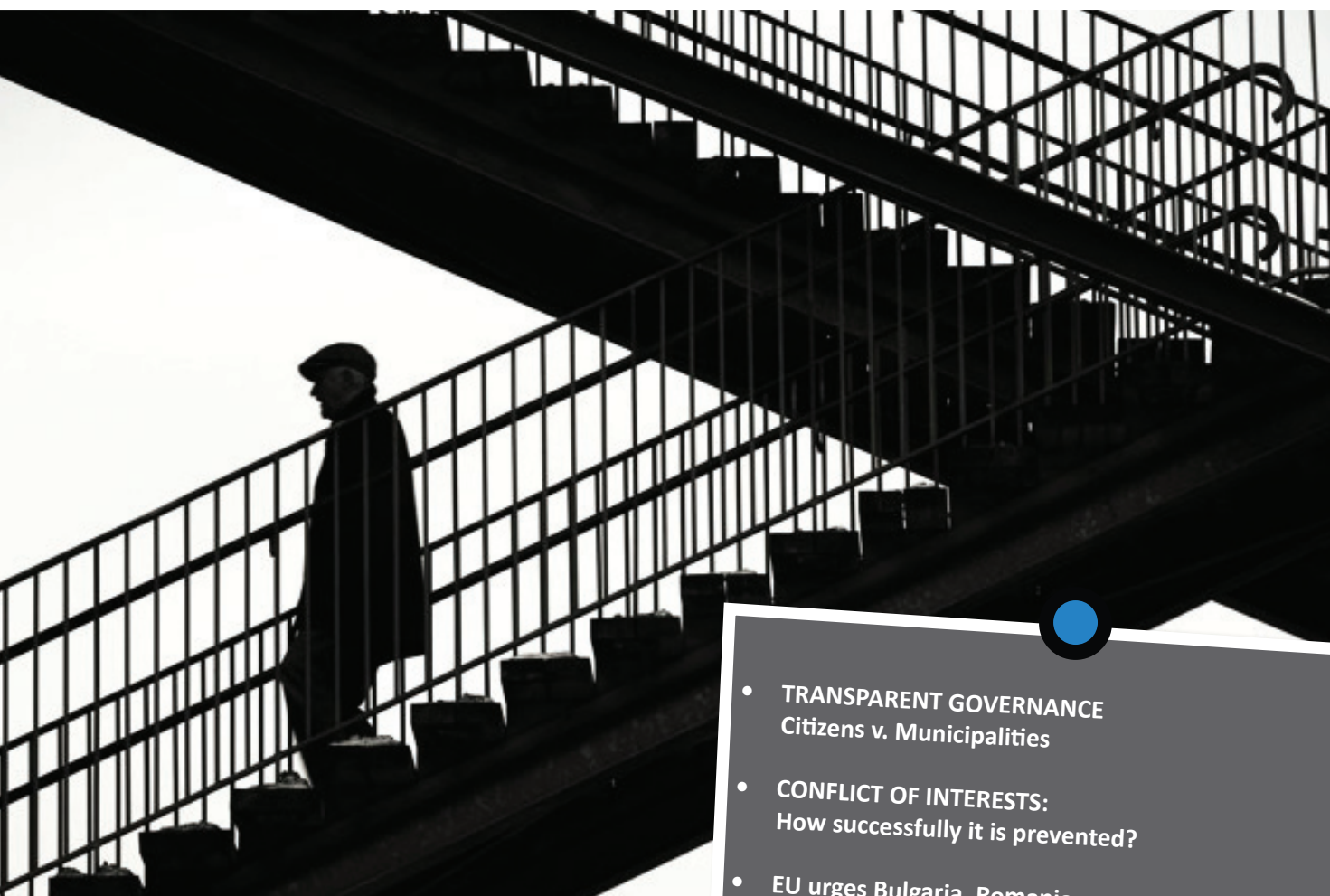


No.3 year I March 2010

MAK

MONTHLY ANTICORRUPTION MAGAZINE



- **TRANSPARENT GOVERNANCE**
Citizens v. Municipalities
- **CONFLICT OF INTERESTS:**
How successfully it is prevented?
- **EU urges Bulgaria, Romania**
to step up fighting crime
- **ELECTRONIC GOVERNMENTAL SYSTEMS**
AND SERVICES AS MECHANISMS FOR
REDUCING THE CORRUPTION

About the monthly edition



The Center for Civil Communications was established in April 2005 as a nongovernmental, nonparty, and nonprofit association of citizens. In the past five years we have been working every day on narrowing the room for corruption in Macedonia and promoting the principles of “good governance”, both on central and local level. We are focused on implementing two types of mutually related activities: monitoring and revealing corruption practices, and, on the basis of this, recommending measures and policies for narrowing the room for corruption and enhancing the ability of the journalists and the special role of the media in the fight against corruption in the country.

In the course of our everyday work, we and the experts we cooperate with arrive at numerous information regarding corruption and anticorruption practices in our country, as well as the countries in the region and the world. By publishing this monthly newsletter on anticorruption and “good governance” we want to share this information with the wider public, primarily with the representatives of the public administration, whom we consider the most responsible for the fight against corruption and establishing and respecting the principles of “good governance”.

At the same time, we offer expert analyses, which can serve as sources of ideas and examples for improving the current state with the corruption in Macedonia.

We are open for suggestions and we want you to send us your opinions, ideas, and attitudes on anticorruption topics as well as practices of “good governance”, as well as point to us corruptive practices and generally the existence of a room for corruption. This will serve us as a basis for further articulation of those practices and problems, as well as help in conducting our future anticorruption activities.

Corruption is one of the greatest evils in Macedonia, which degrades the development and the progress of the economy, society, and the people who live in it, disrupts the competition and the free operation of the firms on the market, disables the governance of the true values in life and in the work, forces the young, educated people to leave the country and enables illegal benefits and enrichment of state officials at the expense of impoverishing the other people and destroying and abusing the public goods.

Therefore, by pointing the corruption practices and offering ideas, good examples, and solutions from the country and abroad, we feel that this monthly newsletter will ultimately contribute to decreasing the corruption in the country and enhancing the “good governance”.

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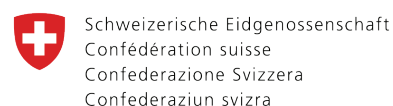
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IN THIS ISSUE

Starting from March 1 this year, every citizen of the European Union will be able to anonymously report any suspicion on fraud and corruption on Internet, through the new electronic system of the European Anti-Fraud Office (OLAF).

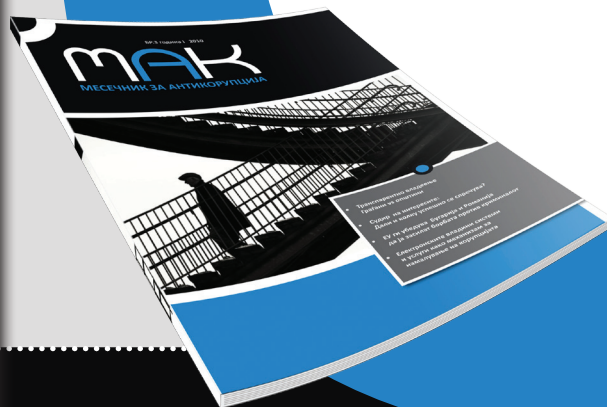
The corruption in our region continues to be one of the greatest obstacles for better reputation of the countries and for higher influx of foreign investments. Croatia is still the role model of countering the corruption, and that the fight will continue was jointly announced by the new leaders, President Josipovic and Prime Minister Kosor. Under suspicion of involvement in the corruption scandal with the food giant "Podravka", the police arrested the deputy prime minister, Davor Polancec. He is the highest ranking officers suspected of and arrested for corruption.

The main topic in this issue is the conflict of interest, which in its nature is not a corruption, but can definitely become one if it is not recognized, prevented and managed properly. The analysis provides specific solutions and examples for fighting against the conflict of interests.

In March, the European Union has published the Progress Reports for Romania and Bulgaria, where it openly and directly requested from the two countries to speed up the fight against corruption and organized crime. Bulgaria was warned of showing "weak results", while Romania that "it failed to keep up the pace" in countering the criminal and corruption.

At the end of this edition of the newsletter, we analyze the introduction of electronic systems in providing governmental services via the Internet, a process aimed at reducing the corruption. However, this system must entail comprehensive reforms and not just copying part of the paper procedure and turning it into digital.

We truly believe that our offer will keep your attention and will contribute for raising the awareness of the negative consequences of corruption and the need for more intensive fight against it.



No. 3, March 2010

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MONTHLY ANTICORRUPTION MAGAZINE

CONTENT

- 4 NEWS
- 6 TRANSPARENT GOVERNANCE
Citizens v. Municipalities
- 8 ANALYSIS
CONFLICT OF INTERESTS:
How successfully it
is prevented??
- 12 REGION
EU urges Bulgaria, Romania
to step up fighting crime
- 15 ELECTRONIC GOVERNMENTAL SYSTEMS
AND SERVICES AS MECHANISMS FOR
REDUCING THE CORRUPTION



CROATIA ARRESTS EX-DEPUTY PM FOR CORRUPTION

30 March (BalkanInsight.com) – Croatian police have arrested former deputy Prime Minister Damir Polancec on suspicion of corruption related to the country's leading food processing company „Podravka“, police said on Tuesday.

Police spokesman Krunoslav Borovec told Balkan Insight that Polancec was arrested as part of investigation into alleged corruption in Podravka, but he refused to discuss details. Polancec's lawyer Anto Nobilo told Balkan Insight that his client had been arrested in the early morning hours at his family home in Koprivnica, northeast of Zagreb, where „Podravka“ is also based.

Nobilo said he was unaware of specific charges against Polancec, other than that he is suspected of abuse of office. Until his resignation last October, Polancec served as Croatia's deputy prime minister and minister of economy. He resigned from his government post after being publicly linked with a corruption scandal involving „Podravka“, but he has repeatedly denied allegations of his involvement in the affair.

Croatian police launched an investigation into the „Podravka“ case at the end of September last year, after it was revealed that the food giant was giving loans to other Croatian companies under suspicious circumstances. Several top „Podravka“ officials were previously detained on suspicion of attempting to acquire a 25 per cent stake in the company using „Podravka“ money, which they channeled through another food company and a brokerage firm.

Polancec was the manager of „Podravka“ and a member of its supervisory board for a number of years prior to taking up his government posts in 2005. He has been linked to the affair through his post as economy minister, which allegedly would have required him to know what was happening in the company. Polancec is the most senior official to be arrested on suspicion of corruption since Croatia launched an anti-corruption drive after Jadranka Kosor replaced Ivo Sanader as the country's prime minister last summer. Croatian media have alleged that Sanader, who unexpectedly resigned last July, knew what was happening in Podravka but kept quiet about it.

„Podravka“ was privatized in 1993 and the state owns a 26 per cent stake in the company.

OSCE SAYS CORRUPTION DESTROYING ALBANIA'S IMAGE FOR INVESTORS

TIRANA, 5 March (Balkans.com) – OSCE's deputy ambassador in Tirana said in a workshop that corruption is a major cause of damage to Albania's image in the world, the domestic „Gazeta Shqiptare“ newspaper reported.

During a session on prevention of conflict of interest, Renate Hermanns was quoted as saying that „corruption in Albania is still a problem. It destroys the image of Albania in the world, and reduces interest for investors“.

Present was Interior Minister Lulzim Basha, who stressed that „the war against corruption is a priority for the government. This is evidenced by the fact that we have increased the number of criminal lawsuits against anyone who has produced corruption“.





NEW EU ANTI-FRAUD AND CORRUPTION SYSTEM LAUNCHED

CORRUPTION AND FRAUD can now be reported via the Internet, even anonymously: A new electronic system – “Fraud Notification System” (FNS) – will make it easier and more secure for vigilant citizens and European Union civil servants to report suspicious cases to the European Anti-Fraud Office (OLAF).

The new system went online at the beginning of the month and may be accessed via the OLAF website at http://ec.europa.eu/anti_fraud/contact_us/index_en.html. Acting OLAF Director-General, Nicholas Ilett, said that “Citizens and business people frequently ask us how they should go about reporting suspected fraud involving EU

funds to us,” adding that “from time to time we also hear from EU civil servants who, despite all the legal guarantees, are cautious about approaching us directly about cases where they suspect corruption is going on”. “Our new Fraud Notification System should help everybody. First it offers informants a simple user-friendly interface. Second it gives people the opportunity to submit information to OLAF anonymously but nevertheless to enter into a dialogue with our investigators”, explained Mr Ilett.

OLAF has been receiving tip-offs from across Europe via freephone numbers and e-mail for several years.

The new Fraud Notification System extends this service and employs the latest technical safeguards to guarantee informants absolute anonymity while enabling them to enter into dialogue with OLAF investigators if they so wish. No one, either inside or outside OLAF, can discover the identity of anyone who has opted to remain anonymous. The system operates like a ‘blind’ letterbox where both parties can drop off messages. During a pilot phase the Fraud Notification System is available in English, French, German and Dutch. However, reports can be entered on the online form in any EU language. All the information received by OLAF is carefully examined and professionally scrutinised before it is decided whether or not to initiate an investigation. Even during a test phase, several tip-offs were communicated via the new system and some of them led to further investigation.

‘QUIET CORRUPTION’ HURTING AFRICA’S POOR

NAIROBI (AP) - A World Bank report says teachers and other public servants who don’t show up for work are fuelling „quiet corruption“ throughout Africa that is disproportionately hurting the continent’s poor.

The report says studies over the past decade have found that teachers across Africa fail to appear as often as 25 percent of the time. The report warns of the effect that such absenteeism has on children.

In February, a report by „Transparency International“ showed that parents in seven African countries pay registration fees for primary education even though by law primary education is supposed to be free.

The World Bank report says that businesses across Africa expect to make bribes to public officials to get things done.





CITIZENS V. MUNICIPALITIES

The citizens in the local communities are not fully satisfied with the work of their respective municipalities and the level of their participation in the decision making process in the local governments. The municipalities are aware of some of the critical opinions and are open for getting help for improving their work.

Mayors, representatives of municipal administrations, of civil and business sector from Stip, Strumica, Sveti Nikole and Vinica held a debate in March, discussing the results obtained from the in-depth survey of the current practices in these local communities. The survey showed that the citizens, businessmen and representatives of the civil society organizations from these municipalities are not fully satisfied with the work of the local authorities from the aspect of their transparency and accountability, as well as their participation in decision making on important decisions, which are in the interest of the local community. The debates, one in each municipality, were organized by the three partner organizations implementing the USAID project on transparent local governance, the Center for Civic Communications, the NGO Info Center and EHO from Stip in cooperation with three local civil society organizations: INI from Vinica, Women's Organization from Strumica and Women's Organization from Sveti Nikole.

More than 100 representatives of the local communities almost unanimously noted that there is room for improvement in all aspects of the work in the surveyed municipalities with an aim to increase the participation of local community in the decision making process, which will increase the satisfaction of the citizens, business communities and non-governmental organizations with the work of municipalities.

The municipal officers and mayors were thankful for being involved in the project, which aims to help them to advance their work, particularly in those areas which proved to be a source of dissatisfaction of the citizens. The representatives of the municipalities expressed their readiness to accept the comments on how they can improve their work, including the comments of the citizens that will be delivered through the newly opened civic centers for promoting the work of local government. Four civil centers were opened in March



2010 within the local non-governmental organizations. All citizens will be able to report any complaints on the work of municipal administration and to offer suggestions and ideas for improving the work of local authorities

Some of the municipal representatives emphasized the importance of regular communication with citizens, because according to them the dissatisfaction of citizens frequently arises from the unfamiliarity with the competences of the municipality, giving rise to unrealistic demands which cannot be met by the municipal administration. The representatives of the civil society organizations said that the municipalities should respond to the demands of the citizens, even in the cases when they are not competent for dealing with those issues, clearly stating that they are unable to meet these demands and explaining the reasons for this.

The important role of the urban communities for meeting the demands of the citizens was emphasized in all municipalities as the urban communities are the basic forms for organizing the people in their place of residence, but also for identifying the problems and gathering proposals for their resolution.

The representatives of the local communities have admitted that they have not found an efficient way for motivating the citizens to participate in the public debates, discussions and presentations where important issues in the interest of local community are discussed. It was also mentioned that the local non-governmental organizations as well as the project on transparent local governance may mobilize the citizens for participation in the work of municipalities.

Regarding the involvement of business community in the work of the municipality, the representatives of the municipal administration emphasized that the

businessmen cooperate more with the central than local authorities. However, they have recognized that there is a room for improving this cooperation with mutual commitment on both sides.

The four municipalities emphasized the problem with the lack of cooperation and coordination between the local governments and the regional offices of the state institutions on central level (ministries, funds, agencies, etc.).

The insights from the debates together with the survey findings in each of these municipalities will serve as a basis for developing training programs for the employees in the local self-governments for improving their work. The commitments and promises of the municipalities for improving their work in terms of their transparency and accountability will have the first test in the process of handling the complaints and suggestions from the citizens, forwarded to the recently opened civic centers.



CONFLICT OF INTERESTS: HOW SUCCESSFULLY IT IS PREVENTED?

The conflict of interests, how it is identified, how it can be prevented and managed has become a key issue in public debate worldwide in recent years. The performance of public office and the numerous contacts with companies and people from private firms can be used for extending this cooperation and contacts for private purposes, after the public office or employment in the public sector ends. Hence is the fear that if not adequately identified and managed grey zones can provide opportunities for public officials to take advantage of their public position for personal benefit. Considering the volume of transactions between public and private sectors, and the financial interests at stake, unmanaged conflicts of interest can impose a heavy cost on a country's economy – by distorting competition and the allocation of public resources, wasting public money and irrational spending of tax payers' money that weaken citizens' trust in public institutions.

International rules and standards

Internationally, the conflict of interest is regulated in several documents. The 20 Guiding Principles for the Fight against Corruption of the Council of Europe (1997) emphasize the need of establishing rules relating to the rights and duties of public officials "by promoting an appropriate conduct that is expected from them, such as the code of conduct". The Codes of Conduct for Public Officials (2000) regulating the conflict of interest says that "the public official should not engage in any activity or transaction or acquire any position or function, whether paid or unpaid, that is incompatible with or detracts from the proper performance of his or her duties as a public official." The United Nations Convention Against Corruption (2003) requires from the member states "to adopt, maintain and strengthen systems that ... prevent conflicts of interest" as well as "to establish measures and systems to impose restrictions on the employment of public officials by the private sector



after their resignation or retirement, to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions, to make declarations to appropriate authorities regarding their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials."

OECD Guidelines for Managing Conflict of Interest in the Public Service and its Principles of Corporate Governance, provide the first comprehensive international benchmark, helping governments promote integrity and high standards of conduct in both the public and the private sectors and modernise their conflict-of-interest policies for the public sector. The guidelines take a practical approach, considering that all conflicts of interest cannot be eliminated and therefore public officials' private interests need to be properly identified and managed in an appropriate manner.

What is conflict of interest?

OECD stipulates that "conflict of interest arises when public officials have to make decisions at work that may affect their private interests." OECD defines conflict of interest as: "a conflict between the public duties and private interests of a public official, in

which the public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities.”

OECD countries are increasingly using the OECD Guidelines and the Toolkit to develop or review guidelines and practical tools for avoiding and managing conflict of interest. This was particularly triggered by well-publicized scandals and breaking down of barriers between public and private sectors (through partnerships, sponsorships, agreements on public procurement, concessions, membership in various advisory boards in public regulatory agencies, trade companies, etc.). the privatization of services, public/private and exchanges of personnel.

At the same time, governments are under increased pressure from the business community and society at large to ensure that public officials perform their duties in a fair and unbiased way, showing “zero tolerance” of corruption, dealing efficiently with actual and potential conflict-of-interest cases.

An effective conflict-of-interest policy needs to strike a balance between the public interest – protecting the integrity of public decisions – and the private interests of public officials. According to OECD guidelines the aim is not to prevent public officials from having any private interests, but to protect the integrity of official policy and administrative decisions and of public management generally – to be lawful, unbiased and objective. The purpose of regulating this issue is not aimed at preventing the cooperation between the public sector and the business community. On contrary, it should support partnerships between the public sector and the business and non-profit sectors, in accordance with clear public standards defining the parties’ responsibilities for integrity. The OECD Guidelines set several core principles for public officials to follow in dealing with conflict-of-interest situations in order to maintain trust in public institutions: serving the public interest; supporting transparency; promoting individual responsibility; and creating an organisational culture that does not tolerate conflict of interest.

There is increasing recognition that conflict-of-interest situations that are not properly dealt with can lead to corruption. The OECD Guidelines provide several recommendations on how to identify, prevent, manage and resolve conflict-of-interest situations:

- Identify relevant conflict-of-interest situations by providing a clear and realistic description of what circumstances and relationships can lead to a conflict-of-interest situation;
- Establish procedures to identify, manage and resolve conflict-of-interest situations, introduction of sanctions, including disciplinary sanctions and dismissal;
- Create a partnership with employees, through publications, awareness and understanding of



the conflict-of-interest policy through training on dealing with and review “at-risk” areas for potential conflict-of-interest situations, and

- Initiate a new partnership with the business and non-profit sectors by involving them in elaborating and implementing the conflict-of-interest policy for public officials as well as by anticipating potential conflict-of-interest situations.

Conflict of interests in Macedonia

Macedonia adopted Law on Prevention of Conflict of Interests in 2007 upon request of the European Commission, but also the Council of Europe, as part of the anti-corruption legislation. The provisions on prevention of conflict of interests, which were part of the Law on Prevention of Corruption, were then translated into this separate law. The law defines the “conflict of interest” as a situation where “the private interest of an official person is contrary to the public interest or when private interests influence or may influence his/her impartiality in conducting the duties of public interest”. The “private interest” is defined as “material and immaterial interest of an Official that may influence his/her decision-making while discharging duties of public interest”. An Official, in the context of this Law, are “all elected or appointed functionaries in the Assembly of the Republic of Macedonia, the Government of the Republic of Macedonia, courts and other authorities and organisations performing certain expert, administrative and other duties within the framework of rights and obligations of the Republic of Macedonia, the municipalities and the City of Skopje, as well as other persons discharging public authorisations”

In 2008, the State Commission for Prevention of Corruption (State Commission) adopted National program on prevention and reduction of the conflict of interests, with an action plan, based on which a Guide for Managing the Conflict of Interests was developed.

The program has introduced an obligation for reporting a private interest in order to prevent the conflict of interests. The effects of this reports are yet to be seen, but having in mind the number of people obliged to file this report, the burdening questions and details on the relations with all relevant close persons, NGOs and other entities (but not on political affiliation, which is more frequent) it is hardly likely that these reports will be checked, let alone that appropriate measures will be taken. It would be much more efficient if the State Commission turns to resolution of specific cases of conflict of interests.

Several examples may illustrate whether and to what extent the obligation for preventing the conflict of interest and its resolution is respected.

There is a legal obligation for an Official who participates or decides upon an employment procedure or is involved as a member of the body implementing such a procedure to notify the manager of the institution where he/she is appointed on all employment procedures that may cause conflicts of interest, while the manager of the institution is obliged to undertake all necessary measures to prevent conflicts of interest from occurring. Where there is suspicion of the possibility of existence of conflicts of interest, the Official and the manager of the institution may request an opinion by the State Commission. The question is whether and how these conflicts of interest are identified, managed and resolved in practice, for instance, when family members or other close persons of the officials from the ministries and other state institutions are hired by these bodies i.e. whether an opinion is requested from the State Commission in these cases and what was its response. The Official is legally responsible to notify the State Commission on any election, appointment, employment or promotion of a family member in any state body, local government body, public enterprise or other legal entity with state capital within ten days. The failure to meet this obligation is fine from 500 to 1,000 Euro. However, although there are many such cases in the practice, it is unknown whether and to what extent is this obligation respected, particularly when the family members of high state officials are also appointed on high ranking positions, when they are hired or promoted and whether the State Commission instigates a procedure for sanctioning these officials when they failed to report these cases. The lack of information is a result of the non-transparent work of the State Commission so far.

“When an Official finds out about circumstances indicating to the existence of conflict of interest, he/she is obligated immediately to request to be exempt and to cease his/her actions. If the authority or body discusses or decides about matters in which the Official Person has private interests, he/she is obligated to report the private interest before the discussion or decision making, or at the latest before commencement of these activities. Concealment

of the existence of private interest by an Official constitutes a violation of duty and grounds for taking measures of appropriate liability.” Often, the Official will be exempted from the decision making, when there is a conflict of interest, only after these cases are publicly revealed, which speaks of the lack of responsibility and improper application of Law.

For example, whether the private financial interest of an official that participated in the decision making on mandatory possession of fire fighting extinguisher in all vehicles, because (according to media reports) he or a family member has a company that imports these extinguishers has outweighed the public interest? In this case we have a breach of law, because the law stipulates “In case of conflicts of interest between private and public interests, the Official is obliged to act in accordance with the public interest “.

The accumulation of functions is also a conflict of interests. Therefore, it is forbidden to the “Official (including the elected and appointed officials and state and public servants) to perform another function, duty or activity, which is not compatible with his/her function, and is profit-generating.” There is a very clear provision stipulating that “elected or appointed official person and responsible person in a public enterprise, public institution or other legal entity with state capital cannot be simultaneously a member of managing body in a public enterprise, trade company or another legal entity with profit generating activity, while if he/she used to be an elected member of the management board or other body, this function shall cease”. The failure to meet this provision shall result into fine from 500 to 1,000 Eur. In practice, this provision is implemented improperly, even selectively. For example, high governmental officials were elected or still are presidents of managing boards of public enterprises, funds, agencies and other institutions, while some officials are members of several managing boards simultaneously, speaking of the failure to meet this provision. The hesitant, improper and delayed reactions of the State Commission have raised the doubts in the public on its selective approach which is against the public interest. As a result of this policy, a number of officials and functionaries are still members of managing and other boards in the public enterprises, funds and other legal entities with state capital. This is against the provision: “During the time when the Official Person discharges the public authorizations and duties, he/she must not perform any activity that may influence the impartial discharge of the position and protection of the public interest”. Hence is the question which interest will the official protect when he is a member of a management and other boards from where he receives a compensation and how impartial he will be in making a decision that should protect the public interest.

How should officials act in order to prevent the conflict of interests?

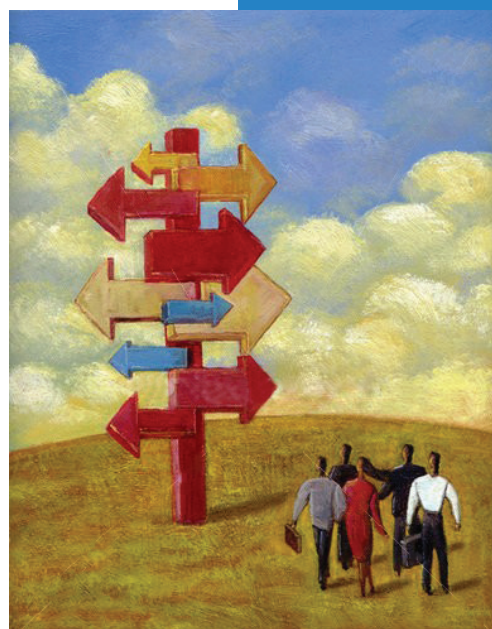
Here are some guidelines for the public servants aimed at preventing the conflict of interests:

- During the decision or opinion making on certain issue, do not be guided by the personal gains;
- Professional, religious, partisan, ethnic, family and other personal affiliations should not affect the decision making on certain issue or your integrity;
- Identify and limit the financial interest, personal relations or interests that may compromise the decision making process in which you are involved;
- In cases when it is difficult to expect termination of relationship with a person (due to the close family relations) refrain from making a decision on certain issue that may compromise you because of the private interest you have in the particular case;
- Refrain from gaining inappropriate personal benefit by using an "internal information", which is not available to the public, and which you have gained during the performance of your duty, which will prevent you from being involved in private financial transactions by using the confidential data at your disposal;
- Do not abuse the position and state resources for private purposes (e.g. granting agreement to a company with an expectation that they will hire you after you leave the public office);
- When in doubt of possible or potential conflict of interest, report this to your supervisor and ensure to be exempted from participation in the decision making. If you are not sure whether a conflict of interests exists, ask for opinion from the State Commission for Prevention of Corruption;
- Do not affect the decision making on public procurement or use your position in any other way to affect the decision in order to gain private interest or benefit for yourself or persons closely related to you;
- It is expected from the public servants occupying high positions to behave in a way that will demonstrate integrity and will serve as an example of those of lower rank and of the public at large. During the decision making on certain issue, it is expected to make a balance between the interests of the institution, the public and private interest.

How to sanction the covering of conflict of interests?

For violation of the provisions of the Law on Prevention of Conflict of Interest the following measures are foreseen: warning, public warning and recommendation for dismissal.

The measure of warning is pronounced if violation of the provisions of this Law is determined, but such a violation did not influence significantly the discharge of official duties by the Official; the measure of public warning to the Official is pronounced if it is determined that he/she had acted contrary to the provisions of this or other laws leading to significant disturbances in the discharge of official duties by the Official, while the measure of recommendation for dismissal of the Official is pronounced if the warning or public warning had been previously pronounced. It is realistically to expect that the first two measures cannot have a significant effect that could motivate the officials to avoid or report a conflict of interest, particularly when there is a possibility of personal financial interest, e.g. involvement in concluding an agreement with the institution in which they are employed, when the services or products will be delivered by a company in their ownership or in ownership of a family member. The measure on dismissal is never or hardly ever implemented, because the condition is one of the other measures, warning or public warning, to be previously pronounced, unless it was assessed that the public function or duty was abused for gaining private financial interest or the official acted against the public interest. In these cases, appropriate measures should be implemented pursuant to the Criminal Code.





EU URGES BULGARIA, ROMANIA TO STEP UP FIGHTING CRIME



March 23 (Bloomberg) - Bulgaria is showing „poor results“ in its fight against graft and organized crime, while Romania has „not been able to keep the momentum“ going on its efforts, the European Union said in a report today.

The Black Sea nations joined the EU in 2007 with warnings that they had to step up the fight against corruption. Romania stands to receive 32 billion euros (\$43 billion) in EU aid through 2013. Bulgaria may gain 11 billion euros.

The poorest and newest members of the EU also rank as the most corrupt, according to Berlin-based research organization Transparency International. EU warnings have prompted probes of cabinet ministers, businessmen and lawmakers. Neither nation has managed to convict a senior politician, except for minor corruption cases involving mayors and police officers.

Bulgaria is plagued by „the continuously poor results of the judicial system to investigate, prosecute and try cases of high-level corruption and organized crime,“ Commission spokesman Mark Gray told reporters in Brussels today.

Reforms recommended by the Commission to Bulgaria „should become a matter of national priority and must be launched in more areas to achieve a profound reform of the judiciary,“ according to the report. The commission issued four recommendations for Romania and six for Bulgaria. Romania should „aim at a swift adoption of the civil and criminal procedure codes,“ the report said.

■ Reforms Required

„In the last six months, Bulgaria has launched a number of important initiatives,“ the EU said in the report. „Although the merit of these initiatives can only be assessed once they will have produced concrete results, they demonstrate a growing recognition that substantial and far-reaching reforms are required.“

In Romania, „limited results can be shown in judicial reform,“ according to the report. „Jurisprudence in high-level corruption trials remained inconsistent and not dissuasive. High-level corruption trials continued to suffer from procedural delays.“

New governments came to power in both countries since the EU's last report, pledging to root out corruption and fight severe recessions. The EU suspended 500 million euros in subsidies to Bulgaria in 2008 on suspicions of graft and unblocked most of the funds in 2009 and 2010 after the country reformed the agencies in charge of distribution.

■ Transparency

The report recommended Bulgaria improve the transparency of the judicial process, examine „allegations of serious corruption“ involving senior Supreme Judicial Council officials, strengthen regional anti-corruption councils, focus on serious crime, money laundering and on the „systematic confiscation of assets of criminals“.

The government of Prime Minister Boiko Borissov arrested several members of organized crime groups involved in kidnappings, racketeering, drug smuggling and prostitution. Three ministers of the previous Socialist-led administration are being investigated for abuse of office. No one has been sentenced.

„The report is useful in helping Bulgarian institutions fight crime and corruption,“ Justice Minister Margarita Popova said in a radio interview in Sofia today.

Prosecutors in Romania have accused almost 20 Cabinet ministers and former ministers of corruption since the country joined the EU although none have been convicted. One minister from Prime Minister Emil Boc's government resigned over corruption charges last year. None have been convicted.

■ Sends a Message

The report recommended Romania promote measures to prevent high-level corruption and better monitor the efficiency of the justice system in conduction corruption trials, improve transparency of the judiciary and fight graft in local governments.

„The report sends a message that all political forces must support the reforms necessary in the justice system,“ Justice Minister Catalin Predoiu said today in CI televised press conference in Bucharest. „The report to be released this summer is a key moment and in the next few days we will launch a strategy to develop the justice system through 2013.“

The entry of Bulgaria and Romania marked the EU's second expansion into the former Soviet bloc to establish market-based rules for industries ranging from energy and transportation to telecommunications and banking. Ten countries, including Poland and seven other nations in formerly communist eastern Europe, joined the EU in May 2004 and swelled the bloc's population to about 460 million.

ELECTRONIC GOVERNMENTAL SYSTEMS AND SERVICES AS MECHANISMS FOR REDUCING THE CORRUPTION

There are number of reasons for the frequent introduction of electronic systems in providing governmental services through Internet. However, in order to reduce corruption, this process must entail comprehensive reforms and not just copying part of the paper procedure and turning it into digital.

Why do governmental bodies introduce electronic systems and services?

The citizens and companies receive services from the governmental bodies in the same way they get the services from the trade companies, only with one difference that the governmental services have character of a monopoly – other entities cannot provide them. To set the things clear, under service we do not mean something that the government does in order to meet the needs of the citizens, so that they should be thankful. Actually, this is an obligation of the governmental bodies arising from their scope of work (legal competences). This is the only way through which the citizens and companies can exercise their legal rights and can realize their interests. These services are provided through different administrative procedures, which until recently were done in a paper form and through physical communication. However, in the recent years we are witnessing the “digitalization” of these services.

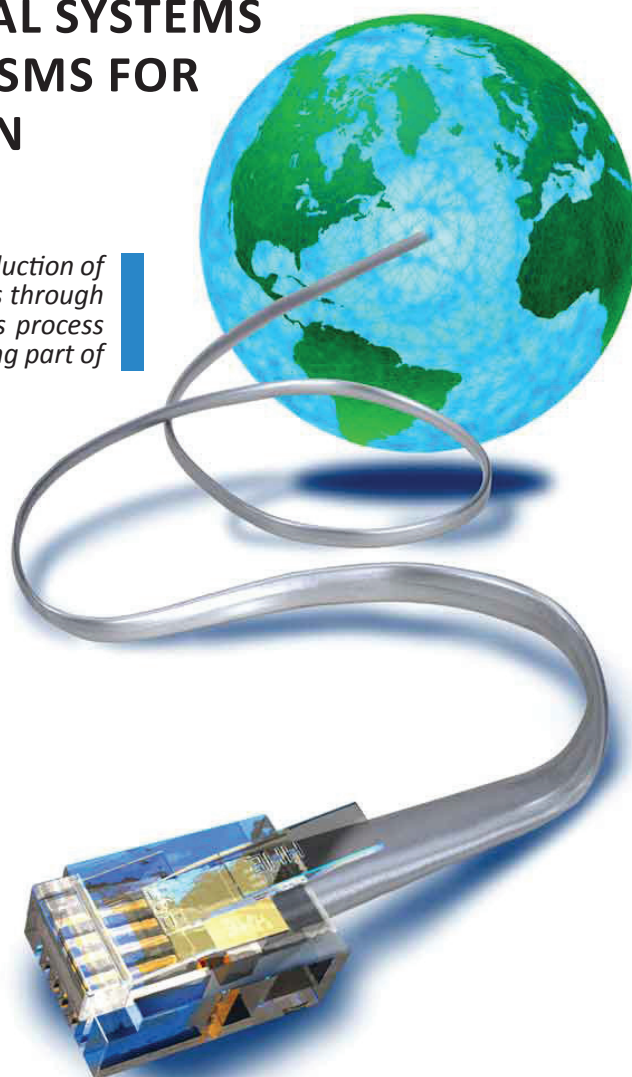
There are several reasons for the introduction of electronic systems in the work of the governmental bodies i.e. provision of governmental services via Internet.

First, this is inevitable as a result of the modern life of citizens and work of the business sector. The state bodies cannot insist on the traditional, physical contact and paper-based approach, when the facts speak of high level of computer literacy and Internet access. The citizens and companies are ready to request “online” availability of services.

Second, the electronic systems improve the efficiency of the bodies that provide the services. If it takes days and weeks to receive certain service (exercise certain right) in the traditional way, the use of the online electronic system significantly reduces this time. The classical two-way postal communication, even the direct (personal) delivery of documents, takes days. The online communication takes minutes. The

data processing is faster, because there is no need to manually check the data contained in the request and there is no need of re-typing them – once they are in the system, they are available to the body for further analysis.

Third, the electronic systems ensure higher security levels for protection of data contained in the documents and exchanged between the citizens or business sector and the government. Unfortunately, there is a widespread belief that the personal signing of the paper document, putting the document in the closed envelope and delivering the envelope by mail or in hand provides high security and prevents the abuse. There is skepticism that electronic systems cannot provide such level of security. Namely, an average electronic system developed to be accessible for the users and the public through the Internet must meet certain security standards and procedures.



The strict physical and information protection of the environment in which the server (database) is located, the limited access, the use of complex user's names, passwords and certificates for identification, the logs contained on the server for every undertaken activity are only some of the measures for a system to meet the security standards. Is it easier to make unauthorized opening of an envelope in the archive or in the post or coded file on the server?

Do the electronic systems increase transparency and reduce corruption?

Now we come to the final and most discussed reason, which is also subject to an in-depth analysis in this text. Whether the electronic systems increase transparency and by doing that reduce or fully eradicate corruption?

The corruption is mostly present in situation of allocation of benefits. More precisely, whenever as a result of the limited resources or quota, the potential users are forced to "fight" for getting these benefits. In such situations, the number of those requesting the benefits is several times higher than the number of those that may obtain them. In Macedonia, there is a number of benefits and subsidies provided by the governmental bodies to a limited number of categories of citizens and private entities. The allocation is through a competition, which attracts the interest not only of the potential beneficiaries, but also of the general public. In order to open the competition, a set of rules are established in the form of conditions and criteria and judges are selected in the form of evaluation committees. The existing practice showed that either it is not easy or there is no desire among the public officials to develop an objective and impartial allocation system. However, under the influence of the world trends and under pressure of the stakeholders, ways are sought to put the allocation system in order. This is why, electronic systems were introduced and the allocations were automated.

What are the specific results of the electronic systems in reducing the corruption in Macedonia?

The following examples and statements do not refer to all electronic systems, but only to those that replace the evaluation committees and the rankings with automated electronic systems. Through two specific examples, I will try to illustrate the achieved results in reducing or eradicating the corruption in Macedonia.

The distribution of CEMT licenses for the transporters – For years, we used to witness the same situation during the distribution of international licenses for cargo transport (CEMT licenses). The disappointed transporters accused the Ministry of Transport and Communication for corruption. The number of complaints was enormous, and there were also attempts of physical attacks. The transporters that



failed to meet the criteria or submitted fake documents obtained (large number of) licenses, and once the licenses were issued they were illegally sold among the transporters. However, these corruptive and illegal activities ended in 2006. For the first time the electronic system for distribution of CEMT licenses was used, which in the following years was extended with electronic application, monitoring the use of licenses and electronic distribution of all possible licenses for international cargo transport. What happened in fact? First, clear conditions were set on who may apply for the licenses as well as specific criteria on distribution calculated with mathematic formula. Second, the transporters were not required to submit documents (certificates) issued by the other bodies during the application process, but the ministry has taken over the databases of these institutions (MoI, Insurance Fund...). Third, and most important, the human factor was eliminated during the evaluation. The applications submitted by the transporters, the content of which was automatically and directly checked in the databases of the other institutions, were placed in a pile and based on the previously entered criteria (mathematical formula) the system automatically did the distribution (and created the rank lists). The work of the commission within the Ministry was to observe the automated process. Today, only rare complaints, official and unofficial, are received from the transporters and the distribution of licenses no longer presents a problem, consuming a lot of time and money.

The results of another electronic system, similar to the previous one, were not that successful. Each year the allocation of student benefits, such as beds in dormitories, scholarships and loans, was followed with doubts on corruption. Most of the complaints referred to getting a place in the student dormitories. The responsible persons in the Ministry of Education and Science, directors of student dormitories, the student union were all accused. However, great deal of the students also accepted and succumbed to corruption. Being aware of the positive experience with the distribution of transportation licenses, the responsible persons in the Ministry of Education and Science decided to introduce the electronic application system available online for distribution of the limited number of beds in the student dormitories in Skopje. The distribution has really eliminated the human factor and based on the previously entered criteria and mathematical formula, the system has automatically created a rank list of the students that won the beds. If the distribution was successful, then why this system was not so successful in general? This is result of the students' feedback. Several youth organizations and numerous students expressed their dissatisfaction with the new distribution system. As a result of ignorance, everyone blamed the new invention – electronic system. What were the crucial (and substantiated) comments? First, the criteria were badly set up, leading to favoring a certain group of students as well as bad and unfair distribution. Second, the existing illegal sales

of beds between the students-winners and students-losers were not eliminated. Even without getting into in-depth analysis one may conclude that their comments refer to the phases before and after the distribution. The automatic distribution itself did not contain any subjectivity or corruption. The mistakes were made in the first phase, when the criteria were set, which according to the students prevented the fair distribution, and in the phase following the distribution, when due to lack of control mechanisms, illegal activities were allowed in the form of re-sale.

The conclusion is that the introduction of electronic system, particularly when this is a system for allocation of limited benefits, which by nature is subject to corruption, must entail complete reformation in order to be successful. It should not include just copying part of the paper procedure and turning it into digital. The reform must be comprehensive, setting clear and precise rules at the very beginning, in the form of objective conditions and criteria for allocation. Furthermore, the system must be finalized by establishing and applying control mechanisms. In both cases, not a single electronic system may replace the human factor. So, contrary to the fast and efficient results provided by the electronic systems in terms of increasing the efficacy and savings, more efforts and willingness is required from the creators of the system in order to reduce the corruption.



About the Center for Civil Communications

The Center for Civil Communications is a non-governmental, non-profit and non-partisan association of citizens, with a mission to improve and develop the communication among all factors in the society of the Republic of Macedonia about the processes of wider societal importance as well as to monitor, analyze and promote the social-political and economic processes in the country, mostly in the field of anti-corruption, local government and economic development.

The Center for Civil Communications fulfills its mission through organization and implementation of surveys, analyses, monitoring, training, seminars, roundtables as well as publishing of reports, publications and manuals.

In the past five years, the Center for Civil Communications has focused its work on two sets of interrelated activities: monitoring and discovering the corruption practices and based on this providing recommendations on the measures and policies for reducing the corruption and capacity building of journalists and media for fulfilling their special role in the fight against corruption in the country.

The most significant activities that have been implemented include the following:

Project on Transparent Local Governance (2009-2012)

The project develops mechanisms for increasing the transparency, accountability and responsibility of local governments in Macedonia, encouraging the participation of citizens and local business community in the decision making process in the local government and sharing the best practices and experiences among the municipalities in the country and the region. The project activities will contribute for reducing the level of corruption in the local community and increasing the trust of the citizens and business representatives in the local authorities. The project is implemented in partnership with the non-governmental organizations: EHO from Stip and NGO Info Center from Skopje and is funded by the USAID Macedonia.

Monitoring of Public Procurement on Central and Local Level (2008-2010)

The project analyses the implementation of public procurement procedures and system in the country in light of the new Law on Public Procurement, from the aspect of transparency, competitiveness, equal treatment of economic operators, non-discrimination, legal, economic, efficient, effective and rational use of budget funds, getting the best offer under the most favorable conditions and accountability for the funds spent during the public procurement process. Total of 160 randomly selected public procurement procedures are monitored and analyzed on annual level, through direct monitoring of opening the offers, in-depth interviews with the bidders and the institutions that open the tenders, gathering information from the Public Procurement Bureau and other involved institutions. The results of the monitoring include recommendations for promoting the public procurement process. The project is funded by FOSIM.

Enhancing the Role of Media in Fight against Corruption (2008-2009)

The project promotes the journalistic standards on researching and reporting corruption and builds the capacity of media on fulfilling their role in the fight against corruption. The starting point is an in-depth analysis of the way in which the Macedonian media report on corruption and identifying the main weaknesses in this reporting. Based on this, recommendations are developed for promoting the journalistic standards. The implementation is through training of 12 investigative reporters from leading media in the country. These activities will contribute for overcoming one of the main problems detected in the National Strategy on Reducing Corruption – inappropriate media coverage of corruption. The project is funded by USAID Macedonia.

Measures for Reducing Corruption in Macedonia (2007-2008)

After the first phase of the project identified the most vulnerable areas of corruption in Macedonia, this project has developed and recommended total of 156 specific measures that should be undertaken in order to narrow the space for corruption. The project included comparison of the best practices in the other countries, series of workshops where experts and representatives of the stakeholders discussed and proposed ways to narrow the room for corruption, prioritize the measures and sending them to the competent institutions and media for monitoring their implementation. Most of the measures were implemented, particularly those for granting higher independence to the second instance National Commission for Complaints on Public Procurement, which was transferred from the auspices of the government to the Parliament, the independent legal status of the Public Procurement Bureau, which is no longer under the Ministry of Finance, etc. The project was funded by the Balkan Trust for Democracy.

Reduction of Corruption: Exchange of Experience and Good Practices in Investigative Reporting between the Journalists from Macedonia and Romania (2008-2009)

In partnership with the Romanian Center for Investigative Reporting, 10 investigative researchers from Macedonia were trained from the leading Romanian trainers in investigative reporting about the advanced techniques of investigating journalism. After the training, the journalists had an opportunity to be in the Romanian media where together with their colleagues from Romania worked on investigative stories, which were published in the Macedonian media. As a result of the project, a network of investigative reporters was established within the Center for Civil Communications. The project was funded by the East-East program.

Series of trainings for journalists from local media on investigative reporting and reporting on the local government (2008)

The Center delivered 4 regional trainings for 30 journalists from the local media on strengthening their capacities and abilities for researching and reporting on the work of the local government in light of the increased competences of the local authorities, which also increased the role of local media in reporting on the issues of the interest of local citizens. The project resulted in developing a Manual on Journalist Reporting for the representatives of the local media in Macedonia. The project was funded by the USAID Macedonia local government activity.

In addition, the Center for Civil Communications in the past period has published a series of Corruption Reports in Macedonia (2005 and 2006), supported by the Balkan Trust for Democracy, trained the members of entire newsrooms from 16 local TV stations from throughout the country on reporting the issues of local interest, through the support of the US Embassy to Macedonia, participated in the expert team that developed the three-year National Strategy on Combating Corruption, and was a member of the Committee that granted the good governance award in Macedonia, etc.