



TRACKING ANTI-CORRUPTION PROGRESS IN MACEDONIA 2015 – 2017



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INTRODUCTION

In 2016, Macedonia published its National Integrity System (NIS) assessment. The NIS assessment provides a comprehensive analysis of the key strengths and weaknesses of Macedonia's anti-corruption and governance system and offers recommendations for reform. By examining both the formal framework and actual practice of a key set of state and non-state institutions, it highlights discrepancies between the formal provisions and reality on the ground, making it clear where there is room for improvement.

This report provides an update on anti-corruption progress in Republic of Macedonia since the NIS assessment was published, by analysing:

- i. the extent to which Macedonia is utilising the legal mechanisms at its disposal to investigate, prosecute and sanction corruption; and
- ii. the extent to which key recommendations from the NIS assessment have been implemented by relevant stakeholders.

A combined analysis of these two areas provides a strong indication of the extent to which progress has been made since 2016 and the depth of the government's commitment to fighting corruption in Macedonia. The report uses a range of data sources including existing research, interviews and official statistics.

KEY FINDINGS

- As regard to the progress in implementation of the recommendations, the situation is status quo or regressing. The only achievement has been made in the office of the Ombudsman where the Law on the Ombudsman has been amended in accordance with the Paris Principle and the Assembly of Republic Macedonia discussed about active establishment of specialized temporary inquiry commissions at the office of Ombudsman, in which the experts from the relevant fields and representatives of non-governmental organizations, would be obliged to participate.
Regress is visible in the Public Prosecutors office, the State Commission for the Prevention of Corruption (SCPC) and State Electoral Committee (SEC) where the cases of conflict of interest and misuse of the public funds occurred. As a result, the members of the SEC and SCPC had resigned and there is lack of trust and confidence in the work of the State Prosecution Office and the Prosecutorial Council. In the Ministry of interior there is no progress in the implementation of the whistleblowers protection and annulling political influence.
Also, no progress has been made in strengthening the position of the SEC, in democratization in the inter party processes and amendments to the voters list.
Very symbolic progress was made in the Parliament with adoption of the "Code of ethical behaviour of the members of Parliament" which was adopted at the 47th plenary session of the Assembly held on 11 June 2018, with support from all political groups. The same symbolic effect is achieved with the Guidelines for the Practical Application of the "Code of Ethics for Public Prosecutors and its proposed amendments" adopted in January 2018. Both due to the GRECO recommendations.
The only areas with significant progress is in the enhanced government cooperation with the civil society and strengthen ethical behaviour and integrity of the media and journalists.

I. PROGRESS ON ANTI-CORRUPTION REFORMS

In 2016, TI - Macedonia published an assessment of Macedonia's National Integrity System with a range of recommendations for strengthening the country's anti-corruption system. Since 2016, TI Macedonia has been tracking a selection of those recommendations to identify whether they have been implemented by the relevant stakeholders¹.

Below, we present a summary of our findings. Each recommendation is colour-coded depending on the level of progress witnessed, as follows:

Coding		Achieved
		Substantial progress
		Partial progress
		No Progress
		Regress

Recommendation	1. The Assembly should hold to account the officials they appoint to lead anti-corruption institutions. The Assembly should review the implementation of international anti-corruption instruments such as UNCAC and the implementation of the national program for the Prevention of Corruption and Conflict of Interest.	
Indicators	1.1 Number of hearings concerning international anti-corruption instruments	
	1.2 Number of anti-corruption items on the Assembly agenda	
	1.3 Number of recommendations regarding SCPC report	
Progress	<p>Situation in 2016</p> <p>Despite the State Commission for the Prevention of Corruption being in existence for 12 years there has only been one Assembly debate on its Annual report. GRECO carried out a fourth round of evaluation in late 2013, covering corruption prevention in relation to members of parliament, judges and prosecutors.</p> <p>However beyond passing anti-corruption legislation, the Assembly has taken little interest in corruption matters.</p>	<p>Current situation</p> <p>Although the MPs discussed issues of transparency, integrity and accountability of the institutions in the country, no significant progress was made regarding the review of the implementation of anti-corruption instruments and the implementation of the national program for prevention of corruption and conflict of interests. In its second compliance report Group of States against Corruption) finds that none of the improvements recommended have been implemented even partially, with the exception of what concerns the elaboration of a "Code of ethical behaviour of the members of Parliament" which was adopted at the 47th plenary session of the Assembly held on 11 June 2018, with support from all political groups.²</p>

¹ Criteria for selecting recommendations for tracking include whether they: (a) address a key weakness in the country's national integrity system, (b) result in strengthened laws and/or more effective enforcement of laws, (c) result in higher levels of integrity amongst organisations and people, (d) have clear and relevant solutions for change.

² Greco, (2018), FOURTH EVALUATION ROUND Corruption prevention in respect of members of parliament, judges and prosecutors: The Second Compliance Report of the Republic of Macedonia, p.2 <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of-16808cc85f>

Recommendation	2. The government should take effective measures to provide a clear and updated list of elected and appointed officials;	
Indicators	<i>2.1 Up to date and verified appointed officials that are available on the website of the SCPC (The latest and verified asset declarations of elected and appointed officials are available on the website of the SCPC.)</i>	
Progress	<p>Situation in 2015</p> <p>There is no clear registry of interests of elected and appointed officials, which continues to hamper the effective oversight of assets and conflicts of interest.</p> <p>There are difficulties in tracking changes in the asset declarations of officials.</p>	<p>Current situation</p> <p>Even after the change of power, the SCPC faces similar challenges in terms of non-enforcement of its legal competences, including the publication and updating of its official web page of a full account of the property situation through the asset declarations of the newly elected and appointed officials, giving an opportunity to have an insight into the changes occurring in the former holders of high state and public functions. As an illustration, in 2017 of 633 persons appointed (according to the announcements in the Official Gazette of R.M), for 468 (70.59%) persons there is not a published information. The largest number of the inaccessible information refer to persons who have been elected to functions in the board of directors of schools, hospitals, the University clinic, inter-municipal centers, electoral boards, etc.³</p> <p>The SCPC is not effective due to resignation of 5 members. It affects the work on verification of the asset declaration and conflict of interest situations.</p>

Recommendation	3. 1 The Judicial Council should ensure full implementation of merit-based appointment and promotion of judges that will strengthen the independence, impartiality and integrity of the judiciary	
Indicators	<i>3.1.1 Appointment of judges based on ranked list of candidates provided by the judicial academy and the professional qualities and reputation of candidates in higher courts</i>	
Progress	<p>Situation in 2015</p> <p>There is political interference in the appointment of judges as well as in the adjudication of criminal cases and cases where the government's interests are at stake such as in cases of defamation or electoral disputes.</p>	<p>Current situation</p> <p>The criteria for election and appraisal of judges, which at present are based exclusively upon quantitative criteria of efficiency still remain an issue of concern. However, new court presidents were elected in 2017 and the findings indicate that the merit system of the judges is developed in positive direction, even though there is a pressing need to introduce more qualitative criteria for the assessment of the judges and to raise the quality of judgments.⁴ The election of judges in higher courts was criticized both in the period prior to the formation of the new government in September 2016 and during the last election of judges by the Judicial Council following the local elections in November 2017. In December 2017, the Parliament adopted the Law Amending the Law on the Judicial Council.⁵ In accordance with Article 3 of this Law: "Every member of the Council with a right to vote shall be obliged publicly, at the session of the Council, to explain his/her decision on the election of a judge. The Council is obliged to inform each candidate in writing about the decision for</p>

³ Macedonian Center for International Cooperation, (2017), Quarterly report No. 4 for oversight of the work of the State Commission for Prevention of Corruption (SCPC): Achievements in the period from July to September 2017, Skopje. <http://mcms.org.mk/images/docs/2017/sledenje-na-dsk-kvartalen-izvestaj-br-4.pdf>

⁴ EPI, p.11

⁵ Official Gazette of Republic of Macedonia No. 197/2017

		election of a judge and s/he may appeal to the Supreme Court, within eight days of receiving the notification".
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Recommendation	3.2 Rules and procedures for judges concerning the acceptance of gifts, hospitality and other advantages should be established	
Indicators	<i>3.2.1 Effective implementation of provisions concerning gifts and hospitalities</i>	
Progress	Situation in 2015 The provisions that oblige judges to report gifts and hospitalities are not applied in practice and judges overall do not report any gifts or hospitalities that they might have received.	Current situation GRECO recommendation refer to the gifts, hospitality and other advantages has been partly implemented in 2016. The situation is the same in 2018, the efforts deployed in the context of training activities to present and explain to judges and prosecutors the various restrictions in place concerning gifts and other benefits. The authorities submit that the monitoring of compliance will be the responsibility of the Advisory Body for Judicial Ethics, which is a new body of the Macedonian Judges Association, as stipulated in the Code of Judicial Ethics. ⁶ The "Practical Guide to the Code of Judicial Ethics" contains two brief references to gifts, which basically reiterate in different terms what the existing rules already state and refer back to these, for instance by recalling the need to comply with value thresholds which might exist. It encourages the authorities to pursue actively the implementation of the present recommendation and to proceed with the introduction of written guidance, as announced.

Recommendation	4. Mechanisms should be established (either Parliamentary committee, new agency or some of the existing ones) for regular (even monthly or quarterly) oversight of new employments in public administration.	
Indicators	<i>4.1 Transparent procedures to prevent employment on the basis of spoils</i>	
Progress/ no progress	Situation in 2015 Employment on the basis of political membership is considered a "normal" practice in the country.	Current situation Assessing the recruitment practices for civil service positions in 2016 has been difficult, since the ministries did not undertake a single recruitment because of the pre-electoral situation. The value for the indicator assessing 'Merit-based termination of employment and demotion of civil servants' is 2. ⁷ According to the Law on Organisation of State Administrative Bodies, the heads of the administrative agencies under ministries and the independent administrative bodies are not included in the scope of the civil service: their directors are freely appointed by the relevant political authority. This has no logical grounds, as the functions of most of these positions are clearly more managerial and less political than, for instance, those of the secretaries of ministries. ⁸

⁶ GRECO, (2018), FOURTH EVALUATION ROUND Corruption prevention in respect of members of parliament, judges and prosecutors: The Second Compliance Report of the Republic of Macedonia, p.11, <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/16808cc85f>

⁷ Sigma, (2017), Monitoring report: the Principles of Public Administration of the Republic of Macedonia, November 2017, p.62 <http://www.sigmaweb.org/publications/Monitoring-Report-2017-the-former-Yugoslav-Republic-of-Macedonia.pdf>

⁸ Ibid. <http://www.sigmaweb.org/publications/Monitoring-Report-2017-the-former-Yugoslav-Republic-of-Macedonia.pdf>

		However, the legislation adequately regulates merit-based selection for civil servants, and the Agency for Administration provides effective management of the selection processes. ⁹
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Recommendation	5.1 The Ministry of Interior should introduce effective conflict of interest rules for police officers.	
Indicators	<i>5.1.1 Ministry of interior undertake proactive role by amending the law or rules and procedures on conflict of interest for police officers</i>	
	<i>5.1.2 Increased number of police officers that are aware regarding rules of conflict of interest (participated at the workshops, public debate, round tables, conference etc.)</i>	
Progress	Situation in 2015 <p>There are no rules on conflict of interest for police officers in legislation, rather conflicts of interest are covered by the Code of Police Ethics which is not a binding document.</p> <p>A Code of Police Ethics exists to regulate conflicts of interest, promote honesty and professional and service-oriented policing.</p>	Current situation <p>The Strategic Plan of the Ministry of Interior 2018-2020 was adopted.</p> <ul style="list-style-type: none"> - a system of inter-ministerial cooperation was established in the Ministry of Interior through the promotion of the "Manual for conducting trainings on police integrity" and also a system of international cooperation, with a regional meeting being conducted for the establishment of an informal network for an information exchange; - Anti-Corruption Program of the Ministry of Interior (2017) was prepared with an Action Plan, and plans for the prevention of corruption in the Ministry, as well as a plan for the prevention of unlawful and unprofessional conduct of employees during election periods; <p>Although the number of trainings has increased for the employees in the police and the number of initiated disciplinary procedures has also increased, however, there is not a significant reform regarding the effective prevention of conflict of interests when conducting official measures and actions of the employees in the Ministry and the police.</p>

Recommendation	5.2 The Ministry of Interior needs to establish effective mechanisms, including a whistleblowing mechanism, to prevent political activities on police premises in order to strengthen police officers' ability to resist undue political interference, and ability to resist being instrumentalised during elections as tools of political parties.	
Indicators	<i>5.2.1 Establishing internal mechanism where authorized person from the Ministry of interior will receipt the complaints from the whistleblowers</i>	
Progress	Situation in 2015 <p>Politicians' police security detail have been found to violate the public order without facing disciplinary proceedings or other sanctions</p>	Current situation <p>The nomination of the person for the protection of whistleblowers had also been a positive step forward. However, the system is not effective and there is no visible indication on the name and contact to the appointed person on the web site or other place.</p> <p>Unfortunately, due to party influence there was no proper reaction by the members of the Ministry of Interior during the violence in the Parliament on April 27, 2017. Several high-level officials, including the former Director and later minister, are facing a court trail on the charges for violating the official duty. After the events on April 27, 2017, the Ministry of Interior has been working intensively to</p>

⁹ Sigma, (2017), Monitoring report: the Principles of Public Administration of the Republic of Macedonia November 2017, p.62 <http://www.sigmaweb.org/publications/Monitoring-Report-2017-the-former-Yugoslav-Republic-of-Macedonia.pdf>

		implement reforms in line with Plan 3-6-9 to reduce political influence in the institution. The Strategic Plan 2018-2020 of the Ministry of Interior states that, the focus of attention will be elimination of party influence, accountability and transparency in the work of the police and the fight against corruption. ¹⁰ However, there is no publicly available report on improvements.
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Recommendation	6.1 The Public Prosecutor Council should establish an effective mechanism to implement the Code of Ethics.	
Indicators	<i>6.1.1 Creation of the internal mechanisms for monitoring the implementation of the existing Code of Ethics of Public Prosecutors</i>	
	<i>6.1.2 Establishing clear procedures for reporting the gifts and hospitality</i>	
Progress	Situation in 2015 It is difficult to assess the effectiveness of the existing Code of Ethics of Public Prosecutors because there is no implementing mechanism in place. Similarly there is no implementing mechanism or oversight of the rules on gifts, asset declarations and statement on conflicts of interest.	Current situation The Public Prosecutor established an Ethical Council, chaired by a President who also selects the members of the Council. The Ethical Council adopted on 30 January 2018 a set of "Rules for the determination of violations of the Ethical Code" as well as Rules of Procedure. The Guidelines for the Practical Application of the "Code of Ethics for Public Prosecutors and its proposed amendments" were adopted in January 2018 and contain rules and standards for the acceptance of gifts, hospitality and other advantages. ¹¹ Namely, the guidelines make a distinction between protocol gifts (material/non-material), and it provides for a maximum value and a clear procedure for their recording. ¹²


Recommendation	6.2 The public prosecution should ensure accurate and timely presentation of information concerning the prosecution of corruption cases as well as cases related to the illegally wiretapped conversations	
Indicators	<i>6.2.1 The public prosecution should ensure accurate and timely presentation of information concerning the prosecution of corruption cases as well as cases related to the illegally wiretapped conversations</i>	
	<i>6.2.2 Increased transparency of the Special Public Prosecution in cases that are related to the illegally wiretapped conversations.</i>	
Progress	Situation in 2015 However due to the lack of transparency the public prosecutor is publically criticized for being less ready to initiate corruption investigations. There is a perception that a case initiated by the police ("Putsch") or by the opposition ("Bomb") is pursued more vigorously. CSOs cooperating on the 'Platform for the Fight against Corruption' have called for the public prosecution to commence investigations and prosecutions of the persons who authorized illegal phone-tapping.	Current situation Earlier in 2018 of conflict of interest in the Prosecutorial Council occurred when a member of the Council voted negatively on re appointment of the prosecutor who was leading investigation in the case where her husband is under an investigation for financial fraud in the banking sector. This and another accompanied conflict of interest case remained not solved due to the resignation of the SCPC members. The obstruction faced by the Special Prosecutor's Office (SPO) has reduced following the change in political environment and the dismissal of the former State Public Prosecutor.

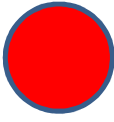
¹⁰ [http://www.mvr.gov.mk/Upload/Editor_Upload/%D0%A1%D0%9F-2018-2020-%D0%B7%D0%B0-%D1%81%D0%B0%D1%98%D1%82\(1\).pdf](http://www.mvr.gov.mk/Upload/Editor_Upload/%D0%A1%D0%9F-2018-2020-%D0%B7%D0%B0-%D1%81%D0%B0%D1%98%D1%82(1).pdf)

¹¹ <https://zjorm.org.mk/documents/etichki-kodeksi/>


¹² GRECO, (2018), FOURTH EVALUATION ROUND Corruption prevention in respect of members of parliament, judges and prosecutors: The Second Compliance Report of the Republic of Macedonia, p.15, <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/16808cc85f>


		<p>The legal status of the status of the SPO remained not solved. Expectations are that it will be integrated within the prosecutorial system on a permanent basis to complete the establishment of the legal accountability for the corruption related cases indicated in the wiretaped conversations.</p> <p>Accurate and timely presentation of information concerning the prosecution of corruption cases needs to be improved.</p>
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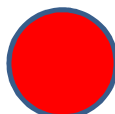
Recommendation	7.1 SEC should be provided with the authority and capacity to create and effectively maintain the voters list	
Indicators	<i>7.1.1 SEC increased capacity for effectively maintain the Voter List in Macedonia</i>	
	<i>7.1.2 Establishing a working group among different institution to revise the Voters' List</i>	
Progress no progress 	Situation in 2015 <p>Questions regarding the scope and accuracy of the Voter List in Macedonia have been discussed for many years, and in 2014 the public inter-institutional debate more strongly addressed the issue of who is competent to prepare an updated list of voters.</p> <p>Within the SEC a working group was established to revise the Voters' List in order to update it in relation to deceased persons, and citizens living abroad that hold valid passports.</p>	Current situation <p>There has been partial progress in this indicator.</p> <p>In accordance to the "Przino Agreement", amendments have been made to the Electoral Law in relation to the competencies of the election commission. There had been a considerable progress especially after the parliamentary elections in 2016 and the local elections in 2017, although some omissions had been noted in the voters' list.</p> <p>The electoral Code has been ammended three times in 2018¹³ but none of the ammendments addressed the issue of the voters list.</p>

Recommendation	7.2 A Code of Conduct for electoral officials should be adopted and implementation mechanisms established	
Indicators	<i>7.2.1 Establishing a Code of Conduct for electoral officials</i>	
Progress 	Situation in 2015 <p>The integrity of SEC members is not adequately ensured and there is limited information regarding SEC employees at the local level. There is only a code of conduct for election observers, not election officials.</p>	Current situation <p>Taking into account recent developments, there is an essencial need for establishing a Code of Conduct. As a concrete example of the lack of oversight one could take the scandal involving the State Election Commission (SEC) members who payed themselves bonuses for their increased workload for the scheduled but postponed early parliamentary elections in April 2016, as well as for the December parliamentary elections, which encountered harsh public reactions and led to their resignations in mid-December 2017. The new SEC was appointed in July 2018.</p>

¹³ Official Gazette no 35/18, Official Gazette no 39/18 and Official Gazette no 140 /18

Recommendation	8. The Assembly should increase the SAO's supervision and sanctioning mechanisms in order to strengthen its role and effectiveness in the supervision of public expenditure	
Indicators	<i>8.1 Improving SAO mechanisms and capacities for follow up activities</i>	
Progress 	Situation in 2015 The SAO has no mandate to sanction. According to ISSAI 10, the SAO must follow up on the activities that are undertaken by responsible persons in response to issues raised in audit reports.	Current situation The independence, mandate and organisation of the State Audit Office (SAO) are adequately provided in the State Audit Law (SAL). Although the SAO has developed the institutional framework to produce audit reports that meet international standards, the Parliament only considers the SAO's annual report and many of its recommendations are not implemented, reducing the impact of its audit work. The SAO has implemented new manuals for regularity audits, performance audits, IT audits and follow-up audits of implementation of its recommendations, all prepared in accordance with the International Standards for Supreme Audit Institutions (ISSAIs). ¹⁴

Recommendation	9. The Law on the Ombudsman needs to be amended in order to ensure full compliance with the Paris Principles relating to human rights bodies, notably to extend the Office's mandate to human rights promotion.	
Indicators	9.1 Amending the law on Ombudsman in order to compliance with the Paris Principles	
Progress 	Situation in 2015 The International Coordination Committee on National Institutions for the Promotion and Protection of Human Rights (ICC) have accredited the Ombudsman as being in partial compliance with the Paris Principles	Current situation The Law on the Ombudsman has been amended in accordance with the Paris Principle and to strengthen and expand the competence, functioning and independence of the institution that should provide full integrity in the performance of functions and the normative created preconditions for the status of a national human rights institution. The Assembly of R. Macedonia discussed about active establishment of specialized temporary inquiry commissions at the office of Ombudsman, in which the experts from the relevant fields and representatives of non-governmental organizations, would be obliged to participate.

Recommendation	10.1 SCPC should adopt an internal Code of Conduct and to establish effective mechanism for its implementation.	
Indicators	<i>10.1.1 Establishing a Code of Conduct for the SCPC</i>	
Progress 	Situation in 2015 There is no code of conduct, no gifts registry and the SCPC does not fulfil ethical standards.	Current situation The Public Revenue Office audit found irregularities in the work of the Anti corruption Commission, where its members unintentionally spent budget funds. Five members of the SCPC submitted resignation letters to the Assembly of the RM and the resignations come several days after the scandalous internal report issued by the commission, which shows that some of its members falsified travel orders in order to claim higher travel

¹⁴ Sigma, (2017), Monitoring report: the Principles of Public Administration of the Republic of Macedonia November 2017, p.119 <http://www.sigmaweb.org/publications/Monitoring-Report-2017-the-former-Yugoslav-Republic-of-Macedonia.pdf>

		expenses and unnecessarily expenditure of state budget funds.
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Recommendation	10.2 SCPC should ensure publishing of the case law and explanation of decisions and especially decisions related to political financing, conflict of interest and asset declarations	
Indicators	<i>10.2.1 Increased qualitative information in the annual report of the SCPC and level of transparency</i>	
	<i>10.3.2 Introducing measures for detail scrutiny of statements of interest and asset declarations</i>	
	<i>10.3.3 Increasing capacities of the SCPC</i>	
Progress	Situation in 2015 The information given in the Annual Reports since 2007 is often technical, for example when reporting on actions taken in cases of conflict of interests and asset declarations, statistics are presented without information of the profiles of persons investigated (government officials, or opposition representatives). The SCPC has practical difficulties in securing complete data and has to invest additional efforts and resources in order to realize its competencies concerning the monitoring and sanctioning of officials who have violated the law.	Current situation Even though the structure of the Annual report provides the response to the implementation of the SCPC competences, the following things have been noticed: reduction of the contents in the text regarding the details in comparison with the previous reports, not an equal approach in the presentation of the data and the structure of the annual report does not correspond to the structure of the annual program for work ¹⁵ . The practice so far indicates that SCPC does not use the given mandate to initiate and start a procedure for sanctioning the institutions which do not fulfill their obligations. SCPC does not have a practice to publish information on its web site about all session held by the commission, participation in training, workshops, meetings that have been held, etc., for which they have no legal obligation to do so. The registry is partially updated by the SCPC according to the available data provided by institutions and individuals. Moreover, the information is often excessively general in nature, or of limited relevance (updating the register of declarations and cross-checking data should go without saying) or clearly irrelevant, for instance requests for an opinion are counted as "cases". ¹⁶

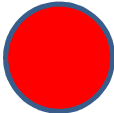
Recommendation	11. Political parties should agree to include regulations for selection of candidates by political parties.	
Indicators	<i>11.1 Amending regulation for selection of candidates by political parties</i>	
Progress	Situation in 2015 This issue is addressed in party statutes and selection of candidates is mainly controlled by the parties' central committees.	Current situation The EC Report for Macedonia 2018 emphasized that political parties also need to enhance their internal democratic processes, which could lead to more democratic political processes in the country. ¹⁷ <i>However, there is no progress in the party policies in this regard.</i>


¹⁵ MCMS, (2017) Third Quarterly report for the monitoring of the SCPC work
<https://www.mcms.mk/en/our-work/research-and-publications/list-of-research-and-publications/1939-sledenje-na-rabotata-na-dsk-kvartalen-izvestaj-br-3.html>

¹⁶ Greco, (2018), FOURTH EVALUATION ROUND Corruption prevention in respect of members of parliament, judges and prosecutors: The Second Compliance Report of the Republic of Macedonia, p.19, <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/16808cc85f>

¹⁷ European Commission, Report for Macedonia 2018, p.11, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-the-former-yugoslav-republic-of-macedonia-report.pdf>

Recommendation	12.1 Journalist associations should propose legal ammendment to strengthen ethical behavior and integrity of the media and journalists	
Indicators	<i>12.1.1 Amending the Law on the media</i>	
Progress 	Situation in 2015 The government advertising spending is directed only towards pro-government media, giving them a significant financial advantage.	Current situation In 2018, the Parliament addopted the Law for Amending the Law on Audio and Audiovisual Media Services ¹⁸ . Amendments to the Law on Audio and Audio-Visual Media Services were prepared in consultation with relevant stakeholders. The government made efforts to be more transparent and journalists are now granted access to information and documents free of charge ("Urgent Reform Priority").

Recommendation	12.2 The Government should amend the law on the media and to ensure that political advertisements will not be allowed in the public media service and will be regulated in the media with national licenses	
Indicators	<i>12.2.1 Amending the law on the media</i>	
Progress 	Situation in 2015 A further example of the lack of independence of the media is the fact that 34 media outlets donated to the governing party (VMRO-DPMNE) during the local elections in 2013.	Current situation The situation and the political climate for media improved in the second half of 2017. Through the amendment of several articles in the law, the Parliament of the Republic of Macedonia abolished the license fee, and the funding of MRT was supported with 0.5% of the budget, with 200 million denars for the last quarter. ¹⁹ The government adopted the measure from Plan 3-6-9 which refers to the abolishment of government advertisements of commercial broadcasters and print media, billboards, internet portals (excluding social media) and transfer of communication to citizens through the public broadcasting service. ²⁰

Recommendation	13. Government should enhance and make transparent procedures for policy consultation with CSO groups and to finance CSO activities subject to transparent and participatory processes free from undue influence.	
Indicators	<i>13.1 Increased transparency of the Government concerning procedures for policy consultation</i>	
Progress 	Situation in 2015 There are cases of the government manipulating CSOs to advance their interests.	Current situation In November 2017, the Decision for establishing the Council for cooperation between government and civil society was amended through inclusive consultations, as one of the main objectives of 2012-2017 Strategy for cooperation with civil society. This included cancelling the previous selection of Council members from civil society and launching a new public call with a view to a more transparent selection. The Unit for Cooperation with Non-Governmental Organizations of the General Secretariat is organizing consultative meetings with the civil society on the Draft Strategy of the Government of the Republic of

¹⁸ Official Gazette no 168/18

¹⁹ <http://vlada.mk/node/13598>

²⁰ <http://vlada.mk/node/13272>

		Macedonia for Cooperation with and Development of the Civil Sector, ²¹ with Action Plan 2018-2020. ²² One of the key measures in the Action Plan 2018-2020 is to improve the implementation of the Code of good practices for civil society participation in the policy making process. ²³ On the other hand, an analysis of the needs and possibilities for legal regulation of the procedure for drafting laws and consultations with stakeholders, as well as promotion of the possibilities for consultations with the stakeholders through the Single National Electronic Register (ENER) and stimulation for its use is envisaged.
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Recommendation	14. The Chambers of Commerce should adopt Sectoral Codes of Corporate Governance containing procedures for implementation of the codes of conduct and developing anti-corruption programs and policies for businesses.	
Indicators	<i>14.1. Number of initiatives from business sector for drafting Sectoral Codes of Corporate Governance</i>	
	<i>14.2 Adopting Sectoral Codes of Corporate Governance by the Chambers of Commerce</i>	
	<i>14.3 Number of activities related to anti-corruption progress implemented by the Chambers of Commerce</i>	
Progress	Situation in 2015 Integrity-related legal provisions are not implemented and there is a lack of sector wide ethics codes. There are no sector-wide codes of conduct. Anti-corruption is not on the agenda when large business associations and the chamber of commerce meet the government and there are no examples of business associations publicly calling on the government to fight corruption	Current situation The situation is the same as in 2016.

²¹ http://www.nvosorabotka.gov.mk/sites/default/files/dokumenti/PredlogStrategija2018-2020_11.4.2018.pdf

²² http://www.nvosorabotka.gov.mk/sites/default/files/dokumenti/Akciski_plan2018-2020_11.4.2018.pdf

²³ Action Plan 2018-2020, p.16.

II. PROGRESS ON INVESTIGATION, PROSECUTION AND SANCTIONING OF CORRUPTION OFFENCES

This section presents an analysis of official statistics on the investigation, prosecution and sanctioning of corruption offences over the past 5 years in the Republic of Macedonia²⁴.

1. Accessibility of statistics

There is no unified statistical data on the investigation, prosecution and sanctioning of corruption in Republic of Macedonia. Statistical data is not publicly available therefore TI Macedonia used the venue of the request for official information that have been sent to the police, state prosecutor's office and courts.

Official statistical data for the reported crime, investigations and convicted persons are also available at the official web site of the Statistical Department (<http://www.stat.gov.mk/>). However, there is no unified crime statistical data and existing different methodology in organizing and presenting the crime statistical data is the biggest challenge for the researchers that want to assess the state with the different types of crime.

The data entered in the table were obtained on the basis of official reports prepared by the State Statistical Office, the Ministry of Interior, the courts and the public prosecutor's offices. TI -Macedonia submitted a total of 52 requests for access to public information: 26 to the 26 Basic Courts, 22 to Public Prosecutors Offices and 4 to the following institutions: The State Public Prosecution Office, the Public Prosecutor's Office for Organized Crime and Corruption, the Ministry of Internal Affairs (MOI) and the Agency for Management confiscated property. Only half responded to the requests and in total 22 answers were received from the Basic Courts and 4 from the Public Prosecutor's Offices, the Ministry of Interior and the Agency for Management of Confiscated Property. Given that there was a difference in the data received in the first row of the table below the data from the MOI obtained with a request for free access to information were marked with green, then the data from the courts and public prosecution (obtained with a request for free access) marked with black, and the State Statistical Office annual reports of perpetrators of crimes in 2013, 2014, 2015, 2016, 2017 marked with blue.

2. Comprehensiveness of statistics

Statistical department presents statistical data from all institutions responsible and relevant for collecting such the data. In the Macedonian system of crime statistics, the reported crime is collected by the law enforcement agencies (MOI, Customs Office, Financial Police); the data on indictments/accusations are collected by the Public Prosecutors Offices, but individual PPO's do not report or anyhow present their statistics. The only channel for official submission of the statistical data from all levels in the prosecution is the State Public Prosecution Office. Statistical data on convictions are submitted to the statistical office on yearly basis by the courts.

However, all above mentioned relevant institutions use different methodology and different nomenclatures for the crime statistics. As the statistical data are not collected on the basis of the same methodology it is not possible to follow a case through the institutions responsible for the specific parts of the proceedings. Numbers are often recorded and counted by different institutions and

²⁴ The classification of data is based on UNODC's International Classification of Crime for Statistical Purposes (ICCS) http://www.unodc.org/documents/data-and-analysis/statistics/crime/ICCS/ICCS_final-2015-March12_FINAL.pdf and The European Commission's Expert Group on Policy Needs for Data on Crime <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=16410&no=3>

jurisdictions in different ways and at different stages of the respective criminal justice processes (e.g. offences reported, ongoing investigations, completed investigations, charges, suspects, victims and incidents, cases, conviction, sentences etc).

For example, in the police the statistical data is based on criminal offences (articles from the Criminal Code) and only after the case has been referred to the PPO and after completing the police investigation and submitting the case to the prosecutors. Ongoing investigations are not presented in the annual statistics. Also, in the police the data entered presents the number of reported criminal offences, where number of the perpetrators may be one or more. In the PPO the statistical data are based on indictments, but not as a case but the data are presented on the basis of indicted persons.

This immediately creates difference between the official statistical data in the police and the prosecution. It also creates the difficulty to follow a case sent from the police in the prosecutorial system. It is possible to obtain separate statistical data of how many cases are in the pre investigative phase or how many investigations are completed, but it is difficult to connect the two statistical data from the same year, and to say out of the number of reported cases in year x this number have been completed.

The courts also collect statistical data but in this case the data is based on the person and it is often that due to the length of the court proceedings the same cases are recorded through few years. This may create a non realistic picture about the number of the court cases.

In short, it is very difficult, almost not possible to follow or to track a case through the institutions.

Corruption offences are not specifically classified. There is a list of 19 corruption related criminal offences that can be found in different chapters of the criminal law. Also in the criminal statistics there is no clear data on corruption related offences.

The statistics on bribery are disaggregated by type of offence as passive and active bribery are separate criminal offences in the criminal law. Also the perpetrator's are separately presented if the offence is committed by a foreigner.

In the statistical department data are collected on yearly basis. However even though there have been suggestions coming from the professionals and researchers to enable an effective follow up on a case through the institutions and to change the methodology and nomenclatures for the crime statistics in order to provide more data for typology analysis, this is still only an ongoing discussion.

Offence	Year	Bribery					Embezzlement		Abuse of functions	Trading in influence	Illicit enrichment	Money laundering
		active	Passive	national officials	foreign officials	Private	public	private				
Number of opened investigations	2013	5	13				7		188			14
	2014	13 4/11	11	13			17 12 18		283 138	3 1		6 -
	2015	6 5 7	6 5 6	6			12 10 11		373 102 115	- 2		7 7 5
	2016	3 7	10 6	3	1		7 16		263 507	2		3 4
	2017	3	5				5		498			3
Number of formal charges	2013	5	10				12		189			20
	2014	6 7	13 10				18 9		215 291			3/24 p 27
	2015	2 3	5 4				8 11		160 180			8/59 p 15
	2016	4	5				5		102			1
	2017	1	1				2		84			3
Number of final convictions	2013	5	9				9		92			20
	2014	2 7	3 10	8			10 9		81 193	2		6 27
	2015	4 4	4 15	7			8		56 180	2		15
	2016	5	14				11		119			5
	2017	4	5				4		94			3
Number of final acquittals	2013	-	1				3		97			-
	2014	-	2 -				2 -		45 98			-
	2015	-	2 2				1 2		25 68			-
	2016	-	2				2		51			1
	2017	1	2				-		32			-
Number of prison sentences through final convictions	2013	3	7				4		22			15
	2014	-2	2 6		1		/ 4		8 71			2 6
	2015	2 -	1 9	1		1	3 4		14 30	1		15
	2016	1	4				-		15			-
	2017	-	1				1		4			3

Green color data - data received from the Ministry for Internal Affairs upon request for access to information of public character

Black color data- data received from the Courts and the Public Prosecutor Office upon request for access to information of public character

Blue color data- Data obtained from the official annual reports on Perpetrators of Criminal Offences statistics published by the State Statistical Office

ANALYSIS

1. In general, the number of investigations, charges and convictions for corruption offences have decreased over time in the past five years.

According to the official statistical data:

T-01: Reported adult perpetrators by types of criminal offences					
	2013	2014	2015	2016	2017
Crime againsts public finances, payment operations and the economy	510	310	344	419	376
Crimes against official duty	927	566	664	613	593

T-08: Accused (Indictments) adult perpetrators by types of criminal offences					
	2013	2014	2015	2016	2017
Crime againsts public finances, payment operations and the economy	336	396	331	298	209
Crimes against official duty	247	355	279	187	152

Chapter from the Criminal Code (Convicted)	2013	2014	2015	2016	2017
Crimes against public finances, payment operations and the economy	255	277	277	261	177
Crimes against official duty	137	243	201	113	96

The numbers have decreased almost for half and the main reason is inefficiency of the institutions, mainly the Public Prosecutors office. According to the new Criminal Procedure Code the Public Prosecution office is responsible for the pre investigation and investigation, and the police is to be coordinated and officially guided through investigations by the basic PPO under which jurisdiction is the case.

2) The most common corruption related criminal offences are the misuse of the official duty, tax evasion and the negligent performance of duty. There is no difference between the number of bribery cases, both active and passive bribery, and the number of embezzlement cases. However, both figures are very low considering the problem with corruption in the society. The number of criminal offences classified as corruption have increased due to introduction of the new incriminations in the criminal law such as the inappropriate enrichment.

3. The number of convicted private individuals is bigger than the number of convicted public officials.

In the Macedonian legal system there is also criminal liability of the legal persons. Yes, there have been convictions over the legal persons but they are not presented in the statistical department crime statistics. The only responsible for keeping the record on convictions against legal persons is the Central registry of the companies.

Table: Number of convicted perpetrators for specific criminal offences in the Chapter 25 Crimes against public finances, payment operations and the economy

	2017	2016	2015	2014	2013
Total	177	261	277	277	255
Counterfeiting money	17	31	49	40	52
Money laundering and other income from crimes	3	4	15	27	20
Processing and use of a false payment card	8	1	1	2	4
Illegal trade	9	4	25	14	7
Customs fraud	2	7	7	23	14
Smuggling	6	20	36	5	24
Tax evasion	39	85	104	112	3
Violation of industrial property rights and unauthorized use of another's company	6	17	12	5	90
Other	87	92	28	19	10

Number of convicted perpetrators for specific criminal offences in the Chapter 30

Crimes against official duty

Crimes against official duty	2017	2016	2015	2014	2013
Total	96	113	201	243	137
Negligent performance of duty	18	8	34	9	12
Violation of guarding the state border	1	0		1	
Misuse of official position and authority	62	68	112	193	92
Embezzlement in the service	4	9	14	9	4
Fraud in the service				1	
Unauthorized use				2	
Receiving a bribe	3	12	13	10	9

Giving a bribe	3	5	4	7	5
Falsifying an official document	2	7	13	9	3
Other	3	4	4	7	

4. As the numbers of report, indictments and convictions is decreasing over the years there is also a big decrease between the numbers of of report, indictments and convictions in one calendar year.

It has been a regular situation, and also based on the character of the statistical data, wheres not all reported casses will end with indictment and not all indictments will have the final full fledged conviction.

With the corruption relate casses it is more often that the reported crimes are pending in the prosecution. This situation is reflecting the overall capacity of the prosecutorial offices where the number of the prosecutors is not sufficient to respond to the needs.

III. RECOMMENDATIONS

- 1. To increase the number of the prosecutors in the all levels of the prosecutorial office*
- 2. To ensure effective functioning of the investigative centres in the Public prosecutorial office for the fight against organized crime corruption and money laundering*
- 3. To provide training for the judges and prosecutors for the investigations of corruption related offences and financial crime*
- 4. To review the statistical data methodology and to make it possible for tracking one case through the institutions.*



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