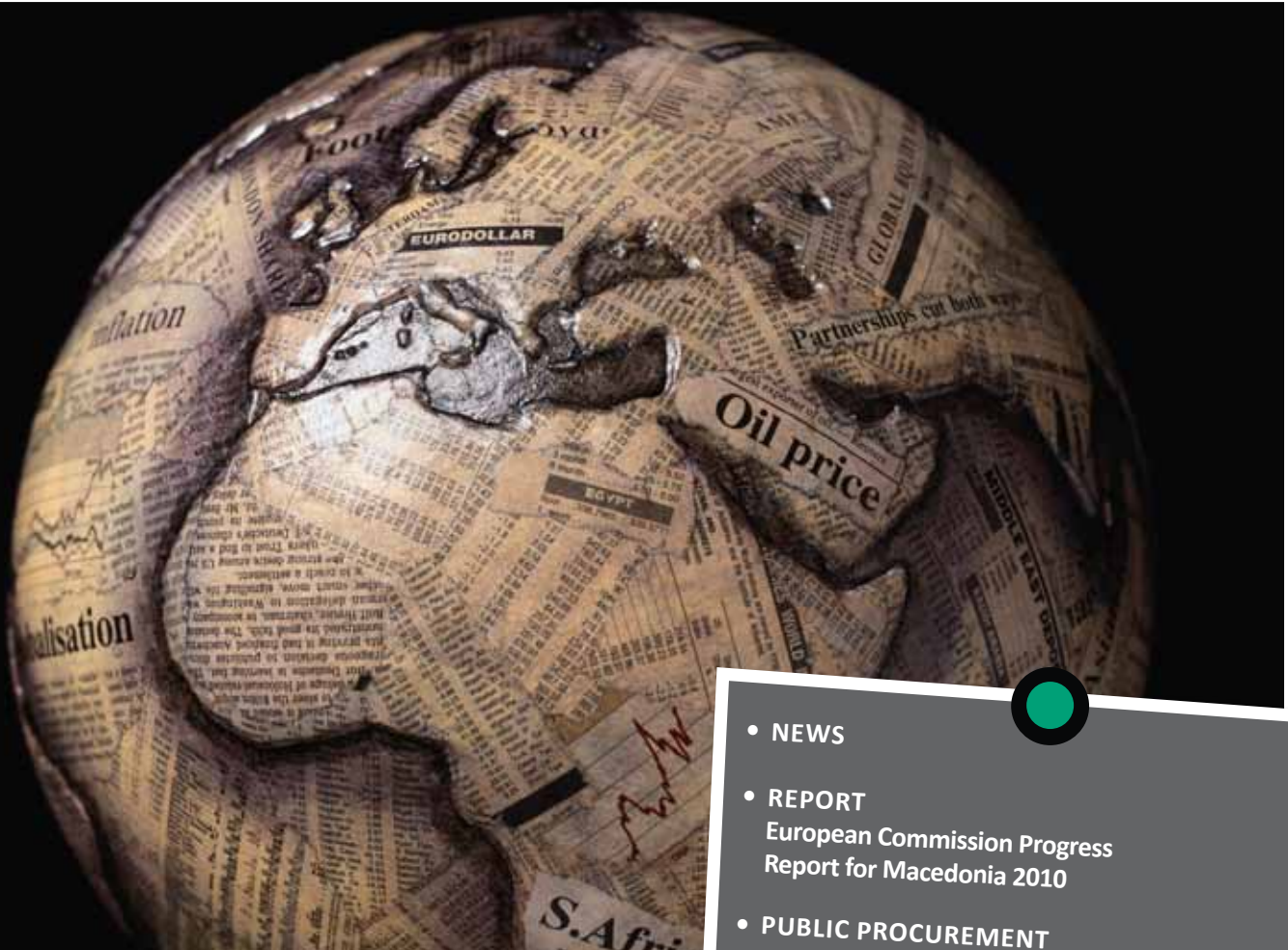


NO. 10 year I october 2010

# MAK

Monthly Anticorruption Magazine



## • NEWS

## • REPORT

European Commission Progress  
Report for Macedonia 2010

## • PUBLIC PROCUREMENT

More than a good law is  
needed for preventing corruption  
in public procurement

## • EVENTS

Public procurement conference

## • INVESTIGATIVE JOURNALISM

Cooperation among journalists  
on monitoring the transboundary crime

# 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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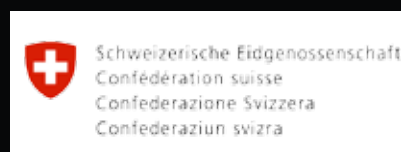
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## IN THIS ISSUE

The corruption has deeply entered the sport arena. Even the top sports are affected. The World Football Federation had to suspend two of its members from the top management after it was revealed that they sold their votes during the process of selecting the location for the next football world championship. Stimulated by the more frequent corruption scandals on its territory, Switzerland, the country in which many world organizations have their headquarters, announced stricter anti-corruption regulations. In Kosovo, the government had to cancel the agreement with one US company, which was selected through direct negotiation without the participation of other companies, but only after the affair was disclosed by the media. The world scientists have detected and found evidence to support the claims of the relatedness of corruption with other societal phenomena in the country, such as the level of economic development, respect of human rights and claim that corruption is symptom of deep economic and social diseases in the society.

In this issue of the monthly newsletter, we present the sections on anticorruption and public procurement from the latest European Commission's Progress Report for Macedonia. In both these areas, the EC has observed certain progress, emphasizing that the corruption is wide spread and continues to pose a serious problem. In terms of the public procurement, the observations from last year still apply. However, the special focus this year is placed on the lack of capacity of the public administration in this area and the need for strengthening the system of legal remedies in public procurement.

In addition, we report the address of the President of the Council of Europe's Group of States against Corruption (GRECO), Drago Kos, on the corruption in public procurement at the Public Procurement Conference held in Skopje in October. He suggests that for combating corruption in public procurement the good law meeting the requirements of the European Union directives is needed, but not sufficient for protecting the public funds from corruption. According to Kos, anti-corruption specialists should be involved in the public procurement in order to analyze the existing legislation from the aspect of combating corruption. Kos recommends to those making decisions about public finances to be as careful and responsible as when they are making decisions about their personal finances. We also present few of the numerous media reports published about the conference.

As the criminal becomes more organized and widespread, spilling over the boundaries of a state, even a region, it is necessary for the investigative reporters to become more organized. However, due to various reasons, it seems this type of journalism is facing difficult days. Therefore, the investigative reporters, non-governmental organizations and donors that support these networks from Moldova, Romania, Ukraine, Czech Republic, Poland, Bulgaria, Serbia and Macedonia met this November in Chisinau in Moldova, sharing their experiences and discussing the future possibilities for enhancing the cross-boundary cooperation in investigative reporting.

We hope that with this issue of the monthly newsletter by providing you diverse topics we will encourage you to think of taking measures for reducing the corruption in our society, which according to the scientists is interrelated and depends on many factors in the society.



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# MAK

MONTHLY ANTICORRUPTION MAGAZINE

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## FIFA OFFICIALS SUSPENDED OVER CORRUPTION

The two senior FIFA officials at the heart of the World Cup cash-for-votes scandal have been provisionally suspended, following allegations of corruption within football's world governing body. Tahiti's Reynald Temarii, the Oceania president, claimed he wanted \$3m for a sports academy in Auckland.

Tahiti's Reynald Temarii, the Oceania president, claimed he wanted \$3m for a sports academy in Auckland.

Nigerian Amos Adamu allegedly asked for \$1m for a personal project in exchange for his vote for the 2018 and 2022 World Cups.

FIFA's President Sepp Blatter's reacted with dismay. He says it's a sad day for football. FIFA's executive committee will make further investigations into the pair next month.

## LOBBY CONTRACT CANCELLED AFTER BALKAN INSIGHT PROBE

Pristina, Kosovo (Balkan Insight) - The government had awarded the contract, worth 600,000 euro a year, without a tender process in October, appearing to flout Kosovo's own procurement rules.

But following an investigation by Balkan Insight, published one month ago, last Friday the decision to "promote and protect the interests of the institutions of the Republic of Kosovo abroad" through the €50,000 a month deal was repealed in a meeting of the cabinet.

Government spokesman Memli Krasniqi continued to insist to Balkan Insight that the government had not broken any procurement rules and was allowed to carry out a 'single source tender', where only one firm is allowed to bid. But he admitted that the reversal of the decision came following advice from the Office of Prime Minister's legal department, which warned that it required 'detailed proposals in advance' of such deals being awarded. Balkan Insight asked the legal department for clarification on why it had recommended the cancellation of the deal but received no response.

Krasniqi's assertion that the government's decision did not break tender rules was out of step, however, with comments from the head of Public Procurement Agency, PPA.

Според законот, Канцеларијата на премиерот, која раководела со процесот, требало да добие дозвола од Агенцијата за јавни набавки пред да додели каква и да е зделка од тој вид, дури и ако не бил потпишан договор.

Бидејќи одлучила да преговара за цената само со една фирма, Канцеларијата на премиерот треба-

Извршниот комитет на ФИФА ќе спроведе дополнителна истрага за двајцата суспендирани членови следниот месец.

Во меѓувреме, Швајцарија објави дека ги преиспитува своите закони за корупција како резултат на скандалот во кој е вмешано светското раководно тело за фудбал ФИФА, со седиште во Цирих. Швајцарското министерство за одбрана и спорт потврди дека министерот за спорт Уели Маурер побарал официјално преиспитување на законите за корупција и можни предлози за понатамошно дејствување.

Портпаролот на Федералната канцеларија за спорт изјави дека корупцијата е поголема опасност за спортот отколку допингот и дека е потребна ревизија бидејќи Швајцарија е домаќин на многу меѓународни спортски федерации.



ло да ѝ приложи документи на Агенцијата за јавни набавки, кои ќе покажат зошто само една фирма може да ги понуди услугите. Само во тој случај, според законот, на Владата би ѝ било дозволено да започне преговори со одредена компанија за лобирање.

Претседателот на агенцијата за јавни набавки, Мурсел Рачај, претходно изјави за Balkan Insight дека овој процес не се случил. Како резултат на владиниот чекор за откажување на договорот, заменик-премиерот Хајредин Кучи изјави пред новинарите дека назначувањето на Patton Boggs било „прелиминарна одлука во консултација со министерот за надворешни работи, со поранешниот претседател и со други чинители.“ Тој додаде дека владата одлучила да ја повлече првичната одлука за да осигури дека процедурите „се целосно испочитувани“ и со цел „да не се создаде каква и да е дилема.“ „Ако има потреба за такво лобирање, секако, по изборот на новата влада, ќе се донесе друга одлука за овој случај“, изјави тој.





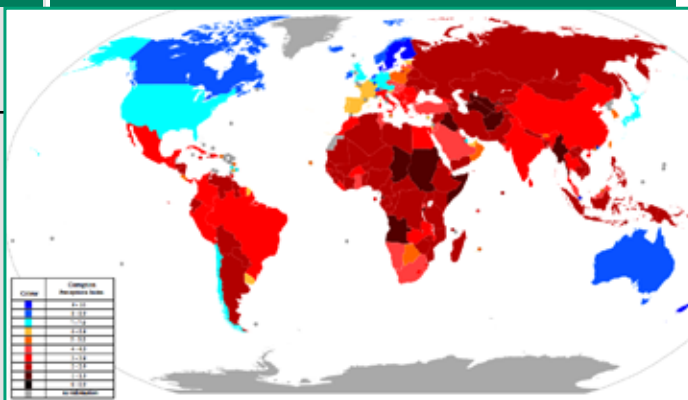
Советникот за надворешни работи на Patton Boggs е Френк Визнер. Поранешната државна секретарка на САД за време на мандатот на Џорџ Буш, Кондолиза Рајс, го назначи Визнер за специјален претставник на САД за разговорите за статусот на Косово во 2005, каде што тој одигра клучна улога во преговорите за независноста на Косово. Не постои сомневање дека Patton Boggs постапил несоодветно за добивање на договорот.

### WHAT MAKES COUNTRIES CORRUPT?

My own analysis suggests that before we can deal with systemic corruption we must first come to grips with the fact that it doesn't occur in a vacuum -- it is a symptom of deeply rooted economic and social maladies... To get a better handle on all of this, my colleague Charlotta Mellander and I compared how a nation's rank on the corruption index compares to its standing on a series of other standard measures--economic development (economic output per capita), the transition to a more highly skilled knowledge economy (human capital levels and the creative class share of the workforce), social tolerance (as measured by Gallup World Poll surveys which track attitudes to gays and ethnic and racial minorities), and the overall level of happiness or life satisfaction (also from Gallup surveys). Note that the CPI ranks countries in reverse order; the higher its score, the less corrupt the country. As always, we caution readers not to make too much of these findings. Our analysis can only identify relationships among variables and in no way implies causation.

Generally speaking, the associations we found between corruption and economic and social development are quite striking. Corruption is closely associated with the overall level of economic development: The richer the country, the less corrupt it tends to be. Corruption is lower in knowledge-based economies.

Corrupt nations also tend to be intolerant places. The CPI is correlated with attitudes toward racial and ethnic minorities and even more so with attitudes toward gays and lesbians, which the political sociologist Ronald Inglehart of the University of Michigan notes is the last frontier of intolerance across the nations of the world. Corrupt nations tend to have low levels of happiness and life satisfaction. The CPI is highly correlated with overall life satisfaction. It is much easier to condemn international corruption than it is to overcome it. My own analysis suggests that penalizing companies that pay bribes is to treat one symptom



while failing to diagnose, let alone attempt to cure, the underlying disease. Corruption is a fact of economic development. It is endemic not just in the poorest and least functional of nations, but even in the fast-growing (but still comparatively less-developed) BRIC. Corrupt nations have more traditional economic structures, based on resource extraction or manufacturing; they have not yet made the transition to highly skilled knowledge economies. Corrupt nations are more likely to be intolerant; their citizens not only must endure lower material living standards but lower levels of happiness and life satisfaction.

If we really want to combat corruption we must deal with the broader and much harder challenges of economic development. When less developed nations begin to leverage their knowledge, skills, and human capital to raise their levels of economic output, then the battle is already won

## EUROPEAN COMMISSION PROGRESS REPORT FOR MACEDONIA 2010

### BOTH PROGRESS AND PROBLEMS IN THE ANTI-CORRUPTION AND PUBLIC PROCUREMENT

*At the beginning of November, the European Commission has published the Progress Report for Macedonia regarding its readiness for accession in the European Union for the period September 2009 – October 2010. Separate sections of this report are dedicated to two important areas, referring to the activities of the Center for Civic Communications: anti-corruption and public procurement. In both areas, the EC has observed progress, claiming that the corruption is wide spread and continues to be a serious problem. In terms of the public procurement, the observations from last year still apply. However, this year special focus is placed on the lack of capacity of the public administration in this area and the need for strengthening the system of legal remedies in public procurement. In addition, we fully present the aforementioned sections of the Progress Report.*

**Anti-corruption policy:** Постигнат е напредок,  
но корупцијата продолжува да претставува  
сериозен проблем

Progress was registered in the implementation of the anti-corruption framework, which is a key priority of the Accession Partnership. All 14 recommendations of the Group of States Against Corruption (GRECO) second evaluation round have been followed up. The GRECO report for the third evaluation round was published, comprising 13 recommendations on the incrimination of corruption-related offences and on the transparency of political party funding to be implemented by September 2011. The country has initiated the procedure for acceding to the OECD Convention on Combating Bribery of Foreign Public Officials. The amendments to the Criminal Code introducing provisions on extended confiscation, illicit enrichment and criminal liability of legal persons for influence peddling entered into force. The regulatory framework for the status of public officials other than civil servants was set up. The interministerial working

group for monitoring the state anti-corruption programme met on a regular basis.

Three large-scale police operations were carried out, leading to the arrest of numerous border police officers, doctors and officials from the Pension and Disability Insurance Fund. Prison sentences were imposed on some of the defendants in first-instance court decisions. For the others the investigation or the court proceedings are ongoing.

The Office for Prevention of Money Laundering and Financing of Terrorism now has direct access to the asset declarations database of the State Commission for Prevention of Corruption (SCPC). Following checks by the SCPC two mayors were fined up to 70% of their unjustified difference in wealth, in line with the legal provisions. The number of conflicts of interest detected by the SCPC increased. The SCPC increased the number of completed cases from 567 in 2008 to 828 in 2009. Some improvements are noted in the mechanism for followup of the State Audit Office recommendations with 55 reports issued in 2009.

However, implementation of the anti-corruption legal framework remains deficient. The new legislation was not accompanied by proper impact assessments, with the result that planning of the necessary human and financial resources and preparation for implementation was inadequate. The entry into force of the new provisions of the Criminal Code, in particular on illicit enrichment and extended confiscation, were not sufficiently prepared and will require additional training.

The case-law on corruption is inconsistent. Three of the highest-level corruption cases with imprisonment decisions have been sent back to the lower courts due to procedural flaws found in the first-instance proceedings. The limited capacity of the Criminal Law Section in the Skopje Court of Appeal was further weakened by the suspension of more than half of its judges for disciplinary reasons. Two of the judges were dismissed and the other three were returned to the Court after three months. Independence of the judiciary remains a matter of serious concern affecting the determination to combat corruption. The role of the Ministry of the Interior in authorising the use of interceptions is not in line with EU standards and raises concerns about undue political interference. Moreover, the external oversight mechanism needs to be strengthened. The number of cases in which a conflict of interest was found and action taken is still low. The asset declarations of civil servants and the declarations of interest are confidential and are not being checked on substance. No consistent track record on checking asset declarations of appointed and elected officials has been built up. Transparency of public expenditure is not satisfactory. The law on public access to information does not expressly provide that the content of the public contracts is public. This leads to divergent interpretations throughout the administration. The internal control mechanisms in the public administration remain weak.

Legal and institutional protection of whistle blowers is largely insufficient. Consequently, reporting of suspicions of corruption within the public service remains scarce. The implementation of the legislation on financing of political parties and election campaigns has not yet yielded results. No sanctions for non-compliance with the law have been applied by the supervisory bodies. VMRO, SDSM and DUI submitted their reports one year after the deadline.

The SCPC's strategic plan for public relations has not had a visible impact. The SCPC members continue to perform their tasks part-time, which may affect the effectiveness of ex officio actions. Public trust in the independence and impartiality of the SCPC is still rather low. The SCPC remains reactive rather than proactive. Following the 2010 state budget rebalance the SCPC faces severe financial difficulties. The capacity of the Ministry of Justice to coordinate at technical level monitoring of the anticorruption policies is insufficient. While the technical-level meetings of the inter-ministerial working group intensified, the high-level political commitment to monitoring of the implementation of anti-corruption policies has weakened. No comprehensive exercise has been carried out so far to identify the extent and nature of corruption in the public sector. The statistics system relevant for the monitoring of anti-corruption policies is still insufficiently developed. There is no comprehensive approach to developing specific anti-corruption strategies for the vulnerable areas of the public sector.

Overall, some progress was made in the field of anti-corruption policy. Further steps were taken to set up the National Intelligence Database. Large scale police operations making use of special investigative measures were carried out. However, the track-record of enforcement on corruption cases is inconsistent. Existing provisions on asset declarations, conflict of interest and financing of political parties are not implemented effectively. Corruption remains prevalent in many areas and continues to be a serious problem.



**Public procurement:** недостаток на свесност во поглед на судирот на интересите, етиката и антикорупцијата кај процедурите за набавки

Little progress has been made as regards general principles. The Public Procurement Law was amended to be harmonised with the Criminal Code and several pieces of legislation implementing the law were adopted. The Law on Concessions and Public-Private Partnerships is not aligned with the acquis.

With regard to administrative capacity, the staff of the PPB was increased to 17 people. The PPB adopted a strategy for the development of the public procurement system for 2010-2012 which confirms the maturity of that institution in developing, piloting and monitoring the country's public procurement policy. The training centre of the PPB became operational.

The PPB's cooperation with the State Audit Office (SAO), the State Commission for Prevention of Corruption and the Commission for Protection of Competition continued. Statistics on corruption cases related to public procurement handled by the courts are still missing. The trend in tender cancellations and failures continued. There is still insufficient awareness regarding conflicts of interest, ethics and anti-corruption in procurement procedures. The capacity of the unit responsible for concessions in the Ministry of Economy is not sufficient to deal with large-scale projects and its cooperation with other institutions engaged in the public procurement system remains insufficient. As regards general principles, the country is generally on track. Some progress has been made regarding transparency in the award of public contracts. E-procurement became mandatory as of January 2010 for at least 30% of the total estimated value of all public contracts. The integration of the two existing electronic procurement systems has been achieved. However, the awareness of the contracting authorities regarding the criterion of the economically most advantageous tender is insufficient. Furthermore, works have often started and even been completed before the respective tender has been launched. The SAO detected serious irregularities in procurement procedures, but the Public Prosecutor's Office in

most cases established only minor omissions. This resulted in few charges being pressed against the contracting authorities. As regards award of public contracts, the country is moderately advanced.

Progress has been made in the area of public procurement. Transparency of procurement procedures was increased, but they need to be simplified, in particular as regards entities operating in the utilities sector. The legislation on concessions and public-private partnerships is not in line with the acquis. The remedies system, despite the good work of the SAC, needs to be considerably strengthened. Efforts are needed to further improve the administrative capacity in the field of public procurement and concessions.

## Conclusion

Progress has been made in the area of public procurement. Transparency of procurement procedures was increased, but they need to be simplified, in particular as regards entities operating in the utilities sector. The legislation on concessions and public-private partnerships is not in line with the acquis. The remedies system, despite the good work of the SAC, needs to be considerably strengthened. Efforts are needed to further improve the administrative capacity in the field of public procurement and concessions.





Drago Kos, President of the Council of Europe's Group of States against Corruption (GRECO)

## MORE THAN A GOOD LAW IS NEEDED FOR PREVENTING CORRUPTION IN PUBLIC PROCUREMENT

*Perfect law that will meet the requirements of the EU directives is needed, but this is not sufficient condition for protection of public funds from corruption. Anti-corruption specialists should be involved in the public procurement in order to analyze the existing legislation from the aspect of combating corruption. If those making decisions on spending the public finances are doing this as carefully and responsibly as they are making decisions about their personal finances, then things will be much better*

If you look at my numerous interviews given last year, every time I have taken a question on the major problem in corruption I said it was the public procurement. This is an essential problem we face in all countries. Just to give you several numbers. According to the assumptions, the corruption takes up to 40 percent of the money spent on public procurement. Slovenia spends two to three billion euro on public procurement annually and loses 30 to 40 per cent of this money on corruption. This is really painful and the reasons for these problems are simple.



However, I will start with a brief history. The public procurement became part of the agreement of the European Community in 1957 and since then the public procurement process is a concern and problem. The new legal “remedies” brought many changes in this area. The directives set out several simple principles for non-discrimination and equal treatment, mutual recognition and transparency. There was no room for corruption, but in my opinion these directives did not solve the problem. They improved the situation, but not

to the right level. There are many reasons for this, mainly because the detailed provisions from these directives, which were translated in the national directives of the EU member states and candidate countries, were integrated only to a certain limit. In Slovenia this limit was 98.2%, which means that we failed to apply these directives only in 1.8% of the cases. However, when we conducted an analysis in Slovenia, which was earlier this year, it turned out that the major problems are the same as the problems I heard here.

This means that we did not make much of a progress. However the largest problem we face in the public procurement is the legitimate use of the exceptions, which means that the procedures that have to be used – are not used. Then, legitimate application of procedures for smaller procurements. For instance, after signing of the contract, our contracting bodies prepare annexes to the contracts without following the adequate procedure, only few days after signing the agreement. Furthermore, the tendering documentation is unclear and confusing. The contracting bodies require the same information to be repeated several times in the same tenders and the same offers under different headlines. Our contracting bodies also offer to the bidder access to the documentation of other bidder ten minutes prior to the final deadline for submitting the offer. Then we have a series of problems regarding the criteria for public procurement. They are disproportional, unclear, insufficiently defined or too few. Of course, this does not happen accidentally, it happens purposefully. Then we have cases when the agreement is divided into several smaller agreements or some procedures are avoided. This is the current situation in Slovenia and I can say that the same things happen in many other EU member states, although all these countries implement the directives. But, the EU directives and legislation are often prepared by experts that are not specialized in corruption; they are good in public finances, in public procurements, and the things they want to achieve through the principles of transparency and non-discrimination are good, however this is not enough, because corruption is something much more than meeting the four principles I mentioned.

If those making decisions on public finances do this as carefully and responsibly as when they are making decisions about their personal finances, then the things will be much better. I cannot understand why the people that sign contracts for seven or 100 million euro, when they return home find it difficult to give 10 or 15 euro for a similar service. The position of these people when they decide on the personal finances is not the same as when they decide on the public finances.

In order to fight against corruption in public procurement, one should implement different measures. I will mention some of them which

I believe you should know. The European Commission is aware of this problem or the problems related to public procurements. One should open an office for auditing the public procurement, because this is very simple. In the period between 2007 and 2014, Slovenia will receive 5 billion dollars from the cohesion funds and if this money is spent through corruptive practices, then the Union will suffer great economic damages. You say the sanctions are not introduced in your law. The sanctions in our legislation are very high. For example, the contracting bodies may be fined with 5,000 to 30,000 euro and the responsible person with 10,000 euro. The bidders could be banned from participating at a tender from various reasons – if they make a fraud or were involved in crimes, etc. We are also creating a black list, but this does not always work. It is easy to say that we will exclude a company that participated in a fraud or a criminal act, but the question is to which level one should prove this conduct, as a final decision is required and the court procedures sometimes take more time. So, this is evidently disproportional. Nothing serious emerged on this plan yet.

In Slovenia, we realized that the public procurement area cannot be left only to the public procurement specialists. We involved other specialists as well. Presently, each contract exceeding 10,000 euro and signed by any public enterprise, should include a clause against corruption and will be declared null and void if this clause is not respected. Then we made additions to the Law against Corruption in Slovenia. You have the system according to which some categories of public servants should declare their property to the Anti-Corruption Commission. In our country, the public procurement officers should also report their property. There were certain problems, because many civil servants work on public procurement in Slovenia, but this was done and believe me they did not take it well because they were not happy that they had to report the property.

So, I would like to emphasize that anti-corruption specialists are needed in the public procurement in order to analyze the existing legislation from the aspect of combating corruption, because we still have laws on public procurement that allow the loopholes to be used for corruption.

The public procurement procedures should be fast, effective and objectives. Without such procedures nothing could function properly. Therefore, the sanctions must be effective, repelling corruption and be proportional to the act. Regretfully, nothing can be achieved without strict sanctions.

For the next suggestion, you will need more time. To educate and raise the awareness of the responsible persons that the management of the public finances when spending million and million euros is the same as managing the personal money. In fact in their offices, they spend their own money. But joint operation is required in this respect in order to change something. Technically, you can have the best possible law on public procurement. Trust me, from technical perspective we have a perfect law that still does not function in the anti-corruption field.

Therefore, to have a good law is not the only principle we need to follow; we need to see the woods, the greater picture, i.e. the public needs to get the best service at lowest cost, without corruption. This sounds simple, but it is far from simple in practice. Because we pursue the same goal and we want to get the most for the least



amount of money, we should sit together and find out the best solutions that will not only meet the requirements of EU directives, which are good, but not sufficient. We should protect our own budget against corruption. What is needed is a bit of good will, cooperation and determination to adopt these laws and decisions. The introduction of EU directives in the national legislation is important, but not enough: you should be more elaborate regarding these directives, in the same way as the large and clever countries.





# PUBLIC PROCUREMENT CONFERENCE



More than 60 participants of all stakeholders in the public procurement process, as well as domestic and foreign experts and representatives of local and international institutions and organizations attended the Public Procurement Conference organized by the Center for Civic Communications on December 18 in Skopje.

The Report on Monitoring the Public Procurement Procedures for the first six months of this year was presented at the conference together with the main remarks from the monitoring report and the recommendations for promoting the public procurement system, which stimulated a constructive debate in this very important area. The participants concluded that there is need and room for amendments and modification to the public procurement regulation in the country in order to reduce the abuse in spending the public money.

President of the Council of Europe's Group of States against Corruption (GRECO), Drago Kos shared the Slovenian experience in this area and offered several measures for reducing the cor-





ruption in public procurements implemented by other EU countries including the so-called anti-corruption clause in every public procurement contract exceeding 10,000 euro and the obligation for declaration of property by all persons from the contracting bodies involved in the public procurement.

Some of the participants called for introducing penalty provisions in the law, at least for the misdemeanor, having in mind that since recently the more serious abuses of public procurement are treated as criminal offence pursuant to the Criminal Code.

Director of the Public Procurement Bureau, Mare Bogoeva Micovska, presented the efforts of this institution for promoting the public procurement system, as well as the planned training on public procurement implemented by the Bureau including a module on prevention of corruption.

The conference was followed by 22 media and was a topic in many public procurement analyses. In addition we present some of them.



## Состојби со јавните набавки Поништен секој четврти тендер

Главен интерес на компаниите за учество во јавните набавки, зголемено поништување на тендерските постапки и зголемување на бројот на склучени директни договори, се дел од клучните наоди од мониторингот што го спроведе Центарот за граѓански комуникации во периодот од април до јуни годинава. Резултатите од мониторингот спроведен на примерок од 40 постапки на централно и локално ниво, покажуваат дека во тендерските постапки се поставуваат дискриминаторски високи критериуми за квалификување на фирмите, а се позастапени е и примената на т.н. манипулативни критериуми, односно рок на испорака или на изведба и рок и начин на плаќање. Серioзни проблеми се констатирали и во делот на квалитетот, односно изостануваат позитивни дефиниции каде ќе се мери квалитетот, а се уште доволно не се користи и електронскиот систем за јавни набавки.

Кварталниот извештај покажува дека во дури 30 проценти од постапките влезени во процесот на мониторингот, понуди доставиле само една или две компании. Освен тоа, конкуренцијата е само навидум обезбедена, се посочува во извештајот. Секој четврти тендер е поништен. Приема, забринувачки е што во поништените постапки просечно учествувале по тројно повеќе компании, отколку во постапките каде е извршен избор на најповолната понуда. Освен тоа, се влијае дека се користат спорни елементи во изборот на најповолната понуда, а одредени понудувачи се фаворизираат преку начинот на кој се дефинираат тендерските документации. Исто така, забележливо е не транспарентна постапка за склучување директни договори за јавни набавки без објавување оглас. Во второто тримесечје од годинава биле склучени 172 директни договори, во вредност од 6,1 милион евра. Што, пак, е 49 проценти повеќе од истиот период минатата година, кога биле склучени 231 договор со вредност од 4,1 милион евра. Само 4,2 проценти од сите постапки се спроведени по електронски пат, а во околу 12 проценти од постапките се користени електронски аукции. Како позитивни тенденции, пак, посочени се напредувањето на барањата за плаќање надомест за поднесување на тендерската документација и одаѓањето на банкарската гаранција на понудата.



## Јавните набавки дувло на корупција

Секој четврти тендер е поништен, новинари и компаниите за учество во јавните набавки, за бројот на склучени директни договори со истражување. Ова се резултатите од мониторингот на периодот од април до јуни годинава, кој го спроведе Центарот за граѓански комуникации.



## Секој четврт тендер поништен

Катерина Чанкова



Во втората половина од годината, во периодот од април до јуни, Центарот за граѓански комуникации спроведо мониторинг на тендерските постапки за јавни набавки. Резултатите од мониторингот покажуваат дека во 30 проценти од постапките влезени во процесот на мониторингот, понуди доставиле само една или две компании. Освен тоа, конкуренцијата е само навидум обезбедена, се посочува во извештајот. Секој четврти тендер е поништен. Приема, забринувачки е што во поништените постапки просечно учествувале по тројно повеќе компании, отколку во постапките каде е извршен избор на најповолната понуда. Освен тоа, се влијае дека се користат спорни елементи во изборот на најповолната понуда, а одредени понудувачи се фаворизираат преку начинот на кој се дефинираат тендерските документации. Исто така, забележливо е не транспарентна постапка за склучување директни договори за јавни набавки без објавување оглас. Во второто тримесечје од годинава биле склучени 172 директни договори, во вредност од 6,1 милион евра. Што, пак, е 49 проценти повеќе од истиот период минатата година, кога биле склучени 231 договор со вредност од 4,1 милион евра. Само 4,2 проценти од сите постапки се спроведени по електронски пат, а во околу 12 проценти од постапките се користени електронски аукции. Како позитивни тенденции, пак, посочени се напредувањето на барањата за плаќање надомест за поднесување на тендерската документација и одаѓањето на банкарската гаранција на понудата.

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## Намален интересот на компаниите за јавните набавки



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## COOPERATION AMONG JOURNALISTS ON MONITORING THE TRANSBOUNDARY CRIME

As the criminal becomes more organized and wide spread outside the borders of one country, even one region, it is necessary for the investigative journalists to organize themselves. Frequently, formal and informal networks of investigative reporters are being established through which the journalists from one country do not have to travel in another country and investigate their story, but they can do it through the colleagues in that country. The advantages are multifold. First, the colleagues - journalists from the other countries are more familiar with the circumstances, people and language in their native countries and may get easier access to the requested information, sources and documents. Second, they do not waste unnecessary money and time for travel and accommodation that sometimes are time-consuming. Third, the story is mutual and may be published in the media of two (or several) journalists that have participated in its creation. Fourth, grounds are laid for long-term cooperation among the journalists and media.

### MONITORING THE BUSINESS

There are few rules that should be taken into consideration and followed during the investigation. The first rule is that the criminals never keep their money in their home country. The second rule is that wherever there are strong business connections there are strong criminal connections and organizations. This is particularly the case in the countries of the former Eastern Bloc, where the ties among the businesses are still very strong, thus providing room for investigation. The practice shows that the investigation should start in the

more developed and more democratic countries because it is more likely to get more information there. There are many such cases of successful cooperation among the investigative reporters on the crime in a country, which has been discovered through the investigation in another, more developed country. Romania has explored and disclosed a crime conducted in Moldova, Czech revealed a crime in Romania, while Macedonia identified a crime made in Albania (case of forged diploma). Unfortunately, many of these researches do not get any publicity and are not even published in the countries to which they refer.

### NO BOUNDARIES FOR REAL INVESTIGATIVE REPORTERS

Sharing their experience, investigative reporters from the Balkan region and the East European countries reveal different ways and types of investigation only to find evidence for their stories. So, the journalists pretend to be potential business clients in order to get access to a certain company or apply to job advertisements in order to be hired and get insider information for a company. A journalist from Romania, who investigated the case of Turkish citizens who obtained forged Romanian ID cards and use them to get to the European Union, introduced himself as a Turk, obtained such ID card under a Turkish name and surname and left for Netherlands and even voted at the elections for the European Parliament. When he published his story, disclosing this crime, how it was done and the actors involved in it, the Romanian state pressed criminal charges against him for forging documents.



## INDEPENDENT FUNDING

Taking into account that these researches usually take months, even a whole year to be completed, their financing is almost always supported by non-governmental organizations or foreign donors, because the media always say they do not have money to pay certain journalist to produce only one story in several months, no matter of the investigative character of the story or the scandal being discovered with it. There are also connections between the media, some businessmen and politicians, which negatively affects the investigating reporting. Hence the networks of investigative journalists are trying to find the so-called alternative sources of funding, usually through the projects of non-governmental organizations and foreign donors that have interest in the region in which the network of investigative journalists is located and works. However, if one knows that the work and finances of non-governmental organizations are realized through projects and project cycles the issue of long-term financing of the networks of investigative journalists is still open and uncertain. Guided by this uncertainty, some already established networks require subscription for their news products, but this way of funding requires establishment of new jobs (for finding subscribers, for finances, for organization, etc.), which have nothing to do with journalism, thus making the work of the network more expensive. Another solution which works primarily for ad-hoc and small scale research is the informal connections of journalists from two or several countries who work together on a certain story that involves people from those countries. Here the cooperation is very simple. The journalist that needs some information or documents from another country or countries simply writes this on an internet network or portal, stating what he needs from a certain country. After reading the post the journalists from that country submit the required information and the cooperation ends with publication of the joint story in both countries.

## ECONOMIC CRISIS HIT INVESTIGATIVE REPORTERS

The following months and years will be even harder for the investigative reporting, investigative journalists say, particularly those from the more developed countries from the wider region of Central and Eastern Europe. They say the economic crisis from the end of 2008 has seriously affected the investigative

reporters, who were first on the list to be fired in an attempt of their media to cut the costs due to the reduced income from advertising. The logic applied by the media was to reduce the journalists that produce the lowest number of stories, not paying attention to the quality of these stories. There are even examples of shutting down some media that were fully dedicated to investigative journalism.



## INCREASED COMMITMENT OF JOURNALISTS

Taking all this into account, it may be concluded that few options remain for the investigative reporters, particularly for their regional networks. Investigative reporters, non-governmental organizations and donors that support the networks in Moldova, Romania, Ukraine, Czech Republic, Poland, Bulgaria, Serbia and Macedonia met at the beginning of November in Chisinau, Moldova to share their experience and discuss the options for enhancing the cross-boundary cooperation in investigative journalism.

In order to work on their stories in faster and more efficient way, the journalists should associate with their colleagues from the other countries and may simultaneously work on several stories in order to avoid being "stuck" with a certain story and produce nothing for publication. Besides the journalists should assist their colleagues from the other countries in gathering information for their stories and then they will be able to publish these stories in their media.

It was also concluded that now as never before it is necessary to have greater support from the non-governmental organizations and foreign donors for such organization of investigative reporters in order to prevent this type of journalism from dying, which would be in the interest of those working dishonestly, using manipulation, abuse and corruption. The investigative reporters face a new challenge of being more committed and dedicated for building such networks and cooperation.

In this respect, an informal network of investigative reporters exists within the Center for Civic Communication in Macedonia. The activities of this network will be intensified in 2011.

## 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.