiscation of property and property benefits;
- deprivation of items;
- protection of personal data;
- criminal and civil liability of officials, and
- delivery of extracts from criminal records.

Assumption of the criminal prosecution in the Republic of Macedonia

Article 42

(1) The request of the foreign competent authority to assume criminal prosecution in the Republic of Macedonia against a citizen of the Republic of Macedonia or against a person with residence or domicile in the Republic of Macedonia for criminal offence committed in a foreign state shall be submitted together with the criminal records to the competent public prosecutor in the region where the person has his or her residence or domicile.

(2) If a legal claim on property has been filed in the foreign competent authority, the domestic judicial authority shall act upon it as if it was filed in a proceeding before the domestic judicial authority.

(3) The domestic competent authority shall notify the foreign competent authority which submitted the request about the rejection to assume criminal prosecution, as well as about the effective decision that was reached within the criminal proceedings.

Assumption of criminal proceedings

Article 43

- (1) The criminal proceeding shall be assumed only when the criminal offence about which a prosecution is requested is a criminal offence according to the domestic legislation.
- (2) If the criminal proceeding has been assumed, it shall be conducted according to the domestic legislation.
- (3) The law of the foreign country in relation to the type and amount of the criminal sanction shall be applied if it is milder for the accused in the criminal proceedings.
- (4) The criminal proceedings shall not be conducted in absence of the accused.

Equalisation of the investigative actions

Article 44

Any investigative action conducted by the foreign competent authority shall be equalised with the appropriate investigative action within the criminal proceedings in accordance with the domestic legislation.

Decision on undertaking criminal prosecution

Article 45

- (1) The competent public prosecutor shall consider the submitted request without delay and decide immediately upon it.
- (2) The competent public prosecutor through the Ministry shall immediately notify the foreign competent authority about the decision from paragraph (1) and shall deliver a certified copy of the decision.

Assignment of the criminal prosecution to a foreign state

Article 46

- (1) If a foreigner with residence in a foreign state commits a criminal offence in the territory of the Republic of Macedonia, regardless of the conditions stipulated in article 50 of this Law, the criminal records and the evidence may be assigned to the foreign state for further criminal prosecution and court proceedings if the foreign state does not oppose that.
- (2) The originals and the certified copies of the criminal records shall be enclosed to the request for assignment of criminal prosecution.
- (3) If the accused person is in prison, the foreign competent authority shall be requested to deliver a notification about the assumption of the prosecution within 30 days from the day of the submission of the request.

Decision on assignment of criminal prosecution

Article 47

- (1) Before the indictment enters into legal force, the competent public prosecutor shall decide on the assignment of the criminal prosecution.
- (2) After entering into legal force of the indictment, and until the beginning of the main hearing,

the judicial council shall adopt the decision from paragraph (1) of this article upon proposal of the competent public prosecutor in accordance with the provisions of the Law on Criminal Proceedings. After the beginning of the main hearing the competent council of the court shall decide upon proposal of the competent public prosecutor in accordance with the provisions of the Criminal Procedure Code.

(3) The assignment may be granted for criminal offences for which a prison sentence up to ten years is foreseen, as well as for criminal offences endangering public traffic.

(4) If the injured party is a citizen of the Republic of Macedonia, the assignment of the criminal prosecution shall not be allowed if the person opposes that, unless a security for the exercise of his or her legal claim on property has been provided.

Additional information

Article 48

The competent public prosecutor may require additional information, records and evidence from the foreign competent authority if it deems that those are necessary for the further implementation of the criminal proceedings and shall determine a deadline for their delivery.

Transfer of temporary seized objects, documents and property benefits

Article 26

(1) The objects, documents and property benefits that were temporary seized, as well as the records and the decisions for temporary seizure, shall be transferred to the foreign competent authority at its request after the termination of the proceeding for international legal assistance in the Republic of Macedonia.

(2) The objects, documents and property benefits from paragraph (1) of this article shall be transferred to the foreign competent authority if:

- the foreign competent authority guarantees their return without reimbursement after the termination of the procedure of taking evidence;
- the third person proves that he or she was not notified and couldn't know that the object, the document or the property benefits have been acquired with a criminal offence; and
- the injured party with residence or domicile in the Republic of Macedonia or the state authority emphasises its right to the submitted items, documents and property benefits.

(3) In case of criminal proceedings in progress before a domestic judicial authority the transfer shall be adjourned until the effective termination of the proceedings.

Temporary measures

Article 29

(1) At the request of the foreign competent authority the domestic judicial authority shall introduce temporary measures for collecting evidence material and for security of the collected evidence or for protection of the endangered legal interests.

(2) The domestic judicial authority can act partially upon the request from paragraph (1) of this article or it may temporary limit the implementation of the letter rogatory.

Transfer of seized objects and property benefits

Article 28

(1) The objects and the property benefits seized in order to protect them can be transferred to the foreign competent authority at its request.

(2) The objects and the property benefits from paragraph (1) shall include the following:

- 1) objects the criminal offence was committed with;
- 2) objects that resulted from the committed criminal offence or their equivalent value, the incomes from the criminal offence or their equivalent value, and
- 3) the presents given in order to stimulate the committing of criminal offence, as well as the rewards for the criminal offence or their equivalent value.

(3) The transfer of the objects and the property benefits from paragraph (1) of this article can be realised on the basis of an effective and enforceable decision by the foreign competent authority.

(4) The objects and the property benefits from paragraph (1) of this article shall be permanently kept in the Republic of Macedonia if:

- 1) those represent goods under temporary protection or cultural inheritance or if they are natural rarities of the Republic of Macedonia;
- 2) the injured party has its residence or domicile in the Republic of Macedonia and they shall be returned to him/her;
- 3) the domestic competent authority emphasizes the right of the Republic of Macedonia to them;
- 4) the person has his or her residence or domicile in the Republic of Macedonia and did not participate in committing the criminal offence, or proves that it didn't know and couldn't know that the object or the property benefits have been acquired through committing a criminal offence in the Republic of Macedonia or abroad;
- 5) they are required for the implementation of a criminal proceeding that is in progress in the Republic of Macedonia;
- 6) they are required for introduction of the measure for confiscation of property and property benefits and seizure of the objects, and
- 7) those represent objects that must be seizure according to the Criminal Code.

Mutuality

Article 12

(1) The domestic competent authority shall act upon a request by a foreign competent authority that the Republic of Macedonia has not concluded an agreement for international cooperation with, only if the foreign competent authority provides a guarantee in writing that it shall also act upon such request by the domestic competent authority.

(2) The guarantee in writing from paragraph (1) of this article shall be immediately delivered by the foreign competent authority to the domestic competent authority.

(3) The guarantee in writing from paragraph (1) of this article shall not be requested for enforcement of delivery of court decisions, petitions and other documents.

Article 104

For procedural provisions not regulated by this Law, provisions from the Law on Criminal Proceeding, the Law on Misdemeanours, the Law on Courts, the Law on Public Prosecution and the Law on Prevention of Corruption shall apply.”

The Criminal Procedure Code provides, among others, the procedure for seizure of objects and forfeiture of assets and crime proceeds, the safeguarding measures, and the issuance of an arrest warrant and public notice upon request by a foreign entity.

“Article 202

Temporary seizure of property or objects for their safeguarding

(1) At any time in the course of the proceedings, the court may render, upon request by the public prosecutor, a temporary measure of seizure of property or objects which should be seized according to the Criminal Code, a measure for confiscation or another necessary temporary measure in order to prevent the use, transfer or managing of that property or objects.

(2) The request by the public prosecutor referred to in paragraph 1 of this Article shall contain the following:

- a short description of the criminal offence and its legal designation;
- description of the property or objects which originate from a committed crime;
- information on the person who owns that property or objects;
- evidence on which the suspicion that the property or the objects originate from a criminal offense is based, and
- reasons for the probability that the seizure of property or object shall be made especially difficult or impossible until the end of the criminal proceedings.

(3) Before the beginning and during the preliminary procedure, the preliminary procedure judge shall rule on the request by the public prosecutor as referred to in paragraph 1 of this Article, and after the indictment has been raised, by the Court that is going to hold the hearing. The preliminary procedure judge shall rule immediately on the request by the public prosecutor, and no later than within 12 hours from the receipt of the request. If the preliminary procedure judge does not accept the request by the public prosecutor, he or she shall ask the Trial Chamber referred to in Article 25, paragraph 5 to render a decision without any delay. The Trial Chamber shall render a decision within 24 from the receipt of the request.

(4) In the decision on the measures referred to in paragraph 1 of this Article, the court shall designate the value and the type of property, or object, and the time period for which it is seized.

(5) An appeal may be filed within 24 hours against the decision of the preliminary procedure judge, establishing the measures referred to in paragraph 1 of this Article. The Trial Chamber referred to Article 25, paragraph 5 shall rule on the appeal. The appeal shall not prevent the enforcement of the decision.

(6) If there is danger of procrastination, the members of the Judicial Police may temporarily seize property or objects as referred to in paragraph 1 of this Article, confiscate them or take other necessary temporary measures in order to prevent any use, transfer and managing thereof. The public prosecutor shall have to be immediately informed on the measures taken, and the measures must be approved by the preliminary procedure judge within 72 hours from the moment of their implementation.

(7) If the preliminary procedure judge does not give an approval, the undertaken measures referred to in paragraph 6 of this Article shall be stopped, and any temporarily seized property or objects shall be immediately returned to the person they were seized from.

(8) The measures referred to in paragraph 1 of this Article may last until the completion of the criminal proceedings before the first instance court at the latest.

(9) If the measures referred to in paragraph 1 of this Article are established during the preliminary procedure, they shall be cancelled ex-officio if the investigative procedure does not begin within 3 months from the day when the decision establishing them was rendered.

(10) Before the expiration of the deadlines referred to in paragraph 9 of this Article, the measures may be cancelled ex-officio by the Court or upon request by the public prosecutor, i.e. by any interested person, if it becomes evident that they are not necessary or justified in view of the severity of the crime, the financial circumstances of the person they refer to or the circumstances of the persons, whom this person is obliged by law to support and the circumstances pointing to the fact that the seizure of property or objects shall not be precluded or made especially difficult prior to the completion of the criminal proceedings.

(11) All the actions upon the property and the objects that are subject of safekeeping, and that have been undertaken upon submitting the request from paragraph 1 of this article, are of no value.

(12) The request from paragraph 1 of this article and the decision for issuing the measures prescribed in paragraph 1 of this article, will be send without a delay in an electronic format to all the bodies that are competent for documenting the property and the objects, whose safekeeping was requested and was approved.

Article 517 **Safeguarding measures**

(1) During the proceedings, upon a motion by the public prosecutor, the court may impose one or more temporary measures in accordance with the provisions on temporary safeguarding or seizure of objects or property as referred to in Articles 194, 195, 196, 197, 198, 199, 200, 201, 202, 203 and 204 of this Law, as well as a prohibition of performing certain activities or all activities of the legal person until the completion of the proceedings and a ban on any statutory changes at the legal person. Any prohibitions shall be recorded in the registry of the court or other registries.

(2) Any prohibitions as referred to in paragraph 1 of this article shall be imposed with a decision, which may be appealed by the representative of the legal person within 3 days with the trial Chamber as referred to in Article 25, paragraph 5 of this Law. Any appeal shall not prevent the enforcement of the decision.

Procedure for seizure of objects and forfeiture of assets and crime proceeds

Article 529 **Seizure of objects**

(1) Any objects that have to be seized according to the Criminal Code shall also be seized even in the event when the criminal procedure has not ended with a conviction of the defendant.

(2) The entity before which the procedure was being conducted at the moment when the procedure was completed i.e. discontinued shall enact a separate decision thereof.

(3) The decision for seizure of the objects as referred to in paragraph 1 of this Article shall be enacted by the court, even if the verdict of conviction does not provide for such a decision.

(4) A certified copy of the decision for seizure of objects shall be delivered to the owner of the objects, if known.

(5) The owner of the objects shall have a right to appeal against the decision as referred to in paragraphs 2 and 3 of this Article, due to lack of legal grounds for the seizure of the objects. If the decision as referred to in paragraph 2 of this Article was not passed by the court, the appeal shall be ruled on by the Trial Chamber referred to in Article 25, paragraph 5 of this Law, of the court that was competent for adjudicating in the first instance.

Article 564

Issuing an international arrest warrant and public notice and issuing an arrest warrant and public notice upon request by a foreign entity

(1) If it is likely that the person against whom an arrest warrant has been issued is located abroad, the Ministry of Interior may also issue an international arrest warrant, after it has received a declaration by the entity that has issued the order for the arrest warrant, confirming that if the person is found, his or her extradition shall be sought after.

(2) If it is likely that the property and crime proceeds or the objects are located abroad, an international public notice shall be issued, accompanied by a declaration, confirming that if they are found, temporary measures for freezing or forfeiture of property and crime proceeds or seizure of objects shall be sought after.

(3) At the request of a foreign authority, the Ministry of Interior may also issue an arrest warrant for a person who is believed to be staying in the Republic of Macedonia, if such a request contains a declaration confirming that if the person is found, his or her extradition shall be sought after.”

(b) Observations on the implementation of the article

A competent authority of a foreign State party may request the direct enforcement of interim measures in North Macedonia. In that case, the request is implemented by the domestic judicial authority (arts. 28 and 29, Law on International Cooperation in Criminal Matters). The request is presented to court by the public prosecutor, who should provide, inter alia, reasons for the probability that the seizure of property shall be made especially difficult or impossible following criminal proceedings (art. 202, CPC). In addition, articles 517 and 529 of the CPC can be applicable.

Subparagraph 2 (c) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

(a) Summary of information relevant to reviewing the implementation of the article

Please refer to information provided under article 51 of the Convention. In addition, North Macedonia has provided the following information in the implementation of the provision under review.

In accordance with paragraph (1) of Article 27 of the Law on International Cooperation in Criminal Matters, the confiscation of property and property benefits in a procedure of international legal assistance shall be made in accordance with the provisions of the Criminal Code, Criminal Procedure Law and international agreements.

In order to provide mutual legal assistance pursuant to Article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, current legislation allows confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

The Criminal Code provides the details pertaining to the confiscation regime, including the grounds for confiscation, the scope of confiscation, and the confiscation from a legal entity.

The Criminal Procedure Code sets out, among others, the circumstances under which property or objects can be temporarily seized for safeguarding purpose. In particular, paragraphs 1 and 12 of Article 202 stipulates that once an order for a temporary seizure was made, a request will be sent to competent authorities for safekeeping the property and objects concerned.

“Article 540

Special procedure for forfeiture of assets and crime proceeds and seizure of objects

(1) When there are factual and legal impediments for conducting a criminal procedure against a perpetrator of a crime, upon a motion by the public prosecutor, the court shall conduct a special procedure for forfeiture of assets and crime proceeds and seizure of objects, if the conditions provided for in the Criminal Code are met.

(2) In the procedure as referred to in paragraph 1 of this Article, upon proposal by the public prosecutor, the necessary evidence shall be presented. By means of a decision, the court shall order the measure of forfeiture of assets and crime proceeds and seizure of objects if it is proven that the assets and the property have been obtained with the commission of a criminal offense or that the objects have been used to commit the criminal offense or have resulted from it, or that they have to be forfeited according to the provisions of the Criminal Code.

(3) The person whose assets and property have been forfeited may appeal the decision of the court referred to in paragraph 2 of this Article within eight days, with the immediate superior court.

Article 202

Temporary seizure of property or objects for their safeguarding

(1) At any time in the course of the proceedings, the court may render, upon request by the public prosecutor, a temporary measure of seizure of property or objects which should be seized

according to the Criminal Code, a measure for confiscation or another necessary temporary measure in order to prevent the use, transfer or managing of that property or objects.

(2) The request by the public prosecutor referred to in paragraph 1 of this Article shall contain the following:

- a short description of the criminal offence and its legal designation;
- description of the property or objects which originate from a committed crime;
- information on the person who owns that property or objects;
- evidence on which the suspicion that the property or the objects originate from a criminal offence is based, and
- reasons for the probability that the seizure of property or object shall be made especially difficult or impossible until the end of the criminal proceedings.

(3) Before the beginning and during the preliminary procedure, the preliminary procedure judge shall rule on the request by the public prosecutor as referred to in paragraph 1 of this Article, and after the indictment has been raised, by the Court that is going to hold the hearing. The preliminary procedure judge shall rule immediately on the request by the public prosecutor, and no later than within 12 hours from the receipt of the request. If the preliminary procedure judge does not accept the request by the public prosecutor, he or she shall ask the Trial Chamber referred to in Article 25, paragraph 5 to render a decision without any delay. The Trial Chamber shall render a decision within 24 from the receipt of the request.

(4) In the decision on the measures referred to in paragraph 1 of this Article, the court shall designate the value and the type of property, or object, and the time period for which it is seized.

(5) An appeal may be filed within 24 hours against the decision of the preliminary procedure judge, establishing the measures referred to in paragraph 1 of this Article. The Trial Chamber referred to Article 25, paragraph 5 shall rule on the appeal. The appeal shall not prevent the enforcement of the decision.

(6) If there is danger of procrastination, the members of the Judicial Police may temporarily seize property or objects as referred to in paragraph 1 of this Article, confiscate them or take other necessary temporary measures in order to prevent any use, transfer and managing thereof. The public prosecutor shall have to be immediately informed on the measures taken, and the measures must be approved by the preliminary procedure judge within 72 hours from the moment of their implementation.

(7) If the preliminary procedure judge does not give an approval, the undertaken measures referred to in paragraph 6 of this Article shall be stopped, and any temporarily seized property or objects shall be immediately returned to the person they were seized from.

(8) The measures referred to in paragraph 1 of this Article may last until the completion of the criminal proceedings before the first instance court at the latest.

(9) If the measures referred to in paragraph 1 of this Article are established during the preliminary procedure, they shall be cancelled ex-officio if the investigative procedure does not begin within 3 months from the day when the decision establishing them was rendered.

(10) Before the expiration of the deadlines referred to in paragraph 9 of this Article, the measures may be cancelled ex-officio by the Court or upon request by the public prosecutor, i.e. by any interested person, if it becomes evident that they are not necessary or justified in view of the severity of the crime, the financial circumstances of the person they refer to or the circumstances of the persons, whom this person is obliged by law to support and the circumstances pointing to the fact that the seizure of property or objects shall not be precluded

or made especially difficult prior to the completion of the criminal proceedings.

(11) All the actions upon the property and the objects that are subject of safekeeping, and that have been undertaken upon submitting the request from paragraph 1 of this article, are of no value.

(12) The request from paragraph 1 of this article and the decision for issuing the measures prescribed in paragraph 1 of this article, will be sent without a delay in an electronic format to all the bodies that are competent for documenting the property and the objects, whose safekeeping was requested and was approved.

Procedure for seizure of objects and forfeiture of assets and crime proceeds

Article 529

Seizure of objects

(1) Any objects that have to be seized according to the Criminal Code shall also be seized even in the event when the criminal procedure has not ended with a conviction of the defendant.

(2) The entity before which the procedure was being conducted at the moment when the procedure was completed i.e. discontinued shall enact a separate decision thereof.

(3) The decision for seizure of the objects as referred to in paragraph 1 of this Article shall be enacted by the court, even if the verdict of conviction does not provide for such a decision.

(4) A certified copy of the decision for seizure of objects shall be delivered to the owner of the objects, if known.

(5) The owner of the objects shall have a right to appeal against the decision as referred to in paragraphs 2 and 3 of this Article, due to lack of legal grounds for the seizure of the objects. If the decision as referred to in paragraph 2 of this Article was not passed by the court, the appeal shall be ruled on by the Trial Chamber referred to in Article 25, paragraph 5 of this Law, of the court that was competent for adjudicating in the first instance.

Article 530

General provisions on forfeiture of assets and crime proceeds

(1) Any assets and crime proceeds that originate from the crime shall be established in a criminal procedure.

(2) During the procedure, the public prosecutor shall be obliged to collect evidence and inspect all circumstances, which are important for the establishment of assets and crime proceeds and to propose any measures as referred to in Article 202, paragraph 1 of this Law.

(3) If the injured party claimed any damages in view of returning the objects obtained with the criminal offense, i.e. in view of the amount that is equivalent to the value of the objects, the crime proceeds shall be established only for the part that is not covered with the legal or property claim.

Article 531

Procedure for forfeiture of assets and crime proceeds

(1) When performing forfeiture of assets and crime proceeds, the person to whom the crime proceeds have been transferred, as well as the representative of the legal person shall be summoned to be heard during the preliminary procedure and at the main hearing. In the

summons, they shall be forewarned that the procedure shall be also conducted in their absence.

(2) Any representative of a legal person shall be examined at the main hearing after the defendant. It shall be proceeded in the same manner in reference of the person to whom the crime proceeds have been transferred, if he or she has not been summoned as a witness.

(3) Any person that the property interest has been transferred to, as well as any representative of a legal person, in reference to the establishment of the crime proceeds, shall be authorized to tender evidence and upon authorization of the Presiding Judge of the Trial Chamber to question the defendant, the witnesses and expert witnesses.

(4) Any exclusion of the public from the main hearing shall not refer to the person that the assets and crime proceeds have been transferred to and to the representative of the legal person.

(5) If, during the main hearing, it is established that forfeiture of assets and crime proceeds is possible, the public prosecutor shall propose for the main hearing to be adjourned and summon the person that the assets and crime proceeds have been transferred to, as well as the representative of the legal person.

Article 532

Establishing the amount of the value of the assets and crime proceeds

(1) In collecting the required evidence for the establishment of the correct amount of the assets and crime proceeds, the public prosecutor may ask for any necessary information from other state entities, financial institutions, other legal persons and citizens who shall be obliged to submit them without any delay.

(2) If there are any suspicions that the assets have been moved abroad, the court shall be obliged to issue an international warrant or notification.

Article 533

Extended forfeiture

(1) The court shall provide for an extended forfeiture under the terms prescribed in the Criminal Code, if the defendant cannot prove that he has lawfully acquired the assets or property within one year as of the day of the commencement of the main hearing.

(2) If the court reaches a judgment in the first instance regarding the criminal offense within a term shorter than the one stipulated in paragraph 1 of this Article, when the legal conditions for the measure of extended forfeiture are met, the court shall provide for such a measure with a supplementary judgment that may be appealed in accordance with the provisions of this Law.

Article 534

Issuing a measure of extended forfeiture against a third party

(1) The court shall also order the measure of extended forfeiture against a third party by means of a decision under the terms prescribed in the Criminal Code, if within two years as of the day of commencement of the specific forfeiture procedure, the person cannot prove that he or she has indemnified the asset or property according to their value.

(2) The procedure for the measure of extended forfeiture shall be conducted upon a motion by the public prosecutor.

(3) The person shall have a right to file an appeal against the decision referred to in paragraph

1 of this Article within eight days, with the immediate superior court.

Article 535 **Providing temporary safeguarding measures**

(1) When the conditions for forfeiture or extended forfeiture of assets and crime proceeds are met, the court, upon a motion by the public prosecutor, shall order temporary safeguarding measures as provided for in Article 194 of this Law.

(2) The court may order the measures as referred to in paragraph 1 of this Article, against third parties, who are suspected recipients of assets and property resulting from a criminal offense, without appropriate reimbursement.

(3) One may appeal the decision of the court ordering temporary safeguarding measures, within 8 days.

(4) The immediate superior court shall rule on the appeal within a period of 8 days.”

(b) Observations on the implementation of the article

North Macedonia has established the Agency for Management of Seized Assets. However, it does not have other mechanisms to proactively preserve property for confiscation on the basis of a foreign arrest or criminal charges issued by a foreign court.

It is recommended that North Macedonia consider taking measures to ensure that assets may be preserved for confiscation on the basis of foreign arrests or criminal charges issued by a foreign court.

Article 55. International cooperation for purposes of confiscation

Paragraph 1 of article 55

1. A State Party that has received a request from another State Party having jurisdiction over an offence established in accordance with this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with articles 31, paragraph 1, and 54, paragraph 1 (a), of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, situated in the territory of the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

In accordance with paragraph (1) of Article 27 of the Law on International Cooperation in Criminal

Matters, the confiscation of property and property benefits in a procedure of international legal assistance shall be made in accordance with the provisions of the Criminal Code, Criminal Procedure Code and international agreements. Article 15 defines the scope of the international legal assistance as follows:

“Article 15

The international legal assistance shall include:

- enforcement of procedural actions such as delivery of documents, written evidence and acts related to the criminal proceedings in the sending state;
- delivery of spontaneous information;
- exchange of certain information and notifications;
- temporary transfer of persons deprived of freedom;
- cross-border observation;
- controlled delivery;
- using persons with hidden identity;
- joint investigation teams;
- monitoring communications;
- interrogation through video conference;
- interrogation through telephone conference;
- searching of premises and persons;
- temporary security of items, property or means related to the criminal offence;
- temporary freezing, confiscation and retention of assets, bank accounts and financial transactions or incomes from a criminal offence;
- confiscation of property and property benefits;
- deprivation of items;
- protection of personal data;
- criminal and civil liability of officials, and
- delivery of extracts from criminal records.”

Articles 82 and 83 provide for the regime of domestic enforcement of the decision of foreign courts. On the other hand, Articles 28 and 29 stipulate the conditions under which the objects and property benefits can be transferred to the foreign competent authority at the latter’s request and the temporary measures required of the domestic judicial authority for collecting evidence material, ensuring security of the collected evidence, and protecting the subject legal interests.

“Rendering a judgement Article 83

(1) In the disposition of the judgement from Article 82 of this Law, the domestic competent court shall include the complete disposition from the foreign judgement and the court’s name. In the explanation of the judgement the domestic competent court shall list all the reasons considered for the imposition of the sanction.

(2) The domestic competent court shall render a judgement in the Judicial Council in accordance with the provisions of the Criminal Procedure Code. The competent public prosecutor and the counsel shall be duly notified about the council meeting.

(3) If the type and weight of the sanction imposed by the foreign court are not in accordance with the national legislation provisions, the domestic competent court shall impose a sanction in accordance with domestic law, already proposed for the same criminal offense for which the judgement was rendered.

(4) Time spent in detention and time spent serving the sanction in the foreign State shall be calculated in the sanction imposed by the domestic competent court.

(5) The competent public prosecutor, the sentenced person or the counsel may appeal the judgement under paragraph (1) in accordance with the provisions of the Criminal Procedure Code.

Subject of enforcement

Article 82

At the request of a foreign competent authority, the domestic competent authority shall enforce a final criminal judgement regarding the sanction imposed by a foreign or international court, with a verdict which shall impose a sanction under the Criminal Code of the Republic of Macedonia and an appropriate sanction imposed by the foreign court, but it may not aggravate the one imposed by the foreign court.

Transfer of seized objects and property benefits

Article 28

(1) The objects and the property benefits seized in order to protect them can be transferred to the foreign competent authority at its request.

(2) The objects and the property benefits from paragraph (1) shall include the following:

- 1) objects the criminal offence was committed with;
- 2) objects that resulted from the committed criminal offence or their equivalent value, the incomes from the criminal offence or their equivalent value, and
- 3) the presents given in order to stimulate the committing of criminal offence, as well as the rewards for the criminal offence or their equivalent value.

(3) The transfer of the objects and the property benefits from paragraph (1) of this article can be realised on the basis of an effective and enforceable decision by the foreign competent authority.

(4) The objects and the property benefits from paragraph (1) of this article shall be permanently kept in the Republic of Macedonia if:

- 1) those represent goods under temporary protection or cultural inheritance or if they are natural rarities of the Republic of Macedonia;
- 2) the injured party is has its residence or domicile in the Republic of Macedonia and they shall be returned to him/her;
- 3) The domestic competent authority emphasises the right of the Republic of Macedonia to them;
- 4) the person has his or her residence or domicile in the Republic of Macedonia and did not participate in committing the criminal offence, or proves that it didn't know and couldn't know that the object or the property benefits have been acquired through committing a criminal offence in the Republic of Macedonia or abroad;
- 5) they are required for the implementation of a criminal proceeding that is in progress

in the Republic of Macedonia;

- 6) they are required for introduction of the measure for confiscation of property and property benefits and seizure of the objects, and
- 7) those represent objects that must be seizure according to the Criminal Code.

Temporary measures

Article 29

- (1) At the request of the foreign competent authority the domestic judicial authority shall introduce temporary measures for collecting evidence material and for security of the collected evidence or for protection of the endangered legal interests.
- (2) The domestic judicial authority can act partially upon the request from paragraph (1) of this article or it may temporary limit the implementation of the letter rogatory.

The Criminal Code provides for the regime of confiscation of direct or indirect property benefits. In particular, Article 97 stipulates that the confiscated property may be returned to another country under the conditions specified in the relevant ratified international agreement.

Confiscation of property and property benefit and seizing objects

Article 96-m

- (1) For confiscation of property and property benefit obtained with a crime by the legal entity, the provisions of Articles 97 through 100 of this Code shall be properly applied.
- (2) If no property or property benefit can be confiscated from the legal entity since it has ceased to exist before the confiscation, the legal successor, i.e. successors, and in case there are no legal successors, the founder or the founders of the legal entity, i.e. the stockholders or partners in a trade company in the cases determined by law shall jointly oblige to pay the monetary amount that corresponds to the acquired property benefit.
- (3) The provisions of Article 101-a of this Code shall be properly applied to seizing objects from the legal entity.

Grounds for confiscation

Article 97

- (1) No one may retain the indirect or direct property benefit obtained through a crime.
- (2) The property benefit referred to in paragraph 1 shall be confiscated with the court decision determining the commission of the crime, under the conditions envisaged by this Code.
- (3) The decision to confiscate shall be adopted by the court in a procedure specified by law also in the case when, due to factual or legal reasons, it is impossible to conduct the criminal procedure against the offender of the crime.
- (4) In accordance with the conditions specified in a ratified international agreement, the confiscated property may be returned to another country.

Confiscation of indirect property benefit
Article 97-a

Beside the direct property benefit, the indirect property benefit consisted of the following shall be confiscated from the offender:

- 1) the property in which the benefit obtained with the crime has been transformed or turned into;
- 2) the property obtained from legal sources, in case if the benefit obtained from the crime is completely or partially mixed with such property, up to the assessed value of the mixed benefit obtained by the crime and
- 3) the income or other benefit resulting from the benefit obtained with a crime, from a property wherefore the benefit obtained from a crime is transformed or turned into, or from a property where the benefit obtained from the crime is mixed, up to the assessed amount of the mixed benefit obtained with the crime.

Manner of confiscating
Article 98

- (1) The indirect and direct property benefit obtained with a crime and consisting of money, movables or immovables of certain value, as well as any other ownership, property or active, material or non-material rights shall be confiscated from the offender, and if their confiscation is not possible other property corresponding to the value of the obtained benefit shall be confiscated from the offender.
- (2) The indirect and direct property benefit shall be as well confiscated from third parties wherefore it has been obtained by committing the crime.
- (3) The property benefit referred to in paragraph (1) shall be as well confiscated from members of the offender's family to whom it has been transferred, should it be obvious that they have not provided any compensation corresponding to the value of the obtained property benefit, or from third parties unless they prove that they have given counter-compensation for the object or the property which corresponds the value of the obtained property benefit.
- (4) The objects declared as cultural heritage and natural rarities, as well as those to which the damaged party is personally attached, shall be confiscated from third parties, regardless of whether these objects have been transferred to the third parties with or without an appropriate compensation.
- (5) The confiscated goods are returned to the damaged party, and if there is no damaged party, they become the state property.
- (6) If during the criminal procedure, the damaged person is adjudged a property and legal claim, the court shall pronounce confiscation of property benefit in case if this exceeds the amount of this claim.

Enlarged confiscation
Article 98-a

- (1) The property obtained in the time period, determined by the court according to the case's circumstances which shall not be longer than five years before the commission of the crime, prior to the conviction, when based on all the circumstances the court is well asserted that the property exceeds the legal incomes of the offender and originates from such crime, shall be

confiscated from the offender of a crime committed within a criminal association wherefore a property benefit for which an imprisonment sentence of at least four years is prescribed, as well as a crime in relation with the terrorism referred to in Article 313, 394-a, 394-b, 394-c and 419 of this Code for which an imprisonment sentence of minimum five years or more has been prescribed or which is related to a money laundering crime wherefore an imprisonment sentence of at least four years is prescribed.

(2) The property referred to in paragraph (1) of this Article shall be as well confiscated from third parties for which it has been obtained by committing the crime.

(3) The property referred to in paragraph (1) of this Article shall be as well confiscated from members of the offender's family to which it has been transferred should it be obvious that they have not provided counter-compensation corresponding to its value, or from third parties unless they prove that they have provided counter-compensation for the object or the property, corresponding to their value.

Confiscating from a legal entity Article 100

If a legal entity acquires property benefit from the crime of the offender, this benefit shall be confiscated from it.

Conditions for seizure of objects Article 100-a

(1) Nobody can keep or adopt the objects that have occurred through a commission of a crime.

(2) Objects that were intended or have been used to commit a crime shall be confiscated from the offender, regardless of whether they belong to the offender or to a third party, if this is required by the interest of general safety, health of the people or moral reasons.

(3) The objects used or intended to be used to commit a crime may be confiscated if there is a threat that they may be used to commit another crime. Objects, which are the property of a third party, shall not be confiscated, except if the third party knew, could have known and was obliged to know that these objects have been used or were intended to be used to commit a crime.

(4) The court shall adopt a decision to confiscate the objects within the framework of a procedure specified by law in the case when, due to factual or legal obstacles, it is impossible to conduct the criminal procedure with respect to the offender of the crime.

(5) The application of this measure does not interfere with the right of third parties to compensation of damages from the offender of the crime.

(6) Under the conditions stipulated in ratified international agreements, the objects may be returned to another country.”

The Criminal Procedure Code details the special procedure for forfeiture of assets and crime proceeds and seizure of assets. Recognizing the necessity of the prevention of the use, transfer and management of the subject property or objects, Article 202 provides the public prosecutor with the power to make a request to the court for deciding on the temporary measure of seizure of property or objects which should be seized according to the Criminal Code:

“Article 540

Special procedure for forfeiture of assets and crime proceeds and seizure of objects

(1) When there are factual and legal impediments for conducting a criminal procedure against a perpetrator of a crime, upon a motion by the public prosecutor, the court shall conduct a special procedure for forfeiture of assets and crime proceeds and seizure of objects, if the conditions provided for in the Criminal Code are met.

(2) In the procedure as referred to in paragraph 1 of this Article, upon proposal by the public prosecutor, the necessary evidence shall be presented. By means of a decision, the court shall order the measure of forfeiture of assets and crime proceeds and seizure of objects if it is proven that the assets and the property have been obtained with the commission of a criminal offense or that the objects have been used to commit the criminal offense or have resulted from it, or that they have to be forfeited according to the provisions of the Criminal Code.

(3) The person whose assets and property have been forfeited may appeal the decision of the court referred to in paragraph 2 of this Article within eight days, with the immediate superior court.

Article 202

Temporary seizure of property or objects for their safeguarding

(1) At any time in the course of the proceedings, the court may render, upon request by the public prosecutor, a temporary measure of seizure of property or objects which should be seized according to the Criminal Code, a measure for confiscation or another necessary temporary measure in order to prevent the use, transfer or managing of that property or objects.

(2) The request by the public prosecutor referred to in paragraph 1 of this Article shall contain the following:

- a short description of the criminal offence and its legal designation;
- description of the property or objects which originate from a committed crime;
- information on the person who owns that property or objects;
- evidence on which the suspicion that the property or the objects originate from a criminal offense is based, and
- reasons for the probability that the seizure of property or object shall be made especially difficult or impossible until the end of the criminal proceedings.

(3) Before the beginning and during the preliminary procedure, the preliminary procedure judge shall rule on the request by the public prosecutor as referred to in paragraph 1 of this Article, and after the indictment has been raised, by the Court that is going to hold the hearing. The preliminary procedure judge shall rule immediately on the request by the public prosecutor, and no later than within 12 hours from the receipt of the request. If the preliminary procedure judge does not accept the request by the public prosecutor, he or she shall ask the Trial Chamber referred to in Article 25, paragraph 5 to render a decision without any delay. The Trial Chamber shall render a decision within 24 from the receipt of the request.

(4) In the decision on the measures referred to in paragraph 1 of this Article, the court shall designate the value and the type of property, or object, and the time period for which it is seized.

(5) An appeal may be filed within 24 hours against the decision of the preliminary procedure judge, establishing the measures referred to in paragraph 1 of this Article. The Trial Chamber referred to Article 25, paragraph 5 shall rule on the appeal. The appeal shall not prevent the enforcement of the decision.

(6) If there is danger of procrastination, the members of the Judicial Police may temporarily seize property or objects as referred to in paragraph 1 of this Article, confiscate them or take other necessary temporary measures in order to prevent any use, transfer and managing thereof. The public prosecutor shall have to be immediately informed on the measures taken, and the measures must be approved by the preliminary procedure judge within 72 hours from the moment of their implementation.

(7) If the preliminary procedure judge does not give an approval, the undertaken measures referred to in paragraph 6 of this Article shall be stopped, and any temporarily seized property or objects shall be immediately returned to the person they were seized from.

(8) The measures referred to in paragraph 1 of this Article may last until the completion of the criminal proceedings before the first instance court at the latest.

(9) If the measures referred to in paragraph 1 of this Article are established during the preliminary procedure, they shall be cancelled ex-officio if the investigative procedure does not begin within 3 months from the day when the decision establishing them was rendered.

(10) Before the expiration of the deadlines referred to in paragraph 9 of this Article, the measures may be cancelled ex-officio by the Court or upon request by the public prosecutor, i.e. by any interested person, if it becomes evident that they are not necessary or justified in view of the severity of the crime, the financial circumstances of the person they refer to or the circumstances of the persons, whom this person is obliged by law to support and the circumstances pointing to the fact that the seizure of property or objects shall not be precluded or made especially difficult prior to the completion of the criminal proceedings.

(11) All the actions upon the property and the objects that are subject of safekeeping, and that have been undertaken upon submitting the request from paragraph 1 of this article, are of no value.

(12) The request from paragraph 1 of this article and the decision for issuing the measures prescribed in paragraph 1 of this article, will be sent without a delay in an electronic format to all the bodies that are competent for documenting the property and the objects, whose safekeeping was requested and was approved.

Article 529 **Seizure of objects**

(1) Any objects that have to be seized according to the Criminal Code shall also be seized even in the event when the criminal procedure has not ended with a conviction of the defendant.

(2) The entity before which the procedure was being conducted at the moment when the procedure was completed i.e. discontinued shall enact a separate decision thereof.

(3) The decision for seizure of the objects as referred to in paragraph 1 of this Article shall be enacted by the court, even if the verdict of conviction does not provide for such a decision.

(4) A certified copy of the decision for seizure of objects shall be delivered to the owner of the objects, if known.

(5) The owner of the objects shall have a right to appeal against the decision as referred to in paragraphs 2 and 3 of this Article, due to lack of legal grounds for the seizure of the objects. If the decision as referred to in paragraph 2 of this Article was not passed by the court, the appeal shall be ruled on by the Trial Chamber referred to in Article 25, paragraph 5 of this Law, of the court that was competent for adjudicating in the first instance.

Article 530

General provisions on forfeiture of assets and crime proceeds

- (1) Any assets and crime proceeds that originate from the crime shall be established in a criminal procedure.
- (2) During the procedure, the public prosecutor shall be obliged to collect evidence and inspect all circumstances, which are important for the establishment of assets and crime proceeds and to propose any measures as referred to in Article 202, paragraph 1 of this Law.
- (3) If the injured party claimed any damages in view of returning the objects obtained with the criminal offense, i.e. in view of the amount that is equivalent to the value of the objects, the crime proceeds shall be established only for the part that is not covered with the legal or property claim.

Article 531

Procedure for forfeiture of assets and crime proceeds

- (1) When performing forfeiture of assets and crime proceeds, the person to whom the crime proceeds have been transferred, as well as the representative of the legal person shall be summoned to be heard during the preliminary procedure and at the main hearing. In the summons, they shall be forewarned that the procedure shall be also conducted in their absence.
- (2) Any representative of a legal person shall be examined at the main hearing after the defendant. It shall be proceeded in the same manner in reference of the person to whom the crime proceeds have been transferred, if he or she has not been summoned as a witness.
- (3) Any person that the property interest has been transferred to, as well as any representative of a legal person, in reference to the establishment of the crime proceeds, shall be authorized to tender evidence and upon authorization of the Presiding Judge of the Trial Chamber to question the defendant, the witnesses and expert witnesses.
- (4) Any exclusion of the public from the main hearing shall not refer to the person that the assets and crime proceeds have been transferred to and to the representative of the legal person.
- (5) If, during the main hearing, it is established that forfeiture of assets and crime proceeds is possible, the public prosecutor shall propose for the main hearing to be adjourned and summon the person that the assets and crime proceeds have been transferred to, as well as the representative of the legal person.

Article 532

Establishing the amount of the value of the assets and crime proceeds

- (1) In collecting the required evidence for the establishment of the correct amount of the assets and crime proceeds, the public prosecutor may ask for any necessary information from other state entities, financial institutions, other legal persons and citizens who shall be obliged to submit them without any delay.
- (2) If there are any suspicions that the assets have been moved abroad, the court shall be obliged to issue an international warrant or notification.

Article 533

Extended forfeiture

- (1) The court shall provide for an extended forfeiture under the terms prescribed in the Criminal Code, if the defendant cannot prove that he has lawfully acquired the assets or property within one year as of the day of the commencement of the main hearing.
- (2) If the court reaches a judgment in the first instance regarding the criminal offense within a term shorter than the one stipulated in paragraph 1 of this Article, when the legal conditions for the measure of extended forfeiture are met, the court shall provide for such a measure with a supplementary judgment that may be appealed in accordance with the provisions of this Law.

Article 534

Issuing a measure of extended forfeiture against a third party

- (1) The court shall also order the measure of extended forfeiture against a third party by means of a decision under the terms prescribed in the Criminal Code, if within two years as of the day of commencement of the specific forfeiture procedure, the person cannot prove that he or she has indemnified the asset or property according to their value.
- (2) The procedure for the measure of extended forfeiture shall be conducted upon a motion by the public prosecutor.
- (3) The person shall have a right to file an appeal against the decision referred to in paragraph 1 of this Article within eight days, with the immediate superior court.

Article 535

Providing temporary safeguarding measures

- (1) When the conditions for forfeiture or extended forfeiture of assets and crime proceeds are met, the court, upon a motion by the public prosecutor, shall order temporary safeguarding measures as provided for in Article 194 of this Law.
- (2) The court may order the measures as referred to in paragraph 1 of this Article, against third parties, who are suspected recipients of assets and property resulting from a criminal offense, without appropriate reimbursement.
- (3) One may appeal the decision of the court ordering temporary safeguarding measures, within 8 days.
- (4) The immediate superior court shall rule on the appeal within a period of 8 days.”

(b) Observations on the implementation of the article

The legislation of North Macedonia allows for the direct enforcement of foreign judgements and orders of confiscation after recognition by a domestic court (Arts. 82 and 83, Law on International Cooperation in Criminal Matters). Because North Macedonia has not yet had to deal with a case of enforcement of confiscation orders related to corruption, the implementation of Articles 55(1) cannot yet be fully assessed.

It is recommended that North Macedonia consider enforcing foreign confiscation orders emanating from civil proceedings (55, para. 1 (b)) and ensure that the obligations under article 55, paragraph 1, of the Convention are discharged when a foreign confiscation order is received.

Paragraph 2 of article 55

2. *Following a request made by another State Party having jurisdiction over an offence established in accordance with this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.*

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

In accordance with paragraph (1) of Article 27 of the Law on International Cooperation in Criminal Matters, the confiscation of property and property benefits in a procedure of international legal assistance shall be made in accordance with the provisions of the Criminal Code, Criminal Procedure Code and international agreements. Article 15 defines the scope of the international legal assistance as follows:

“Article 15

The international legal assistance shall include:

- enforcement of procedural actions such as delivery of documents, written evidence and acts related to the criminal proceedings in the sending state;
- delivery of spontaneous information;
- exchange of certain information and notifications;
- temporary transfer of persons deprived of freedom;
- cross-border observation;
- controlled delivery;
- using persons with hidden identity;
- joint investigation teams;
- monitoring communications;
- interrogation through video conference;
- interrogation through telephone conference;
- searching of premises and persons;
- temporary security of items, property or means related to the criminal offence;
- temporary freezing, confiscation and retention of assets, bank accounts and financial transactions or incomes from a criminal offence;
- confiscation of property and property benefits;
- deprivation of items;
- protection of personal data;
- criminal and civil liability of officials, and
- delivery of extracts from criminal records.”

Insofar as confiscation is concerned, Article 98 of the Criminal Code provides for the value-based confiscation of the direct and indirect proceeds of a crime from the offender or from third parties. The scope of confiscation covers property, equipment or other instrumentalities used in or destined for use in offences.

**“Manner of confiscating
Article 98**

- (1) The indirect and direct property benefit obtained with a crime and consisting of money, movables or immovables of certain value, as well as any other ownership, property or active, material or non-material rights shall be confiscated from the offender, and if their confiscation is not possible other property corresponding to the value of the obtained benefit shall be confiscated from the offender.
- (2) The indirect and direct property benefit shall be as well confiscated from third parties wherefore it has been obtained by committing the crime.
- (3) The property benefit referred to in paragraph (1) shall be as well confiscated from members of the offender's family to whom it has been transferred, should it be obvious that they have not provided any compensation corresponding to the value of the obtained property benefit, or from third parties unless they prove that they have given counter-compensation for the object or the property which corresponds the value of the obtained property benefit.
- (4) The objects declared as cultural heritage and natural rarities, as well as those to which the damaged party is personally attached, shall be confiscated from third parties, regardless of whether these objects have been transferred to the third parties with or without an appropriate compensation.
- (5) The confiscated goods are returned to the damaged party, and if there is no damaged party, they become the state property.
- (6) If during the criminal procedure, the damaged person is adjudged a property and legal claim, the court shall pronounce confiscation of property benefit in case if this exceeds the amount of this claim.

**Enlarged confiscation
Article 98-a**

- (1) The property obtained in the time period, determined by the court according to the case's circumstances which shall not be longer than five years before the commission of the crime, prior to the conviction, when based on all the circumstances the court is well asserted that the property exceeds the legal incomes of the offender and originates from such crime, shall be confiscated from the offender of a crime committed within a criminal association wherefore a property benefit for which an imprisonment sentence of at least four years is prescribed, as well as a crime in relation with the terrorism referred to in Article 313, 394-a, 394-b, 394-c and 419 of this Code for which an imprisonment sentence of minimum five years or more has been prescribed or which is related to a money laundering crime wherefore an imprisonment sentence of at least four years is prescribed.
- (2) The property referred to in paragraph (1) of this Article shall be as well confiscated from third parties for which it has been obtained by committing the crime.
- (3) The property referred to in paragraph (1) of this Article shall be as well confiscated from members of the offender's family to which it has been transferred should it be obvious that they have not provided counter-compensation corresponding to its value, or from third parties unless they prove that they have provided counter-compensation for the object or the property, corresponding to their value.

Conditions for seizure of objects

Article 100-a

- (1) Nobody can keep or adopt the objects that have occurred through a commission of a crime.
- (2) Objects that were intended or have been used to commit a crime shall be confiscated from the offender, regardless of whether they belong to the offender or to a third party, if this is required by the interest of general safety, health of the people or moral reasons.
- (3) The objects used or intended to be used to commit a crime may be confiscated if there is a threat that they may be used to commit another crime. Objects, which are the property of a third party, shall not be confiscated, except if the third party knew, could have known and was obliged to know that these objects have been used or were intended to be used to commit a crime.
- (4) The court shall adopt a decision to confiscate the objects within the framework of a procedure specified by law in the case when, due to factual or legal obstacles, it is impossible to conduct the criminal procedure with respect to the offender of the crime.
- (5) The application of this measure does not interfere with the right of third parties to compensation of damages from the offender of the crime.
- (6) Under the conditions stipulated in ratified international agreements, the objects may be returned to another country.”

The Criminal Procedure Code allows for a range of investigative measures available for the identification, tracing, freezing or seizure of criminal proceeds and instrumentalities.

Article 200 provides that pursuant to a request by the public prosecutor, the court may order the production and seizure of banking and commercial records. The preliminary procedure judge should decide upon the request by the public prosecutor immediately, and no later than 12 hours from the receipt of the request. In emergency cases, the public prosecutor may impose the mentioned measures without a court order.

“Temporary safeguarding and seizure of objects or property

Article 194

Order for temporary seizure of objects

- (1) Any objects which are to be seized in accordance with the Criminal Code or which may serve as evidence in the criminal procedure shall be temporarily seized and handed to the public prosecutor or to the body determined in a special law or their safekeeping shall be ensured in another manner.
- (2) The order for temporary seizure of objects shall be issued by the court, upon proposal by the judicial police or the public prosecutor.
- (3) The order for temporary seizure of objects shall contain the following: title of the court, legal grounds for temporary seizure of objects, determination and accurate description of the objects that are to be temporarily seized, name and surname of the person from whom the objects are to be temporarily seized, place at which, i.e. where the objects are to be temporarily seized, deadline within which they are to be seized and advice on possible legal remedies.

Article 195
Rules for temporary seizure of objects

(1) Any person keeping objects as referred to in Article 194, paragraph 1 of this Law, shall have the duty of turning them in. The judge of the preliminary procedure, upon receiving an elaborated proposal by the public prosecutor, shall fine the person who refuses to turn in the objects with a fine as referred to in the provisions of Article 88, paragraph 1 of this Law, and if the person continues to refuse to turn in the objects, he or she will be punished as provided for in Article 88, paragraph 7 of this Law. The Trial Chamber in accordance with Article 25, paragraph 5 shall rule on the appeal against the decision whereby a fine has been imposed. The appeal shall not prevent the enforcement of the decision. The same procedure shall apply for an official or responsible person in a state authority, institution with public authorizations or a legal person.

(2) When seizing objects, it shall be stated where they were found and they shall be described, and if necessary, their identity shall be established otherwise. A receipt shall be issued for the seized objects.

(3) The punishments referred to in paragraph 1 of this Article may not be applied to the suspect.

(4) Any seized narcotic drugs, psychotropic substances, precursors and other objects whose circulation is banned or restricted, and are not retained as forensic samples, may be destroyed with a decision issued by the competent court, even before the judgment enters into full legal effect.

Article 196
Temporary seizure of objects without an order

(1) The objects referred to in Article 194, paragraph 1 of this Law may be temporarily seized without a court warrant if there is a danger of procrastination and if there are reasonable grounds to suspect that those objects are related to the criminal offense. If the person being searched explicitly opposes the seizure of objects, the public prosecutor, within 72 hours as of the conducted search, shall submit a request to the preliminary procedure judge for an approval for subsequent seizure of objects.

(2) If the preliminary procedure judge overrules the request of the public prosecutor, the seized objects may not be used as evidence in the criminal procedure. Any temporarily seized objects shall immediately be returned to the person from whom they were seized.

Article 197
Objects which may not be seized

(1) The following items may not be seized by means of a court order:

- 1) files and other documents of state authorities, the publication of which would violate the keeping of a state or military secret, as long as the competent body decides otherwise;
- 2) written letters of the defendant addressed to his counsel or the persons referred to in Article 215, paragraph 1 of this Law, unless the defendant turns them in voluntarily;
- 3) technical recordings located with the persons referred to in Article 214, paragraph 1 of this Law, which they made on facts in regards to which they have been relieved from the duty to testify;
- 4) memos, registry extracts and similar documents located with the persons referred to in

Article 214, paragraph 1 of this Law, which they drafted on facts of which they learnt from the defendant throughout the performance of their profession; and

5) memos on facts made by journalists and their editors in the public information media from the source of reporting and the data of which they learnt throughout the performance of their profession and which have been using during the editing of the public media, which are under their governance or the governance of the news desk they work for.

(2) The ban referred to in paragraph 1 of this Article shall not apply in the following cases:

1) with regards to the counsel or the person exempted from the obligation to testify pursuant to Article 214, paragraph 1 of this Law, if there are reasons to suspect that they have been assisting the defendant in the commission of the crime or thereafter or they acted to cover up the crime; or

2) if it concerns objects that have to be seized according to the Criminal Code.

(3) The ban on temporary seizure of objects, documents and technical recordings referred to in paragraph 1 of this Article, shall also not apply to crimes committed at the detriment of children and minors.

Article 198

Temporary seizure of computer data

(1) The provisions of Article 194, paragraph 1, Article 195, paragraph 1 and Article 197 of this Law shall also apply to any data stored on a computer and similar devices for automatic, i.e. electronic data processing, devices used for collection and transfer of data, data carriers and subscriber information at the disposal of the service provider. Upon a written request by the public prosecutor, this data shall have to be delivered to the public prosecutor within the deadline determined by him or her. If the provisioning thereof is refused, it shall be acted pursuant to Article 196, paragraph 1 of this Law.

(2) The judge of the preliminary procedure, upon proposal by the public prosecutor, by means of a decision, may impose the safeguarding and storing of all computer data as referred to in Article 185 of this Law, for as long as necessary, but for no more than 6 months. Upon the expiry of this period, the data shall be returned, unless: they have been involved in the committing of the criminal offence of Damage and unauthorized access to a computer system as referred to in Article 251, Computer fraud from Article 251-b and Computer forgery from Article 379-a, all of them stipulated by the Criminal Code; they have been involved in the commission of another computer-assisted crime; and unless they are to be used as evidence for a crime.

(3) The person using the computer and the person providing the service shall be entitled to file an appeal, within 24 hours, against the decision of the judge of the preliminary procedure imposing the measures referred to in paragraph 2 of this Article. The Trial Chamber referred to in Article 25, paragraph 5 shall rule on the appeal. The appeal shall not prevent the enforcement of the decision.

Article 199

Temporary seizure of letters, telegrams and other dispatches

(1) Letters, telegrams and other shipments addressed to the defendant may be temporarily seized, or the ones he or she sends and are found with the legal persons in the area of postal, telegraphic

and other traffic, if there are circumstances due to which it may be reasonably expected that they would be used as evidence during the procedure.

(2)The order for temporary seizure of the shipments referred to in paragraph 1 of this Article shall be issued by the preliminary procedure judge, upon proposal by the public prosecutor.

(3)An order for temporary seizure of shipments may also be issued by the public prosecutor if there is danger of procrastination, whereas this order has to be confirmed by the judge of the preliminary procedure, within 72 hours, from the temporary seizure of the dispatches.

(4)If the order is not confirmed within the meaning of paragraph 3 of this Article, these dispatches may not be used as evidence in the criminal procedure.

(5)The order referred to in paragraph 2 of this Article shall contain the following:

- information on the person that the order refers to;
- the manner of execution of the order and duration of the measure; and
- the legal person that is to execute the order.

(6)The undertaken measures may last for 3 months at the most, whereas the judge of the preliminary procedure, upon an elaborated proposal by the public prosecutor, may extend their duration for 3 more months, whereas the undertaken measures shall be revoked as soon as the reasons for their further enforcement cease to exist.

(7)The shipments shall be opened by the public prosecutor in the presence of two witnesses. During the opening, attention shall be paid for the seals not to be damaged, and to preserve the envelopes and the address. A separate record shall be compiled on the opening.

(8)If the interests of the procedure allow it, the person against whom these measures have been undertaken may be informed of the undertaken measures referred to in paragraph 1 of this Article.

(9)If the interests of the procedure allow it, the contents of the shipment may be fully or partially disclosed to the person to whom it was addressed, and the dispatch or a part thereof may be also handed over to the person. If this person is absent, the dispatch shall be announced or handed over to some of his or her relatives, and if there are no relatives, it shall be returned to the sender, unless this is contrary to the interests of the procedure.

(10)The measures undertaken in accordance with this Article shall not be applicable to letters, telegrams and other shipments exchanged between the defendant and his or her defense counsel.

Article 200

Handling information constituting a bank secret, property in a bank safe-deposit box, monitoring of payment operations and accounts transactions and temporary suspension of the performance of certain financial transactions

(1)If there is a grounded suspicion that a certain person receives, holds, transfers or otherwise manages crime proceeds on his or her bank account, and if the proceeds are important for the investigative procedure of that crime, or it is subject to forcible seizure according to the law, the court, upon an elaborated request by the public prosecutor, may issue a decision ordering the bank or other financial institutions to supply all documentation and data on the bank accounts and other financial transactions and dealings of that person, as well as for persons for which there is a grounded suspicion that they are involved in those financial transactions or dealings of the suspect, if such information may be used as evidence during the criminal procedure.

(2)The request of the public prosecutor shall refer to information on natural or legal persons, and to all crime proceeds that he or she receives, holds, transfers or otherwise manages.

(3)If the person as referred to in Article 1 holds in a bank safe-deposit box or otherwise manages crime proceeds, and if the crime proceeds are important for the investigative procedure of that crime or is subject to forcible seizure according to the law, the court, upon an elaborated request by the public prosecutor, may issue a decision instructing the bank to enable access to the public prosecutor to the safe-deposit box.

(4)The decisions referred to in paragraphs 1 and 3 of this Article shall also contain the deadline within which the bank or another financial institution must act upon them.

(5)Before the beginning and in the course of the investigative procedure, the ruling on the request by the public prosecutor as referred to in paragraphs 1 and 3 of this Article, shall be rendered by the judge of the preliminary procedure, and after the indictment has been raised, by the court which shall hold the hearing. The preliminary procedure judge shall decide upon the request by the public prosecutor immediately, and no later than within 12 hours from the receipt of the request. If the preliminary procedure judge overrules the request by the public prosecutor, without any delay, he or she shall ask for a decision to be brought by the Trial Chamber referred to in Article 25, paragraph 5 of this Law. The Trial Chamber shall render a decision within 24 from the receipt of the request.

(6)If circumstances as referred to in paragraph 1 of this Article exist, the preliminary procedure judge, upon an elaborated proposal by the public prosecutor, may instruct the bank or another financial institution with a decision, to monitor the payment operations and the transactions in the accounts of a certain person and regularly inform the public prosecutor during the time period defined in the decision.

(7)Upon an elaborated proposal by the public prosecutor, with a decision, the court may instruct a financial institution or a legal person to temporarily stop the performance of a certain financial transaction or dealing, whilst temporarily seizing the property.

(8)In emergencies, the public prosecutor may impose the measures as referred to in paragraphs 1, 3, 6 and 7 of this Article without a court order. The public prosecutor shall immediately inform the preliminary procedure judge about the undertaken measures, who shall be obliged to issue the order within 72 hours. If the preliminary procedure judge does not issue an order, the public prosecutor shall return the data without previously opening them.

Article 203

Returning temporarily seized objects

Any objects that have been temporarily seized during the criminal procedure shall be returned to the owner, i.e. the holder, if the procedure is stopped and there are no reasons for their seizure (Article 529).

Procedure for seizure of objects and forfeiture of assets and crime proceeds

Article 529

Seizure of objects

(1) Any objects that have to be seized according to the Criminal Code shall also be seized even in the event when the criminal procedure has not ended with a conviction of the defendant.

(2) The entity before which the procedure was being conducted at the moment when the

procedure was completed i.e. discontinued shall enact a separate decision thereof.

(3) The decision for seizure of the objects as referred to in paragraph 1 of this Article shall be enacted by the court, even if the verdict of conviction does not provide for such a decision.

(4) A certified copy of the decision for seizure of objects shall be delivered to the owner of the objects, if known.

(5) The owner of the objects shall have a right to appeal against the decision as referred to in paragraphs 2 and 3 of this Article, due to lack of legal grounds for the seizure of the objects. If the decision as referred to in paragraph 2 of this Article was not passed by the court, the appeal shall be ruled on by the Trial Chamber referred to in Article 25, paragraph 5 of this Law, of the court that was competent for adjudicating in the first instance.

Article 530

General provisions on forfeiture of assets and crime proceeds

(1) Any assets and crime proceeds that originate from the crime shall be established in a criminal procedure.

(2) During the procedure, the public prosecutor shall be obliged to collect evidence and inspect all circumstances, which are important for the establishment of assets and crime proceeds and to propose any measures as referred to in Article 202, paragraph 1 of this Law.

(3) If the injured party claimed any damages in view of returning the objects obtained with the criminal offense, i.e. in view of the amount that is equivalent to the value of the objects, the crime proceeds shall be established only for the part that is not covered with the legal or property claim.

Article 531

Procedure for forfeiture of assets and crime proceeds

(1) When performing forfeiture of assets and crime proceeds, the person to whom the crime proceeds have been transferred, as well as the representative of the legal person shall be summoned to be heard during the preliminary procedure and at the main hearing. In the summons, they shall be forewarned that the procedure shall be also conducted in their absence.

(2) Any representative of a legal person shall be examined at the main hearing after the defendant. It shall be proceeded in the same manner in reference of the person to whom the crime proceeds have been transferred, if he or she has not been summoned as a witness.

(3) Any person that the property interest has been transferred to, as well as any representative of a legal person, in reference to the establishment of the crime proceeds, shall be authorized to tender evidence and upon authorization of the Presiding Judge of the Trial Chamber to question the defendant, the witnesses and expert witnesses.

(4) Any exclusion of the public from the main hearing shall not refer to the person that the assets and crime proceeds have been transferred to and to the representative of the legal person.

(5) If, during the main hearing, it is established that forfeiture of assets and crime proceeds is possible, the public prosecutor shall propose for the main hearing to be adjourned and summon the person that the assets and crime proceeds have been transferred to, as well as the representative of the legal person.

Article 534

Issuing a measure of extended forfeiture against a third party

- (1) The court shall also order the measure of extended forfeiture against a third party by means of a decision under the terms prescribed in the Criminal Code, if within two years as of the day of commencement of the specific forfeiture procedure, the person cannot prove that he or she has indemnified the asset or property according to their value.
- (2) The procedure for the measure of extended forfeiture shall be conducted upon a motion by the public prosecutor.
- (3) The person shall have a right to file an appeal against the decision referred to in paragraph 1 of this Article within eight days, with the immediate superior court.

Article 535

Providing temporary safeguarding measures

- (1) When the conditions for forfeiture or extended forfeiture of assets and crime proceeds are met, the court, upon a motion by the public prosecutor, shall order temporary safeguarding measures as provided for in Article 194 of this Law.
- (2) The court may order the measures as referred to in paragraph 1 of this Article, against third parties, who are suspected recipients of assets and property resulting from a criminal offense, without appropriate reimbursement.
- (3) One may appeal the decision of the court ordering temporary safeguarding measures, within 8 days.
- (4) The immediate superior court shall rule on the appeal within a period of 8 days.”

(b) Observations on the implementation of the article

As North Macedonia has not yet had to deal with a case of enforcement of interim orders related to corruption, the implementation of Articles 55(2) cannot yet be fully assessed.

It is recommended that North Macedonia ensure that the obligations under article 55, paragraph 2, of the Convention are discharged when a foreign confiscation order is received.

Paragraph 3 of article 55

3. The provisions of article 46 of this Convention are applicable, mutatis mutandis, to this article. In addition to the information specified in article 46, paragraph 15, requests made pursuant to this article shall contain:

- (a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated, including, to the extent possible, the location and, where relevant, the estimated value of the property and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;*
- (b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested, a statement specifying the measures taken by the requesting State Party to provide adequate*

notification to bona fide third parties and to ensure due process and a statement that the confiscation order is final;

(c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested and, where available, a legally admissible copy of an order on which the request is based.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Article 16 of the Law on International Cooperation in Criminal Matters provides for the form and content of the letter rogatory on which domestic competent authorities rely when performing the specific course of actions:

**“Form and content of the letter rogatory
Article 16**

- (1) The letter rogatory shall be submitted in writing.
- (2) The letter rogatory shall include:
 - 1) Name of the authority that sent the letter rogatory and name of the authority that it has been sent to;
 - 2) Legal basis for providing international legal assistance;
 - 3) Description of the actions and the reason for submitting letter rogatory;
 - 4) Legal denomination of the criminal offence and short description of the actual situation;
 - 5) Personal data and citizenship of the person an international legal assistance is requested for;
 - 6) Capacity of the person in the proceedings and
 - 7) Name of the document being delivered and name and address of the receiver in case of delivery of judicial and other records.
- (3) The letter rogatory and the records must be signed and certified with a stamp of the judicial or other competent authority that delivers them.
- (4) If the data included in the letter rogatory and the submitted records are not sufficient, the sending authority may be requested to submit additional data and records in a reasonable time limit from the day of the receipt of the letter rogatory.”

A request for mutual legal assistance should be sent in writing. The request can be received electronically or through another way of telecommunication on condition that a record shall be kept and that the original shall be sent through a regular mail.

Article 17 of the Law on International Cooperation in Criminal Matters stipulates the urgency of acting upon receiving the letter rogatory from the foreign competent authority.

The Criminal Procedure Code provides for the overall legal landscape pertaining to the forfeiture of assets and crime proceeds and seizure of objects:

**“Article 540
Special procedure for forfeiture of assets and crime proceeds and seizure of objects**

- (1) When there are factual and legal impediments for conducting a criminal procedure against a perpetrator of a crime, upon a motion by the public prosecutor, the court shall conduct a

special procedure for forfeiture of assets and crime proceeds and seizure of objects, if the conditions provided for in the Criminal Code are met.

(2) In the procedure as referred to in paragraph 1 of this Article, upon proposal by the public prosecutor, the necessary evidence shall be presented. By means of a decision, the court shall order the measure of forfeiture of assets and crime proceeds and seizure of objects if it is proven that the assets and the property have been obtained with the commission of a criminal offense or that the objects have been used to commit the criminal offense or have resulted from it, or that they have to be forfeited according to the provisions of the Criminal Code.

(3) The person whose assets and property have been forfeited may appeal the decision of the court referred to in paragraph 2 of this Article within eight days, with the immediate superior court.

Article 202

Temporary seizure of property or objects for their safeguarding

(1) At any time in the course of the proceedings, the court may render, upon request by the public prosecutor, a temporary measure of seizure of property or objects which should be seized according to the Criminal Code, a measure for confiscation or another necessary temporary measure in order to prevent the use, transfer or managing of that property or objects.

(2) The request by the public prosecutor referred to in paragraph 1 of this Article shall contain the following:

- a short description of the criminal offence and its legal designation;
- description of the property or objects which originate from a committed crime;
- information on the person who owns that property or objects;
- evidence on which the suspicion that the property or the objects originate from a criminal offense is based, and
- reasons for the probability that the seizure of property or object shall be made especially difficult or impossible until the end of the criminal proceedings.

(3) Before the beginning and during the preliminary procedure, the preliminary procedure judge shall rule on the request by the public prosecutor as referred to in paragraph 1 of this Article, and after the indictment has been raised, by the Court that is going to hold the hearing. The preliminary procedure judge shall rule immediately on the request by the public prosecutor, and no later than within 12 hours from the receipt of the request. If the preliminary procedure judge does not accept the request by the public prosecutor, he or she shall ask the Trial Chamber referred to in Article 25, paragraph 5 to render a decision without any delay. The Trial Chamber shall render a decision within 24 from the receipt of the request.

(4) In the decision on the measures referred to in paragraph 1 of this Article, the court shall designate the value and the type of property, or object, and the time period for which it is seized.

(5) An appeal may be filed within 24 hours against the decision of the preliminary procedure judge, establishing the measures referred to in paragraph 1 of this Article. The Trial Chamber referred to Article 25, paragraph 5 shall rule on the appeal. The appeal shall not prevent the enforcement of the decision.

(6) If there is danger of procrastination, the members of the Judicial Police may temporarily seize property or objects as referred to in paragraph 1 of this Article, confiscate them or take other necessary temporary measures in order to prevent any use, transfer and managing thereof. The public prosecutor shall have to be immediately informed on the measures taken, and the

measures must be approved by the preliminary procedure judge within 72 hours from the moment of their implementation.

(7) If the preliminary procedure judge does not give an approval, the undertaken measures referred to in paragraph 6 of this Article shall be stopped, and any temporarily seized property or objects shall be immediately returned to the person they were seized from.

(8) The measures referred to in paragraph 1 of this Article may last until the completion of the criminal proceedings before the first instance court at the latest.

(9) If the measures referred to in paragraph 1 of this Article are established during the preliminary procedure, they shall be cancelled ex-officio if the investigative procedure does not begin within 3 months from the day when the decision establishing them was rendered.

(10) Before the expiration of the deadlines referred to in paragraph 9 of this Article, the measures may be cancelled ex-officio by the Court or upon request by the public prosecutor, i.e. by any interested person, if it becomes evident that they are not necessary or justified in view of the severity of the crime, the financial circumstances of the person they refer to or the circumstances of the persons, whom this person is obliged by law to support and the circumstances pointing to the fact that the seizure of property or objects shall not be precluded or made especially difficult prior to the completion of the criminal proceedings.

(11) All the actions upon the property and the objects that are subject of safekeeping, and that have been undertaken upon submitting the request from paragraph 1 of this article, are of no value.

(12) The request from paragraph 1 of this article and the decision for issuing the measures prescribed in paragraph 1 of this article, will be sent without a delay in an electronic format to all the bodies that are competent for documenting the property and the objects, whose safekeeping was requested and was approved.

Procedure for seizure of objects and forfeiture of assets and crime proceeds

Article 529

Seizure of objects

(1) Any objects that have to be seized according to the Criminal Code shall also be seized even in the event when the criminal procedure has not ended with a conviction of the defendant.

(2) The entity before which the procedure was being conducted at the moment when the procedure was completed i.e. discontinued shall enact a separate decision thereof.

(3) The decision for seizure of the objects as referred to in paragraph 1 of this Article shall be enacted by the court, even if the verdict of conviction does not provide for such a decision.

(4) A certified copy of the decision for seizure of objects shall be delivered to the owner of the objects, if known.

(5) The owner of the objects shall have a right to appeal against the decision as referred to in paragraphs 2 and 3 of this Article, due to lack of legal grounds for the seizure of the objects. If the decision as referred to in paragraph 2 of this Article was not passed by the court, the appeal shall be ruled on by the Trial Chamber referred to in Article 25, paragraph 5 of this Law, of the court that was competent for adjudicating in the first instance.

Article 530

General provisions on forfeiture of assets and crime proceeds

(1) Any assets and crime proceeds that originate from the crime shall be established in a

criminal procedure.

(2) During the procedure, the public prosecutor shall be obliged to collect evidence and inspect all circumstances, which are important for the establishment of assets and crime proceeds and to propose any measures as referred to in Article 202, paragraph 1 of this Law.

(3) If the injured party claimed any damages in view of returning the objects obtained with the criminal offense, i.e. in view of the amount that is equivalent to the value of the objects, the crime proceeds shall be established only for the part that is not covered with the legal or property claim.

Article 531

Procedure for forfeiture of assets and crime proceeds

(1) When performing forfeiture of assets and crime proceeds, the person to whom the crime proceeds have been transferred, as well as the representative of the legal person shall be summoned to be heard during the preliminary procedure and at the main hearing. In the summons, they shall be forewarned that the procedure shall be also conducted in their absence.

(2) Any representative of a legal person shall be examined at the main hearing after the defendant. It shall be proceeded in the same manner in reference of the person to whom the crime proceeds have been transferred, if he or she has not been summoned as a witness.

(3) Any person that the property interest has been transferred to, as well as any representative of a legal person, in reference to the establishment of the crime proceeds, shall be authorized to tender evidence and upon authorization of the Presiding Judge of the Trial Chamber to question the defendant, the witnesses and expert witnesses.

(4) Any exclusion of the public from the main hearing shall not refer to the person that the assets and crime proceeds have been transferred to and to the representative of the legal person.

(5) If, during the main hearing, it is established that forfeiture of assets and crime proceeds is possible, the public prosecutor shall propose for the main hearing to be adjourned and summon the person that the assets and crime proceeds have been transferred to, as well as the representative of the legal person.

Article 532

Establishing the amount of the value of the assets and crime proceeds

(1) In collecting the required evidence for the establishment of the correct amount of the assets and crime proceeds, the public prosecutor may ask for any necessary information from other state entities, financial institutions, other legal persons and citizens who shall be obliged to submit them without any delay.

(2) If there are any suspicions that the assets have been moved abroad, the court shall be obliged to issue an international warrant or notification.

Article 533

Extended forfeiture

(1) The court shall provide for an extended forfeiture under the terms prescribed in the Criminal Code, if the defendant cannot prove that he has lawfully acquired the assets or property within one year as of the day of the commencement of the main hearing.

(2) If the court reaches a judgment in the first instance regarding the criminal offense within a term shorter than the one stipulated in paragraph 1 of this Article, when the legal conditions for the measure of extended forfeiture are met, the court shall provide for such a measure with a supplementary judgment that may be appealed in accordance with the provisions of this Law.

Article 534

Issuing a measure of extended forfeiture against a third party

- (1) The court shall also order the measure of extended forfeiture against a third party by means of a decision under the terms prescribed in the Criminal Code, if within two years as of the day of commencement of the specific forfeiture procedure, the person cannot prove that he or she has indemnified the asset or property according to their value.
- (2) The procedure for the measure of extended forfeiture shall be conducted upon a motion by the public prosecutor.
- (3) The person shall have a right to file an appeal against the decision referred to in paragraph 1 of this Article within eight days, with the immediate superior court.

Article 535

Providing temporary safeguarding measures

- (1) When the conditions for forfeiture or extended forfeiture of assets and crime proceeds are met, the court, upon a motion by the public prosecutor, shall order temporary safeguarding measures as provided for in Article 194 of this Law.
- (2) The court may order the measures as referred to in paragraph 1 of this Article, against third parties, who are suspected recipients of assets and property resulting from a criminal offense, without appropriate reimbursement.
- (3) One may appeal the decision of the court ordering temporary safeguarding measures, within 8 days.
- (4) The immediate superior court shall rule on the appeal within a period of 8 days.”

(b) Observations on the implementation of the article

Article 55, subparagraph 3 (a) of the Convention is implemented in the legislation of North Macedonia by means of Article 16 of the Law on International Cooperation in Criminal Matters, and Articles 540, 202, 529, 530, 532 of the Criminal Procedure Code.

Paragraph 4 of article 55

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral agreement or arrangement to which it may be bound in relation to the requesting State Party.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Article 16 of the Law on International Cooperation in Criminal Matters provides for the form and content of the letter rogatory on which domestic competent authorities rely when performing the specific course of actions:

**“Form and content of the letter rogatory
Article 16**

- (1) The letter rogatory shall be submitted in writing.
- (2) The letter rogatory shall include:
 - 1) Name of the authority that sent the letter rogatory and name of the authority that it has been sent to;
 - 2) Legal basis for providing international legal assistance;
 - 3) Description of the actions and the reason for submitting letter rogatory;
 - 4) Legal denomination of the criminal offence and short description of the actual situation;
 - 5) Personal data and citizenship of the person an international legal assistance is requested for;
 - 6) Capacity of the person in the proceedings and
 - 7) Name of the document being delivered and name and address of the receiver in case of delivery of judicial and other records.
- (3) The letter rogatory and the records must be signed and certified with a stamp of the judicial or other competent authority that delivers them.
- (4) If the data included in the letter rogatory and the submitted records are not sufficient, the sending authority may be requested to submit additional data and records in a reasonable time limit from the day of the receipt of the letter rogatory.”

The applicable provisions of the Law on International Cooperation in Criminal Matters (Arts. 82 & 83) and the Criminal Procedure Codes (Arts. 202, 529-534 & 540) in relation to the present provision under review are provided in the response to subparagraphs 1(a) and (b) of Article 55 of the Convention.

(b) Observations on the implementation of the article

The relevant provisions in the domestic legislation that provide for the implementation of Article 55 subparagraph 1 (a) and (b) of the Convention are applicable. However, North Macedonia has not yet had to deal with a case of enforcement of confiscation orders related to corruption.

Paragraph 5 of article 55

5. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The laws and regulations of North Macedonia that give effect to Article 55 of the Convention are listed below:

- Law on International Cooperation in Criminal Matters (Official Gazette, No. 124/2010)
- Criminal code (Official Gazette, No. 37/96, 80/99, 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 and 97/17)

- Criminal Procedure Code (Official Gazette, No. 150/10, 100/12 and 142/16)
- Constitutional Law for Implementation of the Constitution of the Republic of Macedonia (Official Gazette of the Republic of Macedonia, No.52, 22.11.1991)
- Law on concluding, ratifying and enforcing international treaties (Official Gazette, No. 5/1998)

The aforementioned laws are furnished via diplomatic channels (Letter of the Ministry of Justice sent to the Ministry of Foreign Affairs, No. 14-4307/1 on 18 September 2018).

(b) Observations on the implementation of the article

North Macedonia submitted copies of its pertinent laws at the time of the review. Please refer to the Letter of the Ministry of Justice sent to the Ministry of Foreign Affairs, No. 14-4307/1 on 18 September 2018.

Paragraph 6 of article 55

6. If a State Party elects to make the taking of the measures referred to in paragraphs 1 and 2 of this article conditional on the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

In accordance with Article 118 of the Constitution, the international agreements ratified in accordance with the Constitution are part of the internal legal order and cannot be changed by the laws.

Relevant provisions of the Constitutional Law for Implementation of the Constitution of the Republic of Macedonia (Official Gazette, No.52, 22.11.1991) are as follows:

“Article 4

The Republic of Macedonia, as an equal legal successor of SFRY with the other republics, on the basis of an agreement with the other republics on the legal heritage of SFRY and interrelations undertakes rights and obligations arising from the creation of the Socialist Federal Republic of Yugoslavia.

Failure to conclude an agreement with other republics on the legal heritage of SFRY and interrelations, the legal legacy of SFRY and the mutual relations between the Republic of Macedonia and the other sovereign states from SFRY are defined in accordance with the general rules of international law, and in accordance with the Vienna Convention on Succession of States in Treaties of 1978 and the Vienna Convention on Succession of States in the Field of State Property, Archives and Debts of 1978.

Article 5

Existing federal regulations are taken on as national with the competences of the bodies established by the Constitution of the Republic of Macedonia.

By reaching an agreement between sovereign states of SFRY, the Republic of Macedonia may

entrust the enforcement of certain regulation to the federal authorities.

If the bodies referred to in paragraph 2 of this Article fail to enforce the regulations in accordance with the sovereignty and interests of the Republic of Macedonia, they shall be enforced by the authorities of the Republic.

Federal regulations governing the organisation and competence of the authorities of the Federation shall not apply in the Republic of Macedonia.”

Relevant provisions are stipulated by the Law on concluding, ratifying and enforcing international treaties:

“Article 2

An international treaty, in the sense of this Law, shall be deemed a treaty that the Republic of Macedonia will conclude in writing with one or more states or an international organisation, which defines the rights and obligations of the State, in accordance with the Constitution of the Republic of Macedonia and international law, irrespective whether it is contained in one or more interrelated documents.

Acts concluded by authorised bodies of the Republic of Macedonia for execution of signed international treaties shall not be regarded as international treaties and with them the state does not undertake upon itself new obligations.

Article 3

International treaties on behalf of the Republic of Macedonia are concluded by the President of the Republic.

International treaties on behalf of the Republic of Macedonia may also be concluded by the Government of the Republic of Macedonia regulating issues of economy, finance, science, culture, education and sports, traffic and relations, urban planning, construction and protection of the environment, agriculture, forestry, water management, health, energy, justice, labour and social policy, human rights, diplomatic and consular relations, and the field of defence and security of the state, except for issue related to the border of the Republic of Macedonia, entering into alliances or associations with other states or stepping out of such alliances and associations and other international treaties which, under international law, are concluded by heads of states.

Initiation of a procedure for ratification of international treaties

Article 19

The President of the Republic, that is, the body of state administration in which is responsible for the issues regulated by the concluded international treaty, submit the original text of the signed treaty with a proposal for initiation of a procedure for ratification and reasoning in that regard to the Ministry of Foreign Affairs, within 30 days at the latest from the date of the signing of the treaty.

Article 20

The Ministry of Foreign Affairs initiates the procedure for ratification of the concluded international treaties by submitting to the Government a proposal for the adoption of a law on ratification of the concluded international treaty.

The Government submits the proposal for adoption of a law on ratification of the concluded international treaty to the Assembly of the Republic of Macedonia.

Article 21

The Government of the Republic of Macedonia shall submit to the Assembly of the Republic of Macedonia a proposal for the adoption of a law on ratification of the international treaty concluded by the President of the Republic.

In the procedure upon the proposal for adoption of a law referred to in paragraph 1 of this Article, the President of the Republic may give an explanation in the Assembly of the Republic of Macedonia in regard to the concluded international treaty, and the Government may enclose its own opinion on the international treaty with the proposal.

Article 22

The law on ratification of the international treaty may also determine the body of state administration that will see to the enforcement of the respective treaty or authorise the Government, that is, the body of state administration in whose jurisdiction are the matters governed by the concluded international treaty to adopt more detailed regulations for the enforcement of the treaty.

The law on ratification of multilateral international treaty contains the reservations that the Republic of Macedonia makes to that international treaty.

Execution of international agreements

Article 23

The Government of the Republic of Macedonia and the President of the Republic see to the enforcement of the international treaties of the Republic of Macedonia.

Article 24

International treaties that create direct responsibilities for the Republic are enforced by the authorities in whose jurisdiction are the issues regulated by that treaty.”

Also, see annexes:

List - agreements as of before the independency

List - bilateral agreements on international legal assistance

List - signed international conventions on mutual legal assistance

(b) Observations on the implementation of the article

North Macedonia does not require a treaty to engage in international cooperation, including on enforcement of foreign confiscation orders. Articles 97 and 98 of the Criminal Code provide the basis for confiscation.

Paragraph 7 of article 55

7. Cooperation under this article may also be refused or provisional measures lifted if the requested State Party does not receive sufficient and timely evidence or if the property is of a de minimis value.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

There are no provisions that can be used to refuse international cooperation if the request is of de minimis value.

(b) Observations on the implementation of the article

The legislation of North Macedonia does not provide for refusing cooperation under this article or lifting provisional measures if it does not receive sufficient and timely evidence from the requesting state or if the property is of a de minimis value.

Paragraph 8 of article 55

8. Before lifting any provisional measure taken pursuant to this article, the requested State Party shall, wherever possible, give the requesting State Party an opportunity to present its reasons in favour of continuing the measure.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Article 16 of the Law on International Cooperation in Criminal Matters sets out the parameters of a letter rogatory whereby the requesting State party can state the scope of the international legal assistance to be sought from North Macedonia.

The exchange of certain information and notifications is part of the concept for international legal assistance defined in Article 15 of the Law.

The domestic judicial authority has the right under the principle of mutuality and without receiving a previous letter rogatory to deliver information to the foreign competent authority related to the criminal offences involved in its own investigations, if the delivery of such information might help initiate or implement an investigation or court proceedings or if that might lead to sending a letter rogatory for international legal assistance (Article 25 paragraph (1)).

The competent public prosecutor may require additional information, records and evidence from the foreign competent authority if it deems that those are necessary for the further implementation of the criminal proceedings and should determine a deadline for their delivery (Article 48).

There are no specific legislation and procedures providing the requesting State party with an opportunity to present its reasons in favour of continuing the provisional measures taken pursuant to Article 55 of the Convention. However, foreign authorities are always informed of all circumstances that may reflect on their requests in practice.

Form and content of the letter rogatory
Article 16

(1) The letter rogatory shall be submitted in writing.

(2) The letter rogatory shall include:

1) Name of the authority that sent the letter rogatory and name of the authority that it has been sent to;

- 2) Legal basis for providing international legal assistance;
- 3) Description of the actions and the reason for submitting letter rogatory;
- 4) Legal denomination of the criminal offence and short description of the actual situation;
- 5) Personal data and citizenship of the person an international legal assistance is requested for;
- 6) Capacity of the person in the proceedings and
- 7) Name of the document being delivered and name and address of the receiver in case of delivery of judicial and other records.

(3) The letter rogatory and the records must be signed and certified with a stamp of the judicial or other competent authority that delivers them.

(4) If the data included in the letter rogatory and the submitted records are not sufficient, the sending authority may be requested to submit additional data and records in a reasonable time limit from the day of the receipt of the letter rogatory.”

(b) Observations on the implementation of the article

The legislation and procedures of North Macedonia do not explicitly give the requesting State party the opportunity to present its reasons in favour of continuing the measures before lifting any provisional measures taken in relation to assets, but foreign authorities are always informed of all circumstances that may reflect on their requests in practice.

It is recommended that North Macedonia take measures to ensure that, whenever possible, the requesting State party is given an opportunity to present its reasons in favour of continuing the measure before lifting of provisional measures.

Paragraph 9 of article 55

9. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Related provisions of the Criminal Procedure Code:

**“Procedure for seizure of objects and forfeiture of assets and crime proceeds
Article 529
Seizure of objects**

(5) The owner of the objects shall have a right to appeal against the decision as referred to in paragraphs 2 and 3 of this Article, due to lack of legal grounds for the seizure of the objects. If the decision as referred to in paragraph 2 of this Article was not passed by the court, the appeal shall be ruled on by the Trial Chamber referred to in Article 25, paragraph 5 of this Law, of the court that was competent for adjudicating in the first instance.

Article 530

General provisions on forfeiture of assets and crime proceeds

(3) If the injured party claimed any damages in view of returning the objects obtained with the criminal offense, i.e. in view of the amount that is equivalent to the value of the objects, the crime proceeds shall be established only for the part that is not covered with the legal or property claim.

Article 531

Procedure for forfeiture of assets and crime proceeds

(3) Any person that the property interest has been transferred to, as well as any representative of a legal person, in reference to the establishment of the crime proceeds, shall be authorized to tender evidence and upon authorization of the Presiding Judge of the Trial Chamber to question the defendant, the witnesses and expert witnesses.

Article 534

Issuing a measure of extended forfeiture against a third party

(1) The court shall also order the measure of extended forfeiture against a third party by means of a decision under the terms prescribed in the Criminal Code, if within two years as of the day of commencement of the specific forfeiture procedure, the person cannot prove that he or she has indemnified the asset or property according to their value.

(2) The procedure for the measure of extended forfeiture shall be conducted upon a motion by the public prosecutor.

(3) The person shall have a right to file an appeal against the decision referred to in paragraph 1 of this Article within eight days, with the immediate superior court.”

Under the Criminal Code, Articles 98 and 98-a deal with the confiscation of indirect and direct property benefit obtained with a crime whereas Article 100-a governs objects used or intended to be used to commit a crime. Articles 98 and 98-a shift the burden of proof to a third party who is required to prove that he/she is given counter-compensation for the object or the property which corresponds the value of the obtained property benefit. In other words, unless the third party is able to show that he/she has paid for the subject matter property benefit, that property benefit should be confiscated.

On the other hand, Article 100-a, regarding confiscation of third party-owned objects that were used or were intended to be used to commit a crime, requires the authorities to prove that the third party knew, should have known or was obliged to know that the objects to be confiscated were used or were intended to be used to commit a crime.

“Manner of confiscating

Article 98

(1) The indirect and direct property benefit obtained with a crime and consisting of money, movables or immovables of certain value, as well as any other ownership, property or active, material or non-material rights shall be confiscated from the offender, and if their confiscation is not possible other property corresponding to the value of the obtained benefit shall be confiscated from the offender.

(2) The indirect and direct property benefit shall be as well confiscated from third parties wherefore it has been obtained by committing the crime.

(3) The property benefit referred to in paragraph (1) shall be as well confiscated from members

of the offender's family to whom it has been transferred, should it be obvious that they have not provided any compensation corresponding to the value of the obtained property benefit, or from third parties unless they prove that they have given counter-compensation for the object or the property which corresponds the value of the obtained property benefit.

(4) The objects declared as cultural heritage and natural rarities, as well as those to which the damaged party is personally attached, shall be confiscated from third parties, regardless of whether these objects have been transferred to the third parties with or without an appropriate compensation.

(5) The confiscated goods are returned to the damaged party, and if there is no damaged party, they become the state property.

(6) If during the criminal procedure, the damaged person is adjudged a property and legal claim, the court shall pronounce confiscation of property benefit in case if this exceeds the amount of this claim.

Enlarged confiscation Article 98-a

(1) The property obtained in the time period, determined by the court according to the case's circumstances which shall not be longer than five years before the commission of the crime, prior to the conviction, when based on all the circumstances the court is well asserted that the property exceeds the legal incomes of the offender and originates from such crime, shall be confiscated from the offender of a crime committed within a criminal association wherefore a property benefit for which an imprisonment sentence of at least four years is prescribed, as well as a crime in relation with the terrorism referred to in Article 313, 394-a, 394-b, 394-c and 419 of this Code for which an imprisonment sentence of minimum five years or more has been prescribed or which is related to a money laundering crime wherefore an imprisonment sentence of at least four years is prescribed.

(2) The property referred to in paragraph (1) of this Article shall be as well confiscated from third parties for which it has been obtained by committing the crime.

(3) The property referred to in paragraph (1) of this Article shall be as well confiscated from members of the offender's family to which it has been transferred should it be obvious that they have not provided counter-compensation corresponding to its value, or from third parties unless they prove that they have provided counter-compensation for the object or the property, corresponding to their value.

Conditions of seizure of objects

Article 100-a

(1) Nobody can keep or adopt the objects that have occurred through a commission of a crime.

(2) Objects that were intended or have been used to commit a crime shall be confiscated from the offender, regardless of whether they belong to the offender or to a third party, if this is required by the interest of general safety, health of the people or moral reasons.

(3) The objects used or intended to be used to commit a crime may be confiscated if there is a threat that they may be used to commit another crime. Objects, which are the property of a third party, shall not be confiscated, except if the third party knew, could have known and was obliged to know that these objects have been used or were intended to be used to commit a crime.

(4) The court shall adopt a decision to confiscate the objects within the framework of a

procedure specified by law in the case when, due to factual or legal obstacles, it is impossible to conduct the criminal procedure with respect to the offender of the crime.

(5) The application of this measure does not interfere with the right of third parties to compensation of damages from the offender of the crime.

(6) Under the conditions stipulated in ratified international agreements, the objects may be returned to another country.”

(b) Observations on the implementation of the article

The provisions protect bona fide owners and victims (art. 98, CC). In addition, articles 98-a and 100-a of the Criminal Code are also relevant.

Article 56. Special cooperation

Article 56

Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under this chapter of the Convention.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The legislation of North Macedonia permits competent national authorities, without prejudice to its own investigations, prosecutions or judicial proceedings, to forward information on proceeds of offences established in accordance with the Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under chapter V of the Convention. Relevant provisions are stipulated by the Law on International Cooperation in Criminal Matters as follows:

“Delivery of spontaneous information

Article 25

(1) The domestic judicial authority has the right under the principle of mutuality and without receiving previous letter rogatory to deliver information to the foreign competent authority related to the criminal offences which has been collected during its own investigations if it shall be deemed that the delivery of such information might help to initiate or implement an investigation or court proceedings or if that might lead to sending letter rogatory for international legal assistance.

(2) The domestic judicial authority shall ask the foreign competent authority to which the information from paragraph (1) of this article has been delivered to submit a report on all

activities that have been undertaken on the basis of this information, as well as a delivery of transcript of all decisions that have been reached.

(3) According to the regulations for protection of personal data the domestic judicial authority that delivered the information from paragraph (1) of this article has the right to set certain conditions for the usage of the information in the foreign state where it has been delivered.

Definition of certain terms used in this law

Article 5

The terms used in this law shall have the following meaning:

1. “Domestic competent authority” shall mean the Ministry of Justice, a domestic judicial authority or misdemeanour authority that act upon the requests for international cooperation in the Republic of Macedonia.
2. “Foreign competent authority” shall mean an authority of a foreign state that according to the legislation of the foreign state, respectively according to an international agreement is competent for an international cooperation.
3. “Domestic judicial authority” shall mean a court or the public prosecution office that according to the law are competent for the international cooperation in the Republic of Macedonia.”

Relevant authorities are able to provide such information directly to their respective counterpart agencies. Spontaneous transmission of information is possible through informal means through Interpol, Egmont, CARIN, EPAC etc.

North Macedonia is a party to a number of bilateral and multilateral agreements in criminal matters.

See annexes:

List - bilateral agreements on international legal assistance

List - signed international conventions on mutual legal assistance

The receiving or transmitting country is not required to disclose such information to any persons who may be concerned with the subject matter.

A mutual legal assistance request should be sent in writing. It can be received electronically or through another way of telecommunication for which a record shall be kept. The original shall be sent through a regular mail.

(b) Observations on the implementation of the article

Article 25 of the Law on International Cooperation in Criminal Matters provides for the spontaneous transmission of information by the domestic judicial authority to foreign counterparts on crimes, including for the ultimate objective of recovering assets domestically or internationally. Furthermore, FIO is a member of the Egmont Group. North Macedonia has been an observer to the Camden Asset Recovery Inter-Agency Network since July 2014, and its police is engaged internationally through the International Criminal Police Organization.

Article 57. Return and disposal of assets

Paragraph 1 of article 57

1. Property confiscated by a State Party pursuant to article 31 or 55 of this Convention shall be disposed of, including by return to its prior legitimate owners, pursuant to paragraph 3 of this article, by that State Party in accordance with the provisions of this Convention and its domestic law.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Article 27 of the Law on International Cooperation in Criminal Matters sets out the regime of the disposal of the confiscated property:

“Confiscation of property and property benefits Article 27

(1) The confiscation of property and property benefits in a procedure of international legal assistance shall be made in accordance with the provisions of the Criminal Code, Criminal Procedure Code and international agreements.

(2) The money obtained from the enforcement of the property confiscation order shall be at the disposal of the Republic of Macedonia as follows:

1) if the amount obtained from the enforcement of the confiscation order is lower than 10,000 EUR or equal to that amount, the amount shall flow into the Budget of the Republic of Macedonia, and

2) in all other cases the Republic of Macedonia shall transfer 50% of the amount obtained from the enforcement of the confiscation order to the foreign state.

(3) The other property apart from money obtained from the enforcement of the confiscation order shall be placed at disposal in one of the following ways upon decision of the domestic competent authority:

1) the property can be sold and in that case the income from the sales shall be placed at a disposal in accordance with paragraph (2) of this article, and

2) the property can be transferred to a foreign state, and if the confiscation order includes money, the property can be transferred to the foreign state when it gives its consent.”

Article 100-a of the Criminal Code provides that subject to the conditions of the ratified international agreements, return of objects to another country is possible:

“Conditions for seizure of objects

Article 100-a

(1) Nobody can keep or adopt the objects that have occurred through a commission of a crime.

(2) Objects that were intended or have been used to commit a crime shall be confiscated from the offender, regardless of whether they belong to the offender or to a third party, if this is required by the interest of general safety, health of the people or moral reasons.

(3) The objects used or intended to be used to commit a crime may be confiscated if there is a threat that they may be used to commit another crime. Objects, which are the property of a third party, shall not be confiscated, except if the third party knew, could have known and was obliged to know that these objects have been used or were intended to be used to commit a crime.

(4) The court shall adopt a decision to confiscate the objects within the framework of a procedure specified by law in the case when, due to factual or legal obstacles, it is impossible to conduct the criminal procedure with respect to the offender of the crime.

(5) The application of this measure does not interfere with the right of third parties to compensation of damages from the offender of the crime.

(6) Under the conditions stipulated in ratified international agreements, the objects may be returned to another country.”

(b) Observations on the implementation of the article

There is no law that specifically provides procedures for the disposal and return of assets to other States in the case of offences under this Convention, including with deductions of reasonable expenses.

Confiscated properties below 10,000 Euro become the property of North Macedonia, while in all other cases, 50 per cent of the amounts obtained from the confiscation order are transferred to the foreign State (Art. 27, Law on International Cooperation in Criminal Matters). Furthermore, the provisions of Article 100-a paragraph 6 of the Criminal Code prescribes that assets obtained from crime may be returned to another state, under the conditions stipulated in ratified international agreements.

There is a project currently under way to change the Law on International Cooperation in Criminal Matters to bring it in line with the Convention in this respect. Consequently, North Macedonia has not yet returned assets or concluded any agreements for the final disposal of confiscated property.

It is recommended that North Macedonia take measures to ensure that confiscated property is returned to requesting States or to its prior legitimate owners in accordance with the requirements of Article 57 of the Convention.

Paragraph 2 of article 57

2. Each State Party shall adopt such legislative and other measures, in accordance with the fundamental principles of its domestic law, as may be necessary to enable its competent authorities to return confiscated property, when acting on the request made by another State Party, in accordance with this Convention, taking into account the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

Please refer to the information provided in response to article 55, paragraph 9 of the Convention above. North Macedonia has not provided further information.

(b) Observations on the implementation of the article

See observations under paragraph 1, article 57 of the Convention.

It is recommended that North Macedonia take measures to ensure that confiscated property is returned to requesting States or to its prior legitimate owners in accordance with the requirements of article 57 of the Convention and consider concluding agreements for the final disposal of confiscated property.

Subparagraph 3 (a) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

(a) In the case of embezzlement of public funds or of laundering of embezzled public funds as referred to in articles 17 and 23 of this Convention, when confiscation was executed in accordance with article 55 and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party;

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The Law on International Cooperation in Criminal Matters provides for the confiscation of property and property benefits, as well as the enforcement of a foreign criminal judgement:

**“Confiscation of property and property benefits
Article 27**

(1) The confiscation of property and property benefits in a procedure of international legal assistance shall be made in accordance with the provisions of the Criminal Code, Criminal Procedure Code and international agreements.

(2) The money obtained from the enforcement of the property confiscation order shall be at the disposal of the Republic of Macedonia as follows:

1) if the amount obtained from the enforcement of the confiscation order is lower than 10,000 EUR or equal to that amount, the amount shall flow into the Budget of the Republic of Macedonia, and

2) in all other cases the Republic of Macedonia shall transfer 50% of the amount obtained from the enforcement of the confiscation order to the foreign state.

(3) The other property apart from money obtained from the enforcement of the confiscation order shall be placed at disposal in one of the following ways upon decision of the domestic competent authority:

1) the property can be sold and in that case the income from the sales shall be placed at a disposal in accordance with paragraph (2) of this article, and

2) the property can be transferred to a foreign state, and if the confiscation order includes money, the property can be transferred to the foreign state when it gives its consent.

Rendering a judgement

Article 83

- (1) In the disposition of the judgement from Article 82 of this Law, the domestic competent court shall include the complete disposition from the foreign judgement and the court's name. In the explanation of the judgement the domestic competent court shall list all the reasons considered for the imposition of the sanction.
- (2) The domestic competent court shall render a judgement in the Judicial Council in accordance with the provisions of the Criminal Procedure Code. The competent public prosecutor and the counsel shall be duly notified about the council meeting.
- (3) If the type and weight of the sanction imposed by the foreign court are not in accordance with the national legislation provisions, the domestic competent court shall impose a sanction in accordance with domestic law, already proposed for the same criminal offense for which the judgement was rendered.
- (4) Time spent in detention and time spent serving the sanction in the foreign State shall be calculated in the sanction imposed by the domestic competent court.
- (5) The competent public prosecutor, the sentenced person or the counsel may appeal the judgement under paragraph (1) in accordance with the provisions of the Criminal Procedure Code.

Subject of enforcement

Article 82

At the request of a foreign competent authority, the domestic competent authority shall enforce a final criminal judgement regarding the sanction imposed by a foreign or international court, with a verdict which shall impose a sanction under the Criminal Code of the Republic of Macedonia and an appropriate sanction imposed by the foreign court, but it may not aggravate the one imposed by the foreign court.”

Embezzlement, misappropriation or other diversion of property by a public official and abuse of functions are criminalized in line with articles 17 and 19 of the Convention pursuant to articles 353 - 356 of the Criminal Code.

Article 355 (Defraud in the service) criminalizes the intentional acquisition of an unlawful property benefit of the official person for himself/herself or for another person, by submitting false bills or by deceiving the authorized person in some other way to effect an unlawful payment. The type of property which may be diverted or the actual criminal act is not specified and therefore all kinds of property and diversion are covered.

Article 354 (Embezzlement in the service) and article 356 (Use of resources for personal benefit while in service) are both related to the type of property which a person can be authorized to hold/use in service or while performing duties of service (and may be physically returned). Article 353 criminalizes the abuse of official position and authorization which covers the diversion of any kind of entrusted property by an official person by using his/her official position or authorization, by exceeding the limits of his/her official authorization, or by not performing his/her official duty.

Articles 354 and 355 also cover the embezzlement in the private sector in which the individuals are regarded as “a responsible person in a legal entity”.

Article 273 criminalizes money laundering and other income from crimes. Paragraph 13 of the same article provides that the income from a punishable crime shall be seized, and if seizing it from the

offender is not possible, other property corresponding to its value shall be seized. This paragraph involves the notion of enlarged confiscation pursuant to Article 98-a.

(b) Observations on the implementation of the article

North Macedonia has referred to the same legal provisions cited above under this article in its implementation of subparagraphs 3 (a). See observations under paragraph 1, article 57 of the Convention.

It is recommended that North Macedonia take measures to ensure that confiscated property is returned to requesting States or to its prior legitimate owners in accordance with the requirements of article 57 of the Convention.

Subparagraph 3 (b) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

...

(b) In the case of proceeds of any other offence covered by this Convention, when the confiscation was executed in accordance with article 55 of this Convention and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party, when the requesting State Party reasonably establishes its prior ownership of such confiscated property to the requested State Party or when the requested State Party recognizes damage to the requesting State Party as a basis for returning the confiscated property;

(a) Summary of information relevant to reviewing the implementation of the article

Please refer to the information in response to article 57, subparagraph 3 (a) above, where articles 27, 82 and 83 of the Law on International Cooperation in Criminal Matters are applicable.

(b) Observations on the implementation of the article

See observations under paragraph 1, article 57 of the Convention. There is no distinction between the assets acquired from offences referred to in subparagraph 3 a) and those obtained from offenses referred to in subparagraph 3 b) of this article.

It is recommended that North Macedonia take measures to ensure that confiscated property is returned to requesting States or to its prior legitimate owners in accordance with the requirements of article 57 of the Convention and consider concluding agreements for the final disposal of confiscated property.

Subparagraph 3 (c) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall: ...

(c) *In all other cases, give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners or compensating the victims of the crime.*

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

Article 27 of the Law on International Cooperation in Criminal Matters sets out the way the confiscated property is disposed of by North Macedonia:

“Confiscation of property and property benefits

Article 27

- (1) The confiscation of property and property benefits in a procedure of international legal assistance shall be made in accordance with the provisions of the Criminal Code, Criminal Procedure Code and international agreements.
- (2) The money obtained from the enforcement of the property confiscation order shall be at the disposal of the Republic of Macedonia as follows:
 - 1) if the amount obtained from the enforcement of the confiscation order is lower than 10,000 EUR or equal to that amount, the amount shall flow into the Budget of the Republic of Macedonia, and
 - 2) in all other cases the Republic of Macedonia shall transfer 50% of the amount obtained from the enforcement of the confiscation order to the foreign state.
- (3) The other property apart from money obtained from the enforcement of the confiscation order shall be placed at disposal in one of the following ways upon decision of the domestic competent authority:
 - 1) the property can be sold and in that case the income from the sales shall be placed at a disposal in accordance with paragraph (2) of this article, and
 - 2) the property can be transferred to a foreign state, and if the confiscation order includes money, the property can be transferred to the foreign state when it gives its consent.”

The Criminal Procedure Code pays regard to the rights of the victim of a crime. It also imposes in various provisions the safeguards to the interest of the property owner and of the third party:

“Article 53

Victim’s rights

- (1) The victim of a crime shall have the following rights:
 - 1) to participate in the criminal procedure as an injured party by joining the criminal prosecution or for the purpose of a legal-property claim for damages;
 - 2) to get special care and attention by the bodies and entities that participate in the criminal procedure; and
 - 3) to get an effective psychological and other professional assistance and support by bodies, institutions and organizations that provide for help to crime victims.
- (2) The police, the public prosecutor and the court shall act with special care towards the victims of criminal offenses, advising them of their rights as referred to in paragraph 1 of this

Article and Articles 54 and 55 of this Law and they shall take care of their interests when making decisions for criminal prosecution of the accused, i.e. when undertaking actions during the criminal procedure when the victim has to be present in person, when they have to draft an official note or record.

(3) In accordance with the special regulations, any victim of a crime, which entails a prison sentence of at least four years, shall have the right to:

- 1) get a councilor paid by the state budget before giving a statement, i.e. declaration or filing the legal-property claim, if the victim has serious psycho-physical impairment or if there are serious consequences as a result of the crime; and
- 2) be compensated for material and non-material damages from a state fund, under conditions and in a manner as prescribed in a separate law, if the damage caused cannot be compensated from the convicted person.

Article 529 **Seizure of objects**

(1) Any objects that have to be seized according to the Criminal Code shall also be seized even in the event when the criminal procedure has not ended with a conviction of the defendant.

(2) The entity before which the procedure was being conducted at the moment when the procedure was completed i.e. discontinued shall enact a separate decision thereof.

(3) The decision for seizure of the objects as referred to in paragraph 1 of this Article shall be enacted by the court, even if the verdict of conviction does not provide for such a decision.

(4) A certified copy of the decision for seizure of objects shall be delivered to the owner of the objects, if known.

(5) The owner of the objects shall have a right to appeal against the decision as referred to in paragraphs 2 and 3 of this Article, due to lack of legal grounds for the seizure of the objects. If the decision as referred to in paragraph 2 of this Article was not passed by the court, the appeal shall be ruled on by the Trial Chamber referred to in Article 25, paragraph 5 of this Law, of the court that was competent for adjudicating in the first instance.

Article 530 **General provisions on forfeiture of assets and crime proceeds**

(1) Any assets and crime proceeds that originate from the crime shall be established in a criminal procedure.

(2) During the procedure, the public prosecutor shall be obliged to collect evidence and inspect all circumstances, which are important for the establishment of assets and crime proceeds and to propose any measures as referred to in Article 202, paragraph 1 of this Law.

(3) If the injured party claimed any damages in view of returning the objects obtained with the criminal offense, i.e. in view of the amount that is equivalent to the value of the objects, the crime proceeds shall be established only for the part that is not covered with the legal or property claim.

Article 531 **Procedure for forfeiture of assets and crime proceeds**

(1) When performing forfeiture of assets and crime proceeds, the person to whom the crime proceeds have been transferred, as well as the representative of the legal person shall be summoned to be heard during the preliminary procedure and at the main hearing. In the

summons, they shall be forewarned that the procedure shall be also conducted in their absence.

(2) Any representative of a legal person shall be examined at the main hearing after the defendant. It shall be proceeded in the same manner in reference of the person to whom the crime proceeds have been transferred, if he or she has not been summoned as a witness.

(3) Any person that the property interest has been transferred to, as well as any representative of a legal person, in reference to the establishment of the crime proceeds, shall be authorized to tender evidence and upon authorization of the Presiding Judge of the Trial Chamber to question the defendant, the witnesses and expert witnesses.

(4) Any exclusion of the public from the main hearing shall not refer to the person that the assets and crime proceeds have been transferred to and to the representative of the legal person.

(5) If, during the main hearing, it is established that forfeiture of assets and crime proceeds is possible, the public prosecutor shall propose for the main hearing to be adjourned and summon the person that the assets and crime proceeds have been transferred to, as well as the representative of the legal person.

Article 534

Issuing a measure of extended forfeiture against a third party

(1) The court shall also order the measure of extended forfeiture against a third party by means of a decision under the terms prescribed in the Criminal Code, if within two years as of the day of commencement of the specific forfeiture procedure, the person cannot prove that he or she has indemnified the asset or property according to their value.

(2) The procedure for the measure of extended forfeiture shall be conducted upon a motion by the public prosecutor.

(3) The person shall have a right to file an appeal against the decision referred to in paragraph 1 of this Article within eight days, with the immediate superior court.

Article 535

Providing temporary safeguarding measures

(1) When the conditions for forfeiture or extended forfeiture of assets and crime proceeds are met, the court, upon a motion by the public prosecutor, shall order temporary safeguarding measures as provided for in Article 194 of this Law.

(2) The court may order the measures as referred to in paragraph 1 of this Article, against third parties, who are suspected recipients of assets and property resulting from a criminal offense, without appropriate reimbursement.

(3) One may appeal the decision of the court ordering temporary safeguarding measures, within 8 days.

(4) The immediate superior court shall rule on the appeal within a period of 8 days.”

Under the Criminal Code, Articles 98 and 98-a deal with the confiscation of indirect and direct property benefit obtained with a crime whereas Article 100-a of objects used or intended to be used to commit a crime. All these articles prescribe the conditions under which the property concerned can be confiscated from the third party.

**“Manner of confiscating
Article 98**

- (1) The indirect and direct property benefit obtained with a crime and consisting of money, movables or immovables of certain value, as well as any other ownership, property or active, material or non-material rights shall be confiscated from the offender, and if their confiscation is not possible other property corresponding to the value of the obtained benefit shall be confiscated from the offender.
- (2) The indirect and direct property benefit shall be as well confiscated from third parties wherefore it has been obtained by committing the crime.
- (3) The property benefit referred to in paragraph (1) shall be as well confiscated from members of the offender's family to whom it has been transferred, should it be obvious that they have not provided any compensation corresponding to the value of the obtained property benefit, or from third parties unless they prove that they have given counter-compensation for the object or the property which corresponds the value of the obtained property benefit.
- (4) The objects declared as cultural heritage and natural rarities, as well as those to which the damaged party is personally attached, shall be confiscated from third parties, regardless of whether these objects have been transferred to the third parties with or without an appropriate compensation.
- (5) The confiscated goods are returned to the damaged party, and if there is no damaged party, they become the state property.
- (6) If during the criminal procedure, the damaged person is adjudged a property and legal claim, the court shall pronounce confiscation of property benefit in case if this exceeds the amount of this claim.

**Enlarged confiscation
Article 98-a**

- (1) The property obtained in the time period, determined by the court according to the case's circumstances which shall not be longer than five years before the commission of the crime, prior to the conviction, when based on all the circumstances the court is well asserted that the property exceeds the legal incomes of the offender and originates from such crime, shall be confiscated from the offender of a crime committed within a criminal association wherefore a property benefit for which an imprisonment sentence of at least four years is prescribed, as well as a crime in relation with the terrorism referred to in Article 313, 394-a, 394-b, 394-c and 419 of this Code for which an imprisonment sentence of minimum five years or more has been prescribed or which is related to a money laundering crime wherefore an imprisonment sentence of at least four years is prescribed.
- (2) The property referred to in paragraph (1) of this Article shall be as well confiscated from third parties for which it has been obtained by committing the crime.
- (3) The property referred to in paragraph (1) of this Article shall be as well confiscated from members of the offender's family to which it has been transferred should it be obvious that they have not provided counter-compensation corresponding to its value, or from third parties unless they prove that they have provided counter-compensation for the object or the property, corresponding to their value.

**Conditions for seizure of objects
Article 100-a**

- (1) Nobody can keep or adopt the objects that have occurred through a commission of a crime.

(2) Objects that were intended or have been used to commit a crime shall be confiscated from the offender, regardless of whether they belong to the offender or to a third party, if this is required by the interest of general safety, health of the people or moral reasons.

(3) The objects used or intended to be used to commit a crime may be confiscated if there is a threat that they may be used to commit another crime. Objects, which are the property of a third party, shall not be confiscated, except if the third party knew, could have known and was obliged to know that these objects have been used or were intended to be used to commit a crime.

(4) The court shall adopt a decision to confiscate the objects within the framework of a procedure specified by law in the case when, due to factual or legal obstacles, it is impossible to conduct the criminal procedure with respect to the offender of the crime.

(5) The application of this measure does not interfere with the right of third parties to compensation of damages from the offender of the crime.

(6) Under the conditions stipulated in ratified international agreements, the objects may be returned to another country.”

(b) Observations on the implementation of the article

See observations under paragraph 1, article 57 of the Convention.

It is recommended that North Macedonia take measures to ensure that confiscated property is returned to requesting States or to its prior legitimate owners in accordance with the requirements of article 57 of the Convention.

Paragraph 4 of article 57

4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposition of confiscated property pursuant to this article.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

In accordance with the legislation of North Macedonia, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposition of confiscated property pursuant to this article.

Relevant provisions are stipulated by the Law on International Cooperation in Criminal Matters as follows:

**“Costs
Article 13**

The costs incurred during the actions upon the letter rogatory or the request shall be borne by the Republic of Macedonia if those costs were incurred on its territory unless otherwise stipulated by an international agreement or by this law.

Confiscation of property and property benefits

Article 27

(1) The confiscation of property and property benefits in a procedure of international legal assistance shall be made in accordance with the provisions of the Criminal Code, Criminal Procedure Code and international agreements.

(2) The money obtained from the enforcement of the property confiscation order shall be at the disposal of the Republic of Macedonia as follows:

1) if the amount obtained from the enforcement of the confiscation order is lower than 10,000 EUR or equal to that amount, the amount shall flow into the Budget of the Republic of Macedonia, and

2) in all other cases the Republic of Macedonia shall transfer 50% of the amount obtained from the enforcement of the confiscation order to the foreign state.

(3) The other property apart from money obtained from the enforcement of the confiscation order shall be placed at disposal in one of the following ways upon decision of the domestic competent authority:

1) the property can be sold and in that case the income from the sales shall be placed at a disposal in accordance with paragraph (2) of this article, and

2) the property can be transferred to a foreign state, and if the confiscation order includes money, the property can be transferred to the foreign state when it gives its consent.

Notification about costs

Article 49

(1) The costs for the criminal proceeding determined by the foreign competent authority shall be added to the costs incurred within the criminal proceedings conducted before the domestic competent authority. The costs of the foreign competent authority shall not be reimbursed.

(2) In case of assignment of criminal prosecution to a foreign state, the domestic judicial authority shall notify the foreign competent authority about the costs incurred within the criminal proceeding before the domestic judicial authorities which shall not request a reimbursement of those costs.”

(b) Observations on the implementation of the article

Though North Macedonia has cited several provisions, including notification about costs, there is no law that specifically provides procedures for the disposal and return of assets to other States in the case of offences under this Convention, including with deductions of reasonable expenses.

Paragraph 5 of article 57

5. Where appropriate, States Parties may also give special consideration to concluding agreements or arrangements, on a case-by-case basis, for the final disposal of confiscated property.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

The Law on International Cooperation in Criminal Matters provides for the manner of communication:

**“Ways of communication
Article 6**

- (1) The domestic competent authority shall send a letter rogatory for international legal assistance (herein after referred to as: letter rogatory) or a request for international cooperation in criminal matters (herein after referred to as: request) to the foreign competent authorities according to the provisions of this Law.
- (2) The letter rogatory or the request by the foreign competent authority shall be sent in writing through the Ministry of Justice (herein after referred to as: the Ministry).
- (3) The domestic competent authority shall send the letter rogatory or the request directly to the foreign competent authority in terms of mutuality or if provided for by an international agreement, and a copy of the letter rogatory or the request shall be sent to the Ministry as well.
- (4) Referring to paragraph 3 of this article, in case of emergency the letter rogatory or the request shall be sent through the channels of the international police cooperation, and a copy of the letter rogatory or the request shall be sent to the Ministry.
- (5) If an international agreement does not exist or if under the international agreement a diplomatic way of communication is not provided, the Ministry shall send the letter rogatory or the request using the diplomatic way through the Ministry of Interior.
- (6) The letter rogatory or the request can be received electronically or through another way of telecommunication for which a record shall be kept, and the original shall be sent through a regular mail.”

North Macedonia gives special consideration to concluding agreements or mutually acceptable arrangements, on a case-by-case basis, for the final disposal of confiscated property.

See annexes:

- List - bilateral agreements on international legal assistance
- List - signed international conventions on mutual legal assistance

(b) Observations on the implementation of the article

Authorities of North Macedonia reported that they give special consideration to concluding agreements or mutually acceptable arrangements, on a case-by-case basis, for the final disposal of confiscated property. However, there are no practices of using such agreements or arrangements for the return and disposal of assets.

It is recommended that North Macedonia consider concluding agreements for the final disposal of confiscated property.

(c) Technical assistance needs

Capacity-building and training (Arts. 52–57).

Article 58. Financial intelligence unit

Article 58

States Parties shall cooperate with one another for the purpose of preventing and combating the transfer of proceeds of offences established in accordance with this Convention and of promoting ways and means of recovering such proceeds and, to that end, shall consider establishing a financial intelligence unit to be responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

According to the AML Law, the FIO is a body of the State administration and within the Ministry of Finance responsible for collection, processing, analysis, storage and submission of the data received from the entities which are obliged to undertake measures and activities for detection and prevention of ML/FT. Article 64 of the AML Law provides for the following competencies of the FIO:

- collecting, processing, analysing, storing and delivering data received from the entities pursuant to this Law;
- obtaining financial, administrative and other data and information, necessary to carry out its responsibilities;
- preparing and submitting reports to the competent state authorities always when there is a suspicion for committed offence of money laundering and financing terrorism;
- preparing and submitting a notification to the competent state authorities for any grounded suspicion of committing other offence;
- issuing a written order to the entity by which it temporarily withholds the transaction;
- submitting a request to the competent public prosecutor for proposal on determining provisional measures;
- submitting an order to the entity for monitoring of the business relationship;
- submitting a request for initiating a misdemeanour procedure before the competent court;
- cooperating with the entities under Article 5 of this Law, Ministry of Interior, Financial Police Office, State Foreign Exchange Inspectorate, Securities and Exchange Commission of the Republic, National Bank of the Republic, Agency for Supervision of Fully Funded Pension Insurance, State Commission for Prevention of Corruption and other state authorities and institutions as well as other organizations, institutions and international bodies for combating money laundering and financing terrorism;
- concluding cooperation agreements and exchanging data and information with competent bodies of other countries and international organizations, included in combating money laundering and financing terrorism;
- performing supervision of the entities regarding the application of measures and activities determined by this Law, independently or in cooperation with the supervisory bodies and the commissions stated under this Law.
- initiating initiatives or providing opinion regarding laws and bylaws which refer to prevention

of money laundering and financing terrorism;

- assisting in the professional specialization of the authorized persons and employees in the Department for Prevention of Money Laundering and Financing Terrorism within the entities under Article 5 of this Law;
- determining lists of indicators for risk analysis and recognizing suspicious transactions in cooperation with the entities and bodies which supervise their operation;
- planning and implementing trainings for specialization and training of the employees in the Office;
- providing clarification on the application of the regulations for prevention of money laundering and financing terrorism,
- keeping records, as well as comprehensive statistics for the purpose of evaluating the effectiveness of the system for combating money laundering and financing of terrorism,
- acting in accordance with the provisions of the Law on Restrictive Measures and by-laws acts adopted on its basis and
- performing other activities determined by law.

For the purpose of exercising its competencies, the Office has a direct or indirect electronic access to data, information and documentation which are available to the entities, State bodies and institutions and other legal entities or natural persons in accordance with the provisions of this Law.

The Office performs the duties of its competence in accordance with the law and ratified international agreements regulating the prevention of money laundering and financing of terrorism.

Personal data collected for the purposes of this Law shall be used in accordance with this Law and regulations for the protection of personal data.

The Office prepares annually a report on matters within its competence and the Work Programme for the next year and submit them to the Minister of Finance and to Government. The Administration may also submit another report upon request to the Minister of Finance or the Government.

Competences of the FIO in relation to the international cooperation are prescribed in Articles 127-132 of the aforementioned Law.

“International cooperation Article 127

(1) The Office shall establish international cooperation with financial intelligence units of other countries by exchanging relevant data, information and documentation for the purposes of preventing and detecting money laundering and financing of terrorism in accordance with the provisions of this Law.

(2) The international exchange of relevant data, information and documentation referred to in paragraph (1) of this Article shall be executed on the basis of:

- request for exchange of data, information and documentation submitted by the Office to the financial intelligence unit of other country,
- request for exchange of data, information and documentation received by the Office from the financial intelligence unit of other country,
- submission of data, information and documentation from the Office to the financial intelligence unit of other country or

-submission of data, information and documentation from the financial intelligence unit of other country to the Office.

(3) The Office shall establish international cooperation with financial intelligence units of other countries, regardless of their organizational form.

(4) The Office may conclude cooperation agreements with financial intelligence units of other countries, as well as with international organizations involved in combating money laundering and financing of terrorism for the purpose of preventing and detecting money laundering and financing of terrorism. Signed cooperation agreement is not a prerequisite for the Office to engage in international cooperation with financial intelligence units of other countries.”

The FIO is member of the EGMONT Group and actively participates in the Moneyval Committee.

(b) Observations on the implementation of the article

FIO does not have investigative powers. As a result, it receives and analyses suspicious transaction reports and forwards them, as necessary, to the law enforcement authorities (art. 64, para. 3, AML Law). In addition, FIO has temporary freezing powers over transactions for 72 hours (art. 120, AML Law). In practice, as FIO disseminates information to financial entities, it assesses systemic risks and regularly hosts discussions with financial entities and government authorities. FIO is an autonomous body under MOF composed of members who are experts in anti-money-laundering, the financing of terrorism and tax matters. It may cooperate with other financial intelligence offices pursuant to its memorandum of understanding and membership in the EGMONT Group, as well as article 127 of the AML Law, which allows the international exchange of information by FIO.

Article 59. Bilateral and multilateral agreements and arrangements

Article 59

States Parties shall consider concluding bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this chapter of the Convention.

(a) Summary of information relevant to reviewing the implementation of the article

North Macedonia has provided the following information in the implementation of the provision under review.

North Macedonia is a party to a number of bilateral and multilateral agreements on international cooperation in civil and criminal matters.

See annexes:

List - agreements as of before the independency

List - bilateral agreements on international legal assistance

List - signed international conventions on mutual legal assistance

(b) Observations on the implementation of the article

North Macedonia has concluded a number of bilateral and multilateral agreements that enhance the effectiveness of international cooperation undertaken pursuant to chapter V, with countries, such as Bosnia and Herzegovina, Croatia, Montenegro and Serbia.

UNODC