

MACEDONIA
NEEDS A NEW
PRIME MINISTER
FOR EUROPEAN
INTEGRATION



*Second Quarterly
Accession Watch Report*

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EUROPEAN INTEGRATION**

July 2009

**„Macedonia needs a new Prime Minister
for European integration “
Second Quarterly Accession Watch Report**

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WHERE ARE WE IN JULY 2009?

The aim of the First Accession Watch report¹ was to pinpoint the shortcomings in the fulfilment of the benchmarks which the European Commission (hereinafter: EC) presented to the Republic of Macedonia in March 2008, as well as to stress the importance of their timely fulfilment for obtaining a recommendation for opening accession negotiations in the next EC Progress Report. The purpose of the report was to open relevant issues concerning the obligations assumed by the Government on the European integration agenda which would result in additional efforts by the institutions concerned to fulfil the benchmarks. And, finally, we hoped to initiate topics that the media would consider relevant in their coverage of the European integration process of our country.

1. IMPACT OF THE FIRST ACCESSION WATCH REPORT TITLED "THE GOVERNMENT SHOULD WORK 24/7 ON THE EU AGENDA"

Seen from today's perspective, it is safe to say that the report achieved its goal. Namely, on the meeting of the National

¹ First Accession Watch Report "The Government Should Work 24/7 on the EU Agenda", 22nd April 2009

Council on European Integration (NCEI) that took place 2nd June 2009, the Government submitted a document titled “Information on the Realisation of Key Priorities from the Accession Partnership” (hereinafter: Information, May 2009) covering the period November 2008 - May 2009. Due to the fact that the Government promised such a report to NCEI-members for 11th May 2009, and this deadline was breached, NCEI decided to hold a session and base the discussion on the findings of our First Accession Watch report, and subsequently, distributed the report to all NCEI-members. That encouraged the Government – after an entire year² of silence - to draft the previously mentioned report. This quarterly report considers this document as well.

The findings of the First Accession Watch report published 22nd April were topics of numerous media articles broadcasted and published up to 20th May. The media used the report frequently to search for topics, take statements, analyze and write report-based commentaries. Members of the Parliament quoted the recommendations therein, while European think-thank organisations, expressing their satisfaction, used the report as food for thought when organising meetings with governmental representatives³. Following the report’s publication, the European Policy Centre from Brussels organised “chat and house rules” meeting on 27th June 2009, under the topic “Macedonia and EU – Beyond the Name Issue” which was attended by EC representatives, Member-States diplomats and journalists.

² The last time the Government reported on the progress made in regard to the benchmarks was June 2008 upon the request of the NCEI.

³ During the visitation of Spain and Portugal, 5th June 2009, Ivica Bocevski met with FRIDE Foundation and CIDOB (think-thank organization assisting the Spanish government to prepare EU priorities of the Spanish Presidency).

Immediately after the Information, May 2009, the Government drafted an “Action Plan on the fulfilment of the key priorities from the Accession Partnership 2009” (hereinafter: Draft-Action Plan), and submitted the document for consultation to the EU Mission in Skopje, in line with our main recommendation of the First Accession Watch report. The Draft- Action Plan however, was incomplete and lacked specific measures and activities although it included most of our recommendations. The latest (and most surprising) initiative of the Government was the adoption of two new documents - “Action Plan (Matrix) on fulfilling the key priorities (benchmarks) from the Accession Partnership 2009” and the “Conclusions on the implementation of the remaining measures and activities for fulfilling the key priorities (benchmarks) from the Accession Partnership (hereinafter: Conclusions). The Conclusions were drafted on 25th June 2009 by the Secretariat for European Affairs – Cabinet of the Deputy President of the Government. Obviously, this document was prepared following the Stabilization and Association Committee, and immediately before the resignation of the Deputy Prime Minister Ivica Bocevski. As far as our knowledge goes, the Conclusions were adopted by the Government of the Republic of Macedonia⁴. As the document contains extremely important inferences, it was subject to analyses as well. The general impression on these new documents prepared by the Government (with the exception of the Conclusions) is that they are utterly unproductive, as they merely prolong the deadlines for the measures the Government failed to implement in the last 18 months. Despite all the ‘copy-paste’ ef-

⁴ Our attempt to verify this information with the General Secretariat of the Government responsible for preparing government meeting was to no avail, since the employees within the GS did not know whether or not the document was adopted by the Government.

forts, the deadlines contained in different documents are still confusing and contradicting.

2. WHAT DOES BOCEVSKI'S RESIGNATION MEAN?

The resignation of the Deputy President of the Government responsible for European Integration, Ivica Bocevski, came at the worst of times for European integration. Even more concerning is the fact that Mr. Bocevski did not find it appropriate to address the citizens of the Republic of Macedonia and explain the reasons behind his resignation in person. Apart from serving the Prime Minister, the addressee of his resignation letter, Bocevski had promised the citizens the realisation of “a project of the generation” by securing a “clean record” for Macedonia so that the next EC Progress Report would no longer have excuses for depriving Macedonia a recommendation on opening accession negotiations.

The unfortunate timing of Bocevski's resignation ought to be scrutinized within the developments of EU's Enlargement Policy. Namely, current mandate of the European Commission ends later this year with no real results made in field of enlargement (Croatia did not close its negotiations, Macedonia failed to obtain a date for opening accession negotiations and no other Western Balkan country was awarded candidate-country status). Such a reality put Macedonia in a more favourable position as it seemed that the European Commission could use Macedonia to secure some kind of results in the field of enlargement. Supporting evidence are

the enormous efforts made by the European Commission to secure priority treatment for the Western Balkans on the agendas of the Czech and Swedish Presidency, which initially was not the case. In other words, Macedonia had to achieve relatively modest results to be awarded a recommendation for starting negotiations by the EC – not a difficult task at all bearing in mind that we are working on the same key priorities since November 2007. Under the circumstances, one must ask the question “how will this Government explain to the EC that the EU accession process is still a priority”.

The actual reasons for Bocevski's resignation are yet to be heard, while - in the meantime - one can only speculate which of the following two reasons is more probable:

- 1) Does this mean that Ivica Bocevski continues to serve the Prime Minister even to the detriment of his own reputation by “making sure” that at this key moment Macedonia will fail to obtain a recommendation for opening accession negotiations this year, in return for an appropriate reward – ambassador post in Norway, or
- 2) Bocevski, thanks to his frequent visits to Brussels and cooperating with the EC, finally realised that the Government led by the current Prime Minister has no intentions of taking Macedonia to the EU and was not willing to sacrifice his own credibility to a concept he did not believe in.

The second hypothesis seems more probable, seen in context of the statement made by the former State Secretary of the Secretariat for European Affairs, Pero Dimoski, a few days after Bocevski's res-

ignation. The clash of two different political concepts is evident from Mr. Dimoski's statement given to Radio Free Europe: *"He (Bocevski) did as much as he could, as much as he was allowed to do. That is why I say that now not only do we need a Deputy Prime Minister for European Integration, we also need a Prime Minister for European Integration."* – Hence the title of this report "Macedonia Needs a New Prime Minister for European Integration".

3. METHODOLOGY

Subject of analysis is the process of implementing the key priorities from the Accession Partnership by the Government of the Republic of Macedonia, in particular the Secretariat on European Affairs and the line ministries, as well as the operation of the Parliament of the Republic of Macedonia in adopting the legislation necessary for fulfilling the following benchmarks: **1)** constructive and inclusive dialogue, especially in the fields that require consensus between all political parties, in the framework of democratic institutions, **2)** effective implementation of the Police Law, **3)** sustainable track record from the implementation of judicial reforms, strengthening the independence and capacity of the judicial system, completion of reforms in prosecution and finalizing the appointment of the Judicial Council, **4)** sustainable track record on the implementation of anti-corruption legislation, **5)** recruitment and career advancement of civil servants should not be a matter of political interference, strengthening the merit-based career system and full implementation of the Law on Civil Servants, **6)** reduce impediments to employment creation, with special emphasis on

unemployment of youth and long-term unemployed, **7)** enhancing the general business climate by further improving the rule of law, strengthening the independence of regulatory and supervisory bodies, speeding up legal proceedings and continuing registration of property rights, and the additional benchmark **8)** implementation of Presidential and Local Elections in 2009 in compliance with the Electoral Code. The first benchmark – proper implementation of commitments undertaken in the Stabilisation and Association Agreement – is no longer subject of this monitoring, as the measures and activities anticipated by the Government's Action Plan 2008 were already achieved within set deadline.

3.1 Timeframe

Accession Watch was initiated in November 2008, following the publication of EC Progress Report 2008 for the Republic of Macedonia and will last until September 2009 with the cut-off date of EC Progress Report 2009. In the period November 2008 – November 2010, a total of seven quarterly reports will be prepared, plus the first one "The Government Should Work 24/7 on the EU Agenda", addressing the period November 2008 – 31st March 2009. This second quarterly report addresses the period 1st April - 30th June 2009.

3.2 Method of Analysis

The baseline for monitoring Macedonia's EU accession process shall be the documents developed by the Government, the European

Union and the media coverage of EU-related issues in Macedonia. Government's main documents subject to analysis are the following: *"Measures and activities for implementing key priorities for EU accession"*, March 2008 (hereinafter: Action Plan 2008); *"Blueprint on implementing the recommendations contained in the EC Progress Report 2008"*, November 2008 (hereinafter: Blueprint) *"Working Programme of the Government of the Republic of Macedonia for the period 2008-2012"*, June 2008, *"National Programme for the Adoption of the Acquis – 2009 Revision"*, dated 14th April 2009 (hereinafter: NPAA), *"2009 Draft-Action Plan on implementing the key priorities from the Accession Partnership"* (hereinafter: Draft-Action Plan), *"2009 Action Plan (Matrix) on implementing the key priorities (benchmarks) from the Accession Partnership"* (hereinafter: Action Plan 2009), *"Conclusions on the implementation of remaining measures and activities on fulfilment of the key priorities (benchmarks) from the Accession Partnership"* (hereinafter: Conclusions), as well as other strategic documents of essential importance in the sectors monitored. EC Progress Report 2008 shall be the reference point of analysis (hereinafter: 2008 Report), as well as the enlargement strategies, Accession Partnerships, Multi-Annual Indicative Planning Documents, IPA operational programmes, Component I project files for IPA 2007-2009, etc. ODIHR Report on 2008 elections shall also be in the focus of attention having in mind the fact that recommendations contained therein became part of the Government's Blueprint.

14 media outlets will also be monitored, those being: seven daily newspapers (*Utrinski Vesnik, Dnevnik, Vest, Vecer, Vreme,*

Nova Makedonija and Spic), and prime-time current affairs programmes on seven TV stations with national and satellite coverage, such as: *A1; Kanal 5; Sitel; Telma; MTV 1, Alfa and Alsat*⁵.

Other methods such as interviews, desk research, questionnaires and applying the procedure of free access to public information are also used. The methods and techniques will be upgraded in compliance with the future progress made during the Accession Watch.

⁵ Media Monitoring is a partnership project implemented with the NGO Info-Centre from Skopje.



WHERE ARE WE WITH THE BENCHMARKS?

1. IMPLEMENTING PRESIDENTIAL AND LOCAL ELECTIONS 2009 IN COMPLIANCE WITH THE ELECTORAL CODE

The first benchmark concerns the elections and requires the State to **(1)** guarantee all future elections to be implemented in compliance with the Electoral Code and **(2)** timely decisions taken on election irregularities and passing appropriate sanctions to discourage such behaviour in the future.

The amendments to the Electoral Code enacted in October 2008 by the Parliament of the Republic of Macedonia were to create conditions for elections that would fulfil international standards. These amendments followed the ODIHR recommendations stemming from the elections held in June 2008. They concern: **(1)** political parties financing – accountability for publishing information on election campaign funding, and limiting the financial means used for campaigning; **(2)** media financing – responsibility for announcing advertising pricelists and securing equal coverage for all parties or candidates; **(3)** strengthened responsibility of the Broadcasting Council in regard to media monitoring; and **(4)** stricter sanctions for perpetrators.

1.1 2008 Violent Incidents Remain Unsanctioned

The present quarterly report will, once again, assess criminal

proceedings against 2008 election offenders as not completed. As a reminder, a total of 220 indictments on election incidents were initiated in 2008. Government's Information⁶ says that by mid-May, a total of 25 people were sentenced with imprisonment with duration from 6 months to 6 years, but other proceedings are pending. No verdict was taken in the "Cair" lawsuit, which resulted with a casualty, and the reasons for the delay remain unclear.

The high number of indictments in comparison to the low number of verdicts can be considered indicative of government's indifference when it comes to solving election incidents. Such a situation merely shows the indolent practices of state bodies on election irregularities leaving the impression that election incident go by unsanctioned.

Even more worrying is the fact that the judiciary is "slower" in processing the lawsuits of indicted political party members, thus pointing out – once again – politicization and excessive influence exercised.

1.2 Police in Action!

Although to a significantly lesser degree, 2009 elections were marked by unauthorized and illegal activities on the part of the Police. The final report⁷ on institutional response to election irregulari-

ties 2008-2009 of the coalition "All for Fair Trials" listed MOI-obtained information on 11 charges raised against 12 MOI-employees. Moreover, the Sector for Internal Control and Professional Standards within the MOI proposed mandatory measures against ten police-officers, those being⁸: **a)** mandatory measures on initiating procedures to determine responsibility in the line of duty were taken against five people, **b)** two police-officers were removed from their posts until the completion of their disciplinary procedure on the grounds of unwarranted appearance at balloting sites, commenting to citizens and preventing performance of official duty of fellow police-officers tasked with securing balloting sites during the first Election Day, **c)** other disciplinary procedures were taken against two police-officers on the grounds of leaving balloting sites, and for performing duty under the influence of alcohol, **d)** two people were fined with salary deductions on the grounds of underperformance, and three more were reprimanded in writing, **e)** two police-officers were reprimanded in writing for failing to secure an approval for intervention by the electoral board chairperson, and one police-officer was reprimanded in writing for unprofessional and unprincipled behaviour.

Such cases of election irregularities are particularly worrying as they involved police-officers as offenders, thus demanding fast resolution. Three months after the elections no information is available on the number of disciplinary procedures completed or sanctions imposed

⁶ Information on the Realisation of Key Priorities from the Accession Partnership for the period November 2008 - May 2009, Government of the Republic of Macedonia, Secretariat for European Affairs, Skopje, May 2009, pg. 38.

⁷ Final report on institutional response to 2008-2009 election irregularities, Coalition "All for Fair Trial", July 2008-June 2009, pg. 14. The report informs on: a) decision taken to fire a person without initiating a procedure with the Firing Commission, b) employment contract of an intern was terminated, c) police force reserve member

was disarmed and disengaged, d) a suggestion to initiate proceedings in front of Commission for Dismissing against 26 MOI-employees and e) suggestion on taking decisions for removing 23 MOI employees from the posts and the Ministry until the completion of the procedures.

⁸ According to the Information of the Ministry of Interior no. 12-806/31 from 1.6.2009, (pg. 2) submitted to the coalition "All for Fair Trials" and quoted in the Final Report, pg. 16.

– salary deductions, amounts thereof and duration of sanctions. Such practices are indicative of the ineffectiveness of the Police Force in resolving and sanctioning election irregularities thereby creating the sense that such actions are tolerable.

1.3 “Economic Violence” – the New Macedonian Phenomenon

During 2009 elections, monitors, foreign embassies and local media reported the new Macedonian phenomenon ‘economic violence’ featuring job loss threats for those favouring the opposition, as well as conditioning social benefits, etc. After the elections, the Council of Europe in the report issued by the Ad Hoc Committee talks about intimidations⁹ and pressures exercised by authorities, in particular public administration officials and those employed at local level who dared to express support for the opposition. The Council of Europe assessed the problem as particularly serious having in mind the country’s high unemployment rate and roof-high number of citizens employed in public administration. The allegations, categorised by the Council of Europe as “credible”¹⁰, were deemed irrelevant for investigation by national authorities. Up to date, no information on possible investigations on pressures exercised is available.

⁹ Observation of the presidential election in “the former Yugoslav Republic of Macedonia” (22 March and 5 April 2009); Doc. 11866; 27 April 2009; Paragraph 31 and 57.
<http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc09/EDOC11866.htm>

¹⁰ Observation of the presidential election in “the former Yugoslav Republic of Macedonia” (22 March and 5 April 2009); Doc. 11866; 27 April 2009; paragraph 47.
<http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc09/EDOC11866.htm>

Interestingly, the Government acknowledged this phenomenon in its recent Conclusions by stating: *“on the last meeting of the Stabilisation and Association Committee, the EC reiterated the issue of public administration’s intimidation and required appropriate response. Measures need to be taken on a political level, followed by measures from the competent institutions, and, lastly, development of relevant measures in the Action Plan on implementing OSCE/ODIHR elections recommendations.”*

Contrary to the statement given by the presidential-candidate at the time, Gorge Ivanov, who was convinced that he was helping his opponent, Nano Ruzin, by lobbying his students to sign for his candidature, the State Commission on the Prevention of Corruption believes that such a statement has no bearing whatsoever, thus need not be further analyzed. Ivanov’s statement was simply assessed as an *“ill-interpreted statement”*¹¹.

The Commission’s final findings on political party employment during election, bribing voters, etc. are yet to be presented. Although the Commission reported¹² that such cases are on its agenda, they up to date but remain unresolved.

1.4 Post-Election Calm of the “Shovels”

The post-election calm of the “shovels” is very conspicuous. The analysis of local media coverage shows that the Government initiated

¹¹ “Anti-Corruption Commission Justifies Ivanov”, Dnevnik, 16th May 2009.

¹² “Anti-Corruption Commission Justifies Ivanov”, Dnevnik, 16th May 2009.

approximately seventeen construction projects (sport halls, football stadiums, concert halls, kindergartens, courts) in the campaigning period. With the elections way behind us however (more than three months), such activities have been reduced to ten “shovels” only.

Although the Anti-corruption Law prohibits¹³ infrastructure works to start during the campaigning period, no competent institutions responded to this governmental campaign, let alone initiate an insightful analysis of the dynamics of the “shovels” in the election campaign.

1.5 “Longest” Voter List

Even in the elections aftermath, foreign monitors warn¹⁴ about the unreasonably long Voter List compared to the country’s total population and the number of citizens residing abroad. Therefore, the Council of Europe’s Ad Hoc Committee expresses its concerns on the accuracy of the Voter List and recommends¹⁵ much needed update, particularly in election-free times. Discouraging is the fact that such comments are expressed even in the aftermath of these elections, as they were already pinpointed during 2008 general elections. Hopefully, the accuracy of the Voter will be prioritized by the competent state institutions, and the resolution of such problems will follow this time. The

¹³ Article 11 from the Anti-Corruption Law, Official Gazette no. 28/2002.

¹⁴ Observation of the presidential election in “the former Yugoslav Republic of Macedonia” (22 March and 5 April 2009); Doc. 11866; 27 April 2009; Paragraph 16.
<http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc09/EDOC11866.htm>

¹⁵ Observation of the presidential election in “the former Yugoslav Republic of Macedonia” (22 March and 5 April 2009); Doc. 11866; 27 April 2009; Paragraph 18.
<http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc09/EDOC11866.htm>

Government’s Information¹⁶ indicates that the preparations for developing the methodology have been initiated and that an inter-sectoral working group is already working on the task at hand. Although we welcome such an initiative, we must warn on the growing scope of activities when factoring in the plans for organising elections at out diplomatic representations, making the accuracy of the Voter List even more urgent.

Unfortunately, the development of the methodology is already running behind schedule. The deadline set for methodology development in the NPAA (15.06.2009) is not only breached, but chances are that the methodology will not be completed within acceptable additional deadline. Nevertheless, judging from the Conclusions, the Government committed itself “to complete the updating of the methodology by 15th July, followed by its adoption by the Government of the Republic of Macedonia and submission to the EC”.

1.6 State Audit Office Still Quiet about Political Parties’ Spending

The political parties submitted their financial statements to the State Audit Office (SAO) in a timely fashion. Two months later, the SAO is still auditing their spending¹⁷, therefore, the findings thereof are not part of this report. The next quarterly report will also monitor the

¹⁶ Information on the Realisation of Key Priorities from the Accession Partnership for the period November 2008-May 2009, Government of the Republic of Macedonia, Secretariat for European Affairs, Skopje, May 2009, pg. 38.

¹⁷ Information on the Realisation of Key Priorities from the Accession Partnership for the period November 2008-May 2009, Government of the Republic of Macedonia, Secretariat for European Affairs, Skopje, May 2009, pg. 38.

State Audit Office and the fulfilment of its legal obligations as set in its Annual Programme¹⁸.

Concerns are raised in regard to state investigation authorities, as well as those competent for fighting corruption (such as the Public Prosecution, SAO, State Commission on the Prevention of Corruption), and their failure to file lawsuits or undertake additional investigation related to the information on political parties donors. A daily newspaper¹⁹, for instance, attempted to explain the financial prospects of a student. Namely, the President of the Student Union at the University “Ss. Cyril and Methodius”, Samoil Malcevski, donated MKD 200,000 to VMRO-DPMNE’s 2006 campaign. In his statement, however, he denied all allegations stating that “*If I had MKD 200,000 - I would get married.*” Such a statement of the Student Union President was still not enough for any institution to investigate the campaign financing of the political party concerned.

Such practices raise doubts about the financial statements of political parties which lack legal entities as donor, and include exclusively natural persons, such as ministers, MPs and a few students as donors of significant amounts.

¹⁸ Annual Work Programme 2009 of the State Audit Office, Skopje, December 2008, (Annex 1).
<http://www.dzr.gov.mk/Uploads/Finale%pdf%20Godisna%20programa%20za%202009.pdf> - (pg. 27)

¹⁹ “Phantom Donors”, Meri Jordanovska and Ivana Kostovska, Nova Makedonija.
<http://www.novamakedonija.mk/NewsDetal.asp?vest=528951123310&id=9&setIzdane=21698>

1.7 Media and the Broadcasting Council

After the elections, the performance of the Broadcasting Council was assessed as professional²⁰. For the purpose of further improving media representation of political parties, and more transparent financial co-operation with the media, monitors suggested new legal amendments that would stipulate the forms of cooperation between the media and the political parties. This seems to be very much required, especially bearing in mind the close relations²¹ observed between political leaders and owners of media outlets.

1.8 Administrative aspects and the State Electoral Commission

The performance of the State Electoral Commission was assessed as transparent and professional in most part. The impression created by the complaints however, especially in the second round of voting when SEC-members frequently abstained from voting remains questionable. Some analysts believe that such voting practices are politically motivated, and do not indicate professional decisions based on rule of law.

For the first time since its establishment, the Administrative Court took part in deciding on the balloting-related complaints. The respective court was given a unique opportunity to demonstrate its capacities to take decisions on numerous complaints, the majority of which were

²⁰ Statement given by the OSCE Mission in Skopje, Ambassador Jose-Luis Herrero, at a meeting with the Broadcasting Council, published 16 April 2009
<http://www.srd.org.mk/?ItemID=C45308757201224D882F4F58A4E9AD05>

²¹ Observation of the presidential election in “the former Yugoslav Republic of Macedonia” (22 March and 5 April 2009); Doc. 11866; 27 April 2009; Paragraph 28.
<http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc09/EDOC11866.htm>

filed against family and group voting or erroneous identification of voters. Statements made by the Court President, Rozalija Kockovska, that *“accurate indications are required about individuals such as who voted, how they voted and for whom they voted”*²² raise concerns. Such demands for personal data of perpetrators, in fact, impede the process of proving violations of family voting as prescribed by the Electoral Code. If SEC and the Court insist on personal names and surnames from illegal voting cases, then it would be necessary for such regulations, including the general prohibition of family or group voting, to be clearly prescribed and made available to electoral board members, who are solely responsible for securing smooth implementation of the voting procedures. In addition, disciplinary and criminal responsibility of electoral board members related to preventing family and group voting must be introduced.

Numerous family voting, as well as illegal modifications of voting results made by some electoral board members indicate the need for further regulation of the work and accountability of the electoral boards. Although trained by SEC, some electoral boards failed to fully enforce the legal provisions in the balloting process by allowing group and/or family voting. Whether this was a case of insufficient preparations or a political matter is still a dilemma. Therefore, the accountability of electoral board members for securing a smooth balloting process must be stressed.

1.9 Conclusions and Recommendations

Government’s unwillingness to resolve the irregularities, incidents and violent events from June 2008 and March 2009 elections persists. This is an

²² „Looking for proof on the wrong address concerning Struga“, Predrag Dimitrovski, Dnevnik, 16 April 2009

indication of the ignorant attitude of state institutions leaving the impression that election irregularities go by unsanctioned. Although the Government’s Blueprint does not anticipate measures for resolving or sanctioning election irregularities and violent events, from the aspect of the EC, timely and efficient response of competent bodies will be an important indicator for assessing the fulfilment of this benchmark in terms of progress made in political criteria. No information is available on possible initiatives taken to investigate the pressures exerted to “intimidate voters with job losses” primarily in public administration, but also in the private sector. Three months after the elections, the State Commission on the Prevention of Corruption has failed to conclude the cases related to partisan employments during election campaigns as well as cases of bribing voters. Competent authorities did not respond to Government’s infrastructural activities initiated during the campaigning period, most of which nowadays – after the elections – stand as empty ditches and monuments of unfulfilled promises. Two months after political parties submitted their financial statements, the State Audit Office has still not reported on the auditing results thereof. The fact that the Electoral Code does not provide a deadline for SAO auditing reports results in indefinite delays for complying with this responsibility. Some electoral boards failed to fully enforce legal provisions in the balloting process by allowing group and/or family voting. Being in mind the high number of training sessions delivered by SEC to electoral board members, some irregularities seem to be politically motivated. An inter-sectoral working group on developing the methodology for updating the Voter List was established.

Considering the above mentioned, following are the recommendations suggested:

1. 2008 and 2009 election incidents must not to go by unsanctioned. State bodies should undertake all measures required and sanction irregularities immediately, in particular the participants in violent incidents;

2. All police members who undertook illegal measures during the elections must be sanctioned without delay;
3. All appointed officials and public administration employees who exercised economic pressures on Macedonian voters must be sanctioned without delay;
4. Electoral legislation must be amended in a timely manner. The establishment of the inter-sectoral working group is a good start, but in the course of updating the Voter List, all recommendations of relevant international and national monitors must be incorporated and a broad consultation process must be organised when revising the electoral legislation. Instead of delaying the development of the methodology, the entire updating process of the Voter List should be completed in the shortest possible time;
5. State Audit Office should complete the auditing of political parties election campaign financing as soon as possible;
6. Election Code should be amended to include a clear deadline for SAO's audits related to political parties financing and for publishing the findings thereof.

2. CONSTRUCTIVE AND INCLUSIVE DIALOGUE, ESPECIALLY IN THE FIELDS REQUIRING CONSENSUS BETWEEN ALL POLITICAL PARTIES, IN THE FRAMEWORK OF DEMOCRATIC INSTITUTIONS

By definition, successful political dialogue implies a dialogue that happens regularly and covers all relevant societal issues and produces solutions that do not distinguish between “winners” and “losers”. Based on such a definition, in March 2008, the Government of the Republic of Macedonia²³ in cooperation with the EU Mission in Skopje, developed measures and activities which were later complemented by those contained in the Government's Blueprint from November 2008²⁴. In democratic societies the political dialogue takes place within the Parliament, and although alternatives and debates organised outside the system can help the political dialogue, they can never replace it.

²³ Measures anticipated in the Government's Blueprint are as follows: **1)** implementing the new Parliament's Rulebook; **2)** implementing the Parliament's Operational Action Plan; **3)** Parliament consensus on matters concerning the implementation of the Framework Agreement; **4)** guaranteeing consensus on matters related to the EU accession; and **5)** cohabitation between the President of Government and President of State.

²⁴ Measures and activities anticipated for fulfilling this benchmark and included in the Government's document from March 2008 are as follows: **1)** cohabitation between the President of Government and President of State; **2)** Parliament's consensus on matters concerning the implementation of the Framework Agreement; **3)** establishing regular communication and cooperation within the Parliament; **4)** intensifying Parliament consultations (for the purpose of adopting Parliament's Rulebook by consensus); **5)** Parliament's Operational Action Plan; **6)** operation of the National Council on European Integration; and **7)** taking measures based on the findings of the Parliamentary Inquiry Committee concerning the clashes that took place in Parliament.

2.1 Law on Parliament vs. Parliament's Rulebook

According to the Government's Action Plan, the Law on Parliament of the Republic of Macedonia although scheduled for adoption in September 2008 is still not enacted. In the meantime, the media speculated about the law's contents, including the information that an official draft-law existed and that the procedure for its adoption was already initiated. Although the law is in the drafting procedure, no working version is made available on the official website of the Parliament. The working group tasked with drafting Law on Parliament is chaired by the President of Parliament. It is exactly the President of the Parliament who is responsible for initiating and taking a decision on publicizing and making the working version of the law available to all stakeholders. If the Parliament is transparent, as it claims, at least the laws marked with the "European flag" should be available on its website. The "confidential" treatment of the law's working version will only raise speculations concerning its contents, such as the privileges of MPs once their term of office has expired and the "open window" on finding employment in the civil service. If such provisions are even considered, one should question how that will impact the goal of achieving a small, functional and depoliticized public administration. The interviews of the working group members only confirmed the prospects of such provisions considered in the draft text of the law. As a reminder – such provisions would also mean violation of the sixth benchmark pertaining to public administration.

The Parliament's Rulebook was adopted 18th July 2008, in the absence of the opposition. In the meantime, the opposition²⁵ proposed

amendments. According to the opposition, the amendments proposed are - in fact - identical with those submitted at the beginning of Parliament's discussion in 2008 prior to the adoption of the Parliament's Rulebook at which point some suggestions were accepted, but later on rejected or deleted from the final text. Parliament's Rulebook stipulates that draft-laws or draft-rulebooks, rejected as unacceptable cannot be discussed again for a period of three months. This moratorium on amending the Rulebook expires in the reporting period covered. At this moment the opposition, according to its statements, is preparing the ground for a Parliamentary debate aimed at initiating new amendments to the Rulebook. Judging from current developments and the atmosphere in the Parliament, the likelihood of such proposals is slim in the immediate future, and will probably not happen before the publication of EC's next Progress Report.

Therefore, the Parliament of the Republic of Macedonia missed its unique opportunity to demonstrate that it can be the place of political dialogue and consensus building between all political parties concerning state matters. On the basis of the declarations taken by the Parliament, the MP Stojan Andov proposed a National Strategy on Resolving the Differences with the Republic of Greece concerning the Name of the Republic of Macedonia. According to Mr. Andov's statements, his proposal was initially submitted in January 2009. At that point and due to the forthcoming local and presidential elections, upon the request of the Government and the Special Envoy in the name dispute, the discussion of the proposal was rescheduled for after the elections. Later on, it was re-scheduled for late May 2009 because of President's inauguration. Early June 2009, all hopes for strategy's discussion and adoption

²⁵ For the purpose of the present Accession Watch Report, meetings were requested with the President of Parliament, all parliament parties' coordinators, and several MPs.

Some meetings were organized, while Mr. Trajko Veljanovski and Ms. Silvana Boneva did not respond to our request.

were shattered, because of the unsuccessful coordination meeting of the President of Parliament. According to the submitting party, these events and colliding positions resulted from various influences. In the end, Mr. Andov withdrew his proposal, and is keeping it until more favourable winds starting blowing in the Parliament. The inevitable question that arises is why the Parliament's ruling majority failed to put more efforts in securing a constructive dialogue between parliamentary parties on an initiative coming from the Parliament's opposition, although the strategy was considered top priority? Or was it!?

Here is what the Government's Conclusions dated 25th June say on this matter:

As regards the work of the Parliament, the EC (on the meeting of the Stabilisation and Association Committee) stated that the Venice Commission published a report with recommendations to improve the Rulebook (including opposition's participation in debates etc.) and suggested their incorporation therein where appropriate. The importance of enacting legislative acts of appropriate quality was reiterated and references were made to the legislative provisions made void by the Constitutional Court. A deadline for the adoption of the Law on Parliament (31st July 2009) was also requested".

2.2 Where is the President of the Republic of Macedonia?

A new President of the Republic of Macedonia was elected during the period monitored in this report. The former President, Branko Crvenkovski, stepped out and handed over the office to the newly elected president, Gorge Ivanov. Regular consultations and meetings between the President of State and the President of Government of the Republic of Macedonia hardly happened in the period covered by the present Accession Watch Report. Primarily, the election campaign and then the different political concepts of the two holders of office – a traditional barrier for good relations - were essential and probably more important than national interests and accorded positions on key matters of national interest.

Gorge Ivanov's election as the new President of the Republic of Macedonia was to mark the new chapter of political dialogue and cooperation between the President of State and the President of the Government in the Republic of Macedonia. Improved cooperation between these two institutions has been noticed, in the sense that the Head of State has "identical" positions with the Prime Minister, but not on the ground of logical arguments, more in terms of blind obedience. The concentration of power - embodied in the leader of the biggest ruling party VMRO-DPMNE - is more than obvious in Macedonia after the presidential elections.

According to the Government's Information on the Realisation of Key Priorities from the Accession Partnership, "regular consultations happened within the framework of set cohabitation on matters of national and state interest"²⁶. In addition, the Information reports on the first

²⁶ Information on the Realisation of Key Priorities from the Accession Partnership in the period November 2008-May 2009, Government of the Republic of Macedonia, pg. 2

official visit of the newly elected President of Brussels demonstrating his commitment to the EU accession process. To stress the commitments of key officials, the President apparently was accompanied by the President of the Government. Unfortunately, media reported on President Ivanov's visit to Brussels as the Prime Minister's official visit: *"Today and tomorrow, the President of the Republic of Macedonia, Gorge Ivanov, will be on his first official visit to Brussels after assuming office"*. According to MIA, *"President Ivanov is accompanied by the Macedonian Prime Minister, Nikola Gruevski, who will meet EU Enlargement Commissioner, Oli Rehn"*²⁷, just to continue *"the meeting with Rehn was also attended by the Deputy Prime Minister responsible for European Integration, Ivica Bocevski, who reported on IPA funds, while President Gorge Ivanov is also on an official visit to Brussels"*²⁸. In the following period, there was practically no official or working visit of President Ivanov which went unattended by Prime Minister Gruevski, or the ministers in his government.

To make matters more interesting, President Ivanov and Prime Minister Gruevski were giving conflicting statements from their first official visit on key national interests, such as, the name dispute with Greece. This is an indication of lack of dialogue and weak coordination, although the Government's Information is trying to convince us of the contrary. Such communication and conflicting positions were resolved 15th May 2009, i.e., immediately after the Brussels visit by means of consultations when all differences were harmonised. Supporting evidence to this claim is the President's next statement full of appraisal for the Prime Minister's positions.

²⁷ A1 prime time current affairs programme, 13 May 2009
<http://www.a1.com.mk/vesti/default.aspx?VestID=108459>

²⁸ A1 news 13 May 2009 - <http://www.a1.com.mk/vesti/default.aspx?VestID=108497>;
SITEL news, 13 May 2009
<http://www.sitel.com.mk/default-mk.asp?ItemID=7DOCA3E57621E649B0DBE27123BBBFCB>

Far more serious is the fact that prior to the official visit of Brussels and immediately after his election, Pavel Satev Institute²⁹ announced that the newly elected president's rating is land-sliding in comparison to Prime Minister Gruevski's rating, which can be interpreted as a message for the President so that he has no doubts about the preference of the citizens.

Such a predicament calls for serious thoughts on where the President of the Republic of Macedonia really is? Does his reiteration of positions, in addition to his weak capacity and integrity, mean fear of the Prime Minister? Is there division of power in the Republic of Macedonia at this moment? And, if not, does that threaten democracy, hence the political criteria?

2.3 Churches and Mosques on Skopje Square Irrelevant for the Inter-Ethnic Relations Committee

The Inter-Ethnic Relations Committee is the single Parliamentary constitutionally based body. The work of the Committee is regulated by the Constitution of the Republic of Macedonia, and in particular the Law on Inter-Ethnic Relations Committee.

Since its establishment, the Committee held several meetings on various issues and matters, and in the opinion of Committee's Chairperson, Dzevat Ademi, it proved to be successful. Apart from the interview of the Committee's chairperson, assessing the performance of this body was almost mission-impossible as no information is available on the work of this body. The Inter-Ethnic Relations Committee does not have

²⁹ Political Institute that operates within the framework of VMRO-DPMNE.

its own website, which is not an excuse for lack of public information, especially bearing in mind the fact that the Parliament is regularly updating its website providing an opportunity for uploading agendas, minutes and decisions taken by the Committee concerned.

The Committee is a typical Parliamentary working body and as such it can discuss various matters on its own initiative. Developments such as Struga high school students' incidents and the initiatives on constructing churches/mosques on Skopje square are obviously not interesting and important enough topics to be put on the agenda of this body. According to the chairperson of the Committee, Struga events were well managed by the Ministry of Education and Science, and no initiatives were raised by the local committees on inter-ethnic relations for these events to be opened for discussion. Unfortunately, the Committee also failed to dedicate a portion of its time to reconsider essential issues (such as the Law on Internal Affairs or the Law on Inter-Municipal Cooperation). Instead, the Committee was mostly focused on analysing whether the proposed legal solutions should be adopted by a double-majority vote or not. The Committee's official position is that in-depth reconsideration of the proposed laws should take place in their respective parliamentary committees.

According to Dzevat Ademi, the adjustment of the Budget is not an issue under the Committee's jurisdiction, as it is believed that fiscal policy does not affect inter-ethnic relations. The fiscal instruments of populist politics however, were assessed as discriminatory by the Constitutional Court. Such considerations raise the question of whether institutions in this country are doing the work they have been established for? In addition, one must pose the question whether all competent and responsible institutions and bodies pay any attention to the procedures on law enacting and who should be held accountable when mistakes are identified in the enactment procedure?

2.4 NCEI Without Administrative and Programme Support

The National Council on European Integrations (NCEI) holds regular meetings on discussing EU accession matters of Republic of Macedonia. Almost all international and other delegations visiting the Republic of Macedonia and holding meetings at the Parliament have requested separate meetings with the NCEI, discussing the accession process and activities taken by the Republic of Macedonia in light of facilitating the process.

Among the uncompleted activities anticipated by the Government's Action Plan on the Implementation of the Key Priorities include the employment of 11 persons in NCEI. Analysis of key documents leads us to the conclusion that although these 11 posts were planned for 2008, the revised NPAA (2009-2011) anticipates the recruitment of only 6 persons. Information obtained from NCEI points out that although budgetary funds for new recruits were allocated in the 2007 budget, the staff required is still not recruited. Recent official documents however open up the concern that the Government is postponing these recruitments for 2011. In fact, the adjustment of the budget has cut the funds allocated for salaries and social contributions of Parliamentary employees, but left half a million euros for outsourcing services, primarily intended for financing political party employments. Another black spot in NCEI recruitments is the 2008 open call for 5 vacancies which was cancelled on the grounds of violating the procedure stipulated in the Law on Civil Servants. According to the open call from March 2009, and later put on hold because of the elections, the three officers (as programmed in 2009 NPAA) were employed in early July 2009, while in June 2009, the Agency for Civil Servants announced a new open call for additional three vacancies which were not anticipated in NPAA. This only points out to the facts that: 1) either the Government is

producing inconsistent documents which it does not monitor and acts on impulse and beyond any legal framework or 2) something strange is going on in regard to the manner in which the ruling VMRO-DPMNE attempts to show progress in the European integration process. Finally, even if the outcomes of the last open call (June 2009) is positive, the Department on Administrative and Programme Support within the NCEI will be short of three employees, thus resulting in incomplete implementation of this benchmark for two years in a row.

2.5 Political Culture cannot be regulated by Law

According to the President of Parliament, the Parliament's Rulebook contains provisions that would prevent future clashes in the Parliament, which imposes the question "how will the Rulebook prevent such incidents when sanctioning mechanisms either do not exist or are not applied against the participants in the clashes that shook the legislative house in the past two years?" Provisions from the Parliament's Rulebook stipulating these matters are no different from the provisions on maintaining the Parliament's order in any other country around the world. According to unofficial information obtained in the monitoring process, the working version of the Law on Parliament includes provisions almost identical with those from the Rulebook, but the final solutions from the draft-law are yet to be made known. Whatever the solution, MPs responsibility for clashes cannot be regulated by means of security measures. The responsibility for the clashes that already occurred must be identified and appropriately sanctioned, as the representatives of the citizens are expected to hold minimum ethics and political culture. The monitoring period covered by the present report shall be remembered by the incident caused by MP Amdi Bajram, directed towards the media representatives. On a completely

harmless question directed to him by media representatives, Amdi lost control and accused the journalists of being spies and mercenaries working against state interests. He later on apologized, but only after his "big brother" from the coalition – the Prime Minister – dissociated himself from such events and requested an apology from the MP.

2.6 Conclusions and Recommendations

The Law on Parliament is not enacted. Working versions of laws and other acts whose preparation falls under the competence of the Parliament are kept from the public eye in the drafting phase. Should the draft text of the Law on Parliament contain provisions allowing MPs to be employed as civil servants once their term of office has expired, that would mean that the law would be in direct collision with the benchmark on professional and depoliticized public administration. Parliament's Rulebook was not adopted with consensus, while the ruling majority shows no initiative to reconsider the amendments proposed by the opposition. Draft-national strategy on resolving the difference with the Republic of Greece concerning the name of the Republic of Macedonia submitted by MP Stojan Andov did not survive the consultation process. The Inter-Ethnic Relations Committee does not discuss essential issues affecting inter-ethnic relations. NCEI remains understaffed. Under conditions when previous Parliament clashes go by unsanctioned, MP-caused incidents become common practice. Recommendations stemming from such conclusions and addressing the identified shortcomings are as follows:

1. The ruling majority should initiate, support and secure constructive political dialogue within the framework of existing democratic

institutions, and in particular in the Parliament. It is important for the Parliament to function in line with a Rulebook adopted with consensus so as to demonstrate real political dialogue. Amendments to the Rulebook submitted by the opposition should be put on the agenda as soon as possible;

2. The Law on Parliament should be adopted as soon as possible without provisions that would violate the sixth benchmark (public administration);
3. Inter-Ethnic Relations Committee should demonstrate efficient operation and fulfil the reasons for its establishment. In addition to Struga-events and initiatives on constructing churches/mosques on Skopje square, other important matters affecting inter-ethnic cohabitation deserve serious debate. Needless to say that living in a multiethnic society always produces topics relevant for discussion by the Committee concerned. One such topic might be the distribution of social flats built by the Government with a loan from the Council of Europe. The question to be discussed here is how many of these social dwellings will be awarded to Roma, as this would show progress in the implementation of Roma Decade Action Plans;
4. National Council on European Integration must be equipped with human resources as anticipated (11 posts) in order to function properly and play the role it was established for.

3. EFFECTIVE IMPLEMENTATION OF THE POLICE LAW

The progress achieved in police reforms seems to be endangered with the enormous delay in the implementation of the measures anticipated for 2009. Almost without any exception, the implementation of the anticipated activities is either lagging behind or has not been initiated at all, thus undermining the last year's progress made in this field. The Republic of Macedonia still needs to demonstrate results from the implementation of the reforms in this field, including active measures for eliminating influences over the Police and securing full professionalism, independence and unbiased behaviour.

The Government changed the measures in the new Action Plan for the purpose of fully fulfilling the benchmark concerned and set the following objectives: **1)** guaranteeing that all changes to chiefs of police stations are in compliance with the Police Law; **2)** complete training on the basic guidelines, and securing its application as standard policing practice; **3)** putting the new Law on Internal Affairs into effect and initiating the adoption of relevant secondary legislation; and **4)** continuing the implementation of the National Strategy on Equitable Representation in the Police.

The analysis of this second quarterly report is focused on the same indicators addressed in the previous report – and anticipated by the Government's Blueprint – but also includes measures as set in the new Action Plan: **1)** implementation of the Police Law; **2)** respect for human rights; and **3)** professional policing.

3.1 Everything is Late in the MOI!

Neither the initially set deadline for the enactment of the new Law on Internal Affairs (end of February 2009), nor the new deadline set in the revised NPAA (15.06.2009) were respected. The Ministry of Interior, in an utterly non-transparent procedure, drafted the Law on Internal Affairs and submitted it to the Parliament of the Republic of Macedonia. The draft law did not request the opinion of other stakeholders³⁰, although it regulates crucial matters concerning the selection, recruitment, promotion, discharge, disciplinary actions, accountability of ministry employees, etc. The draft law is full of confusing and disputable provisions, primarily in regard to insufficient mechanisms for external control over the Police. Competences of the Agency for Security and Counter Information have been increased and as such form basis for human rights violations. The Parliament of the Republic of Macedonia unanimously voted the law off of the agenda on the session dated 29.06.2009. After the coordination of the parliamentary parties, it went back on the Parliament agenda scheduled for 8th July 2009. The amended draft law will be subject of analysis in the October quarterly report, but at this moment we would like to remind that the 2009 Progress Report for the Republic of Macedonia will be closed in September and no time should be wasted. The Government must – as soon as possible – organise public and expert debates to improve the draft law, as the initial version of the law fails to incorporate established international and European standards, hence making a step backwards in regard to the existing legislative framework.

³⁰ On the other hand, the MOI organized a public debate on the Draft Law on investigating, branding and marking firearms and ammunition as well as the Draft Law on National Criminal and Intelligence databases. These texts are available on the web-site of the Ministry unlike the Draft Law on Internal Affairs which is already in the parliamentary procedurax

Behind schedule is also the adoption of the secondary legislation necessary for the Police reforms such as: **1)** Guidelines on the manner of handling documents and equipment of the Sector for Criminal and Information Analysis; **2)** collective bargaining agreement of MOI (anticipated for enactment upon the adoption of the new Law on Internal Affairs) and **3)** Rulebook on selection, recruitment and human resource development at the Ministry of Interior.

The network connections of the databases between competent institutions involved in the fight against organized crime and other forms of criminal behaviour is also behind schedule, especially in comparison to the anticipated timetable. At the moment, it remains uncertain whether this measure will be implemented at all by the end of 2009.

3.2 Police Makeup Called Human Rights

At the moment, Police supervision is done through established mechanisms³¹, which are not in line with international standards as they fail to secure independence, unbiased approach and efficient protection from power abuse. Complete harmonization with the European Convention on Human Rights and the Framework Convention on Protecting National Minorities has not been achieved yet, while the recommendations of the Committee against Torture are not incorporated in relevant acts. Although the working group defining the new supervision concept for policing submitted its proposal to the Government back in 2008, no activities have been undertaken for the implementation of the new concept.

³¹ Internal Control Sector, Public Prosecution, Judiciary, Ombudsman, Inquiry Committee for the Protection of Civic Freedoms and Rights, Commission for Supervising the Agency for Security and Counter Intelligence, Intelligence Agency and the non-governmental sector.

Consequently, the Police are still abusing power. Witness to that is the fact that no activities have been taken in regard to European Parliament's recommendation on the Khaled El Masri case³², who personally lodged criminal proceedings at the Public Prosecution³³. Also, the Sector on Internal Control and Professional Standards within the MOI, ex officio, initiated an internal investigation in the operation of the "Centar" Police Station and the police-officers responsible for the city square demonstrations organised against the construction of various buildings which took place 28.03.2009. The Sector however, did not find evidence of misuse power despite the condemnations of non-governmental organizations and the public in general. Even more worrying is the fact that misdemeanour procedures have been initiated against 14 people – demonstration participants³⁴.

If one is to analyze the measures undertaken by the Sector on Internal Control in the second quarter of 2009, one might come to the conclusion that the Sector failed to detect human rights violations in all of the cases investigated, although in that period non-governmental organizations reported on Police power abuse cases³⁵. The Sector acted only in minor disciplinary cases³⁶.

As an illustration, disciplinary procedure was initiated against a police-officer in front of the Discharge Commission on the grounds of working under the influence of narcotics, while a decision was adopted for a police-officer to be removed from his post until the end of the procedure. An employee was fired for unjustifiable absence from work three days in a row. Six employees were fined for power misuse, more specifically for: one was fined with a 15% deduction of his monthly salary for two months on the grounds of unjustified absence from work, two police-officers were fined with 10% deduction of their monthly salaries for two months on the grounds of unconscious work, one police-officer was fined with 10% deduction of his monthly salary for the next two months on the grounds of improperly parked vehicle due to which another vehicle crashed into it, and two police-officers were fined with 10% deduction of their salaries for the next three months on the grounds of working under the influence of alcohol.

In the same period, the Sector for Internal Control and Professional Standards submitted three criminal charges against Ministry employees. One of the cases is based on the reasonable doubt for committed "fraud" with the intention of acquiring illegal property in the amount of MKD 15,000. At the same time, his superior was tasked to initiate a procedure for determining responsibility in front of the Discharge Commission. Criminal charges were raised against two police-officers for "abuse of official position and power" where for a traffic violation the police-officer in question requested a bribe of 40 euro. And, finally, proceedings were initiated for terminating employment, while the people concerned were removed from their posts.

The fact that the Sector does not act as an independent supervising mechanism is confirmed by analyzing the cases dealt by the Sector in the course of 2009. The Sector did not find violations in any of the events that

³² Report 2008, pg 13.

³³ At the moment, a civil procedure for compensation of damages has been initiated in front of the national courts – Interview with the lawyer of Kaled El Masri in Macedonia, June 2009.

³⁴ Interview with part of the organizers against who misdemeanour proceedings have been filed.

³⁵ For more information, see www.hrsp.org.mk

³⁶ In the period covered, following a disciplinary procedure, seven decisions were taken against eight MOI employees for violating working practices, out of which one procedure was cancelled due to the findings that the Collective Bargaining Agreement was not violated, Sector for Internal Control and Professional Standards reports, MOI web-site.

shook the Macedonian public (demonstration on city square, arresting of sex workers, detained minors in Struga), thus reducing its operation to mere “makeup” in the organizational system of the Macedonian Police.

3.3 No Measure is too broad for the MoI

Progress is made in securing more accountability of the counter-intelligence services in front of the Parliament, but that does not suffice. Court supervision in monitoring interceptions must be significantly strengthened, especially after the adoption of the disputable law amendments in late 2008.

So far, the judiciary failed to secure primacy in the implementation of interception measures, thus leaving the space for too broad use of such measures by the MoI. Although NPAA anticipated measures to strengthen court supervision of interceptions on the level of government, such measures have not been anticipated, let alone discussed with the expert public, although the deadline for their adoption was May 2009.

The Basic Public Prosecution for Organized Crime and Corruption reports that in the course of 2008, in 23 cases special investigative measures were applied in line with the Law on Criminal Procedure; in six cases the investigative judge issued 10 orders against 84 individuals for applying the special investigative measure – monitoring communications and entering homes and other premises or transportation means for the purpose of creating interception conditions as stipulated by the Law on Interception of Communications. In the first three months of 2009, special investigative measures were applied in 19 cases. In 17 cases, the special investigative measures were applied by the Basic

Public Prosecution for Organized Crime and Corruption, and in the two cases they were applied by the Public Prosecution in Skopje.

3.4 Rules-free Professional Police Service

The Rulebook on the selection, recruitment and human resource development of the Ministry of Interior is not adopted yet, nor have MoI acts incorporated detailed provisions to clarify the procedure for discharging chiefs of police stations with general jurisdiction. This complicates the discharge of eight chiefs of police stations, 6 of which are still vacant.

The adoption of secondary legislation necessary for full implementation of the carrier system is running late. In addition to the Rulebook on selection, the following rulebooks are still not adopted: **1)** Rulebook on the Career System, **2)** Rulebook on Training Employees at MOI, **3)** Rulebook on the Manner and Procedure for Selection and Recruitment of People at MOI, **4)** Rulebook on the Manner and Procedure for Career Advancement of Authorised Officers at the Ministry of Interior, **5)** Rulebook on the Manner and Procedure for Performance Assessment of Authorised Officers, Assessment Report Contents, Assessment Form and Recordkeeping, **6)** Rulebook on the Form and Content and Management of MoI Personal Files. Since the deadlines for the adoption of all these acts have already be breached, the Ministry suggested their adoption until 10.09.2009. Having in mind the complexity of areas regulated by these acts, the quality of the acts adopted in such a short deadline is disputable.

Implementation of the new Strategy on Human Resources remains a major challenge. The establishment of carrier advancement and per-

formance assessment system is running late, as well as the anticipated training. A Memorandum of Understanding between the Training Centre at MOI and the Faculty of Security within the University “St. Clement of Ohrid” is not signed. Training anticipated for introducing police members with the contents of the Rulebook on Policing is not advancing in line with the anticipated timetable, where most of the training sessions have not been delivered. Training on corporate responsibility intended for legal entities and anticipated for April 2009 has not been delivered. “Train the Trainers”³⁷ programme is underway, although it was to be completed in May 2009, thus delaying the training of 8,100 uniformed officers, who were to be trained in two cycles by late June 2009. As training is running behind schedule, senior police advisors at the Training Centre cannot perform the anticipated training evaluation.

3.5 Higher Levels of Police Service Exempt from the National Strategy on Equitable Representation?!

The Information on the Realisation of Key Priorities from the Accession Partnership, prepared by the Secretariat for European Affairs in May 2009 provides data on equitable representation by the first quarter of this year. Although equitable representation is continuously happening, the fact that the Information does not provide an overview of equitable representation on higher levels leaves grounds for concern. In addition, delaying the provision on retirement can negatively impact the implementation of the projections set in the National Strategy for Equitable Representation in the Police.

³⁷ Training of 152 trainers, 40 of which are border police members.

3.6 Conclusions and Recommendations

Adoption of the Law on Internal Affairs is running late. Having in mind its importance, it is very important that this law is adopted in a transparent procedure with the involvement of all stakeholders, in particular non-governmental organizations addressing human rights protection issues. The Ministry of Interior does not conduct investigations in compliance with internal procedures, national legislation and international standards. There is no efficient and independent mechanism for supervising police work. The judiciary failed to secure primacy in the implementation of interception measures, thus opening the possibility for broad use of such measures by MOI. The implementation of the new Strategy on Human Resources remains a major challenge, as the establishment of the carrier advancement and performance assessment system is running late. Therefore, we recommend the following:

1. Law on Internal Affairs must be immediately put forward for consultations with stakeholders, and in particular civil society organizations addressing human rights issues. It is not by accident that the European Commission comments “*civil society involvement in policy making and legislation drafting processes is minimal*”;
2. Ministry of Interior must establish an efficient and independent mechanism for supervising police work. This mechanism should systematically take into account the remarks contained in Ombudsman’s reports, but also the reports developed by other societal actors addressing human rights issues;
3. Measures contained in the NPAA on strengthening court supervision of interception of communications on government level should be

adopted as soon as possible, and only after they have been thoroughly discussed with the expert public;

4. Ministry of Interior must speed the process for establishing carrier advancement and performance assessment system. In order to improve the quality of training and the effects thereof, the carrier advancement system must be mainstreamed with the Strategy on Human Resource Development, while training should include knowledge checking (testing, assigning tasks immediately after training and assessing them, training-based advancement and assessing training effects, etc.);
5. The training anticipated on policing must be implemented urgently;
6. Secondary legislative acts necessary for police reform implementation and introducing carrier advancement system at MOI must be adopted urgently.

4. SUSTAINABLE TRACK RECORD OF RESULTS FROM THE IMPLEMENTATION OF JUDICIAL REFORMS, STRENGTHENING THE INDEPENDENCE AND CAPACITY OF THE JUDICIAL SYSTEM, COMPLETION OF REFORMS IN PROSECUTION AND FINALIZING THE APPOINTMENT OF THE JUDICIAL COUNCIL

The Government's Action Plan from March 2008 and the eight measures anticipated therein³⁸ are formally implemented, except for the fourth (operational IT-Centre for the judiciary) and seventh measure (supporting the strengthened role of Public Prosecutors in pre-trial procedure and in intercepting communications). The present report shall not undertake qualitative analysis of measures implemented, as the Government abandoned the implementation of this plan and in the meantime developed a new Action Plan, which – in the section on this benchmark – sets the following objectives: 1) sustainable track record from the judicial reforms, accompanied by the new structure of the Appeal Court and Higher Public Prosecution in Gostivar; 2) sustainable track record from the Administrative Court and amendments to the legislative framework in light of introducing the right to appeal in administrative lawsuits; 3) recruitment of graduates from the Academy for Training Judges and Public Prosecutors; 4) establishment of a fully operational and unified data collection and processing system; 5) establishment of permanent control over appointments related to judicial reform plans and decided by the Judicial Council and Council of Pros-

³⁸ For more information, see the first accession watch report published by MCET, pg. 29.

ecutors; and 6) improving budgeting and payment within the judiciary system, as well as improving human resource management.

Most of these objectives correspond with the recommendations provided in the first quarterly accession watch report from April 2009. Unfortunately, the measures developed for their implementation are incomplete, superficial and formal by nature. Thus, the present report shall not directly analyse the fulfilment thereof, as they will be implemented in compliance with the indicators already set forth in the first report, i.e., measures set in the Government's Blueprint from November 2008³⁹. The monitoring focuses on the Academy for Training Judges and Public Prosecutors and personal data protection due to its importance in the EU accession process.

The Accession Partnership does not provide mid-term priorities for the judiciary, thus indicating completion of reforms in 2009. However, the revised NPAA includes measures whose implementation is anticipated for 2010. These measures are undoubtedly required in light of effective implementation of reforms, but the programming thereof is late, notably as regards training, human resource development and the IT-Centre.

4.1 What has the new legislation improved?

4.1.1 Misdemeanour Law remains unaligned

In the reporting period, no laws were aligned with the Misdemeanour Law, and according to data obtained, new misdemeanour commissions have not been established. The absence of a tendency to establish misdemeanour commissions within newly established independent and regulatory bodies is disappointing.

The number of misdemeanour lawsuits for which the Supreme Court applied the statute of limitations remains unknown. It seems there are no intentions of calculating the financial implications due to failure to act in misdemeanour cases.

The Academy for Judges and Public Prosecutors continues to deliver training on the implementation of the Misdemeanour Law. Instead of the initially planned 150 trainees, as set forth in MoI training plans, up to this moment - the Academy delivered 14 two-day training sessions attended by a total of 375 trainees. The training for misdemeanour commission members established at the Customs Administration shall be delivered in July.

³⁹ The Blueprint lists measures as follows: **1)** analyzing effects from the implementation of the new legislation; **2)** strengthening the independence of judicial staff; **3)** strengthening financial independence; **4)** introducing ICT in light of enhancing unbiased performance and efficiency.

4.1.2 Execution Law – Central Government has preferential treatment

The amended Execution Law - which is to regulate the transfer of execution cases from the courts to the executioners - is still not enacted. Contrary to provisions in the existing Execution Law, the transfer of old cases from the courts to the executioners is postponed. Namely, the amended text of the law – in parliamentary procedure – postpones the transfer of execution cases for 1 July 2010. The law provides for execution based on credible documents issued by notaries. It seems the last version of the amended law mitigates the previous provision on *pro bono* work of executioners on the cases transferred from the courts. 15 June 2009, the amended text of the law was discussed on a public debate, but only a few comments were submitted by the end of the set deadline.

The fact that the most difficult collection of execution rulings is from state institutions raises concerns. The document prepared by the SEA, in the attempt to provide reasons for low level of execution from state institutions states that *“execution claims addressed to the Attorney General of the Republic of Macedonia are not processed in accordance with the same timetable applied for claims addressed to natural and legal persons, as the Attorney General, with the exception of initial administrative fees, is unable to settle in advance other execution claims, as they require significant budget funds”*⁴⁰. Unfortunately, this only confirms the fact that state institutions enjoy preferential treatment.

⁴⁰ Information on the Realisation of Key Priorities from the Accession Partnership in the period November 2008 – May 2009, pg. 15.

4.1.3 Amendments to Mediation Law are late

The implementation of the Mediation Law has been analysed, but the results are not made public. The anticipated amendments to the Mediation Law are not enacted, although the Ministry of Justice has drafted them. The respective amendments expand the scope of mediation to family and criminal disputes (administrative disputes are once again exempted), regulate the Chamber of Mediators in more details and shorten the duration of the mediation procedure.

By March 2009, a total of 106 mediation cases were registered, 77 accepted and 29 rejected. 57 of the accepted mediation cases were amicably settled, 15 cases have not been resolved, and 5 were closed on the grounds of expired deadlines⁴¹. It is only logical for the amendments to introduce a Mediation Procedure Register for the purpose of addressing the lack of official and accurate statistics.

4.2 Incomplete Court Rulebook

Electronic record-keeping and random case allocation is not fully implemented. Almost all courts are late with the implementation of remedial measures as determined upon the inspection performed by the Ministry of Justice in 2008⁴². Under the circumstances when some courts have not yet received the necessary computers and the software applications, implementation of these provisions is further com-

⁴¹ Ibid, pg. 16.

⁴² Ministry of Justice in the course of 2008 performed inspections at 22 basic courts, three Appeal Courts and the Supreme Court. Reports are available on the website www.pravda.gov.mk. No data is provided as to why the inspection of the other 5 basic and the remaining Appeals Court is still not performed.

plicated by understaffed court administrations, thus undermining one of key anti-corruption measures in the judiciary – electronic random allocation of cases.

4.3 European Court on Human Rights decisions can wait until 2010

In this reporting period two key laws were adopted on implementing the rulings of the European Court on Human Rights, those being: Law on Republic of Macedonia's Representation in front of the European Court on Human Rights in Strasbourg and Law on Execution of Rulings Taken by the European Court on Human Rights⁴³. These measures are expected to strengthen the Republic of Macedonia's alignment with Strasbourg case law. Although strengthening national legislation in this field is a positive step forward, the fact that no comments and publications on the European Court on Human Rights case law are made public is quite worrying. Most concerning is the fact that although Macedonia lost all cases in 2008, the Government plans to develop methodology and mechanisms for permanent monitoring and analysis of national legislation in line with the case law of the European Court on Human Rights for 2010.

4.4 Ministry of Justice – factory for low-quality laws

As regards the drafting and adoption of legislative acts, in compliance with the judicial reforms anticipated for the I quarter of 2009, the Ministry of Justice submitted five draft-laws to the Parliament⁴⁴, two

⁴³ Published in the Official Gazette of the Republic of Macedonia No. 67/2009.

⁴⁴ Law on the Republic of Macedonia's Representation in front of the European Court on

laws to the government⁴⁵, and currently working versions of 19 other laws are drafted⁴⁶. The need to quickly amend the already amended and enacted laws seems to confirm European Commission's opinion that laws adopted in emergency procedure and without public participation are inadequate in terms of quality. The Government must secure a transparent legislative procedure to avoid dealing with even greater "law inflation", which is an expensive exercise that physically exhausts the general administrative capacity.

4.5 Juvenile Justice

On the occasion of entering into force of the Juvenile Justice Law, a promotion took place aimed at reconsidering recent trends in juvenile delinquency and analysis of previous implementation of the Action Plan.

The open call for vacancies at the National Council on Prevention of Juvenile Delinquency was closed on 10th June. Once the nominations from the State Council representatives of the Ministry of Interior, Min-

Human Rights in Strasbourg, Law on the Execution of Rulings Taken by the European Court on Human Rights, Amendments to the Execution Law, Amendments to the General Records Law and Law on Fee Legal Aid.

⁴⁵ Amendments to the criminal procedure and amendments to the Misdemeanour Law, in the section on juvenile justice.

⁴⁶ Litigation Law, Law on the Judicial Council of the Republic of Macedonia, Law on International Legal Aid in Criminal Cases, Forensics Law, Law on Public Prosecutors' Salaries, Law on Council of Prosecutors Members' Salaries, Law on Judges' Salaries, Law on Judicial Council Members' Salaries, Bar Law, Court Fee Law, Civil Servants Law, Law on the Prevention of Conflict of Interests, Law on Citizens Associations and Foundations, Law on Political Parties Financing, Criminal Code, Law on Courts, Mediation Law and Notary Law.

istry of Labour and Social Policy, Public Prosecution, Supreme Court and Bar Chamber of the Republic of Macedonia, the Council is expected to be established prior to Juvenile Justice Law enters into force. Activities related to the establishment of the juvenile correction facility are late.

4.6 Execution of sanctions without rules!

The implementation of the Execution of Sanctions Law depends on timely adoption of the secondary legislation; training delivered and improved conditions at the penitentiary facilities. Unfortunately, the implementation of these activities is late. Not enacted remain the following by-laws: 1) aligned internal rules for penitentiary and correction facilities; 2) rulebook on the organization and systematization of jobs and salary criteria; 3) programme addressing the need on increased number of employees at the re-socialization, security and health care departments based on pre-defined criteria. The decision to establish and organise the Training Centre has not been taken, nor has training been delivered for employees at these institutions. Anticipated construction activities are also late, such as, the construction of the new detention ward at Skopje Prison or the reconstruction and repairs on the detention premises at Ohrid Penitentiary.

4.7 (Non)Implementation of the new measure – Seizure of assets

The system of seizing assets is not operational and was established late. The equipment for the Agency for Management of Seized Assets is not procured, although the deadline set for 1 March 2009 has long past. Training is yet to be delivered, and seized assets need to be

transferred from the courts to the Agency for Management of Seized Assets. Training for judges and public prosecutors on confiscation and seizure of criminal proceeds has not been initiated.

The adoption of secondary legislation is also late. According to the NPAA, the adoption of the following acts was scheduled for May 2009: 1) rulebook on record-keeping of seized assets; 2) rulebook on the form and content of official identification, manners of issuance and retrievals; 3) rulebook on temporally seized assets of state bodies, citizens' associations and foundations; and 4) regulation on security standards and storage, sales, destruction of seized narcotics, psychotropic substances and precursors and procedure for their use for scientific and research purposes.

4.8 Independent judiciary – but from the public opinion

In the reporting period, the public was distressed by a series of controversial court cases. Macedonia must be cautious and aware that through such cases the implementation of the reforms will be evaluated, including the judiciary's independence – in other words, whether the activities reported in various documents are actually implemented in practice. Institutions, notably judges and judiciary, must demonstrate that reforms are not letters on paper and that Macedonia succeeded in enhancing the independence and professionalism of its judicial system. Lawsuits, such as those between ELEM and EVN and speculations concerning the dismissal of an experienced judge, who - on two occasions - failed to take decision on detaining a particular mayor, pose great challenges for the judiciary at times when it has to demonstrate resistance to excessive political pressures.

4.9 Human Resources

The politicisation in the appointment of some Judicial Council members is mirrored in its operation. Specific examples in the reporting period are the following: 1) appointment of a judge, whose working experience record does not suffice for a president of a first-instance court; 2) appointment of a judge at the Supreme Court; 3) postponement of the retirement procedure for the spouse of the Minister of Justice, holding the position of an appeal judge at the Appeals Court in Skopje. Such controversies give rise to doubts about the independence of the Judicial Council and affect public trust in the judiciary system.

4.10 Women - unfit for court presidents?

The analysis of the number of vacancies required for judges and public prosecutors at first-instance courts and basic public prosecutions was late. The Judicial Council established new vacancies for judges on 15th April 2009, while the Council of Prosecutors did the same 14th April 2009. The recruitment plan for filling up vacancies from the graduates of the Academy was developed based on this analysis. Although the NPAA anticipates the appointment of Academy graduates to be completed by March 2009, the fact remains that not a single graduate from the first generation of the Academy for Judges and Public Prosecutors was appointed. An open call was announced by the Judicial Council and the Council of Prosecutors.

The 2008 increase of the number of judges resulted in a total of 696 positions in the country, 674 of which are currently occupied, thus leaving only 22 vacancies. Three vacancies at the Administrative Court were

filled in during the reporting period, making this court fully equipped. The recruitment of seven new legal advisors however is still lagging behind. Apart from the recruitment of judges, the Judicial Council also appointed presidents of courts. The fact that less than 20% of the appointed presidents of courts are women is alarming knowing that the majority of judges are women. In addition, a total of 49 procedures were initiated (43 for incompetent and unconscious judicial performance and 6 disciplinary procedures), resulting with the dismissal of 15 judges on the grounds of incompetent and unconscious performance, and with 5 judges submitting their letters of resignation, while the mandates of 27 judges were terminated on the grounds of fulfilling retirement criteria.

4.11 Court administration is still a mirage

It seems the efficiency of the judiciary largely depends on the court administration (expert associates, typists, and intakers). In its 2008 report, the Judicial Council stated *"the number of expert councillors and associates is insufficient; administrative vacancies are not recruited; some courts operate under poor material and working conditions, while bigger courts are overloaded with cases"*⁴⁷. The need for judges to have their expert associates, as is the European practice, is obvious in light of increasing courts' efficient and effective operation. This would also provide an opportunity for enhancing equitable representation of other community members. Activities anticipated thereof are not implemented. Although the analysis of court administration status was anticipated for March 2009, and coupled with job announcements on additional court administration foreseen for end of April 2009, these measures remain unfulfilled.

⁴⁷ Report on the operation of the Judicial Council in 2008, pg. 15.

4.12 The public need not know how judges perform

In 2008, a total of 1775 complaints were submitted concerning the performance of the judges. The most frequent complaints were for unduly procedural delays, inefficient and irrational proceedings, failure to schedule hearings, unduly decision-taking, lack of execution of court rulings and other execution decisions, unduly submission of appealed rulings to higher instance courts etc. - all indicators of the quality of performance of judges⁴⁸. The fact that the Judicial Council's report failed to provide information on the number of complaints with reasonable grounds and the measures undertaken by the Council in such cases is quite concerning. This gap must be addressed in light of transparent operation of both, the Judicial Council and the judiciary as a whole.

Council members initiated the annual performance measurement of judges on 7th May 2009, by alphabetical order of appellate districts⁴⁹. Performance measurement of judges falling under the jurisdiction of the Appeals Court in Bitola, Appeals Court in Gostivar and Appeals Court in Skopje is complete, while performance measurement of judges of the Appeals Court in Stip is underway. Measurement results are available only for the courts falling under the jurisdiction of Gostivar, thus making detail statistics on judge performance subject of the next accession watch report.

⁴⁸ Ibid, pg. 24.

⁴⁹ Performance measurement is done by means of the following assessments: very good, good, satisfactory, and unsatisfactory.

4.13 Prosecution under the roof of the court

The issue of human resources is the same at the Public Prosecution. The Council of Prosecutors is late as regards recruitment of prosecutors. Although the High Public Prosecution appointed three public prosecutors, many vacancies remain in addition to the employment of 31 new prosecutors, 9 of which - graduates from the Academy for Training Judges and Public Prosecutors. The work of the Higher Public Prosecution in Gostivar is hindered by the lack of premises – a measure anticipated for implementation by 30 June 2009. At the moment, the Higher Public Prosecution is working within the premises of the Basic Court in Gostivar. The situation as regards premises and equipment is similar at the Basic Public Prosecution on Organized Crime and Corruption - currently accommodated at the premises of the Organized Crime and Corruption Department at Basic Court in Skopje.

In light of implementing prosecution reforms, the Law on Prosecution Council Members' Salaries, the Law on Public Prosecutors' Salaries and the Law on Judicial Council Members' Salaries are being drafted. Once aligned at the Legislative Secretariat, the draft-laws shall enter the next stage of their enactment procedure.

4.14 Insufficient financial resources

The report on the operation of the Judicial Council of the Republic of Macedonia prepared by the Council and discussed by the Parliament of the Republic of Macedonia, in the section related to material and financial matters in the judiciary, indicates that in 2008 *"indicators on budget realization, in summary and per budget item, show a high degree of consumption, i.e., a total budget consumption of 99.12%"*.

According to this report “by 31 December 2008, the judiciary’s total debt amounted to MKD 28,613,200.00, in comparison to the balance on 31 December 2007, when the debt amounted to MKD 52,014,187.00”. The structure of unsettled court liabilities per item is as follows: “largest debts are from (1) communal service in the amount of MKD 7,913,690.00; and (2) contracted services (translation, court forensics, contracted services, etc.) with matured liabilities in the amount of MKD 16,063,182.00.” Once again, this confirms the statement that the budget of the judiciary must take into account matured liabilities if it is to achieve full financial independence.

As for the 2009 budget adjustment, the report stressed that “due to the 15% cut, judicial authorities in 2009 shall face difficulties in terms of duly settlement of 2009 liabilities.” Despite such referrals, the budget adjustment dated 4th June 2009 made an additional 4.5% cut of the overall judicial budget. In April, the budget funds intended for capital investments in the judicial system were reduced by approximately 11.5% immediately after the amendments made to the annual capital investment programme adopted 29th December 2008 by the Judicial Council and intended for redistributing the initially allocated amount of MKD 61,000,000.00. This will most probably impact the operation of the judiciary in 2009, as well as the implementation of the planned investment projects - currently worth MKD 54,000,000.

4.15 Where is the European Agenda in the 2009 budget adjustment?

In order to build judiciary’s financial management capacity, the Judicial Council in cooperation with USAID/DPK performed financial needs assessment of courts. The findings of the needs assessment

should serve as the basis for developing next year’s judicial budget - process that is expected to include an external expert commissioned by USAID. In the meantime, the capacity of the Judicial Council remains unchanged. The budget planning capacity building activities of the Public Prosecution are not implemented either.

The Information from May 2009 on the implementation of the key priorities from the Accession Partnership in the period November 2008-May 2009 however claims that: “2009 draft budget increased the funds for building judiciary’s budgetary framework by 11% in comparison to the 2008 funds”⁵⁰.

Contrary to capital investments, whose decrease seems unrealistic, judicial service and court administration salaries were increased in reality - within the scope of 5% to 20%.

2009 budget adjustment affected the Public Prosecution, as its funds were decreased by approximately 8.4%. Such budget cuts can slow down the dynamics and endanger the quality and effectiveness of the prosecution reforms, having in mind that the 2008 report on the operation of the Public Prosecution⁵¹, as well as the report on the operation of the Council of Prosecutors⁵² indicates the need for enhancing Public Prosecution’s resource and financial framework.

The general budget of the Agency for Execution of Sanctions was cut by 18% with the budget adjustment. The biggest “cuts” made are in the field of construction, reconstruction, equipment and reforms

⁵⁰ Information on the Realisation of Key Priorities from the Accession Partnership in the period November 2008 – May 2009, pg. 14

⁵¹ Published in April 2009, when it was submitted to the Parliament.

⁵² Published in April 2009, when it was submitted to the Parliament.

of penitentiary facilities. Thus, the fact that the implementation of investment projects intended for upgrading and modernizing prison infrastructure are late is does not come as a surprise. Such budget cuts will endanger the implementation of the projects anticipated for upgrading the prison infrastructure.

4.16 Information and Communication Technologies

Although activities set in the ICT Strategy for the Judiciary (2007-2010) were accelerated in the reporting period, the general assessment is that the implementation thereof is late. The outcomes of the measures undertaken cannot be assessed, while possible problems and gaps cannot be identified.

The human resources at the IT-centres within the courts were completed. At the moment, a total of 38 IT-officers are employed at the courts, 30% of who were recruited with international donor funding. This situation must be changed if current reforms are to be sustainable. Procurement of hardware equipment, software system and software applications including updating and maintenance is partially implemented. New IT equipment was purchased⁵³, and the procurement procedure on servers for all courts required for the operation of the ACCMIS started. What remains to be done is the procurement of appropriate software applications on management, WAN, monitoring and network services.

Although this reporting period was marked by activities undertaken

⁵³ 720 PCs and 450 network printers for the judiciary and 150 PCs and 150 network printers for the Public Prosecution.

for the purpose of securing complete operation of the new Automated Court Case Management System – ACCMIS, the implementation of some activities is late. ACCMIS software was installed at all courts, while 14 courts have entered all lawsuits in the system. At the moment, four of the planned eight courts are fully using ACCMIS and are able to generate automated reports⁵⁴. Training on ACCMIS application for 2,200 employees in the judiciary is underway, with 564 scripter officers, 627 typists, 304 expert associates and 20 court administrators being already trained. Training is also delivered for all judges, and 200 of them are already trained.

4.17 Transparency used as an excuse to procure computers?!

Automation of the judiciary system was intended as a measure for making the judiciary more transparent by securing public access to court rulings. Therefore, the procurement of the computers does not mean anything when there is no public access to information. Access to court rulings - as the NPAA anticipated - remains unrealized, although its implementation deadline was 30th April 2009. The problem persists, as the courts in the Republic of Macedonia do not have their own websites, although different governmental documents report on courts' regular website updating activities⁵⁵. At the time of this report, dynamic websites were maintained by four basic courts, but the information available was scarce. For the purpose of increasing court

⁵⁴ Appeals Court in Skopje and Bitola and basic courts in Kriva Palanka and Ohrid, Information on the Realisation of Key Priorities from the Accession Partnership for the period November 2008 – May 2009, pg. 21.

⁵⁵ The 2009 Budget adjustment on page 81 says that: "Ministry of Justice, by means of the loan arrangement with the World Bank, developed dynamic websites for all courts".

transparency, this problem must be addressed by developing internal capacities on continuous on-line updating activities.

The ICT-Centre at the Ministry of Justice continues to upgrade the legislation database (LDBIS) by means of uploading laws and by-laws adopted in the Republic of Macedonia. At the moment, LDBIS contains more than 16,000 laws and by-laws adopted in the period from 1940 until January 2009. The database was adjusted to WEB and local use at any court. There is no legislative framework that would secure complete operation of the new IT system in the judiciary. The NPAA anticipates that by 20th April 2009, the Ministry of Justice will adopt the rulebook on the operation of IT systems at courts, but by the time this report was published the respective rulebook was not adopted. The rulebook is of key importance in light of full operation of all ICT investments in the judiciary and therefore must be adopted as soon as possible.

4.18 Academy for Training Judges and Public Prosecutors

Enrolment of the third generation of judges and public prosecutors is underway at the Academy. According to the needs assessment, this generation shall be comprised of only 17 candidates in comparison to the 27 from the first and second generation. Concerns are raised knowing that open calls on judge vacancies were announced prior to the graduation of the first generation of Academy trainees, thus preventing them to apply, while the numbers indicate decreased number of vacancies for judges and public prosecutors.

Budget funds allocated for the Academy for Training Judges and

Public Prosecutors are increased by 3.3% thanks to donations. The low level of central budget financing in the Academy budget, as commented in the 2008 Progress Report, raises concerns.

Here is what the Government's Conclusions from 25 June 2009 say on this matter:

“Recruitment of graduates of the Academy for Training Judges and Public Prosecutors

- It is of utmost importance that judges/public prosecutors from the first generation of graduates at the Academy are selected/appointed by September. EC insists all Academy graduates to be appointed to relevant positions in the judiciary as soon as possible. On the next meeting of the Judicial Council, the Minister of Justice shall share European Commission's expectations and urge for announcing open calls on vacancies that would - by September - result in appointment of all first generation graduates from the Academy for Training Judges and Public Prosecutors to relevant positions.”

4.19 Advancing or regressing in personal data protection?

Personal Data Protection Directorate is an independent public body which – by its work and actions – managed to impose true independence from government and thus provided a rare example in the Macedonian legal system. However, it seems that the authorities are attempting to break its independence through financial dependence. Hence, the procedure on recruiting officers as anticipated with the 2009 programme

was not initiated due to the mandatory formal approval by the Ministry of Finance. In addition, 2009 budget adjustment seems to have strengthened the financial “control” over this institution. The already insufficient budget intended for the Directorate⁵⁶ is now decreased by 5%, thus making it a champion of small budgets among independent bodies in terms of operational expenditure per employee⁵⁷. More than half of its budget is intended for salaries and social contributions, and no funds are allocated for developmental purposes.

4.20 Conclusions and Recommendations

Monitoring the application of the new legislative framework and measuring the results thereof is still lacking. Amendments to relevant laws required in light of alignment with the Misdemeanour Law are not enacted. The transfer of cases to executioners is running behind schedule. Again, major difficulties are faced in regard to execution claims from state institutions. Not a single first generation graduate from the Academy for Judges and Public Prosecutors has been appointed judge. Decreased resources for the judiciary in the 2009 budget adjustment will not secure normal operation and settlement of liabilities. Budget planning and management capacities are insufficiently developed. Judiciary IT equipping is late. Access to court decisions is problematic. The 2009 budget of the Academy was increased, but most of its activities are funded by international donors. Macedonia is the only country in the region with completely aligned personal data protection legislation in line with

⁵⁶ Detailed information can be found in the previous accession watch report from April 2009, pg. 34-35.

⁵⁷ The Directorate spends (in thousand MKD) 835 MKD per employee in comparison to the Commission on Protection of Competition – 927 MKD, SEC – 1,687 MKD, SCPC – 1,371 MKD, or the State Audit Office – 1,294 MKD. 2009 Budget adjustment, pg. 98.

EU standards, while the Personal Data Protection Directorate remains understaffed and financially dependent from the executive power. Lawsuits, such as the one between ELEM and EVN, and information on dismissals of judges with impeccable performance record on the grounds of failing - on two occasions - to take decision on detaining a particular Mayor - is a major challenge for the judiciary and undoubtedly implies excessive political pressures exercised in the past months. Therefore, the following recommendations are relevant for overcoming the problems identified:

1. Misdemeanour commissions must be established within the newly established independent and regulatory bodies;
2. The Parliament of the Republic of Macedonia must adopt the amended Execution Law, which entered the parliamentary procedure in December 2008;
3. First generation graduates from the Academy for Training Judges and Public Prosecutors must be treated with priority in the recruitment of judges and public prosecutors, otherwise the question of whether the Academy fulfils the reasons for its establishment will be raised;
4. Increase the number of court associates to match the number of judges. This is an opportunity to demonstrate equitable representation of other community members. Increase the number of women on managerial positions in the judiciary, as well as the number of employees in court administrations;
5. Increase the judiciary budget and adopt the programme on taking over the debts of the judiciary, as they prove to be a big obstacle for the independence of the judiciary;

6. Fully equip all IT-centres in the courts, both with human resources and hardware and software equipment – for the purpose of implementing the new legislative solutions that rely on electronic processing of court cases;
7. Strengthen the capacity of the Personal Data Protection Directorate and enhance its financial independence from the executive power;
8. Immediately adopt the by-laws required for the implementation of judicial reforms;
9. Attempts to influence the judiciary should stop.

5. SUSTAINABLE TRACK RECORD ON THE IMPLEMENTATION OF ANTI-CORRUPTION LEGISLATION

The Government's Blueprint anticipates the following: implementation of recommendations provided by the Group of States Against Corruption (GRECO)⁵⁸ from the second evaluation cycle, track record in implementation of Action Plan on Preventing Conflict of Interests, better results in investigating ownership status by connecting the databases maintained by the State Commission on Prevention of Corruption (hereinafter: SCPC) and the Public Revenue Office (hereinafter: PRO) and track record from

⁵⁸ This remark was provided in the previous evaluation cycle carried out by GRECO. Nevertheless, the responsibility for its non fulfilment can only be partially located with the Government, as the main responsibility on its implementation lies with the Parliament.

the implementation of provisions contained in the Electoral Code concerning financing election campaigns and political parties – all that by April 2009. Based on their importance, the present report also included the National Programme on Preventing Corruption and Government's Action Plan on the implementation thereof.

5.1 Big political parties spent eight times more in the election campaign than small parties

After the local and presidential elections, emphasis is put on adherent enforcement of the provisions contained in the Electoral Code, especially those pertaining to political party financing of election campaigns, i.e., submission and publication of transparent reports on campaign financing by political parties and presidential candidates. Proper sanctioning of possible legal violations is of vital importance for obtaining a positive assessment of the anti-corruption policy in EC's next Progress Report.

According to the Electoral Code, financial reports were submitted by all presidential candidates - except for Ljube Boskovski who participated in the elections as an independent candidate⁵⁹ - before the set deadline 22nd April 2009. The difference in the sums spent by the political parties in the campaigning period is enormous as they range from 103,497,708 MKD (less than 1.7 million EUR) spent on Gorge Ivanov's campaign (VMRO-DPMNE), 94,150,249 MKD (1.5 million EUR) spent on Ljubomir Frckovski's campaign (SDSM and NSDP), 11,118,944 MKD (180,000 EUR) spent on Imer Selmani's campaign (New Democracy) to measly 1,375,126 MKD (22.000 EUR) spent on Nano Ruzin's campaign

⁵⁹ Information published on SEC website.

(LDP), 1,288,100 MKD (21,000 EUR) spent on Agron Budzaku's campaign (DUI) and 290,000 MKD (4,700 EUR) spent on Miruse Hodza's campaign (DPA). In other words, the big political parties spent 6 to 8 times more than the other political parties together.

In May, campaign organizers submitted their final reports as stipulated by the Electoral Code. In June, the State Audit Office will audit four financial reports of political parties (using the risk assessment method) and prepare its final report.

For the purpose of eliminating shortcomings and corruption in the course of elections, one of the measures anticipated was legislative improvements to reduce possibilities for abuse when it comes to financing political campaigns by means of amending the Law on Political Parties Financing in line with OSCE/ODIHR recommendations. This measure is not implemented yet, and the NPAA deadline (July 2009) was postponed for September 2009. The Ministry of Justice will apply for technical assistance (TAIEX), but the fact remains that the delay in implementation will result either in failure to fulfil this measure by the cut-off date for the next EC Progress Report or the quality of the legislative text will be poor and will not address the real problem.

Here is what the Conclusions from 25th June 2009 say on this matter:

"..filling in legislative loopholes on financing political campaigns and political parties, and in particular amending the Law on Political Parties Financing in line with OSCE/ODIHR recommendations. On 31st July 2009, the Government should adopt the amended draft of the Law on Political Parties Financing in line with OSCE/ODIHR recommendations."

5.2 Newly elected mayors forget their asset declaration forms

The newly elected mayor forgot the obligation to submit asset declaration forms. The deadline for submission is thirty days from the day the term of office. This deadline has already expired. The State Commission for Prevention of Corruption (SCPC) stated that it could not assess the reasons behind the indifference of the mayors towards this obligation, but informed that warnings were already sent out to the mayors who failed to do so and will soon raise misdemeanour charges against them at the competent courts. Up to this moment, no charges were filed. The fines thereon amount from 20,000 to 50,000 MKD.

According to information obtained from the SCPC, by mid-June only 31 from the total of 85 mayors had submitted their assets declaration forms. 18 of the newly elected mayors fulfilled this obligation, while 13 mayors enjoying their second term of office followed suit. 19 of a total of 60 mayors whose term of office was terminated submitted asset declaration forms. The situation is very much the same with elected municipal councillors.

The newly elected Head of State submitted his assets declaration form within the legally stipulated deadline, and the form is available on SCPS website. The former president, Branko Crvenkovski, also submitted his form within the legally stipulated deadline, but SCPS informs that his disclosure shall not be posted on their website, as upon the expiration of his term of office he is no longer a public official, hence no need to do so. However, if the Public Revenue Office (PRO) and the Commission determine assets increase, they will investigate the matter. The SCPS adds that this provision applies to all officials leaving their positions.

5.3 400 million Euro spent on outsourcing services!

During and after the election campaign, political parties accused one another of political employments on central and local level before the local and presidential elections, primarily via temporary employment agencies. The statistics on temporary employments in the administration obtained from administrative bodies⁶⁰ indicate a significantly lower number of employments in comparison to reality, and unfortunately, in the meantime, we did not manage to secure accurate numbers of contracts for employing people via temporary employment agencies before and after the elections. Mutual accusations on public administration politicisation continues in the context of the central budget adjustment debate, which includes an amount of approximately 400 million Euro for outsourcing services – an instrument used for political party employments. Otherwise, the Government, with the adjustment of the budget, renounced public administration salary increase and employments, except for the vacancies envisaged in the NPAA. The high budget account for outsourcing services however remains to incite further debates and accusations on politicisation of public administration.

5.4 SCPC – incapable of preventing corruption

No new information is available concerning the 27 criminal charges initiatives raised in 2008 and announced on SCPC website on 9 September 2008.⁶¹ SCPC should inform the media on the development thereof in a timely manner. Monitoring advancement of these cases is

⁶⁰ See first quarterly report “The Government Should Work 24/7 on the EU Agenda”, pg. 45.

⁶¹ Criminal prosecution initiatives raised in 2008, SCPC:
http://www.dksk.org.mk/index.php?option=com_content&task=view&id=119&Itemid=1

an important indicator on the fulfilment of the anti-corruption benchmark that shows whether SCPC and the State Audit Office (SAO) recommendations are consistently followed through.

For that purpose, an NPAA anticipated measure includes the strengthening of SCPC’s public relations capacity. Three activities complement the implementation of this measure, those being: 1) adopting a public relations strategy; 2) public polls on corruption in Macedonia; and 3) resolving the pending corruption cases. None of these activities have been implemented. The SEA’s Information on the Realisation of Key Priorities from the Accession Partnerships states that the SCPC adopted a public relations plan, but does not clarify whether the plan is to replace the strategy or it is simply a technical matter of putting titles to documents. In conditions when access to this document is not possible, it is difficult to comment whether the plan steps in for the strategy, not to mention the scope, timeliness and quality of the respective document. Therefore, the plan will be analyzed in the next quarterly report.

15th May 2009, the State Commission on Prevention of Corruption, in compliance with the Law on Prevention of Corruption, submitted to the Public Prosecution of the Republic of Macedonia and the Basic Public Prosecution on Organized Crime and Corruption five new initiatives on criminal prosecution procedures⁶², whose outcomes shall be scrutinized in the following reports.

SCPC operation in its full capacity coupled with strengthening its independence and unbiased approach are of particular importance for the successful performance of a system on fighting corruption and as such

⁶² http://www.dksk.org.mk/index.php?option=com_content&task=view&id=129&Itemid=1

they pose major challenges for the future. The accumulation of various functions by the Commission's President continues to raise concerns.

On the annual press conference, SCPS's President informed on the increased performance rate from 31 to 39 percent. In 2009, SCPC apparently opened cases concerning the monuments, monitored public information on irregularities identified in regard to the monuments and the VMRO museum, and requested documents and feedback from competent institutions. SCPC is currently processing more than 20 election-related cases and is preparing misdemeanour indictments thereof. Four cases concern bribing voters, while the remaining concern violations of the employment regime as stipulated in the Employment Law, inappropriate campaign spending, allegations on fraudulent financing of election campaigns, etc. SCPC committed itself to resolving these cases as soon as possible. The final outcome of these procedures and the public presentation of SCPC's position therein need to be made very clear, otherwise SCPC shall again fail to demonstrate capacity to prevent and address corruption.

5.5 Why does MoI persistently refuse to cooperate?

The tendency of in-existent cooperation between the Ministry of Interior, State Audit Office, SCPC and other competent authorities continues. No news is available on whether feedback was provided on the 15 audit reports which stated: *"reasonable doubts for misdemeanour acts, and criminal acts committed by 11 entities"*. The fact that other state bodies failed to respond in the cases recommending elimination of identified irregularities is still an unresolved problem.

Measures for eliminating such negative practices are: 1) introducing enhanced training for the Police, prosecutors and judges on corporate responsibility of legal entities and on legislative implications on investigation, prosecution and sanctions, whose deadline expired in April 2009 and was to include 100 people; 2) implementing Memoranda of Understanding signed between competent bodies on fight against corruption; 3) on-going data exchange according to the Cooperation Protocol and submitting draft-laws for consultation with SCPC, which also is not implemented. No information on monthly reporting to SCPC by competent institutions on specific results achieved by means of cooperation on corruption cases and on the status of corruption-related cases is available. SCPC obligation for reporting on the cooperation achieved through liaison officers is not realized either.

On the other hand, MoI continues to work independently on corruption cases. According to MoI's report on the I quarter of 2009, published on its website, the number of detected corruption acts was increased by 56.2% in comparison to the same period last year, i.e., a total of 25 criminal acts were detected (last year the number was 16) and a total of 46 offenders were indicted. The breakdown of the criminal acts is as follows: twelve "bribe offers", six "bribe acceptances", four "money laundering and other illegal proceeds" and three "illegal mediations". In addition, 26 corruptive abuses of official position cases were detected and 50 people – holders of official positions and responsible officers – abused their official positions, committed 39 financial criminal acts and thus plundered the central budget and shareholder companies for more than 106.6 million MKD.

It is unclear why MoI continues to work independently on corruption cases although it fails to act efficiently upon the charges submitted by SCPC and the SAO. In conditions when it is difficult to assess

actual corruption implications on the central budget, it is impossible to pass judgments on whether MoI detects corruption effectively or not. Therefore, cooperation between all institutions responsible for detecting and preventing corruption must be increased in future.

5.6 Improving anti-corruption legislation - but when?

The adoption of anti-corruption legislative acts is lagging behind. Amendments to the Law on Preventing Conflict of Interests are still not enacted. The deadline for this activity has been postponed for 15th September 2009. In May 2009, TAIEX- funded expert mission resulted in an analysis of the existing Law on Preventing Conflict of Interests and recommendations for its amendment. The drafting of the amendments to the Law is underway - in line with the recommendations. Consequently, the training on the enforcement of the legislative acts is late as well as the training of officers - as set in the Action Plan on Preventing Conflict of Interests (15-20 training sessions) - intended for 60 people and planned to end by June 2009. The fact that no data is available on the number and outcome of implemented procedures on detecting conflict of interest is quite distressing.

5.7 Is there a hidden agenda behind the illogical deadlines?

The Law on the Status and Employment of Public Servants is not enacted yet. Unlike the deadline set in the Blueprint, the NPAA stipulates 31st October 2009 for the adoption of the draft-law, and 31st December 2009 for its enactment by the Parliament. The adoption of this law is

of vital importance for full implementation of GRECO-recommendation on *“establishing a regulatory framework on modern administrative principles for a large number of public servants other than civil servants in compliance - to the degree possible - with the regulations applied to civil servants”*. The Code of Conduct for Public Servants should also be developed to regulate corruption disclosure, including training on corruption risks, preventive measures and public awareness. This measure was to be implemented by the end of June. Novelty in planning this measure is the inclusion of the provision in the Law on Public Service Principles that would serve as the basis for adopting the Code of Conduct. It is illogical to plan to incorporate such provisions by 31st July 2009, knowing that the enactment of the law was postponed for October, i.e., December 2009. Training for 75 people on anti-corruption measures at the state administration level is also late.

The amendments to the Criminal Code are not passed yet. Unlike the Blueprint, the NPAA stipulates 31st August 2009 as the deadline for governmental adoption, i.e., 31st October for adoption by the Parliament, The latter however has been shortened to 21st July 2009. The implementation of this measure is late, as the draft-law was anticipated to be adopted by the Government in the course of June 2009. This raises concerns, because the adoption of the amendments to the Criminal Code is required for the full implementation of GRECO-recommendation XII – *“adopting legislative and other measures to guarantee legal entities’ responsibility for illegal mediation in line with Article 18 from the Anti-Corruption Convention”*. Therefore, the amendments proposed under Article 359a define the criminal act *“illegal acquisition and coverage of disproportionate proceeds”*. The criminal act however, refers only to official persons or responsible persons at public enterprises or public institutions who: **1)** provide false information on their income when declaring assets or **2)** when it is determined that during their

public office these persons or members of their family have acquired assets in excess to their legal income and concealed the actual sources thereof. Such a provision is not fully in compliance with international standards, as premeditated illegal proceeds of public servants are not criminalized when the person in question cannot provide reasonable explanation of the sources thereof.

5.8 Connecting Databases – Mission Impossible!

The deadline for connecting the databases maintained by bodies with special authority and the coordination and exchange of data thereof was April 2009. The deadline in the NPAA for adopting the relevant law in the Parliament is 30th June 2009. The law however is not enacted, nor was the proposal submitted. Therefore, it can be concluded that the Government can neither fulfil the commitments undertaken in the Blueprint and respect the deadline thereof, nor implement the planned training. Having in mind that the Government's Information on the Realisation of Key Priorities from the Accession Partnership dated May 2009 anticipates the development of a full set of tender documents on the establishment of the national intelligence database in June 2009 it is only realistic to expect that this measure will not be implemented by the end of 2009. Efficient implementation of this measure depends on the delivery of training on database operation, which can only be implemented once the database is developed. Hence, the fulfilment of this commitment will be monitored in the next quarterly report as well.

The public is insufficiently informed on the implementation of the other measures defined in the Blueprint and the NPAA whose deadline

is April 2009 or which have been set as on-going activities and cannot be followed through by mere adoption of relevant legislative acts, as was the case with the previous examples. The importance of the European integration process as one of the top priorities of the general public requires adequate accountability on the part of the authorities entrusted to implement reforms.

As a reminder – the cut-off date of the next Progress Report is September, thus the Government must take into account the fact that prolonged and breached deadlines automatically mean unfulfilled benchmarks.

5.9 The Public need not know how effective the National Programme on Preventing Corruption and the Government's Action Plan are implemented

The fact that there is no systematic and transparent monitoring of the implementation of the National Programme on Preventing Corruption is quite concerning. Although the NPAA anticipated the end of June as the deadline for providing information on implemented activities, this did not happen. Monitoring the implementation of the Government's Action Plan on Preventing Corruption 2007-2011 is inefficient and non-transparent. The Ministry of Justice informs that it submitted a report on 2nd June 2009 to the Government of the Republic of Macedonia concerning the implementation of the activities set in the Government's Action Plan on Preventing Corruption covering the period January – April 2009, but this information is not made publicly available.

Therefore, the annual conference on the National Programme outcome assessment, anticipated for the end of June 2009 might mitigate some of these weaknesses, but the fact remains that this activity is not implemented yet, nor have the preparations for implementation started. The Government of the Republic of Macedonia and SCPC should also invite non-governmental organizations dealing with anti-corruption issues to participate on the conference if they wish to make a realistic assessment of their work and identify the problems in the implementation thereof.

5.10 Conclusions and Recommendations

The Blueprint of the Government does not include appropriate responses to the following remarks: **(1)** (non)signing of OECD Convention on Fight Against Corruption concerning foreign country representatives; **(2)** health reforms failed to achieve the outcomes related to the fight against corruption; **(3)** lack of comprehensive work on determining the nature and scope of public sector corruption; and **(4)** failure to implement GRECO recommendation on adopting guidelines for treatment of MPs in cases of termination of immunity. SCPC must share information on such cases in a timely fashion, and it must regularly inform the media on recent developments. Amendments to the Law on Preventing Conflict of Interests, amendments to the Criminal Code and the new Law on Public Servants— although of vital importance for completing the legislative framework on preventing and fighting corruption are not adopted within the given deadlines. The MoI insufficiently cooperates with the SAO. Systematic and transparent monitoring of the implementation of the National Programme on Preventing Corruption is lacking. The public is not informed about the implementation of other

measures set in the Blueprint and the NPAA whose deadline was April 2009. Government sets different deadlines for the same objectives in different documents, forgetting that the 2009 Progress Report for the Republic of Macedonia must be completed by September this year and knowing that unrealized activities would mean unfulfilled benchmarks. Therefore the following recommendations are relevant:

1. The Government must accelerate the work on drafting anti-corruption legislation and harmonize the deadlines within the different documents, bearing in mind that the 2009 Progress Report will be closed in September 2009;
2. The Ministry of Interior must show greater commitment and promptly submit the information requested by other bodies (and non-governmental organizations), especially in regard to the requests of the State Audit Office;
3. The State Commission on Prevention of Corruption must demonstrate the capacity to address corruption in the country. This does not mean merely acting on the requests of the Government, but also raising initiatives. SCPC has a unique opportunity to demonstrate its capacity when it reviews the financial reports of the political parties related to their election campaigns;
4. The SCPC must be more open to the public and present initiatives and findings in a more friendly language, and must regularly update its website. Figures do not mean much if they are not accompanied with conclusions thereof.

6. RECRUITMENT AND CARRIER ADVANCEMENT OF CIVIL SERVANTS SHOULD NOT BE A MATTER OF POLITICAL INTERFERENCE, STRENGTHENING THE MERIT-BASED CARRIER SYSTEM AND FULL IMPLEMENTATION OF THE LAW ON CIVIL SERVANTS

EC 2008 Progress Report states that the Civil Servants Agency (hereinafter: CSA) should enhance its role in supervising recruitment, assessing civil servants' performance and undertaking disciplinary measures. It has been noted that SCA has no mechanisms to secure compliance and regularity of employment and promotion decisions. Little attention is paid to the continuity and maintenance of professional competences. Often, SCA is not informed on human resource re-deployment. Performance assessment is not well understood, while the capacity of line ministries to implement it is weak. The Code of Conduct for Civil Servants is not enforced. Human resource management, policy development, strategic planning and internal coordination departments are inappropriate and the human resource department network is not operational. The report also stresses the need for developing efficient social dialogue framework between the Government and the organizations representing civil servants. Law-drafting capacity is uneven. In addition, remarks are given that ministries' capacities are low and that SCA did not receive civil servants' performance assessment reports on time. European Commission commented on the inappropriate structures and insufficient administrative capacity on human resource management. Civil servants' reward system is partially developed, while *“senior officer positions are often occupied by external associates, lacking sufficient professional qualifications*

*and working experience, which is contrary to the Law on Civil Servants”*⁶³. As regards the poor quality and inappropriate training of civil servants, it decisively states that *“there is no comprehensive training of civil servants and annual training programmes are not submitted on time to the Civil Servants Agency”*⁶⁴.

The Government's Blueprint anticipated four advancing measures: **1)** proper application of the Law on Civil Servants; **2)** strengthening human resource management capacities at public administration bodies; **3)** system on continuous training of all civil servants; and **4)** improving the quality of law-drafting procedures.

6.1 The funds for human resource development in public administration bodies disappeared in the adjusted budget

According to the act on principles for organization of public administration⁶⁵, most administrative bodies on central and local level are obliged to establish human resource management departments/sectors. The act reiterates the importance of such departments in light of the administrative capacity development, which - on the other hand - is an equivalent to a professional administration and pre-condition for EU membership.

19 May 2009, SCA published an “Analysis of human resource management organization at public administration bodies in the Republic

⁶³ EC 2008 Progress Report, pg. 1

⁶⁴ EC 2008 Progress Report, pg. 12

⁶⁵ Official Gazette of the Republic of Macedonia, No. 105/2007

of Macedonia⁶⁶, aimed at implementing the commitment set forth in the revised NPAA for the year 2009⁶⁷.

According to the published analysis, all public administration bodies (approximately 150 in number) have already established human resource management sectors/departments. The network of these sectors/departments was also established and tasked with drafting human resource development and management standards, and improving the effectiveness, efficiency and quality performance of civil servants in the Republic of Macedonia. As the network is comprised of all public administration bodies, the operation thereof is secured with the establishment of a separate coordination working group comprised of 9 members – three standing members (Civil Servants Agency, General Secretariat of the Government of the Republic of Macedonia and the Secretariat for European Affairs) and six members rotating every six months. The CSA's representative chairs the network.

The analysis was based on the questionnaires submitted to all public administration bodies (155) which included 85 municipal administrations and 70 public administration bodies on central level. The 50 municipal administrations responded to the questionnaire within the given deadline representing 58.8% of their total number, whereas on central level, answers were provided by 52 bodies only, i.e., 74.3% of the total number. The reasons for the low feedback rate among municipal administrations is the survey's overlapping period with the organization of local and presidential elections 2009, additionally complicated by municipal administrations' poor capacities. Nevertheless,

the number of returned questionnaires (65.8%) is sufficient to draw appropriate and relevant conclusions and analysis important for human resource development. Following are the findings thereof:

1. High percentage (88.5%) of central level bodies have fulfilled their obligation by establishing human resource development departments, whereas the share of municipal administration is lower and accounts for 76%. The reasons behind the high number of central level bodies with human resource development departments should be partially attributed to the greater attention paid to the implementation of EU accession commitments, but mostly due to the financial resources available for recruitment of new staff;
2. As regards the human resource development posts, on central level an average of 5.9 jobs are anticipated per public administration body, whereas the municipal administration average is lower – 4.3 jobs per municipality. Human resource development vacancies indicate that greater attention to recruitment is paid on central level (60%), in comparison to the 30% at municipal administrations.

Nevertheless, the fact that 20% of central administration bodies and almost 37% of municipal administrations, despite the plans on establishing human resource sectors/departments, failed to recruit employees for that purpose raises concerns.

3. As regards training, although there are on-going improvements in terms of basic training for civil servants, the situation at human resource departments is not satisfactory. At more than 50% of public administration bodies, human resource civil servants did not attend any training at all. The situation is more distressing at municipal level, where less than 40% of the civil servants attended

⁶⁶ http://www.ads.gov.mk/WBStorage/Files/Анализа_04P_150509.pdf

⁶⁷ Chapter on Administrative Capacity – Analysis of civil servants employment at human resource sectors/departments.

training, in comparison to the 60% of central level civil servants. Most frequently, HR civil servants attended basic and just a limited number of civil servants were exposed to some kind of specialized HR related training.

It is worth noting that the Secretariat for European Affairs (SEA), in cooperation with Civil Servants Agency (CSA) and the General Secretariat of the Government (GS), with the financial support from the British Embassy, worked on enhancing the capacity of human resource management departments in the reporting period. For that purpose, a series of training was organized for the heads of departments and for employees in human resource management departments at public administration bodies, thus turning them into key resources on personnel planning and development at their institutions. In addition, the topic of the general staff meeting of state secretaries was HR management standards.

According to the SEA's Information on progress made in terms of implementing key priorities from EU Accession Partnership (June 2009), the working group established includes representatives from SEA, GS and CSA and is tasked with aligning national legislation and practices with human resource management standards. The adoption of these standards is expected in the immediate future, followed by their application in the public administration, and accompanied with activities on further support for human resource management departments.

However, the 2009 budget adjustment decreased the funds from the general budget allocated for the M-account (EU integration) by 100 million MKD (32%). The funds allocated in the MG sub-account (human resource development) interestingly enough, were cut by 97.8%, so that the total funds anticipated for human resource development

in the MG sub-account from the general budget currently account for measly 879,000 MKD. Accordingly, the donation portion of the budget sub-account has also been reduced by 97.8%. The question raised is – why has the Government, in the budget adjustment, reduced the share of funds planned for human resource development, knowing that the EC Report (November 2008) was explicit in stating that *“line ministries are still lacking fully operational network of human resource management departments. In the ministries where there are such departments, they exclusively address staff issues and are not equipped for training and civil servants’ performance assessment (pg. 12)”*.

6.2 New NPAA employments – real need or an excellent opportunity to recruit voters!?

Apart from the announcements in several daily newspapers, SCA regularly updates the civil servants’ job opportunities section of its website. In the period 1 January – 22 June 2009, 54 open calls for a total of 239 vacancies and 549 administrators were announced. From them, 28 open calls are for recruiting 463 civil servants at central level, and 25 open calls are for recruiting 86 civil servants on local level. One open call for employing 2 administrators was cancelled. According to the results obtained, it can be noted that only 15.7% of the new recruits were employed in local administrations, whereas a high 84.3% of civil servants were employed on the central level, although on the occasion of enacting the 2009 budget adjustment, the Government announced its temporal prohibition on new employments at the public administration and in the public sector in general throughout 2009, with the exception of employments anticipated by the NPAA and related to the implementation of the Framework Agreement. According

to the revised NPAA (April 2009), a total of 1168, 1534 and 1937 new employments are anticipated for 2009, 2010 and 2011 respectively, or - in total - 4639 new civil servants are to be recruited in the following three years based only on the NPAA. Knowing that by the end of 2008, the number of civil servants⁶⁸ in the executive, legislative and judicial power in the Republic of Macedonia reached the number of 10,722 – the newly planned recruitments only for legislative and institutional alignment with the EU in the period 2009-2011 would account for approximately 45% of the total number of existing civil servants. Therefore, the following issues must be raised:

1. How long will Macedonia reform its public administration by persistently increasing the number of civil servants instead of improving the quality and professional standards of the current staff?
2. Is this increase of civil servants in the public administration really necessary to align national legislation with the EC *acquis* or is it just an alibi for employing political party “servants” who – on the next elections - will vote for the ruling party that employed them?
3. And finally, what is the logic and justification for planning such a “cumbersome” administration whose salaries exhaust public spending, especially under the circumstances when 20,000 jobs were lost in the real economy only in the first four months of 2009?

6.3 Career reward will not become operation this year

Full application of Chapter IV of the Law on Civil Servants – “Civil Servants Salary and Reward System” - including the right to monetary reward based on performance assessed as “exceptional” for 2008, was to start on 1 January 2009, i.e., upon the completion of civil servants’ per-

formance assessment. According to CSA information, the analysis of performance measurement results is underway, but by 30th June 2009, it was not completed and published on CSA’s website, thus breaking deadlines set forth in the Government’s Blueprint and the revised NPAA. Hopefully, civil servants performance assessment results for 2008 will be completed and published for the next quarter, thus providing the opportunity for its analysis and comments in the next quarterly report (October 2009). On a completely different note – what good does such an analysis do, if the results thereof are available by the end of the next year, meaning the findings have no essential meaning whatsoever.

Moreover, in the Government’s Conclusion from 23rd April 2009, the right to monetary reward was postponed until the adoption of the budget adjustment. However, after the budget adjustment, the budget structure is such that it prevents any insight into the funds available for that specific purpose. According to unofficial information, the start of the right to monetary reward will be postponed for 2010. If this happens, we will have one more year behind us in which this provision – which is basically the single feature of the merit-based reward system provided for in the Law on Civil Servants – will not be enforced for the third year in a row.

6.4 Repetitio Mater Studiorum Est

The deadlines on drafting and adopting amendments to the Law on Civil Servants remain unclear and inconsistent in different, and sometime in the same document prepared by the Government of the Republic of Macedonia. While the Government’s Blueprint, in the narrative section, indicates that “*amendments to the Law on Civil Servants will be*

⁶⁸ Annual report on 2008 data from the Civil Servants Register, SCA.

adopted by February 2009, i.e., recommendation from SIGMA/OECD will be implemented”, the Action Plan attached to the respective document lists April 2009 as the deadline thereof. Moreover, deadlines set forth on drafting and adopting amendments to the Law on Civil Servants in the revised NPAA from April 2009 do not coincide. Notably, the April version of NPAA (Annex 1.1. and 1.3) anticipate the drafting to end by 30th April 2009, and the amended law to be adopted by 30th June 2009. Finally, the SEA’s Information (June 2009) states that “amendments to the Law on Civil Servants are drafted and entered the inter-ministerial consultation stage (pg. 25)”.

Anyhow, the ultimate deadline – 30th June 2009 – for the proposed Law on Civil Servants is not observed. On the cut-off date for the present report, information posted on the website of the Parliament of the Republic of Macedonia indicate that the Law on Civil Servants in the first reading entered the Parliament agenda for the session scheduled for 8th July 2009, but only as a back-up agenda item. Considering the fact that the law was drafted in a completely non-transparent process, without broader consultations and debates with non-governmental organizations and the expert public, analysis and comments on the quality of the proposed legislative solution will be presented in the next quarterly report.

In addition, the draft-NPAA from January 2009 (Annex 2.1.) anticipated the adoption of the rulebook on recruitment of civil servants by CSA by 1st June 2009. But, this rulebook mysteriously disappeared in the NPAA document dated April 2009. As the rulebook on criteria and standards, as well as the procedure on recruitment and employment of civil servants is already in place⁶⁹, we suppose the Government planned to replace the existing rulebook with a new one, hence the question:

why was the rulebook deleted from the most recent NPAA?

This opens the issue of Government’s capacity to programme IPA funds. Namely, according to the project fiche⁷⁰ on IPA Component I, 2 million euro were allocated for public administration reform. The project is comprised of five components: **1)** developing the new public administration reform strategy; **2)** capacity building of the General Secretariat (and line ministries) on strategic planning and policy development, monitoring and coordination; **3)** sector on the implementation of the Ohrid Framework Agreement – equitable representation; **4)** sector on policy analysis and coordination (department on cooperation with NGO); and **5)** Civil Servants Agency – human resource development. Specifically, the fifth component of this project anticipates capacity building on human resource management at CSA, establishing coordination mechanisms with other governmental units on HR management and capacity building on enhancing the enforcement of the National System on Training Coordination. Reminder: this project has not started yet, whereas IPA funds cannot be re-allocated! The two inevitable questions raised are:

1. Can the law precede the strategy?
2. Will the funds remain unused, as most activities anticipated are already undertaken by the Government, or are we adhering to the old saying “repetitio mater studiorum est”?

6.5 Training plans – but no money!

The premises intended for equipping the Civil Servants Training Centre (located in the former building of “Nova Makedonija”) were

⁶⁹ Official Gazette of the Republic of Macedonia no. 85/05 and 97/07.

⁷⁰ All project fiches can be found on the website of the EU Mission in Skopje: www.delmkd.ec.europa.eu

re-allocated to another public administration body. By the end of this reporting period, the Sector on General and Common Matters of the Government of the Republic of Macedonia did not secure new premises for training civil servants. The summary of the training delivered to central level civil servants in the period April-June 2009 is given on the table below:

No.	Training title	Number of training sessions
1	Advanced administrative training	20
2	Introduction to e-Governance	2
3	Ethics and anti-corruption	3
4	Middle Management Training - 4 modules	13
5	Training for Training Council members	1
6	Training for Expert Task Group members	1
7	Procedure on recruitment and employment	6
8	Project cycle management- 3 modules	8
TOTALS:		54

The table shows a total of 54 training sessions delivered in 8 areas for a total of 850 trainees. Note should be taken on the inability to provide training overview for civil servants at local administrations, as there is no central database thereof.

In addition to the basic training shown on the table above, in

the period May-June 2009, SEA and GTZ organized 13 training for 252 trainees on the following topics: Introduction to EU (4 training), Project Cycle Management (5 training), Introduction to EC Law and Presentation Skills. Also, as part of the “Supporting Decentralization” project, 9 training sessions for civil servants from local governments were organized on topics such as project cycle management and logical framework approach for 150 civil servants from 36 municipal administrations. The issue that springs to surface here is the absence of a strategic framework under which such in-depth training of civil servants is delivered. It seems that EC remarks in the Progress Reports concerning ad hoc organization of training, as well as its international donor dependency will once again be included in the next progress report.

Particularly interesting for analysis is the fund reduction made to the budget account K (public administration reform) and sub-accounts K2 (skills building and upgrading) and K5 (equitable representation of communities). Notably, the budget-adjustment reduced account K funds by approximately 10%. Although K5 account expenditure remains unchanged, K2 account was decreased by 32%. Knowing that KF account funds aim at stimulating employment for the purpose of achieving equitable representation under the Framework Agreement, the issue raised here is “how will the 32% cut of funds intended for skills development and upgrades provide for appropriate training of new and current civil servants”? Furthermore, the K2 sub-account, portion of which is intended for CSA, was reduced by 9.5 million MKD or by 41% from the initially planned funds. Knowing that these funds were intended for training delivery in compliance with the training strategy 2009-2011, as well as equipping the training support unit, the question raised is “how will CSA implement the strategy in full with half of the budget?”

6.6 Ministries do not upload draft-laws on websites

The data available on the websites of the Government of the Republic of Macedonia do not provide insight into the draft-laws submitted to the Government, and hence do not provide information on the regulatory impact assessment. Reminder: the Government's Blueprint anticipates *"mandatory publication of legislative acts' working versions on the websites of line ministries (pg. 21)"*. The Revised NPAA also states that *"as of 1 January 2009, the procedure on drafting legislation will be improved by applying regulatory impact assessments and consultations with stakeholders, accompanied by mandatory publication of working versions on the websites of line ministries"*. In most cases, the websites of line ministries contain the laws and by-laws in effect, whereas working versions of legal regulations in working versions are rarely uploaded. In the period April-June 2009, the following line ministries published the working versions or the draft versions of the laws: Ministry of Interior (draft-law on examination and marking of fire arms and ammunition and draft-law on criminal intelligence database, but not the Internal Affairs Law); Ministry of Labour and Social Policy (draft-amendments to the law on mandatory capital pension insurance, draft-amendments to the Law on Pension and Disability Insurance in Emergency Procedure, draft-law on social protection); Ministry of Economy (draft-amendments to the Law on Subsidies and Other Public-Private Partnerships); Ministry of Culture (draft-law on cultural achievements, working version of the Law on Copyright and Related Rights).

Unlike the Government and the line ministries, the website of the Parliament contains all proposed legislative acts submitted for reconsideration and adoption.

6.7 Conclusions and Recommendations

Budget adjustment diminished the funds available for human resource management and development. The Government of the Republic of Macedonia intends to increase (instead of decrease) the number of civil servants by approximately 45% in the period 2009-2011, using the European integration process as an excuse. Career rewards will not become operational this year, *inter alia*, because of the late assessment of civil servants' performance. Public administration reform is performed upside down – laws are drafted first, followed by strategy development that would provide explanation on what was the purpose achieved by the law. IPA 2007 funds intended for public administration reform are endangered due to the unclear objectives pursued. Budget adjustment did not "spare" civil servants training funds, while employment funds remain. Line ministries do not fulfil the obligation to upload draft-laws on their websites. Therefore, the recommendations relevant for this benchmark are as follows:

1. As the establishment of human resource management departments constitutes a legal obligation, and was addressed in the EC Progress Report 2008, public administration bodies that failed to do so must immediately fulfil this obligation;
2. Human resource departments need to be equipped with appropriate staff, knowledgeable and skilful in terms of human resource management, regardless of whether new employments or redeployments will take place. Notably, the number of professional-administrative civil servants at these departments should be reduced to minimum, while the public administration bodies should immediately discontinue the current practice of redeploying staff at these departments

merely for the benefit of fulfilling their legal obligations, thus contributing to their underperformance;

3. The 2009 budget funds for training HRM employees must restore the initially allocated funds which were reduced by 97.8%;
4. The number of anticipated recruitments as given in the NPAA must be revised and pay special attention needs to be paid to recruitment of these civil servants. Capacity building of municipal administration employees is also needed;
5. Additional efforts need to be made in light of full enforcement of Chapter IV from the Law on Civil Servants - „Civil Servants Salary and Reward System”, with special emphasis on the right to merit-based monetary reward instead of postponing its application for 2010;
6. Civil servants training strategy (2009-2011) and training programme 2009 must be properly implemented by securing appropriate funds from the budget and better coordination of donor funds intended for training purposes;
7. The civil servants training centre in Skopje must be established and equipped;
8. All ministries should regularly upload draft-laws on their websites.

7. REDUCE IMPEDIMENTS TO EMPLOYMENT CREATION, WITH SPECIAL EMPHASIS ON UNEMPLOYMENT AMONG YOUTH AND LONG-TERM UNEMPLOYED

The present report addresses the implementation of employment targeting measures and programmes as set forth in the operational plan (OP) covering 2008 and the reasons behind individual successful or unsuccessful measures, by providing recommendations and commenting on the outcomes of employment efforts and identified shortcomings. Special emphasis is put on the labour market and the formal economy problems caused by the global economic downturn, as well as to measures (not) implemented by the Government for addressing such problems. The present report warns on the ultimately negative and long-term implications of the measures and policies on the general business climate and the labour market, in particular.

The accreditation of the National Agency for European Education Programmes and Mobility (hereinafter: Mobility Agency) is reiterated, notably in terms of increasing the absorption of EU funds and Community Programmes and possible contribution of these programmes to education and qualified labour, as they should be managed by the Mobility Agency.

Finally, the report addresses the absence of an appropriate vocational education and training plan reflecting the actual labour market needs and bridging the gap between labour demand and supply.

7.1 Macedonian labour market must develop

Cheap and qualified labour is the Government's main bargaining chip as advertised in the campaign „Invest in Macedonia“ that is promoting the country as the most desirable European destination for Foreign Direct Investments (FDI). The Government praised its renaissance reforms to the public with the country ranking among the 10 “most reformed” global countries in the period 2006/2007 according to World Bank's “Doing Business”.

The business climate is assessed in 10 categories, including employment. According to this ranking, Macedonia holds the 130th position for the year 2008, and the 125 position for the year 2009. Despite the small improvement, Macedonia – as regards this indicator – is still among the low-ranking countries on the list comprised of 181 world-wide economies⁷¹.

In its report addressing the business environment in Macedonia⁷², USAID identified five cross-cutting problem areas, resulting in Macedonia's poor competitiveness. One of them was identified as inappropriate labour development in discrepancy with market demands, thus indicating absence of learning-by-doing and market-oriented education and life-long learning. In USAID's opinion, as regards the employment, Macedonia - due to such weaknesses and high unemployment rate accounting for almost 34% of its labour - is faced with two tasks those being as follows: **(1)** addressing labour development and **(2)** job creation.

⁷¹ The country's summary ranking is on the 71 position - an improvement of entire 8 positions in comparison to the previous year.

⁷² BizClir : Macedonia's Agenda for Action, March 2009.

7.2 Active employment measures require complementary action

Although the Government's 2008 employment operational plan includes final reports on individual programmes/measures accompanied by relevant analysis and suggestions for possible improvements, the final reports on the implementation of the operational plan (hereinafter: OP) covering the years 2007 and 2008 are not available on the websites of the Ministry of Labour and Social Policy (MLSP), nor the Employment Agency of the Republic of Macedonia (EARM). The report on the operation of the Employment Agency of the Republic of Macedonia⁷³ (hereinafter: EARM report) is available on-line and provides results from the implementation of the active employment programmes and measure as set forth in 2008 OP up to 31st December 2008, but fails to provide analysis of problems faced in the implementation thereof, as well as recommendations for the next year.

In addition to OP measures, 2008 saw the implementation of loan programmes for supporting self-employment, characterized by favourable terms and targeting most disadvantaged unemployed groups⁷⁴. According to EARM information, by the end of 2008, the banks disbursed loans for the creation of 1,946 jobs in total. EARM expects this project to result in an additional 2,000 jobs based on the loan applications currently awaiting approval.

The evaluation of 2008 OP outcomes included comparison of activities planned and implemented in the period up to the end of 2008. Consideration should be given to the fact that certain 2008 measures

⁷³ Report on 2008 EARM operation.

⁷⁴ NPAA, pg. 252

were implemented in 2009, thus preventing final and accurate evaluation until the publication of the 2008 OP final report.

Coverage of individuals and funds disbursed – as anticipated in relevant 2008 active employment programmes and measures - was increased in comparison to 2007 figures⁷⁵. Such assessment is also valid for the comparison of 2009 OP and 2008 OP⁷⁶. Nevertheless, knowing the high unemployment rate in the country, a significant increase of active employment measures and funds is still needed.

The general impression is that from the total of 7,165 beneficiaries targeted by five (5) different employment programmes⁷⁷ - by 31st December 2008 - 5,696 people benefited from them, but only 2,024 persons were employed. This means that the targeted coverage was achieved for most measures, but only one-third of the beneficiaries found employment⁷⁸.

The interest expressed by targeted unemployed groups and companies varies per employment measure, and sometimes even within the same measure. So, subsidized loan programmes for supporting self-

employment saw least interest of young people at the age of up to 27 years, although they represent the biggest target group from the defined three groups. The reasons for that require a broader analysis.

USAID internship pilot-project results indicate that despite the high interest among young people and companies whose applications exceeded the anticipated number, companies' interest in engaging interns is higher in comparison to the one expressed by young unemployed people. By the end of 2008, only 5 interns from the total number of internship beneficiaries continued their employment.

The programme subsidizing employment enables companies to hire people whose gross salaries are subsidized by the state as long as they keep them employed for a previously determined time period (6-12 months) from the expiration of the subsidized period. Analyses show that companies expressed extremely low interest for participating in this programme⁷⁹.

The business registration programme was assessed as successful. The pilot-programme aimed at encouraging registration of existing businesses and already created jobs. Following-up on businesses after their registration and building-in "lessons learned" is necessary in light of developing the next operational plan.

The employment preparation programme includes training, re-training and in-service training of various unemployed target groups. The target set for this programme was significantly underachieved. The reasons thereof should be analyzed in detail and the target groups redefined appropriately.

⁷⁵ 2007 OP anticipated coverage of 8,300 individuals and funds in the amount of 297.6 million MKD, whereas the 2008 OP and the self-employment programmes anticipate coverage of approximately 9,200 beneficiaries and funds in the amount of 663.2 million MKD.

⁷⁶ In 2009, total planned funds for employment programmes and measures (OP 2009, loan programmes for supporting self-employment and public works) amount to 795,065,460 MKD (almost 13 million EUR), and are targeting a total of 13,929 beneficiaries.

⁷⁷ 2008 OP programmes are as follows: **1)** self-employment; **2)** registration of existing businesses; **3)** preparation for employment; **4)** employment subsidies; and **5)** internship.

⁷⁸ A total of 294 million MKD were allocated for the implementation of the operational plan, meaning that approximately 50,000 MKD (840 Euros) were spent per beneficiary, or approximately 144,000 MKD (2,350 Euros) were spent per job created.

⁷⁹ According to EARM survey carried out among employers in the period March-April 2008, "the economic situation in the Republic of Macedonia does not provide for significant expansion of companies' operation that would result in creation of new jobs."

The greatest interest expressed by the unemployed is for the self-employment programme by means of loans. Information is lacking on the successful operation of the businesses established with this programme loans. As the programme failed to include monitoring and evaluation of businesses and jobs created thereby, it remains unclear whether such jobs are still active. Considering the fact that loans must be paid back, and factoring-in the economic crisis, the success and sustainability of this measure cannot be assessed.

7.3 Useful advice on improving OP outcomes

Based on the brief analysis of the implementation of active employment measures, human capital at EARM and its local offices should be enhanced in light of improving service quality and coverage. Recommendations for achieving more efficient implementation and development of future employment operational plans are as follows:

1. The scope and funds for active employment programmes need to be increased. This was already stressed by the social partners, and some international organizations participating in OP implementation⁸⁰.
2. EARM capacity needs to be enhanced to successfully implement OP.
3. Considering the identified⁸¹ lack of skills on the ministerial level,

⁸⁰ According to USAID, OP would achieve optimal results when targeting 1/3 of unemployed people in the country.

⁸¹ USAID and UNDP as multiple participants in the implementation of operational plans on employment in their reports comment on the lack of institutional capacity at the ministry, which is believed to be one of the main obstacles for optimal outcome of active employment measures.

it is necessary to strengthen the institutional capacity of MLSP on employment policy development and implementation.

4. Relevant analyses should be undertaken on individual employment measures for the purpose of identifying the reasons for failure or success. Inefficient measures must be redesigned, whereas relevant funds must be duly allocated to the target groups expressing greater interest for labour market participation.
5. Sustainability of instruments and measures⁸² must be monitored for the purpose of obtaining information on businesses registered in line with the active employment measures and their market effects.
6. Main reasons for companies' low interest in employment subsidies include the high-risk business environment, huge grey economy and unfair competition⁸³, thus it is necessary to: 1) consult the private sector when developing active employment measures; and 2) institutions, notably the Government, to work on building stable and predictable business environment, including measures on reducing informal economy.

⁸² UNDP proposes support for informal companies by means of business start-up centres, i.e., through local offices and entrepreneurship agencies or local employment services.

⁸³ EARM report, pg. 17

7.4 Workers are fired, but SSO claims unemployment is dropping?!

EARM data on unemployed people registered in the II quarter of 2009 indicate a declining unemployment rate⁸⁴, and an increased employment rate in comparison to the same period last year⁸⁵. Even if we deduct the number of inactive job-seekers⁸⁶, the number of unemployed is still very high.

Data of the State Statistical Office (SSO)⁸⁷ show that the employment rate in 2008 increased by 3.2%, and unemployment decreased by 2%. Such positive trends can only be explained with economic growth both, on national and global level, which was not the case last year. Interestingly enough, these trends seem to continue in I quarter of 2009. According to recent statistics provided by SSO, the employment rate in the I quarter of 2009 was increased by 2.9%, in comparison to the same period in 2008, and the unemployment rate dropped by whole 6 % compared to 2008 figures.

On the other hand, the media almost daily cover laid-off workers, notably in textile, ferrous, leather and timber-processing industries.

⁸⁴ In January a total of 348,363 people were registered as unemployed, in February - 315,115, and March - 351,278, followed by a decline in the number of unemployed people, first in April - 349,879 and in May - 349,063.

⁸⁵ State Statistical Office, Communication No. 2.1.9.22 from 29 June 2009.

⁸⁶ According to EARM data, approximately 71,500 individuals or 21% from the number of registered unemployed people have stated that they registered as unemployed only for the purpose of obtaining the right to health insurance. According to USAID, the number of unemployed people will be reduced if the unemployment status is separated from the right to health insurance, currently accounting for 70-120,000 people.

⁸⁷ State Statistical Office, Communication No. 2.1.9.08 from 4 May 2009.

Declined unemployment and increased employment rates remain unaccounted for, knowing the real sector's low absorption capacity has been additionally limited – from obvious reasons⁸⁸.

In circumstances when the unemployment rate is constantly at 33%, the Government has never been further away from achieving its objectives stipulated in the employment strategy⁸⁹. The respective strategy defined an employment rate of 48% as its mid-term objective. According to SSO data⁹⁰, in 2008 the general employment rate accounted for 37.3% of the labour force, leaving a 10% target to be achieved.

The strategy should be revised to reflect “current possibilities and conditions”⁹¹, whereas complementary macro- and microeconomic measures should be adherently implemented. Employment policy measures cannot produce maximum output when implemented in isolation and independently from other policies.

7.5 SOS for the Macedonian industry

According to the assessment of the Association of Macedonian trade unions (AMTU)⁹², from the crisis onset in Macedonia, and due to declined manufacturing output, cancellation of orders and unfavourable global market prices, approximately 20,000 jobs have been cancelled.

⁸⁸ Economic crisis, high labour expenses, withholding new investments, lack of cheap capital and general unfavourable and high-risk business climate.

⁸⁹ National Strategy on Employment 2010, October 2006, MLSP.

⁹⁰ State Statistical Office, Communication No. 2.1.9.08 from 4 May 2009.

⁹¹ National Strategy on Employment 2010, pg. 7.

⁹² “Summer Heat Melts Jobs”, Maja Mihajlova, *Spic*, 9 June 2009.

Having in mind employers' statements⁹³, it is only logical to expect unemployment growth, currently accounting for 34% of the labour force.

The textile industry⁹⁴ announced new lay-offs due to declining export agreements⁹⁵. The timber industry is in no better situation, faced with declining number of orders from European consumers, resulting in low manufacturing output and lay-offs⁹⁶. The shoes-making industry faces declining operational capacity going as high as 80% due to cancelled orders⁹⁷. Macedonian ferrous and mining companies halved their production and workers.

SSO, in the last statistics issued, confirmed such trends⁹⁸. The number of industrial workers in May 2009, in comparison to May 2008 decreased by 6%, while compared to 2005 figures – it declined by 10.1 %.

Due to big industrial manufacturing drop⁹⁹, and the even more distressing decline of exports¹⁰⁰, lay-offs are expected in other export-ori-

ented industries (leather, foodstuffs and other food-processing industries). These figures should be topped-up with the number of people who - from the economic crisis onset - are on forced leave and uncertain about keeping their jobs or becoming redundant workers and therefore additionally burden the already unsustainable central budget.

Unemployment growth was also forecasted in EC's Spring Report¹⁰¹, assessing that Macedonia's unemployment rate will reach a high 35% this year, and 36% in 2010, accompanied with a significant decline of employment.

One must pose the question: "Do governmental and competent institutions read reports, statistics and increasingly distressing warnings, i.e., do they monitor the actual situation, and what are they doing in light of undertaking duly responses?"

7.6 What are the demands of social partners?

The social partners presented their proposal on mitigating economic crisis effects on the general business environment, and in particular on employment. The Association of Macedonian trade unions (hereinafter: AMTU) suggests¹⁰² improving the investment climate, start of infrastructural investment programmes that would create new jobs, preventing interest rate inflation and provision of favourable loans

rate of goods in the period January-April 2009 is lower by 34.1% in comparison to the one in 2008. In that, export was reduced by 28.8%, and import by 43.2%.

¹⁰¹European Commission, Directorate-General for Economic and Financial Affairs, Economic Forecast, Spring 2009, pg.115

¹⁰²AMTU proposed set of measures on mitigating economic crisis effects in the Republic of Macedonia, 25 March 2009.

⁹³ "USJE Laid-Off 180 Workers, the Union Files Charges", Sonja Naumovska, *Utrinski vesnik*, 4-5 June 2009.

⁹⁴ "New Wave of Lay-Offs in the Textile Industry", E.K. *Vreme*, 13 May 2009 and "Economic Crisis Is Yet to Affect the Textile Industry", Maja Bajalska, *Kapital*, 11 June 2009.

⁹⁵ Association of Macedonian Textile Businesses expects the number of laid-off workers in this industrial branch to go from 10,000 to 15,000 people.

⁹⁶ "Textile and Timber Industries Are Hardly Making It", Sonja Madzovska, *Utrinski vesnik*, 19 June 2009

⁹⁷ "Crisis in the Shoes-Making Industry", Aleksandrija Stevkovska, *Utrinski vesnik*, 9 March 2009.

⁹⁸ SSO, Communication No. 6.1.9.37 from 29 June 2009.

⁹⁹ According to Communication No. 6.1.9.35 from 26 June 2009 issued by SSO, drop of industrial production in May 2009 in comparison to May 2008 accounts for 15.3 %. Therefore, the manufacturing index in May was on the same level with the average manufacturing index in 2005.

¹⁰⁰According to Communication No. 7.1.9.06 from 8 June 2009 issued by SSO, the exchange

for employers and citizens. It suggested to the Government to advise companies to refrain from making workers redundant when faced with initial economic problems. Setting minimum salary and other social protection measures were suggested in light of protecting citizens from the effects of the economic crisis.

In the opinion of trade unions, the Government should propose and subsidize shorter working hours. In economic crisis situation, such measures will not only enable maintenance of the existing labour force, but would also create new jobs at companies doing over-time hours¹⁰³.

The Union of Economic Chambers (hereinafter: UEC) believes that short working hours can provide the expected effects on job maintenance only when subsidized. In its opinion, job maintenance can only be possible when accompanied with subsidies for companies most liable to economic crisis effects.¹⁰⁴ According to ECRM, this could result in keeping 40,000 jobs on annual level and it would cost the state 12 million Euros. Subsidies should be extended only to companies that can secure work and keep jobs.

7.7 Response of the Government

In April, the Government presented the third set of measures on mitigating the effects of the economic crisis¹⁰⁵. This time, measures were adopted in coordination and consultations with business repre-

sentatives organized in the two chambers and the expert public¹⁰⁶. For the first time, the Government accepted part of their suggestions and incorporated them in its package. The set of measures included several projects, which – in the Government’s opinion – will assist job-retaining, more specifically:¹⁰⁷

First, the project on approving 180-200 million Euros as loans for small and medium-sized enterprises¹⁰⁸. In order to achieve the job-retaining effect, the Government believes that these favourably termed loans should be made available only for companies obliged to maintain the number of employees on the average level from I quarter of 2009. This measure was welcomed by both, companies and trade unions; although they believe its implementation should be accelerated knowing the already late adoption of the anti-crisis package¹⁰⁹. According to the Economic Chamber, companies might be closed due to late adoption of the respective measures. The Chamber also called the Government to immediately implement measures and develop special measures intended for export-oriented companies¹¹⁰. Banks expressed their interest in participating, but need fast and accurate definition of participation terms and conditions¹¹¹.

Second, in the 2009 budget, the Government allocated 6 million Euro for family business start-up in the form of self-employment loan

¹⁰³Ibid.

¹⁰⁴The Economic Chamber proposes subsidies in the amount of 30 Euro per job retained.

¹⁰⁵Third set of anti-crisis measures, 21 April 2009, www.vicpremier.gov.mk

¹⁰⁶“70 Anti-Collapse Measures”, B. Zafirovska, M. Balajska, *Kapital*, 30 April 2009.

¹⁰⁷“Fight for Jobs”, 15 May 2009, www.vicpremier.gov.mk

¹⁰⁸Loans are financed by the European Investment Bank and co-financed by national banks according to the 50 - 50 principle.

¹⁰⁹AMTU positions on the third set of anti-crisis measures, 5 May 2009.

¹¹⁰Interview with Branko Azeski, President of Economic Chamber of the Republic of Macedonia, *Vreme*, 28 May 2009.

¹¹¹“70 Anti-Collapse Measures”, B. Zafirovska, M. Balajska, *Kapital*, 30 April 2009.

programmes. In 2009, this project is expected to create 2,000 new jobs. The Government and the competent institutions must undergo serious analysis of the sustainability of jobs created by disbursed loans. Disregarding the favourable loan terms and conditions, one must take into consideration that it is a matter of returning loans, collectable from future income generated by newly created businesses. Market success of new business entities under economic crisis situation is the biggest threat for the success of the measure.

Third, the Government anticipated the creation of approximately 5,000 jobs by means of public works, for which MLSP had to amend the 2009 OP¹¹² and allocate 228,980,000 MKD additional funds. Priority in subsidizing public works will be given to projects securing employment for the most disadvantaged unemployed¹¹³. Access to programme participation is granted to the municipalities and to the City of Skopje¹¹⁴. According to 2009 OP, such public works will be organized on public infrastructure maintenance and reconstruction, environment and nature protection. The only disputable aspect of this measure is that these activities are defined as public services performed by the public communal enterprises, for which they have already allocated relevant funds in their budgets. It remains unclear whether we are yet to see another round of political party employments at municipal level within the public communal enterprises.

¹¹²MLSP, Operational plan on amending active employment programmes and measures covering 2009, May 2009.

¹¹³Namely, long-term unemployed at the age of 50 and more, women, disabled people, social allowance beneficiaries, etc.)

¹¹⁴EARM already announced the call for local self-government units and the City of Skopje. Applications on organization of public works in 2009 www.awrm.gov.mk

7.8 The other side of the Government response

With the budget adjustment, the Government promised to cut unnecessary spending and freeze public administration employments, except for those anticipated in the NPAA. Special item on “supervision of employments via temporary employment agencies” was introduced¹¹⁵. The budget adjustment provided a unique opportunity for the Government to confirm its commitment to assist the difficult situation of Macedonian economy. Instead of cancelling and reducing spending however, the Government rolled-over the funds allocated for “outsourcing services” under which it conceals temporary employments, and reduced the funds intended for supporting country’s European integration process¹¹⁶.

Printed media were full with open calls for vacancies published by CSA concerning public administration employments that have nothing to do with human resource development as planned in the NPAA. According to the magazine “Capital”¹¹⁷, this year an additional 8,000 people were engaged at public administration bodies by means of temporary employment contracts. In this way, “public administration becomes a bottomless barrel” and absorbs significant resources from the real economy, while young people “dream of public administration jobs” as secure employment and income¹¹⁸. Thus, “the lack of entrepreneurial spirit among Macedonian citizens” does not come as a surprise¹¹⁹. If public sector employments do not stop soon, there will be no funds for covering the

¹¹⁵Third set of anti-crisis measures, 21 April 2009, www.vicpremier.gov.mk

¹¹⁶*Official Gazette* of the Republic of Macedonia, No. 72 from 10 June 2009.

¹¹⁷*Ibid*, pg. 24-27

¹¹⁸“Everybody Wants State-Secured Jobs”, D. Klisarovski and A. Spasevska, *Kapital*, 23 April, 2009.

¹¹⁹“Macedonians Lacking Entrepreneurial Mindsets”, at www.total.com.mk

salaries and social contributions of the “army of public administration employees” within a relatively short period of time. In that way, the Government will not only be further away from the fulfilment of 2 from the anticipated 8 benchmarks on obtaining a recommendation for opening accession negotiations, but would also seriously burden the central budget, and therefore the economy and the taxpayers. Instead of constructing monuments and indebting the country thereof, the Government can use budget funds for addressing unemployment.

7.9 All lost jobs

As if Macedonia did not suffer enough from the poor management of economic crisis, recently we witness more intensive and aggressive attacks on both, national and international companies by the Government. This new phenomenon of re-nationalisation of the economy¹²⁰ will be in detail addressed under the benchmark dealing with the business climate. Here, we would like to warn that direct attacks on companies, frequent regulation changes, abuse of the judiciary system, selective approach in state inspections and multiple cancellations, delays or unduly proceedings in public procurement tenders, in addition to other negative consequences on Macedonia’s image and rating as the “new investment heaven” can have negative consequences on employment as well. Unless such practices are abandoned, they will inevitably lead to loss of jobs at companies subjected to political interferences, as well as freezing already announced investments¹²¹.

¹²⁰Analysts consider this governing style “political capitalism”.

¹²¹For more on the tradition of deferring foreign investments from Macedonia see analysis in *Kapital* “All the Foreign Investments Deferred”, 18 June 2009. Discontinued investments include those of EVN Macedonia, Luk Oil and Agrokor.

7.10 Macedonian labour: uneducated and unemployed

In its annual survey¹²² on the business environment in 2008, the Union of German Chambers of Commerce, in cooperation with the German-Macedonian Economy Association, assessed the labour market as one of the three components defining economy’s attractiveness as investment destination, stated that 21% of interviewed companies were unsatisfied with the current status of the Macedonian labour force in terms of vocational and academic qualifications.

According to USAID report (BIZCLIR), “*lack of access to appropriate education is mirrored in the high unemployment rate. Although there is significant growth of enrolment at higher education institutions, small share of graduates find jobs appropriate to their educational level, while vocational education is rarely offered.*” Education structure of the employable population shows that most of them hold low qualifications¹²³. EARM data indicate that the education structure of unemployed is highly unfavourable. As an example, in April 2009, 172,440 people from a total of 349,879 unemployed persons or almost 50 % of them are registered as unqualified¹²⁴.

The Government must seriously address education system reform and development and invest in a labour force equipped with knowledge and skills required by the market, instead of spending enormous sums¹²⁵ on educational infrastructure at dispersed universities and in-

¹²²Standortumfrage 2009, Repraesentanz der Deutschen Wirtschaft in Mazedonien, Deutsch-Mazedonische Wirtschaftsvereinigung,

¹²³Communication No. 2.1.9.22 from 29 June 2009, issued by SSO.

¹²⁴Overview of unemployed people according to their education level by 30 April 2009, EARM, 4 May 2009.

¹²⁵“Secondary Education Will Cost 50 Million Euros”, *Utrinski vesnik*, 17 June 2009 and “Dispersed Studies Will Absorb Millions”, *Zaklina Hadzi-Zafirova, Utrinski vesnik*, 1

troducing mandatory secondary education. The interest for enrolment at secondary vocational education and training schools was again low¹²⁶, although according to labour market analyses and research such profiles are the most deficit ones¹²⁷. As regards the dispersed studies, they were criticized by state universities and professors as well, assessing them as “unprecedented improvisation” and venture, which instead of bringing the education system closer to European standards, “lowers standards to those from the year 1946”¹²⁸.

7.11 Bunch of institutions, lots of money – little European education

Efforts on bridging the gap between labour demand and supply are implemented in two forms: vocational education and training, falling under the competences of the Vocational Education and Training Centre (hereinafter: VETC) and life-long learning, falling under the competences of the Adult Education Centre (hereinafter: AEC) and the National Agency for European Educational Programmes and Mobility (hereinafter: Mobility Agency).

Internet sites hold no information on the recently established AEC. VETC’s website is under construction and does not provide any information on 2008 and 2009 programmes implemented by the Centre and the plan on professional training of vocational teachers at vocational sec-

ondary schools. The Secretariat on European Affairs does not provide any information on the Centre either.

The only relevant source of information is the Information on the Realisation of Key Priorities from the Accession Partnership prepared by the Government in May 2009, which gives details on Centre’s activities. Key remarks¹²⁹ from the EC Progress Report as regards VETC obviously do not raise concerns for the Government, as the recent Action Plan on the fulfilment of the benchmarks¹³⁰ anticipates the implementation of the “*vocational education and training plan that properly reflects labour market conditions and thus create new employment possibilities*”. The question imposed here is how the plan can be implemented if it does not exist. USAID, on the other hand, concludes that Macedonian VETC is still struggling with insufficient human resources, thus providing for insignificant, if any, progress despite the established legal framework¹³¹.

The Government in the revised NPAA from April 2009, has once again delayed the deadline for the accreditation of the Mobility Agency, this time pushing it forward for 2010¹³². Thus the inevitable question: why is the Government, after four years of EU financial support on building the Agency’s capacity, failing to obtain accreditation? Until the Agency is accredited, Macedonia will not be able to fully participate in the “Life-Long Learning” Programme targeting all education levels, as well as formal and informal education.

June 2009.

¹²⁶“High Schools Packed, VET Remain Empty”, Aneta Todevska, *Dnevnik*, 18 June 2009.

¹²⁷Executive Summary of the National Report on Labour Market Demand in the Republic of Macedonia for the year 2008, EARM Report, pg. 16-19.

¹²⁸“Futility and Dispersed Studies”, Goran Petrevski, *Dnevnik*, 30/31 May 2009.

¹²⁹As covered in the first quarterly report, EC believes that vocational education and training plan should reflecting labour market demands is still lacking.

¹³⁰Action Plan on measures and activities on implementing priorities from the Accession Partnership, SEA, May 2009.

¹³¹BizClir, pg. 32

¹³²NPAA, pg. 301

7.12 Conclusions and Recommendations

Active employment measures and programmes continue under increased coverage and funds, but are limited and insufficient for addressing unemployment. The system for monitoring and measuring the outcomes is weak. Employment policy requires additional complementary measures as part of the social, educational, industrial and developmental policies. National Strategy on Employment 2010 is unrealistic and unsustainable. Labour market strategic goals cannot be achieved.

Unemployment issues are additionally complicated due to the global economic and financial crisis affecting Macedonia as well. Manufacturing output and export are dramatically declining, as is the employment in the real sector. Government's fiscal policy has indirect negative effects on the labour market. New anti-crisis measures have no job-retaining effects. Government's actions aimed at certain private companies result in decline of their investments that would have reduced the effects of the crisis and unemployment, thus directly endangering the fulfilment of the benchmarks and obtaining a recommendation for opening EU accession negotiations.

Public administration employment continues and additionally burdens the central budget, hence preventing entrepreneurial spirit development and active participation in the labour market, especially among youth who desire state-secured jobs.

Most of employable workforce in Macedonia is unqualified and long-time excluded from the market, thus reducing chances for market re-integration. Vocational labour profiles are missing, and are result of weak vocational education and training system and informal education

and quality thereof. Qualified labour lack advance knowledge and skills as required on the market. Formal, informal and adult education systems are not market-oriented. Investments in education are inappropriate. Reforms are quantitative instead of qualitative. Funds spent on education are disproportionate to the effects achieved. Institutional capacity in all education segments does not suffice.

Therefore, the following recommendations should be taken into account:

1. Increase the scope and budget for active labour market measures;
2. Strengthen monitoring and evaluation of activities included in operational plan/ programmes and incorporate results obtained thereby in new employment strategies and plans;
3. Implement activities intended for improving the methodology on obtaining high-quality labour statistics as anticipated by the Government in its Information¹³³;
4. Responsibility on providing health insurance for unemployed should be assumed by the Health Insurance Fund, whereas the efficiency of unemployment benefits should be evaluated for the purpose of identifying reasons behind the low interest for labour re-integration of unemployed groups;
5. New employment strategy reflecting macroeconomic trends, setting real and feasible objectives, offering optimal combination of macro and micro policies in conjunction with the employment policy is needed and must be accompanied with significant funds for the

¹³³Information on the Realisation of Key Priorities from the Accession Partnership, pg. 32

implementation thereof. The new strategy should also be continuously monitored and evaluated;

6. The education process needs to be adapted to market demands. For that purpose, investments are needed in scientific and teaching staff, and technical capacity, construction of new dormitories instead of dispersing existing studies on locations where there are no infrastructural, intellectual and technical resources;
7. Secure all necessary conditions and full capacity of the Agency for European Educational Programmes and Mobility for the purpose of enabling its accreditation as soon as possible, so that the country can fully benefit from European education programmes;
8. VETC needs capacity building, greater financial, human and institutional resources;
9. Enhance Government's social dialogue with legitimate representatives of employers and workers' organizations in regard to employment, social protection and education policy development;
10. The Government should fulfil its commitments assumed under the third set of anti-crisis measures on discontinuing public administration employments, as well as recruitments via temporary employment agencies. It should reduce public administration costs, *inter alia*, by means of using internal saving practices;
11. The broad public and stakeholders should be duly and transparently informed, consulted and involved in developing and implementing labour market-based programmes and plans.

8. ENHANCING THE GENERAL BUSINESS CLIMATE BY FURTHER IMPROVING THE RULE OF LAW, STRENGTHENING THE INDEPENDENCE OF REGULATORY AND SUPERVISORY BODIES, SPEEDING UP LEGAL PROCEDURES AND CONTINUING REGISTRATION OF PROPERTY RIGHTS

The fulfilment of this benchmark has been addressed by six measures, those being as follows: **(1)** setting the framework on systematic Regulatory Impact Assessment; **(2)** implementing the second and third package from the regulatory guillotine; **(3)** simplification of procedures on company closure and further advancement of the "one-stop-shop" system; **(4)** further improvement and simplification of custom procedures for small and medium-sized enterprises; **(5)** improved independence of regulatory and supervisory bodies; and **(6)** completion of the electronic cadastre.

The first quarterly report closely examined the implementation of the measures on strengthening the independence of regulatory and supervisory bodies. Monitoring the independence of these bodies continues as it is deemed a guarantee on maintaining fair competition and market level playing field.

Subject of the present quarterly report will be the business climate in Macedonia, which includes analysis of USAID report on the business climate, the survey on business conditions performed by the German Business Liaison Office in the Republic of Macedonia, the most recent

anti-crisis measures of the Government of the Republic of Macedonia, as well as government's interference into the business practices, notably by scrutinizing government's intervention actions targeting two companies in the real sector. The present report will also assess the impact of these factors on the business environment in the country. A healthy business climate is of particular importance for the current situation of the Macedonian economy, which - according to all indicators¹³⁴ and assessments - is entering recession.

8.1 Business climate – where are we?

According to the report issued by the Union of German Chambers of Commerce¹³⁵, approximately 86% of interviewed Macedonian business entities¹³⁶ assess their current business position as satisfactory or good. Last year, this percentage reached high 98%, where the share of entities assessing their business position as good in comparison to the last year figures dropped from 58% to 39%.

More pessimistic assessments were provided on Macedonia's economic development in 2009 as compared to the previous year. Namely, 53% of interviewed entities believe that the economic development this year will further decline. Last year, such opinion was held by only 7%. As regards investments and employment, 2009 survey results are far worse than last years'. In 2008, 57% of interviewed entities re-

corded increase in their investments, but in 2009 only 28% are planning to do so.

In the package of factors of utmost importance for doing business, companies negatively assess public administration inefficiency, lack of reform efforts for EU accession, legal security and access to state aid and EU financial assistance.

According to the report assessing Macedonia's business climate, published by USAID (BIZCLIR), Macedonia has achieved significant progress in improving the general business climate¹³⁷. Nevertheless, in USAID's opinion, there is no space for euphoria due to the fact that *"this indicator assesses the legal and institutional reform - more or less - in a quantitative manner and supposes that private sector, civil society and middle and low level bureaucracies hold required capacity on competing in a complex business environment"*.

Assessing 8 out of the 10 categories from the „Doing Business“ project, USAID expert team identified 5 problem areas relevant for all 8 categories, those being as follows: absence of dialogue between institutions and public sector and within sectors, lack of competitiveness and competition culture in the private sector, low institutional capacity required for the implementation of complex legal regulations stemming from legislation alignment as required by WTO and EU membership, inappropriate and insufficiently market-oriented labour development and lack of legal instruments on business dispute resolution.

¹³⁴State Statistical Office, Communication No. 3.1.9.04, 22 June 2009.

¹³⁵Survey for Macedonia 2009 – Union of German Industry and Trade Chambers – representative office in Skopje, in cooperation with the Macedonian-German Economic Association.

¹³⁶Total of 40 business entities in trade, services, manufacturing, construction, energy, etc., were interviewed.

¹³⁷Business climate evaluation and interviews were carried out in October 2008.

8.2 Business “mishap”

The first quarterly report addressed the consequences from the worldwide economic crisis, additionally burdened with the Government’s expansive fiscal policy and issuance of government securities with high interest rates for financing budget deficits endangering the national currency (MKD) exchange rate stability. Three months later, many companies are closed, a great deal of citizens lost or are about to lose their jobs, while indebted citizens and companies as covered in the previous reporting period, are currently refinancing their debts with new ones. The economic crisis is taking its toll, fiscal policy remains expansive, thus withdrawing last capital on the domestic market, while the Government turned to international capital markets for loans with high interest rates, manufacturing output and exports is declining, trading deficit remains high, and national reserves are melted away.

The country’s economic indicators only confirm the previous statements. Recent data are even more distressing¹³⁸. The entire expert public, businesses and chambers are unanimous in their statement that Government’s uncontrolled spending will lead this country to bankruptcy and complete fiasco¹³⁹. The last several months are characterized by a declining manufacturing output¹⁴⁰. Most affected are export-oriented industries, thus the decreased foreign currency influx.

Dropping export, decreased monetary transfers from abroad and in-

¹³⁸“National Currency’s Stability Builds-Up Trading Deficit”, B. Krstevska, *Dnevnik*, 2 June 2009; “The Curse of the Trading Deficit”, Tome Nenovski, *Dnevnik*, 6 June 2009; “Gosev Asks the Government to Immediately Find Foreign Currency”, Sonja Madzovska, *Utrinski vesnik*, 20-21 June 2009.

¹³⁹“Desperate Businessmen”, Maja Mihajlova, *Spiz*, 29 May 2009.

¹⁴⁰“Industry Sinks in Last Seven Months”, Nina Nineska-Fidanoska, 26 May 2009.

creasing import result in high deficits, which according to last information provided by the State Statistical Office amount to 1 billion Euro. The Government might not be able to control this deficit, which the National Bank of the Republic of Macedonia, and IMF, forecasted to reach 14 % of GDP or 892 million Euro. Foreign currency reserves have been reduced by more than 500 million Euros, the highest drop ever, as economists warned¹⁴¹. In order to avoid further decline of state reserves - as not seen in the last 18 years of independence - the National Bank of the Republic of Macedonia suggested the Government to urgently secure foreign currency for the purpose of financing the deficit.

The European Commission, in its Spring Report, warns that considering the high trading deficit, good governance and maintaining healthy fiscal policies are of great importance.¹⁴²

8.3 Mobilized Government

After long months, the Government developed a new set of measures on addressing the economic crisis, which finally included certain requirements and suggestions of the business sector¹⁴³. The Association of Macedonian trade unions, as the representative of the most affected groups, was again excluded from consultations. Its proposals and requirements¹⁴⁴ - the anti-crisis measures to include social components

¹⁴¹“Businesses Cry for Help, the Government Full of Praises for Its Success”, Maja Tomik, *Utrinski vesnik*, 12 June 2009.

¹⁴²European Commission, Directorate-General for Economic and Financial Affairs, Economic Forecast, Spring 2009, .115

¹⁴³“Anti-Crisis Measures”, Zoran Stavrevski, *Dnevnik*, 24 April 2009.

¹⁴⁴Proposed measures and opinions of the Association of Macedonian trade unions for governmental anti-crisis measures.

and anticipate social protection for most disadvantaged categories of citizens, as well as employer's respect of workers' rights - seem to have been dropped along the lines.

Companies pledge their hopes that cheap loan programmes from the European Investment Bank and national banks will be opened for application as early as this summer. The banks, on their part, although interested in dispersing their funds, fear that recent decisions taken by the National Bank of the Republic of Macedonia will endanger their share in co-financing EIB loans. Therefore, the successful outcome of this measure as anticipated by the Government¹⁴⁵ is questionable. Notably, NBRM led by its primary goal – retaining national currency (MKD) stable exchange rate - has again raised interest rates by increasing the threshold of mandatory national and foreign currency reserves of banks. This NBRM decision was preceded by the issuance of new state securities with EURO clause¹⁴⁶. This has additionally decreased the capital available at banks for disbursing new loans.

The Union of Macedonian Economic Chambers¹⁴⁷ believes that the Government must find appropriate measures to assist industry branches most affected by the crisis, *inter alia*, for the purpose of mitigating consequences from employment decline and extreme social effects thereof. In its opinion, the Government must continue building the institutional framework and increase the absorption capacity of EU funds intended for addressing crisis effects.

Experts and analysts propose set of measures on supporting traditional export-oriented industries, as well as measures on stimulating other industries to modernize their production and export, to advance their technologies and innovations, to find new markets, to decrease import, to provide foreign loans under favourable conditions - in light of relieving the pressure on the national currency exchange rate and freeing up capital for necessary investments, reducing doing-business costs, providing business incentives, etc.¹⁴⁸.

8.4 Government's spending frenzy

As for Government's commitment to saving, cost-effective and purpose-based public spending as part of the anti-crisis measures, it seems that yet again the Government is saying one thing but doing another. In the last months, the public saw the Government procuring helicopters for the MoI at undisclosed prices and terms, equipping Presidential residencies and gardens with luxurious inventory, kitchens and exotic flowers, buying expensive sculptures and wax figures etc.¹⁴⁹.

As the list goes on, it is not our intention to summarize all the unnecessary, irrational and unproductive spending of taxpayers' money, but to point out the highly inappropriate and irresponsible behaviour on behalf of the Government under conditions when the country is slowly, but surely entering recession.

¹⁴⁵"Citizens Pay Heavily for the National Currency's Stability", Biljana Krstevska, *Utrinski vesnik*, 30 May 2009.

¹⁴⁶"Indebt and Rule", Nikola Popovski, *Utrinski vesnik*, 18 June 2009.

¹⁴⁷Interview with Branko Azeski, President of the Economic Chamber of the Republic of Macedonia, *Vreme*, 28 May 2009.

¹⁴⁸"Export Sinks, Deficit Gallops", Maja Tomik, *Utrinski vesnik*, 10 June 2009.

¹⁴⁹"Government Unwilling to Renounce Luxury", Biljana Krstevska, *Dnevnik*, 5 June 2009; "Indebt and Rule", Nikola Popovski, *Dnevnik*, 18 June 2009; "State Has Money, But Spends Irrationally" A. Dodevska, A. Momirovski, *Vreme*, 23 April 2009.

8.5 “Economic violence” extended to companies

The events that took place in the reporting period impose the question of whether Macedonia - in economic crisis and probably entering recession - can afford to scare away the several foreign and domestic investors. With its actions, the Government is directly responsible for job losses and the fleet of new social cases, budget income decrease from the collection of corporate taxes, multiple delays and annulments of public procurement tenders, and ultimately, “trimming” capital investments that can assist job-retaining.

Here is what the Government’s Conclusions from 25 June 2009 say on this matter:

“...to secure full and non-discriminatory implementation of relevant legislation on matters related to tax refunds. The **Public Revenue Office** is tasked to fully comply with the legally stipulated deadline on VAT refund. All **budget beneficiaries** are tasked to duly settle their liabilities towards suppliers by adhering to the legally stipulated deadlines thereof.”

8.6 „Renaissance” in the Custom Administration

The Deputy Prime Minister, Zoran Stavrevski, on his website and in the newspaper column “Renaissance in the Custom Administration” addresses Custom Administration results and outputs achieved - in his opinion - in the period after his political party came to power. Stavrevski wrote *“only three years ago, the Custom Administration was a synonym of an inefficient institution, corrupted, characterized by poor*

service quality and hostility towards businessmen and citizens. Today, in three years’ period, the Custom Administration became one of the pillars of enhanced business climate in Macedonia”.

The Custom Administration of the Republic of Macedonia was really one of the institutions with the most positive continuous assessment by the European Commission in its Progress Reports¹⁵⁰. Its administrative and operational capacity has been positively assessed, as well as anti-corruption and fight against organized crime. The Custom Administration was considered an institution that has successfully implemented reforms and was often pointed out as a positive example for other state institutions in their reform efforts and alignment with European norms and standards on efficient operation.

The most recent events on suspending the business license of the biggest forwarding company in the country on the basis of a legal provision, which even in the Custom Administration’s opinion - is unclear and contested in front of the Constitutional Court, and later continuing with the suspension of all working permits in the forwarding business - except for the transportation, impose the issue of political interference on successful companies¹⁵¹.

Although the explanation given by the Custom Administration’s Director, Vanco Kargov, denies any political pressures in the suspension of *Fersped’s* business licenses, the takeover of the largest market share in the forwarding business worth 3-4 million Euros on annual level by unknown, un-affirmed companies whose working experience goes back only one or two years, throws doubts on the Custom Administration

¹⁵⁰2008 Progress Report, pg. 58-59

¹⁵¹“Government Strikes Again on *Fersped*”, Sonja Madzovska, *Utrinski vesnik*, 22 June 2009.

and Government's intentions in that specific case¹⁵². The minimum requirement expected by the Custom Administration as a declared partner of businesses is to seek solution to problems encountered by means of engaging in dialogue with the company in question. Considering the implications of its decision, not merely on *Fersped*, but also on its business associates, the stock exchange, employees, tax income and ultimately the effects of a such procedure on the national and international companies investing in the country, the Custom Administration was to thoroughly deliberate before taking actions. Fair competition, judiciary's independence, predictability and security of economic conditions and investors' protection – are all preconditions determining the country's business climate and conditions on which foreign investors make decisions for entering the Macedonian economy, and ultimately, criteria on the basis of which the EC assesses the progress made by the Republic of Macedonia.

8.7 “Energy” war or Government against investors

In the period after the first report, the media broadcasted stories about the clashes between EVN and ELEM in a manner that it seemed like a true “energy” war¹⁵³. This time, the foreign embassies in the country also expressed their opinion, including the strong reactions by the European Commission.

The decision¹⁵⁴ taken by the first-instance court in the lawsuit on unsettled claims from the post-unbundling balance between ELEM and EVN in the amount of 6.5 billion MKD (105 million Euros), caused major responses as EVN (the legal heir of ESM) was to pay ELEM approximately 200 million EUR. In addition, ELEM filed charges against “EVN Macedonia” on claims amounting to 20 million Euros matured in the period 2008/2009¹⁵⁵ and for denying access to the roof of the building of the former ESM, located in the centre of Skopje.

EVN-Macedonia appealed the decision in front of the Appeals Court in Skopje, and filed an arbitration petition in front of the Commerce Arbitration Court in Washington, USA, claiming full indemnity of damages inflicted from its entrance on the Macedonian market¹⁵⁶.

Cingovski, ELEM's Director, believes EVN-Macedonia's lawsuits aim at pressuring ELEM and the Government to negotiate with EVN-Macedonia in light of finding a solution to its “extremely unfavourable position”¹⁵⁷. The Government is convinced that the law is on its side,¹⁵⁸ and that their arguments' truthfulness will be reiterated in Washington, as well as in Macedonia, where – according to the Minister of Foreign Affairs, Milosevski, - “EVN-ELEM lawsuits will be resolved by the independent judiciary”.¹⁵⁹

¹⁵²“MKD Spedicija Takes Over *Fersped*'s Businesses”, Sonja Madzovska, *Utrinski vesnik*, 9 June 2009.

¹⁵³<http://www.spic.com.mk/DesktopDefault.aspx?tabindex=4&tabid=1&EditionID=846&ArticleID=33204>

¹⁵⁴“EVN Appeal in front of the Appeals Court in Skopje”, Maja Tomik, *Utrinski vesnik*, 13 May 2009.

¹⁵⁵“ELEM Sues EVN for Unpaid Electricity”, T.J., *Vest*.

¹⁵⁶EVN Austria files lawsuit in Washington, www.telma.com.mk, 13 May 2009

¹⁵⁷“EVN Consumes and Pays Electricity As it Wishes”, Vlatko Cingovski, *Kapital*, pg. 28, 21 May 2009.

¹⁵⁸“Government is not a party in the dispute ELEM-EVN and cannot influence therein, even if it wishes so”, Zoran Stavrevski, *Dnevnik*, 8 May 2009.

¹⁵⁹<http://alsat-m.tv> 12 June 2009

EVN Headquarters informed the European Commission and the European Energy Community in Geneva on the situation. Moreover, EVN-Macedonia announced the publication of a White Paper containing facts and arguments on the irregularities from the court proceedings¹⁶⁰.

The ambassadors of France, Netherlands, Switzerland, Austria, Germany and USA in the Republic of Macedonia met and addressed a letter to the Prime Minister, Nikola Gruevski, expressing their great concerns about the treatment of the biggest foreign investor in Macedonia - EVN-Macedonia. They recommended that both, international and national investors and businessmen, need market predictability and security stemming from the knowledge that independent courts decide on cases based on law and facts, and not unprecedented pressures¹⁶¹.

The European Commission expressed its concerns as well, and asked both parties, by means of negotiations, to reach a fair solution to the mutual problem. In EC's opinion, the treatment of EVN is a reflection of how much the country cares for foreign investors and for the independence of the judiciary.

EU Enlargement Commissioner, Oli Rehn, recommended, via his spokesperson, that *"the manner in which the dispute with one of the most important foreign investors in the country is developing mirrors the progress achieved in key areas such as judicial reforms and the fulfilment of the economic criteria"*¹⁶².

8.8 "Ode of Praise" for the Commission on Protection of Competition

One of EC's remarks in the chapter on regulatory and supervisory bodies addressed the lack of financial independence and resources. The first quarterly report stated that the budget of the Commission on Protection of Competition (hereinafter: CPC) is insufficient for its operation. Therefore, surprising is the fact that the Government in the 2009 budget adjustment reduced CPC's budget for approximately 2.7 million MKD or by 12%. Having in mind that the NPAA¹⁶³ anticipates CPC capacity building (as recommended by the EC) by recruiting 3 new administrators in 2 sectors, such a budget cut is even more distressing.

In its annual report¹⁶⁴, CPC acknowledges EC's remarks from the 2008 Progress Report and states that EC assessment of the progress achieved by the Republic of Macedonia in the competition policy field is positive. Moreover, CPC remarks that despite such a situation *"there is room for progress, notably in terms of capacity building of its expert services and strengthening the financial independence of the Commission"*, but notes that CPC *"is satisfied with the implemented activities and achieved results in regard to protecting the competition in the Republic of Macedonia in 2008"*. Obviously there is no need for a plan of activities and measures on overcoming the weaknesses in the operation of the CPC.

¹⁶⁰EVN opens the White Paper on facts and irregularities, M. Ivanov, www.a1.com.mk

¹⁶¹<http://vest.com.mk/?ItemID=3A24AE7791D9E64781A5363082AEBCAD>

¹⁶²<http://www.dnevnik.com.mk/?itemID=44EF78A4E5B8F841A7C452B2270E281B&arc=1>

¹⁶³NPAA, Annex 2 - Required human resource strengthening 2009-2011.

¹⁶⁴Annual report on the operation of the Commission on Protection of Competition in 2008, March 2009, www.kzk.gov.mk

8.9 No threats of (in)dependency of the Energy Regulatory Commission?

The Energy Regulatory Commission (hereinafter: ERC), on two closely-timed occasions attracted the attention of the media, the expert public and the European Commission. First, with the decision taken on denying electricity price increase despite EVN-Macedonia's requests, thus denying the acknowledgement of company's expenses in the amount of 117 million Euros. This decision was appealed in front of the Second Instance Appeal Commission, where EVN alleged that ERC's "discriminatory policies" towards EVN, opposite to ELEM and MEPSO¹⁶⁵, resulted in major financial damages, endangered company's solvency and delayed its planned investments¹⁶⁶.

On the second occasion, ERC attracted attention with the appointment¹⁶⁷ of the ruling party's member¹⁶⁸ on the chairing position in the Commission. Although the legal provisions do not prohibit appointment of political party members at regulatory institutions, this specific appointment raised concerns with the Macedonian public and signalled probable direct political influences over the independence of the regulatory and supervisory bodies, subject to criticism by the EC in its regular reports. The European Commission already responded to the state's interference in the operation of independent institutions, nota-

¹⁶⁵According to EVN-Macedonia "electricity price set in November 2008 was disproportionate for the benefit of ELEM and MEPSO.

¹⁶⁶Press Release, EVN Macedonia, May 2009.

¹⁶⁷Decision on appointing the President of the Energy Regulatory Commission of the Republic of Macedonia, *Official Gazette of the Republic of Macedonia*, no. 76, 17 June 2009.

¹⁶⁸At the moment of the appointment of the new President of the Energy Regulatory Commission, he was the Deputy President of the Municipal Committee of VMRO in Kratovo and employee of EVN-Macedonia.

bly ERC, by establishing a special consultation body that would work on strengthening the independence of these bodies. Media informed that the European Energy Community was also interested in the case, which was reiterated with the two visits to Macedonia of its President within one month¹⁶⁹.

Here are the comments provided by the Government in its Conclusions from 25 June 2009:

"...To guarantee that the adoption of regulations and decisions by regulatory and supervisory bodies are free from the influence of the government or the relevant industries; to guarantee the financial independence of the Agency on Civil Aviation and the Government should refrain from intervening in Agency's income allocation; to ensure operational independence of the Energy Regulatory Commission, especially in regard to taking decisions on electricity pricing and adopting the rulebook on tariffs."

8.10 Conclusions and Recommendations

A large number of interviewed Macedonian businesses believes that legal security, efficient public administration, taxation, political stability and EU membership are the most important factors determining the country's business environment, while from the above listed factors, entities are least satisfied with the progress made in light of EU accession. Media coverage was almost apocalyptic as regards the economic situation in the country, while the warnings of the economic experts,

¹⁶⁹"The President of EEC on Meetings at ERC", Sonja Jovanova, www.kanal5.com.mk, 15 June 2009.

businessmen, chambers and trade unions are identically distressing. The Government did not sign financial arrangements with IMF¹⁷⁰, as it preferred to be free from anyone's "interference", subsequently using expensive instruments to finance budget deficits and its campaigns, the ever-growing administration and "infrastructural projects" such as sport halls, wax figure museums, museums and sculptures. The Government has confronted the several successful companies that have invested and provided jobs without state subsidies and privileges. Diplomatic representatives expressed their strong dissatisfaction with Government's interference in the business sector. The independence of regulatory and supervisory bodies is part of this benchmark, and its fulfilment will result in a positive progress report later this year. Therefore, surprising is the decision on appointing a political party member as ERC President. The Commission on Protection of Competition operates with a decreased 2009 budget, although the NPAA anticipates new employments therein. Thus, the following recommendations are relevant for this benchmark:

1. The Government should seriously take into account the situation of the Macedonian economy and cease spreading false optimism that "the worst is over". The effects of the current economic crisis are devastating, accompanied with economic and social consequences, as well as political instability and insecurity of the country. According to all forecasts, the economic crisis is yet to take its toll. Therefore, there is no room for complacency and ignorance of unanimous warnings;
2. The Government should reconsider crisis effects and use the find-

ings to forecast the trends of economic indicators. Instead of a "make-over" intervention, a new budget adjustment is needed that would be based on savings on all possible grounds;

3. The Government should establish an anti-crisis team that would unite all stakeholders and develop a comprehensive plan on mitigating crisis spillover effects. This team should maintain regular and ongoing dialogue with the social partners and take into account their requests and suggestions, notably the implications of its decisions;
4. The Government should stop the indebted practices by issuing expensive state securities and withdrawing the capital available at banks and companies. This creates whirl of unsustainable, inflating financing of budget deficits and forces the NBRM, for the purpose of preventing devaluation of the national currency, to additionally tighten the monetary policy, hence the crediting policy;
5. The Government should examine the possibilities for foreign loans under favourable conditions (low interest rates, longer re-payment deadlines, etc.). In this regard, the arrangement with IMF for financing budget deficits would be the most appropriate solution to the current situation;
6. Funds from such loans should not be used on irrational and pointless public spending on monuments, sculptures, museums and similar unproductive purposes that are lucrative only for certain government "favourites". The belief that such spending constitutes "capital investment" invigorating the economy is pure economic nonsense, as it does not create new value nor does it have the multiplication effects of investments made.

¹⁷⁰"Instead of Cheap IMF Loan, Government Wants Expensive World-Wide Loans", Aleksandrija Stevkovska, **Utrinski vesnik**, 19 June 2009.

