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"GOVERNMENT LTD"

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WHERE ARE WE IN OCTOBER 2010?

In October 2010, the Republic of Macedonia has still not resolved the name dispute with the Republic of Greece, while on 1 July 2010 Belgium took the EU Presidency. The Belgian Presidency determined five priorities[1], the last of which concerns external relations and includes EU enlargement. Understandably, this priority's focus is the establishment of the European External Action Service (hereinafter: EEAS)[2], which probably means that the Belgian Presidency will have time only to address the inevitable, i.e., the publication of progress reports for Western Balkans and Turkey, accompanied with the Enlargement Strategy of the European Commission (hereinafter: EC) in November.

[1] For more details see the Sixth Quarterly Accession Watch Report "About the Less, Less Positive Things", July 2010, pg. 7.

[2] The EEAS is to be managed by the Baroness Catherine Ashton, who presented her three priorities: 1) the establishment of the institute; 2) the new Neighborhood Policy; and 3) the development of Strategic Partnerships.

This reporting period includes several developments of essential importance for Macedonia's EU agenda. Notably, the labelling of citizens as "patriots" and "traitors" continued, the opposition returned to the coordination meetings at the Parliament, the new Parliament Rulebook was adopted, the Inquiry Committee for the clashes from 1 July was established, the lustration process commenced, the Government and the opposition continued their mutual accusations that resulted in the spin on Macedonia's missed chance from 1995, the High Level Committee on Public Administration Reform held its first meeting, the draft-strategy on public administration reform 2011-2015 was developed, the media uprising calmed, etc.

What did not, but should have happened was the name dispute resolution and active diplomacy efforts aimed to secure the date to open accession negotiations with the EU in December and NATO membership in November. The document titled "*Review to the Accession Partnership*" (hereinafter: Review 2010)[3] which was submitted to the Government on 5 February 2010 and contains the indicators against which the EC will monitor the progress in 2010, did not make it to the Parliament agenda and was not discussed by the Committee on European Issues and the National Council for European Integration at the Parliament.

The present Quarterly Accession Watch Report will analyse Macedonia's progress against the above given developments.

1. PIE IN THE SKY

By the end of August, President Gorge Ivanov declared to have met the Member of the European Parliament, Doris Pack, in Srebrenica and that she had provided him information indicating that in 1995 Macedonia turned down the offer from the International Community to start membership negotiations for NATO and EU under the temporary name reference. For that, Doris Pack threatened with indictment for defamation, claiming that she had never met Ivanov and provided him such information. Instead of withdrawing the statement, President Ivanov shifted the burden of guilt to the journalists. Prime Minister Gruevski, Minister Milososki and eminent representatives from VMRO-DPMNE immediately backed-up his statement and continued to spin the story, and even resorted to media advertising. On this issue, statements were given by official Brussels and the Ambassador Erwan Fouere, who unambiguously stated that: *"Those who thought that Macedonia had missed a chance for EU (and NATO) membership in 1990s have a vivid imagination"*[4]. Several days later, the rapporteur for Macedonia in the European Parliament, Zoran Thaler, joined the statements and indicated that *"It is of great importance for Macedonia, the Government and the Parliament to have credibility before its partners in Europe and not to deal with irrational issues. I understand the political game, but you do not want to look absurd"*[5].

Government's attempt to review the recent history of the Republic of Macedonia is nothing else but an effort to distract the public's attention from the actual problems and challenges ahead of us and an attempt to avoid taking responsibility for the failed European integration, which

[3] For more details on the document see the Fifth Quarterly Accession Watch Report "Who Needs a Parliament?", April 2010, pg. 9.

[4] Statement of the EU Ambassador, Erwan Fouere from 13 September 2010.

[5] Statement of Zoran Thaler from 17 September 2010.

will become obvious with the next EC Progress Report. Following is a reminder on the actual developments.

1.1. NATO Enlargement

As regards NATO membership in the period leading to 1995, it must be stressed that NATO enlargement did not imply extending invitations for membership, as is the current practice, but was rather a result of political decisions, while the term "membership negotiations" was not in use until 1999. On 23 December 1993, Macedonia signed the framework document for accessing the Partnership for Peace Program. The same year, Macedonia accessed the North Atlantic Cooperation Council, which was later renamed Euro-Atlantic Council. 1999 was the year of the first Membership Action Plans and Macedonia took part in the process. This means that in 1995 it was not possible to get a direct invitation for membership, given the then current political and security context in Central, East and Southeast Europe. On the other hand, obvious were the events in the former Yugoslavia from the same period, as well as the general political, economic and security context on the Balkan. Therefore, in 1995 Macedonia obtained the only thing possible: invitation for membership in the Partnership for Peace Program.

The first post-communist countries that formally initiated negotiations with the EU included the Czech Republic, Poland, Hungary, Estonia and Slovenia (March 1998), i.e., three years later than the claims made by the ruling VMRO-DPMNE. The absurdity of such claims is supported by the fact that in 1995 Sweden, Finland and Austria - developed, rich, politically stable and countries with democratic traditions - became members of the EU.

1.2. The Bumpy Road to Candidate-Country Status

Macedonia passed all development stages of EU relations, starting with the Cooperation Agreement, followed by the Stabilization and Association Agreement, the submission of the EU membership application, and obtaining the candidate-country status. Accession negotiations cannot be initiated prior to the EC granting the green light as regards the fulfilment of the Copenhagen Political Criteria. The so-called screening process or the screening of the legislation became formal part of the enlargement policy at the European Conference in London, 12 March 1998. In 1995, countries from Central and Eastern Europe (with the exception of Slovenia) had already signed the so-called European Agreements, the first institutional stage (or the contracting instrument) for developing relations with the European Community, as called in that time. The Commission prepared the White Paper on the preparation of the associated countries from Central and Eastern Europe, which *de facto* applies the regional approach to enlargement. By 1995, most of Central and Eastern European countries submitted EU membership applications.

In 1995, Macedonia did not have established diplomatic relations with the European Community[6] due to the name dispute with Greece. The opportunity to establish such diplomatic relations was opened only after the signing of the Interim Accord between Macedonia and Greece in September 1995.

From its onset, Macedonia's road to EU was abundant with obstacles. The irrational problem with the constitutional name deferred also the positive opinion given by the Badenter Commission. Greece's

[6] Diplomatic relations with the European Community were established on 22 December 1995.

negative position was reflected in the Lisbon Declaration from June 1992, which in combination with the double control system (non-acceptance of export manifestos for commodities of Macedonian origin due to the name Macedonia and Macedonia's decision to respect the UN sanctions for the Federal Republic of Yugoslavia) and the Greek embargo additionally worsened the situation. In an attempt to minimize the negative implications on the country's internal development, as well as its international position, Macedonia sent its first diplomatic representative[7] to Brussels in early October 1992. In its invention of practical modalities that would enable export of Macedonian commodities in the European Community, Macedonia *de facto* derogated the Lisbon Declaration. That period saw the approval of 100 million eku aimed to mitigate the deficit in oil and medicines, while Greece was ordered to withdraw its embargo on 1 January 1993 and on 8 April 1993 Macedonia became member of the United Nations.

In 1993, in Essen – the European Commission was present with a non-paper document by means of which Macedonia requested: a) recognition of the Republic of Macedonia by the European Community; b) establishment of diplomatic relations between the Republic of Macedonia and the European Community; and c) opening of negotiations to sign the European Agreement following the examples of several countries from Central and Eastern Europe[8], but these requirements were deemed irrational.

On 16 December 1993, six EC member-states: the United Kingdom, France, Germany, Italy, the Netherlands and Denmark – in a coordinated approach, on the same day and at the same hour - declared that they have decided to recognize the Republic of Macedonia.

However, in February 1994, Greece introduced the full embargo. This was the reason for the Commission to initiate a procedure against Greece in front of the European Court of Justice, which was later withdrawn. Throughout this period there was a continuous dialogue on high political, but also expert level between the representatives from Macedonia and from the European Community, but at no time were there talks for more serious institutional accession due to the above given objective obstacles.

The Interim Agreement with Greece was signed in September 1995 and Macedonia became member of the Council of Europe and OSCE. Immediately afterwards, Macedonia established diplomatic relations with the European Community, was offered to sign the Cooperation Agreement (two years after the non-paper) and became a party to NATO's Partnership for Peace. On 21 December 1995, the negotiations for the signing of the Cooperation Agreement on trade and trading issues between the Republic of Macedonia and the European Community and the Transportation Agreement started. Both documents were signed as late as 29 April 1997, following the adoption of the Conclusions on the "*Application of the principle of conditionality for developing a coherent EU strategy for the countries from the region"*, which provided details on the application of the regional approach for SEE countries. In September 1997, the Government of the Republic of Macedonia submitted the document titled "*Basics of the strategy to obtain the status of associate country in the European Community*".

After the regional approach and the creation of SEE Stability Pact, in June 1999 the EU launched the Stabilization and Association Process and for the first time in history the EU acknowledged the mistakes it made as concerns the action for Western Balkans, although nothing was said on the perspectives for EU membership. The EU membership

[7] Jovan Tegovski.

[8] Hungary, Poland, and Czechoslovakia – 16 December 1991, Romania – 1 February 1993, Bulgaria – 8 March 1993.

for Western Balkans became obvious after the European Summit in Thessaloniki in June 2003, when Greece had the EU Presidency and thereby the term Thessaloniki Agenda.

1.3. Why delude citizens?

The above given clearly indicates that the attacks from the ruling VMRO-DPMNE (read: the Government) stating that the government of that time (read SDSM) allegedly refused EU membership in 1995 are ungrounded and exclusively serve the purpose of deluding the public. Tragic is the fact that the Government for the benefit of political party interest and daily politic objectives attempts to undermine and erase from the collective memory the country's success, continuously invalidates the achievements made, and blocks the European integration process. Thus, the pursuit of such irrational policies and the permanent marketing of lies that – directly or indirectly – involve the International Community harms the position of the Republic of Macedonia on the international scene tumbles down its viewpoints and the previously acquired international reputation.

In the heat of the debate and after the relevant factors (Erwan Fouere, Doric Pack, Zoran Thaler) on several occasions reiterated in the public that it was impossible for Macedonia to become EU member in 1995, the ruling VMRO-DPMNE altered its statement by explaining that the Government at that time did not even think of EU and NATO and continued with the same resilience to rent media space and publish dates when individual countries from Central and Eastern Europe submitted their membership applications. To avoid any dilemmas on the concept of the opposition at that time – the current ruling VMRO-DPMNE – let us reminiscence on the events from that period. Notably, the Europe-oriented VMRO-DPMNE organized demonstrations and demanded death and gas chambers for the Albanians, cutting of eagle's pawns, protested against the provision of higher education in their mother tongue, and later against the decentralization process, printed and distributed geographic maps of Great Macedonia, etc. Distressing is the fact that the organizers and leaders of these protests (with utter anti-EU and anti-NATO contents) included most of current ministers, MPs and Ambassadors of the current government, such as for example Antonio Milososki, Nikola Todorov, Vlatko Gorcev, Ljubisa Georgievski and many other renown activists and former officials from the ruling VMRO-DPMNE[9].

2. WHO IS SAFEGUARDING THE CONSTITUTIONAL COURT?

MCET supports constructive debates that would result in proposals and recommendations aimed to improve the operation of institutions and create good democratic practices, which is also given in our mission[10]. This certainly includes debates on the position of the Constitutional Court in the political system of the Republic of Macedonia.

The recent developments related to the Constitutional Court, as already addressed in our fourth, fifth and sixth quarterly report[11] compel us to raise the question "Where were our high profile functionaries when democracy was thought?" Let us remind them!

9 http://sphotos.ak.fbcdn.net/hphotos-ak-ash2/hs182.ash2/44515_437971397880_26898897880_5001109_4869487_n.jpg

10 The Macedonian Centre for European Training supports the Republic of Macedonia's accession in the European Union by professional training, consultancy, regional cooperation, lobbying and public policy making.

11 The reports are available at www.mcet.org.mk.

Under the power-sharing system, the Constitutional Court is an essential authority, common for the continental democratic political systems. Constitutionalism as a democratic benefit is the consequence of an old wisdom that even when there is democracy, the absolute power is tempted to trick and relativize the legal state. Common is the belief that it is necessary for the rule to be checked and balanced by an independent judicial power that would defend the paramount principle of any legal state. USA is considered to be the cradle of constitutionalism, where by determining the constitutionality and legality of legal acts supervision is exercised over the executive and legislative authorities. Addressing the politically triggered activities of executive and legislative authorities, constitutional courts play the role of "negative legislators". This provides for revival of power-sharing and guarantees not only shared, by limited power. Thus, in the constitutional law theory, constitutional courts are considered authorities *sui generis*, which do not fall under any power. Jurisdiction of constitutional courts is not a delegated competence and therefore they are not accountable to the legislators. The constitutional court is the pillar and guardian of democracy.

2.1. The role of the Constitutional Court in the Macedonian political system

The position, composition, jurisdiction and legal action of the Constitutional Court of the Republic of Macedonia are stipulated under Articles 108-113 from the Constitution of the Republic of Macedonia. The Constitutional Court is competent to defend rights and freedoms of citizens (*"to protect the liberties and rights of people and citizens related to the freedom of belief, consciousness, thought and public expression, political association and action and the prohibition of discrimination against citizens on the grounds of gender, race, religious, national, social or political affiliation")* and to ensure compliance of legal acts with the Constitution[12]. According to the Constitution, the decisions taken by the Constitutional Court are final and executive.

The manner of operation and procedure in front of the Constitutional Court are not stipulated by a separate law, but by the Rulebook adopted by the Constitutional Court. The intention of the Constitution's creators was to provide the highest possible autonomy and full independence of the Constitutional Court from the legislative power, as the Constitutional Court is considered to be the power centre that does not draw its legitimacy from elections, but from the Constitution. In that sense, laws hold democratic legitimacy only when adopted in compliance with the Constitution, regardless of the majority that enacted them. Such positioning in the political system is not a Macedonian invention, but was taken from the experiences of European consolidated democracies. When Macedonia entered pluralism and democracy, it did not anticipate an emancipating and limiting role for the Constitutional Court in relation to other powers. As Macedonia lacked any plural tradition and parliamentary democracy, the position which the creators of the Constitution intended for the Constitutional Court was more powerful

[12] The Constitutional Court decides on the alignment of laws with the Constitution, the alignment of other regulations and collective agreements with the Constitution and the laws, decides on conflict of jurisdiction between the holders of legislative, executive and judiciary power, decides on the conflict of jurisdiction between the bodies of the Republic and the local self-government units, decides on the responsibility of the President of the Republic, decides on the constitutionality of programs and statutes of the political parties and citizens' associations, decides on other issues as stipulated in the Constitution.

and independent. At times of political culture deficit, no trust in the judiciary and fruitless political dialogue, the Constitutional Court is one of the pillars of the rule of law, which was demonstrated by the fact that large number of procedures on determining the constitutionality is motioned by citizens. This also proves that the Constitutional Court is one of the institutions that upholds the public's trust and is seen as the guardian of citizens from the chaotic rule of law, so common nowadays.

2.2. The Constitutional Court and the Government

In the recent years, a series of decisions taken by the Constitutional Court encountered open resistance and criticism on behalf of VMRO-DPMNE and its high officials from the Government and the Parliament. The common denominators of all attacks were the alleged ideological and political motives behind the decisions taken. Many politicians and high officials (un)intentionally demonstrated their essential ignorance of the political system. The Prime Minister, Nikola Gruevski, was most fierce in his attacks of the court, labelling it as "*the extended hand of the opposition*", "*political soldiers*", and like, and even dared to address the President of the Constitutional Court with a letter concerning the Decision of the Court to cancel the external assessment, which can be interpreted as a form of open pressure and violation of the power-sharing principle. The war against the Constitutional Court peaked with the violation of democratic principles as exercised by the request made by the President of the Parliament, Trajko Veljanovski, addressed to the President of the Constitutional Court, Trendafil Ivanovski, to attend the session for MP questions and account for its work. Veljanovski forwarded the request on the initiative raised by the MP from VMRO-DPMNE, Blagorodna Dulik[13], who planned to raise question on the court's work and jurisdiction as part of that session. Ivanovski replied with a letter where he indicated that such requests constitute a precedent in the history of constitutional judiciary.

Obvious exercise of pressure on constitutional judges were also the protests organized by groups of citizens, supported by the government, against the decisions taken by the Constitutional Court, as well as the regular portions of labelling in the government friendly media, the most prominent being the daily *Vecer* which defamed constitutional judges with inappropriate wording. Such practices were already noted in our previous quarterly accession watch reports, and were condemned in EC Progress Reports for 2008 and 2009. It is highly likely that this year's progress report will contain more negative comments on this issue. Disqualification of judges was just an introduction to the debate for the adoption of a Law on the Constitutional Court, preceded by amendments to the Constitution, and initiated by the "mysterious" Institute "Dimitrija Cupovski". Similar debates were organized in the past, and are legitimate.

The last example, which the EU Ambassador Fouere called "*undermining the rule of law*" is the most recent, and by far the most unscrupulous defamation of the Constitutional Court triggered by the events related to the lustration of the President of the Constitutional Court, Trendafil Ivanovski. Notably, the Commission for Fact Verification determined that he cooperated with the intelligence services in the times of single-mindedness. Prime Minister Gruevski used the said developments as evidence in support of the thesis that the court made illegitimate and political decisions, while Ivanovski, who decided

[13] To make the irony bigger, Blagorodna Dulik was a former judge in the Supreme Court of the Republic of Macedonia.

to defend himself on an open meeting, characterized them "*not as lustration, but emasculation of the free mind*" and *"skilfully construed attack and pursuit, political settlement and attempt to discredit"* the holder of an office at an institution that does not succumb to and does not act on political instructions.

The present considerations do not aim to defend Ivanovski, but to indicate certain features of the political environment accompanying the process. First, under the assumption that Ivanovski was a "whistle-blower", i.e., that he does not have the right to hold public office does not justify anyone's attempt to contest the legitimacy of the Constitutional Court. Second, analysing the event in the context of the years-long discretisation of the Constitutional Court by the governance, the public must question whether the fact that he is the first and the only lustrated official is the logical conclusion of the lustration process. Third, does the de-legitimization of the Constitutional Court lead to constitutional changes that would result in greater control over this power centre. If the Constitutional Court is the guardian of democracy, who will safeguard the Constitutional Court?

2.3. Commenting decisions – matter of political (non)culture?

Expert public should be encouraged to debate the manners to improve the operation and execution of decisions taken by the Constitutional Court. When the governance decides to comment decisions taken by the Constitutional Court, it actually degrades the legal state and the principles of the rule of law. According to the Constitution, the executive authorities execute the decisions of the Constitutional Court, and the minimum precondition under a democratic rule is that the decisions are not commented. Initiating debates on the change of the Constitutional Court's position at times of unscrupulous attacks against it makes the public question the (dis)honest intentions of those that initiated such debates and on the level of political culture in the country. By exercising pressure on the Constitutional Court, the governance is stepping away from the institutional order and legal state, while it creates an illusion for continuous respect of the same. The Constitutional Court is definitely not the place to look for wrongdoers of failed policies, as in most cases, the court acts on motions raised by those affected by the policies. Hence the question: has the Constitutional Court inflicted the anger of the Government with the trust of citizens it enjoys?

2.4. What is the "sin" of the Constitutional Court?

Constitutional courts' decisions concern legal acts that articulate particular political will and thus the possibility for them to be in conflict with certain interests. Political actors must not forget that constitutionality is neither a political nor an ideological category. Respect for and execution of decisions taken by the Constitutional Court is a *conditio sine qua non* for the rule of law and for the creation of stable political climate. Different political systems regulate the selection of judges and jurisdiction of constitutional courts in different manners. Having in mind that there are no ideal systems and that almost everywhere around the world constitutional courts are faced with certain crisis of legitimacy, any expert debate on improving the position of the Constitutional Court is welcomed. The atmosphere under which the Constitutional Court is attacked should certainly be condemned, as well as the fact that most of them come directly from

the Government and the Prime Minister. In a situation when a large number of legislative acts in the Republic of Macedonia are adopted without broad public debate and in a matter of minutes, one can only assume that the legislator has made certain shortcomings and gaps as concerns their constitutionality.

Instead of declaring the Constitutional Court "state enemy", the executive power should pay greater attention to its policies turned laws to be in compliance with the Constitution. Fact is that citizens motioned most of the initiatives in front of the Constitutional Court, which is indicative of the trust enjoyed by the court as the guardian of the rights and liberties against the arbitrary actions of state authorities and as the check-and-balance of executive and legislative authorities, which is ultimately a key precondition for power-sharing.

2.5. What kind of Constitutional Court do we want?

After 20 years of transition, Macedonia has not overcome the teething troubles of democracy. The unsatisfactory situation in the field of human rights, rule of law and legal state, the politicised administration and the inefficient economy affect the citizens' trust in the institutions. In this situation, the state must take extra efforts for institutional capacity building, where needed, and capacity strengthening, where they exist. The rivalry between the executive power and the Constitutional Court is a textbook example of additional entanglement of already complicated political relations in the country, in a situation when the government is openly demonstrating totalitarian ambitions. This undermines the basic tenants of the rule of law and thereby deepens the mistrust in the main political actors.

Therefore, all forms of pressure over the Constitutional Court and attempts to delegitimize it must immediately stop. The debate on the court's position must be guided towards finding ways to strengthen the position of the Constitutional Court, in particular as concerns the execution of its decisions and proactive protection of citizens' rights and liberties[14]. Consideration should be made to adopt the Law on Execution of Constitutional Court Decisions, for the purpose of strengthening the rule of law, and thereby the democracy.

3. TIME FOR THE BILL

The previous Quarterly Accession Watch Reports addressed the Review 2010, a document that contains the indicators against which the EC will monitor the progress made by Macedonia in its November Progress Report, as presented to the Government on 5 February 2010[15]. Given the document's importance, we decided to publish this document as Annex 1 to the Fifth Quarterly Accession Watch Report.

As part of our Sixth Quarterly Accession Watch Report, we stated that the Government has three months to successfully implement the indicators set in the Review 2010 by October, which is the cut-off date for the 2010 Progress Report. In that, we provided a series of recommendations for the Government to successfully complete the process by November. It's time to account for the work done. However, this accountability should be a true one, and should not resemble the one advertised by the Government and broadcasted on MRTV (Public

[14] Article 110, line 3 from the Constitution of the Republic of Macedonia.

[15] See Fifth Quarterly Accession Watch Report "Who Needs a Parliament?", April 2010, pg. 9.

Service Broadcaster), as the performance (or the achievement, as the Government likes to say) will be determined by the European Commission. Following is the overview of the Government's achievements (or failures), while the detailed analysis of (non)implemented indicators from the Review 2010 is given in Part II – Analysis.

3.1. What could have been done

The Government did not forward this important document to all line ministries and other public institutions that are expected to deliver results by October, including the Parliament, and thereby the Committee on European Issues, the Committee on Inter-Ethnic Relations and the National Council for European Integration (three very important bodies in terms of demonstrating political dialogue) failed to adopt any conclusions that they might submit to the Government.

The Parliament established the Inquiry Committee tasked to investigate the clashes in the Parliament from 1 July, but truthful to the principle "water under the bridge", the Inquiry Committee started its operation, but is still far from the finish line. Of course, the political parties in the Parliament accused each other for this standstill. Unfortunately, it seems that this Inquiry Committee will be yet another replay of the previous Inquiry Committees – void of conclusions and wrongdoers!

The Parliament did not review its position as regards the State Audit Office (hereinafter: SAO). A short debate was organized on the occasion of the adoption of the SAO's Annual Report for 2009, when the opposition accused that SAO lacked criticism for the government, while the ruling majority defended itself with arguments that SAO findings were much better compared to those adopted at the time of rule of the previous government. Unfortunately, the discussion was not accompanied with adoption of conclusions and recommendations for the Government, and no request was made for their implementation within a given deadline.

The Committee on Interethnic Relations at the Parliament of the Republic of Macedonia held meetings, but the single disputable issues that were included on the agenda were the "Skender Beg" square and 2011 Census. Again, no conclusions were adopted. Nevertheless, contrary to the past practices when the Committee did not hold meetings, the organization of any meeting is considered major improvement.

Although the Stabilization and Association Council stated that the political parties did not submit their financial reports for 2009, the Parliament did not request – at least the political parties represented therein – to submit their financial reports, be it late. This speaks of the capacity of political parties, but also indicates that laws in Macedonia are not equally applicable for all.

In the previous Quarterly Accession Watch Report we proposed the Parliament to establish an Inquiry Committee to supervise the enforcement of the Law on Civil Servants (or to task the Parliamentary Committee for Election and Appointment Issues with it) as regards the transformation of temporary employments into permanent. Unfortunately, this did not happen, although the problem was reiterated by the Stabilization and Association Council. More details on the temporary employments in the administration are provided in Part II – Analysis.

Deputy Prime Minister responsible for European Integration, Vasko Naumovski, did not account to the MPs on the deliverables from the Review 2010. Except for the monthly briefs (still published only in English language), the Secretariat for European Affairs (hereinafter:

SEA) failed to design a manner to inform the Members of Parliament, let alone the broad public, on the progress made in terms of the European integration, which is contrary to the indicators for involvement of stakeholders, as defined in the Review 2010 and noted by the Stabilization and Association Council.

3.2. What was done?

Under conditions when the International Community continuously reminds us that the solution to the name dispute with the Republic of Macedonia is essential for obtaining the date to start accession negotiations and for obtaining the invitation for NATO membership, but also when after four years of pursuing futile policy, one expects the Government of the Republic of Macedonia to understand that "all is fair in politics" (actually, this resulted in the saying "might over right"), sit on the negotiation table and finally demonstrate leadership, the opposite happened.

The Government continues to delay the solution. The fact that the mediator Nimitz did not put forward any proposals, despite the previous announcements from the Government, means that he did not have anything to offer, as in reality nothing has changed. Prime Minister Gruevski publicly stated that meetings with the Greek Prime Minister Papandreou were reduced to empty talks, as the Greek side continues to insist on the red lines. Occasionally, the lawsuit in front of the International Court of Justice was mentioned, as well as the fact that its resolution in our favour would strengthen the Macedonian negotiation position[16]. The only problem with this strategy is the fact that it does not take into account the time factor.

In the reporting period, the Government rushed into a diplomatic campaign requesting date for the start of accession negotiations and invitation for NATO membership under the temporary reference FYROM. This confused the international, but also the domestic public. Such tactics are absurd, especially given that *"until recently, VMRO-DPMNE and Gruevski's Government fiercely attacked SDMS for accepting the temporary reference and thereby inflicting irreparable damage to the country, but are now globe-tottering and require EU and NATO membership under the same temporary reference* "[17]. Contrary to usual practices from the past, it is not the Prime Minister Gruevski who stands in the "forefronts" of the Government's new mission, but rather the Minister of Foreign Affairs, Milososki and the Deputy Prime Minister responsible for European Integration, Vasko Naumovski. Minister Milososki used the Macedonian Presidency in the Council of Europe at its best advantage to actualize the name dispute with Greece, while Naumovski did the same in the domestic arena and on every meeting with the representatives from the International Community. Nevertheless, "the front runner" of this futile strategy is the President of the Republic of Macedonia, Gorge Ivanov. He attended the annual meeting of the General Assembly of the United Nations, held in September and dedicated to the Millennium Goals, where he used the floor to accuse Republic of Greece for our insignificant progress in poverty reduction. Notably, President Ivanov, indirectly acknowledging the abuse of the floor given, said: "*There is an explanation why insufficient progress is made in these segments. For many of you present here in this room it is strange to hear that partially the reasons for inadequate development should be sought in*

[16] For more details see the Sixth Quarterly Accession Watch Report "About the Less, Less Positive Things", July 2010, pg. 88.

[17] Statement given by Radmila Sekerinska on the public debate "Macedonia and the EU Integration", organized by the Macedonian Centre for European Training and the Foundation Open Society Institute – Macedonia, as part of the "Action for Europe" Project, which was held in Skopje on 8 October.

the actions taken by one EU and NATO Member-States. Unfortunately, I must tell you that the Republic of Macedonia is hindered in the economic development by its immediate neighbour"[18]. Most likely aware of the "bark at the moon", the Prime Minister Gruevski did not appear at the United Nations.

The second instalment of the saga titled "International Campaign" was set in Strasbourg, on 19 October, on the occasion of the 60th anniversary from the adoption of the European Convention on Human Rights by the Council of Europe. In his speech on human rights, President Ivanov said: *"Today, there is no single country, not a single government nor any power that can deny the right of the Macedonians to be Macedonians, since the human rights are stronger and more permanent than the change of certain governmental structures or particular politicians"*[19], referring to the fact that the name is a human right. The in-country public followed his speech with great admiration.

The third instalment featured the Deputy Prime Minister responsible for European Integration, Vasko Naumovski, who – accidentally or not – said that any assistance from EU in the name dispute resolution is welcomed. Immediate reactions followed from the European representatives, who reminded the Government that the dispute is being resolved within the UN[20].

For the time being, the diaspora campaign is "silent", but its presence is visible. Notably, Skopje is still decorated with billboards from the campaign "Nobody has the right to negotiate for my name"[21], while MRTV and other commercial TV outlets regularly broadcast this advertisement.

In the monitoring period, a group of experts and intellectuals advocating for termination of talks with Greece was in the focus of media coverage.

4. NEW EPISODE OF THE SERIES "MEDIA"

Media remained in the Government's focus in this reporting period as well. In the aftermath of the fiered journalists from TV Kanal 5 and the clash between the journalist Vesna Kovacevska – Trpcevska and the General Secretary of VMRO-DPMNE and Chief of Cabinet to the Prime Minister, Martin Protuger[22], the media bickering continued. Several days after Vesna Kovacevska – Trpcevska was laid off, on 4 August, the correspondent from Ohrid for TV Kanal 5 and the president of the Regional Office of the Association of Journalists, Simon Ilievski, resigned from both offices on a press-conference[23]. Vesna Kovacevska – Trpcevska and the remaining four journalists who were fired from TV Kanal 5 were recruited by a competitive outlet - A1, which was accompanied with accusations from Kanal 5 that the journalist in question lied to the Macedonian public about the events that took

18 The integral address by the President Ivanov is available at http://www.president.mk/mk/odnosi-so-javnosta/2010-01-23-10-09-44/285-2010-09-20-22-20-23.html

19 The integral address by the President Ivanov is available at http://www.president.mk/mk/odnosi-so-javnosta/2010-01-23-10-09-44/302-60-.html

20 MCET and the NGO Info Centre in July 2010 published a policy brief entitled "Former, Nameless or…", where they provide a detailed analysis of the reasons why Macedonia did not involve EU in the name dispute. The document is available at http://mcet.org.mk/documents/doc_view/72-poranesni-bezimeni-ili?tmpl=component&format=raw

21 Initiated by the Macedonian Human Rights Movement International and Australian Macedonian Human Rights Committee.

22 See Sixth Quarterly Accession Watch Report "About the Less, Less Positive Things", July 2010, pg. 13.

23 http://a1.com.mk/vesti/default.aspx?VestID=126037

place and that she illegally worked for TV A1, since she did not have a decision on employment termination[24].

Group of journalists announced their uprising by means of a protest organized on 8 September under the motto "*Journalism Matters*", whose aim was to strengthen the Association of Journalists, to revive MRTV as a public service, and free it from political pressures and to establish the journalists' union[25].

Probably the most distressing phenomenon from the last period was the 24 hour termination of broadcast on TV A1, media outlet with national coverage[26]. This was organized as a reaction to the decision taken by the Broadcasting Council to impose sanction that prohibits marketing and teleshopping broadcast on the grounds of violation of allowed minimum of 12 minutes advertisement per actual hour of broadcast, which was imposed to the Television in 2008.

Equally interesting is the docket "Dejan Gacov vs. the Government of the Republic of Macedonia". Notably, Dejan Gacov, former spokesman of the Health Insurance Fund, in an open letter[27] accused the Government of labelling the media as "friends of this governance" and media that are not so friendly to the Government. He indicated two examples from his experience as the Fund's spokesperson: 1) he was instructed by the Government when publishing open calls to always include the daily *Vecer*, as the daily *Dnevnik*, where the Fund usually published its open calls, was deemed unsuitable; and 2) his personal experience with Kanal 5, which did not broadcast his interview on the day of his resignation, while the next day the journalist that interviewed him said she was instructed not to broadcast the said coverage. At the same time, three weeks after the resignation of Dejan Gacov, *Vecer* published photos from his Facebook profile[28].

On 27 September, the journalist from Forum, Emil Zafirovski, was taken into custody when he was having coffee with his colleagues in the centre of Skopje. He was tried in absence on the grounds of defamation from 2004 and was sanctioned with a fee in the amount of 500 EUR or an alternative sanction of 25 days imprisonment. However, his fellow journalists helped him and paid Zafrovski's fine. The Association of Journalists failed to immediately react, but followed up the next day with criticism for the unpleasant event, thereby requesting fair treatment of journalists by the judicial authorities in the country.

2009 Progress Report pointed out the political influence over media as a source of self-censure and limiting freedom of expression[29]. After the recent development, it should not surprise if Republic of Macedonia is yet again criticized in this area. The need for an independent trade union that will fight for the rights and freedoms of journalists and the need for strong Association of Journalists are more than obvious. Journalism, which is deemed the "seventh power" and truth investigator, should be free in our "spine-bending" democracy.

[24] http://dnevnik.com.mk/?itemID=4DFA58F082108740BE2DC6A025148D72&arc=1

[25] http://a1.com.mk/vesti/default.aspx?VestID=126405

[26] http://media.a1.com.mk/media/golemi/zabrana.jpg

[27] http://dnevnik.com.mk/?itemID=A38F43FF6B5DA44EA6C38D53563F11CE&arc=1

[28] http://www.vecer.com.mk/default.asp?ItemID=A91B8EEB1CF1C844B50C02F4CDD7176D

[29] http://ec.europa.eu/enlargement/pdf/key_documents/2009/mk_rapport_2009_en.pdf

5.METHODOLOGY

As the present report's purpose is to address the activities taken by the political actors in Macedonia and monitor the progress in delivering the indicators set in the Review 2010 and whether they are in line with the national EU agenda, subject of analysis are the current developments in the country's European integration process, but also forecasting the outcome for the EC Progress Report for the Republic of Macedonia to be published on 9 November 2010.

Baseline for the monitoring is the documents of the Government, the EU, and media coverage of EU-related events in Macedonia. Main documents subject to analysis are the following: *„Review to the Accession Partnership"* from 5 February 2010 (hereinafter: Review 2010), *"National Programme for the Adoption of the Acquis – Revision 2010, Revision 2009 and Revision 2008* (hereinafter: NPAA 2010, 2009, or 2008); *EC Progress Reports 2008 and 2009 (hereinafter: Reports 2008 and 2009); Decision of the Council on the principles, priorities and conditions contained in the Accession Partnership with the Republic of Macedonia,* Brussels, February 2008 (hereinafter: Accession Partnership), Information on implemented activities from NPAA, Revision 2010 for the period January-March and April-June; SEA Monthly Briefs; Conclusions from the EU Council; press releases issued by the Stabilization and Association Committee and other strategic documents of essential importance in the sectors monitored.

Free access to public information was also used in this reporting period, but certain institutions still refuse to disclose the requested information.

The report covers the period July-October 2010. Apart from documents analysis and desk research, interviews were also conducted for this report.

14 media outlets were monitored as well, those being: seven daily newspapers (*Utrinski vesnik; Dnevnik; Vest; Vecer; Vreme; Nova Makedonija and Spic)* and prime-time news programmes on seven TV stations with national and satellite coverage (*A1*; *Kanal 5*; *Sitel*; *Telma*; *MTV 1*; *Alfa and Alsat*)[30].

[30] Media Monitoring is a partnership project implemented with the NGO Info-Center from Skopje.

II

ANALYSIS

This Quarterly Accession Watch Report analyses the areas specified in the Review 2010 divided into three groups: a) political criteria, which include the political dialogue, the implementation of OSCE/ODIHR recommendations related to the elections, the Ohrid Framework Agreement, police reform, judiciary reform, fight against corruption and organized crime, public administration reform and human rights, b) economic criteria, which include employment and social policy, public services and supervisory and financial services; and c) legislation alignment, which includes implementation of the provisions from the Stabilization and Association Agreement, energy, information society and media, environment, agriculture, food safety, veterinary and phytosanitary policy, and free movement of goods.

The progress achieved in terms of the short-term priorities will be assessed against the indicators set in the Review to the Accession

Partnership from 5 February 2010. In the sectors where the Macedonian Centre for European Training (hereinafter: MCET) lacks expertise, the present analysis assesses the progress against the indicators used by the European Commission to monitor the progress made in 2010.

Unlike the previous Quarterly Accession Watch Reports where the analysis of the state of affairs under each area was accompanied with recommendations, the present report stresses (un)realized indicators as set forth by the EC and will not provide relevant recommendations due to the short time period until the publication of the 2010 Progress Report. Exception thereof are the recommendations following the analysis of the draft-strategy on public administration reform, as this document is not final and can therefore be timely amended and improved.

1. POLITICAL DIALOGUE "A LA CARTE"!

The main priority defined for the political dialog in the 2010 Review reads: *„to promote a constructive and inclusive dialogue, in particular in areas which require consensus between all political parties, in the framework of the democratic institutions"*. EC will assess the fulfilment of this benchmark against three indicators, the first one being: 1) *„adopt and enforce amendments to the Parliament Rulebook"*.

1.1. New Parliament Rulebook at last

In the aftermath of yet another failed motion of tenure against Minister Jankulovska on the grounds of the Parliament clashes from 1 July, the Members of Parliament, after their successful performance in the desperate and dramatic stage-show where they demonstrated utter inability to debate in a civilized manner, disbanded the Parliament for deserved vacation. They returned to the Parliament benches armed with the same verbal primitivism and void of any clear concept as regards the adoption of new Parliament Rulebook.

The parliamentary majority was expected to work on the adoption of new Rulebook and to accept the opposition's request for the establishment of a separate parliamentary body tasked to monitor public spending. On the contrary, deeply convinced that such requests of the opposition are exaggerated, they did not waste time in acquitting themselves from any responsibility as regards the non-adoption of the new Parliament Rulebook and presented the foreign Embassies in Macedonia, as well as the international institutions, with a letter titled "Position of VMRO-DPMNE MPs related to SDSM's refusal to enact the new Rulebook", enclosed by 45 MPs from the ruling party.

Almost immediately, after nearly five months of boycotting the coordination meetings with the Speaker of the Parliament, the opposition SDSM announced that it will waive its requests and will unconditionally accept any version of the Rulebook, and thereby returned to the coordination meetings. On that occasion, SDSM explained its withdrawal from the previously held positions as a contribution towards de-blocking the political dialogue in the country, as one of the tasks to be completed prior to the cut-off date for the 2010 Progress Report, and added that such actions were triggered by national and state interests and are made for the purpose of continuing the European integration process, which is an unconditional priority. This was the act of SDSM's extending a helping hand as regards the political dialogue benchmark.

At last, in the wake of the Independence Day celebration, the two biggest political parties in the Parliament reached consensus on the amendments to the Rulebook. The ruling party unwillingly accepted the help offered by its rival and before the calm of the storm caused by the Parliament Rulebook debates - in the aftermath of its adoption and in the midst of congratulations - it decided to continue its premeditated mischievous criticism.

At last, although with a major delay, the Parliament drama on the consensual adoption of the infamous Rulebook came to an end. In that LDP and ND MPs voted against the Rulebook (ND refused to support a Rulebook that derogates the Framework Agreement, while LDP believed that the Rulebook was not good enough). As a reminder, the deadline for the Rulebook adoption (three months from the adoption of the Parliament Law), as agreed between the ruling majority and the opposition, expired in November 2009.

Although late, the adoption of the Parliament Rulebook is the single task completed before the cut-off date for the 2010 Progress Report. Nevertheless, due to its last minute adoption, its enforcement is yet to be seen, while Brussels expected results in the course of this year. The EC will conclude ***late and incomplete fulfilment of this commitment.*** What is the state of affairs as regards the remaining indicators for the parliamentary democracy?

Fourteen months after DPA left the Parliament on 17 August 2009, the five MPs from this political party are still on the Parliament's payroll, while their absence is recorded as justified. The Speaker of the Parliament seems to believe that this is not a problem. After all he explained his position on the issue at hand with the existence of such actions throughout our parliamentary democracy's short history. The fact that such behaviour is tolerated is not in compliance with the Constitution. Moreover, DPA's boycott does not resemble the previous instances as referred to by Veljanovski, since never before has any political party and MP absent from the Parliament dared to abstain from Parliament attendance for such long periods, but instead appeared at the Parliament in an attempt to prevent any possible enforcement of the constitutional provision that might result in their terms of offices being retrieved. In the meantime, DPA MPs continue to ignore Veljanovski's calls and indicate no sign of their intention to return to the Parliament.

In addition to the call to return in the Parliament addressed to the DPA MPs, after their year-long absence therefrom, recently Veljanovski also decided to request the Government to answer the authentic interpretation of the Amnesty Law, which is also referred to as the main reason for DPA's boycott of the Parliament.

The Committee on Interethnic Relations failed to provide the expected results and its work was reduced to sheer formality[31]. Evidence in support is the fact that the burning issues that shook the public and should have been addressed by the Committee were not included in its agenda, while those that were included in the agenda were never discussed. There are no doubts that the lack of quorum whenever an important topic related to the interethnic dialogue is discussed is not coincidental.

31 During its two-year existence, according to the Parliament's website, the Committee on Interethnic Relations has scheduled 13 sessions in total, half of which (7) are not completed (notably 6, 7, 8, 9, 11, 12 and 13 session).

1.2. Parliament Law in Deep Trouble

MPs disbanded the Parliament for their due summer vacation without clear concept as regards the operation of the Inquiry Committee which was expected to throw light on the Parliament incident from 1 July. Nevertheless, the Chair of the Inquiry Committee welcomed the MPs back to the Parliament armed with the proposal for Committee sessions to be held behind closed doors in order to secure greater productivity and prevent disconcerted interpretation thereof. A debate followed on the pros and cons for the need to enable public following of the Committee meetings. Although the first meeting was concluded with an agreement to open the Committee's work to the public eye, this parliamentary committee continued its work behind closed doors.

The Inquiry Committee was established on 26 July and was tasked to submit a report on the Parliament clashes from 1 July within a deadline of 60 days. So far, the Committee held only two meetings, where the first meeting was dedicated to the Commission's establishment. An agreement was reached among committee members that the Committee will not hold sessions overlapping with the Parliament plenary sessions, for the purpose of enabling them to contribute to the Parliament discussions. In reality, the Committee initiated the debate on the Parliament clashes several days prior to the expiration of the two-month deadline for the submission of the report. During the first month from the establishment of the Committee, the MPs were on vacation, while upon their return to work Committee members were unable to resume discussions as they did not possess security clearance to access classified information.

After its failure to deliver results within the initially agreed 60 days, the Committee was given an additional deadline of 30 days. The Committee's Chair assured the citizens that this time the job will be finished within the deadline given. The additional deadline expired as well, and the report is nowhere to be seen. Evident is the fact that this matter at hand hit a dead end and yet another deadline will be required.

In the meantime, the Parliament's Speaker used the interview for the newspaper *Utrinski Vesnik* to criticize the Committee's dynamic, but for contingency purposes, publicly identified and condemned the incident instigators, and thereby swayed the Committee's Conclusions in the direction of the wrongdoers behind the Parliament clashes from 1 July.

There is a direct relation between the Inquiry Committee's findings and the second indicator from the 2010 Review that reads: *„full implementation of the Parliament Law, recruitment of staff at parliamentary administrative services and steps to establish and initiate the operation of the Parliamentary Institute*". Notably, the Inquiry Committee is to determine whether the Parliament Speaker issued a written approval for the presence in the Parliament building of uniformed officers from the Ministry of Interior on 1 July, thereby violating Article 43 of the Parliament Law, and whether the new measures[32] introduced in the Parliament by the Speaker Veljanovski constitute additional violation of the Parliament Law, given that they were adopted without prior consultations with the coordinators of parliamentary political parties, as alleged by the opposition.

[32] The new measures include: to establish the Parliament security service, to develop the Code of Conduct for MPs, to complete the Rulebook on Internal Affairs at the Parliament, to introduce written approvals from the President of Parliament as regards access of state administration servants to the Parliament building; to forward information to the MOI on the need for enhanced police security; MOI officers to be designated special markings when performing security services for the Parliament.

Be that as it may, the incident from 1 July indicated problems in the enforcement of the Parliament Law. The vacancies in the parliamentary administrative services were not recruited and the Parliamentary Institute did not start its operation. Obvious is that the EC ***would not be able to positively assess this indicator as well.***

1.3. Smooth but unfit operation of NCEI

The third indicator from the 2010 Review against which progress made in regard to the political dialogue will be assessed reads: "*smooth operation of the National Council for European Integration, supported by relevant institutions and capacity building for employees of the Administrative Support Unit within NCEI*".

NCEI's capacities remain weak, as is the situation with all parliamentary structures tasked with analyses and research, thereby leaving the Parliament void of any serious capacity to monitor the European integration process. Efforts are made to train the staff of the Administrative Support Unit within NCEI and - in that - training anticipated is delivered as part of bilateral assistance for the Republic of Macedonia.As regards our request to monitor NCEI's operation in the course of 2010, which was duly addressed in the last quarterly report, we would like to emphasize that the request remains unanswered, while 2010 already passed.

Due to the above given reasons, it is our belief that NCEI is unable to operate smoothly, while its institutional capacity building is rather slow, mainly due to the inappropriate selection of new employees at the Administrative Support Unit within NCEI. Therefore, we believe that ***this indicator is also partially unrealized***.

2. ELECTIONS

The Review 2010 sets two short-term priorities for the implementation of recommendations of OSCE/ODIHR related to the elections, those being: a) *ensure that all future elections are conducted in accordance with the Electoral Code*; and b) *deliver prompt decisions on any election irregularities and impose penalties that will deter further cases*. The analysis of these priorities is given below.

2.1. Elections on hold

The first short-term priority in this area reads "*to ensure that all future elections are conducted in accordance with the Electoral Code*". The EC will assess the progress made against the following two indicators: 1) *follow up recommendations of OSCE/ODIHR including revision of the Voter List pursuant to the working group's action plan;* and 2) *adopt and implement the plan on preventing threats for citizens during elections, in compliance with ODIHR recommendations.*

The analysis shows that that the Voter List update has not been completed. Namely, the activities taken in the pilot municipalities Gostivar and Vinica reveal deceased persons in the Voter List and resulted in tasking the Directorate of General Records at the Ministry of Justice together with the Ministry of Interior to undertake a thorough update of birth and death certificates in all municipalities for the period 1980-2010 and complete it by 31 October 2010.

In the period 15 March-15 April 2010 the revision performed included 80,830 from the total 134,699 persons who according to data provided by the MOI in March 2009 were registered in the Voter List but did not

hold valid passports or IDs. It has been determined that 49,981 persons reside at the addresses recorded in the Voter List but do not hold relevant documents thereof; 16,771 persons were identified as living abroad according to the statements provided by their relatives and neighbours; 10,817 people changed their place of residence, but their current location is unknown; 2,270 people have initiated procedures to obtain the relevant documents; and 1,034 persons have deceased. These figures indicate the obvious need for thorough revision of the Voter List prior to the next elections.

As for the adoption and implementation of the plan on preventing threats for citizens in the course of elections, the working group at the State Electoral Commission (hereinafter SEC) submitted its proposals and analyses to the Secretariat for European Affairs (hereinafter: SEA) which is the competent institution tasked to develop the plan and timeframe for the implementation of SEC's recommendations. This is where the Voter List update ends. Lack of progress made in this field is confirmed by the fact that SEA did not report on the Voter List revision in its monthly progress briefs.

Obvious is that Macedonia ***failed to fulfil this short-term priority***.

Progress achieved in regard to the second short-term priority (*deliver prompt decisions on any election irregularities and impose penalties that will deter further cases*) will be assessed against the following two indicators: 1) *number of investigations completed* and 2) *number of successfully concluded convictions*.

Under a separate chapter, the Criminal Code of the Republic of Macedonia classifies 9 criminal acts committed against elections and balloting, those being: impeding elections and balloting (Article 158); violation to the right to vote (Article 159); violation of the voter's freedom of election (Article 160); abuse of the right to vote (Article 161); bribes during elections and balloting (Article 162); violation of the secrecy of balloting (Article 163); destroying balloting IDs (Article 164); election frauds (Article 165); and abuse of funds to finance election campaigns (Article 165a).

Analysis of the institutional response to election irregularities showed that detection of criminal acts and the relevant perpetrators is the most critical stage that determines the efficiency of the system to a large extent. Having in mind the reports of domestic and international monitors for the 2008 and 2009 elections, which indicate the great number of election irregularities and small number of criminal acts prosecuted, the impression remains that numerous criminal acts go by unsanctioned.

Following is the statistics from the last three elections (Parliamentary Elections 2006, Early Parliamentary Elections 2008, Presidential and Local Elections 2009) as regards the number of prosecuted perpetrators of election irregularities: 52 in 2006, 363 in 2008 and 41 in 2009.

MOI presented the Public Prosecution Offices with indictments against 217 persons based on election irregularities at the Early Parliamentary Elections 2008, while the political parties submitted indictments against 146 persons. As for the Presidential and Local Elections 2009, MOI raised 13 indictments against 34 persons, while the State Commission on Prevention of Corruption raised an indictment on the ground of "bribes during elections and balloting" and the Public Prosecution raised criminal charges in 3 cases of criminal actions against elections and balloting on its own initiative.

Table 1 below provides an overview of the Public Prosecution work and decision-making as regards the persons against which indictments were raised for criminal acts in the course of 2008 and 2009 elections.

PUBLIC PROSECUTION DECISION-MAKING							
		Indictments	Active		Solved		
			Collection of information	Investigation is underway	Rejected charges	Renouncing the prosecution	Prosecution act
Skopje	2008	2		2			
	2009	22		4	3	9	6
Gostivar	2008	3	2	1			
	2009	117	47		15	10	45
Tetovo	2008	19	7		12		
	2009	220	48	2	92	18	60
Struga	2008	5			5		
	2009	3					3
Kocani	2008	3	1				
	2009						
Strumica	2008						
	2009	1			1		
Bitola	2008	1			1		
	2009						
Ohrid	2008	8	5			3	
	2009						
Total	2008	41	15	3	20	3	
	2009	363	95	6	111	37	114

Table 1 – Decisions taken by the Public Prosecution

By the end of April 2010, the Basic Courts have not taken rulings on the election irregularities or cases related to Presidential and Local Elections 2009. 54 conviction decisions have been taken in regard to election irregularities from the Early Parliamentary Elections 2008, as well as 16 acquitting decisions and 19 dismissing decisions.

Conviction	Dismissal	Acquittal
Basic Court Tetovo - 15 persons	Basic Court Tetovo - 18 persons	Basic Court Tetovo - 13 persons
Basic Court Gostivar - 15 persons	Basic Court Gostivar - 1 person	Basic Court Gostivar - 1 person
Basic Court Skopje - 23 persons	/	/
Basic Court Struga - 1 person		Basic Court Struga - 2 persons

Table 2 – Type of rulings taken in the cases related to the Early Parliamentary Elections 2008

Criminal acts	Conviction	Dismissal	Acquittal
Impeding elections and balloting (Article 158, paragraph 1)	7	/	/
Impeding elections and balloting (Article 158, paragraph 2)	16	15	4
Violation of the right to vote (Article 159)	/	2	3
Abuse of the right to vote (Article 161)	/	/	3
Bribes during elections and balloting (Article 162)	/	/	3

		Analyses	
Violation of the secrecy of balloting (Article 163)	/	1	/
Association to commit criminal act (Article 394)	9	/	/
Proliferation, possession of and trade in weapons or explosives (Article 396)	10	/	/
Violence (Article 386)	2	/	/
Failure to declare criminal acts or perpetrators (Article 364)	/	/	1
Forgery of official documents (Article 361)	4	/	/
Endangering the safety (Article 144)	2	/	/

Table 3 – Type of rulings taken in criminal act proceedings.

Data above show that by the end of April 2010, cases related to ***election irregularities are not completed***. Unfortunately, data for the period April 2010-nowaday are not available, since the relevant institutions demonstrate little, if any transparency and SEA's monthly briefs do not provide data on these cases. The coalition "All for Fair Trails" monitored this process up to the end of April 2010, but after their project ended, it is impossible to obtain any updated data.

3. OHRID FRAMEWORK AGREEMENT

The Review 2010 anticipates two short-term priorities related to the Ohrid Framework Agreement, those being: 1) *sustain implementation of the Ohrid Framework Agreement with a view to promoting inter-ethnic confidence-building;* and 2) *complete the decentralization process*.

EC will assess the implementation of the Ohrid Framework Agreement against the following indicators: 1) *application of the double-majority principle, including in local self-government units; the role of the Interethnic Relations Committees on local level is paramount;*

2) *implement the Strategy on Equitable Representation of Non-majority Communities by securing adequate resources and establishing a sanctioning/ motivating system; improve the representation of Roma and Turkish communities; establish single and reliable database in the public sector for the purpose of effective monitoring of the equitable representation;* 3) *implement the Education Strategy including the recommendations made by OSCE's High Commissioner on National Minorities*; and 4) *further enforce the Law on Use of Languages and further strengthen the capacity of the Secretariat on the Framework Agreement to improve its coordination role.*

3.1. 24/7 standstill in decentralization

The EC will monitor the decentralization process against the following two indicators: 1) *further implementation of the Decentralisation Strategy and Action Plan and further transfer of competences with appropriate funding. Reform the legal framework on financing municipalities to resolve the problem of lack of funds and inadequate delivery of services on a local level. Improve database on municipal taxes and cooperation and exchange of data between the Cadastre, Central Register, PRO and the municipalities;* and 2) *strengthening the capacity of the Ministry of Local Self-government as the main body implementing decentralisation. Enhancing the capacity of the Municipal Budget Unit within the Ministry of Finance to support fiscal decentralisation policy and monitor its implementation.*

In December 2009 the Decentralization Program for the period 2008–2010[33] was reviewed, and was accompanied with and Action Plan from January 2010. Following the analysis of the Program and Action Plan, obvious is that measures anticipated therein are not in line with NPAA 2010[34]. Namely, under the political criteria the Overview of Legislation 2010-2012 anticipates the adoption of two bylaws under the Law on Intermunicipal Cooperation[35], although the Action Plan includes a list of regulatory interventions. Moreover, the adoption of one of the acts anticipated is late, i.e., the Decision on setting detailed criteria to stimulate intermunicipal cooperation was adopted in September 2010, thus breached the NPAA-set deadline (28.02.2010).

In terms of Program and Action Plan implementation, in addition to the decisions given above, the only other action taken concerns the drafting of the Law on Local Government State Inspectorate, which was also submitted to the Parliament for adoption. Given that most measures from the Action Plan are anticipated to be implemented *„by the end of 2010"* or *"in continuity by the end of 2010"*, the question is raised whether and how will other measures be implemented within the stipulated deadline: by the end of the year. Even if they are implemented, their quality will be disputable having in mind that there are only two months until the end of this year. An example thereof is the anticipated preparation of a feasibility study on the establishment of a separate institution that would deliver training on

[33] Available at http://mls.gov.mk/index.php?news=264 , last accessed on 01.11.2010.

[34] NPAA Revision 2010, narrative part and Overview of legislation to be aligned with the EU acquis 2010 – 2012, available at http://www.sep.gov.mk/Default.aspx?ContentID=36&ControlID=Dokumenti.ascx, last accessed on 01.11.2010.

[35] Decision on setting the detailed criteria for financing and supporting inter-municipal cooperation ("Official Gazette of the Republic of Macedonia", no. 122/2010, adopted on 14.09.2010) and Decision on defining the activities of broader importance and interest that can be funded in the light of supporting inter-municipal cooperation ("Official Gazette of the Republic of Macedonia" no. 71/2010, adopted on 18.05.2010).

local level[36]. The Memorandum of Cooperation between the Ministry of Local Self-Government and the OSCE Mission in Skopje was signed as late as October 2010, and concerns the preparation of a study on the establishment of the Training Academy for Local Government[37], which implies late preparation of the study (anticipated by the end of 2010) or the study will be developed in haste and with poor quality! The need for such solution (yet another Training Academy) is a different story altogether.

The situation is the same in regard to the anticipated new Program on Decentralization Implementation and Promotion of Local Government 2011-2013[38], to be developed by the end of 2010. This Program necessitates an analysis of the implementation of laws governing decentralization and local government. The website of the Ministry of Local Self-Government (hereinafter: MLSG) does not provide information whether the said analysis is in preparation and leads to the conclusion that the preparation of new Program 2011-2013 is not initiated.

As regards the need to appropriately address the lack of municipal funds, one can conclude that amendments to the Law on Funding Local Self-Government Units[39] aimed at improving the legal framework on municipal funding and increasing their revenue, are still not adopted. On the other hand, data indicate that despite the fact that in the period 2004-2008 municipal revenue as a share of GDP has increased from 1.7% to 4.6%, the actual fiscal status of local self-government units deteriorated. Instead of pursing true fiscal decentralization, the Government and the line ministries continue to purchase school desks and chairs, transportation means, etc. on behalf of local self-government units, although these are direct competences of the municipalities!

Given the remarks from the EC Progress Report for 2009, as well as the fact that throughout 2010 the MLSG managed to draft only the Law Local Government State Inspectorate, the impression on the Ministry's insufficient capacity remains.

NPAA 2010 anticipates monitoring of the decentralization process on the basis of "relevant indicators, to be developed by the multidisciplinary working group on decentralization". According to the information published on the MLSG's website, the last meeting of this working group was held on 18 March 2010, when it adopted the 2010 Operation Plan for the working group. Thus, it is clear that the indicators for monitoring the decentralization process are not developed, which means ***there is no progress made in terms of this short-term priority***.

4. POLICE REFORM

One of the benchmarks contained in the Review to the Accession Partnership targets the police reform and reads: ensure effective implementation of the Law on Police and Law on Internal Affairs. Indicators for monitoring the progress in this field are: 1) *to ensure that every appointment/change/dismissal of Police Stations Commanders is in compliance with the Law on Police, the new Law on Internal Affairs and the secondary legislation thereof*; 2) *full enforcement of secondary legislation stemming from the Law on Internal Affairs so that all*

[36] Action Plan for the implementation of revised Decentralization Program 2008 -2010 for the year 2010, page 16.

[37] See http://mls.gov.mk/index.php?news=318 , last accessed on 01.11.2010.

[38] Anticipated under NPAA Revision 2010, narrative part, page 10.

[39] "Official Gazette of the Republic of Macedonia " no. 61/2004, 96/2004, 67/2007 and 156/2009.

employments will be in compliance with the new provisions; full and accurate implementation of Article 128 of the Law on Internal Affairs to achieve depolitization of the Police; and 3) *further implementation of equal representation within the Police*.

4.1. Legislation adopted, enforcement to follow

For years back, the police was considered priority in the reform process and was supported with many projects. EU supported these reforms with 9.5 million EUR, which *inter alia*, targeted reconstruction/ construction of new police stations. Therefore it does not surprise that police reform was positively assessed in 2009, in particular in the field subject to EU monitoring. The new legal framework enacted provides the foundations for the career system in the police, whose adherent enforcement will be subject to assessment in the 2010 Progress Report.

The relevant framework for the introduction of the carrier system was completed by mid-September 2010, when the new collective agreement was signed with the Ministry of Interior (hereinafter: MOI). With that, the Law on Internal Affairs was implemented in full, at least in terms of secondary legislation adoption. The agreement provides detailed provisions in the fields of labour relations, social rights, career system, and like. In practice, these actions completed the adoption of acts stemming from the MOI Reform Strategy.

One of the novelties introduced with this act is the establishment of a standing joint body – the Economic Social Council – comprised of representatives from the Ministry and the trade union and tasked to provide bi-monthly analysis on the situation of employees at MOI and propose specific solutions and acts aimed to overcome and improve the situation in this field. Therefore, any discussion on the fulfilment of the two indicators might seems pre-empted, since the overall procedure which was to secure that new recruitments are in compliance with the new provisions was established only this September. In an ideal situation, the first bi-monthly report can be expected in December and will provide initial data on the situation as regards the police recruitment and carrier system.

4.2. No ideas for equitable representation

Unknown is the future implementation of the Strategy on Equitable Representation of Minorities in the Police. In the past years, significant progress was made, however not in terms of attaining full equitable representation but rather mitigating the initial disastrous representation of minorities in the Police. Nevertheless in the aftermath of the cancelled provisions on mass early retirement of policemen from the Law on Police, it seems as if MOI is clueless as regards the future recruitment of ethnic minorities in the.

The Government abandoned the practice of adopting annual programs on the recruitment of members from the minority communities[40]. The Law on Execution of the 2010 Budget stipulates that adequate and equitable representation of communities will be pursued by means of recruiting members from the minority communities at budget beneficiaries and central government bodies upon previously obtained consent from the Coordination Body on Adequate and Equitable Representation established by the Government of the Republic of

[40] For example, the 2009 program was published in the "Official Gazette of the Republic of Macedonia" no. 3/2009 and determines the number, type, manner of and financial implications from such recruitments.

Macedonia[41]. It seems that the Government increased its discretionary rights in regard to "Framework Agreement"-required recruitments in 2010 by tasking this Commission to take the relevant decisions instead of adopting annual programs thereto, knowing that annual programs are more transparent and published in the Official Gazette.

From the above presented unclear is how the Government implements the third indicator for this priority and its strategic priority "*...to complete the implementation of the Framework Agreement*"[42] given that in its decision the Government anticipated "*completion of the Police reform process* " and "*enhancing the communities' trust in the Police*". Under conditions when the Secretariat for the Implementation of the Ohrid Framework Agreement and the Ombudsman's Office do not provide employment statistics, it is difficult to make an actual assessment of the state of affairs in this field. The issue of new employees' capacity remains, given the enhanced criteria and the introduction of the career system. Majority of community members employed in the Police were recruited under fast-track procedures, following several-months courses and training sessions. Such recruitments are not disputable, since the reforms guarantee equitable representation in the Police as well. Nonetheless, the perpetual lack of professionalism in the Police cannot balance these practices and does not contribute to making the Police a truly multi-ethnic service for the citizens. To achieve this goal, the Police will have to undergo true developmental changes. Therefore, in the long-run, police reform will not be assessed only on the basis of these three indicators, but also on the basis of the fundamental principles of democracy related to the Police's role in the society.

Although significant progress has been made in terms of police reforms, MOI failed to establish successful track record in the implementation of the career system and depoliticization of police staff appointments and carrier advancement. Despite the progress made in terms of internal audit, the police service still lacks professionalism. 2010 was abounding with developments that indicated political pressure on the Police work and the introduction of the carrier system is to put an end to such pressures. MOI must immediately start the enforcement of the completed legal framework. Moreover, MOI must establish better cooperation with local authorities, especially with the municipalities where minority ethnic communities comprise the majority population.

5. JUDICIAL REFORM

As regards the judiciary reform, the Accession Partnership anticipates two short-term priorities and the 2010 Review sets the indicators for monitoring the progress achieved. The short-term priorities are: a) establish a sustained track record on implementation of judiciary and prosecution reforms; strengthen the independence, efficiency and overall capacity of the judicial system; and b) ensure operationalization of newly established judiciary institutions, allocate relevant funds for their full operation aimed to increase their efficiency.

Under the first priority, the 2010 Review anticipates three indicators, those being: 1) *Judicial Council and the Council of Public Prosecutors need to establish a system for sustainable strategic planning of human resources*; 2) *Judicial Council and the Council of Public Prosecutors need*

[41] Article 22, Law on the Execution of the 2010 Budget, published in the "Official Gazette of the Republic of Macedonia" no. 156/2009.

[42] Decision on setting the strategic priorities of the Government of the Republic of Macedonia for the year 2011, adopted on 27.04.2010 and published in the "Official Gazette of the Republic of Macedonia" no. 58/2010.

to strengthen their transparency and ensure successful track record of the implementation of the merit-based system for recruiting judges and public prosecutors in order to meet the objectives of the judicial reform; and 3) *improve budgetary planning and funds allocation in the judiciary and securing a sustainable budget framework*.

According to the EC, Macedonia will have to demonstrate operation of newly established judiciary institutions and allocation of adequate funds to support their full operation and increased efficiency by means of: 1) *track record of activities of the Administrative Court and implementation of legal mechanisms regarding the right to appeal in administrative disputes*; and 2) *full enforcement of court decisions and improving the cooperation with the Public Attorney*.

5.1. The iron hand of the law

The 2010 Progress Report will most probably address several events, as all of them directly affect the implementation of the above given indicators. In addition to the old problems that remain unresolved, we create new problems that have nothing in common with the commitment to make the judiciary independent and more efficient. More distressing is the fact that remarks and criticism addressed to the Government and related to the judiciary continue. Only fifteen days ago, at the event organized for the promotion of the Academy for Training of Judges and Public Prosecutors, the EU Ambassador Fouere stressed the issue related to the appointment of graduates from the Academy for Judges and Public Prosecutors, and reiterated the legal obligation that 50% of newly appointed judges and public prosecutors at basic courts and public prosecution offices must be Academy candidates. This legal threshold is far from achieved this year, as remarked by the EC. It remains to be seen whether the legal threshold set at 50% of appointed judges and public prosecutors to be selected from the line of Academy candidates will be fulfilled by the end of the year.

In that, one should note that the appointment of judges and public prosecutors who are not Academy candidates continues smoothly and without problems. As is the general practice, the Government "washed its hands" from any responsibility thereof and identified the Academy candidates as the culprits for this situation. The candidates were accused of preferring to work in Skopje and that led by such interests they do not apply to vacancy calls for judges and public prosecutor in other towns country-wide. Allegedly, when they enrolled at the Academy they should have calculated the risk of being appointed judges or public prosecutors in other towns as well, while the obligation to apply to every vacancy call was an unwritten rule. Torn between the obligation to deliver results in relation to the appointment of public prosecutors from the list of Academy candidates and the inability to do so, since the candidates do not apply to all vacancy calls announced, recently the Judicial Council and the Council of Public Prosecutors, supported by the Minister of Justice, threatened that if Academy graduates do not use every opportunity to be appointed, they can lose their priority (read: the capacity of candidates) and would have to refund the state for its investment in their education. Unclear is the legal basis for revoking the candidate capacity of Academy graduates. This does not seem to concern the Government, as along as intimidation continues to provide results.

Worrying is also the fact that the Government incorporated this approach – all candidates to be obliged to apply to every vacancy call announced – in the new set of legislative acts, which are under second

reading at the Parliament. At least next generations of candidates from the Academy will be aware of the obligation in question. In the absence of better solutions, this is the Government's plan to secure "*sustainable strategic planning of human resources at the Judicial Council and the Council of Public Prosecutors*" that the EU will expect this year.

5.2. Partisan appointments, unconstitutional dismissals

While the public is preoccupied with "suspicious" appointments of judges, the state of affairs as regards the dismissal of judges in the aftermath of the controversial dismissal of two judges from the Appeal Court in Skopje culminated when the Constitutional Court revoked around 20 provisions from the RulebookonDisciplinary Proceeding and the Rulebook on Non-professional and UnconscientiouslyPerformance ofJudges. The revoked provisions – as observed by the public as well– imply that the two judges from the Appeal Court in Skopje were dismissed contrary to the Constitution, but also raise the issue as regards the unconstitutional dismissal of other 40 judges on the basis of the said Rulebooks. No responsibility was assumed thereof: the Minister of Justice "passed the ball" to the Judicial Council as the competent authority that adopted the unconstitutional Rulebooks, while the Judicial Council, despite the fact that both Rulebooks were contested in front of the Constitutional Court, continued to dismiss judges under "full throttle". These developments confirm the thesis that in addition to disputable appointments of judges, their dismissal is equally problematic.

The transitional and final provisions related to the pending dismissal procedures[43] and the statements given by the Minister of Justice indicating that decisions will be taken in compliance with the law, instead of the Rulebooks, lead to the conclusion that he dismissal procedures' outcome will be rather interesting and (un)certain. The Judicial Council discontinued the appointments and dismissals until the enactment of new amendments to the Law on the Judicial Council, which is in Parliament procedure. It remains to be seen what decisions will be taken as regards the dismissals based on the unconstitutional and revoked provisions from the Rulebooks.

In the meantime, recommendations continue that the executive power should not interfere in the operation of the Judicial Council and the Council of Public Prosecutors. The Minister of Justice rushed to state that the EC Expert Committee from March this year tasked to evaluate, *inter alia*, the state of affairs in the judiciary, positively assessed the judiciary reforms, but in that he forgot to mention that as part of the same evaluation process, the said committee recommended the Minister of Justice to abstain from judge appointments, assessments and dismissals, as well as from proposing candidates for the two judge vacancies at the Constitutional Court.

5.3. Disputable, but certain

There is no doubt that the Parliament will adopt the new laws on the appointment and dismissal of judges, the courts, the Judicial Council, the judicial budget and the court administration services. The requirements for appointment of judges will be regulated by the same provisions that already triggered reactions from the domestic

[43] The dismissal procedure for the two judges from the Appeal Court in Skopje is still pending.

expert public as early as the adoption of the Law on the Academy for Training Judges and Public Prosecutors. It seems that all legal solutions are disputable and problematic, in particular those related to the integrity and psychological test, the fact that the same will be subject of assessment made by Judicial Council members. Disputable is also the requirement that future judges will have to demonstrate an average university achievement of 8.00 and higher, as well as the fact that students with lower achievements can never be judges, even if they hold M.A. or PhD degrees. The list of disputable provisions continues and includes the fact that future judges will have to present an internationally recognized certificate for English language with credits as stipulated by the law; the fact that the judiciary is so closed that nowadays situations similar to the one of the first Macedonian judge in the European Court of Human Rights, who after her return was not recruited by our judiciary, become common practices; disputable are the criteria on judge dismissals, such as the provision stipulating that the revoking of 20% of rulings taken by one judge or that conversion of 30% of rulings taken by one judge provide grounds to initiate disciplinary procedure against the judge in question, as well as the provision stipulating threat for dismissal of judges for unduly proceedings, which can be particularly risky if the reasons for unduly proceedings are insufficiently or improperly assessed, but which can be subjective or objective, or the unique possibility to sanction judges in cases when the Court in Strasburg has determined violation of the European Convention for Human Rights.

5.4. Administrative Court's track record

Unconvinced in the fact that the Administrative Court provides the desired outcomes as regards its work[44], in particular related to accelerationofadministrativedisputes and thereby relieving the Supreme Court from proceeding in administrative dispute cases (which at this moment proceeds in 876 appealed rulings taken by the Administrative Court), the Government designed a solution resembling the judgment of Solomon – to establish a new court – the Higher Administrative Court. Without assessing the quality of the said solution – it is interesting to note that, according to the statements made by the President of the Judicial Council, there are no analyses made as regards the financial implications for its creation. More distressing is the fact that the public was presented with information indicating that the Government does not foresee any financial implications from the changes proposed for the judicial system's structure, currently under second and final reading in the Parliament.

5.5. New judicial budget

Prime Minister Gruevski personally announced that pursuant to the changes made to the Law on the Judiciary Budget, by 2014 the judiciary will be allocated double the current funds. The Government's idea is to gradually increase the judiciary budget in the next 4 years, so that in 2014 it will account for 0.8% of GDP compared to the present 0.43%. Unknown remains whether the Government took into consideration that the current share of 0.43% of GDP was a decrease compared to previous years, when the funds allocated to the judiciary were reduced

[44] For more details, see the Sixth Quarterly Accession Watch Report "About the Less, Less Positive Things", July 2010, pg. 28.

on the grounds of the global economic crisis. Thus, there will be no double increase if the starting reference point for the budget increase takes into consideration that the previous years included decreased funds for the judiciary. In its projections, did the Government include the funding for the new Higher Court whose establishment will require major funds in terms of judge salaries and smooth operation? Did the Government make analysis and projection as regards the sufficiency of these funds compared to judiciary needs, in order to avoid poor assessment of budget funding for the courts in future, and once and for all put an end to blocked accounts of courts.

5.6. Judiciary takes the heat

While the judiciary's independence remains the "hot potato" in the society, on the occasion of the Civil Justice Day, the Government had the opportunity to see the assessment of the judiciary's efficiency. Obvious is that the citizens do not share the perception of the Macedonian judiciary becoming more efficient or independent. In the absence of serious and sustainable system for strategic planning of human resources, the number of judges is marked by a continuous increase, while the court administration remains utopia. The career system has not been introduced (although is anticipated as part of the amendments pending Parliament adoption), and already there are speculations that DUI will requests deferred application thereof from 2013, since they have calculated that only 5% of judges with Albanian ethnic background would fulfil the carrier advancement requirements. The judicial budget remains largely underfunded and there are no analyses on the implications of the anticipated budget increase. The Administrative Court's track record remains uncertain; while the execution of court rulings is entangled in the transfer of old cases to execution officers, which was postponed yet again. Measures anticipated in the light of improving the cooperation with the Public Attorney are not implemented, thereby leaving this indicator void of any results.

Certain is that this year as well, the Republic of Macedonia will receive an EC Progress Report abound with criticism for the inefficient judiciary.

6. FIGHT AGAINST CORRUPTION

It is worth to recall the Conclusions from the EU Council from 7 December 2009[45], where the Republic of Macedonia's accession process was discussed and it was stressed that *„... continued efforts are needed to fight corruption..."*[46]. Stressing the fight against corruption as the priority area is a sufficient indicator on the importance and direct impact this process will have on the progress made in regard to Macedonia's EU accession. Also, continuous referral to the fight against corruption as one of the main priorities is also a clear indicator that despite the recommendation to open accession negotiations, the state of affairs in this field is far from ideal.

[45] As a reminder, Macedonia was not on the agenda of the following European Council in June 2010, which can be interpreted as a warning message from the EU, but also as an indicator of the Macedonian diplomatic capacities as regards the identification of strong and unconditionally devoted lobbyists among EU Member-States.

[46] Council of the European Union, PRESS RELEASE, 2984th Council Meeting – General Affairs, 17271/09 (Press 370), Brussels, 7 December 2009, p.16: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/112480.pdf

Under the chapter on fight against corruption and organized crime, the Accession Partnership provides one benchmark and one short-term priority, while the Review 2010 sets the indicators against which progress will be monitored. The benchmark is defined as follows: *"sustainable track record on the implementation of anti-corruption legislation and of the State Anti-Corruption Program"*, while the short-term priority reads: *"ensure proper follow-up of recommendations issued by supervisory bodies, in particular in the field of political party financing and public spending "*.

6.1. War of the Roses

The current state of affairs as regards the attainment of the two recent priorities was considered in the context of the implementation of indicators set in the Review 2010, since they provide clear and measurable assessment of the degree the identified tasks were realized.

The realization of the benchmark "*establish a sustained track record on implementation of anti-corruption legislation and of the State Anti-Corruption Program* " will be measured against three indicators, those being: "*effective implementation of the Law on Conflict of Interest as amended in 2009 and establishing a sustained track record of verified and eliminated conflicts of interest* ".

Positive trend was noted in regard to the implementation of the law, as reported in our previous quarterly accession watch reports. If the Fifth Quarterly Accession Watch Report pointed out the inconsistencies related to the application of this law, primarily in regard to the adherent application of the criteria used by the State Commission for Prevention of Corruption (hereinafter: SCPC) in the treatment of different allegations for conflict of interests, the sixth report noted enhanced efforts on behalf of SCPC aimed towards full and compliant enforcement of the Law on Conflict of Interests. This positive trend continues in this reporting period, as indicated by several actions.

The first indicator is the SCPC's compliance with the provisions from the Law on Conflict of Interests stipulating the Property Declarations of civil servants. Contrary to the SCPS's indolent behaviour as demonstrated in the past and concerning cases of non-compliance on behalf of elected and appointed officials (for example, failure to submit Property Declarations), in this period the SCPS published the list of officials that failed to submit their declarations on conflict of interest and motioned misdemeanour indictments. Thus, on 24 June 2010, the SCPC announced to have motioned indictments against one Member of Parliament, 26 judges and 13 Mayors on the grounds of failure to submit declarations on conflict of interest[47]. Additional 432 misdemeanour indictments were motioned on 16 September 2010 against municipal councillors who failed to comply with this legal obligation[48]. Worrying is the fact that from the total of 1383 elected representatives in the local self-government units, as high as 432 failed to comply with the obligation to submit declarations on conflict of interests.

Second indicator of SCPC's positive role in following-up allegations to determine the existence or non-existence of conflict of interests happened in this monitoring period. Notably, on several occasions the SCPS warned about accumulated offices by certain elected

[47] http://www.dksk.org.mk/index.php?option=com_content&task=view&id=199&Itemid=1

[48] http://www.dksk.org.mk/images/stories/pdf/info.pdf.

representatives in the local government, who also performed managerial functions at public enterprises and institutions[49]. The mere existence of accumulated offices provides a negative image for the political culture demonstrated by political party members in Macedonia, especially in terms of their attitude towards the rule of law. Initial reactions of indicted officials were utterly negative, and accompanied with accusations for SCPS for *"misinterpretation of the law"*, and even for *"politically motivated prosecution"*, but in the end some of them resigned from one of the disputable offices[50]. This outcome is also a result of the enormous public pressure, as the public recognized and supported the firm and uncompromising position of SCPC aimed towards adherent enforcement of the Law on Conflict of Interest and resolution of such cases.

Nevertheless, distressing is the fact that the indicated officials resigned only after being instructed to do so by their political party, VMRO-DPMNE, and not as an act of individual responsibility and respect for SCPC's position and decisions. Does this mean that Macedonia continues to cherish the political culture typical for the former system, where decisions made on the grounds of "*my party's judgment*"[51] were more important that the decisions taken by state institutions?

The positive trend in the field of prevention of conflict of interest is primarily due to the change of mind at SCPC, which seems to have woken up from a longstanding lethargy and finally assumed its law-defined role in the fight against corruption. As part of our previous reports[52] we recommended other institutions to support and enhance this trend.

Unfortunately, the last period was characterized by developments that undoubtedly led to the conclusion that institutions (in particular the Government of the Republic of Macedonia, the Ministry of Justice, the Parliament, the Public Prosecution Office) take opposite actions. Notably, the last budget adjustment reduced the 2010 funds for SCPC from the initially allocated 282,451 EUR to 227,000 EUR. In the opinion of the SCPC's President, this budget cut endangers the basic operation of SCPC until the end of the year[53].

At the same time, the amendments to the Law on Prevention of Corruption entered in Parliament procedure, and - *inter alia* – under the disguise of professionalism anticipate reduction of term of office for SCPC members from five to four years. On one hand, professionalization of SCPC is a must, and was indicated in the last EC Progress Reports as one of the reasons for the insufficient efficiency on behalf of SCPC (its members were recruited for a pre-determined term). On the other hand, professionalization of SCPC cannot be linked to the reduction of SCPC members' term of office, i.e., the actual early termination of office (February 2011) for SCPC current members imply retroactive application of changes that are yet to be made to the law. Thus the

[49] The public attention was particularly drawn to the cases of the President of the Municipal Council in Centre, Vladimir Zdravev, who was also the director of MEPSO, as well as his fellow councilors – Viktor Kamilovski (also director of the City Hospital) and Vladimir Bahcovanovski (also director of the Public Enterprise for Management of Residential and Business Property)

[50] Mass resignations of directors and officials from VMRO-DPMNE, TV A1, 31.08.2010: http://a1.com.mk/vesti/default.aspx?vestID=126877

[51] Paraphrase of the infamous statement "I recognize only the judgement of my party", given in front of the Zagreb Court by the Leader of Yugoslav Communist, Josip Broz Tito, during the so called "Bombing Process" from 1928.

[52] For more details, see Fifth and Sixth Quarterly Accession Watch Reports.

[53] "Anticorruption Commission Faces Bankruptcy", Nova Makedonija, 27.08.2010: http://www.novamakedonija.com.mk/NewsDetal.asp?vest=827101012405&id=9&setIzdanie=22070

reasonable doubt that under the disguise of needed professionalization, the government attempts to discipline SCPC at the time when it finally exited the longstanding lethargy and started implementing its legally stipulated role of an independent actor in the fight against corruption. The timing of law amendments and SCPC budget cuts overlap with the period of enhanced confrontation between SCPC and VMRO-DPMNE (primarily related to the above indicated cases of conflict of interest), which additionally enhance the doubts raised.

Such actions question the honesty behind the efforts made by the Government (and of VMRO-DPMNE as the ruling party) to fight corruption, as they can negatively affect the assessment in the next EC Progress Reports (but also in the reports of other relevant institutions) as regards the state of affairs in this field. Therefore, should the EC decide to ***assess the realization of this indicator as positive,*** it is almost certain that it will also note the Government's differing behaviour in that regard.

6.2. Public Prosecution on vacation

The conclusion under the second indicator anticipated for the delivery of the first priority in the field of fight against corruption and organized crime *"establish a track record of investigations and prosecutions in compliance with the relevant provisions of the Criminal Code, including illegal proceeds and confiscation*" is the opposite. In this (and the previous) reporting periods the public was not even remotely informed on any indictments for illegal proceeds being motioned in front of courts, not to mention their closure with confiscation measures.

On many occasions in this reporting period the President of SCPC, Ilmi Selami, provided statements on the number of cases forwarded to the Public Prosecution. Why did the Public Prosecution fail to act on these cases is the question which the EC will probably raise in the forthcoming Progress Report, while the citizens of the Republic of Macedonia have to ask themselves why do they need to pay for an institution that does not know how to perform its basic function. From the above given reasons, ***this indicator is deemed unrealized.***

6.3. Deadlock

The third indicator for measuring the implementation of this benchmark reads: *"establish track record of verified Property Declarations; establish track record of adopted and enforced court decisions in high profile corruption cases; organize joint training for prosecutors and judges on use of investigative measures and use of evidence in corruption cases and in organized crime cases; further capacity building of special enforcement bodies; securing full regulatory and practical autonomy for enforcement of orders for intercepting communications and use of equipment for interception of communications; further implementation of the Action Plan for establishing a National intelligence database as anticipated in the NPAA*".

It is deemed that some of the above given indicators have been marked by passiveness and "deadlock" from the publication of the 2009 Progress Report. For example, in the last year there were no significant events related to the adoption of final court decisions in high profile corruption cases. Court proceeding in high profile corruption cases that the Macedonian public intensively dealt with in the past 4 years remain without final outcome. Some of these cases are now under appeal

procedures, while in other cases the second-instance courts cancelled the decisions made by the first-instance court and were returned for retrial.

Similar is the situation as regards the establishment of the National Intelligence Database. After the creation of the relevant legal framework, i.e., after the adoption of the Law on the Establishment of the National Intelligence Database last year, no major follow-up activities have been made in that regard. Although at this moment, one cannot make a definite assessment whether the currently passive state of affairs is due to a serious standstill in activities aimed to establish the database or it is a result of the insufficient transparency of institutions that hold the responsibility for these activities, we will warn on the possibility for breaking the deadline (January 2012) when the National Intelligence Database should be fully operational.

The dynamics of these activities (which is more or less similar to the state of affairs under the previously given indicators) provides for an unfavourable outlook as regards the indicators' deliverables. Notably, the general impression is that the last year was marked by a significant passive attitude in this field. This sends a negative message to the EU on the initially demonstrated zest, as noted in regard to the dynamics of anti-corruption activities taken in the previous years and thereby leads to the conclusion on the absence of political will to fight corruption. Unfortunately, this time as well, ***EC will note no significant progress*** in this field.

6.4. Little transparency, enormous see through

As for the second short-term priority (*"ensure proper follow-up of recommendations issued by supervisory bodies, in particular in the field of political party financing and public spending),* the EC already set two indicators against which it will monitor the progress made by the Republic of Macedonia. The analysis thereof is given in continuation.

The state of affairs under the first indicator: *"ensure follow-up of the recommendations of the SAO and the SCPC, especially in regard to financing political parties/campaigns and issues related to public funds"*, remains intact compared to the status noted in the previous Quarterly Accession Watch Report[54]. SAO reports are still "forbidden topic" for the Parliament of the Republic of Macedonia. It seems that the strong pressure exercised by the public and the opposition and aimed towards positive changes landed on deaf ears. The Parliament's position is indicative of its lack of knowledge on the need for an institution such as SAO, or represents a well-designed attempt to disguise all irregularities in the financial operations of the government, and thus endangers Macedonia's European agenda.

In the course of the entire year, the single discussion of SAO's findings was held on 14 September when the Parliament of the Republic of Macedonia adopted SAO's 2009 Report. According to SAO, last year it performed 91 financial audits, which is by 8.3% more compared to the year before. The audits performed targeted 178 billion MKD in public revenue and 120 million MKD in public expenditure. 37 entities had introduced the practice of continuous checks as regards the implementation of recommendations provided in the relevant audit

[54] For more information, see Sixth Quarterly Accession Watch Report "About the Less, Less Positive Things", July 2010, pg. 44.

reports. According to the state auditor Tanevska, from the total number of recommendations given, 46% were implemented in full, 34% were partially implemented or their implementation is underway, while 14% of the recommendations were deemed under jurisdiction of other entities.

The opposition again determined high share of failure to follow-up on the opinions provided by state auditors and failure to implement public tender procedures, while the ruling coalition believes that such claims are unfounded given the Public Prosecutor did not take actions on any illegal actions made by the relevant institutions.

It is highly unlikely that these results will suffice for the EC to deem this indicator realized.

The situation as regards political party financing is the same. The annual reports of the political parties for the year 2009, whose publication is stipulated under the law[55], are a different story. The manner in which the political parties fulfil their legal obligation is indicative of their financial transparency. As an example, we will consider the financial reports of the two biggest political parties in the Republic of Macedonia, VMRO-DPMNE and SDSM, published on their relevant websites.

VMRO-DPMNE's financial report for 2009[56] consists of 2 pages in total, and provides scarce information on the political party's revenue and expenditure in the last year. Interesting enough is the fact that revenue is grouped under three accounts: revenue from membership fee, donations and gifts (merged as one item in the financial report); revenue from interest and exchange rates; and other revenue (without providing any indication as to the nature or origin of this "other" revenue). As it can been seen, the report does not provide information on the donor benefactors of the ruling party or the amount of funds "compressed" under the first item that stem from membership fee, donations or gifts.

On the other hand, SDSM's financial report for 2009[57] is "spread" on as much as 3 pages, probably due to this party's motto "there is always more, there is always better". This motto is quite appropriate also for the revenue side of the report where revenue is presented under ten accounts: transferred funds from the previous year; membership fee; revenue from donations; revenue from sponsorship for the Local Elections; revenue from interest; revenue from the Budget of the Republic of Macedonia; revenue from local elections; revenue from rent and lease; revenue from seized assets; and revenue from participation in joint costs. As was the case with their political opponent, SDSM did not disclose the origin of their sponsorships and donations.

This short analysis of the financial reports of the two biggest political parties in the Republic of Macedonia leads to the conclusion that even when political parties comply with their legal obligation to publish their respective financial reports, obvious is the lack of political will to secure transparency in the true sense of the word – by disclosing information on their biggest sponsors and donors. It is our belief that this remark is particularly important, as disclosure of sponsors and donors would represent a kind of "declaration of interests" for the political party in question, which is particularly important in terms of adherent fight against corruption, thus the conclusion that ***EC will not assess this indicator as realized.***

[55] Under Article 27a from the amendments to the Law on Political Party Financing, from 28 July 2000.

56 http://vmro-dpmne.org.mk/vesti/images/Finansiski-izvestaj-na-VMRO-DPMNE.jpg

[57] http://sdsm.org.mk/upload/documents/izvestaj.pdf

6.5. Transparent media threesome

As regards the second indicator – *securing full transparency of public spending, especially the spending for state advertising* – the reporting period was abundant with interesting developments. Notably, the three biggest commercial TV stations with national coverage – A1, Sitel and Kanal 5 – declared wars among themselves on the account of non-transparent allocation of public funds for the Government's advertising campaigns.

In the context of the enhanced public confrontation between these TV outlets throughout the month of September, partial information surfaced as regards the funds spent by the Government of the Republic of Macedonia on various public campaigns organized in the last 4 years[58]. Despite the partial information on budget funds spent on public campaigns – be it on the back door, since the information was disclosed by the beneficiaries rather than the Government, - the confrontation among the above named TV outlets is important from another aspect as well. Notably, the figures and arguments presented by the parties in the argument, only confirmed the allegations that the Government abuses funds allocated for public campaigns as a powerful tool to impact media's editorial policy. Such practices negatively impact the freedom of media, provide for corruptive practices, and will last until the introduction of a transparent system for allocation of funds intended for public campaigns, which – by the way – is not even taken into consideration.

In the context of the above presented developments, we would like to stress that MCET recognizes the need for public awareness campaigns on different issues (which, truth to be told, do not always correspond with the issues covered by the previous governmental campaigns), and in particular on issues of essential importance for the European perspective and future of the Republic of Macedonia (for example, an awareness campaign against the abuse of asylum-seeking procedures in EU Member-States, which directly endangers the visa-free regime). At the same time, we would like to reiterate the need for a transparent system on allocation of funds intended for these campaigns, as the continuation of current non-transparent practices directly affects the state of affairs in two important fields – fight against corruption and freedom of media, and thereby the European perspective of the Republic of Macedonia. On the grounds of the above given, it is likely that the EC ***will negatively assess the delivery of this indicator.***

7. PUBLIC ADMINISTRATION REFORM

The Accession Partnership identifies the following priority for the public administration reform: *"ensure that recruitment and carrier advancement of civil servants is not subject to political interference, further develop a merit-based carrier system and implement fully the Law on Civil Servants "*.

In the wake of the 2010 Progress Report, the present report attempts to assess the deliverables realized under the indicators from the Review 2010 and comments the draft-strategy on public administration reform 2011-2015, and also provides recommendations for timely improvements. First, we analyse the individual indicators and then we comment the draft-strategy.

[58] For example: http://www.kanal5.com.mk/default.aspx?eventId=65655&mId=44

7.1. In the style of the Government

As part of the Review 2010, the EC together with the Government of the Republic of Macedonia defined the five priorities against which progress made will be measured. The first indicator reads: "*full implementation of the provisions and spirit of the LCS regarding recruitment, assessment and advancement as to make them objective, transparent and merit-based, in the period before and after the selection and full implementation of the latest amendments to the law, as well as harmonize other laws with the LCS".*

This indicator focuses on: (1) full implementation of the Law on Civil Servants (hereinafter: LCS) as amended in September 2009, whose adoption was one of the conditions to obtain the recommendation to open accession negotiations; and (2) objectivity and transparency in recruitment, assessment and advancement of civil servants.

The amendments to the LCS targeted five key segments, those being: scope of civil servants; re-defining CSA competences and role; recruitment of civil servants, in particular shorter deadlines and duration of the recruitment procedure; mobility (advancement) of civil servants by introducing internal calls and carrier advancement supplement to the salary.

As regards the full implementation of the law, it should be noted that all state administration bodies (hereinafter: SAB) complied with the legally stipulated deadline for alignment of their internal organization acts. Notably, according to SEA's Monthly Brief for April, only 17 central level administration bodies (or 27% from the total number of 85) aligned their internal organization acts within the legally stipulated deadline (23 March 2010). By the end of August 2010, this obligation was complied with by 57 central level administration bodies and 53 municipalities[59]. Worrying is the fact that SEA's Monthly Brief from April 2010 states that: *"all institutions made due changes in their internal organization acts in order to comply with the requirements from the Law"*[60].

Failure to comply with the deadlines anticipated under the LCS and related to the alignment of internal organization acts at separate administration bodies and the legal solution that enables "overriding" the recruitment procedure for civil servants at certain administration bodies[61] (which is contrary to the principles of transparency in recruitment and mobility at states services), as well as the high number of disciplinary procedures and complaints[62] in front of the second-instance commission, can negatively affect the assessment of this indicator's realization. This also provides evidence in support of the inconsistent follow-up to recommendations provided by SIGMA and related to public administration's professionalization and de-politicisation, as well as the recommendations given in the last two EC Progress Reports: *"greater priority needs to be given to establishing a public administration which is transparent, professional and free of political interference"* (2008) and *"further efforts are needed to ensure transparency, professionalism and independence of public administration"* (2009).

In August 2010, two months after the deadline expired, the Civil Servants Agency (hereinafter: CSA) published the "*Analysis of Civil*

[59] Secretariat for European Affairs, Monthly Progress Brief (August, 2010).

[60] Secretariat for European Affairs, Monthly Progress Brief (April, 2010).

[61] For more details, see Sixth Quarterly Accession Report "About the Less, Less Positive Things", July 2010, pg. 51.

[62] Secretariat for European Affairs, Monthly Progress Brief (August, 2010).

Servants Performance Assessment in the Republic of Macedonia for the year 2009". Reasons for the late publication of the analysis in question were identified in the fact that within the legally stipulated deadline (30 April) only 45 state administration bodies (i.e., around 30% from the total number of 148) submitted their performance assessment reports to CSA. Such behaviour on behalf of certain state administration bodies is worrying and far from professional, given that performance assessment is a legal obligation[63], but also an activity whose performance has been stipulated in the NPAA[64].

Moreover, CSA made two urgent interventions (16-2867/1 from 26.5.2010 and 16-2867/6 from 20.7.2010), thereby warning the bodies that failed to submit their performance assessment to comply with this obligation. On 2 July 2010[65], the Government requested all central level administration bodies to submit their relevant reports by 20 July the latest, and recommended the Association of Local Self-Government Units (hereinafter: ZELS) to instruct the municipality to comply with this obligation by 30 July 2010.

Despite joint efforts made by the CSA and the Government, by 30 July 2010 a total of 20 public administration bodies failed to comply with this obligation, 2 of which are central level bodies[66] and 18 local level bodies[67].

Central level administration bodies submitted 61 reports in total, which account for 96.82% of the total number of SAB (63). Compared to last year, the number of reports submitted was increased by 12.1%. By 31.12.2009, these bodies employed 7142 civil servants, 6112 (85.5%) of which were evaluated, and 1030 civil servants (14.5%) remain unevaluated. Most of central level civil servants were evaluated as "excellent" (4643 civil servants or 76%), 1373 (22.4 %) were assessed with "satisfactory performance", 85 (1.4%) were assessed with "partially satisfactory performance" and 11 civil servants were assessed with "unsatisfactory performance" (0.2 %).

As regards the local government, from the total of 85 local self-government units (84 municipalities and the City of Skopje), 67 municipalities (or 78.82%) submitted annual reports, which provides for an increase of 5.92% compared to 2009 figures. By 31.12.2009 the municipalities that submitted reports employed 2147 civil servants in total, 1981 (92.26%) of which were evaluated and 166 (7.73%) remain unevaluated. As high as 1001 local government civil servants (46.62%) were assessed with "excellent performance", 883 (41.12%) were assessed with "satisfactory performance", 71 (3.30%) with "partially satisfactory performance", and 26 (1.21%) were assessed with "unsatisfactory performance".

The following table provides a summary of civil servants' performance assessments for 2009, both in absolute numbers and percentages:

[63] Chapter VI – "Civil Servants' Performance Assessment" from the Law on Civil Servants and the Rulebook on the Manner and Procedure for Civil Servants Performance Assessment.

[64] NPAA Revision 2010 – goal 9, activity 25 "Analysis of civil servants' performance assessment".

[65] Hundred and seventieth (thematic) meeting held on 2.7.2010.

[66] Ministry of Education and Science and Ministry of Culture; by the end of August 2010, and after the publication of Analysis, the remaining two reports were submitted to the CAS.

[67] Valandovo, Veles, Demir Hisar, Gevgelija, Zelino, Zajas, Zelenikovo, Zrnovci, Karpos, Negotino, Novo Selo, Oslomej, Resen, Rosoman, Strumica, Studenicani, Tetovo and Suto Orizari. By the end of August 2010, and after the publication of the Analysis, additional 5 municipal reports were submitted to the CAS.

	Number of civil servants			Civil servants' assessment			
	Total	Assessed	Not assessed	Excellent	Satisfactory	Partially satisfactory	Unsatisfactory
Central government	7142	6112	1030	4643	1373	85	11
Local government	2147	1981	166	1001	883	71	26
Total	9289	8093	1196	5644	2256	156	37
%	100%	87.1%	12.9%	69.7%	27.9%	1.9%	0.5%

As given in the table, 69.7% of civil servants evaluated (87.1% from the total number of civil servants) were assessed with "excellent performance", 27.9% were assessed with "satisfactory performance" and 1.9% with "partially satisfactory performance"), whereas only 0.5% were assessed with "unsatisfactory performance". Such results are important since the assessment of the civil servants affects their rights and obligations, as follows:

1. The performance assessment might provide grounds for termination of labour relations. Namely, if the civil servant is assessed with "unsatisfactory performance" twice in a row or at least three times in the last five years, he/she will be discharged;
2. The performance assessment can provide grounds for re-assignment of the civil servant in question or termination of labour relations. Namely, the secretary or the head of the public administration body/ municipality, by means of a decision re-assigns the civil servant who was assessed with "unsatisfactory performance" to a position that corresponds to his/her education degree and work ability. Civil servants who will not accept the re-assignment are discharged.
3. The performance assessment affects the salary supplement and provides grounds for accelerated career advancement (salary supplement accounts for the appraisal of civil servants' performance). Namely, the civil servants assessed with "excellent performance" for two years in a row can be promoted one year earlier than stipulated by relevant regulations.

In the context of Macedonia's EU accession process, surprising is the fact that all EC Progress Reports underline the poor and insufficient capacity of public and state administration, while the performance assessment of civil servants indicates the opposite. Obvious is that internal criteria applied to the state administration performance

assessment are in discrepancy with EU standards, or the performance assessment of civil servants in Macedonia lacks professionalism, efficiency and accountability– principles applied in the so-called European Administrative Space. It is unlikely that this approach to civil servants' performance assessment can improve the assessments from the last two EC Progress Reports that read "*understanding of the performance assessment process is still poor, and the capacity in ministries to implement it low*"[68] and "*the capacity of ministries and municipalities to perform staff appraisals needs to be strengthened*"[69]. One should also have in mind that the 2010 Review, as part of the first indicator for the public administration reform, clearly and unambiguously states that, *inter alia*, the recruitment, assessment and advancement of civil servants should be "*objective, transparent and merit-based*". Thus the conclusion that ***the first indicator set in the Review is not fully realized***.

7.2. High Committee with low expectations

The second indicator based on which the EC will monitor Macedonia's progress in this field reads: "*the PAR Committee should steer the reform process efficiently by coordinating all relevant institutions on all levels. Develop monitoring and evaluation instruments as laid out in the conclusions of the Committee for implementation of the PAR strategy*".

The High Committee on Public Administration Reform, chaired by the Prime Minister, was established in July 2009 with the aim to guide the reform process. NPAA 2010 emphasized that "*the High Committee on Public Administration Reform will continue to meet on monthly basis and will guide and monitor the implementation of measures and activities committed to under the public administration reform and will monitor their implementation*" (NPAA, pg.12).

Nevertheless, SEA's Monthly Briefs do not provide data on the work of this Committee. They only refer to the fact that in January 2010, the meeting of the PAR Committee was attended by Gregor Virant, former Minister of Public Administration from Slovenia. No reference was made as regards conclusions adopted by the Committee, monitoring or evaluation instruments developed to follow-up the conclusions, although in compliance with this indicator, the Committee is responsible to monitor and evaluate the implementation of its conclusions. This is more distressing, given that the website on public administration reform[70] was created in 2009 and according to NPAA 2010 "*contains data and documents related to the activities of the Public Administration Reform Unit within the General Secretariat and related to the public administration reform process*" (pg. 418). Unfortunately, the last information published on the public administration reform process in the Republic of Macedonia dates from April 2007 and the website hosts the Strategy from 1999 and is void of any information as regards the new draft strategy or any information on the work of the PAR Committee. It is more than certain that such approach does not provide transparency, let alone accountability, although the website refers to the fact that "*well informed citizens, who know their rights and are prepared to defend them, provide strong support to the system of social integrity* ".

[68] 2008 Progress Report for the Republic of Macedonia, pg. 10.

[69] 2009 Progress Report for the Republic of Macedonia, pg. 9.

[70] www.rja.gov.mk

The question raised is: how and whether the Parliament was informed of the PAR Committee work? According to SEA[71], the Parliament is presented with three-month reports, whose purpose is to provide continuous information both to the Parliament and the broader public as regards the EU accession process. However, the last SEA report published on its website dates from April 2008?! Does this mean that the Parliament was not informed on the activities taken by the Government and related to this high strategic priority for the last two and a half years, which also implies failure to enforce the Declaration on the Role of the Parliament of the Republic of Macedonia in the Stabilization and Association Process?[72] For clarification purposes, the questions raised also concern the information submitted to the Parliament and related to the PAR Committee work, as defined under this indicator, and not the quarterly information on the implementation of NPAA activities, developed by SEA and submitted to the National Council for European Integrations and the Committee on European Issues.

Accordingly, if there are no other official documents on PAR Committee's work that would indicate the efficient reforms and coordination of all relevant institutions and would be accompanied with developed monitoring and evaluation instruments for its conclusions, it is highly likely that the 2010 Progress Report will note this indicator as ***unrealized***. Even if such documents exist, the assessment remains since they are not available and accessible for the public, which would be negatively reflected in terms of the transparency of the current still non-transformed administration?

[71] http://www.sep.gov.mk/Default.aspx?ContentID=19

[72] "Official Gazette of the Republic of Macedonia", no. 39/2003.

7.3. Fellows for photocopying

The third indicator from the Review 2010 reads*: "implement the recommendations of State Audit Office (SAO) regarding human resource management and internal organisation, with special attention paid to temporary employments, non-majority employments, and internal audit and control systems".*

Analysis of this indicator focuses on temporary and non-majority employments since they were considered "burning" political, reform and existential topic both in the Republic of Macedonia and in Brussels, in particular the temporary employments. Namely, the 2009 Progress Report noted that "*planning of the human resource needs across the entire civil service needs to be significantly strengthened, in particular in order to reduce use of temporary staff and ensure a coherent approach to equitable representation*" (pg. 12). Moreover, the Resolution of the European Parliament as regard the 2009 EC Progress Report (February 2010), explicitly "*calls on the authorities to ensure compliance with the law by putting a stop to unlawful promotion practices and the hiring of temporary staff outside the scope of the Law* (on Civil Servants)" (pg.5).

In order to address this EC remark, NPAA 2010 underlines that "*By the end of 2009, the General Secretariat will submit an information on the number of current temporary employments made through the Agencies for Temporary Employment, including a description of tasks they perform*". Unfortunately, 10 months later there are still no official data on the exact number of temporary employees in state administration bodies, let alone description of their tasks. Judging from the data published on the websites of Temporary Employment Agencies, the number of temporary employed persons at state administration bodies, state institutions and public enterprises is (too)large.

As part of our Fifth Quarterly Accession Watch Report[73] we made an attempt to assess the number of persons employed through Temporary Employment Agencies. Thus, by using the freedom of information (FOI) instrument, we addressed FOI applications to the Employment Agency of the Republic of Macedonia (hereinafter: EARM) on the number of temporary employees in the state administration. EARM should hold the most reliable data thereof, as Article 12 from the Law on Temporary Employment Agencies[74] stipulates that "*copy of all contracts signed for clients of temporary employment agencies* ***should be forwarded*** *to the Labour Inspectorate and the Employment Agency of the Republic of Macedonia*". Nevertheless, our FOI application remains unanswered, which could be due to two reasons: 1) EARM does not have the data, in which case it does not perform its duties properly; or 2) EARM has the data, but does not want to disclose them despite the obligation stipulated by the Law on Free Access to Information of Public Character, in which case there is a problem with the rule of law. Both options are bad news for the Macedonian citizens.

The recently proposed amendments to the Law on Temporary Employment Agencies, forwarded to the Parliament on 6 September 2010, pulled the last straw of this irresponsible behaviour. Notably, the amendments (Article 3 thereof) propose that Temporary Employment Agencies **should not submit a copy of temporary employment contracts signed to the EARM**, but only to the Labour Inspectorate?!? Knowing that EARM is legally obliged to know the exact number of temporary employees, but was unwilling to disclose it, only supports the possible outcome if this change is introduced in the relevant legislation. Unfortunately, this shows that non-disclosure of the number of temporary employees is not coincidental, and will now be legally justified and will thereby provide for greater non-transparency of behalf of EARM and would create greater confusion.

To make the irony bigger, the justification for the adoption of the amendments to the law is disguised by the alignment with the new Directive 2008/104/EC on temporary agency work which establishes protective framework for temporary agency workers which is non-discriminatory, transparent and proportionate, while respecting the diversity of labour markets and industrial relations. Unfortunately, as many times before, the Government secured itself an alibi for pursuing political party interests on the detriment of the entire society by giving a reference to EU Directives, failing in that to acknowledge the fact that Directives on temporary work and temporary employment agencies primarily concern the private and industry sector employments and not the temporary employments in state administration. Of course, that is the case in countries with developed industry and independent and powerful private sector.

At least two matters need to be stressed in the context of temporary employments. First, on 12 February 2010, the Parliament was presented with a draft decision to establish an Inquiry Committee that will be tasked to determine the exact number of employees in state and public administration in Macedonia – both employed for fixed and unfixed duration. The rationale for this proposal states that "*such Committee would put an end to speculations and doubts and would confirm the fact that in the last three years the state and public administration has rapidly increased, has been politicized and has employed people without criteria and in discrepancy with calls announced, which results in the fact that state and public administration lost their credibility in the eyes of*

[73] For more details see the Fifth Quarterly Accession Watch Report "Who Needs a Parliament?", April 2010, pg. 52.

[74] "Official Gazette of the Republic of Macedonia" no. 49/2006

the citizens of the Republic of Macedonia"[75]. Be that as it may, up to this moment no institution has officially disclosed the exact number of regularly and temporary employees in the administration. Such non-compliance with the law and non-transparency of institutions (in particular on behalf of EARM) is on the detriment of citizens, especially having in mind that both, EARM and the Parliament, receive their salaries from taxpayers.

What is certain is the fact that that despite the remarks made by the EC, the Government continues to "resolve" this problem by turning temporary employments into regular. By means of numerous calls for new employments in the state administration, the Government secures full-time employment for its political party members, and the Macedonian citizens will have to withhold a significantly higher amount from their income in order to secure the funds necessary to cover the salaries of new civil servants. In a situation when the Government lacks capacity to define efficient and sustainable reform of the existing state administration (best example thereof is the recent Draft Strategy on PAR), such tendencies additionally complicate the matters and show that Macedonia lacks political will to reform the state administration. Second and more important fact in terms of Republic of Macedonia's EU accession, is the public disclosure of the exact number and qualifications of civil servants employed pursuant to the NPAA, i.e., for the purpose of aligning the Macedonian legislation with the EU *acquis*. Moreover, since this is crucial in the context of the capacity needed for the efficient performance of future negotiation teams when Macedonia starts the accession negotiations. At this moment, there are no official, public and easily accessible data on the number of NPAA employments planned.

The fact that civil servants who benefited from scholarships, but were deemed "politically unsuitable", are assigned to sectors unrelated to EU integration process is indicative of the Government's ability for administration capacity building. On one hand, the Government brags that "*for eight years now it awards scholarships for European Integration-related postgraduate studies abroad... the beneficiaries of which have to work at least 3 years at a governmental institution upon their return in order to contribute to the EU integration process*"[76], but on the other hand, the same fellows – that we all invest in – are tasked with photocopying duties at the ministries.

Given the above, one can conclude that ***this indicator is unrealized***. Realistic are the expectations that in its next Progress Report, the EC will negatively assess the temporary employments in public and state administration.

7.4. CSA – light at the end of the tunnel

The fourth indicator reads: "*appropriate equipping of Human Resource Units*". Following is the analysis as regards its implementation.

In March 2009, the human resources network of the state administration bodies was established and is coordinated by the CSA. The aim of the Network is to develop standards on human resource development and management, to increase the efficiency, effectiveness and quality of civil servants' performance. In June 2009, the Action Plan for overcoming weaknesses in the operation of HRM sectors/

[75] Group of MPs, (February 2010) Draft-Decision to establish the Inquiry Committee tasked to determine the exact number of temporary employees in the state and public administration in the Republic of Macedonia, both under employment contracts with fixed and unfixed duration. www.sobranie.mk

[76] Secretariat for European Affairs, Monthly Progress Brief, August 2010, pg. 2.

departments at state administrative bodies in the Republic of Macedonia was developed and published on CSA's website. The establishment of HRM sectors/departments was positively assessed in the 2009 Progress Report "*the capacity of the recently established human resources units within the ministries began to be strengthened by providing initial training and establishing a working group to create and coordinate a network*".

The Manual "*Human Resources Management Standards*" was published by the end of 2009 and includes good practices applied by EU Member States. Application of good practices contained therein is expected to improve institutions' performance, professional development and enhance the role of human resource units, which would imply a significant step forward as regards the professionalization of the state administration.

On 29 January 2010, CSA published the "*Report on the realization of measures and activities from the Action Plan for overcoming weaknesses in the operation of HRM sectors/departments at state administrative bodies 2009-2012*". According to the report, matters related to human resource management at relevant sectors/departments, in terms of full equipping with qualified human resources, including the type and number of functions they will perform is being realized gradually and is fully supported by the Government. CSA will coordinate the overall effort in light of achieving standardization of jobs. The report also includes an overview of problems encountered in 2009. In May 2009, the HRM Network's Coordination Working Group (hereinafter: CWG) adopted a document on the standardized job descriptions for civil servants employed at HRM sectors/departments in state administration bodies, whose purpose is to unify jobdescriptionsand serve as guidelines for developingrelevantjobclassifications.

The main problem faced by Network's CWG as regards the implementation of the Action Plan is the inconsistent status of relevant sectors. Namely, although the act on the internal organization of state administration bodies anticipates the establishment of HRM sectors/departments, they are inappropriately staffed. CSA started its quarterly monitoring activities aimed to improve the equipping of HRM sectors/departments and submitted relevant questionnaires to all local and central level administration bodies. The last questionnaire was submitted in August 2010, and CSA expected to receive answers by 6 September the latest. Up to this moment, there is no official analysis on HRM equipping developed by CSA. Having in mind CSA's consistent, timely and transparent performance in the past, one can expect the new report to be prepared, published and made available in due time.

In general, the HRM Network implements the activities from NPAA 2010. Notably, the database on human resource departments is established, standardized job descriptions are developed, HRM standards are development and training is delivered.

Taking into consideration the above, and provided that the analysis on HRM departments/sectors equipping provides a positive trend, it is likely that this indicator will be ***positively assessed*** in the next Progress Report.

7.5 Selective involvement civil society

The fifth indicator against which the EC will assess the progress made in regard to public administration reform reads: *"improved implementation of the Strategy and Action Plan of the Government for Cooperation with civil society. Improve mechanisms for consultation between the Government/municipalities with the civil society sector"*.

For the purpose of maintaining active cooperation with civil society actors, in May 2010 the Government tasked all line ministries to organize regular meetings with non-governmental organizations active in the relevant fields and to regularly report to the Government. In that regard, in June and July 2010 the department for cooperation with non-governmental organizations and the General Secretariat developed information on the meetings organized. The document is available at: www.nvosorabotka.gov.mk and indicates the ministries that failed to report on meetings organized with NGOs, those being: the Ministry of Finance, the Ministry of Transport and Communications, the Ministry of Education and Science and the Ministry of Labour and Social Policy. Surprising is the fact that these ministries failed to prepare relevant reports, in particular the Ministry of Labour and Social Policy and the Ministry of Education and Science, although it has been expected that they will have many achievements to present in regard to the cooperation with non-governmental organizations. Does this mean that the ministries in question have not established cooperation with NGOs or that did not consider the reporting on these activities a priority?

The second comment concerns the composition of the Commission tasked to allocate funds from the 2010 Budget intended to support program activities of civil society organizations, established on 7 September 2010. The information published on the website www.nvosorabotka.gov.mk shows that the Minister of Internal Affairs Gordana Jankulovska was appointed Chair of the Commission, while the members include: Abdilakim Ademi, Deputy Prime Minister responsible for the implementation of the Ohrid Framework Agreement; Elizabeta Kancevska-Milevska, Minister of Culture; Zoran Stavreski, Minister of Finance; Mile Janakieski, Minister of Transport and Communications. The question is raised on the need for such high level Commission members and the need for the Minister of Interior to chair the Commission. Does the Government believe that ministers, under the leadership of Minister Jankulovska, are the best connoisseurs of the non-governmental sector and its needs, or is this yet another proof that the Government is unwilling to delegate the cooperation with civil sector actors to lower echelons in the administration, fearing that matters might fall out of control?

In June 2010, the Government initiated the consultations with civil society aimed to define possible priority projects to be funded by the EU's Instrument for Pre-Accession Assistance (IPA), Component 1 – Transition Assistance and Institution Building, in the year 2011. An announcement was made to this end and aimed to encourage associations and foundations to provide comments and proposals that would contribute to efficient and cost-effective absorption of IPA funds and related to projects targeting the realization of Macedonia's strategic priorities in the EU integration process. A total of 14 non-governmental organizations[77] submitted comments and later attended the consultations organized and attended by representatives from SEA, the General Secretariat and senior programming officers from the line ministries. The Delegation of the European Commission organized consultations with civil society organizations as well.

In general, civil society inclusion is well designed and enables transparency and appropriate participation of civil society in decision-making related to priority-setting in EU assistance programming.

[77] The Macedonian Centre for European Training did not submit comments on IPA 2011 in due time, as the period provided was too short. Nevertheless, on the request from Mr. Oscar Aries, our comments were additionally submitted both to the EC Delegation and SEA. The comments and SEA's response are available on our website: http://www.mcet.org.mk/documents/cat_view/43-policy-documents?limit=5&limitstart=0&order=date&dir=DESC

Nevertheless, the process can be improved if civil society organizations are given sufficient time to submit their comments in written, in particular knowing that many organizations do not have full-time employees and need more time to coordinate their members. Moreover, the fact that only 14 organizations submitted comments is indicative of the civil sector's poor capacity, but the Government behaves as if it is somebody else's responsibility to build civil society's capacities. If the goal is to obtain comments aimed to improve IPA Operational Programs, the Government should provide instruments, mechanisms and adequate financial support for civil society's capacity building.

The most recent example of the non-compliant implementation of consultations as demonstrated by the Government is the adoption of the Strategy on Energy Efficiency 2020, when the Ministry of Economy published the draft-strategy on its website for a period of 30 days (in the peak of summer holidays) and did not obtain a single comment thereto[78] (see Section 12.2).

The fact remains that the Government pursues a selective approach to the cooperation with non-governmental organizations, while on several occasions it supported (stimulated) the establishment of "instantaneous" non-governmental organizations[79] to its liking, which negatively impacts the independence of the non-governmental sector and the entire civil society in the country, and thereby the general democratic processes.

Regardless of the insignificant improvements made to the consultations on IPA programming, this indicator will probably be ***negatively*** assessed in the 2010 Progress Report.

7.6 Draft Strategy on Public Administration Reform

In September 2010 the "Draft Strategy on the Public Administration Reform in the Republic of Macedonia (2010-2015)" was published as part of the IPA-funded project "Strengthening the Capacity of the General Secretariat"[80] and implemented by the Human Dynamics and IPS Institute. The strategy is part of the activities as part of public administration reform.

Following is the chronological order of activities implemented in the public administration reform (PAR) process and the strategy drafting. In July 2009, the High Committee on Public Administration Reform was established and is chaired by the President of the Government[81]. In June 2010, on the 7th meeting of the Stabilization and Association Committee, the EU and the Republic of Macedonia agreed to establish a Special Group (SG) on PAR[82], coordinated by SEA. The Special Group held its founding meeting in July, and organized its first meeting on 23 July when it agreed on the operation and coordination as regards the strategy drafting process. In August 2010, working groups on administrative procedures, e-government and e-administration, anticorruption and human resources management involved in the

[78] Monthly Progress Brief on the European Integration Process of the Republic of Macedonia for August 2010, SEA, pg. 12.

[79] Example for an instantaneous organization is the one created during the opposition's protests against the arrest of Dusko Ilievski, farmer.

[80] EuropeAid/127747/C/SER/MK

[81] Also noted in the 2009 EC Progress Report for the Republic of Macedonia (pg. 8)

[82] Secretariat for European Affairs, Monthly Progress Brief (June, 2010)

preparation of the draft-strategy organized their first meetings.[83] Finally, the draft-strategy was published on 28 September.

The PAR Strategy was anticipated under NPAA 2010 (pg.12), while the deadline for its submission to the Government was 15 October 2010. NPAA indicates that "*the General Secretariat of the Government... will organize public debates on the new Strategy*"[84]. In the course of October several public presentations[85] (not debates) were organized for the draft-strategy. For most part there was no debate, since the draft-strategy was and is not **public and available**[86]. Evident is that public presentations thereof were made only to provide apparent compliance with formal requirements on inclusiveness and transparency in strategy development, rather than obtain essential and quality comments.

Surprising is the fact that the strategy is still not published on the specially designated website (www.rja.gov.mk), established in 2009, which (**should**) "*contain data and documents related to the activities of the PAR department and the public administration reform*"[87]. Moreover, the website does not provide any information related to the PAR Committee, working groups, or their operation and activities. As an illustration, the last information on the public administration reform available on www.rja.gov.mk dates from April 2007 and refers to the "old" Strategy on Public Administration Reform from 1999. The website does not provide any reference to the "new" draft-strategy. This is contrary to NPAA 2010, where it has been said that "*in the following period, the General Secretariat of the Government of the Republic of Macedonia will continue to implement series of measures and activities targeting the smooth operation and improving transparency and accountability of the public administration* " (pg.12).

As for the process under which the draft-strategy was developed, one should note the following:

1. Given that the strategy targets an area of high importance for the Republic of Macedonia's EU accession process, but is also important for the general public administration area in the Republic of Macedonia that provides employment for many persons, one cannot understand the logic behind the need to prepare this important strategic document (with far-reaching consequences) in such a short period (less than 2 months), especially knowing that its preparation was planned in December 2009. This raises concerns in regard to the quality of the document in question.

2. The draft-strategy does not provide details on the development process (which institutions, authorities, civil servants, experts, etc. were involved in its preparation), or whether and how were the civil society and broader public involved. Thus, it seems that the negative practices noted in the 2009 Progress Report continue, meaning that the Government failed to engage in a meaningful dialogue with civil society88. As a reminder, the fifth indicator on PAR from the Review 2010 reads "improve mechanisms for consultation between the Government/municipalities with the civil society sector", which originates from the 2009 Progress Report assessment that "Further efforts are needed to improve accountability in the public administration, in particular in the decision-making process" (pg.11).

[83] Secretariat for European Affairs, Monthly Progress Brief (August, 2010

[84] This was also anticipated as part of the Project Fiche for IPA 2007, Component I.

[85] Presentations were organized in Skopje, Tetovo, Ohrid, Bitola and Stip.

[86] The draft-strategy was submitted only after MCET's persistent requests.

[87] NPAA 2010, pg.422.

[88] 2009 Progress Report for the Republic of Macedonia, (COM (2009) 533), EC, pg. 17.

As regards the document and measures and activities proposed therein, attention should be paid to several aspects, as follows:

1. Except for the elements required for a strategic document, such as the background analysis, vision, mission, scope, objectives and activities (covering only one portion of the strategy's implementation period), the draft-strategy fails to provide structured, comprehensive and consistent information on the process. It lacks thorough analysis of the state of affairs, clear definition of its scope (whether it addresses the state service or public administration, or the public sector as a whole), and expected outcomes and indicators against which achievement will be monitored. The authors' decision to address horizontal issues in the public administration (policy making, administrative procedure, public finances, state service and human resources, e-government and anticorruption), without seeking solutions for the poor efficiency and professionalism, in particular the administration's politicisation, leads to the conclusion that there is no political will for actual reforms in the administration. The draft-strategy should be complemented with additional elements, such as for example, measures proposed to reduce or overcome **identified risks**. This is particularly important knowing that PAR is a process unavoidably and inextricably influenced by the politics. Also, financing requires a detailed and clear overview of the manner in which funds are secured, spent and controlled.

2. What immediately attracts attention in the draft-strategy is the fact the authors provide recurrent references to the achievements made and praises the Government. As a result of this approach, the document lacks arguments on problems identified, and is contradictory, even erroneous at times. In addition to the erroneous use of European Partnership instead of Accession Partnership throughout the document, it also provides misplaced statements, such as: "*In its 2008 and 2009 Progress Reports for the Republic of Macedonia, the EU stressed the **additional progress achieved** in the fulfilment of the Copenhagen political criteria*"[89], and therefore attempts to disguise the fact that in 2008 the EC decisively noted that Macedonia did not fulfil the political criterion. Moreover, the strategy misinterprets certain key priorities (benchmarks) from the Accession Partnership and lists them as EC's priorities for public administration reform. On the other hand, the document does not refer to the medium- and short-term priorities for public administration reform identified in the Accession Partnership, and does not provide references to the indicators from the Review 2010 against which the EC will monitor the progress in 2010. The document is abundant with contradictory conclusions, such as for example the statement on NGO capacities. Namely, the document argues that "*capacities of most non-governmental organizations to participate in policy making and advocate for the interests of stakeholders are still low*", and follows-up with the statement that "*broader consultations with non-governmental organizations and other stakeholders are rarely organized*"[90]. Hence the question: if non-governmental organizations are rarely consulted, how has one inferred the conclusion on their poor capacities?

3. In the section on the current state of affairs, the draft-strategy does not refer to the **main problem affecting the administration**

[89] Draft-strategy, pg. 21.

[90] Draft-strategy, pg. 40.

in the Republic of Macedonia, notably the politicization. Aware that political interference in the public administration cannot be reduced at times of high unemployment, this fact needs to be paid due attention and should be addressed with specific measures and activities.

The daft-strategy is not based on any analysis of the current **number of administration employees** (both, state and public), by taking into account the overall societal, economic and social potential in the Republic of Macedonia. Moreover, it does not suggest "the optimal number" of administration employees who would perform in successful, efficient, effective, transparent and accountable manner and for the benefit of the citizens, economy and society as a whole.

The draft-strategy suggests "*sustainable reduction of the number of employees in this sector under an annual rate of 1%* "[91] although at the public presentation of the strategy the Deputy Prime Minister responsible for European Integrations, Vasko Naumovski, and the Minister of Information Society, Ivo Ivanovski, both stated that there will be no lay-offs. How this measure was designed in the absence of relevant analysis on the state administration's volume is unclear, as well as the manner anticipated to make the administration efficient, effective and professional without precise data on its scope. As a reminder, the Strategy from 1999 (also funded by the EU) anticipated downsizing civil servants and appropriate mechanisms (loan from the World Bank intended for settlement of severance payment for the civil servants that would leave the administration at own initiative). The outcome of that mechanism is another story, but it is only logical that this strategy should have taken into account the lessons learned from the previous one.

The unserious approach pursued in the draft-strategy is best demonstrated by the fact that automation has been anticipated in regard to e-government processes, but no information is provided on its effect on the number of employees. The reason for automated administration apart from better quality of services is to reduce the number of employees, and thereby make more budget funds available and render the overall procedure cost-effective. If this is not planned, Macedonia will have to take loans (since this process is expensive and the draft-strategy does not provide exact figures) without knowing how much the Macedonian citizens will have to pay for the luxury of an overemployed administration.

4. The draft-strategy proposes a solution which, unless thoroughly analysed, could have disastrous consequences. Notably, it identifies the need to re-examine the existing constitutional provision on the required two-third majority voting for enactment of legislation in the field of public administration and judiciary organization92.The question is raised: which laws are covered by this conclusion and what is the ulterior motive behind it?

On one hand, the term "public administration organization" creates dilemmas as regards the scope of the constitutional amendment proposed. In compliance with the Constitution, the organization and operation of state administration bodies are stipulated by a law adopted by two-third majority voting from the total number of MPs.[93] The question is raised whether the imprecise and broad formulation ("public administration organization") serves as disguise for the constitutional amendments to cover a broader structure from the

[91] Draft Strategy on the Public Administration Reform in the Republic of Macedonia (2010-2015), 28 September 2010, pg. 13.

[92] Draft-strategy, pg. 31.

[93] Constitution of the Republic of Macedonia, Article 95, paragraph 3.

one governed by the Law on Organization and Operation of State Administration Bodies, given that the term "public administration", in addition to state administration, also includes various categories, such as for example the local government authorities.

On the other hand, the question is raised whether this proposal disguises the intention to influence the legislation that governs the state administration? When *politicization* is one of the major problems of the public administration, the possibility to adopt laws in this field with simple majority voting would only enhance the problem and enable the ruling party to toy with these regulations, in the absence of the protective mechanism secured by the two-third majority voting.

Another question raised concerns the inclusion of the judiciary in this formulation (simple majority voting for adoption of legislation) and whether the public administration reform strategy attempts an intrusion in the political system, i.e., whether the Government uses the Strategy as an alibi to enact broader constitutional amendments. Real danger of this approach lies in the fact that, under the auspices of efficiency, the Government is attempting "back door" regulation of its organizational structure, and thus sacrifices the two-third majority voting for adoption of legislation governing *the types of courts, jurisdiction, establishment, revoking, organization and court composition, as well as the procedures initiated in front of courts*.[94]

5. Although the draft-strategy notes "*unacceptable system consequences*"[95] which were are result of the last amendments made to the Law on General Administrative Procedure[96] from 2008, the solutions proposed to address these problems are disputable, and may even be in violation to the Constitution. Namely, one of the issues addressed by the draft-strategy and related to legal and institutional framework on administrative procedures and services is **the right to appeal**, i.e., second-instance decision-taking in administrative procedures. As regards the weaknesses identified[97] in the existing regulation based on which second-instance decisions are taken by Commissions within the Government, major institutional and structural reforms are announced, but the solutions proposed lack arguments in support.

For example, one solution proposed refers to the transfer of second-instance decision to the line ministries, and establishment of so called *special administrative units* competent to take first-instance decisions. Disputable in this proposal is the fact that state administration bodies in the Republic of Macedonia[98] can be established as ministries, other state administration bodies and administrative organizations. Other state administration bodies, according to the organization type and independence can be established as independent state administration bodies (directorates, archives, agencies and commissions) or bodies within the ministries (administration, bureau, service, inspectorate and captaincy). Administrative organizations are established to perform expert and other works that require application of scientific methods and relevant administrative works (institutes). Obvious is that unless major structural changes are made, the existing system does not have bodies which could be delegated the first-instance

[94] Ibid, Amendment XXV

[95] Draft Strategy on Public Administration Reform in the Republic of Macedonia (2010 – 2015), version from 28 September 2010, pg. 26.

[96] "Official Gazette of the Republic of Macedonia" no. 110/2008.

[97] Some of which have been discussed by the expert public, for example see http://www.utrinski.com.mk/default.asp?ItemID=D206607249687C4C964F32CA71143750

[98] In compliance with the Law on the Organization and Operation of State Administration Bodies, Article 5.

decision taking. In such case, bodies will have to be established separately from the ministries, but will be of lower order! On the contrary, the issue of devolution emerges as one of the aspects in the two-instance administrative procedure. In order to provide actual two-instance decision-taking system, a higher-instance body needs to take decisions in appeal procedures. In practice this means that unless first and second instance decisions are separated, we might face a situation of "judge, jury and the executor".

The second solution proposed to address this problem is to establish authorities competent to take decisions in second instance administrative procedures. The problem with this solution is evident: it proposes establishment of a new system or bodies, which would inevitably require material and human resources. In a situation when overemployment is the biggest problem affecting the Macedonian administration, this solution is deemed utterly illogical.

6. The draft-strategy anticipates the establishment of "new institution", which implies revoking of the CSA, although there is no analysis as regards the manner in CSA will be revoked and the consequences thereof, including the possible risks of such reform efforts. The proposed Law on Amendments to the Law on Organization and Operation of State Administration Bodies from September 2010 stipulates that the competence to implement the public administration reform will be given to the existing Ministry of Information Society. In the context of the strategy and in general, this legislative solution is disputable due to at least two reasons: a) the strategy is not developed on the basis of an analysis that indicates the reasons, needs, proposed solutions and dynamics of the new ministry; and b) it is unreasonable the Ministry of Information Society to be transformed into a new institution, since ICTs are a small segment of the public administration reform and should therefore be treated as horizontal issue under HRM. The Ministry of Information Society has neither the capacity nor the potential to be transformed into such an important ministry. If an institution is to be transformed in a Ministry of Public Administration, it should be the CSA, but even then its independence and autonomy would be endangered.

It is important to note that the **CSA as an independent state body** was one of the professional institutions that performed its administrative and legal obligations in timely and transparent fashion. Many donors, including the European Union, invested significant funds in CSA capacity building. In fact, the 2009 Progress Report emphasized that the amendments to the Law on Civil Servants from 2009 "*significantly improved the legal framework by strengthening the role of the Civil Servants Agency (CSA)*" (pg. 9). If the CSA is merged with the new ministry, it will irreversibly lose its independence, which - in turn - would revoke the most powerful instrument to fight politicization which is the civil service's biggest sore.

The revoking of CSA will endanger the implementation of projects funded under IPA, Component I. Notably, IPA 2008-2010 was already programmed. IPA Operational Programs for 2009 and 2010 anticipate technical assistance (approximately 1 million EUR for 2009 and 2.125 million EUR for 2010) intended for capacity building at CSA, while this funding targets and implies an independent institution able to deliver the results anticipated in the project fiches. If CSA is merged with the new ministry, its independence would be completely lost, which - in turn - will endanger IPA projects on public administration reform whose aim is to strengthen CSA's independence.

7. The draft-strategy anticipates the establishment of new PAR Fund, which – as explained on the presentation held in Skopje – will use bilateral assistance and EU funds. Does this mean that the Government aspires to control the bilateral assistance in Macedonia as well? Unclear is whether the Government expects the countries that financially support Macedonia to transfer their funds directly to the PAR Fund, and thereby leave the management thereof in the hands of the new institution. If so, such solution would be unrealistic. The experiences of the Foreign Assistance Coordination Unit, established within SEA and supported by UNDP, show that assumptions of this type are unrealistic. On the other hand, if this Fund uses only the funds from the Budget of the Republic of Macedonia, why would the Fund exist at all knowing that all institutions have their own budgets for programs, strategies, measures and activities?

8. Nowhere does the draft-strategy refer to the Regional School of Public Administration (ReSPA), given that the Republic of Macedonia is actively involved therein, based on the Agreement for establishing ReSPA which was ratified by the Parliament in April 200999. EU supported the establishment of this regional school with the aim to: (1) improve the cooperation in public administration field among Member States100; (2) enhance the exchange with EU Member States and countries from the European Economic Area; (3) strengthen the administrative capacities of relevant administrations in ReSPA countries, in compliance with the European integration process; and (4) human resources development in ReSPA countries in compliance with the principles of the European Administrative Space. In that, SEA and CSA were tasked with the implementation of this Agreement.

With this in mind, surprising is the fact that the draft-strategy does not mention ReSPA, although ReSPA and the draft-strategy are both supported by the EU; and second, how would ReSPA activities 101 be harmonized with the activities from the draft- strategy, given that the implementation ReSPA and draft-strategy are funded from the Budget of the Republic of Macedonia. Thus, it is only logical for planned activities to be harmonized in order to avoid irrational public spending and to improve the efficiency and effectiveness of public administration.

Recommendations

- prior to its submission to the Government, to organize consultations with all stakeholders aimed towards finalization of the Draft Strategy on Public Administration Reform in the Republic of Macedonia;
- to regularly update and provide all PAR-related documents, events and activities on the website of the Public Administration Reform Unit at the General Secretariat of the Government;
- the draft-strategy should be complemented with data on the development process, and should define the financial implications and manner of fundraising, spending and supervision;
- the draft-strategy should provide additional mechanisms aimed to reduce (eliminate) possibilities for politicized administration;
- to determine the exact number of regular and temporary employees in state and public administration and conduct an analysis on the optimal number of employees in the public administration;

[99] "Official Gazette of the Republic of Macedonia" no. 72/09.

[100] ReSPA members include: Albania, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia and the UN Interim Mission on behalf of Kosovo.

[101] Defined in Article 5 of the Agreement.

- to re-examine the decision to revoke CSA or to merge it with the newly established ministry;
- to re-examine the need to establish the PAR Fund;
- ReSPA objectives and activities should be incorporated in the draft-strategy;

8. HUMAN RIGHTS

In the field of human rights, the Review 2010 sets one short-term priority: "*fully comply with the European Convention on Human Rights, the recommendations made by the Council for Prevention of Torture; provide sufficient resources to bring prison conditions up to higher standard*". Progress made towards the realization of this priority will be measured against five indicators, those being: 1) *"ensuring appropriate strategic planning and a prison management system";* 2) *"ensure merit-based system in the selection and appointment of prison staff and management in compliance with the legal provisions";* 3) *"ensure efficient resources to bring prison conditions to higher standards*"; 4) *"ensure appropriate balance between short-term and long-term strategic planning";* and 5) *"resolve the issues of overcrowded prisons and health care in prisons*".

8.1. Imprisoned jails

These indicators can be categorized into three groups of interventions, as follows: a) activities aimed to increase the prison capacities for strategic and systematic management; b) staff reforms, i.e., introduction of the carrier system; and c) improving physical conditions at prisons. In the reporting period, media covered the implementation of penitentiary system reforms at large. In its progress briefs, the Government reported on a series of activities implemented, and provided information on specific activities and projects.

In order to analyse these activities, we submitted freedom of information applications (hereinafter: FOI applications) to access public documents that the Government indicated as relevant in the prison reform implementation. In that, we asked for copies of the following documents:

- the Report on the implementation of the Action Plan for fighting corruption among prison staff;
- second updated version of the sustainability/feasibility study for the project "Reconstruction of Penitentiary and Correction Facilities in the Republic of Macedonia", already submitted to the Council of Europe's Development Bank;
- Information on the number of inmates serving their sentence;
- Information on the number of convicts waiting to serve their imprisonment sentences;
- Project documents for the project "Strengthening the National Penitentiary System In Compliance with International Standards", supported by the Matra Program of the Kingdom of the Netherlands;
- Strategy for Re-Socialization and Social Adaptation of Inmates Serving Their Imprisonment Sentences;
- Report on activities taken by the Republic of Macedonia to follow-up the 2008 report of the Council of Europe's Committee for Prevention of Torture.

8.2. Ignorance at large

Distressing were the information officially disclosed by the Directorate for Execution of Sanctions at the Ministry of Justice.

One of the two FOI applications concerned the number of inmates serving their imprisonment sentences. On 14 July 2010, there were 2280 inmates in total accommodated at penitentiary facilities, which exceeds the total capacity of the penitentiary system. Hence, ***the fifth indicator*** ("to resolve the issue of overcrowded prisons and health care in prisons") remains unrealized, although activities were implemented in the reporting period and resulted in ***improved health care in prisons.*** Nevertheless, further efforts are needed to bring the conditions in prison in line with the minimum European standards.

Contrary to the number of inmates serving their sentences, surprising is the response of the Directorate that it does not dispose with information on the number of convicted persons who wait to be called to serve their imprisonment sentences. Under the auspices of non-jurisdiction, the Directorate does not believe that its ignorance as regards the convicts waiting for empty beds at prisons is indicative of its poor capacities or operation! The question is raised: how will the strategic and systematic planning capacities be developed in future, also taking into account the trend of increased inmate population and based on the forecasts for future convictions, when at the moment the Directorate is not interested in knowing the number of people on "the waiting list" for the penitentiary and correction facilities it operates. Hence, ***the first and fourth indicators are far from implemented,*** and it seems there is no awareness on their importance, especially in terms of efficient and effective operation of the entire penitentiary system.

8.3. Non-Existent documents

Officially, the Directorate has not prepared the Report on the implementation of the Action Plan on fighting corruption among prison staff. This inevitably raises the question: what did the Government reported on in its progress briefs and whether something was implemented at all to address the corruption among prison staff? How can the Government refer to such report when the competent state authority does not possess it, nor is aware of its existence? Similar was the situation with the remaining FOI applications targeting activities that had been indicated as "positive developments". Thus, we did not receive the project documents for the project "Strengthening the national penitentiary system in compliance with international standards", supported by the Matra Program of the Kingdom of the Netherlands, for which we know it is to end in March next year, and includes delivery of specific training. Again, the non-transparent operation on behalf of state authorities prevents the independent assessment of their work and the goals set. Therefore, ***one cannot assess whether and to what extent is the second indicator realized.***

Full insight was enabled only to the Strategy on Re-socialization and Social Adaptation of Inmates Serving Imprisonment Sentences. This strategy includes an action plan, while most of the activities stipulated therein are late. The implementation of this strategy will be subject of analysis in our next Accession Watch Report.

8.4. The debt is a secret

The second updated version of the feasibility study for the project "Reconstruction of Penitentiary and Correction Institutions in the

Republic of Macedonia", which was already submitted to the Council of Europe's Development Bank, remained a confidential document although it is the basis for the approval of the loan in the amount of 46 million EUR! The Ministry denied access to the document in question indicating that such information is protected by copy rights, although the copy rights in this case belong to the information holder, since there is no copy right protection for documents developed within or related to state services.

This response is worrying from two reasons. First, how can a document on the basis of which the state takes a loan in the amount of 46 million EUR on behalf of the citizens be considered a secret, although it provides assessment of the project's sustainability? Such utter non-transparency raises doubts in the project's feasibility and the need for the loan! Second, does this mean that under the auspices of copy rights, the Government will deny access to any documents created by the Government itself and whose contents can be deemed sensitive? If we are to trust the Government and taking into consideration the notifications on reconstruction activities taken at penitentiary and correctional institutions in the last period, there are indications that ***certain progress was made in regard to the implementation of the third indicator.*** Nevertheless, given that half of the inmate population is accommodated at Idrizovo, this indicator will be assessed as unrealized until the standards and conditions at this prison are improved and are brought in line with European standards.

8.5. Follow-up of recommendations of the Committee for Prevention of Torture

Finally, most surprising is the answer that there was no Report on the activities implemented to follow-up the 2008 recommendations made by the Council of Europe's Committee for Prevention of Torture! Does this mean that the state believes it should not account on the serious remarks made in the report, which we duly addressed in our previous reports? One thing is clear: this indicates that the ***indicator is not realized*** but the state provides an illusion of taking actions by referring to these documents in its monthly briefs. Either that or the competent authorities are not informed on the existence of such document, which raises doubts in the contents thereof.

9. EMPLOYMENT AND SOCIAL POLICY

This part of the present report will address the priorities related to the economic criteria. According to the Review 2010, in the field of employment and social policy Macedonia is to deliver results under 4 short-term priorities, those being: *1) reduce impediments to job creation by taking additional measures to address youth and long-term unemployment; 2) ensure administrative capacity to implement social inclusion and social protection policies; 3) develop a social dialogue mechanism and ensure a functional and representative social dialogue;* and *4) set up effective mechanisms to identify, pursue and penalize (sanction) all forms of discrimination by state and non-state bodies against individuals or groups.*

All four priorities will be addressed under this section, with special emphasis on the first priority considering that it has been monitored

in continuation from 2009. The other three priorities will be briefly addresses against the indicators set in the Review 2010.

9.1. Unemployment excellence

The EC will monitor the implementation of the first priority (reduce impediments to job creation by taking additional measures to address youth and long-term unemployment), against three indicators analysed in detail below. The first indicator reads: *"efficient implementation of active employment measures to reduce unemployment of youth; increase the number of people included in the active measures compared to 2009 and redesign measures to meet the needs of the labour market"*. To understand why the EC has formulated the indicator in this way, one needs to understand the statistics.

9.1.1. Who's looking for a job?

What does statistics say? From 1994 onwards, the unemployment rate is firmly set at above 30%, and peaked in 2005 by reaching 37.3%.[102]. By 30 September 2010, there are 323233 unemployed in total, 137024 of which are women[103], i.e., women account for 42.2% of the total number of unemployed. According to the age group, most of unemployed people (146722) are at the age of 30 to 49 years (45.4%), 91800 unemployed are at the age of 50 years and above, and unemployed at the age of 15 to 24 years account for 84711. Unqualified workers account for as high as 49.2% of the unemployed population, 77425 people have completed secondary vocational education, and 19961 persons hold higher education degrees. As much as 278 holders of M.A degrees are registered as unemployed, while the number of unemployed PH.D holders is 19, 12 of which are women.

The number of long-term unemployed is sky-high. 30.2% of the total number of unemployed, i.e., almost 100000 persons are unemployed for more than 8 years. 5-7 years unemployed are 43258 persons, while 46139 are unemployed for 1-2 years. Thus, young and long-term unemployed are the most affected group on the labour market.

The education structure of the population is utterly unsatisfactory: 3.85% have not complete any level of education; 10.77% have completed primary education; 40.09% have completed secondary education; 3.24% have completed college education and 7.28% have completed university education[104].

The poverty share in the country recorded an amazing 31.1%[105].

As part of our Sixth Quarterly Accession Watch[106] we addressed the state of affairs as regards the active employment measures and stated that Operational Plan for 2010[107] halved both the scope of beneficiaries (from 13929 to 6947 persons) and the funds needed by almost 300 million MKD (from 795 to 526.8 million MKD). Hence the conclusion that Macedonia ***failed to implement this indicator.***

[102] http://www.nbrm.gov.mk/?ItemID=750FC531FC3D1B49B16440313562D400

[103] http://www.zvrm.gov.mk/?ItemID=7876A4C875B08F43A1CCE7E0B425AA38

[104] Towards Excellence in Institutional Operation: Development Strategy for the Centre for Vocational Education and Training; Centre for Vocational Education and Training, USAID Program on Human and Institutional Capacity-Building, Skopje 2010.

[105] http://www.time.mk/read/a895915da5/fbfdf3cca4/index.html

[106] For more details see the Sixth Quarterly Accession Watch Report "About the Less, Less Positive Things", July 2010, pg. 75.

[107] http://www.mtsp.gov.mk/?ItemID=BD66FCC3A7FBCB47AB9150CBFECD2C96

9.1.2. Suspension? So what?

The second indicator used to assess the progress made under the first short-term priority reads: "*continue the implementation of Life-Long Learning*". The state of affair in this regard is even worse. If funds have been reduced under the first indicator, funds for the second indicator were suspended by the EC on the grounds of irregularities in the allocation of funding from the "Life-Long Learning" Program for 2009 by the National Agency for European Education Programmes and Mobility (hereinafter: National Agency for Mobility).

In an attempt to save the state's reputation, the Ministry of Education and Science (hereinafter: MES) presented the DG Education and Culture in Brussels with a report on the activities taken by the MES and the National Agency for Mobility, which were to result in revoked suspension of funding and implementation of preparation measures for participation in the Community Programmes[108]. It is up to Brussels to revoke the suspension in effect.

Obvious is that this indicator remains unrealized, while the date for its realization remains unknown. Fact is that Brussels' administration is slow, but fact is also that Macedonia - albeit the Action Plan - failed to take any actions to accelerate the procedure. The question is raised whether Brussels would have been more expedite if Macedonia had demonstrated lessons learned by imposing the relevant sanctions and appointing a non-partisan Director to the National Agency for Mobility[109]

9.1.3. VET hits bottom rock

The third indicator reads: *"start the implementation of the Plan for vocational education and training that will appropriately reflect the needs of the labour market, thereby creating more employment opportunities*". VET was in part addressed in our previous Quarterly Accession Watch Report, but will be analysed in detail here.

Despite the attributes that VET schools are *"the pillars of economy development"*[110], VET reforms initiated 12 years (1998) ago failed to provide any results[111]. The economy, burdened with its own problems, does not show any interest in getting involved in labour market profiling or education and training[112], thereby depriving VET of its essence, i.e., there is no quality preparation and direct transition to labour relation. A VET remains disconnected from the labour market and is thereby void of any strategic planning as regards labour structure or demand.

Problems faced by vocational education and training were noted in the last there Progress Reports published by the EC. In its 2007 Report[113], EC noted poor progress as regards the adoption of the Law on Vocational Education and Training and insufficient human and financial resources to secure effective reforms in education. Similar was the

[108] Monthly Progress Brief of the Republic of Macedonia, August 2010, стр. 21.

[109] For more details see the Fifth Quarterly Accession Watch Report "Who Needs a Parliament?", April 2010, pg. 68 and the Sixth Quarterly Accession Watch Report "About the Less, Less Positive Things", July 2010, pg. 73.

[110] http://www.vecer.com.mk/default.asp?ItemID=478B8D115DD3AE4A91CC4EF7938B1CA3

[111] Joint evaluation of the effects from the reformed four-year vocational education, working document, May 2010.

[112] National program for education development in the Republic of Macedonia 2005 - 2015 with accompanying program documents, the Government of the Republic of Macedonia.

[113] 2007 Progress Report for the Republic of Macedonia, Chapter 26: Education and Culture.

comment EC used in its 2008 Progress Report[114], where it stated that *"a plan for vocational education and training that properly reflects labour market conditions is still missing"*. The Vocational Education and Training Centre (hereinafter: VETC) developed the programme on mandatory vocational education, but that does not suffice to secure proper policy implementation, including the national strategy on education reforms for the period 2006-2015. Again, the EC 2009 Progress Report[115] reiterates that "*the programme on compulsory vocational education has not yet been implemented, and the 2009 budget for education is insufficient to implement the national strategy for reform in education for* 2006-2015".

9.1.4. Textbook publishing

As part of our Sixth Quarterly Accession Watch Report[116] we addressed the fact that secondary VET schools have no textbooks, curricula or syllabuses reformed. The Government of the Republic of Macedonia, i.e., the Ministry of Education and Science took upon itself to publish textbooks, both for primary and secondary education, including VET. Unfortunately, the initial results of such acrobatics are defeating and textbooks soon became hot potato issues in the society. Notably, the textbook for society (utterly unprofessional and abundant with errors) demonstrated that MES is not able to cope with this activity, but has no sense of responsibility and does not believe it should account for budget funds wasted. There is no information on the number of textbook currently under revision and how much that exercise will cost the Macedonian taxpayers. Nevertheless, the Minister of Education *"feels responsible, but not guilty"*[117] for this costly mistake.

The present report does not attempt to analyse MES results in the field of textbook publishing, but raises several questions: 1) why does MES deal with textbook publishing, which by definition is a commercial activity; 2) how can MES secure competition in textbook publishing when it established itself as the monopoly in the field; and 3) why do publishing houses remain silent?

It is not by coincidence that the EC includes this priority in the economic criteria. Textbook publishing is the most lucrative branch of publishing and all publishing house are strategically positioned to include textbook publishing as well. In foreseeable environments, publishers plan for taking part in this market by long-term investments in capacity-building of textbook authors and relevant tools such as Teacher Manuals, Student Workbooks, Textbooks, training for teachers, etc. This approach (textbooks, tools, and training) enables the publishers to compete for clients (ministry or schools) and compete among them, in particular as regards the creative approach.

In such environments, the line ministries (or the bodies established by them) prepare textbook syllabuses and concepts, and leave the remaining to the publishing houses. Publishers develop authors, secure reviews and care for every step in the process, as on the contrary they will not be paid. It is of essential importance to provide good authors with whom they establish long-term cooperation, and thereby use the term "author development". The renowned publishing houses have an unwritten rule that a primary school textbook can be written only by primary school teachers, since they are the ones that know the

[114] 2008 Progress Report for the Republic of Macedonia.

[115] 2009 Progress Report for the Republic of Macedonia.

[116] For more details see the Sixth Quarterly Accession Watch Report "About the Less, Less Positive Things", July 2010, pg. 73.

[117] http://www.a1.com.mk/vesti/default.aspx?VestID=126394

environment in which textbooks are used. University professors can write only university textbooks.

In our case, the MES might not generate income from textbook publishing, but it definitely provides (poor) control of the contents published in textbooks, which was not the case even in the golden age of the Federal Republic of Yugoslavia. What remains unclear under the current circumstances is the persistent silence on behalf of publishing houses and the lack of any revolt against the monopoly over textbook publishing assumed by the MES.

9.1.5. Invisible VETC

The Law on Vocational Education and Training[118] determines the goal of VET as preparation for work, i.e., continuation of education, and its objective are to secure conditions for acquisition and advancement of relevant professional qualifications in compliance with labour market needs, encouraging interest for VET, etc. Obvious is the Law's repetitive use of "*in compliance with labour market needs*".

NPAA 2009[119] and NPAA 2010 anticipate the same activities for vocational education and training. The short-term priorities such as the analysis of the labour market[120] and the human resource equipping with 15 new employees are copy-pasted two years in a row, but remain unrealized. The most commonly indicated institution responsible for implementation of activities anticipated under VET reform is the Vocational Education and Training Centre (hereinafter: VETC). It is tasked with the development of concepts, standards, external evaluation questions, curricula and syllabuses, etc.

"*VETC… aims at achieving excellence in its operation….*" wrote the VETC Director in the welcome address of the VETC's Development Strategy[121]. According to the Law on VET, the VETC is competent for balancing and integrating state interests and the interest of social partners in the vocational education and training. VETC supports the social partners, develops the European orientation of the vocational education and training and develops competences tailored according to international labour market demand.

What resources (human, material, premises) does VETC use to achieve excellence? VETC employs only 16 people, who are still accommodated at the barracks within the Clinical Centre in Skopje. VETC is almost invisible. Although it has its own website, the content thereof is vague and is not linked to the MES website. Apparently, the MES claims to support the VETC and stresses that the Centre is independent, but is actually under firm control by the MES[122]. VETC staff is recruited along political party lines, and not on the basis of professional competences. VETC does not maintain contacts with VET service providers and deals exclusively with development of formal education programmes.

VETC is not mentioned as a beneficiary in the budget for 2009[123] and

[118] "Official Gazette of the Republic of Macedonia" no. 71/06.

[119] National Program on the Adoption of the EU Acquis – Revision 2009, the Government of the Republic of Macedonia, 16 January 2009, Skopje.

[120] Response to the FOI application no.. 03.1051/4, 8 October 2010, VETC Skopje

[121] Towards Excellence in Institutional Operation: Development Strategy for the Centre for Vocational Education and Training; Centre for Vocational Education and Training, USAID Program on Human and Institutional Capacity-Building, Skopje 2010

[122] Analysis of the VETC Operation: Findings and Recommendations, draft final report, September 2009, as part of *USAID's Human and Institutional Capacity Development Program, managed by World Learning*

[123] 2009 Budget of the Republic of Macedonia.

2010[124], but its tasks are listed as part of competences of the Bureau for Development of Education.

When comparing the VETC's Operational Program for 2009[125] and the VETC Report for the same year, it can be noted that the Centre was to develop the relevant Matura and final exams programmes under old curricula and syllabuses, but the 2009 Report states that "... *the need for their development was not expressed...*"[126] Instead of being the coordinators, VETC employees attended the Matura and final exams only as observers. VETC prepared the Concept on Profession-Based Vocational Education and the Concept on Vocational Training, but since they are still not verified by the MES, VETC is not able to initiate the VET reform.

VETC's ignorance goes hand-in-hand with its incapacity. It failed to prepare the analysis of labour market professions, the overview of new education profiles introduced in compliance with labour market demand, as well as the Plan on vocational education and training in compliance with labour market demand. Moreover, it failed to prepare the analysis for two- and three-years vocational education and training and the list of standards for VET professions.

VETC's "invisibility" was demonstrated by the fact that it was not invited to the regional workshop in Belgrade held in the period 15-16 April and organized by the German Federal Institute for Vocational Education and Training. The same workshop was attended by all institutions competent for vocational education from the neighbouring countries: Serbia, Bulgaria, Montenegro, Romania and Hungary.

[124] 2010 Budget of the Republic of Macedonia.

[125] VETC Operational Program for 2009, January 2009, no. 03-1051/8, 8 October 2010, Skopje

[126] Report on the VETC operation for the year 2009, No. 01-150, 11 March 2010.

Although VETC's mission for 2010[127] states that VETC employees *"are prepared to give their best in meeting labour market needs and fulfilling the expectations of stakeholders as regards the development of a flexible vocational education and training in compliance with European standards""*, the Program states that almost all activities anticipated are beyond their control (*"implementation of activities ... depends on several external factors that can - to a large extent - delay or endanger the regular operations. If support for planned activities is not secured in due time, such situation might delay the implementation of activities and even result in non-performance ". "...financial support is needed ...as well as permanent solution for VETC premises ...)".*

The 2010 Programme includes an impressive list of activities with measurable indicators. Nevertheless, what catches the attention is the disproportionate number of activities in relation to the small number of VETC employees.

9.1.6. Foreign Aid Centre

VETC's ignorant attitude and politicization, in conjunction with MES's ignorant attitude towards it provide for disastrous results that affect generations and generations of students. MES's ignorant attitude towards VETC is reflected in the budget allocations, in particular since the reform process is entirely left in the hands of the international community.

The European Union, by means of the Instrument for Pre-Accession Assistance (hereinafter: IPA) Component IV (human resource development), prepares the candidate countries for participation in

[127] VETC Operational Program for 2010, no. 03-1051/8, 8 October 2010, January 2009, Skopje

the European Social Fund. Under the priority axis 2, measure 2.1[128], the Republic of Macedonia will use funds intended to modernize the education and training. Macedonia is entitled to as much as 2.5 million EUR (1.765 million EUR for twining project and 733,499 EUR for equipment) to reform the vocational education and training. Nevertheless, the MES's ignorant attitude towards the VETC might imply non-utilization of these funds, especially because twinning projects are feasible only if the competent institution (VETC) disposes with minimum capacity to accept the twinning experts in its operation.

The VETC Development Strategy[129] was prepared with USAID support, and sets ambitious targets for the given time period (2010-2015). Notably, by 2014 VETC should complete 53 activities that would result in obtaining the recognition for "Dedicated to Excellence", while by 2020 VETC expects to earn the Excellence Award of the European Foundation on Quality Model. The implementation of activities anticipated has not commenced.

With the support from the "Employment Skills"" project, financed by the British Council, the Protocol on Social Partnership in VET was signed and aims to adjust the VET to employers' needs[130].

The final conclusion is the Macedonia ***did not realize the third indicator*** from the Review 2010.

9.2. Inclusion without funds

The EC will monitor the implementation of the second priority (ensure administrative capacity to implement social inclusion and social protection policies), against two indicators, those being: 1) *develop a National Programme for Social Inclusion Development;* and 2) *further implementation of the Action Plan from the Strategy for Roma Inclusion 2005 -2015*.

The National Program for Social Protection 2011-2021 is already developed, but late. Pursuant to the NPAA this program was anticipated for adoption in 2009.

Five years after Republic of Macedonia joined the regional initiative "Decade of Roma Inclusion 2005-2015", Roma people remain on the margins of the society. Implementation of relevant Decade Action Plans, last revised in 2008, is slow. 2010 Budget of the Republic of Macedonia allocated 250,000 EUR for implementation of said action plans, which is by far insufficient to meet the objectives set.

The Government and citizens continuously indicate education as an area where major progress was made as part of the Decade of Roma Inclusion. Nevertheless, considering the projects implemented in this field, one can notice that progress is primarily due to efforts made by civil society organizations and foreign donors. Major projects implemented by the Government (scholarships for secondary education students and inclusion of Roma children in pre-school institutions) were – for most part - funded by the Roma Education Fund from Budapest. In its 2010 budget, the Ministry of Education and Science allocated only 3 million MKD (less than 50,000 EUR) to support the implementation of the Decade of Roma Inclusion and the Strategy for Roma Inclusion.

[128] Annual Report on Implementation of the Operational Program for Human Resources Development (2007-2013), Operating Structure for Implementation of OPHRD, June 2010, Republic of Macedonia

[129] Towards Excellence in Institutional Operation: Development Strategy for the Centre for Vocational Education and Training; Centre for Vocational Education and Training, USAID Program on Human and Institutional Capacity-Building, Skopje 2010.

[130] http://www.time.mk/read/NONE/5a4cd003d8/index.html

In its Progress Report for 2010, the EC ***can note only partial implementation of relevant indicators***.

9.3. Economic-Social Council to the Government's liking

The EC will monitor the implementation of the third priority (develop a social dialogue mechanism and ensure a functional and representative social dialogue), against three indicators, those being: 1) *identify representative unions and employer organisations in compliance with the Law on Labour Relations from 15 November 2009; adopt a new agreement for the Social-Economic Council (SEC)*; 2) *form a new composition of the Social-Economic Council;* and *3) implement activities to improve the operational level and the efficiency of SEC and stimulate tripartite social dialogue on local level.*

This is probably one of the rare *almost fulfilled or at least partly fulfilled* priorities, given that in August the Agreement on the Establishment of Social-Economic Council (hereinafter: SEC) was adopted and signed by the three social dialogue partners, followed by SEC's founding meeting in September. SEC's website, created two years ago, became operational as well. Given that these "achievements of the Government" took place in the last months, one can expect that implementation of activities anticipated under the third indicator will start and that local level social dialogue will also be invigorated" following the example of the "vigorous central level dialogue". Nevertheless, let us remind you on the chronological development of this parody.

Establishment of the functional and representative social dialogue mechanism, together with the three priority indicators was first defined in the Accession Partnership from 2006. In the period that followed, 8 (EIGHT) amendments to the Law on Labour Relations were made and the Constitutional Court adopted 8 (EIGHT) decisions to revoke them. At last, as part of the ninth attempt (almost a year ago), the Government made the necessary amendments, and after a perpetual tug of war with the social partners, determined the representation criteria for trade unions and employers' organisations[131].

This is where swords were crossed! Some social partners argued that representative criteria violate trade union's right to personal data protection. Notably, according to these criteria, one of the conditions to demonstrate representativeness is to provide a list of trade union members who pay membership fee[132]. Moreover, such "disclosure" of trade union members was deemed as a possibility for employers or the Government to exert pressure on them.

Nevertheless, the whole "tug of war" came to an end and the Government's next step was to determine representativeness of social partners and issue certificates to those that meet the requirements. No further problems were anticipated until the "out of the blue" change of Vanco Muratovski[133], lawfully elected President of the Association of Trade Unions in Macedonia, the most numerous and oldest trade union. Most probably, this was the most vocal trade union, since it always criticized the legal solutions in the field of labour relations and social and economic policy that affect workers' rights. Unable to convince the Government with arguments on the meetings and public debates in the Parliament, the representatives of this trade union organized

[131] Articles 32-36 and 213-a - 213-f from the Law on Labour Relations, "Official Gazette of the Republic of Macedonia" No. 130-09 from 28.10.2009.

[132] See Article 213-c from the law.

[133] Muratovski believed that his replacement was made in an illegal and non-legitimate manner, and was supported by the Government.

press-conferences to inform the public of the violations made to the Conventions of the International Labour Organization (ILO) and EU Directives. Some might say that this trade union – with all its drawbacks – was probably too representative for the Government's liking and therefore its old President was "democratically" changed, while the new President was "more democratically" elected by 99% of the votes. Given the fact that union's members who tried to oppose to the new President were under constant harassment[134], one can only assume that the Government finally found the representative social partner to its liking and can now negotiate all social and economic policies, to the mutual benefit of course. Evidence thereof is the fact that in the aftermath of the union's leadership change, the Association of Trade Unions did not reacted to any new developments, although it had the reasons to do so, for example: new 2-3 amendments to the Law on Labour Relations, increased poverty, increased unemployment, 2010 budget adjustment and adoption of the new 2011 budget, etc.

Fact is that the EC will welcome the progress made as regards the establishment of SEC, but will also express its concerns related to the manner in which it was established, since under the current composition SEC can hardly fulfil the role of a credible partner in the tripartite dialogue. Therefore, one can only say: LONG LIVE SOCIAL DIALOGUE!

[134] Example thereof is Dragi Jovanovski, who after expressing discord with the new leader on the grounds of leniency for governmental policies and failure to criticize them, was first suspended and then expelled from the trade union (interview with Jovanovski on TV Alfa, programme "Pressing" from 12 October 2010).

9.4. Anti-discrimination – status quo

The EC will monitor the implementation of the fourth priority (set up effective mechanisms to identify, pursue and penalize (sanction) all forms of discrimination by State and non-State bodies against individuals or groups) against two indicators, those being: 1) *adopt an Anti-discrimination law in line with the acquis and start its implementation*; and 2) *establish and make operational mechanisms for monitoring, identifying, enforcing and sanctioning acts of discrimination on the grounds of race and ethnicity, religion and creed, disability, age and sexual orientation*.

As noted in our previous reports[135], the Law on Protection and Prevention from Discrimination[136] was adopted by the Parliament, but is not aligned with the EU *acquis*, in particular as it does not stipulate sexual orientation as one of the grounds for discrimination. Its implementation cannot start given the law's deferred effect. Therefore, the ***first indicator is not realized,*** nor it can be implemented by the end of this year.

Preparations for the law's enforcement are slow. For example, although the proposal to announce a call for the selection of members of the Commission on Protection from Discrimination was made in early September, the Parliament adopted this decision in late October. Thus there are only two months left to selection the members and establish the Commission's composition. Such delays are made to the benefit of either rushed selection or late establishment of the Commission (beyond the legally stipulated deadline). In that, the law's enforcement anticipated to start on 1 January 2011 can also be delayed.

[135] For more information, see the Fifth and Sixth Quarterly Accession Report.

[136] Published in the "Official Gazette of the Republic of Macedonia" no. 50/2010.

9.4.1. Preparatory preparations

On the other hand, ***one cannot speak of progress made under the second indicator***, since the law's deferred enforcement also defers the monitoring, identification, enforcement and sanctioning of its erroneous application. More indicative is the explicit referral to the sexual orientation as basis for discrimination, identified in the second indicator from the Review 2010. Given that the EC prepared the Review 2010 in February 2010, and the Anti-Discrimination Law was adopted in April 2010, obvious becomes the EC's intention to influence the contents thereof. Nevertheless, this ground for discrimination was deliberately removed from the law's text despite all remarks, comments and warnings made by the domestic and international expert public, including human rights organizations and Members of the European Parliament.

The Law's deferred enforcement enables timely establishment of relevant mechanisms and preparations on behalf of the state administration. Nevertheless, the late establishment of an independent Commission can affect the quality of its future operation. On the other hand, training of trainers was delivered for 15 civil servants who later delivered four training sessions in cooperation with local governments of Bitola, Delcevo, Lipkovo and Strumica. The informal coordination body was also established and includes relevant state institutions and non-governmental organizations. However, all preparation activities were initiated, coordinated and financed by the International Community, while the state's participation therein is disproportionate.

9.4.2. Nobody reads Constitutional Court's decisions

On 15 September 2010, the Constitutional Court revoked the provision from the Law on Prevention and Protection from Discrimination stipulating that the term of office of a member of the Commission on Protection and Prevention from Discrimination can be terminated "*should he or she is sanctioned on any discrimination ground*". By doing so, the Constitutional Court again confirmed its principle that certain rights can be limited only by means of court rulings in effect. Consequences of any sentence, after it has been served, must not limit the rights of citizens.

It is important to stress this, as it seems that nobody reads the decisions taken by the Constitutional Court. The Constitutional Court's case law is clear as regards similar grounds for appointment or dismissal of elected or appointed officials. Similar were the Court's actions when it revoked the relevant provisions from the Law on Financial Police, Law on Prevention of Corruption, Law on Bar Activity, Law on Execution, Law on Notary Activity and the Law on Bankruptcy. This raises the question: how can the Government continue to propose and the Parliament to adopt laws that contain non-constitutional provisions? Why did the Legislation Secretariat fail to identify these weaknesses in the law? Does the Macedonian administration have the capacity to follow decisions taken by the Constitutional Court and implement them in other similar provisions?

These questions are important, knowing that the decisions taken by the Council of Europe's Court of Human Rights as regards protection of human rights and protection from discrimination are essential for the interpretation of the Convention and for developing the legal principles. The Republic of Macedonia as a member of the

Council of Europe and signatory to the European Convention of Human Rights is obliged to respect the rulings taken by the European Court and incorporate them in its legislation. Thus, unclear is how will the state build such capacities, given the case of the Law on Prevention and Protection from Discrimination, where it can be concluded that such mechanisms are not established for the decisions taken by the Constitutional Court, which case law is smaller in scope compared to the European Court's case law.

10. PUBLIC SERVICES

The second group of tasks under the economic criteria are related to public services. The Review 2010 identifies three short-term priorities, those being: 1) improve transparency of public procurements; 2) increase capacity on public spending by capacity-building for the public sector on medium-term planning and better budget execution; and 3) review the Strategy on Public Internal Financial Control and existing legislation on PIFC and internal audit, to make it comprehensive and consistent, and update the action plan for implementation of medium-term priorities related to the PIFC; complete the establishment of internal audit units in central state institutions and establish similar units on municipal level by securing proper human resources, training and equipment.

The Review 2010 set indicators under each priority as given below.

10.1. Control over Economic Operators

The EC will monitor the first short-term priority (improve transparency of public procurements), against four indicators. The first indicator reads: *"small changes in the law to harmonize it with the acquis (covering public services, concessions, private-public partnerships and legal remedies)"*. The adoption of new Law on Public-Private Partnerships was announced for two years now, but its enactment is nowhere in sight. The last information we learned is that the law is in the final stage of drafting and that the new law will also include concessions and will be titled Law on Concessions and Other Public-Private Partnerships. As a reminder, this situation was duly noted in the last two EC Progress Reports (2008 and 2009). Obvious is that ***the indicator is not realized*** and will be assessed as such in the Progress Report 2010.

The second indicator from the Review 2010 reads: *"achieve fully operational structures for public procurement to enforce public procurement procedures in line with EU standards"*. Fact is that implementation of public procurements in the country are accompanied with numerous weaknesses and provide for manipulations and failure to achieve the basic principles – transparency, non-discrimination, competitiveness, equal treatment of economic operators, legal proceeding, economic, efficient, and cost-effective public spending, the commitment to obtain the best bid under most favourable terms and conditions, as well as accountability for the public spending[137].

[137] Quarterly Reports on Monitoring Public Procurements, Centre for Civil Communications, 2010.

Nevertheless, one should note that amendments to the Public Procurement Law[138] were adopted on 15 July 2010. They include deadline for taking decisions on bid selection or procedure annulment, for the purpose of achieving better implementation of public procurements. Such deadline was not legally stipulated under the previous legislation, and often delayed the decision-taking process, thereby making the economic operators wait and tie their funds, but also resort to other attempts aimed to "accelerate" the decision-taking.

At the same time, these amendments stipulate that budget beneficiaries can delay payment of public procurements for one or more years when adjustments are made to the Budget of the Republic of Macedonia which reduce funds at disposal of budget beneficiaries in question. Such amendments put the economic operators in utterly unfavourable position, meaning they have to perform their obligations assumed under procurement contracts signed (to provide products/ services or perform works) and tie their funds, while the state will pay them when it has money (or when it is willing to). Particularly difficult is the position of the companies which were unaware of possible changes as regards the deferred payment at the time they signed the public procurement contracts. Thereby, in practice they finance the state in advance and are obliged to dispose with sufficient funds and other resources to deliver the products, services and works contracted, but have to wait to collect their receivables. One possible option they have is to also defer payment of their suppliers' receivables until the funds from the state settle on their account. This is likely to cause a whirlpool of indebtment. Such provisions put economic operators in unequal and unfair situation and provide exemptions and protect state authorities from debt lawsuits, which is contrary to the principles of market economy.

Again, as is the case with other fields, the state interferes on the free market and thereby distorts competition, but also establishes instruments to control economic operators. By doing so, the state definitely ***failed to implement this indicator***.

The third indicator from the Review 2010 aims to *implement effective legal remedy system in public procurement*. The state of affairs in this regard remains unchanged. The second instance State Commission on Public Procurement Appeals is still competent to decide on appeals, and has recently showed a trend of approving appeals lodged by economic operators, and thereby in the first half of the year has annulled half of the procedures appealed, which implies serious violations to the Public Procurement Law.

The biggest barrier to implementing more effective legal remedies for public procurements is the fact that contracting authorities (state institutions or public procurement-performing entities) do not provide rationales on the decisions taken to select the most favourable bidder, thereby preventing the companies that did not win the procurement to lodge effective and argument-based appeals, because they lack information on the reasons for the rejection of their relevant bids. Pursuant to Article 168 from the Public Procurement Law, submission of detailed rationales is a legal obligation, whose failure implies non-compliance with the law.

Otherwise, the Public Procurement Law remains one of the few laws in Macedonia that does not stipulate penal provisions. 2009 amendments to the Criminal Code[139] introduced a new criminal act "abuse of open

[138] Published in the "Official Gazette of the Republic of Macedonia" no. 97 from 20 July 2010.

[139] "Official Gazette of the Republic of Macedonia" no. 14/09.

call for bids, awarding public procurement contract or public–private partnership". Nevertheless misdemeanour provisions remain outside the law's scope. Notably, penal provisions are stipulated for criminal acts of greater gravity and related to the final implementation stage of public procurement contracts, but there are no penal provisions on minor misdemeanours, i.e., violations to the public procurement procedures. Therefore, almost certainly, the EC will assess ***this indicator as partially implemented.***

As for the fourth indicator "awareness-raising and transparency of public procurement procedures", one should note that amendments to the law provided greater openness of the public opening of bids and the implementation of e-auctions (which were of closed nature before). This is considered to have contributed to greater transparency. On the other hand, contracting authorities fail to regularly submit decisions on the selection of the most favourable bid, in particular as regards the so-called small procurements.

Be that as it may, it is our opinion that (modest) attempts made with the aim to increase transparency of public procurements do not imply greater accountability for public spending, since even in transparent cases, there is no accountability for public spending.

On 23 June 2010, the Bureau of Public Procurements (BPP) adopted a Strategy on the Development of the Public Procurements System 2010-2012, which includes the BPP's mission and the commitment to achieve greater transparency in public procurements. However the goals, priorities and measures listed in the Strategy do not provide clear indication on how that will be achieved. Therefore, this ***indicator is partially implemented as well***.

10.2. Silence is gold

Progress made under the second short-term priority from the Review to the Accession Partnership *(increase capacity on public spending by capacity-building for the public sector on medium-term planning and better budget execution*) will be measured against two indicators, those being: 1) *follow-up appropriately the findings of SAO reports*; and 2) *develop a framework (plan) for mid-term expenditure*.

Contrary to EC requirements, the Government together with the Parliament of the Republic of Macedonia adopted a law that practically "prohibits" discussion of State Audit Office's reports and findings (hereinafter: SAO). This act was explained with the fact that SAO is an independent institution and that any discussion on its findings by the Parliament could be interpreted as pressure on its work.

This children's tale was smoothly accepted in the Parliament, in spite of the objection raised by the opposition. The repeated rejection on behalf of the Ministry of Finance to disclose the Consolidated Report on the 2009 Budget Execution is a textbook example that the principles of transparency and accountability in public spending are violated. Although the appeal we lodged to the Commission on the Protection of the Right to Free Access to Public Information was approved[140], the Ministry of Finance still refuses to disclose the report requested.

The state of affairs in regard to the second indicator (develop a framework for mid-term expenditure) cannot be assessed, since the Ministry of Finance is by far the most closed ministry in the Government that resembles a secret service rather than a ministry that manages taxpayers' money. Namely, despite our numerous attempts to obtain

[140] Decision of the Commission on the Protection of Free Access to Public Information no. 07-236 from 14 October 2010.

any information, even by using the FOI instrument, the Ministry of Finance decides to keep silent and ignores our FOI applications.

Inefficient public spending was also noted by the Stabilization and Association Council from 27 July 2010[141]. Having in mind that nothing has changed since, it is certain that EC will note ***these indicators are unrealized***.

10.3. Independence under control

As for the third short-term priority (*review the Strategy on Public Internal Financial Control and existing legislation on PIFC and internal audit to make them comprehensive and consistent, and update the action plan for implementation of medium-term priorities related to the PIFC; complete the establishment of internal audit units in central State institutions and establish similar units on municipal level by securing proper human resources, training and equipment*), the progress will be measured against the following indicators: 1) *Ministry of Local Government and Ministry of Finance to upgrade, support and monitor the staffing of Internal Audit Units as well as the functions on the local level*; 2) *adopt and implement PIFC strategy in accordance with the Law on Internal Financial Audit; update and implement Action Plan in compliance with the law*; 3) *develop and apply internal audit functions on central and local level to support the management*; 4) *secure training and capacity building for the local level*; and 5) *adopt and implement SAO legislation and secure operational, functional and financial independence of SAO from the executive government*.

One can only assume that the Government was referring to securing operational, functional and financial independence of SAO when it proposed the law that "prohibits" parliamentary debate on SAO's findings. At least that was its excuse! Nevertheless, we truly doubt that this story will be as smoothly bought by the EC as it was by the ruling majority in the Parliament. Moreover, the 2010 was saw a public debate (in the media, and not the Parliament) on amendments to the Constitution[142], but SAO and its incorporation therein was never mentioned.

To make matters worse, the Parliament voluntarily waived its right to control and supervise public spending, and in that to check-and-balance the Government, but also adopted a new Law on State Audit which limits SAO's budget and thereby subdued this institution to full parliamentary control[143]. Notably, SAO's budget was deprived of "income generated from collection of state audit performance charges". Thus, SAO's ability to perform its tasks will now fully depend on the Parliament's, i.e., the Government's mercy(less), which determines the SAO's budget on its proposal. This creates instruments for exercising pressure on SAO's work and thereby endangers its independence.

Nevertheless, this did not suffice so the Government proposed new amendments to the Law on State Audit[144], under the auspices of aligning the said law with the new Law on Civil Servants. In that the Government got through one Article (13-c) which stipulates the coefficients, but not the salary basis for which the coefficients will be

[141] Joint press release, Seventh Meeting of the Stabilisation and Association Council between Macedonia and the EU, Brussels 27 July 2010.

[142] For more detail, see the Fifth and Sixth Quarterly Accession Report.

[143] Article 12 from the Law on State Audit, "Official Gazette of the Republic of Macedonia" No. 66 from 13.05.2010.

[144] Draft Law on Amending the Law on State Audit, submitted under no. 3847/1 on 17.09.2010.

calculated depending on the status of auditors in the organization's hierarchy. The salary basis "*shall be determined by the chief state auditor and shall be set within the limits of the approved budget of the State Audit Office*" (Article 13-c). Given that SAO's budget is approved by the Parliament, evident is the Government's desire to establish full control over the said institution considering its importance in the fight against crime and corruption, as well as in the light of transparent and accountable public spending. Probably the Government and the Parliament were unsatisfied with SAO's last report since it provided negative opinion on 31.8% and reserved opinion on 29.6% on issues related to illegal and non-purposeful spending for the audits performed in 2009.[145].

The fact that SAO is not financially independent was demonstrated first by the 2010 budget adjustment and the new 2011 budget, as they reduced SAO funds by a total of 20.3 million MKD, or around 331,000 EUR, despite the increased number of SAO employees and the new audit authority within SAO tasked to audit the Instrument for Pre-Accession Assistance (hereinafter: IPA). Such actions discontinue the trend of increased budget for SAO[146].

Therefore Macedonia ***did not realize this indicator***.

11. SUPERVISORY AND FINANCIAL SERVICES

Third group of tasks under economic criteria are related to supervision and financial services. In that regard, the Accession Partnership stipulates one short-term priority (reinforce the legislation and the supervisory framework, including enforcement for the financial sector). As part of the Review 2010, the EC defined five indicators for monitoring progress made in this area, those being: 1) *further alignment with the acquis on financial services and secure its consistent implementation*; 2) *initiate cooperation with the new European System for Supervising Financial Markets*; 3) *strengthen the administrative capacity of NBRM as the supervisor of the banking sector related to further implementation of the advanced banking regulation – Basel 2*; 4) *align the status of the securities commission members with the provisions of the Law on Securities*; and 5) *eliminate overlapping of competences between NBRM and Commission on Securities in the part dealing with licensing supervision of securities markets*.

11.1 Pawnbrokers become bankers

By late September, the Government proposed a set of legislative acts for the financial sector. In that the draft-law on financial companies is the most disputable one.

Notably, the new law anticipates establishment of financial companies that would issue credits, guarantees, perform factoring and credit cards related operations. In practice, this provides for the establishment of third type of financial institutions (in addition to banks and saving houses) that would contribute to increased and facilitated crediting activities for the Macedonian economy. Given the fact that these companies will be requested to provide equity capital in the amount of 6 million MKD and will be able to place ten times this amount in the form of credits and loans, clear is the fact that citizens and small and medium-sized enterprises (hereinafter: SMEs)

[145] SAO Annual Report for 2009, pg. 21

[146] Ibid, pg.11-12

will be the beneficiaries of their services. The Ministry of Finance will be responsible for the accreditation and permitting of such companies, as well as supervision and control of their operations (companies will be obliged to submit six-month reports the Ministry of Finance).

Second disputable aspect is that the law would provide institutionalization, i.e., state control over the so called moneylending companies and can regulate the interest rates they would collect as profits from capital placed.

The following issues are worrying: a) why NBRM and bank sector representatives were not consulted in the law-drafting process; b) whether, how and why was the Ministry of Finance, and not the NBRM, tasked with supervision and control over financial companies; c) what sources would the financial companies use to fund their operations (considering that they would not be able to collect deposits); d) whether and how will the state protect itself from suspicious capital being marketed by these companies; and e) how will the state oblige the moneylenders to establish companies and transform into institutionalized operation, and why would they waive the high interest rates (profits) they collect and thereby deliberately reduce own income?

Indisputable is the fact that the Macedonian economy needs finances to revive and develop. Nevertheless, this does not necessarily mean that any funding source is acceptable. For years now, SMEs crediting in Macedonia exists and until the financial crisis was marked by a trend of increase. Due to the financial crisis effects, banks introduced more rigorous crediting criteria, which meant transfer to alternative funding, for example loans with high interest, which was soon proved detrimental.

By enacting the law in question, the Government aims to improve conditions and open new and better possibilities for companies to access fresh capital. Nevertheless, even the best idea and intention can prove to be a fiasco and inflict permanent consequences should something go wrong (unconsciously or deliberately) in the implementation process. This resulted in the public's reaction and scepticism that the goal of this legislation will be achieved. More dilemmas (and even doubts) are raised in regard to the exclusion of monetary authorities and other actors from the banking sector.

11.2. Double standards

Most probably, the greatest damage from the Law on Financial Companies will be caused by its *de facto* instruction in the monetary system, as financial companies established pursuant to this law will be outside the supervision system of banking institutions, exclusively performed by the NBRM. The law stipulates that the Minister of Finance will perform supervision over financial companies. The Minister will also be competent to approve their establishment, while the Ministry of Finance will supervise their operations and can outsource to that end.

Taking into account the Ministry of Finance's capacities, the question is raised: why NBRM, as the single institution competent for supervision of banking and other financial non-banking institutions, is excluded from the supervision of these companies? Moreover, as the establishment of other supervisory authority or body is not anticipated. Thus, financial companies remain outside the scope of the usually rigorous financial regulations, while the banks must comply

with the banking regulation – Basel II, a commitment assumed under the Accession Partnership.

Unlike banks and other institutions subject of NBRM's supervision, these financial companies will not be obliged to provide mandatory deposits at the NBRM. At the moment, mandatory deposits made to the NBRM account for 20% of credits marketed and serve as guarantees for banks' liquidity and safeguards from inoperative credits, i.e., uncollectable credits. This leads to tied and immobilized bank funds, which - in turn - reduce banks' crediting potential, i.e., the capital that can be marketed as credits, guarantees or other financial products. Non-compliance with rigorous regulations on banking operations by financial companies will imply disloyal and unfair competition in the banking sector. The poor control and supervision will make these financial companies liable to risky operations and can therefore endanger the realization of the second basic purpose of the National Bank *"to contribute towards maintenance of stable, competitive and market-oriented financial system"*[147].

In conclusion, the enactment of the Law on Financial Companies is welcomed as it provides for complete legislation in the financial sector, but its current provisions provide certain degree of risks, which - unless eliminated - can lead to serious risks as regards the financial system's stability and competitiveness as key segments of any functional market economy, which is one of the three Copenhagen criteria for EU membership.

[147] Law on the National Bank of the Republic of Macedonia.

12. ENERGY

With the energy, we address the third group of tasks related to the alignment of Macedonian legislation with the EU *acquis*. The Accession Partnership sets one short-term priority for the energy field: *continue to align the legislation on the internal electricity and natural gas markets, energy efficiency and renewable energy sources with the acquis in order to gradually open up the energy market to competition; fulfil the obligations arising from the Energy Community Treaty as regards the full implementation of the acquis on the internal gas and electricity market and on cross-border exchanges in electricity*. EC will measure the progress made in this field against six indicators, those being: 1) *prepare for further opening of the market in accordance with the adopted Action Plan and adopt and implement market rules*; 2) *adopt an Energy Efficiency Action Plan and start implementation*; 3) *align legislation with the acquis on supply*; 4) *amend and implement the Energy Law in full alignment with Energy Community Treaty and in line with the Action Plan*; 5) *amend and implement the tariff rulebook in order to adhere to the principle of reflecting costs (clarification: Price Methodology in line with Rulebook on means and conditions for regulating electricity prices)*; and 6) *resolve the ownership dispute of the gas pipeline system*.

12.1. Energy Law's Thorny Path

Pursuant to NPAA, amendments to the Energy Law were to be adopted by the end of June 2010. Nevertheless, the working version of the law was drafted in the wake of the meeting of the Stabilization and Association Council (27th July 2010) and was submitted for comments to the Secretariat of the Energy Community. After obtained comments and their incorporation, the draft-law was adopted by the

Government and submitted to the Parliament by mid-September. The law was anticipated to be adopted in regular procedure, and therefore ***it is impossible to realize this indicator*** before the publication of the Progress Report in November, let alone enforce it, because the secondary legislation that governs the law's implementation depends on its adoption.

The same goes for the Electricity Market Rules, which according to the Energy Law[148] in effect are to be prepared by the Electricity Transmission System Operator (MEPSO) and approved by the Energy Regulatory Commission (hereinafter: ERC). The NPAA deadline for the adoption of Market Rules was 31 December 2009, but they exist as general principles applied on the electricity market, because the ERC has commented on the draft submitted in March 2010, but MEPSO failed to incorporate ERC's comments in the final draft. Hence the Market Rules are still not officially approved.

According to the new Energy Law, the Market Rules will be developed and adopted by the ERC, whose competences will be increased. Nevertheless, progress in relation to these indicators can be expected only after the adoption and enforcement of the new law. As for ERC, its non-diligence continues and results in non-realization of many NPAA activities related to the adoption of relevant rulebooks, although at the moment ERC benefits from IPA funded technical assistance. All decisions and Rulebooks adopted by the ERC[149] in the course of 2010 mainly concern energy from renewable sources and setting feed-in tariffs. In that unrealized remain the obligations as regards the amendments to the rulebooks on electricity distribution grid code; the manner and conditions for regulating electricity prices; natural gas and heating energy distribution grid codes; supplier of last resort, reliability of supply, etc., whose deadline for adoption is 31 December 2010.

If ***the fifth indicator remains unrealized*** by the cut-off date for the Progress Report in October, can we expect a wave of decisions to be taken in the last two months of 2010 so that NPAA-set deadlines can be observed? The current dynamics of the ERC does not provide for optimistic forecasts.

In the meantime, the comments on the need for greater independence of the regulatory body continue: "*Energy Regulatory Commission's independence is the key principle from the EU energy acquis. Regulatory bodies must be independent from the government and should obtain the status of full independence from any political influence in the country*"[150], said Fabrizio Barbaso, Vice-President of the European Energy Community (hereinafter: EnC), after the meeting with the Minister of Economy, Fatmir Besimi, held on 24 September 2010 and before the 8th Ministerial Council of the EnC in Skopje.

12.2. Energy (in)efficiency

The Energy Efficiency Action Plan and amendments to the Strategy on Energy Efficiency were adopted in compliance with the timeframe defined, and were prepared under USAID's Regional Energy Security and Market Development Project, funded by the World Bank. According to SEA, both, the 2010 Draft Strategy on Energy Efficiency and the National Action Plan for the period 2010-2018 were published on the Ministry's

[148] "Official Gazette of the Republic of Macedonia" no. 63/2006, 26/2007 and 106/2008.

[149] ERC website, section: Rulebooks: www.erc.org.mk

[150] http://www.makfax.com.mk/_tools/article/116931/view.

website for a period of 30 days in accordance to the Environmental Law and "*no comments were received in the given deadline*"[151]. Interesting is the fact that the Government decided to organize public consultations on such important documents in the peak of summer vacation, especially as it failed to inform citizens that they can comment these documents and given that TV and printed media outlets continuously broadcast governmental ads. More interesting is the fact that the absence of comments does not seem to worry the Government. As a reminder, the Review 2010 under the public administration reform defined the indicator: "*improve mechanisms for consultation between the Government/municipalities with the civil society sector*".

The Action Plan is in line the Directive 2006/32/EC and includes relevant measures aimed to achieve energy savings set at 9% of baseline energy consumption in the country by 2018. Measures defined per sectors (residential, public services and commercial sector, industry and transport) include information measures (read: campaigns) by default. In the absence of greater efforts to establish the Energy Efficiency Fund that would secure affordable loans or grants for citizens to start implementing energy efficiency measures, this winter season we can expect a new wave of state-of-art campaigns while protecting ourselves from the cold huddled in blankets.

In the meantime, the Government already initiated the implementation of the social component on energy poverty protection by subsidizing monthly energy bills in the amount of 10 EUR - an action that is to benefit around 50.000 families, mainly social allowance beneficiaries, but only after submitting evidence of settled electricity bills. Although the Strategy on Energy Efficiency recognizes the need for a social component in energy efficiency, it reiterates that: "*Subsidies in this field are counter-productive. Energy vouchers (social help for no/ low-income persons) may slow down the realization of energy efficiency programs*."[152]

The Strategy on the Use of Renewable Energy Sources is adopted, but is not accompanied with the relevant Action Plan aimed to achieve the target share of 20% of renewable energy in the final energy consumption.

It is more than obvious that energy indicators set in the Review 2010 ***are not realized***, while certain efforts made are contradictory rather than reform activities.

13. INFORMATION SOCIETY AND MEDIA

The Accession Partnership anticipates two short-term priorities: 1) reinforce the independence and administrative capacity of the regulatory authorities for electronic communications and media; and 2) ensure a stable and sustainable source of funding for the public service broadcaster and the Broadcasting Council". The indicator for the first priority reads: "*ensure an appropriate monitoring system within the Broadcasting Council with the capacity to supervise broadcasted contents, especially by securing appropriate technical equipment, know-how and human resources within the Broadcasting Council; strengthen capacity of BC to fine media regulations/ law violations by transparent application of the provisions on sanctioning*".

Three indicators are set under the second priority, those being: 1) *amend the Law on Broadcasting to secure sustainable collection of*

151 Monthly Progress Brief on the European Integration Process of the Republic of Macedonia for August 2010,sep, pg. 12.

152 Strategy on Energy Efficiency of the Republic of Macedonia, pg. 78.

the broadcasting fee and independence of the public broadcaster and continue with the adoption of relevant applicable legal acts (secondary legislation); 2) *ensure a reliable system for identification of households subject to the broadcasting fee in MRTV and ensure collection of the fee according to the law; follow-up the conclusions of the Subcommittee for innovations, IT society and social policy regarding the possibility for initiating bankruptcy of the public broadcaster;* and 3) *MRTV should align itself with the warnings of the BC regarding the violations of the basic programming principles and commitments; avoid politicisation of MRTV and its potential use for political goals.*

13.1. Monitoring capacity

The Broadcasting Council (hereinafter: the Council) needs further capacity building as regards the monitoring of broadcasters' programmes, in particular those located outside Skopje. As regards the TV and radio outlets outside Skopje, the Council disposes with a law-stipulated instrument on off-line monitoring. Notably, in compliance with the Broadcasting Law, TV and radio outlets are obliged to keep broadcasting footage for at least 30 days from the day of their broadcast and submit them to the Council on its request. Taking into consideration that programme monitoring is performed pursuant to the methodologies that do not include 24-hour monitoring but allow programme sampling of TV and radio outlets, in reality there are no obstacles to this activity's performance.

Most of the technical equipment has already been provided by donors and by the Government of the Republic of Macedonia, which means that technical equipment is not an issue.

On the other hand, the Council needs to improve the capacities of human resources tasked monitoring activities. Perhaps the Council legal department needs greater capacity building, since it is tasked to process irregularities identified. Nevertheless, in the light of effective monitoring, capacity building must go hand-in-hand with amendments to the Broadcasting Law and its alignment with the Misdemeanour Law, which should result in the establishment of the Council's misdemeanour body, for the purpose of enabling the Council to impose fines and sanctions directly, rather than motion lawsuits and be entangled in the court proceedings as it the case now.

13.2. Broadcasting fee arrears

After several failed attempts of MRTV (the public broadcasting service) to regulate and secure sustainable collection of the broadcasting fee, the Government took a new step aimed to amend the relevant legislation and regulate the broadcasting fee collection. Notably, the Government proposed amendments to the Law on the Public Revenue Office (hereinafter: PRO), the Law on Taxation and the Broadcasting Law. The essence behind the amendments proposed is to task the PRO with the broadcasting fee collection in effect from 1 January 2011, as an outsourcing activity for which the PRO is entitled to withhold 3% from the fees collected. In that, the rigorous tax procedure already used for collection of VAT, profit tax, personal income tax, etc. will be applied to the broadcasting fee collection as well.

The Government's initiative to finally secure sustainable funding for the public broadcasting service is welcomed, as it is in line with the

Review 2010 indicators, but the solutions proposed are disputable and raise several issues and dilemmas:

1. Given the PRO's vigilance in tax collection, it provides guarantees for securing public service's sustainable funding. Nevertheless the greater issue is how to secure sustainable tax collection, but at the same time guarantee greater independence of the public broadcasting service, in particular knowing that funds collected by the PRO will be deposited on the budget's treasury account, and not directly on MRTV's account. The Government, i.e., the Minister of Finance will be responsible for deciding when and how much funds from the funds collected will be transferred to MRTV's account. This means that in addition to regular subsidies and state aids granted to MRTV and without any strategy, the Government designs yet another instrument to pressure and control the public broadcasting service. The case of the State Commission for Prevention of Corruption demonstrates the manner in which the Government uses these instruments to discipline an independent and specialized institution that dared to duly perform its competences. This means that even if sustainable fee collection is secured, the possibility for MRTV's politicisation and abuse for political goals remains, although it is unacceptable in terms of European standards.

2. If in line with the amendments MRTV keeps the register of taxpayers (public broadcasting service users), while the fee collection is delegated to the PRO, which register will PRO use? This raises concerns given that the register of taxpayers is rather obsolete and imprecise153, while register updating activities are not anticipated. Another concern is the appeal authority: will appeals be lodged in front of the entity keeping the register or the entity that collects the fee? These vague provisions from the Law are in discrepancy with the indicator "to ensure a system for identification of households subject to the broadcasting fee in MRTV".

3. Application of the Law on Tax Procedure to broadcasting fee collection, inter alia, implies violation of the constitutional principle on citizens' social security. The last amendments to the Law on Execution adopted under strong public pressure and due to the economic crisis in the country, take into account the taxpayers' social status. Notably, in addition to other alleviating circumstances, the amendments allow monthly arrears of up to 30% of taxpayer's income to avoid leaving citizens without enough funds to sustain their living. The Law on Tax Procedure does not take into account these principles, but rather imposes Draconian fines for deferred payment, i.e., daily default interest of 0.03%. The effects of this decision on the growing "army" of impoverished families in Macedonia are obvious, but in the fiscal implications as presented to the Parliament154 the law's proposing party assessed that: "the implementation of this law does not imply funding from the Budget of the Republic of Macedonia, as well as any material obligations of certain entities"155.

4. If the PRO is the only institution able to perform arrears collection of public fees and charges, why do we need executing officers

[153] For example, single traders are considered eligible taxpayers, including general physicians, which due to the inappropriate legislation must be registered in compliance with the Company Law and automatically become eligible to pay the public broadcasting fee.

[154] Draft-Laws must be accompanied with an assessment of the financial implications from the law's implementation, as well as the manner in which they will be secured, and includes data on whether the law's enforcement will imply material obligations for certain entities.

[155] Draft Law on Amending the Law on the Public Revenue Office submitted under no. 3851/1 on 17 September 2010.

and the Law on Execution? Does this solution provide for market distortion and enable an institution funded by citizens to collect taxes to actually operate as profit-making institution that collects other fees as well156 on the basis of service contract and relevant margin?

5. Finally, does the motive for adopting this legal solution lie in the Government's need to secure reliable collection instruments for the receivables imposed to the citizens? Worrying is also the growing trend of such budget revenue accounts, as demonstrated with the 2011 draft-budget, since it provides an increased projection compared to 2010 figures and is expected to amount to 2.6 billion EUR. Compared to 2010 budget, the 2011 budget projects an increase of 3 million EUR from fines and different administrative fees, and would account for 37 million EUR in total 157.

The editorial policy at the public broadcasting service must be independent, in line with the European practices established and the Council of Europe's standards (full autonomy of editorial policy). For that purpose, the law anticipates the establishment of an internal body at MRTV (Council), whose primary task is to care for the public interest. Unfortunately, at present this body does not operate.

Public broadcasting enjoys special treatment, but also legal obligations that are more rigorous than those applied to private televisions, and thereby the need for an internal body tasked to implement them. Different public broadcasting services have different bodies and their competences can vary and include also financial and managerial issues, or can be exclusively tasked with programming activities.

The conclusion inferred from the above given analysis is that ***indicators set for this short-term priority are far from implemented***.

14. ENVIRONMENT

The Accession Partnership anticipates three priorities in the field of environment, and the Review 2010 determines the indicators against which the Republic of Macedonia's progress will be monitored. The first priority reads: *"Continue legislative alignment with the acquis, in particular in the field of air quality, waste management and water quality, and improve significantly implementation of legislation and environment monitoring. Strengthen administrative capacities at national and local level and improve coordination between administrative bodies in charge of environment-related issues"*. Progress made in this field will be measured against three indicators, those being: 1) *continue with the development of systems for monitoring the water and air quality*; 2) *introduced integrated system for waste management on local level*; and 3) *increased budget and staff of competent institutions on central and local level*.

The EC will monitor the second short-term priority (*Strengthen the Environmental Inspectorate and other enforcement bodies, establish a credible enforcement record and ensure that fines and other sanctions are effectively applied and have a dissuasive effect*), against two indicators, those being: 1) *increased budget and staff in the inspectorates on central*

[156] According to Article 1, paragraph 4 from the new Law on the PRO, these include the broadcasting fee, but also the collection of fines and costs related to litigation, misdemeanor, criminal and administrative procedures whose outcome was in favor of the Republic of Macedonia.

[157] Dnevnik, 26 October 2010, available at: www.dnevnik.com.mk

and local level; and 2) *statistics for supervision, sanctioning and monitoring*.

The EC will monitor the third priority (*Increase investments in environmental infrastructure pursuant to the Environment Investments Strategy, with special emphasis on waste collection and treatment, drinking water supply, tackling air pollution and waste management*), against the following indicator: *develop financial strategies, increase budget allocations and project management skills in the field of environmental infrastructure*.

14.1. Modesty is a virtue

The legislation alignment with the EU *acquis* is a time-consuming process. The actual start of the process is the moment of legislation drafting and adoption[158], which provided for transposition of certain obligations from the European *acquis*.

In the monitoring of legislation alignment, the EC initially targeted the alignment with 38 EU acts, and in 2009 gradually increased the scope to 69 EU acts. In 2010, the EC monitors the alignment with more than 80 EU acts. The Ministry of Environment and Spatial Planning reported on the progress made in the alignment of the national legislation with 27 EU acts.

The national legislation on waste management, noise protection, as well as the horizontal legislation is best aligned with the EU *acquis*, whereas the sectors on waters and nature have not been marked by any improvements made. Standstill has also been noted in regard to legislation on chemicals and integrated pollution prevention and control. This conclusion combined with the fact that the Republic of Macedonia reported on 27 from the 80 acts subject to monitoring, is indicative of the insufficient capacities in far simpler areas than just for legislation alignment and implementation.

As regards the implementation of Accession Partnership priorities on environment, it should be noted that success in this field depends on the successful legislation alignment. For that purpose, the competent authorities have already determined the zones and agglomerations on certain air pollutants and are accompanied with air quality monitoring plans. Nevertheless, air quality monitoring will be initiated as late as the end of 2011.

Results are different in regard to water quality monitoring. The competent institution was determined, but it failed to assume the competences, while the monitoring system will start as late as the beginning of 2014. The single champion as regards water quality is the quality monitoring of drinking water, whose implementation started from 2008.

If the Republic of Macedonia truly aspires to become EU Member State, it will have to engage all the capacities needed and commit to environment legislation alignment and implementation. Selective approach to or non-transposition of EU key legislation is unallowable, both in the process of NPAA preparation and IPA programming. This is particularly important given the fact that environment legislation alignment is the most expensive reform for any accessing country.

Poor capacities and limited budget funds, coupled with lack of ideas and strategic approach account for the country's underperformance in this field. The Strategy on Environment Investments was never brought to life, while funds allocated to the Ministry of Environment

[158] Environment Law; Law on Waste Management; Law on Noise Protection; Law on Nature Protection; Law on Waters.

and Spatial Planning are intended for projects that not correspond with the commitments assumed under the accession process. The 2010 Budget includes the following objectives: purchase of 20,000 waste bins, excavation of additional wells in the Gjavato area near Dojran, water filling of the Dojran Lake, and construction of cascade weirs on the Vardar River. Regardless of the volume of funds available, if they were intended for construction of urban waste water treatment plants, or analysis of the situation and preparation of red list and red book, or even the list of locations that would potentially benefit from the NATURA 2000 Program, they would significantly improve the implementation of the new aligned legislation.

Obvious is that indicators for monitoring progress in the field of environmental protection ***are not realized***.

15. AGRICULTURE

In the Review 2010, the EC together with the Government of the Republic of Macedonia determined two short-term priorities for agriculture against which progress will be monitored, those being: 1) *achieve full compliance with EU standards on collection and processing of agricultural data*, and accompanied with the indicators "*collect and process all agricultural data in a form that will meet the requirements of pre-accession and post-accession reporting; adopt a new Law on Agricultural and Rural Development, that will include state aid provisions*", and the second priority 2) *follow-up on pilot-projects, finalize the registration of agricultural land at the Real Estate Cadastre, as well as completion of functional registers on vineries and farms*", where progress will be monitored against the indicator: "*100% of the land included in the Cadastre, including agricultural land; establish a fully functional automated IT system*".

15.1. Supersonic delay

As regards the registration of agricultural land, adjustment of the Law on Agricultural Land with the Law on Construction Land is underway. Approval of IPARD investments depends on the harmonization of these two legislative acts, because on the contrary the buildings that would be constructed on non-transformed agricultural land would be considered illegal. This falls under the competence of the Ministry of Agriculture, Forestry and Water Economy (hereinafter: MAFWE) and the Ministry of Transport and Communications (hereinafter: MTC).

The activities related to the Farm Register that were to be completed by the end of 2010 and result in full registration of agriculture holdings, are still underway. Records kept by the Agency for Financial Support of Agriculture and Rural Development (hereinafter: AFSARD), also known as the IPARD Agency, show that around 85,000 agriculture holdings (individual agriculture holdings and legal entities) have been identified, but only 12,000 have been accompanied with relevant information in the register. From this is ***unlikely that this activity will be completed in time***, despite the fact that its implementation deadline was extended on two occasions.

Obligations related to the Vineries Register are also unrealized. The Vineries Register needs to be incorporated into the Single Register of Agriculture Holdings – SRAH (also called Farm Register). According to NPAA 2009, the SRAH was to become operational in April 2009 and integrate data from different databases and registers kept by the MAFWE, as well as to start land parcel identification n several pilot municipalities.

In parallel, the development of the Parcel Register (Land Parcel Identification System, or LPIS) was initiated and anticipated to be

integrated in the SRAH. The ***implementation of this system will start as late as December 2010*** and will last for 15 months, actually same as the duration of first IPA project[159] implemented under this Chapter from the 2008 Operational Program. The Parcel Register is of key importance due to the fact that until the Republic of Macedonia establishes these registers, it will not be eligible to use funds from other IPARD measures. The accreditation process for these measures has not been initiated, although they provide payments per land or per livestock number. This is correlated with the Livestock Register kept by the Veterinary Directorate, which should be merged with the Food Directorate in January 2011.

By the end of October, the MAFWE was to develop: a) the Rulebook on the form, contents and recordkeeping and operation of the National Vineries Register, and the method of calculating areas planted under vineries; b) Rulebook on the form, contents and submission of applications for the National Vineries Register; c) Rulebook on the application form and contents and submitting changes to the National Vineries Register; d) Rulebook on the form, contents and submission of declarations on last harvest; e) Rulebook on the form, contents and submission of declarations on last harvest's purchased and sold grapes; f) Rulebook on the application of viniculture materials, their properties and maximum allowed amounts of viniculture materials used, etc.

[159] Developing administrative capacity for adoption and implementation of EU acquis on agriculture, in the amount of 2 million EUR and aimed to: a) adopt and implement EU acquis in the field of Common Agriculture Policy; b) development and implementation of agro measures; and c) design functional and integrated system for administration and supervision and establishment of necessary institutional capacity.

16. FOOD SAFETY, VETERINARY AND PHYTOSANITARY POLICY

The Accession Partnership determines three short-term priorities in the area of food safety, veterinary and phytosanitary policy, and the Review 2010 sets the indicator against which the EC will monitor the progress. Following is the analysis of the three priorities.

16.1. Nothing new in 2010

The first short-term priority reads: "further align the legislation with the *acquis* and cooperation of institutions competent for food safety and phytosanitary domain; further strengthen administrative and management capacities of veterinarian, phytosanitary and food safety institutions both on local and national level; establish a fully operational system to identify and register movement of bovine, sheep and goats, in particular in terms of control of their movements; start the system for identification of pigs". Progress made will be measured against the indicator: "*clearly define the obligations and competences of various inspectorates and improve coordination mechanisms; eliminate overlapping legal acts; increase the capacity and independence of different inspectorates and laboratories, including the provision of adequate training and equipment*".

The legal framework needs to be amended in order to provide precise definition of relevant institutions' competence, in particular the Law on Food Safety that stipulates the establishment of a single competent authority. At the moment this law is in parliament procedure, although its adoption was anticipated under NPAA 2009, and its implementation was to commence in 2010. Evident is that, as many times before, the

Government failed to observe the deadline it set forth and is late with the adoption for more than one year.

The software for the rapid alert system is still not developed, although it was noted as a problem in the 2008 Progress Report[160]. Obviously, the ***indicator set in this field is still not implemented***.

16.2. Laws from 2008

The second short-term priority reads: "further align animal disease and animal health control systems with the EU legislation; establish an EU compatible control system, notably in the field of import control, as well as to increase capacity at border inspectorates". The Review 2010 determines the indicators against which progress will be monitored, those being: 1) *upgrade veterinary and phytosanitary premises for border inspection*; 2) *introduce border controls as those in the EU*; and 3) *establish EU-compatible system for control of sicknesses and wellbeing of animals*.

Late is the adoption of large number of by-laws, which makes it unlikely that they will be adopted by the cut-off date for the 2010 Progress Report[161]. The Law on Animal Feeding was to be adopted by September 2010, but it only recently entered parliament procedure.

Some of the laws adopted in 2010 are - in fact - laws that were to be adopted earlier, i.e., their adoption was anticipated in NPAA 2009, and sometimes even NPAA 2008. Such is the case of the Law on Veterinary Medicinal Products. It was anticipated in NPAA 2008, and was later transferred to NPAA 2009. The deadline for its adoption, after the transfer to NPAA 2009, was June-December 2009, whereas it was adopted and published in the "*Official Gazette of the Republic of Macedonia*" no. 42 from 26 March 2010.

The last two EC Progress Reports (2008 and 2009) commented the poor capacity of the Veterinary Directorate, but that did not worry the Government to provide adequate training in the light of capacity building for this institution. Notably, 16 training cycles were anticipated for 2010, but none was delivered in full.

The reason for the undelivered training is explained with the late start of the project "Capacity Building for the Veterinary Directorate on the Implementation of EU Acquis", funded by IPA 2008, Component I[162], which was initiated in September instead of May. Nevertheless, this shows that the Government, especially SEA, lacks capacity on strategic planning and IPA programming. It also shows that the Government, and SEA, full rely on foreign assistance for training delivery, and lack interest to invest budget funds in capacity building of institutions that are to perform the reforms and advance Macedonia's accession in the EU.

[160] 2008 Progress Report, pg. 42.

[161] These include: the Rulebook on animal protection during transport (May 2010); the Rulebook on method and procedure for monitoring and control of residues and contaminants; Control programme on Salmonella and other zoonotic agents (March 2010), Rulebook on conditions to be complied with by pet food processing facilities and technical plants for animal by-products and on the specific technical conditions and procedures for processing, handling, storage and transportation with release to use, import and export of pet food and technical products made of animal origin by-products (April 2010), the Rulebook on the method for collection and disposal of animal by-products (March 2010).

[162] The project in the amount of 3 million EUR aims at: a) supporting EU acquis transposition in the national legislation; b) strengthening inspection services; c) supporting the control of animal diseases; d) establishing the system on animal residue disposal; and e) identification and registration of swine animals.

It is clear that this ***indicator, too, is not fulfilled***.

The third short-term priority reads: "present a strategy on advanced implementation of HASSP; develop and operationalize the crisis management plan in the light of food safety", and is accompanied with the following indicator to monitor the progress: "*present HASSP Implementation strategy and Crisis Management Plan"*.

Taking into consideration that both HASSP Implementation Strategy and Crisis Management Plan are developed, it can be inferred that ***this short-term priority is implemented***.

17. FREE MOVEMENT OF GOODS

The Accession Partnership determines two short-term priorities in the field of free movement of goods, and in its Review 2010, the EC identified the indicators against which it will monitor the progress. Following is the analysis of the priorities.

The first short-term priority reads "adopt and implement horizontal legislation to complete the necessary infrastructure and ensure a segregation of tasks between the various actions (regulation, standardization, accreditation, metrology, conformity assessment and market surveillance) for conformity assessment procedures; draft a comprehensive strategy with milestones for implementation of the *acquis* for the relevant horizontal organizations". Progress in 2010 will be monitored against six indicators from the Review 2010, those being: 1) *continue with the necessary activities for recognising the certificates for accreditation and standardisation by EU*; 2) *continue with automatically recognising the certificates issued by notified bodies in the EU*; 3) *continue the activities related to membership in the EU bodies for accreditation, standardisation and metrology;* 4) *complete all necessary activities related to the Agreement on Compliance Assessment and Recognition of Industrial Products (ACAA protocol)*; 5) *adopt a comprehensive strategy with benchmarks for implementation of the acquis for the appropriate horizontal organisations*; and 6) *secure sufficient resources for implementing the strategy*.

The second short-term priority reads: "start activities to implement the action plan to align with Article 28-30 from the EC Treaty with milestones on internal screening of domestic legislation and administrative practices to introduce clauses on mutual recognition and the necessary further changes". Progress in 2010 will be monitored against the indicators from the Review 2010, those being: 1) *start the implementation of the Action Plan*; and 2) *Institute for Standardisation needs to fulfil the criteria for membership in CEN and CENELEC*.

17.1. Why Free Movement of Goods

The single market is one of the greatest achievements of the European integration process and is comprised of five fundamental freedoms: free movement of goods, workers, services, capital and knowledge among Member-States. Free movement of goods provides equal access to the market for homogeneous products that originate from different Member-States without legal obstacles and quantity limits, which is beneficial for both manufacturers and consumers.

Although Macedonia is not a member of the EU, by signing the Stabilization and Association Agreement (SAA) with the European communities it was granted almost unlimited access to EU commodity market. Exceptions thereof include veal meat, wine and fish, as they are regulated with the principle of export quotas.

For the purpose of smooth movement of goods, the EU established mandatory technical regulations to be complied with by all products, which are transposed in the national legislation of all Member-States. Regulations on certain products (for example, chemicals, drugs, cosmetic products and like) are stipulated in detail, while other products (for example construction materials or machinery) are required to fulfil minimum conditions to be marketed. Finally, many products are governed by the principle of mutual recognition, whereby every Member State must comply with the standards stipulated by the product's country of origin (for example, beer).

In order to meet these conditions, Member-States must provide relevant institutions and human resources that are able to assess products' compliance with the technical requirements and standards, which - in turn – guarantees the effective operation of the common market.

For Macedonia, proper operation of these institutions and timely alignment of the national legislation with Articles 28-30 from the EC Treaty will ultimately improve the competitiveness of the Macedonian economy and enable smooth access to the European market for Macedonian products. This is particularly important given the fact that the second stage of SAA implementation will start on 1 January 2011, which implies nothing less but full liberalization of the Macedonian market for products of EU origin. It is easy to predict the future implications on the trade deficit and in-country competitiveness after the full liberalization is in effect for the highly competitive and actually cheaper European products. Priorities set in the Review 2010 aim to assist the Macedonian economy in its efforts to duly fulfil the required conditions for successful marketing of products on the European market.

Unfortunately, despite the efforts made to implement the indicators set, the dynamics thereof is slow. Therefore, documents adopted by this moment include: 1) the Strategy on implementation of the legislation on horizontal organizations[163] in the area of free movement of goods; 2) Action Plan to define measures for further harmonization with the *acquis* and enhance administrative capacities; and 3) Action Plan to align with Article 28-30 from the EC Treaty. Activities, administrative and other capacities and the respective timeframes on the fulfilment of conditions for membership in the EU bodies for accreditation, standardization and metrology are stipulated in the Action Plan to define measures for further harmonization with the *acquis* and enhanced administrative capacity. The Bureau of Metrology (hereinafter: BoM) became member of EURAMET (European Association of National Metrology Institutes) and the Institute for Accreditation of the Republic of Macedonia (hereinafter: IARM) became member of EA (European co-operation for Accreditation). IARM is still not a signatory to EA LMA, i.e., EA's multilateral agreements on recognition of inter-accreditation bodies, EA members. The Standardization Institute of the Republic of Macedonia (hereinafter: ISRM) provided poor performance as regards the fulfilment of the 9 conditions for membership in the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (CENELEC).

Given the slow-paced membership of national organizations (BoM, IARM and ISRM) in the respective European organizations (EURAMET, EA, CEN and CENELEC), surprising is the fact that the IPA project aimed

[163] Namely, the organizations competent for regulation, accreditation, standardization, metrology, compliance assessment and market surveillance, and include: the Bureau of Metrology, the Institute for standardization, the Institute for Accreditation, the Ministry of Economy, the State Market Inspectorate, etc.

to strengthen their capacities and provide technical and financial support in the light of membership criteria conditions, is planned for the year 2008, meaning it will be implemented in 2010. Worrying is the fact that membership in these organizations was stipulated as an obligation under the Accession Partnership from 2007. More worrying is the fact that the Ministry of Economy anticipated the realization of certain membership requirements (for example, equipment purchase) as part of the IPA project, which is indicative of the Government's poor capacity as regards IPA programming.

Surprising is the fact that instead of an increase, the Government projected decreased funds in the 2011 ISRM by 31% compared to 2010 figures, especially knowing that one of the remaining membership conditions is the membership fee for CEN and CENELEC, but also continuous human and other capacities building for ISRM, which primarily depends on funds available.

One of the important indicators in this area is the obligation to complete all necessary activities related to the Agreement on Compliance Assessment and Recognition of Industrial Products (hereinafter: ACCA[164] protocol). ACCA is an instrument of the EU trade policy that facilitates access to the European market by eliminating technical barriers for trade in industrial products (eliminates the need for assessment of products' compliance with technical standards and rules). Progress is needed as regards the alignment of legislation in the field of accreditation, metrology, standardization and market surveillance, as well as the establishment of relevant infrastructure and legal framework, which is a pre-condition for signing the Agreement, but is under negotiation for years now.

The conclusion is that priorities and indicators stipulated for the chapter on free movement of goods ***are partially realized, and late.***

[164] In full: ACCA- European Agreement on Conformity Assessment.

III

CONCLUSIONS

Our analysis shows that in the period July-October the Government of the Republic of Macedonia furthered away from the European Union. Notably, there are no results on implementation of indicators set in the Review 2010, which we believe will be confirmed in the 2010 EC Progress Report for the Republic of Macedonia. Moreover, the Government underperformed in its economic reforms and thus failed the economic criteria from Copenhagen. Finally, in this period we saw the culmination of the Government's campaign to settle the score with those of different mind. However, justifications are always abound – Greece, because it blocks the opening of EU accession negotiations; the opposition, because it undermines Macedonia's position with the international factor; the non-governmental sector, because of its opposition doctrines and finally, the International Community, because it conspires against Macedonia.

1. 92.3% FAILURE

The analysis of the realization of indicators set in the Review to the Accession Partnership 2010 shows that for most part reforms that were be implemented by the Republic of Macedonia in the context of its European integration remain ***92.3% partially or fully unrealized.*** Notably, by the cut-off date for the 2010 EC Progress Report the Government of the Republic of Macedonia managed to ***fully implement only 7.6%*** of indicators, ***partially delivered 36.9%, and did not deliver as high as 55.4%*** of indicators set in the Review 2010. Given these statistics and the fact that most indicators are deemed partially or fully unrealized, although the EC reiterates them for years now, i.e., reiterates their late delivery measured in months and even years, one can conclude that this year the Government did not "achieve" the European agenda. Annex 1 to this document provides an overview of individual indicators per chapter.

One to two indicators implemented were noted as regards ***the fight against corruption and organized crime*** (implementation of the Law on Conflict of Interests); ***public administration reform*** (training and equipping human resource management units); ***employment and social policy*** (developed National Programme for Social Protection and established Social-Economic Council); ***supervisory and financial services*** (capacity building for NBRM on the implementation of the advanced banking regulation - Basel 2); ***food safety, veterinary and phytosanitary policy*** (HASSP Implementation Strategy and Crisis Management Plan) and ***free movement of goods*** (strategy with benchmarks for implementation of the acquis for the appropriate horizontal organizations). Despite the modest number of indicators delivered, all other areas - for most part - remain partially or fully unrealized, which indicates that Macedonia did not progress in these sectors with the dynamics required.

Indicators set in the areas of ***political dialogue, elections, Ohrid Framework Agreement, Police, human rights, information society and media, public services and energy remain partially or fully unrealized.***

Worrying is the fact that ***reforms in the judiciary, environment and agriculture, failed to provide any realization of relevant indicators set,*** which leads us to the conclusion that no progress was made in these areas.

One year ago, as part of our Third Quarterly Accession Watch Report "Lisbon-Skopje-Athens", we pointed out that in 2010 the Government will have to double the work dynamics compared to 2009, in order to be able to deliver all 182 tasks from the Accession Partnership. Not only did the Government turn the deaf ear to the well-intentioned advice from the non-governmental sector, but it made additional efforts to guarantee no results under the European integration process this year. As a reminder, Macedonia remembers wiser and better times when every second year it was presented with a new Accession Partnership, which is undeniable proof that tasks from the European agenda were delivered in due time. As an example, in the period November 2005-November 2007, Macedonia managed to deliver 201 tasks, and thereby obtained the new Accession Partnership in February 2008, which - unfortunately - two years later remains unrealized and still in effect.

Given the reform standstill as regards the European integration and the failure to implement short-term and medium-term priorities from the 2008 Accession Partnership, the European Commission does not plan to present Macedonia with a new Accession Partnership this year. This is the crown evidence that Macedonia failed to do its homework for the third year in a row. Considering that the EC is responsible for this process, it is more than clear that Greece cannot be indicated

as the culprit behind this failure. The second potential culprit – the opposition – extended a helping hand for the adoption of the Parliament Rulebook and returned to the coordination meetings at the Parliament, and thus partially contributed to the improved assessment as regards the political dialogue in the country.

2. GOODBYE COPENHAGEN

In addition to the failure to deliver results as regards the indicators set in the Review to the Accession Partnership, the Government successfully regressed the economic sphere, and thereby endangered the fulfilment of economic criteria from Copenhagen (*"the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union"*). The image of the "economy-boosting" VMRO-DPMNE Government was seriously damaged this year. As a reminder, in 2008 the Government "succeesfully" regressed the political criteria from Copenhagen, which Macedonia fulfilled in 2005 and was therefore granted the candidate-country status.

Several major efforts, mainly related to the adoption of inadequate laws and bylaws, in an attempt to establish the highest possible control over institutions and in the society, the Government of VMRO-DPMNE returns the centralized, planned economy "by the back door". Throughout the year, law by law, measure by measure, step by step, the Government slowly but surely imposed its control over economic factors in the society and commanded growth dynamic to its liking. It seems that any solution proposed by the Government and accepted by the Parliament benefits only the Government. Let us list these solutions and identify who benefits from the Republic of Macedonia's regress under the economic criteria from Copenhagen.

1. The law on re-programming tax debts of public enterprises and companies established by the Republic of Macedonia or by the municipalities or the City of Skopje was enacted in February 2010. This law put the entities concerned in a much more favourable position compared to other economic operators, as their debts from default interest on unsettled taxes (VAT, profit tax, personal income tax) were written-off and their tax debts were re-programmed for a period of 13 years, including the three-year grace period. Other economic operators can only dream of such terms and conditions, and while they are subject to arrears collection, the public enterprises can relax. The adoption of this law implies punishment for entities that operate legally and duly settle their debts.

Such solution is beneficial only for public enterprises, which are overemployed with loyal political party soldiers and could not care less about the citizens. Public enterprises are largely abused, especially at times of election campaigns.

2. By the end of 2009, the publication of the Macedonian Encyclopaedia financed by the Budget of the Republic of Macedonia stirred a major public scandal. The scandal related to the encyclopaedia contents deferred public attention from the real issues: Why does MAAS deal with **publishing encyclopaedias** and does that imply "stealing the bread" of publishing houses, given that encyclopaedia publishing is a commercial activity? After all, MAAS does not stand for Macedonian Academy of Arts and Science in vain? Has the highest instance of science been reduced to encyclopaedia publishing? Similar is the situation as regards **textbook publishing** – the most lucrative branch in publishing.

Such practices result in the Government dealing with functions that

are unnatural to its position and distort the markets, and ultimately are contrary to the Copenhagen economic criteria.

As expected, the MAAS was the single beneficiary from the publication of the Macedonian Encyclopaedia, because for years now its operation is supported with funds from the Budget of the Republic of Macedonia (although it has not produced anything), but additionaly benefits from addition funds intended for projects of this type. One should also note that additional services provided by the MAAS, such as the Energy Development Strategy, came at a high cost.

The Ministry of Education and Science (read: the Government) is the single beneficiary of the state-controlled textbook publishing, since it spends budget funds to intervene in textbook contents and impose its values (in this case, conservative views). If the Government's goal was to secure textbooks for the education process, why did it fail to do that in a manner that would have encouraged competition in publishing?

This activity's preemption by the Ministry of Education and Science leaves the publishers "empty handed". Is this budget share so high and proves that "silence is gold"? Nevertheless, unclear is also why the publishers remain silent, given that in the long run their marker will only get smaller and smaller – encyclopaedias are published by the MASS, textbooks by the Ministry, while book translation is managed by the Government. As information, the translation price per page into Macedonian language as determined under the Community Programme "Culture" is much higher than the one paid by the Government. This leaves us wondering why the Government is translating books with budget funds, when the publishing houses can compete and be granted money for translation, while promoting the Macedonian language in the European Union.

3. Amendments to the Public Procurement Law were adopted on 15 July 2010. They, inter alia, enable budget beneficiaries to defer payment of liabilities under public procurement contracts for one or more years. This puts the economic operators in an utterly unfavourable position, as they need to provide the goods/services and tie their assets, while the state will settle its debt towards them only when there enough funds. In practice, this implies advance funding of the state, although everybody knows that 1 MKD today is more valuable than 1 MKD in two or more years.

The Government is the only one that benefits from this solution, because instead of securing conditions for economic operators' development, it will secure enough funds for the Government itself.

4. The Law on Financial Companies will lead to distortion of the monetary system due to the simple reason that it stipulates that the financial companies established pursuant to the law will operate outside the supervision system of the National Bank of the Republic of Macedonia. The law anticipates the financial companies to be controlled by the Minister of Finance. The permit for establishment of such company is foreseen as the discretionary right of the Minister, while the supervision will be performed by the Ministry of Finance. These financial companies will not be required to provide the necessary security deposit at NBRM, which is currently set at 20% of the amount of marketed credits and implies liquidity guarantee and safeguard from non-functional crediting. Failure to implement rigid banking rules in the field of operation of financial companies will result in unfair competition in the banking system.

It is difficult to assess who will benefit from this legal solution. If the supervision was given to NBRM, there will be no dilemmas, but as

it is the Ministry of Finance (read: the Government) will deal with non-essential activities that would only burden its already weak capacity. Certain bad-mouthers might say this is an attempt to legalize the black financial capital.

5. The Government proposed amendments to the Law on the Public Revenue Office (PRO), the Law on Taxation Procedure and the Broadcasting Law, which stipulate that as of 1 January 2011 the broadcasting fee will be collected by the PRO that will charge a margin of 3% for the services provided. This solution tasks the institution financed by the taxpayers whose key activity is to secure tax disciple of economic operators with collection of broadcasting fee, thereby enabling it to profit from it.

The Government (and not MRTV) will benefit from this solution, since the fee will not be paid directly to MRTV's bank account, but to the budget, and thereby the PRO will generate income, which it can later spend on "own needs".

One thing is certain: the Government operates as a single-person company with limited liability (LTD), i.e., collects as much as possible, and spends it in an utterly non-transparent manner without consulting the citizens on their priorities. The LTD-style operation is an illusion, since there is no legal form for a single-person company with unlimited liability (ULTD), which is more appropriate form for the things we witness. LTD implies adequate marketing, and the Government DOES NOT lag behind in broadcasting its advertisements.

The question is raised whether the motif behind these legal solutions made in a relatively short period is the Government's need to secure reliable collection instruments for the financial burdens imposed to the citizens of the Republic of Macedonia? This is particularly distressing given the trend of increasing budget revenue, as demonstrated by the 2011 draft budget, which is increased compared to the last year and is projected at 2.6 billion EUR. Compared to 2010 budget, in 2011 under the budget income account from fees and various administrative charges the Government forecasted an increase of 3 million EUR, or 37 million EUR in total.

3. HOPE FOR "HOPE"?

In the previous Quarterly Accession Watch Report we warned that should the Government (read: VMRO-DPMNE) decide to abandon the European agenda – which is a fact in this period – it would engage in witch-hunt aimed to silence and threaten all that dare to think differently.

The last few days saw the continuous attack on part of civil society in Macedonia that dares to openly speak about the anti-European policy of the Government. Without carefully chosen words and void of any consideration as regards the damage inflicted on the democratic processes in the country, the Deputy Prime Minister and Minister of Finance, Zoran Stavrevski, from the position of a prominent VMRO-DPMNE member directly attacked the Citizens for European Macedonia (hereinafter: CEM), Archibrigade, Square "Freedom" and the Foundation Open Society Institute – Macedonia by labelling them as SDSM followers and discrediting their operation. Such actions are worrying from two reasons: 1) they indicate the poor democratic capacity of the Government and of VMRO-DPMNE and thereby open old sores related to the political criteria from Copenhagen; and 2) Stavrevski abuses his office for political party goals by organizing political party press-conferences to remind the non-governmental organizations of the

Gruevists' cat paws.

The cause of these attacks was the draft-plan for the PR Strategy of the former President, Branko Crvenkovski, titled "Hope". Interestingly enough, Minister Stavrevski managed to link the actions of few "politically incorrect" civil society organizations with SDSM by viewing the several power point slides. As information, CEM, Archibrigade and Square "Freedom" are informal citizen initiatives and it only takes a slightly more analytical insight in the civil society development to identify the reasons for their establishment. As for the recommendation given on one of the slides and referring to the possible application for funds from the "Soros Fund", we would like to indicate that the same slide also provides reference to European Funds. Does this mean that European Funds are under direct control of Branko Crvenkovski?

In our opinion, there is no dilemma that the "Hope" affair was purposefully construed and instrued by the ruling VMRO-DPMNE in order to disguise the failures and avoid responsibility for the Government's four-year failed European agenda, which will be accompanied with the forthcoming crash, due this November at the NATO Summit in Lisbon.

4. QUESTIONS FOR THE PRIME MINISTER AND THE GOVERNMENT

In the aftermath of the Stabilization and Association Council, Prime Minister Gruevski and the Government had no illusion that the Progress Report will not be to "their liking", but took comfort in the fact that the recommendation to open accession negotiations obtained with the last year's report will not be withdrawn. Obviously excited with such revelation, Prime Minister Gruevski stated: "*obvious is that Macedonia obtained many positive critics, much more positive opinions and less, less positive ones, thus dominant are the positive comments and positive assessments on the work done and there are less less positive things*".

To avoid opportune interpretation of the EC Progress Report for 2010, as applied to the conclusions from the Stabilization and Association Council, in our previous accession watch report we provided an analysis of the conclusions from the Stabilization and Association Council and of the Stabilization and Association Committee. It is our hope that this analysis will help the government refrain from inferring frivolous conclusions on the report's positive or negative extent.

The fact that the recommendation to start accession negotiations will be confirmed certainly does not mean that in 2010 Macedonia progressed in terms of its European integration. On the contrary, the failure to deliver most tasks implies regress. Instead of designing ways to manipulate the public with the "less, less positive things", we propose the Government to explain in public:

1. Why will Macedonia not obtain new Accession Partnership that would imply accelerated reforms?
2. Why will the economic reforms – considered its strengths by the Government – be negatively assessed?

3. Why is the neighbourhood taking major steps forward (in July, Albania marked the entrance of the million and four hundredth tourist; Montenegro is living its investment boom; while Serbia waits its candidate-country status), under same effects of the economic crisis?

4. What will the Government's strategy be after November 2010?

This year as well the Macedonian Centre for European Education and the Foundation Open Society Institute – Macedonia will organize a conference after the publication of the EC Progress Report for 2010 to discuss the findings contained therein. As is the tradition, we will invite the representatives from the Government to participate in the conference. It is our hope that this time the Government will break its habits and use this forum to exchange arguments.

...IV...

ANNEX I- OVERVIEW OF THE REALIZATION OF THE REVIEW TO THE ACCESSION PARTNERSHIP

Review to the Accession Partnership 2010	Fully	Partially	Unrealized
POLITICAL DIALOGUE			
1. Adopt and enforce amendments to the Parliament Rulebook		✓	
2. Full implementation of the Parliament Law, recruitment of staff at parliamentary administrative services and steps to establish and initiate the operation of the Parliamentary Institute			✓
3. Smooth operation of the National Council for European Integration, supported by relevant institutions and capacity building for employees of the Administrative Support Unit within NCEI		✓	
ELECTIONS			
4. Follow up recommendations of OSCE/ODIHR, including the revision of the Voter List pursuant to the working group's action plan			✓
5. Adopt and implement the plan on preventing threats for citizens during elections, in compliance with ODIHR recommendations			✓
6. Number of investigations completed		✓	
7. Number of successfully concluded convictions		✓	
OHRID FRAMEWORK AGREEMENT			
8. Implementation of the Framework Agreement, in particular the double-majority principle, including in local self-government units; the role of the Interethnic Relations Committees on local level is paramount.			✓
9. Implement the Strategy on Equitable Representation of Non-Majority Communities by securing adequate resources and establishing a sanctioning/motivating system; improve the representation of Roma and Turkish communities; establish single and reliable database in the public sector for the purpose of effective monitoring of the equitable representation		✓	
10. Implement the Education Strategy including the recommendations made by OSCE's High Commissioner on National Minorities			✓
11. Further enforce the Law on Use of Languages and further strengthen the capacity of the Secretariat on the Framework Agreement to improve its coordination role		✓	

12. Further implementation of the Decentralization Strategy and Action Plan and further transfer of competences with appropriate funding; reform the legal framework on financing municipalities to resolve the problem of lack of funds and inadequate delivery of services on local level' improve database on municipal taxes and cooperation and exchange of data between the Cadastre, Central Register, PRO and the municipalities			✓
13. Strengthen the capacity of the Ministry of Local Self-Government as the main body implementing decentralization; enhancing the capacity of Municipal Budget Unit within the Ministry of Finance to support fiscal decentralization policy and monitor its implementation			✓
POLICE			
14. Ensure that every appointment/change/dismissal of Police Stations Commanders is in compliance with the Law on Police, the new Law on Internal Affairs and the secondary legislation thereof		✓	
15. Full enforcement of secondary legislation stemming from the Law on Internal Affairs so that all employments will be in compliance with the new provisions; full and accurate implementation of Article 128 of the Law on Internal Affairs to achieve depolitization of the Police		✓	
16. Further implementation of equal representation within the Police pursuant to the Law on Police and the Law on Internal Affairs		✓	
JUDICIARY			
17. Judicial Council and the Council of Public Prosecutors need to establish a system for sustainable strategic planning of human resources			✓
18. Judicial Council and the Council of Public Prosecutors need to strengthen their transparency and ensure successful track record of the implementation of the merit-based for recruiting judges and public prosecutors in order to meet the objectives of the judicial reform			✓
19. Improve budgetary planning and funds allocation in the judiciary and securing a sustainable budget framework			✓

20. Track record of activities of the Administrative Court and implementation of legal mechanisms regarding the right to appeal in administrative disputes			✓
21. Full enforcement of court decisions and improving the cooperation with the Public Attorney			✓
FIGHT AGAINST CORRUPTION AND ORGANIZED CRIME			
22. Effective implementation of the Law on Conflict of Interests as amended in 2009 and establishing a sustained track record of verified and eliminated conflicts of interest	✓		
23. Establish a track record of investigations and prosecutions in compliance with the relevant provisions of the Criminal Code, including illegal proceeds and confiscation			✓
24. Establish track record of verified Property Declarations; establish a track record of adopted and enforced court decisions in high profile corruption cases; organize joint training for prosecutors and judges on use of investigative measures and use of evidence in corruption cases and in organized crime cases; further capacity building of special enforcement bodies; securing full regulatory and practical autonomy for enforcement of orders for intercepting communications and use of the equipment for interception of communications; further implementation of the Action Plan for establishing a National intelligence database as anticipated in the NPAA		✓	
25. Ensure follow-up of the recommendations of the SAO and the SCPC, especially in regard to financing political parties/campaigns and issues related to public funds; securing full transparency of public spending, especially the spending for state advertising			✓
PUBLIC ADMINISTRATION			
26. Full implementation of the provisions and the spirit of the LCS regarding recruitment, assessment and advancement as to make them objective, transparent and merit-based, in the period before and after the selection and full implementation of the latest amendments to the law; harmonize other laws with the LCS		✓	
27.The PAR Committee should steer the reform process efficiently by coordinating all relevant institutions on all levels; develop monitoring and evaluation instruments as laid out in the conclusions of the Committee for implementation of the PAR strategy			✓

28. Implement the recommendations of SAO regarding human resource management and internal organization, with special attention paid to temporary employments, non-majority employments, and internal audit and control systems			✓
29. Appropriate equipping of Human Resource Units	✓		
30. Improved implementation of the Strategy and Action Plan of the Government for Cooperation with civil society; improve mechanisms for consultation between the Government/municipalities with the civil society sector			✓
HUMAN RIGHTS			
31. Ensuring appropriate strategic planning and a prison management system			✓
32. Ensure merit-based system in the selection and appointment of prison staff and management in compliance with the legal provisions			✓
33. Ensure sufficient resources to bring prison conditions to higher standards		✓	
34. Ensure appropriate balance between short-term and long-term strategic planning			✓
35. Resolve the issues of overcrowded prisons and health care in prisons		✓	
EMPLOYMENT AND SOCIAL POLICY			
36. Efficient implementation of active employment measures to reduce unemployment of youth; increase the number of people included in the active measures compared to 2009 and redesign measures to meet the needs of the labour market			✓
37. Continue the implementation of Life-Long Learning			✓
38. Start the implementation of the Plan for vocational education and training that will appropriately reflect the needs of the labour, thereby creating more employment opportunities			✓
39. Develop a National Programme for Social Inclusion Development	✓		
40. Further implementation of the Action Plan from the Strategy for Roma Inclusion 2005-2015		✓	
41. Identify representative unions and employer organizations in compliance with the Law on Labour Relations from 15 November 2009; adopt a new agreement for the Social-Economic Council (SEC)		✓	

42. Form a new composition of the Social-Economic Council	✓		
43. Implement activities to improve the operational level and the efficiency of SEC and stimulate tripartite social dialogue on local level		✓	
44. Adopt an Anti-discrimination Law in line with the acquis and start its implementation			✓
45. Establish and make operational mechanisms for monitoring, identifying, enforcing and sanctioning acts of discrimination on the grounds of race and ethnicity, religion and creed, disability, age and sexual orientation			✓

PUBLIC SERVICE			
46. Small changes in the legislation to harmonize it with the acquis (covering public services, concessions, private-public partnerships and legal remedies)			✓
47. Achieve full operational structures for public procurements to enforce public procurement procedures in line with EU standards			✓
48. Implement effective legal remedy system in public procurement		✓	
49. Awareness-raising and transparency of public procurement		✓	
50. Follow-up appropriately the findings of SAO reports			✓
51. Develop a framework (plan) for mid-term expenditure			✓
52. Ministry of Local Self-Government and Ministry of Finance to upgrade, support and monitor the staffing of Internal Audit Units as well as the functions on the local level		✓	
53. Adopt and implement PIFC strategy in compliance with the Law on Internal Financial Audit; update and implement Action Plan in compliance with the law			✓
54. Develop and apply internal audit functions on central and local level to support the management		✓	
55. Secure training and capacity building for the local level		✓	
56. Adopt and implement SAO legislation and secure operational, functional and financial independence of SAO from the executive government			✓

SUPERVISORY AND FINANCIAL SERVICES			
57. Further alignment with the acquis on financial services and secure its consistent implementation		✓	
58. Initiate cooperation with the new European system for Supervising Financial Markets		✓	
59. Strengthen the administrative capacity of CBRM as the supervisor of the banking sector related to further implementation of the advanced banking regulation – Basel 2.	✓		
60. Align the status of the securities commission members with the provisions of the Law on Securities		✓	
61. Eliminate overlapping of competences between CBRM and Commission on Securities in the part dealing with licensing supervision of securities markets		✓	
ENERGY			
62. Prepare for further opening of the market in accordance with the adopted Action Plan and adopt and implement market rules			✓
63. Adopt an Energy Efficiency Action Plan and start implementation		✓	
64. Align legislation with the acquis on supply reliability			✓
65. Amend and implement the Energy Law in full alignment with Energy Community Treaty and in line with the Action Plan			✓
66. Amend and implement the tariff rulebook in order to adhere to the principle of reflecting costs			✓
67. Resolve the ownership dispute of the gas pipeline system			✓

INFORMATION SOCIETY AND MEDIA			
68. Ensure an appropriate monitoring system within the Broadcasting Council with the capacity to supervise broadcasted contents, especially by securing appropriate technical equipment, know-how and human resources within the Broadcasting Council; strengthen capacity of BC to fine media regulations/law violations by transparent application of the provisions on sanctioning		✓	

69. Amend the Law on Broadcasting to secure sustainable collection of the broadcasting fee and independence of the public broadcaster and continue with the adoption of relevant applicable legal acts (secondary legislation)			✓
70. Ensure a reliable system for identification of households subject to the broadcasting fee in MRTV and ensure collection of the fee according to the law; follow-up the conclusions of the Subcommittee for innovations, IT society and social policy regarding the possibility for initiating bankruptcy of the public broadcaster			✓
71. MRTV should align itself with the warnings of the BC regarding the violations of the basic programming principles and commitments; avoid politicization of MRTV and its potential use for political goals			✓
ENVIRONMENT			
72. Continue with the development of systems for monitoring the water and air quality			✓
73. Introduced integrated system for waste management on local level			✓
74. Increased budget and staff of competent institutions on central and local level			✓
75. Increased budget and staff in the inspectorates on central and local level			✓
76. Statistics for supervision, sanctioning and monitoring			✓
77. Develop financial strategies, increase budget allocations and project management skills in the field of environmental infrastructure			✓

AGRICULTURE			
78. 100% of the land included in the Cadastre, including agricultural land; establish a fully functional automated IT system			✓
79. Collect and process agricultural data in a form that will meet the requirements of preaccession and postaccession reporting; adopt a new Law on Agricultural and Rural Development that will include state aid provisions			✓

FOOD SAFETY, VETERINARY AND PHYTOSANITARY POLICY			
80. Clearly define the obligations and competences of various inspectorates and improve coordination mechanisms; eliminate overlapping legal acts; increase the capacity and independence of different inspectorates and laboratories, including the provisions of adequate training and equipment			✓
81. Upgrade veterinary and phytosanitary premises for border inspection		✓	
82. Introduce border controls as those in the EU			✓
83. Establish EU-compatible system for control or sickness and wellbeing of animals			✓
84. Present a HASSP Implementation Strategy and Crisis Management Plan	✓		

FREE MOVEMENT OF GOODS			
85. Continue with the necessary activities for recognizing the certificates for accreditation and standardization by EU		✓	
86. Continue with automatically recognizing the certificates issued by notified bodies in the EU		✓	
87. Continue the activities related to membership in the EU bodies for accreditation, standardization and metrology		✓	
88. Complete all necessary activities related to the Agreement on Compliance Assessment and recognition of industrial products (ACAA protocol)		✓	
89. Adopt a comprehensive strategy with benchmarks for implementation of the acquis for the appropriate horizontal organizations	✓		
90. Secure sufficient resources for implementing the strategy		✓	
91. Start the implementation of the Action Plan		✓	
92. Institute for Standardisation needs to fulfil the criteria for membership in CEN and CENELEC			✓
TOTAL	**7(7.6%)**	**34(36.9%)**	**51(55.4%)**