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# CORRUPTION AND ORGANIZED CRIME THREAT MONITORING REPORT

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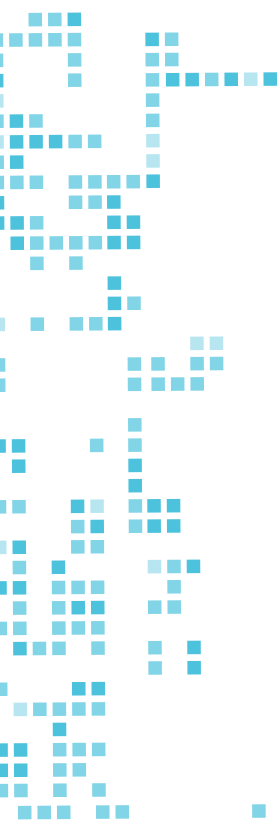
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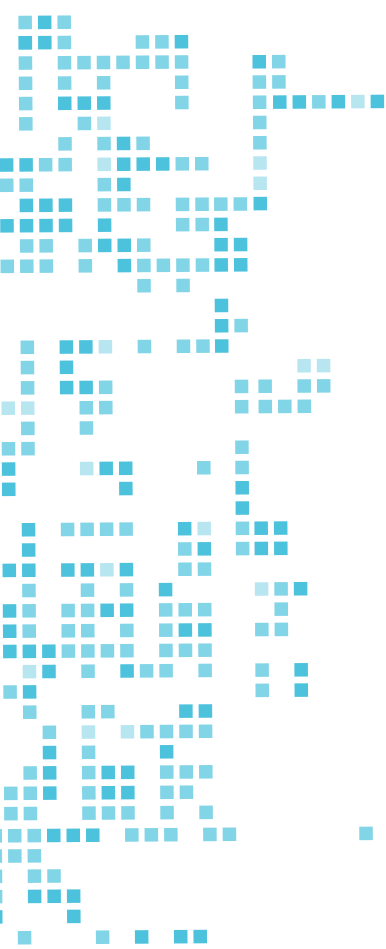
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# LIST OF ABBREVIATIONS

<b>CCC</b>	Center for Civil Communications
<b>CMS</b>	Corruption Monitoring System
<b>CRM</b>	Central Registry of Macedonia
<b>CSD</b>	Center for Study of Democracy
<b>CSO</b>	Civil Society Organization
<b>EC</b>	European Commission
<b>EU</b>	European Union
<b>FDI</b>	Foreign Direct Investment
<b>FIU</b>	Financial Intelligence Unit
<b>FP</b>	Financial Police
<b>GDP</b>	Gross Domestic Product
<b>GRECO</b>	Group of States against Corruption
<b>IPA</b>	Instrument for Pre-Accession Assistance
<b>LCP</b>	Law on Criminal Procedure
<b>LSGU</b>	Local Self-Government Unit
<b>MCIC</b>	Macedonian Center for International Cooperation
<b>MOL</b>	Ministry of Interior
<b>OC</b>	Organized Crime
<b>OCG</b>	Organized Crime Group
<b>OCTA</b>	Organized Crime Threat Assessment
<b>OECD</b>	Organization for Economic Co-operation and Development
<b>OSCE</b>	Organization for Security and Cooperation of Europe
<b>POCC</b>	Prosecutor for Organized Crime and Corruption
<b>PPB</b>	Public Procurement Bureau
<b>PRO</b>	Public Revenue Office
<b>SOCTA</b>	Serious and Organized Crime Threat Assessment
<b>SAO</b>	State Audit Office
<b>SCPC</b>	State Commission for Prevention of Corruption
<b>SEE</b>	South East Europe
<b>SELDI</b>	Southeast European Leadership for Development and Integrity
<b>TM</b>	Transparency Macedonia
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Program
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>USAID</b>	United States Agency for International Development
<b>VAT</b>	Value Added Tax
<b>WB</b>	World Bank
<b>WEF</b>	World Economic Forum



# PREFACE

The Corruption and Organized Crime Threat Monitoring Report is an overview of the state and dynamics of corruption and organized crime in the Republic of Macedonia. The basis of this report is the Corruption Monitoring System (CMS) developed by the Center for the Study of Democracy (CSD) from Bulgaria. The CMS relies on diverse sources of information and combines quantitative and qualitative methods for monitoring and the assessment of corruption and organized crime. The CMS has gained acknowledgement from the United Nations (UN) as a best practice system for monitoring corruption at the national level.

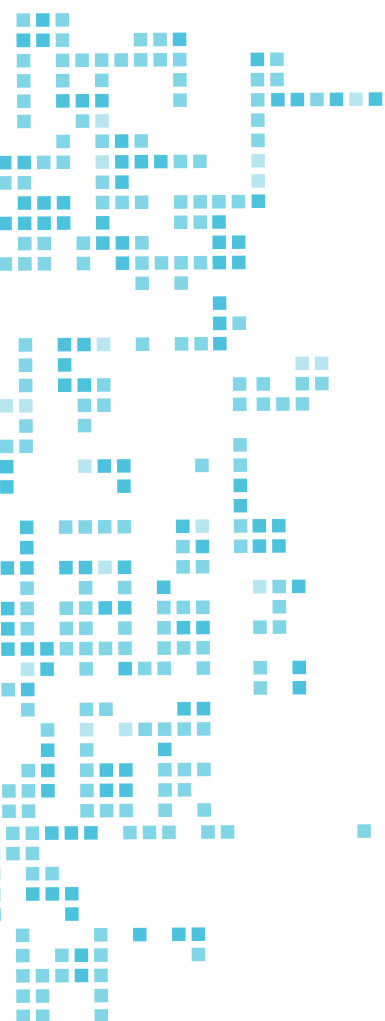
The report is divided into seven chapters and it provides an overview of the legal and institutional framework for the fight against corruption and organized crime in the country, provides an overview of the macroeconomic situation and the emergence of the link between corruption and organized crime, risk assessment of threats and corruption of organized crime, as well as levels of connection between these two phenomena: infiltration (general) in the political arena, infiltration in the government (elected officials), infiltration in public administration and institutions, bribery etc. Through these levels indirect critical review of corruption in politics is offered, but also to other areas and levels of government such as the judiciary; administration, police and customs. The last section deals with the private sector and corruption with a general review and review of public procurement, money laundering and VAT fraud.

The report was prepared by the Macedonian Center for International Cooperation (MCIC) and a team of experts from the Centre for the Study of Democracy (CSD) in Bulgaria, whose expertise provided support throughout the preparation of the report. Their contribution in all phases of the implementation of the project is exceptional and we would like to express our thanks to: Ruslan Stefanov, Todor Yalamov, Daniela Mineva, Alexander Stoyanov, Maria Yordanova, Emil Tsenkov and Tihomir Bezlov, Alexander Gerganov, all of CSD.

Besides colleagues from the CSD, support in the preparation of this report was also provided by local expert and representatives of civil society organizations (CSOs). We would like to extend our gratitude to Dr. Sladjana Taseva for expert quality review of the report.

This report is prepared as part of the project “Augmenting demand for anti-corruption and organized crime”, funded by the EU under the National Programme for temporary support and building institutional capacity, IPA (IPA) 2009. MCIC is grateful for the understanding and support of relevant institutions: General Secretariat of the Republic of Macedonia (SG), the Central Financing and Contracting Department (CFCD) within the Ministry of Finance and the EU Delegation to Macedonia for the implementation of this project and the efforts to contribute to the development of democratic processes in Macedonia.

Emina Nuredinoska  
Head of the Department for Civil Society





# EXECUTIVE SUMMARY

Corruption and Organized Crime Threat Monitoring Report is a comprehensive overview of the links between corruption and organized crime in the Republic of Macedonia. The report aims to present the state and trends as well as to emphasize the risks, without tendency to expose or pursue concrete cases on corruption and organize crime. It is based on the Corruption Monitoring System (CMS) approach developed by the Center for the Study of Democracy (CSD), Bulgaria, on the crime victimization approach used internationally, as well as on the model of the Serious and Organized Threat Assessment Reports employed by Europol. The report was implemented by the Macedonian Center for International Cooperation (MCIC) as IPA Component “Support to Enhancement, Sustainability and Development of an Active Civil Society”, project by the European Union. This is the first of its kind contribution by a civil society actor to the policy debate on countering corruption and organized crime in Macedonia, which aims to help establish a healthy cooperation between the government and civil society on these sensitive topics.

This study makes a review of the following issues in Republic of Macedonia:

- ▶ Corruption and organized crime levels and dynamics (2002 – 2014);
- ▶ Institutional and legal framework on countering corruption and organized crime: overall assessment of policies and efforts;
- ▶ Corruption and organized crime assessment, the links between the corruption and organized crime and the level of infiltration;
- ▶ Corruption, organized crime and economy (private sector)

Taking into consideration the pilot character of the study, and the natural limitations on information availability, MCIC and CSD relied on quantitative and qualitative methods to collect and analyze data. The work on the report started by preparation of a Desk Research (comprehensive secondary sources review) and carrying out the background and state of the art in Macedonia on corruption and organized crime. This research was supplemented by quantitative data from a national representative business survey on 400 companies, and a qualitative input from 40 semi-structured interviews with representatives from



different governmental and non-governmental institutions (anti-corruption bodies, law-enforcement, judiciary, private sector (lawyers, auditors, and fraud-investigators), academics and journalists. Finally, insights from the national corruption monitoring survey among the population, carried out under the USAID supported Anti-Corruption Program of Macedonia and from the Regional Anti-Corruption Report of the regional civil society anti-corruption coalition – Southeast European Leadership for Development and Integrity (SELDI)

The chosen methodological approach, especially the qualitative data and the findings drawn from the experts' semi-structured interviews has its limits: the interviewers' opinions cannot represent the general conditions in the country, but rather should be seen as indicators for relevant questions of interest, which request additional attention. The report is consisted of the following key areas: legal and institutional framework; macroeconomic background, corruption and organized crime threat assessments; the links between corruption and organized crime (infiltration in political institutions, Government, state administration and public institutions, bribery); corruption and the private sector.

The chosen methodological approach, and in particular the reliance on qualitative measures and subjective (albeit expert) opinion, entail some limitations: the opinions of interviewees cannot be used to make generalizations about the state of affairs in the whole country but should be seen as pointing to specific issues of concern, which might require policy attention; The report is consisted of the following key areas: legal and institutional framework; macroeconomic background; corruption and organized crime assessments; the links between corruption and organized crime (infiltration in the political scene, into Government; into state administration and institutions; bribe); corruption and the private sector.

**The Key Findings and Conclusions** for each these areas are provided below. The key Recommendations are also given as well.

The corruption and the organized crime are considered as one of the key problems which the country is facing. In separate terms, the corruption is ranked as fifth biggest problem in Macedonia, while crime is seventh. However, their coupling and the use of corrupt methods by organized crime could significantly undermine the stability of a country, especially in a case of fragile democracy and long years of transition such as Macedonia.

The 2014 world corruption' index of Transparency International ranked Macedonia on the 64 place out of 175 countries, and after the great progress in about 50 places in the period from 2006 to 2010, in the last period is stagnant. Concerning the organized crime in Macedonia, the Global Competitiveness Report of the World Economic Forum 2013-2014, ranks Macedonia on the 98th place out of 148 countries with a value of 4.6 concerning the organized crime.

## Legal and Institutional Framework

The legal framework for fight against corruption and organized crime is comprehensive and conforms the international and European standards. It is continuously updated based on GRECO reviews, and the annual European Commission progress report on Macedonia's aprogress towards EU accession. The State Program for Prevention and Repression of Corruption (2011-2015), as a key document in this area, has been developed through a participatory process, involving interested stakeholders and it provides the basic framework and the state politics for repressing corruption and the conflict of interest. All

relevant institutions are also established and competent, including the State Commission for Preventing Corruption (SCPC), with a need of additional budget and human resources aiming to attain their basic functions.

However, implementation gaps seem to persist, as actual changes in the situation on the ground are much slower to materialize than the adoption of new legislation and the putting in place of new institutions. There is a need of effective practical implementation or enforcement of the existing legal framework, which requires the adoption of comprehensive indicators to monitor the progress in the implementation of national strategies in the area of corruption and organized crime. As a natural follow up there is a need for the establishment of a comprehensive system for monitoring corruption-related crimes concerning organized crime and corruption, through advancing the collaboration and the multidisciplinary among institutions as well as their capacities.

## Macroeconomic background

The economic stagnation of the past five years and the Eurozone economic crisis, has increased the exacerbated income disparities and the unemployment problems, reducing the public pressure on corruption, and influencing the key organized crime markets.

The IMF's projection of stronger GDP increase by 2018 suggests a reduction of the negative risks of corruption and organized crime. Rising standards will provide a general reduction in corruption tolerance, and will reduce the motivation of public officials to get involve in corruption. At the same time, it will have a more immediate effect on reducing unemployment, and as well as the access of citizens to organized crime.

The banking sector in Macedonia has undergone a substantial amount of restructuring since the early 1990s. Banks operate quite effectively as well as the implementation of the money laundering laws. However, due to the banks' weak control during the flow of money and due to the formalistic access to the measurements for preventing money laundering, often can lead to failure in the detection of the fraud.

## Corruption Assessment

Susceptibility to corruption has been receded in the past decade (i.e. citizens are less prone to resort to corrupt practices for solving private problems), although the corruption pressure and involvement in corruption have remained roughly flat as 10 years ago.

In Macedonia, the citizens are aware of the corruption. Most of the citizens (55%) still don't accept any form of corruption. Yet, compared to the region, the awareness of corruption among the citizens is lower. Although the spread of corruption is reduced compared to the past decade, yet the perception of 62% of the citizens is that most of the officials or almost all officials are involved in corrupt activities. The rapid enrichment of those who are in power is the key factor for the spread of corruption in Macedonia.

Besides the ongoing fight against corruption to the state institutions, and the procedure of processing more than 200 cases a year, there are limited number of verdicts on corruption and organized crime. There are differences between perceptions and experience (victimization) of corruption. Namely, the perception level on some occurrences, institutions or professions is much higher than with

the real experience of the citizens according to their real position or profession. Also, not always the most perceived corrupted professions are actually the most corrupted.

The citizens suggest gaps in law enforcement, lack of efficiency of the courts in the fight against corruption and lack of consistent administrative control over corruption as most common corruption threats.

## Organized crime assessment

As stated above, the Global Competitiveness Report of the World Economic Forum 2013-2014, ranks Macedonia on 98th place out of 148 countries with a value of 4.6. The organized crime is more present in countries where there is a weak rule of law, with a few exceptions to this rule. The factors which impact on the prevention of organized crime are the independence and integrity of the institutions that are responsible for implementing with the rule of law.

Most common forms of organized crime in Macedonia are drug trafficking, smuggling migrants, and concerning the financial criminal - Tax evasion and extortion.

According to the Basic Court Skopje 1, the court in 2012 has acted on 1768 cases of organized crime (including 97 for corruption), of which 1.615 were solved. In the period from 2007 to 2013, the Department for Organized Crime Basic Court Skopje 1 registered 866 cases of corruption, out of which 466 were closed. The data obtained from the Public Prosecution indicate critical condition with corruption and organized crime.

According to the Ministry of Interior (Mol), the number of detected crimes on smuggling migrants has increased by 20% (compared to 2013 and 2014.). However, the number of smuggled migrants remained almost at the same level in 2013 and 2014. There is a difference in the origin of migrants, i.e. in 2014 the dominated migrants were from Syria. According to Mol in the first half of 2013, there were registered 204 migrants while in the same period in 2014. 203 migrants were recorded, most of whom were from Syria and Afghanistan, unlike 2013, when most were from Pakistan.

The responsible institutions in Macedonia, primarily Mol are involved in regional and international initiatives to combat organized crime, including bilateral agreements with neighboring countries: Bulgaria, Albania, Serbia, Kosovo. The agreements are for different kinds of cooperation such as smuggling and drug trafficking, border control, visa, cooperation in the field of terrorism, organized crime and unauthorized drug trafficking .

The analysis of the survey data with the representatives of the private sector shows that 12.5% of Macedonian companies recognize money laundering as relatively common, and 3% of the companies as very common occurrence. The tax evasion fraud is very common for 2.25% of the companies, a relatively common for 12% of the companies and a very rare occurrence, and familiar occurrence for 27.5% of the companies.

## The links between corruption and organized crime

There are five levels of links of corruption and organized crime: bribery (the lowest level) the bribe (infiltration in public administration), infiltration in the state administration, the level of infiltration of government and infiltration in the political arena.

All these levels are related. The criminal groups use public and officers in the administration in order to achieve their goals. The models are varied through direct influence such as: selection of top state functions, relevant protection from impact, impact on the public administration, obtaining public contracts, personal (direct and fast) profits, appointment of judges, small bribe to official, for example to lift traffic offense etc.

Political corruption and its links to organized crime is the most damaging form of corruption and when is systematic and repetitive is often related to state capture – the effective subversion of state institutions for private gain.

The most common forms of corruption used by OC to influence politicians in Macedonia are: bribe and trade in influence. Experts cite several key reasons behind local administrative and political corruption linked to organized crime: protection from prosecution, influence on bureaucracy, winning public procurement contracts, personal fast profit, etc. The weak regulatory framework on political parties financing, the weak regulations of conflict of interest, the weak regulations of public procurement, etc. have been indicated as key reasons behind the overall corruption in the country.

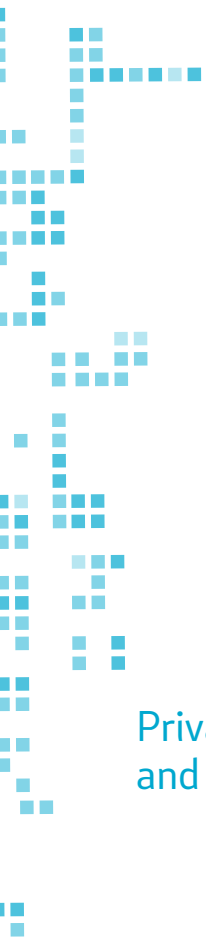
In Macedonia, as developing (post-transitional) country there is a risk of high political corruption and “state capture” in the hands of criminal networks due to lack of controlling mechanisms over profits made through criminal activities, allowing them to achieve influence in politics and the private (business) sector.

In the past five years significant changes have been made in legislation aim to increase the independence of the judiciary, which is often the target of infiltration of organized crime groups. However, key challenges in terms of the role of the judiciary in the anti-corruption policies and measures is the lack of transparency, i.e. the mechanism for feedback that will allow the public and the civil society organizations (CSOs) to assess the integrity of the judiciary and its real efficiency and effectiveness in the implementation of anti-corruption policies and the general repressing.

According the legal and institutional organization, the public prosecution is the ultimate guardian of public interest and protector against organized crime and with its integrity it should be able to punish corruption and organized crimes into proper verdicts. Hence, the public prosecution is the ultimate target for OC corruption. If OC manages to puncture the prosecution, it effectively avoids the whole law enforcement mechanism.

In the region, Macedonia is one of the countries with the highest growth rate in identifying judges as corrupt. It coincides with the international assessment “that political interference, inefficiency, favoring rich individuals and corruption characterize the judicial system”. The last case of wiretapping in 2015, points possible high profile political interference in the judiciary, which seriously undermines the independence of the judiciary. Key factors for corruption in the judiciary are: weak internal control system, low wages, close ties (conflict of interest) between judges and prosecutors, and others.

The recruitment process, particularly of the public administration is a key “gatekeeper” of the procedure to prevent organized crime from getting into the area of policy formulation and implementation, as well as overtaking the critical sections for private goals.



## Private sector and corruption

The services that combat corruption and crime are naturally primary goal of corrupt activities of organized crime. Departments or police officers who are more vulnerable to the risk of organized crime in comparison with others: traffic and border police, police for combat crime etc.

Special measurements for increasing the integrity of police servants are: test integrity, ethics education, systematic measurements etc.

The customs is usually the most exposed institution on corruption by organized crime on international level. Most common types of organized crime activities which are facilitated by customs corruption in Macedonia are: drug smuggling, smuggling of excise tax goods: cigarettes, alcohol, oil, etc. The usual types of intermediaries, which link OC to corrupt customs services, are: former customs officers, import-export companies, insurance agencies, etc.

The corruption perception in the private sector influence the functioning of companies and in particular their long-term competitiveness strategies. Almost half (49.5%) of the Macedonian companies believe that corruption in the country can be significantly reduced, and 35.3% believe that although corruption will always be present in the country, it still can be reduced. Typically businesses are more upbeat about the prospects of reducing corruption than citizens, which also holds true for Macedonia.

At the same time businesses are convinced that a considerable number of public officials are involved in corruption - 47% of the Macedonian companies believe that some of the public officials are involved in corruption and 17% that the majority of the public officials are involved, which makes a total of 64% of business representatives, thinking that public officials are one the way or another involved in corruption.

Similar to the situation in other countries from the region, the public services, which face the highest corruption risks, are: inspection from relevant government authorities (labor, ecology, tax, customs, health, etc.) (3.50% of the companies reported having to pay a bribe); receiving bank credit (1.75%), obtaining permits, and licenses (2.50%); obtaining a construction permit (2%), winning a public procurement contract (1.25%), executing customs payments (1.25%), etc. Comparing the data shows that receiving credit and winning a public procurement contract involves similar levels of corruption risk, which implies that corruption practices might well be equally pervasive in the private sector as in the public.

The highest risk of corruption in the public sector is the public procurement. The Macedonian companies have report encountering the following corruption red-flags: tenders with very short bidding period, e.g. two weeks (17.75%), followed by tenders with only one bidder (11.75%), and tenders with technical specifications, which only one of the companies on the market can meet (9.75%).

There is a small presence of money laundering and fraud in the country, especially concerning the experience of Macedonian companies. Namely, 96,5 % or 92,5 % from the companies have stated that they haven't been offered activities related to money laundering or VAT frau.

Key industries, identified by companies as entry points for organized crime are construction industry, waste-management industry, tourism, insurance

agencies, tobacco industry, and sports federations, etc. Experts noted that construction and real estate in particular have been known for being used for money laundering.

## Recommendations

While there has been considerable progress in the past decade, the work of the civil society in the area of anti-corruption, and in particular in organized crime remains limited. Civic control over the work of the public authorities in the realm of corruption and organized crime is difficult due to the lack of readily available information and established mechanisms for cooperation between the state and civil society institutions. In this respect hereby is a list of recommendations for straightening the fight against corruption and to tackle the risks related to corruption and organized crime. This list is not exhaustive but rather outlines the main steps needed for further progress<sup>1</sup>:

**Deliver effective prosecution of high-level corruption.** Sentencing of corrupt officials from the top political echelon provides strong example for everyone and has proven very effective in strengthening anti-corruption measures in Croatia, Slovenia and Romania.

**New strategies should be implemented to manage the risks and complaints** in the fight against corruption and organized crime. Important sectors to demonstrate political will are energy, public procurement, corporate governance of state owned enterprises, large scale infrastructure projects and local governance.

**Adequate sequencing of anti-corruption reforms and focus on critical sectors with highest negative social and economic impacts.** The sequencing and sectors should be determined through systematic risk analysis on all levels (national and local), as well as on current corruption trends.


**Adopt and implement an independent corruption and anti-corruption monitoring mechanism.** The mechanism should be implemented through national and/or regional civil society network(s), and should be independent of direct national government funding. It should serve as a vehicle for opening up administrative data collection and public access to information. This mechanism should evaluate effectiveness of legislation measures and their implementation.

**System of mutual and horizontal inter-institutional control (system for national integrity)** should be established with firm engagement of the civil society and media in raising public awareness in order for parts of the national legislation to be harmonized with international anticorruption standards. As a consequence:

**Improve the control system of transparency and accountability on local and national level:** State, public and private institutions should develop and adopt effective monitoring and controlling system of checks and balances in order to repress the risks of corruption and organized crime. The improvement and practical implementation of the controlling systems will reduce administrative corruption risks, which are key for systematic economic development of the country;

1 Part of these measures have been originally proposed in the *Regional Anti-corruption Report: Anti-Corruption Revisited: Assessment of Southeast Europe*, Center for the Study of Democracy, 2014.





**Institutional monitoring mechanisms:** State and public institutions should increase their internal understanding and regularly monitor corruption pressures. Internal surveys could be designed and periodically conducted to better understand the threat of corruption. This could be done across institutions (customs, police, public administration or judiciary). It would also identify vulnerable departments, positions or regions where there are heightened risks from corruption and organized crime. There are ways that surveys can be designed not to be self-incriminating, yet still reveal the scale and nature of corruption threats etc.

**Increasing internal institutional detection capacities:** at present, Macedonia has established mechanisms to respond to corruption and organized crime cases. Nevertheless, this is reactive, rather than proactive, approach to detecting corruption. It is an approach that relies on discovery by chance, rather than on scrutinizing or using pro-active approaches, such as provocation. The use of internal corruption investigative departments leads to increased corruption detection rates. Establishing internal investigation departments across public institutions, with investigators knowing about particular corruption schemes and culture of the institutions, is bound to have a strong preventive effect on corruption.

**Develop mechanisms for increased cooperation between anti-corruption and organized crime units,** especially policy making anti-corruption bodies, on one side, and organized and white collar crime investigators, on the other. Periodic meetings and exchanges of reports and data could increase cooperation. For instance, Europol's national OCTA could be shared amongst all anti-corruption bodies or oversight departments in relevant public institutions. Example of this is the OSCE-supported project launched on October 3<sup>rd</sup> 2014 financially supported under the Swiss Regional Police Co-operation Programme in the Western Balkans (SPCP), which has as main objective police cooperation and intelligence-sharing between criminal investigation departments of the Serbian, Montenegrin and Macedonian police services.

**Introducing threat assessments in state, public and private institutions:** Threat assessments could be used as an effective tool for targeting and prioritizing technical assistance to counter organized crime. To date, development actors have been reluctant to pursue such forms of assistance, in part because the impact of organized crime and related forms of illicit trafficking is not well understood. To achieve this, assessments must be in a position to show the impact of organized crime on development and community security.

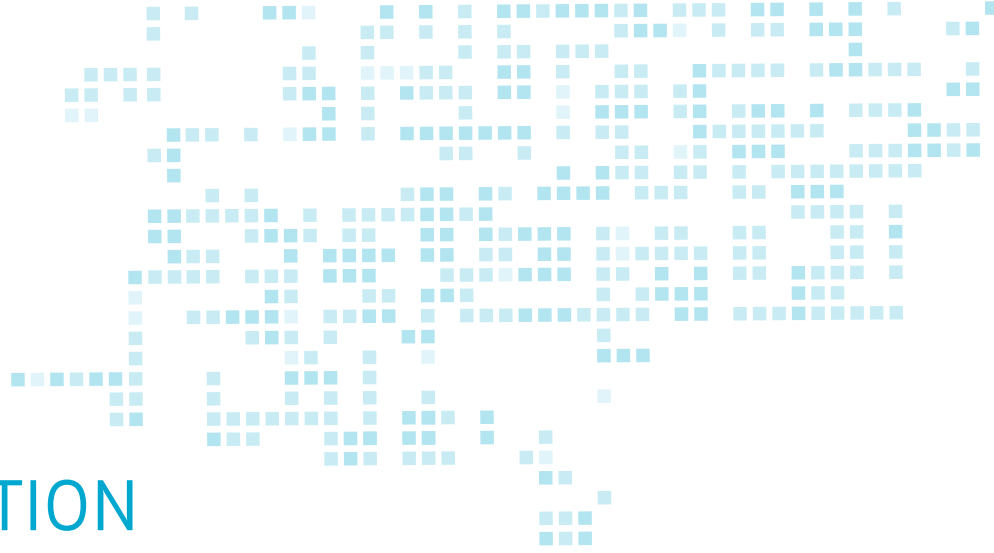
**Increase training and raise awareness amongst public servants and the private sector:** Law-enforcement and the judiciary should conduct mandatory corruption-awareness training programmes that are based on real cases and institutional experience. The professional knowledge and capacities of the police officers should be regularly updated by proper training programs.

**Increase the controlling mechanism of the banking sector:** banks weak control over money flows and the formalistic attitude towards anti-money laundering measures are often reason for failing to uncover fraud. Moreover, banks are most vulnerable to money laundering and criminal operations when illegal business operations (money transfer) of the organized crime groups are in use in corruptive activities in the private sector as well.



**Strengthen the integrity within the private sector:** the private sector in Macedonia should develop mechanisms for increasing the internal control within companies. It should also strengthen public-private partnerships. The collaborative approach between law enforcement and the private sector can be effective tool for countering corruption and organized crime, especially concerning the legislation on public procurement, concessions, sponsorships and donations. Training in combating economic crimes for law enforcement officials is also useful tool for targeting and prioritizing assistance to counter corruption and organized crime. The legal enforcement of codes of conduct for employees is also highly important for effective repressing of corruptive and organized crimes within the private sector. The business community in Macedonia should also develop effective strategies for supporting the governmental and non-governmental efforts in the fight against corruption and organized crime in the country.





# I. INTRODUCTION

In 2014, the Macedonian Center for International Cooperation (MCIC), in partnership with the Center for the Study of Democracy, Bulgaria published the analysis of the data from the Population and Business Corruption Surveys conducted during 2014 using the methodology of CSD's Corruption Monitoring System. The current analysis revisits the dynamics of corruption and organized crime in Macedonia for a period (2008 - 2014) and examines the link between the two phenomena. This report offers analysis of the major trends in corruption and organized crime by utilizing sources that complement official information: national and international reports, series of national corruption and organized crime surveys, statistical data provided by the Ministry of Interior, the Department for Fight against Corruption and Organized Crime within the Basic Court Skopje 1, the Public Prosecution Office, etc.

The structure of the current study provides several levels of analysis. The first part explains the methodology and terminology applied in the study. In this part, the legal framework for tackling corruption and organized crime is presented as well as the overall macroeconomic background related to these negative trends. The second part presents the key threats of corruption and organized crime and the links between corruption and organized crime, drawing comparisons from statistical data, such as police and court statistics, international reports, etc. The third part provides overview of the threats of corruption and organized crime in the private (business) sector, including: public procurement, money laundering, VAT fraud etc. The secondary data is supported by the qualitative data gathered from the 40 conducted semi-structured interviews, and the quantitative data from the population and business surveys. Factors impacting the dynamics of corruption and organized crime are also discussed in this part.

## 1.1 RESEARCH METHODS

The current study combines quantitative and qualitative methods. The quantitative sources include a survey on corruption and organized crime issues in the business sector, based on a nationally representative sample of 400 companies, and based on a population corruption (perception and victimization) survey in the country. Summarised results of the surveys have been analysed by SPSS statistical programme. The surveys have been complemented by desk research on the economic environment and the legislative framework of the country.

The desk research has been implemented during the period April-September 2014, integrating the quantitative data from the survey in the business sector. It has registered secondary data from national and international reports, surveys, and relevant statistics from public institutions. The business survey was implemented in the period from 19 May till 7 July 2014 by the Institute of Democracy "Societas Civilis"- Skopje. The population corruption survey was implemented within the project "Fight against corruption" financed by USAID and EU. This survey was implemented in the period from 27 January till 3 February 2014 by the TIM Institute on representative sample of 1210 examiners.

Not all types of organized crime, registered by the police, are covered in this report. Crime of white collar, drug related crime, prostitution etc. are not covered in this report.

The qualitative data of this report has been complemented by the collection of data through standardized personal semi-structured interviews with key experts involved in investigation of organized crime and corruption. Typically interviews have been carried out at the respondent's institution. To secure reliable information about the levels and characteristics of organized crime, complete anonymity has been guaranteed to respondents. The introduction and conclusion of the questionnaire was identical for all interviewees. Specific modules for the different types of interviewees (customs, police, judicial, political, and private sector corruption) were developed. Experts with broader or more general knowledge, such as academics and journalists, were interviewed on several sections of the questionnaire, while other interviewees felt comfortable answering to only one section (e.g. police or customs). An attempt was made to obtain at least general views of the interviewees on all main aspects of corruption. All questions were opened, as the bullet points provided only prodding questions to the interviewees. Interviews lasted between 1 and 2 hours, some even longer. 90% of the interviewees had direct experience in investigating or studying organized crime answered positively, and only 10% answered that they had partly experience in this area.

Due to the sensitivity of the information and the characteristics of crime, full autonomy of the interviewees has been guaranteed.

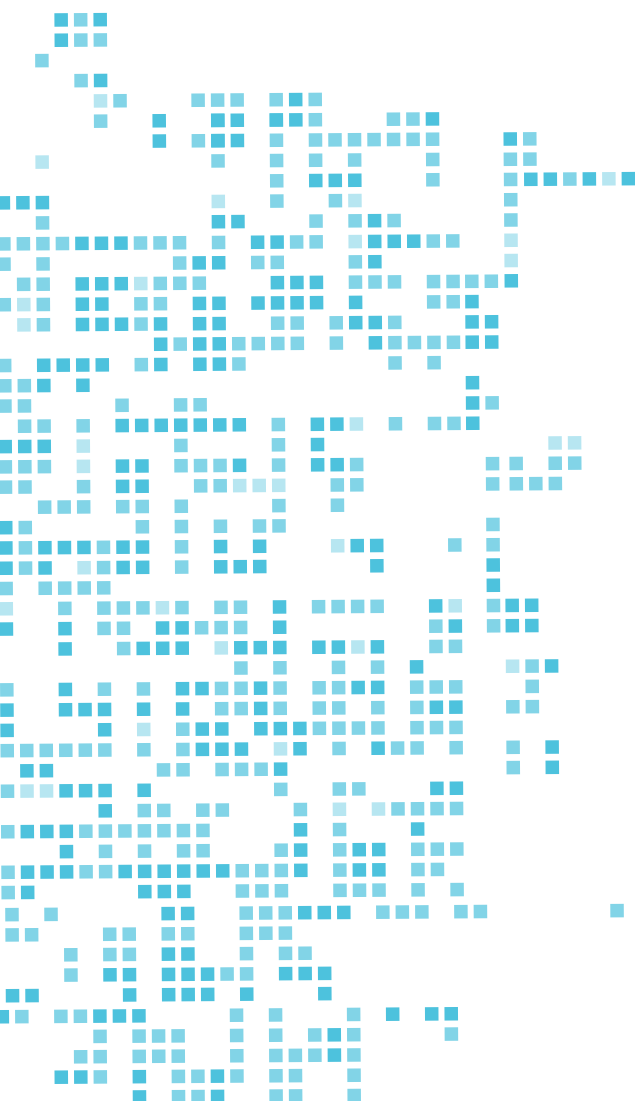
## 1.2 STATISTICS AND ACCESS TO PUBLIC INFORMATION

Whenever possible, a comparison has been drawn between the data obtained from the victimisation surveys and police and court statistics. Police statistics suffer from some significant limitations: it does not capture the volume and

the trend of unreported crime and undiscovered crimes. Victimization surveys are a tool for an independent evaluation both of the crime level itself, and of the performance of police. Although there is a statistical error in any survey of this kind, the obtained data and observed trends are highly representative and reflect the overall state of crime.

Several sources have been used as reliable group of information: police statistics, the statistics from the Basic Court Skopje 1, the survey in the business sector etc. Police and court statistics are different and are based on different methodology of creating the data base. Where there are considerable discrepancies between the sources for one and the same type of crime, further analysis and discussion of the reasons for the discrepancy are needed.

Statistics on corruption related crimes are gathered separately by each of the institutions involved in the anti-corruption system. As a result of that, statistical data is also presented in different forms. Preparation of a Database centre which will link different branches in the judiciary and enable exchange of data and report is being planned as part of the reform of the judiciary and implementation of E-judiciary.<sup>2</sup>



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2 Ministry of Internal Affairs of Republic of Macedonia, E-judiciary, Available at: <http://www.mio.gov.mk/?q=node/2045>



## II. LEGAL AND INSTITUTIONAL FRAMEWORK

*The Republic of Macedonia' became the 38th member state of the Council of Europe on 9 November 1995. The Stabilisation and Association Agreement (SAA) with the EU is signed on 9 April 2001 and entered into force on 1 April 2004. Macedonia become a member of the United Nations on 8 April 1993, member of the OSCE on 12 October 1995, and has gained a status of EU candidate member state in 2005. During this period, successive governments have committed themselves to fighting corruption and organized crime and as result the country has signed and ratified most of the relevant international and European conventions against organized crime and corruption.*

### 2.1. FIGHT AGAINST CORRUPTION

The country is member of the Group of States against Corruption (GRECO) since 2000. Key important instruments in the upgrading of the legislative framework for the fight against corruption are represented by the ratification of two Council of Europe conventions – the Criminal Law Convention against Corruption (1999), the Civil Law Convention against Corruption (2002) and the Additional Protocol of Criminal Law Convention on Corruption (2005).<sup>3</sup> In 2007 republic of Macedonia has ratified the UN Convention Against Corruption (UNCAC).

The first special anti-corruption law was adopted in 2002 by the adoption of the Law on Prevention of Corruption, which contains numerous of provisions for strengthening the prevention and the fight against corruption in the public administration and elected/appointed officials. The Law has been reviewed several times between 2004 and 2008, and the State Commission for Prevention of Corruption (SCPC), an independent body, responsible for the implementation of the Law has been established in November 2002. Today the

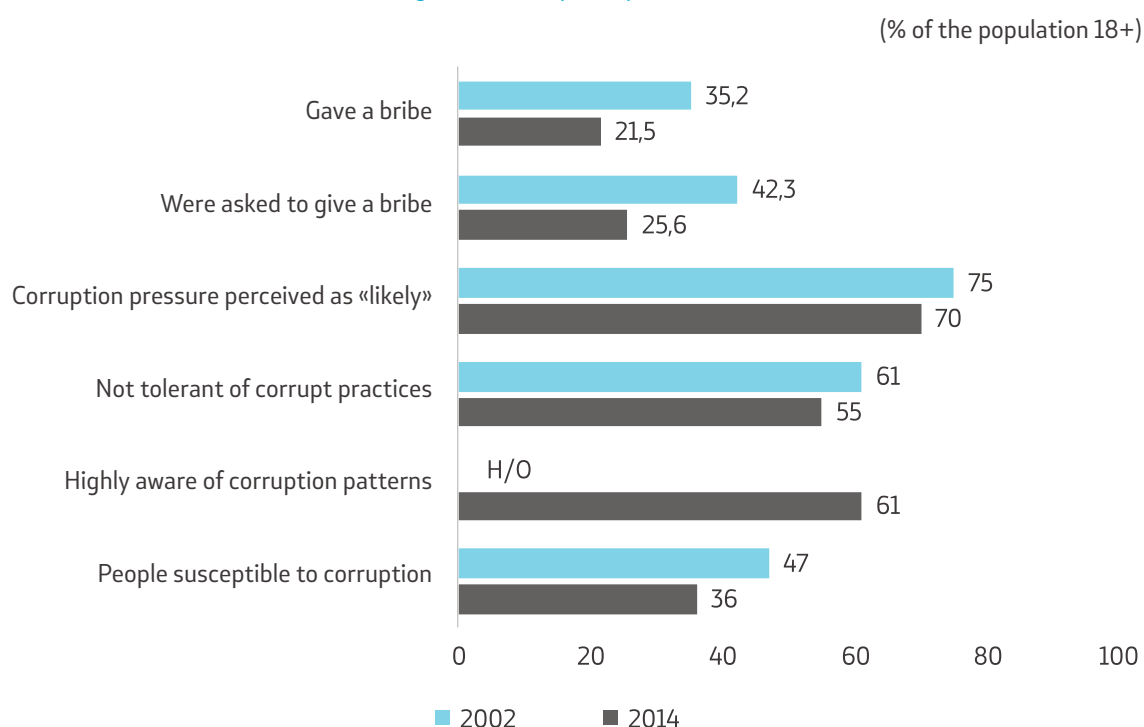
<sup>3</sup> Nuredionska, E. et all. 2014. National Corruption Assessment Report. Macedonian Centre for International Cooperation

SCPC is responsible for the measures on corruption prevention and conflicts of interest.<sup>4</sup>

Major legal amendments for the efficient fight against corruption have been introduced with the amendments to the Criminal Code from 2004<sup>5</sup> and 2009.<sup>6</sup> Amendments to the Criminal Code adopted in September 2009<sup>7</sup> inter alia, bring corruption-related provisions closer in line to the international standards enter into force on 22 March 2010.<sup>8</sup>

With the fast changes in the legislative the key challenge is to keep up with the shifting manifestations and forms of corruption to address the corruption profile (Figure 1) while maintaining regulatory stability and avoiding overwhelming the judiciary with rapid changes.

Figure 1. Corruption profile of Macedonia



Source: Corruption Monitoring System, 2014.

The SCPC is legally authorized and obliged to prepare and adopt the State Programme for the Prevention and Repression of Corruption. The first State Programme was adopted in 2003 passing through consultative process and it contained measures and activities to be undertaken for the purpose of establishing an effective system for prevention and repression of corruption.

In accordance with the amendments to the Criminal procedure law, the role of the public prosecutor has been strengthened in the so called pre-trial proceedings.

4 Papandrea, D. 2010. Organized Crime and the Fight Against Crime in the Western Balkans: a Comparison with the Italian Models and Practices. General overview and perspectives for the future. SAPUCCA: Sharing Alternative Practices for the Utilization of Confiscated Criminal Assets

5 Criminal Code amendment 2014. Official Gazette: 132/2014. 05.09.2014

6 Law amending on Criminal Code. Official Gazette 114 од 14.09.2009

7 Official Gazette no. 114, 14 September 2009

8 Papandrea, D. 2010. Organized Crime and the Fight Against Crime in the Western Balkans: a Comparison with the Italian Models and Practices. General overview and perspectives for the future. SAPUCCA: Sharing Alternative Practices for the Utilization of Confiscated Criminal Assets

The EU Progress Report from 2014 indicates that over 30 high-level corruption cases have been initiated since 2004, all of which are now subject to continuous monitoring from investigation until final sentencing.<sup>9</sup>

However, the 2014 Southeast Europe Leadership for Development and Integrity (SELDI)<sup>10</sup> Report which reflects the findings of the Corruption Monitoring System (CMS) in the SELDI countries, including the Republic of Macedonia, has detected several key risks concerning the legal enforcements such as: “despite the positive efforts of establishing the regulatory and institutional base for countering corruption, including the establishment of specialised anti-corruption agencies, which are being introduced in the majority of the countries in the region, significant problems persist, especially with regard to the practical implementation of the existing legal framework and institutional enforcement.”<sup>11</sup>

The practical implementation of the existing legal framework is also a challenge. Moreover, all countries from the region, including Macedonia are lacking comprehensive national strategies with little, if any, national specifics in order to reflect national circumstances in the generation and manifestation of corruption.<sup>12</sup>

In Macedonia two strategic documents of 2011, the State Programme for Prevention and Repression of Corruption and the State Programme for Prevention and Reduction of Conflict of Interests are combined to form a single vision. Anticorruption is also part of the measures envisaged in the two-page Program for Fight against Corruption of the Ministry of Justice (mostly outlining the Ministry’s tasks with respect to anticorruption legislation and ratifications), the government’s Annual Working Program and the Strategy for Reform of Public Administration 2010 – 2015.<sup>13</sup>

## 2.2. FIGHT AGAINST ORGANIZED CRIME

*The legal and institutional framework is in place, including the Law on Criminal Procedure which aims to improve the capacity to tackle complex organized crime and corruption cases by strengthening the role of the public prosecutor, establishing a judicial police, streamlining the investigation phase and introducing new investigative techniques. There is active regional and international cooperation, including through Eurojust and Europol.*

9 2014 Progress Report on the former Yugoslav Republic of Macedonia. Retrieved from: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report_en.pdf)

10 Southeast Europe Leadership for Development and Integrity (SELDI) is an anti-corruption and good governance initiative created by CSOs from Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey. SELDI contributes to a dynamic civil society in the region, capable of participating in public debate and influencing policy and decision-making process in the area of anti-corruption and good governance. The initiative established a coalition for the development and endorsement of a regional CSO strategy and action agenda and carries out good governance monitoring. SELDI raises public awareness and advocates reformist policies through Regional Good Governance and Anti-Corruption Policy Forums.

11 Southeast Europe Leadership for Development and Integrity (SELDI). 2014. Anti-Corruption Reloaded Assessment of Southeast Europe. Retrieved from: [http://seldi.net/fileadmin/public/PDF/Publications/RAR/SELDI\\_RAR.pdf](http://seldi.net/fileadmin/public/PDF/Publications/RAR/SELDI_RAR.pdf)

12 Ibid.

13 Ibid.

European Convention on Mutual Assistance in Criminal Matters was signed and ratified in 1999. The United Nations Convention against Transnational Organized Crime was signed by the country in December 2000, and has been ratified in January, 2005. The same year were ratified two (I & II) Additional Protocols: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

Till nowadays, Macedonia has also signed and ratified: the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the UN Convention against Corruption (UNCAC), the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the Criminal Law Convention on Corruption.

The principles that characterized the criminal proceedings are provided in the Criminal Procedure Code. The Criminal Code contains the offence of Criminal Association (Art.394), which included the creation of such a group and the membership of that group. Moreover the Code criminalizes the main forms of organized criminal activities: money laundering (Art. 273), drug trafficking (Art. 215) and human trafficking (Art.418). In 2014 the Criminal Code was amended to introduce the new criminal offence of illegal disbursement of state funds during elections.

Special investigative units have been established to carry out investigations into organized crime or into activities typically related to organized crime. They are: the Organized Crime Department in the Ministry of Interior, the Drug Department in the Ministry of Interior, the Financial Intelligence Unit, the Customs Office and the financial police in the Ministry of Finance.

Overall, the country, more precisely the Ministry of Justice, has implemented continuous reforms which will enable the effective application of the EU measures in the area of transnational organized crime.<sup>14</sup>

According to the summary of a broader analysis with a complete and detailed analytical examination of the EU acquis in this area, prepared by the Association for Development Initiatives "Zenith" and Lazhetikj Buzharovska in 2013, the ratification process with EU acquis is considered completed for all the relevant international instruments, conventions and their additional protocols in the area of international cooperation in criminal matters adopted by the Council of Europe.<sup>15</sup> As stated, a solid national legal framework is established which aims to advance the cooperation in the area of criminal matters, considering the provisions of the International Cooperation in Criminal Matters Law and the new Law on Criminal Proceedings which was enforced in 2013.<sup>16</sup>

<sup>14</sup> Association Zenith & KAS. 2013. Judicial cooperation in criminal matters and alignment with the EU Acquis –State of Play and Future Steps Assessment of Macedonia's legal alignment with the European Union Acquis; This report is a summary of a broader analysis with a complete and detailed analytical examination of the EU acquis in this area, which was prepared by the Association for Development Initiatives "Zenith" and Prof. Dr. Gordana Lazhetikj Buzharovska, on request of the Ministry of Justice of the Republic of Macedonia. Retrieved from: [http://www.kas.de/wf/doc/kas\\_36947-1522-1-30.pdf?140226134028](http://www.kas.de/wf/doc/kas_36947-1522-1-30.pdf?140226134028)

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.



As reported, there is also intensive international cooperation in the police and judicial area, and activities are conducted in cooperation with Europol and Eurojust. The country gained access to Europol's SIENA platform in 2013, which considerably strengthened information exchange with EU law enforcement bodies.<sup>17</sup>

As reported, during the previous years, a number of successful police operations against organized groups were carried out, notably cutting off international routes for drug trafficking and smuggling of migrants.<sup>18</sup> As suggested in the EU Progress Report, a track record has been developed of all organized crime and corruption cases initiated by the Ministry of Interior (Department for Suppression of Organized and Serious Crime) since 2008, but more efforts are needed to monitor all cases from investigation until final sentencing, including through improved feedback and information exchange between law enforcement, the prosecution service and the courts.<sup>19</sup>

The key risk emphasized within the 2014 Progress Report is that the capacity to fight organized crime remains hampered by the fact that neither the National Coordination Centre for the Fight against Organized Crime nor the National Intelligence Database has yet become operational, nor delays persist in setting up the Investigative Centres foreseen under the new Law on Criminal Procedure.<sup>20</sup>

Furthermore, the 2014 SELDI Regional Report also shows that the existing legislation in Macedonia sets some provisions for whistle-blower protection, since as of mid- June 2014, there were still no direct provisions guaranteeing direct and comprehensive protection for the whistle-blowers.<sup>21</sup> However, this shortcoming is expected to be overcome as the procedure for drafting the legal amendments is started in the Ministry of Justice. The amendments will provide a legal definition of the term whistle-blower (article 54b) and the mechanisms for his protection (article 64d)

## 2.3. STATE INSTITUTIONS FOR FIGHT AGAINST CORRUPTION AND ORGANIZED CRIME

The **Ministry of Interior** (Moi) is the key public institution responsible for "preventing and processing crimes and misdemeanours, detection and apprehension of the offenders and taking other legally defined measures to prosecute the offenders of those acts".<sup>22</sup> Within the ministry, there are other integrated bodies such as: Bureau for public safety, which executes the police

17 2014 Progress Report on the former Yugoslav Republic of Macedonia. Retrieved from: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report_en.pdf)

18 Ibid.

19 Ibid.

20 Ibid.

21 Southeast Europe Leadership for Development and Integrity (SELDI). 2014. Anti-Corruption Reloaded Assessment of Southeast Europe. Retrieved from: [http://seldi.net/fileadmin/public/PDF/Publications/RAR/SELDI\\_RAR.pdf](http://seldi.net/fileadmin/public/PDF/Publications/RAR/SELDI_RAR.pdf)

22 Law on Internal Affairs, Republic of Macedonia, Art.2 Available at: <http://www.mvr.gov.mk/Uploads/ZVR-%20precisten%20tekst%20neoficijalen%2020.11.2012.doc.pdf>

work in the ministry and whose organization and jurisdiction is governed by the Law on Police, Directorate for Security and Intelligence, a body within the Ministry which performs affairs related to security and intelligence. Within the Ministry, there is an Internal Control and Professional Standards as a separate organizational unit which implements procedures for assessing the legality of the actions of the employee in the Ministry.<sup>23</sup>

**The Internal Control and Professional Standards** acts on behalf of the Mol and in 2012 and 2014 consistently, adopted an anti-corruption program that aims to reduce the corruption and achieve an anti-corruption culture among employees at the Ministry, on the same level as the other European polices, and to strengthen the integrity of the employees in the Ministry of Interior in accordance with European standards by raising the awareness of the employees through appropriate training, by removing of the conditions for the existence of corruption in the police and unprofessional conduct and establishing the desired ethical standards.<sup>24</sup>

Anti-corruption program provided other purposes as well of corruption, removing of the conditions and factors that lead to corruption and corrupt behaviour, increasing the efficiency of the police authorities responsible for law enforcement and the administration of the Ministry responsible for overseeing the working, the accountability, and the transparency procedures in the fight against corruption.<sup>25</sup>

In accordance with the Mol anti-corruption program an action plan for implementation of anti-corruption program for 2014 was developed, that contains tasks arising from this program, aiming to implement specific organizational units in the Ministry with a clear timetable of implementation. During 2015 the Sector of Internal Control and Professional Standards is aiming to implement the program for anti-corruption controls in the organizational units of the Ministry, and to continue with the increased intensity, based on their previous experiences of preventive role and strong influence on the professionalism in handling the remaining employees.<sup>26</sup> During 2015, the Sector will also increase the controls on professionalism, respect for human rights and freedoms and respect of the Standard operational procedures.<sup>27</sup>

In 2009, the Mol established a security communication link with Europol, which enabled fast, reliable, and efficient exchange of information. As a result of the strategic cooperation with Europol, experts and representatives of different organizational units in Moi took part in the meetings of the working groups of Europol for trafficking, forgery and also in other seminars, meetings or conferences. One of the most significant outcomes provided by Europol, is the EU Organized Crime Threat Assessment.<sup>28</sup> EU OCTA 2009 assesses the threat of organized crime in the EU where the Balkans (Albania, Kosovo/Serbia,

23 Article 58, Law on Internal Affairs, Republic of Macedonia. ("Official Gazette, no.42/2014) & Law Amending the Law on Internal Affairs("Official Gazette, no.116/2014)

24 Anti-Corruption Program. Sector on Internal Control and professional standards. No. 13-2014, Republic of Macedonia, Ministry of Interior.

25 Ibid.

26 Ministry of Interior Anti-Corruption Program. Sector on Internal Control and professional standards. No. 13-2014, Republic of Macedonia;

27 Ministry of Interior Anti-Corruption Program for 2015. Sector on Internal Control and professional standards. No. 13-2014, Republic of Macedonia;

28 Retrieved from: <http://www.mvr.gov.mk/ShowAnnouncements.aspx?ItemID=7932&mid=1391&tabId=276&tabIndex=0>

Montenegro and Macedonia) are presented as countries of origin and/or transit point for cannabis products, illegal immigrants/victims of trafficking, heroin, cocaine, cigarettes, synthetic drugs and precursors, counterfeit Euros and arms into the EU.<sup>29</sup>

Mol in Republic of Macedonia also partnered with INTERPOL, which is confirmed by the fact that during 2013, the Sector for International Police Cooperation acted on 2456 (2417) new cases, of which 2062 (1969) were exchanged through Interpol channels, 86 (68) items through SELEC and 308 (380) through foreign liaison officers appointed for cooperation with the Mol of the Republic of Macedonia, which includes 154 (229) cases, which are handled through the channels of the Europol.<sup>30</sup>

**The Department for organized crime** in the Mol is responsible for the prevention and prosecution of organized crime offenders and directly cooperate with the Department for prosecution of perpetrators of crimes related to organized crime and corruption within the Public Prosecution.<sup>31</sup>

**The department for border affairs and migration**, is a special organizational form in the composition of the Bureau of Public Safety – Mol, who among other things is responsible for managing the security of the borders, fight against cross-border crime, transnational cooperation and inter-agency cooperation with other entities in the integrated border-management system<sup>32</sup>

**The Public Prosecutor's Office for Organized Crime and Corruption**, draws its jurisdiction from the Law on Public Prosecution, where are exhaustively enumerated the offenses for which the prosecution acts. In 2008, the Council of Public Prosecutors was voted, with selection from the candidates for public prosecutors.<sup>33</sup> The same year, the Council of Public Prosecutors of the Republic of Macedonia approved the Rules related to the supervision on the work and activities of the Public Prosecution under which the supervision of the work of the Public Prosecutor's Office for organized crime and corruption is done by the Public Prosecutor's Office Macedonia.<sup>34</sup>

**Department of Organized Crime and Corruption within Basic Court Skopje 1**, Skopje is specialized department for cases of organized crime and corruption.

The **State Commission for Prevention of Corruption (SCPC)** adopts State Program for Prevention and Repression of Corruption and Action Plan for its implementation; adopts annual programs and plans its work and prepares opinions on draft-laws relevant for prevention of corruption;<sup>35</sup> Moreover, The SCPC registers and monitors the assets declarations of elected and appointed functionaries and responsible persons in public enterprises and other legal

29 Retrieved from: <https://www.europol.europa.eu/content/publication/octa-2009-eu-organized-crime-threat-assessment-1463>

30 Annual report for taken activities of the Sector for international police cooperation during 2013. No. 24/7 14.01.2014 Ministry of Interior, Macedonia


31 Article 3 of the Interior of the Republic of Macedonia, the Law on Internal Affairs ("Official Gazette" br.42 / 2014) and the Law on Amendments to the Law on Internal Affairs ("Official Gazette" No. .116 / 2014)

32 Ibid.

33 Ibid.

34 Rulebook on the manner of supervision over the work and activities of the Public Prosecution. Article 21 paragraph 4 of the Law on Public Prosecution (Official Gazette br.150 / 2007)

35 Nuredionska, E. et al. 2014. National Corruption Assessment Report. Macedonian Centre for International Cooperation



entities disposing of state capital, in the manner defined by the Law. All asset declarations are published on the SCPC website. According to the law the SCPC cooperates with other state bodies regarding the repression of corruption and cooperates with corresponding national bodies of other states and with international organizations in the field of repression of corruption.<sup>36</sup>

According to the new changes of the Criminal Procedure Code **Judicial Police** will be established with task to assist the State Prosecutor in investigating organized crime and corruption.<sup>37</sup> The most significant role of this police is evident in preliminary investigations. Police officials are policemen/women from the Mol, officers of the Financial Police, Military Police and the Customs Administration of the Republic of Macedonia.<sup>38</sup> The public prosecutor has the right to request from the Mol and/or other institutions to delegate one or more officers who would be at his/ her disposal for a certain period of time in the preliminary investigation procedure, as well as during the criminal proceeding itself which is implemented upon the prosecutor's warrant.<sup>39</sup>

**Financial Police** is formed on June 26, 2003 as a body within the Ministry of Finance. For the first time, the Law on Financial Police (Official Gazette 55/02) within the scope of its work operates as body of state administration responsible for criminal prosecution, provides specialization and specific competence, that is detecting offenders who are involved in illegal activities in the field of financial crime, money laundering and other proceeds of crime, trafficking, tax evasion, smuggling or other crimes involving non-payment of larger and significant amounts of tax, customs and more duties.<sup>40</sup>

In 2007, according to the new Law on Financial Police (Official Gazette 55/07) the same financial police became Financial Police Office body within the Ministry of Finance as a legal entity.<sup>41</sup>

The financial police powers in the both pre-investigation procedures and investigation in cases when the disclosure of crimes and their perpetrators and gathering evidence for the criminal prosecution of perpetrators of crimes: tax evasion (Article 279 of the Criminal Code); money laundering and other proceeds (Article 273 of the Criminal Code); smuggling (Article 278 of the Criminal Code); trafficking (Article 277 of the Criminal Code) and other crimes involving larger and significant amounts of tax, customs and other revenue.<sup>42</sup>

According to the Law on Criminal Procedure (Official Gazette 150/10 and Official Gazette 100/12), the Financial Police and the Ministry of Interior and the Customs Administration of the Republic of Macedonia are part of the composition of the Judicial Police managed by competent public prosecutor.<sup>43</sup>

**Public Revenue Office (PRO)** The PRO is a body within the Ministry of Finance, and it is a separate legal entity. It is in charge of the implementation of tax law, registration of taxpayers, administration of the single taxpayers' registry,

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36 Ibid.

37 The Institutional Framework for Investigations of Corruption and Organized crime: Comparative Models Key Findings and Recommendations. 2013. Institut Alternativa

38 Ibid.

39 Ibid.

40 Retrieved from: [http://www.fnpol.gov.mk/za\\_upravata.html](http://www.fnpol.gov.mk/za_upravata.html)

41 Financial Police Office. Ministry of Finance of the Republic Macedonia. available at: [http://www.fnpol.gov.mk/za\\_upravata.html](http://www.fnpol.gov.mk/za_upravata.html)

42 Ibid.

43 Ibid.

collection and processing of tax returns, inspection, and monitoring and analyses of tax records. Within the PRO, there is a Tax Inspectorate for the prevention of corruption within the tax system. In 2013, the PRO had a budget of 19,726,200 EUR (1,223,763,000 MKD) and 1,307 employees. In 2010, the PRO implemented a twinning project financed by the EU in partnership with relevant institutions from Austria and Slovakia. The project aim was to strengthen the capacities and communication channels of the PRO in the detection and fight against tax evasion; and at the same time, through the experience of the EU countries, it was indicated how to access effective usage of competences, especially in the functioning of the Tax Inspectorate for the prevention of corruption, but also in encouraging and supporting it in the implementation of special investigations following the example of these European countries. Concerning the ways of fighting corruption in its ranks, in 2012, the PRO adopted Guidelines for Anti-Corruptive Conduct of Employees of the PRO towards the development of methods and procedures for the prevention of corruption and research of corruption among its employees.<sup>44</sup>

In 2013 within the General Tax Inspectorate - Inspectorate for special controls, within the PRO started operating IT forensics lab as an important tool for effective prevention, detection and sanctioning of tax evasion and fraud.<sup>45</sup> IT forensics laboratory within the Inspectorate for special controls works in order to prevent highly sophisticated forms of tax evasion by the application of information, technical methodology and equipment.<sup>46</sup> The Establishment of IT forensic laboratory aims to contribute to reducing the number of crimes in the area of financial crime, and to increase the success in locating and determining the perpetrators, as well as to contribute to efficient and effective sanction in coordination with other authorities to fight crime - Ministry of Interior, Public Prosecutor, the Financial Intelligence, the Financial Police and Customs Administration.<sup>47</sup>

The **State Administrative Inspectorate** as a body within the Ministry, perform duties related to the inspection of the implementation of the Law on Administrative Procedure and other laws and regulations containing provisions for administrative proceedings and enforcement of regulations for office work. The Inspection is performed in the state administration and other bodies, organizations and institutions with public authorities. Reforming the inspectorates is among the most crucial factors not only in countering corruption, but also in encouraging the formalization process of labor and businesses and thus decreasing hidden economic activities<sup>48</sup>.

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44 Nuredinoska et. All. Corruption Assessment Report. Macedonian Center for International Cooperation. 2014

45 See more at: <http://bi.mk/promocija-na-informatichko-forenzichk/#sthash.T9njFdJU.dpuf>

46 Annual report of the Revenue for 2012. Available in: [http://www.ujp.gov.mk/mk/osnovni\\_dokumenti/category/113](http://www.ujp.gov.mk/mk/osnovni_dokumenti/category/113).

47 Available at: <http://m.mkd.mk/56792/makedonija/finansisko-razuznavanje-15-milioni-evra>

48 Center for Research and Policy Making, Center for the Study of Democracy, 2014, Policy Brief Nr. 30: The Economics of Blurs and Shadows – The Hidden Economy in Macedonia, p 2.

## 2.4. CONCLUSIONS AND RECOMMENDATIONS

- ▶ *The legal framework for the fight against corruption and organized crime is comprehensive and relatively strong, in line with international and European standards. The same is constantly updated based on the recommendations of GRECO and the annual report of the European Commission on the progress of Macedonia;*
- ▶ *The legal framework for the fight against corruption and organized crime has been largely adopted. Macedonia has a comprehensive and relatively strong legal framework to combat corruption and organized crime. National Programme for the Prevention and Suppression of Corruption (2011-2015), a key document in this area is done through a participatory process and largely reflects the corruption risks.*
- ▶ *The Criminal Procedure Code is aligned with best practices, but it is necessary to be properly implemented, especially in light of recent changes that significantly enhance the role of the public prosecution;*
- ▶ *The institutional framework is well established. However there is a need for increased capacity and resources of the institutions, and also there is a need to foster cooperation and multi-disciplinary within the institutions, especially in terms of information exchange.*
- ▶ *Further systematic efforts to establish a comprehensive statistical system and mechanisms for monitoring of criminal activities related to corruption and organized crime are needed;*
- ▶ *There is a need for improvement of its institutional capacities for detection through the establishment of internal investigative services and improvement of the legal and institutional protection of whistle-blowers.*



# III. MACROECONOMIC BACKGROUND AND DEVELOPMENT

## 3.1. GENERAL OVERVIEW

The serious and organized crime (SOC) is essentially a business and has a significant negative impact on the growth of the legal economy and society as a whole.<sup>49</sup> Companies, governments and citizens today are confronted with close proximity of illicit traders and criminals affecting their every-day operations, institutions, well-being and even national security.<sup>50</sup> According to the available data from the Global Agenda Council on Illicit Trade & Organized Crime 2012-2014, the impact on the global economy of illicit trade and criminal activity is between 8% and 15% of the global GDP.<sup>51</sup>

**Table 1. Impact on the global economy of illicit trade and criminal activity:**

- ▶ 8%-15% of global GDP
- ▶ US\$ 750 billion– US\$ 1 billion in narcotics trafficking
- ▶ US\$ 650 billion in counterfeit goods
- ▶ US\$ 20 billion-40 billion in environmental crime

*Source: Global Agenda Council on Illicit Trade & Organized Crime 2012-2014*

Illicit trade and organized crime significantly hinder economic growth, individual prosperity and corporate performance, since it stymies legitimate markets, sabotages global supply chains, depletes natural resources and endangers market security.<sup>52</sup> Furthermore, the investment of criminal proceeds and trade in illicit commodities reduces member states budgets through tax avoidance and strengthens criminal enterprises run by or associated with Organized Crime Groups (OCGs).<sup>53</sup> Last but not least the contraband channels are often used to smuggle weapons for mass destruction and terrorists.

49 SOCTA. 2013 EU Serious and Organized Crime Threat Assessment

50 Global Agenda Council on Illicit Trade & Organized Crime 2012-2014. Out of the Shadows: Why Illicit Trade and Organized Crime matter to us all. Davos-Klosters, Switzerland 22-25 January

51 Ibid.

52 Ibid.

53 SOCTA. 2013 EU Serious and Organized Crime Threat Assessment



The EU experience in detecting the links between the economic performance, corruption risks and organized crime shows that the economic development and institutional arrangement in the EU have the greatest explanatory power in understanding the differences of criminal risks in the EU Member States.<sup>54</sup> The high economic and social stratification impacts the size and structure of illegal markets for drugs, illegal cigarettes, or prostitution.

Macedonia is a country with an open economy and international trade and investments are steadily growing over the past decade. Its competitiveness is assessed at the level of 4.9 on a scale from 1 to 7, which is a medium rank (59<sup>th</sup> out of 148 countries), according to the World Economic Forum competitiveness report 2013-2014<sup>55</sup>. Yet, the high concentration of exports (iron, steel, textiles and food, beverages and tobacco account for more than 60% of exports) constitute a significant threat to the economy, being dependent on small circle of partners from limited number of countries. The labor productivity remains low and employment gained in latest years is in low productivity sectors, including public administration. Unemployment in Macedonia is among the highest in Southeast Europe and estimates of informal economy as well.

The International Monitoring Fund (IMF) report from 2014 has indicated that the Macedonian macroeconomic prospects are improving, even as the external environment remains weak.<sup>56</sup> Notwithstanding the implications of the global financial crisis, over the analysed period Macedonia maintained macroeconomic stability, supported by a prudent monetary policy<sup>57</sup>, substantially improved the business environment and enhanced the attraction of FDIs, while preserving fiscal prudence with low and sustainable debt levels.<sup>58</sup>

However, off-budget shift of capital expenditure impose risks for fiscal discipline and transparency as assessed by the European Commission<sup>59</sup>. Hence road infrastructure spending and large cultural heritage projects (both building and maintenance) should be closely monitored as the respective public institutions are subject to lower level of transparency and control compared to government bonds.

## 3.2. COUNTRY'S GDP

According to the estimates of the Macedonian Central Bank the GDP growth in 2014 was higher than in 2013, reaching real growth rates above 4% in second and third quarters of 2014. The persistent growth happens at abnormally high unemployment rates of 28% and low average salaries of 350 euro per month, thus increasing the inequality and re-iterating the public perceptions that normal citizens are losing at the expense of richer businessmen and those well connected to the policy makers. Trade deficit improves in 2014 compared

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54 Ibid.

55 The Global Competitiveness Report 2013–2014. World Economic Forum 2013

56 IMF Country Report No. 14/62. Former Yugoslav Republic of Macedonia: Second Post-Program Monitoring Discussions. January 2014

57 European Commission, The Former Yugoslav Republic of Macedonia 2013 Progress Report, October 2014, DG Enlargement, available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mk\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mk_rapport_2013.pdf)

58 Ibid.

59 2014 Pre-Accession Economic Programmes of the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Turkey: The Commission's overview and country assessments. Occasional papers 194, May 2014.



to 2013 similarly to last year due to weaker-than-anticipated imports, while exports have been increasing. The current account deficit marked the lowest level of 1.8% of GDP in 2013 since 2007.

According the IMF data report, the projection of the GDP growth by 2018 is 4.0 percent compared to 3.0 in 2014.

Table 2. Macedonia: Macroeconomic Framework, 2010–2018

Real GDP	2010	2011	2012	2013	2014	2015	2016	2017	2018
GDP	2.9	2.9	-0.4	2.5	3.0	3.6	3.9	4.0	4.0
Private	1.5	4.0	-1.7	3.3	3.4	3.4	3.4	3.4	3.4
Public	-2.1	0.6	-1.8	2.1	3.5	2.9	1.7	2.7	2.2
<b>Gross investments</b>	-2.0	13.5	16.1	-10.1	5.2	5.0	4.8	4.8	4.8

Source: IMF Country Report No. 14/62. Macedonia: Second Post-Program Monitoring Discussions. January 2014

The IMF projections for GDP are consistently high and increasing by 2018 and this could imply positive expectations towards improving governance mechanisms and anti-corruption reforms within the agreements between the government of Macedonia and IMF. While it is a conventional wisdom that the poorer the country is, the more corruption you could find in it, it is not necessarily realistic to link the growth with decreased corruption, particularly because GDP per capita is still among the lowest in Europe (only Albania and Kosovo are lagging behind).

However, the GDP growth is fueled enormously by private transfers, accounting from 13% to 21% of GDP in last 10 years<sup>60</sup>. Remittances actually outperform FDIs and still serve as surviving strategies for a lot of families (reduce poverty and smooth consumption), instead of being invested in entrepreneurship and growth based on value added economic activities. GDP growth pattern of Macedonia is very similar to Germany and Italy, which account for almost half of the remittances to the country – more and better-paid jobs for Macedonian immigrants in those countries lead to more transfers back to the country and hence higher consumption demand. Remittances constitute compensatory and not opportunistic transfers and thus exercise little disciplinary effect on the central and local government.

According the IMF country report, the growth of public sector debt continues to outpace that of central government debt.<sup>61</sup> While general government debt remains close to central government debt, public sector debt has been progressively diverging from central government debt and the public sector debt is projected to increase from 41½ to 49 percent of GDP in the period 2013–18.<sup>62</sup> This tendency represents a huge risk to the long-term good governance at public sector enterprises, as they still do not follow the OECD Guidelines on Corporate Governance of State-Owned Enterprises<sup>63</sup> and hence are subject to higher debt risks and corruption. The governance of SOEs will be critical to ensure their positive contribution to a country's overall economic efficiency and

60 <http://www.imf.org/external/pubs/ft/scr/2014/cr14232.pdf>

61 IMF Country Report No. 14/62. Former Yugoslav Republic of Macedonia: Second Post-Program Monitoring Discussions. January 2014

62 Ibid.

63 Available at: <http://www.oecd.org/corporate/ca/corporategovernanceof-state-ownedenterprises/34803211.pdf>

competitiveness. Although the government, according to Maastricht rules, does not count the debt of state owned enterprises as central government debt, in absence of good corporate governance practices and in areas of crucial public interest as transport infrastructure and energy, we should consider higher levels of debt as a threat. The experience in Bulgaria shows that similar practices are often linked with high-profile conflict of interests and corruption.

### 3.3 CAPITAL EXPENDITURES

Capital expenditures are an obvious must – in public health infrastructure, roads and railways, gasification, water supply and others. Large-scale public projects meet both a public need, but also directly create employment in construction sector. Yet, there is a need for strict quality control as long periods of construction, followed quickly by repair and maintenance works as in the case of downtown Skopje are proxies for inefficiency and potential corruption. The total capital expenditure from the 2014 Budget is estimated to EUR 364 million, which makes 12% of the total budget.<sup>64</sup>

The capital expenditures have risen faster than the total budget from 2009 to 2014. The total budget increased by 27%, while the capital expenditures increased by 67%.<sup>65</sup> The private-led growth in construction is also significantly lower than the government-led, which raises the issue of efficiency and sustainability of that growth.

### 3.4 BANKING SYSTEM

Countries with low regulatory standards in financial sector and banks in particular (in terms of enactment and implementation of anti-money laundering legislation, regulatory practices and banking supervision) and weak enforcement, have twice as higher organized crime index, compared to countries with higher governance standards.<sup>66</sup> Indicators of high-level corruption, money laundering and the depth and spread of the black market economy are all strongly correlated to the Organized Crime Perception Index.<sup>67</sup>

The banking sector in Macedonia has undergone a substantial amount of restructuring since the early 1990s.<sup>68</sup> State banking institutions have been privatized, the problem of non-performing loans and frozen foreign currency deposits has been addressed, and the legal and regulatory structure has been strengthened.<sup>69</sup> While lending to the private sector has picked up of late, the banking sector still remains somewhat underdeveloped with relatively low rates of financial intermediation.<sup>70</sup>

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64 Nuredinoska, E. et al. 2014. National Corruption Assessment Report. Macedonian Centre for International Cooperation

65 Ibid.

66 U4 Expert Answer. 2008. Organized Crime and Corruption. Anti-corruption resource centre. Transparency International.

67 Ibid.

68 A. Giustiniani, K. Ross. 2008. Bank Competition and Efficiency in the FYR Macedonia. South-Eastern Europe Journal of Economics 2 (2008). International Monitoring Fund

69 Ibid.

70 Ibid.

The banking system in Macedonia currently consists of 18 private banks, 9 savings houses and the State-owned Macedonian Bank for Development Promotion.<sup>71</sup> The economic weight of the banking sector is stable, with total assets of commercial banks amounting to about 87% of GDP.<sup>72</sup> However, the sector remains highly concentrated, with two thirds of total assets owned by the three largest banks, the biggest bank alone accounting for about a quarter of total assets.<sup>73</sup> The three largest banks - Komercijalna Banka, Stopanska Banka Skopje (National Bank of Greece is the main shareholder) and NLB Tutunska Banka (NLB Group is the main shareholder) dominate in the banking system, holding together more than 60% of the total market activities.<sup>74</sup> Besides these three large banks, the market is still highly fragmented but it has undergone a significant transformation over the past two years and a majority of the local banks having been acquired by foreign investors.<sup>75</sup> The relevance of non-banking financial intermediaries is generally low, at just over 10% of total sector assets, or 8% of GDP.<sup>76</sup>

IMF country report from 2014 reveals that banking sector indicators suggest that the system is in overall sound shape, yet the non-performing loans (NPLs) are increasing.<sup>77</sup> Liquidity and solvency of the banking sector proved resilient to the subdued global economic and market environment.<sup>78</sup>

The adoption of amendments to the banking law in 2014 closed some long standing gaps in the crisis management framework, ensuring that the National Bank of the Republic of Macedonia (NRBM) is able to impose fit-and-proper requirements on bank management and owners, and pave the way for the central bank to widen the class of collateral that banks may use to access liquidity support.<sup>79</sup> Overall, the banking sector in the country remains well-capitalized and highly liquid, with a stable domestic financing base, but vulnerable to low probability confidence shocks.<sup>80</sup>

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71 Retrieved from: <http://www.pwc.com/mk/en/industries/financial.jhtml>

72 European Commission, The Former Yugoslav Republic of Macedonia 2013 Progress Report, October 2013, DG Enlargement, available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mk\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mk_rapport_2013.pdf)

73 Ibid.

74 Retrieved from: <http://www.pwc.com/mk/en/industries/financial.jhtml>

75 Ibid.

76 European Commission, The Former Yugoslav Republic of Macedonia 2013 Progress Report, October 2013, DG Enlargement, available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mk\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mk_rapport_2013.pdf)

77 IMF Country Report No. 14/231. Former Yugoslav Republic of Macedonia: Second Post-Program Monitoring Discussions. July 2014

78 European Commission, The Former Yugoslav Republic of Macedonia 2013 Progress Report, October 2013, DG Enlargement, available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mk\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mk_rapport_2013.pdf)

79 Ibid.

80 Ibid.

## 3.5. CONCLUSIONS AND RECOMMENDATIONS

- ▶ *The competitiveness of the Macedonian economy is rated with a score of 4.9 on a scale of 1 to 7, and is ranked at 73 position out of 148 countries, representing an average rank according to a report by the World Competitiveness Forum 2013 - 2014.*
- ▶ *According to the IMF, the growth projection of GDP by 2018. 4.0% compared to 3.0% in 2014 which can result in positive expectations for improved mechanisms for management and anti-corruption reforms, particularly if given proportional poverty and the prevalence of corruption and crime.*
- ▶ *The capital expenditures in Macedonia increased faster than the total budget from 2009 to 2014. The total budget increased by 27%, while capital expenditures increased by 67%. Because of the risk of fiscal discipline, the cost of road infrastructure and major cultural and historical projects (for construction and maintenance) should be monitored closely.*
- ▶ *SOEs should quickly adopt the OECD guidelines on Corporate Governance of State-Owned Enterprises;*
- ▶ *While financial sector in Macedonia is not yet sufficiently developed, banks operate quite effectively, including the implementation of laws to prevent money laundering.*
- ▶ *There is a need to increase the controlling mechanism of the banking sector: the banks' weak control over money flows and the formalistic attitude towards anti-money laundering measures are often reason for failing to uncover fraud.*

## IV. CORRUPTION ASSESSMENT

### 4.1 LEVEL OF CORRUPTION

According to the 2015 Corruption Assessment Report for Macedonia, published by the MCIC, Corruption is ranked as the fifth top problem in the country (27.9%) after unemployment, poverty, low income, and high prices. For years, numerous polls showed that corruption was considered as one of the top three problems in Macedonian society.<sup>81</sup>

However, the fifth year of slow economic development after the global financial crisis and European economic slowdown has increased the significance of economic factors. While this is only natural, it is likely to decrease pressure on politicians for change, and in turn exacerbate economic problems, as corruption signals system inefficiencies in competition and social welfare, directly causing net social loss through higher prices, lack of funds for social services<sup>82</sup>, etc.

Table 3: Macedonia: Key Problems, 2014 (share of the population who have identified the respective factor as a problem)

Category	2014	Category	2014
1	Unemployment	7	Crime
2	Poverty	8	Ethnic Issues
3	Low income	9	Healthcare Protection
4	High prices	10	Environment Pollution
5	Corruption	11	Education
6	Political Instability		

Source: Corruption Monitoring System, 2014

81 Nuredinoska, et al. 2014. Corruption Assessment Report for Macedonia Macedonian Center for International Cooperation (MCIC), Skopje;

82 Another important aspect is the link between the social protection and informal economy, analysed in Center for Research and Policy Making, Center for the Study of Democracy. 2014, Reader of Articles: Best practices in monitoring hidden economy, pp 107-121 (English) or pp 138-156 (Macedonian), available at: [http://www.crpm.org.mk/wp-content/uploads/2014/06/zbirka\\_trudovi.pdf](http://www.crpm.org.mk/wp-content/uploads/2014/06/zbirka_trudovi.pdf)

These results suggest that the Macedonian citizens rank unemployment (28.4% as of Q2 2014) as one of the most important problem that the country is facing today (69,2% of adult population)<sup>83</sup>, followed by poverty (47,1 %), low income (37,4%), high prices (32,5%), then corruption on the fifth position (27,9% of the adult population), political instability (18,7 %), followed by criminal (12.3%) etc.

The index of the spread of corruption in 2014 was 5.9, a whole point lower compared to 2002 when it was 6.8. The 2015 National Corruption Assessment Report also shows that susceptibility to corruption has been reduced (2.7 in comparison to previous levels of 3.1 and 3), which means citizens are less prone to resort to corrupt practices for solving private problems, although corruption pressure and involvement in corruption have slightly increased in comparison with 2001/2 when this survey was first conducted.<sup>84</sup> The intensity of corruption pressure remained, although with the introduction of several important reforms, the number of contacts between citizens and the administration has significantly decreased (79% to 46%).<sup>85</sup>

Furthermore, in Macedonia, there is awareness about corruption. Acceptability of corruption has slightly increased (2.6 versus 2.4 in 2002), but the majority of citizens (55%) still do not accept any form of corruption.<sup>86</sup>

Finally, the index of practical efficiency of corruption (likelihood for involvement in corruption, which measures how many respondents perceive corruption as an effective solution to their problems, i.e. whether corruption pays off) is high, amounting to 5.3, although a decrease is observed in comparison to 2002 when it was 6 index points.

There are differences between perceptions and experience (victimization). While customs officers, judges, ministers, and tax officers are perceived as the most corrupt, on the other hand, professions such as doctors, local authorities, police officers, and university professors are those who are actually most corrupt.<sup>87</sup>

Concerning perception, Macedonian citizens believe that there is corruption in a number of important public institutions as well, including central, judiciary/ law courts, parliament, police, customs etc. Hence, according the data of National Corruption Monitoring Report, 2014, the corruption is most prevalent in the Customs, Courts and Police, followed by the Ministry of Health and the Ministry of Transport.<sup>88</sup> Close to the top ranking is also the Government, local Government and the tax office.

The use of power in order to gain fast wealth and becoming rich is one of the most common perceptions among the Macedonian citizens (54, 6%), as a key factor that impacts the level of corruption in Macedonia. However, even more serious risk is the high percentage of citizens which believe that the laws are not implemented in the country (38,3%), followed by the lack of strict administrative

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83 The same conclusion is presented in Center for Research and Policy Making & Center for the Study of Democracy, 2014, Policy Brief Nr. 30: The Economics of Blurs and Shadows – The Hidden Economy in Macedonia.

84 Ibid.

85 Ibid.

86 Ibid.

87 Ibid.

88 Nuredionska, E. et all. 2014. National Corruption Assessment Report. Macedonian Centre for International Cooperation

control over corruption (37,9) and that judicial system is not efficient in fighting against corruption.<sup>89</sup>

## 4.2. LEGAL AND INSTITUTIONAL FRAMEWORK

The lack of law enforcement and judicial efficiency in the fight against corruption and the lack of strict administrative control over corruption are among the most indicated risks on corruption. In order to prevent and to fight the corruptive risks, the Programmes for Prevention and Repression of Corruption and for Reduction of Conflict of Interests for the period 2011-2015 are adopted which combined serve as the country's long-term strategy for addressing corruption.<sup>90</sup> Being the key document for this area contains 156 activities for the appointment of 51 identified problem / risk factor. However, some of these measures / actions do not correspond to real needs, and in some areas are likely significant improvements (eg. Regarding media and civil society, none of the 14 planned activities are fully completed).

The institutional framework is appropriately defined. State Commission for Prevention of Corruption (SCPC) is a specialized institution to combat corruption. However, in the last period there has been insufficient exposure and significant reduction of the number of charges of corruption (not counting elections) SCPC, creating a perception of reduced confidence. Other state institutions have their role and responsibilities in terms of corruption. Besides the Ministry of Interior, significant responsibilities also have the State Audit Office, the Financial Intelligence, the Financial Police PRO etc. What is obvious is that expectations for results in the fight against corruption is too targeted on SCPC, in comparison with other institutions. This is especially so that other institutions have higher budgets and greater human resources and their role in the fight against corruption is not coming to the fore, although they have an equally important role in the overall anti-corruption system.

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The 2014 EU Progress report on the country indicates a reduction of 50% of the judgments of the offense of corruption (63 compared with 123 in 2012), 56 convictions for abuse of position, while three for bribery.<sup>91</sup> SCPC continues to receive very few complaints from citizens (201 in 2013, 177 in 2012)<sup>92</sup>. In 2013 SCPC 9 requests submitted to the Public Prosecutor to initiate criminal proceedings. Cases filed by SCPC rarely resulted in success or charges filed by the Public Prosecution should provide more feedback results for the cases in order to provide a higher rate of success. There has been a sharp decline in the confiscation of property for corruption related cases (10 cases in 2013, compared with 70 in 2012) and the use of special investigative measures. However, cases of corruption are still very low.<sup>93</sup>

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89 Ibid.

90 Retrieved from: <http://www.business-anti-corruption.com/country-profiles/europe-central-asia/macedonia/snapshot.aspx>

91 European Commission. EU Country progress report. 2014. Available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report_en.pdf)

92 Ibid.

93 Ibid.

## 4.3. CONCLUSIONS AND RECOMMENDATIONS

- ▶ *Corruption in 2014 ranks the same as in 2002. According to the Macedonian citizens, it ranks on the fifth position right after the four key problems of existential nature such as unemployment, poverty, low wages and high prices;*
- ▶ *Susceptibility to corruption has been reduced (2.7 in comparison to previous levels of 3.1 and 3 a decade ago), which means citizens are less prone to resort to corrupt practices for solving private problems, although corruption pressure and involvement in corruption have slightly increased in comparison with 2001/2;*
- ▶ *In Macedonia there is an awareness of corruption. The acceptability have slightly increased (2,6 opposite 2,4 in 2002). However, most of the citizens (55%) do not accept any form of corruption;*
- ▶ *In terms of the legal framework for the fight against corruption in Macedonia it is order and largely harmonized with international standards;*
- ▶ *The lack of law enforcement is considered as a high risk of corruption in the country in both social and economic context. Ordinary citizens will not change their negative attitudes towards the plausibility to curb corruption unless top political officials are not prosecuted and sentenced for political corruption;*





# V. ORGANIZED CRIME ASSESSMENT

## 5.1. CONCEPT, DEFINITION AND ASSESSMENT OF ORGANIZED CRIME

The United Nations Convention against Transnational Organized Crime (UNTOC) favours a broad all-encompassing definition of organized crime, referring to organized criminal groups as “structured groups committing serious crime for profit”. Most common types of organized crime include trafficking in drugs, arms, human beings, stolen vehicles or protected species and terrorism.<sup>94</sup>

The United Nations Convention against Transnational Organized Crime definition of organized crime refers to the definition of ‘organized criminal group’. In Article 2(a):

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- ▶ a group of three or more persons that was not randomly formed;
  - ▶ existing for a period of time;
  - ▶ acting in concert with the aim of committing at least one crime punishable by at least four years’ incarceration;
  - ▶ in order to obtain, directly or indirectly, a financial or other material benefit.<sup>95</sup>
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This lack of definition was intended to allow for a broader applicability of the Organized Crime Convention to new types of crime that emerge constantly as global, regional and local conditions change over time.

As organized crime began to expand globally, several countries started to develop a more strategic response to this challenge. National-level threat assessments have generally sought to examine the linkage to international criminal networks,

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94 The United Nations Convention against Transnational Organized Crime. Retrieved from: <http://www.unodc.org/unodc/en/organized-crime/index.html>

95 United Nations Convention against Transnational Organized Crime. Retrieved from: <http://www.unodc.org/unodc/en/organized-crime/index.html>



through the lens of the impact on the reporting state. In other words, while the threat is transnational, the focus is on the country concerned.<sup>96</sup>

Organized crime threat assessment is rarely if at all used by law enforcement institutions in transitional and developing countries. Partially this is due to following reasons<sup>97</sup>:

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- ▶ The lack of analytical capacity within law enforcement and civil society organisations;
  - ▶ The lack of available information and even if available – not structured well and not easy to access and comprehend; and
  - ▶ The politicians would not welcome such process and documents.
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Source: *International Peace Institute, Know your enemy: An overview of organized crime assessments, 2011*

Organized crime threat assessments have been published by law enforcement units and think tanks to promote discussion about the extent of and appropriate response to organized crime among civil society and policy-makers.<sup>98</sup>

Threat assessments rely on prioritisation of domains, identification of trends, building scenarios and planning for preventive actions. In Bulgaria, the Center for the Study of Democracy (CSD) has developed an active strategy to lead the production of an organized crime threat assessment to assist policymaking in this field. The result was published in 2012, *Serious and Organized Crime Threat Assessment 2010-2011*.<sup>99</sup> The report, following a SOCTA methodology, analyses the state-of-the-art and plausible trends in serious and organized crime in Bulgaria. These analyses were intended to support a better informed evidence-based design of anti-crime policies.

The review of the development of threat assessments in SEE suggests that they may have particular acceptance for a number of reasons:

- ▶ There is no understanding of the extent or impact of organized crime in such contexts and the effect it may be having on peace and development processes. Organized crime in post conflict states has specific characteristics. There is no shared analysis, and there is a lack of clarity as to what to look for and what constitutes organized crime.

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96 International Peace Institute, *Know your enemy: An overview of organized crime threat assessments, 2011*. Available at: [http://www.ipinst.org/media/pdf/publications/ipi\\_e\\_pub\\_know\\_your\\_enemy.pdf](http://www.ipinst.org/media/pdf/publications/ipi_e_pub_know_your_enemy.pdf)

97 International Peace Institute, *Know your enemy: An overview of organized crime threat assessments, 2011*. Available at: [http://www.ipinst.org/media/pdf/publications/ipi\\_e\\_pub\\_know\\_your\\_enemy.pdf](http://www.ipinst.org/media/pdf/publications/ipi_e_pub_know_your_enemy.pdf)

98 Center for the Study of Democracy, 2015. *Serious and Organized Crime Threat Assessment, Policy Brief II*. Macedonian Center for International Cooperation. Skopje

99 Center for the Study of Democracy, *Serious and Organized Crime Threat Assessment 2010-2011*, Available at: <http://www.csd.bg/artShow.php?id=15991>

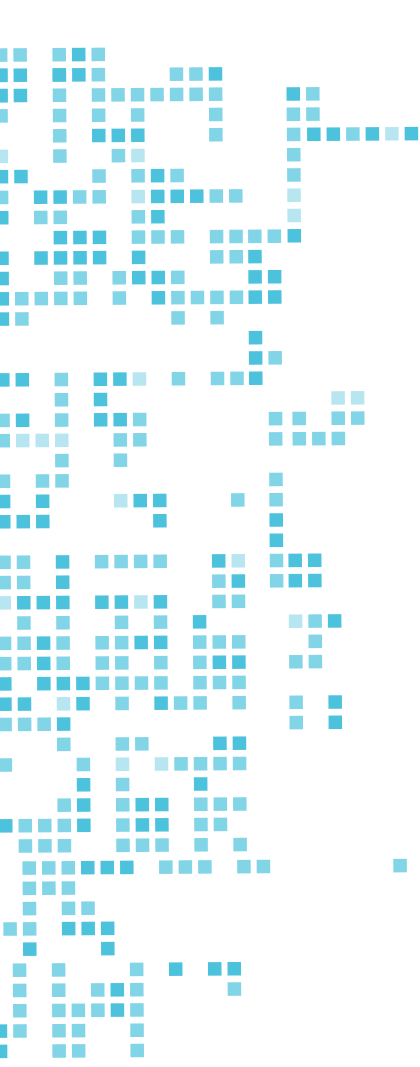
- ▶ There are multiple actors involved in international peace operations (both internal and external actors from different disciplines— political, military, law enforcement) who could benefit from a shared assessment of the challenge. Organized crime has implications that go beyond law enforcement and may be strongly connected to the overall success of political transitions in general.
- ▶ Since criminal groups can be spoilers in a peace process, and criminals exert considerably more leverage in fragile states because of weak rule of law, underdevelopment, and instability, keeping and building peace require a clear understanding of vulnerability to organized crime.
- ▶ Organized crime in fragile and conflict states has strong regional and international linkages that could be traced effectively. This suggests that any assessment must include a range of regional states which may not have information to judge the impact of organized crime in their own domestic context.
- ▶ Threat assessments could be used as an effective tool for targeting and prioritizing technical assistance to counter organized crime. To date, development actors have been reluctant to pursue such forms of assistance, in part because the impact of organized crime and related forms of illicit trafficking is not well understood. To achieve this, assessments must be in a position to show the impact of organized crime on development and community security.

*Source: International Peace Institute, Know your enemy: An overview of organized crime assessments, 2011*

The empirical verification of Buscaglia and Dijk (2003) confirmed the links between organized crime and its social, economic, political, legal and administrative determinants, including corruption, starting with analysing qualitative and quantitative information of the link between the growth of organized crime and public sector corruption.

Several indicators of five core activities (trafficking in persons, arms, stolen vehicles, cigarettes and fraud) and four secondary factors (costs for businesses, extent of the informal economy as a proportion of GDP, violence and money laundering) has been developed by the Buscaglia and Dijk (2003) study:

- ▶ Indicators measuring the degree of economic freedom are negatively correlated with organized crime, as are indicators measuring the effectiveness of the state in fighting monopolistic practices. Consolidation of democracy also appears to impede the growth of organized crime.
- ▶ Lack of private sector governance is positively correlated to the growth of organized crime. Countries with low regulatory standards applied to banks (in terms of enactment and implementation of anti-money laundering legislation, regulatory practices and banking supervision), the organized crime index doubles compared to countries with higher standards.



- ▶ Indicators measuring the effectiveness of criminal justice systems are negatively correlated to organized crime. The level of organized crime is lower in countries where the conviction rates per crime committed are higher. This tends to demonstrate the deterrent effect of a functioning judicial system with regard to organized crime.
- ▶ Buying protection from the state is a necessary condition for the growth of organized crime. Higher levels of political interference in the appointment, dismissal and promotion of civil servants are positively correlated with higher levels of organized criminal activity.
- ▶ Independence and integrity of the judiciary is the most important predictor of the extent of organized crime. Independent judges are less vulnerable to corruption and better able to implement repressive action against organized crime, even when the political system has been captured by organized crime.
- ▶ Organized crime is more prevalent in countries where the rule of law is weak, with few exceptions to this rule. Critical determinants of organized crime are the quality, independence and integrity of the institutions safeguarding the rule of law, including police services and the judiciary, at all levels of development.

Organized crime is more present in countries where there is a low degree of rule of law, with a few exceptions to this rule. Factors that have a negative impact of organized crime is the independence and integrity of the institutions that are responsible for the observance of the rule of law, including police officers and the judiciary at all levels.<sup>100</sup>

## 5.2. ORGANIZED CRIME IN MACEDONIA

Concerning the organized crime in Macedonia, the World Economic Forum's Global Competitiveness Report 2013-2014 ranks Macedonia on 98th position out of 148 countries with value of 4.6 (1-7), (to what extent does organized crime (mafia-oriented racketeering, extortion) impose costs on businesses [1 = to a great extent; 7 = not at all]). According the World Economic Forum's Global Competitiveness Report 2014-2015, Macedonia is ranked on 65<sup>th</sup> position out of 144 countries worldwide concerning organized crime, with score 4.8. This score can be considered as a risk to the overall competitiveness and economic development of the country.<sup>101</sup>

Alongside corruption there are several types of crimes which are related to crime trends and patterns as well. By definition, instrumental violence, corruption and money laundering are regarded as key characteristics of organized crime.<sup>102</sup> According the 2011 UNODC country survey data on Corruption and other forms of crime in Macedonia, the annual prevalence rates for different types of crime refer personal theft (4.1%), burglary (3.1%) assault/threat (2.1%), car theft (1.4%) and robbery (0.8%) are substantially lower than for bribery (6.2%).<sup>103</sup> When

100 Ibid.

101 World Economic Forum. The Global Competitiveness Report 2013-2014. Retrieved from: [http://www3.weforum.org/docs/WEF\\_GlobalCompetitivenessReport\\_2013-14.pdf](http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2013-14.pdf)

102 U4 Expert Answer: Organized crime and corruption. Transparency International. 2008

103 UNODC Report. Corruption in the former Yugoslav Republic of Macedonia: Bribery as experienced by the population. 2011

considering these figures in an international perspective, it is evident that the victimization experience of the citizens of Macedonia is not markedly different to those recorded in other European countries.<sup>104</sup> The available statistical data offered by the UNODC report, indicates that the country is in a mid-table position in terms of the share of the population being victim to two typical crimes, one against property (theft) and the other against the person (assault).<sup>105</sup>

The official report on organized crime and corruption from 2013, prepared by the Ministry of Interior<sup>106</sup>, reveals that during 2013, 25 criminal groups have been repressed 261 (193)<sup>107</sup>, of which 238 in Macedonia, 23 abroad, who trafficked in drugs (heroin and marijuana) and organized economic crime, corruption, cyber crime, forging documents for smuggling migrants, trafficking of cultural goods, smuggling of excise goods and crimes against the state..<sup>108</sup>

During the first half of 2014, MOI has increased the trend in investigating efficiency of crimes in the area of organized crime:

- 
- ▶ Repress eight criminal groups;
  - ▶ Most migrants smuggled from Syria;
  - ▶ Increased the number of counterfeit banknotes;
  - ▶ Increased the number of crimes «criminal association»
  - ▶ Increased number of criminal acts «Smuggling»
  - ▶ Reduced the number of detected cases of money laundering;
  - ▶ Open the case of human trafficking;<sup>109</sup>
- 

Dominant criminal activities of groups in the first half of 2014 were smuggling of merchandise from Greece and Bulgaria to Macedonia; smuggling of livestock from Macedonia in the Republic of Albania; smuggling of migrants from Greece in Macedonia to Serbia; Excavation items with cultural-historical and archaeological value of the territory of Macedonia; Conducting fictitious contracts for the purchase of real estate using threats and blackmail, lending money with high interest rates and the performance of the transport and sale of heroin in Switzerland; Report a tender procedure for purchase of vehicles; Smuggling cigarettes in Macedonia and Bulgaria and obtain data from a real bank credit cards, were making fake websites, then stolen bank data on the web site transferred money on their behalf.<sup>110</sup>

The special Department on organized crime and corruption deals with all relevant cases on both corruption and organized crime. The number of cases has diversified through the years and at Table 4. We can see numbers of incoming

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104 UNODC Report. Corruption in the former Yugoslav Republic of Macedonia: Bribery as experienced by the population. 2011

105 Ibid.

106 Ibid.

107 Data refers to 2012;

108 UNODC report. 2014. "Illegal drug trade throughout Southeast Europe." United Nations. See: SELECT (SELEC), Report on drug seizure in Southeast Europe"

109 Ministry of internal affairs. Retrieved from: <http://mvr.gov.mk/ShowAnnouncements.aspx?ItemID=13755&mid=1094&tabId=201&tabindex=0>

110 Ibid.

and solved cases of the Department on organized crime and corruption, as of 31.12.2012.

Table 4. Numbers of incoming and solved cases of the Department on organized crime and corruption, as of 31.12.2012

Type of cases	Unsolved as of 01.01.2012	Received new cases	Total to process	Closed cases	Remaining unsolved cases
Organized crime (and corruption)	72	97	169	86	83
Various criminal cases	57	874	931	897	34
Investigations in organized crime	28	72	100	68	32
Various investigative actions	0	4	4	0	4
Other investigate actions	0	564	564	564	0
<b>TOTAL</b>	<b>157</b>	<b>1.611</b>	<b>1.768</b>	<b>1.615</b>	<b>153</b>

Source: Department for organized crime and corruption, Basic Court Skopje I

Data from the Basic Court Skopje 1 (Table 4), shows that in 2012, the court has worked on 1768 cases of organized crime (including 97 for corruption), out of which 1.615 were determined. No specific information as the cases of corruption have been resolved.<sup>111</sup> Appeal Court in 2012 acted on 100 cases of organized crime, out of which 87 have been resolved, according to a report in 2013, the Court of Appeal acted on 101 cases of organized crime, out of which 85 have been completed. And according to these data, there is no information how many of the cases of organized crime have been linked to corruption.<sup>112</sup>

The report of the Appellate Court Skopje (2011) states that the court acted on 79 cases of organized crime (including corruption), and 63 are determined. Report of the Basic Court Skopje 1 for the same year suggests that the Department of corruption and organized crime acted after 1579 cases of organized crime (including 79 for corruption), out of which 1459 cases were resolved. The report of the Court of Appeal for 2012 stated that the Appeal proceeded for 100 cases of organized crime, out of which 87 were resolved. Data for the Basic Court Skopje 1 are as follows: 1768 cases of organized crime (including 97 for corruption) and 1.612 cases resolved.<sup>113</sup>

According the available data by the Special Department for Organized Crime and Corruption of the Basic Court Skopje 1, in the recent years the dominant type of cases has changed.

During the period of 2002-2007, the priority types of criminal cases which have been reported were: Unauthorized production and sale of narcotic drugs, psychotropic substances and precursors (365), followed by Tax evasion (299) and Suppression (190). See Table 5.

111 Nuredinoska et. al. Corruption Assessment Report. Macedonian Center for International Cooperation. 2014.

112 Ibid.

113 Ibid.

Table 5. 2002-2007 Most typical cases, Basic Court Skopje I

Types of cases	2002-2007 In Total
<b>Unauthorized production and sale of narcotic drugs, psychotropic substances and precursors</b> 215 paragraph 2 of the Criminal Code	365
<b>Tax evasion</b> - art. 279 of the Criminal Code	299
<b>Suppression</b> - art. 239 of the Criminal Code	190
<b>Extortion</b> - art. 258 of the Criminal Code	34
<b>Smuggling</b> - art. 278 of the Criminal Code	18
<b>Blackmail</b> - art. 259 of the Criminal Code	4
<b>Trafficking</b> - art. 418 of the Criminal code	2
<b>Money laundering and other proceeds of significant value of</b> - art. 273 of the Criminal Code	1

Source: Department for organized crime and corruption, Basic Court Skopje I

As shown in the table, during 2002-2007, that there have been 931 cases in the field of corruption (Unauthorized production and sale of narcotic drugs, psychotropic substances and precursors art. 215, Tax extortion – art. 279; Trafficking, art. 418-a, Trade of minors, art. 418-g, Extortion, art. 258, Suppression-art. 239; Blackmail, art. 259; Smuggling – art. 278 etc; out of which, 712 cases have been reported as solved.

During the period from 2007 till 2013, the Basic Court Skopje 1 has registered 866 corruption cases on which the Department of investigation on organized crime (KOK) has acted. Out of 866, 466 cases are reported as finished.

The data obtained from the Public Prosecution indicate critical condition with corruption and organized crime. During 2013, the Public Prosecutor received 136 new cases to prosecute organized crime and corruption, involving 478 adult offenders. Compared with 2012 when there was newly charges against 388 people, the number of new criminal charges in 2013 marked a tendency of increase of 190 persons or in percentage of 23.19 %.<sup>114</sup>

That same year, the Public Prosecutor filed charges against 313 people. Compared to 2012, charges were filed against 190 persons, and in 2011 charges were filed against 262 persons.<sup>115</sup> Thus, compared to 2011 the number of charges has increased by 123 persons in relation to 2010, when the number increased by 51 people. This increase is primarily due to the increased number of investigations completed during 2013.<sup>116</sup>

According to the report on the work of public prosecutors in 2013, the number of applicants for abuse of power and authority under Art. 353 of the Criminal Code in 2012 was 1267. Then in 2013 has increased to 1,414 applicants. Out of these, in 2012 were raised 257 charges, and in 2013, 231 charges. Based on investigations

114 Public Prosecutor of the Republic of Macedonia. Report of the Public Prosecutor of the Republic of Macedonia in 2013. Skopje, June 2014.

115 Ibid.

116 Ibid.

and prosecutions 232 convictions were conducted in 2012 and 257 convictions were conducted in 2013<sup>117</sup>

In 2013, most of the charges to the Public Prosecutor were submitted by the Ministry of Interior - 81.17%, followed by other government bodies -7.11%, Ministry of finance - 4.81%, other public prosecutors - 3.35%, others state bodies - 7.11%, customs administration - 2.30%, the public prosecution 0.62 and individuals with 0.51%.<sup>118</sup>

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According to the data of the State Statistical Office of the Republic of Macedonia, the number of reported adults - known perpetrators in 2013, compared to 2012 has decreased by 3.0%.<sup>119</sup> In 2013, compared to 2012, the number of convicted adult perpetrators increased by 5.5%, and the number of accused adult perpetrators increased by 8.7%.<sup>120</sup> The number of reported juvenile perpetrators of criminal offences in 2013, compared to 2012, has increased by 0.4%. In 2013, compared to 2012, the number of convicted juvenile perpetrators of criminal offences decreased by 14.9%<sup>121</sup>

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According the statistical data for Reported adult perpetrators by type of criminal offence and public prosecutors, the total number of known perpetrators reported by the Public Prosecution in Skopje and the Department for organized crime and corruption, is 308, out of which 2 are for misuse of official position and 15 for other crimes.<sup>122</sup> Out the reported perpetrators, there are 187 convicted adult perpetrators by courts of the first instance during 2013.

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117 Ibid.

118 Ibid.

119 State Statistical Office. Reported, accused and convicted adult and juvenile perpetrators of criminal offences, 2013. Year 2014 LII Бpoj/No: 2.1.14.11 Available at: <http://www.stat.gov.mk/pdf/2014/2.1.14.11.pdf>

120 Ibid.

121 Ibid.

122 Ibid.



## 5.3. MOST TYPICAL CASES OF ORGANIZED CRIME: DRUG TRAFFICKING

### 5.3.1. Drug trade

The position of the country is foremost as a transit area, as due to its small and non-profitable market, only a small part of the drugs remains on its territory.<sup>123</sup> However, there has been a noticeable increase in the trafficking of cannabis via the country in recent years. The main route of cannabis and its derivative is from Albania, via the north-western to the south-eastern part of the country in the direction of Greece and Bulgaria.<sup>124</sup> It also needs to be taken in consideration that according to the UNODC Report on the illicit drug trade, the South-Eastern Europe is a crucial stage on one of the world's most important heroin trafficking routes, the "Balkan route"<sup>125</sup>

According to the latest 2014 UNODC data survey "The illicit drug trade through South-Eastern Europe" there are "current evidence which suggests that large-scale cultivation for export occurs primarily in Albania, with Macedonia recently reporting some large-scale cultivation, while Greece, Bulgaria and Macedonia reported seizing the largest amounts of cultivated cannabis in South-Eastern Europe in 2012."<sup>126</sup> Further, the disparity between Albania and other countries is best indicated by the fact that it was mentioned by SELEC Member States as the departure country in 80 seizure cases totalling over 13 tons of seizures in 2012, while the second departure country was Macedonia, which accounted for three (3) seizure cases and 315 kg.<sup>127</sup>

EUROPOL also suggests that although the Balkan route is one of the World's most important and established drug-trafficking route, the information about the type of data available is not regularly updated and statistics are often reused over several years.<sup>128</sup> However, the available data shows most opiate prevalence rates in South-Eastern Europe (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Montenegro, Romania, Serbia, Macedonia and Kosovo under United Nations Security Council Resolution 1244) to be below the global average of 0.4 %.<sup>129</sup> However, according to the report, there are two exceptions: Macedonia, which is in line with the global average, and Albania, which has a higher rate. See Table 6.

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123 Ibid.

124 Forte, R. 2013. Organized Crime and the Fight Against Crime in the Western Balkans: a Comparison with the Italian Models and Practices. General overview and perspectives for the future. SAPUCCA: Sharing Alternative Practices for the Utilization of Confiscated Criminal Assets

125 Ibid.

126 The data within the UNDOC Report is referring to EMCDDA, EU Drug Markets Report, 2013 p.58: "Europol (2011a) has noted that Albania has emerged as an important outdoor producer and exporter (of cannabis herb)". Known cultivation areas within Albania include the southern region of Gjirokaster, bordering Greece, Skoder and the North Albanian Alps, bordering Kosovo and Montenegro, and the countryside east of the port of Vlore. The largest area under cultivation is most likely located in Gjirokaster, and the village of Lazarat in particular.

127 UNODC Report "The Illicit Drug Trade through South Eastern Europe". 2014. United Nations. See: SELEC, Report on Drug Seizures in South Eastern Europe, 2012, p. 38

128 UNODC Report "The Illicit Drug Trade through South Eastern Europe". 2014. United Nations.

129 Ibid.

Table 6: Reported opiate, cannabis, cocaine and ATS (excluding ecstasy type stimulants), annual prevalence as a percentage of population aged 15- 64, 2011 or latest year available

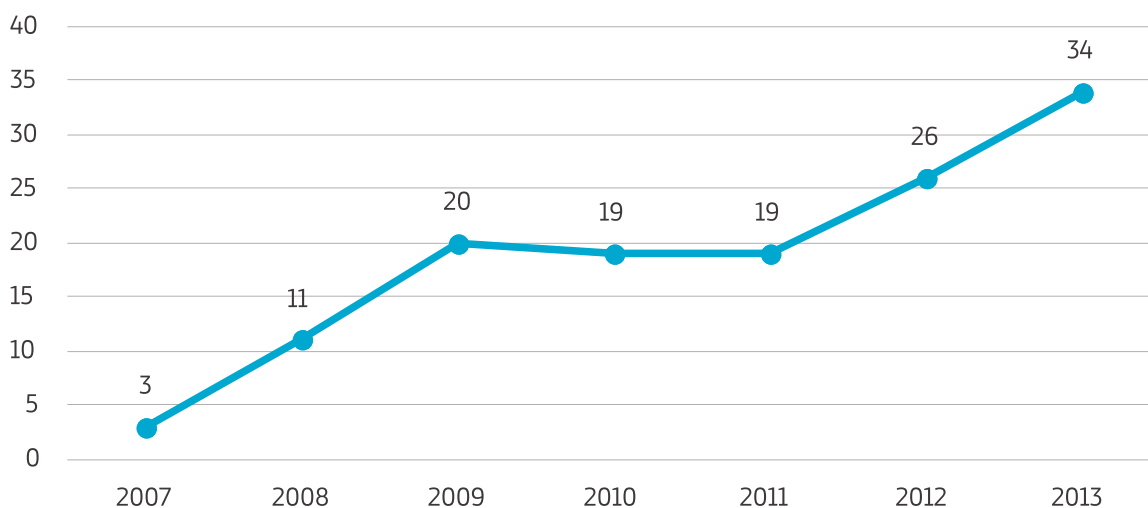
Country/territory	Opiate <sup>136</sup>	Cannabis	Cocaine	ATS
Albania	0,45	1,8	0,78	0,02
Bosnia and Herzegovina	0,3	1,6	0,63	0,5
Greece	0,32	1,7	0,1	0,20
Macedonia	0,4	0,63	0,08	N/A
Serbia	0,28	4,07	0,54	0,24
Kosovo	N/A	N/A	N/A	N/A
Western and Central Europe	0,3	7,6	1,2	0,7
Global	0,4	3,9	0,4	0,7

Source: UNODC World Drug Report 2013

Furthermore, the Europol 2011 OCTA notes that Macedonia is an important location for heroin storage and repackaging and there is a notable increase in the involvement in heroin and cocaine trafficking of citizens of the country”.<sup>132</sup>

The relevant data from the Basic Court Skopje I reveals that the number of cases on unauthorized production and sales of narcotic drugs, psychotropic substance and precursors during the period from 2007 to 2013, have increased from 3 in 2007 to 20 in 2009, and then reached a peak in 2013 with 34 cases in total. See Figure 2.

Figure 2. Unauthorized production and sale of narcotic drugs, psychotropic substances and precursors



Source: Department of Organized Crime and Corruption, Basic Court Skopje I

130 UNODC World Drug Report, 2013

131 Macedonia is a UN Member from 8 April 1993 under the provisional name “The Former Yugoslav Republic of Macedonia”

132 See Europol, OCTA, 2011, p.19. See also INTERPOL, SEETAC Drug Trafficking Report, January-August 2010, p. 24. UNDOC Report on the Illicit drug trade through South-Eastern Europe

According to the Ministry of Interior report in the field of fight against organized crime in August 2014, although the number of reported perpetrators have remained the same, the efficiency of the revealing feature of MI have increased for 14%.<sup>133</sup>

During the 2009-2012 there has been a general decrease in seizures, but according to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) reports part of it can be explained with a shortage in supply from the main producers.<sup>134</sup> Although the overall quantity of drugs seized has increased slightly in 2012 in relation to 2011, there has been constant cooperation on common projects with the EMCDDA and the country broadly meets the requirements in this area. Also the cooperation between the police and customs administration has improved and several successful international police operations against trafficking channels took place.<sup>135</sup>

In order to evaluate the results of the National Drugs Strategy 2005-2012, the government undertook series of evaluations in 2012 and found that nearly 75% of the interviewed believed that the reduction in drug supply was as a result of an increased police activity.<sup>136</sup>

The Ministry in cooperation with foreign security services at regional and international levels as well as independent actions implemented in the area of detection of illicit drug trafficking, has repressed 11 (10) criminal groups and 57 (44) persons. The members of these criminal groups were involved in trafficking heroin and marijuana.<sup>137</sup>

### 5.3.2. Smuggling migrants

According to Article 418-B of the Criminal Code of Macedonia, "who by force or serious threat against the life or body, with kidnapping, fraud, greed, abuse of official position or by taking advantage of the helplessness of another illegally transfers migrants across the state border, and he is doing, acquires or possesses a false passport with such order, shall be punished with imprisonment of at least four years, (2) one who recruits, transports, transfers, buys, sells, harbors or receives migrants shall be punished with imprisonment of one to five years."<sup>138</sup>

Macedonia is also a transit country for the international channels for smuggling of human beings across state borders from high migration-risk countries to the countries of Western Europe and for the smuggling of products.<sup>139</sup>

According to the available data from Department of organized crime and corruption within the Basic Court I, Skopje I, the number of smuggling migrants have increased in the past several times. See Figure 3.

133 Ministry of Interior. Statistics. 2014

134 Europol, OCTA, 2011, p.19. See also INTERPOL, SEETAC Drug Trafficking Report, January-August 2010, p. 24. UNDOC Report on the Illicit drug trade through South-Eastern Europe

135 Ibid.

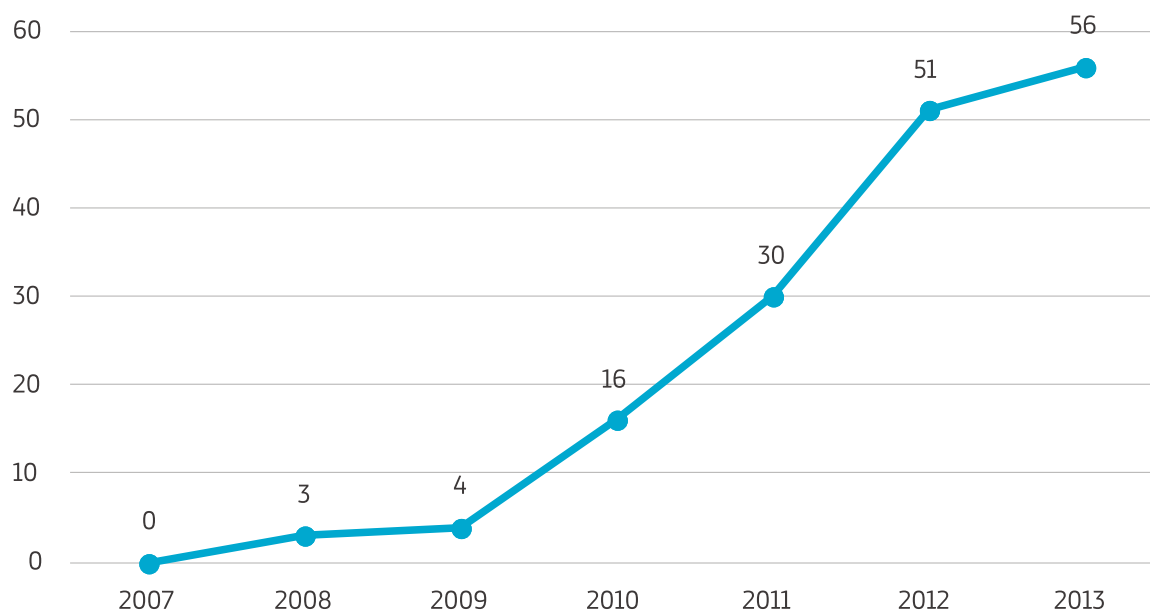
136 Ministry of Interior. Report on organized crime and corruption 2013. Issued: 10.03.2014. Retrieved from: <http://mvr.gov.mk/ShowAnnouncements.aspx?ItemID=13259&mid=1094&tabId=201&tabIndex=0>

137 Ibid.

138 Criminal Code („Official Gazette of Macedonia“ No. 37/96).

139 Committee of experts on anti-money laundering measures and the financing of terrorism (MONEYVAL). 2014. Report on Fourth Assessment Visit Anti-Money Laundering and Combating the Financing of Terrorism: Macedonia

Figure 3. Smuggling Migrants



Source: Department of Organized Crime and Corruption, Basic Court Skopje I

According to the 2014 Mol Report, the detection of crimes of illegal migration in 2014 has increased by 20%, and by the analyzed cases, our country is mainly a transit country. The migrants usually follow this route of movement: illegally crossing the Greek-Macedonian border, and then in Gevgelija region the perpetrators with vehicles are heading for Skopje and Kumanovo, where illegally pass through the Serbian border with western European countries.<sup>140</sup>

As reported by Mol during the first half of 2014, a total of 203 migrants were smuggled (originally from Syria, 80, Afghanistan, 63, 25-Somalia, Eritrea-19, Bangladesh-3, Palestine and Côte d'Ivoire two, and one from Congo, Albania, Pakistan, Gambia and Egypt). In the first half of 2014 a total of 204 are smuggled migrants.<sup>141</sup> According to statistics from the Mol, in the first half of 2014, the largest number of migrants were smuggled from Syria and Afghanistan, unlike in 2013, when most were from Pakistan.<sup>142</sup>

The Public Prosecution 'Office reported criminal charges against 70 people for the crime-Smuggling of Migrants by Art. 418-b of the Criminal Code. For 4 persons the application has been rejected, 66 persons applied for investigation, one person application has been abandoned to another PPO.<sup>143</sup> In 2013, alongside 65 new requests for investigation, there were requests for an investigation from the previous period for a total of 22 people or the prosecution acted on 77 requests for investigation. The investigation has been completed for 63 persons, out of which 62 persons has been pressed with indictment act, then one statement of withdrawal from prosecution has been released, and for 14 persons investigation is not yet completed.<sup>144</sup>

140 Ministry of Interior. Conditions relating to organized crime over the past six months. 08/02/2014 Retrieved from: <http://mvr.gov.mk/ShowAnnouncements.aspx?itemID=13755&mid=1094&tabId=201&tabindex=0>

141 Ibid.

142 Ibid.

143 Public Prosecution' Office. Report on Public Prosecution work in the Republic of Macedonia for the period of 2013. Skopje 2014.

144 Ibid.

Furthermore, According to the US department of State - 2013 trafficking in Persons Report<sup>145</sup> - the country is still a source, transit, and destination for sex trafficking, forced labour and begging. The victims of the latter are mostly ethnic Roma, forced by their families.<sup>146</sup> The age of identified victims is increasingly younger and more victims originate from neighbouring countries.<sup>147</sup>

During 2013 the government has improved its law enforcement response, resulting in more than doubling of the number of convictions compared to 2011, from 9 to 20.<sup>148</sup> Twenty-four people were charged on suspicion of trafficking (compared with 35 in 2011). Two public officials were prosecuted for alleged complicity in trafficking offenses and 9 new trafficking suspects were investigated, including a police officer and a prison supervisor alleged to be complicit in human trafficking.<sup>149</sup>

### 5.3.3. Stolen vehicles

Macedonia is not only a conduit for heroin and trafficked women/victims, but also for stolen vehicles smuggled into the country in violation of tax laws.<sup>150</sup> The country is a stop on a well-known trafficking route that starts in Western European countries and ends in Albania after passing through Bulgaria and Macedonia.<sup>151</sup>

According to records of the Ministry of Interior, more than hundred vehicles are reported stolen.<sup>152</sup> In the first half of 2014, only in Skopje, 209 cases of stolen vehicles were reported, 45 of which were solved. During this six month, the police also discovered 64 other vehicles which were the object of investigation in the previous years and were solved this year.<sup>153</sup>

In 2013, out of 240 reported cases of stolen cars, 66 were solved. In total, over the past year, 138 found vehicles were registered which were filed as stolen in the previous years. The statistical data on 2012 say that 182 stolen vehicles were reported that year, 79 out of which cases were clarified.<sup>154</sup>

Table 7. Number of stolen vehicles from 2012 to 2014.

Stolen vehicles	2012	2013	2014
Reported cases	182	240	209
Solved cases	79	66	45

145 Retrieved from: <http://www.state.gov/j/tip/rls/tiprpt/2013/>

146 Ibid.

147 Ibid.

148 Retrieved from: <http://www.state.gov/j/tip/rls/tiprpt/2013/>

149 Ibid.


150 Forte, R. 2013. Organized Crime and the Fight Against Crime in the Western Balkans: a Comparison with the Italian Models and Practices. General overview and perspectives for the future. SAPUCCA: Sharing Alternative Practices for the Utilization of Confiscated Criminal Assets

151 Ibid.

152 Retrieved from: <http://www.independent.mk/articles/9737/Skopje+-+Cars+Are+Stolen+Annually,+Half+Are+Found>

153 Ibid.

154 Ibid.



CSD study for examine the links between corruption and organized crime has presented that the organisation of vehicle theft shows how a criminal activity that is seemingly a low-risk or corruption-free activity still takes advantage of corruption networks developed in other criminal markets.<sup>155</sup> Such markets are: corruption within traffic administrations, the police corruption through drugs and prostitution networks; corruption in traffic police (often associated with petty corruption) is needed if a stolen vehicle is pulled over in a regular traffic check. Then, if the country of destination is not an EU Member State, customs corruption also have shown that can plays a role, as stolen vehicles, particularly luxury ones, are subject to high import taxes.<sup>156</sup> Thieves often further minimise their expenses by bribing customs officials or ensuring that no detailed customs checks take place.<sup>157</sup>

## 5.4. MEASURES TO COMBAT AGAINST REGIONAL ORGANIZED CRIME

The Moneyval Report on Fourth Assessment Visit Anti-Money Laundering and Combating the Financing of Terrorism in Macedonia reveals that there are criminal groups which are mainly made up of both nationals and non-nationals and their structure is mostly hierarchical.<sup>158</sup> According to the Report, the existence of links between criminal groups active on the territory of Macedonia and criminal groups active on the territories of the countries of Central and Eastern Europe (Bulgaria, Russia, Albania, Czech Republic), Turkey, Middle East countries, and in particularly with the criminal groups active on the territory of the countries and territories, were created after the dissolution of the former Yugoslavia (Serbia, Montenegro, Croatia, Bosnia and Herzegovina, and Kosovo).<sup>159</sup> The links between these groups are particularly visible in the field of the illicit trade in narcotics and psychotropic substances, smuggling of persons, smuggling of products, the illegal trade in weapons and stolen luxury motor vehicles and in credit card fraud.<sup>160</sup>

The Ministry of Internal Affairs has signed cooperation agreements with the neighboring countries for cooperation in the field of repression of crime (Agreement with Bulgaria), cooperation in security, trafficking in human beings and drugs, border control, visa regime, (Agreement with Albania), cooperation in the fight against terrorism, organized crime and illegal drug trade (Agreement with Serbia and Montenegro, and agreement with UNMIK Kosovo).<sup>161</sup> Macedonia is also part of the Southeast European Law Enforcement Centre (SELEC) through

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155 Gounev, P. & Bezlov, T. 2011. The links between organized Crime and Corruption. Centre for the study of Democracy.

156 Ibid.

157 Ibid.

158 Council of Europe. Committee of Experts on the Evaluation of anti-money laundering measures and the financing of terrorism (Moneyval). Report on Fourth Assessment Visit – Executive Summary. Anti-Money Laundering and Combating the Financing of Terrorism. 2014. Retrieved from: [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/MKD4-SUMMMONEYVAL\(2014\)-1SUMM\\_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/MKD4-SUMMMONEYVAL(2014)-1SUMM_en.pdf)

159 Ibid.

160 Ibid.

161 Ministry of Interior. Republic of Macedonia. Retrieved from: <http://mvr.gov.mk/DesktopDefault.aspx?tabindex=0&tabid=73>

which 12 states from this region cooperate and coordinate in prevention and combating serious and organized crime.<sup>162</sup>

In order to tackle transnational organized crime in effective manner, the OSCE-supported Common Contact Centre at Blace border crossing point which was officially opened on 23 January 2014.<sup>163</sup> The Centre aims to contribute to fighting transnational organized crime through strengthening and sustaining the country's existing cross-border co-operation with neighboring Kosovo.<sup>164</sup> The Common Contact Centre in Blace represents a tangible achievement in the fight against transnational threats and is a successful example of cooperation and mutual trust, aiming to assist in promoting the best practices within the region to properly address the issue of transnational threats.<sup>165</sup>

## 5.5. CONCLUSIONS AND RECOMMENDATIONS

- ▶ *As organized crime began to expand globally, several countries started to develop a more strategic response to this challenge. National-level threat assessments have generally sought to examine the linkage to international criminal networks, through the lens of the impact on the reporting state. In other words, while the threat is transnational, the focus is on the country concerned;*
- ▶ *Threat assessments could be used as an effective tool for targeting and prioritizing technical assistance to counter organized crime. To date, development actors have been reluctant to pursue such forms of assistance, in part because the impact of organized crime and related forms of illicit trafficking is not well understood. To achieve this, assessments must be in a position to show the impact of organized crime on development and community security;*
- ▶ *In the SEE countries including Macedonia there is lack of knowledge of the level and the impact of organized crime on peace, stability and the regional development. Organized crime in post-transitional countries have specific characteristics. Yet, there are no joint analyses and there is lack of understanding what the organized crime presents and what need to be investigate;*
- ▶ *EUROPOL suggests that although the Balkan route is one of the World's most important and established drug-trafficking route, yet the information about the type of data available is not regularly updated and statistics are often reused over several years;*
- ▶ *In Macedonia, the state of corruption and organized crime tends to deterioration, given the growth in the number of criminal charges and the number of persons to be charged. Namely, during 2013, compared with 2012, when the work had been received new charges against 388 people. According the number of new criminal charges in 2013 to the Public Prosecutor's Office for Organized crime and corruption, there is tendency of increase of 190 persons or in percentage of 23.19%;*
- ▶ *As for most typical forms of organized crime, according to the Basic Court Skopje there is a growth of cases of unauthorized production of narcotic drugs, psychotropic substances and precursors during the period from 2007 to 2013,*

162 Southeast European Law Enforcement Center (SELEC). Retrieved from: <http://www.selec.org/m106/About+SELEC>

163 Retrieved from: <http://www.osce.org/skopje/135846>

164 Ibid.

165 Ibid.



with 3 cases in 2007. 20 in 2009, and in 2013 records the highest level of 34 cases;

- ▶ The number of detected crimes concerning Smuggling migrants has increased by 20% (compared with 2013 in 2014), although the number of smuggled migrants is almost the same level in these respective years. There is a difference in the origin of migrants, i.e. in 2014. The dominated migrants by nationals were of Syria. According to statistics of the Ministry of Interior, in the first half of 2013, there were registered 204 migrants while in the same period in 2014, 203 migrants were registered, most of whom were from Syria and Afghanistan, unlike 2013, when most were from Pakistan.
- ▶ The institutions for fight against corruption and organized crime in Macedonia primarily Mol is involved in regional and international initiatives to combat organized crime, including bilateral agreements with neighboring countries: Bulgaria, Albania, Serbia, Kosovo. The cooperation agreements concerns different kinds of cooperation such as smuggling and drug trafficking, border control, visas, cooperation in the field of terrorism, organized crime and drug trafficking unauthorized etc.







# VI. LINKS BETWEEN CORRUPTION AND ORGANIZED CRIME

## 6.1 THEORETICAL DISPLAY OF THE LINKS BETWEEN CORRUPTION AND ORGANIZED CRIME

Corruption is regarded as a key defining feature of organized crime. Despite the existence of official definitions at the international level, defining both 'organized crime' and 'corruption' is a difficult task as legal definitions and cultural perceptions vary across countries.

It is generally accepted that there is no exhaustive or universally accepted definition of corruption. Corruption is a phenomenon that has evolved with human history and is continuously influenced by political, economic, social and cultural contexts. The discussion to define corruption has evolved from a moral and ethical discussion of corrupt behaviors, to a strict legal definition anchored on criminalized activities, or to a broader concept that recognizes corruption as the misuse of power for private gain.<sup>166</sup>

The definition of corruption understood as "misuse of public power for private gain" is employed by established bodies such as the International Monetary Fund or Transparency International<sup>167</sup>. However, critics argue that this definition is limited because it considers corruption a problem of government and public servants and does not take into account the fact that corruption also prevails in the private, non-profit and non-governmental sectors. There is another argument that this definition mainly focuses too heavily on the demand side, i.e. public officials, and does not sufficiently focus on the supply side, i.e. bribe-givers. Therefore, a more comprehensive and broader definition which is now widely used by anti-corruption practitioners defines corruption as the 'misuse of entrusted power for private gain'.

The concept of organized crime envelopes a wide range of illicit activities and criminal structures, making it hard to reach a consensus on a universally

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166 Rothstein, Bo. State-of-the-art report on theories and harmonized concepts of corruption, Anticorrp Project Working Paper, October 2014, available at: <http://anticorrp.eu/publications/d1-1-state-of-the-art-report-on-theories-and-harmonised-concepts-of-corruption>

167 Transparency International, available in: [http://www.transparency.org/whoweare/organisation/faqs\\_on\\_corruption](http://www.transparency.org/whoweare/organisation/faqs_on_corruption)

accepted definition. The UNODC promotes a broad all-encompassing definition of organized crime referring it as “structured groups committing serious crime for profit”. Therefore, one possible working definition would combine the concepts of traditional ‘organized crime’ (e.g. trafficking in drugs, arms, human beings, stolen vehicles or protected species) and ‘white collar crime’ (e.g. financial, tax, real estate frauds, embezzlement).<sup>168</sup>

Most well spread definitions incorporate corruption as an intrinsic feature of organized crime, directly or indirectly endorsing the link between corruption and criminal groups. Practitioners generally accept that criminal organizations share some characteristics: they are organized groups; commit crime for private gains using violence, illegal activities and corruption; and launder those gains into legal economic activity.

One important aspect of explaining the links between corruption and organized crime involves determining the extent to which the two are interrelated<sup>169</sup>. Measuring how often and where organized crime uses corruption is important, and according to some researchers it is challenging, while to others it is even impossible. Despite the lack of universally accepted ways of measuring these two concepts, there have been multiple attempts to quantify them.

Corruption is measured in multiple ways, and many of them have been criticized. It is important to mention that there are different aspects of corruption that could be measured, such as frequency of occurrence, types, costs and effects, contributing factors, or perceptions of corruption. The methods used in measuring corruption range from using focus groups, case-studies, and field observations, to conducting surveys, desk reviews, and assessments of institutions, provisions and practices.<sup>170</sup>

On the other hand, measuring organized crime has been a deeply contested issue among criminologists. Even assessments that do not claim to offer exact measurement have been under attack. The **European Union Organized Crime Threat Assessment** (OCTA), prepared by Europol and launched in 2006, does not offer quantifiable measurements<sup>171</sup>.

Although there is little empirical research specifically focussing on the link between organized crime and corruption, abundant circumstantial evidence indicates frequent collusion between organized criminals and corrupt officials at all levels of government. Through corruption, criminals can obtain protection from public officials, influence political decisions and infiltrate state structures and legitimate businesses.<sup>172</sup>

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168 Center for the Study of Democracy (CSD), Examining the links between organized crime and corruption, Sofia, 2010, available at: <http://www.csd.bg/fileSrc.php?id=20428>

169 Center for the Study of Democracy, 2010, Examining the Links Between Organized Crime and Corruption, p. 29, available at: <http://www.csd.bg/artShow.php?id=15192>

170 SELDI, Anti-Corruption Reloaded: Assessment of Southeast Europe, Center for the Study of Democracy, Sofia, 2014, available at [http://seldi.net/fileadmin/public/PDF/Publications/RAR/SELDI\\_RAR.pdf](http://seldi.net/fileadmin/public/PDF/Publications/RAR/SELDI_RAR.pdf)

171 The EU Organized Crime Threat Assessment (OCTA) is the product of systematic analysis of law enforcement information on criminal activities and groups affecting the EU, and is designed to assist strategic decision makers in the prioritization of organized crime threats.

172 U4 Expert Answer. Organized crime and corruption. Transparency International. 2008

One of the difficulties for monitoring the organized crime and its links to corruption is the “umbrella concept of organized crime” and the many forms of organized crime such as drugs, people trafficking, terrorism, corruption, tax fraud, theft.<sup>173</sup>

Hence, despite the difficulties to link corruption to organized crime, most of the definitions include corruption as a key characteristic of organized crime’s modus operandi. Moreover, the criminal organisations typically share a number of common features: they operate with some permanence as a structured group, commit serious crime for profit, using extreme violence and corruption as part of their modus operandi, and launder the proceeds of criminal activities into the legal economy.<sup>174</sup> An example of such definitions refers to organized crime as “criminal activities for material benefit by groups that engage in extreme violence, corruption of public officials including law enforcement and judicial officers, penetration of the legitimate economy (e.g. through racketeering and money laundering) and interference in the political process.”<sup>175</sup>

## 6.2. THE LEVELS OF LINKS BETWEEN THE ORGANIZED CRIME AND CORRUPTION

Given the secretive nature of both corruption and organized criminal activities, there is limited ability to produce data on the extent of corruption attributable to organized crime.<sup>176</sup> However, circumstantial evidence tends to confirm that, there are often deep interdependent links between organized crime, politics and the public sector, fostering in extreme cases a form of symbiosis between the state and criminal organisations.<sup>177</sup>

Criminal organisations need legitimate state structures to sustain and expand their activities. Hence there are several types of cases and examples which suggest strong linkages between organized crime and public sector corruption, with criminal networks heavily relying on corruption to ensure the circulation of illicit goods, facilitate money laundering and minimise the risks of successful prosecution.<sup>178</sup>

The UN Centre for International Crime Prevention (UN CICP) describes five different levels of links between the Organized Crime and Corruption:

**1st Level: Bribery**

**2nd Level: Continuous Acts of Bribery (“On payroll”)**

**3rd Level: Infiltration into Government Agencies**

**4th Level: Infiltrating the Government (Higher level)**

**5th Level: Infiltrating the Political Arena<sup>184</sup>**

173 Paoli. L. The paradoxes of organized crime. 2002 Crime, Law & Social Change: Kluwer Academic Publishers. The Netherlands.

174 Ibid.

175 Retrieved from: [http://works.bepress.com/cgi/viewcontent.cgi?article=1007&-context=edgardo\\_buscaglia](http://works.bepress.com/cgi/viewcontent.cgi?article=1007&-context=edgardo_buscaglia)).

176 U4 Expert Answer. Organized crime and corruption. Transparency International. 2008

177 Ibid.

178 Ibid.

In the following chapters the five levels of links between corruption and organized crime are presented, starting from the highest, the fifth level.

## 6.3. INFILTRATING (GENERAL) IN THE POLITICAL ARENA

**The 5<sup>th</sup>** level and the highest level of relation between corruption and organized crime is infiltrating in the Political Arena, which involves high officials such as senators, ministers and sometimes even the presidency of the country, with the view to capturing the state's policies and influencing the law making and enforcement as well as judicial decisions.<sup>180</sup> The forms of grant corruption are: Budgets distorted, the Social investment is reduced, the access to the poor is hampered and it seriously hampers Democracy.<sup>181</sup>

According to the UN CICP, the key Political infiltration is accomplished by:

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- ▶ Participating in Political Campaigns (giving money, media support and others)
  - ▶ Buying votes for candidates and corrupting the democratic election process
  - ▶ Lobbying other politicians for support using bribery and blackmail
  - ▶ Exploiting O.C. Members' family links
  - ▶ Creating "debts" for politicians to "repay" later by using blackmail and extortion<sup>182</sup>
- 

As recommended by the UN CICP the key measures to avoid the political infiltration of organized crime groups, also relevant for Macedonian situation with the political corruption are:

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- ▶ The State should increase financial support of political parties and campaigns
  - ▶ Strengthening the laws of media concentrations, combating monopolies
  - ▶ Increasing the transparency of contributions
  - ▶ Public disclosure of candidate background including criminal records and links
  - ▶ Strengthening banking and securities' regulatory capacities<sup>183</sup>
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As a result, political corruption and state capture by criminal networks are common features of countries affected by high levels of organized crime.<sup>184</sup> This is particularly true in transition and developing countries, where the large profits generated by criminal activities including the drug trade make criminals powerful actors in these countries, allowing them to gain influence on both politics and

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179 UN Centre for International Crime Prevention: Organized crime and Corruption Retrieved from: <http://www.uncjin.org/CICP/cicp.html>; <http://www.10iacc.org/download/workshops/cs22a.pdf>

180 U4 Expert Answer. Organized crime and corruption. Transparency International. 2008

181 UN Centre for International Crime Prevention: Organized crime and Corruption Retrieved from: <http://www.10iacc.org/download/workshops/cs22a.pdf>

182 UN Centre for International Crime Prevention: Organized crime and Corruption Retrieved from: <http://www.10iacc.org/download/workshops/cs22a.pdf>

183 Ibid.

184 Ibid.

business.<sup>185</sup> Bribery of top officials may be a relatively straightforward way to penetrate government structures. But contributions to financial campaigns to strategic candidates are also one of the regular methods used by wealthy criminals to gain influence over elected officials.<sup>186</sup>

This last adopted strategy combines the advantage of allowing criminals to influence the political agenda to their advantage and being seen as close to circles of power.<sup>187</sup> This may discourage the police to investigate their activities thoroughly as well as to provide an avenue to influence the appointments and dismissals of judges and chiefs of police. For example, practice shows that proceeds from illegal trafficking serve to finance political parties and election campaigns in South Eastern Europe, as the scale of criminal networks in the region require strong political protection.<sup>188</sup>

The risks of penetration of the state institutions which govern and distribute the public goods by organized crime, is a phenomenon that is familiar as “state capture” describing the way in which organized crime usually “captures” the State by co-opting the public institutions.<sup>189</sup> The relationship between state capture and organized crime shows strong link between these two phenomena, meaning that higher levels of states capture are associated with the spread of organized crime.<sup>190</sup>

In Europe, few empirical academic or policy studies examine how organized criminals corrupt politicians and civil servants:

Criminal organizations penetrate democratic mechanisms and their systems of representation. Votes are extracted with threats and violence or gained from citizens in exchange for different kinds of incentives. Political parties rely heavily on external funding. This dependence inevitably makes them susceptible to corruption. Therefore, it is common to secure a number of votes in exchange for favors such as contracts for public works, patronage or changing legislation.

CSD study on examining the links between organized crime and corruption point that in countries where organized crimes act especially in societies undergoing transition to democracy, representatives of those same criminal organizations assume key positions in the legislatures.<sup>191</sup> This allowed criminal groups to influence the new legal framework and establish rules favorable to their interests.<sup>192</sup>

The Buscaglia & Dijk (2003) study on controlling the organized crime and corruption in the public sector shows the connection between corruption and country's democratic tradition involves higher levels of social capital, meaning

185 CSD Report on Corruption, Contraband and Organized Crime in Southeast Europe. Retrieved from: <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN016997.pdf>. 2003

186 Ibid.

187 Ibid.

188 CSD Report on Corruption, Contraband and Organized Crime in Southeast Europe. Retrieved from: <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN016997.pdf>. 2003

189 Buscaglia, E & Dijk, Van Jan. Controlling organized crime and corruption in the public sector. Forum on crime and society vol 3, Nos. 1 and 2, 2003. Retrieved from: [http://www.unodc.org/pdf/crime/forum/forum3\\_Art1.pdf](http://www.unodc.org/pdf/crime/forum/forum3_Art1.pdf)

190 Ibid.

191 CSD Report on examining the links between organized crime and corruption. 2010. Retrieved from: [http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/libe/dv/report\\_csd\\_/report\\_csd\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/libe/dv/report_csd_/report_csd_en.pdf)

192 Ibid

that there is a direct relationship between interruptions in the democratic processes (political instability) and corrupt practices.<sup>193</sup>

Corrupt political authorities at the local level can be uniquely powerful instruments for organized crime.<sup>194</sup> Criminal gangs can easily infiltrate and influence local government employees and their decisions which result in clientelism or favoritism, i.e. awarding public contracts to criminal-linked companies.<sup>195</sup>

In Macedonia, the political corruption is related to organize crime on all levels: national, regional and local level as said by the interviews. Most of the interviews have answered that the political parties, have relations with organized crime figures. The qualitative data also shown that the type of criminals are using the political corruption for its own benefits and in Macedonia is similar as in the most of EU member states: high level criminals-bosses, white collar criminals and criminals on local level.

The interviewers also revealed that most common forms of political corruption in Macedonia are: **Bribe and Trade with influence**. Most of the interviewers also confirmed that they are different regions and towns in Macedonia which are considered as more vulnerable to corruption and organized crime. Hence, apart from Skopje as a capital of the country, other vulnerable regions seen as threat are the South-East Region (Stip, Strumica, Gevgelija), then Veles, as well as the cross-border regions or near the Macedonian borders (Tetovo, Struga).

High number of the interviewers also revealed few common motives behind local and administrative political corruption linked to the organized crime, such as: protection from influence, influence on bureaucracy, winning public contracts, personal (immediate) profit etc.

## 6.4. INFILTRATING THE GOVERNMENT (MEDIUM-TACTICAL LEVEL)

**The 4<sup>th</sup>** level of relationship between organized crime and corruption is infiltrating the Government (Medium-tactical Level). This infiltration targets higher ranking officers in sensitive government offices who can provide long term benefits and protection to criminal groups<sup>196</sup>. Top Officials in Law Enforcement, Prosecutor's Office and other sensitive government offices are organized crime members.<sup>197</sup> This level of Criminal groups gain systematic and broader access to confidential information and enjoy increased protection.<sup>198</sup> In this regard, organized crime groups need support from government officials in order to maximize profits;

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193 Buscaglia. E & Dijk. Van Jan. Controlling organized crime and corruption in the public sector. Forum on crime and society vol 3, Nos. 1 and 2, 2003. Retrieved from: [http://www.unodc.org/pdf/crime/forum/forum3\\_Art1.pdf](http://www.unodc.org/pdf/crime/forum/forum3_Art1.pdf)

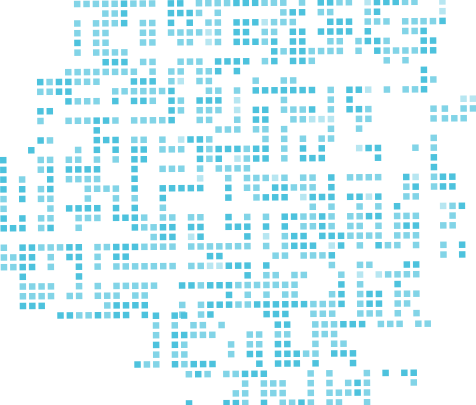
194 CSD Report on examining the links between organized crime and corruption. 2010. Retrieved from: [http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/libe/dv/report\\_csd\\_/report\\_csd\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/libe/dv/report_csd_/report_csd_en.pdf)

195 Ibid.

196 U4 Expert Answer. Organized crime and corruption. Transparency International. 2008

197 UN Centre for International Crime Prevention: Organized crime and Corruption Retrieved from: <http://www.uncjin.org/CICP/cicp.html>

198 U4 Expert Answer. Organized crime and corruption. Transparency International. 2008



bribery and extortion are used to influence police, judges and other key officials and OC gains control over entire sectors of the economy;<sup>199</sup>

Key methods used by the O.C groups to infiltrate the higher levels of Government:

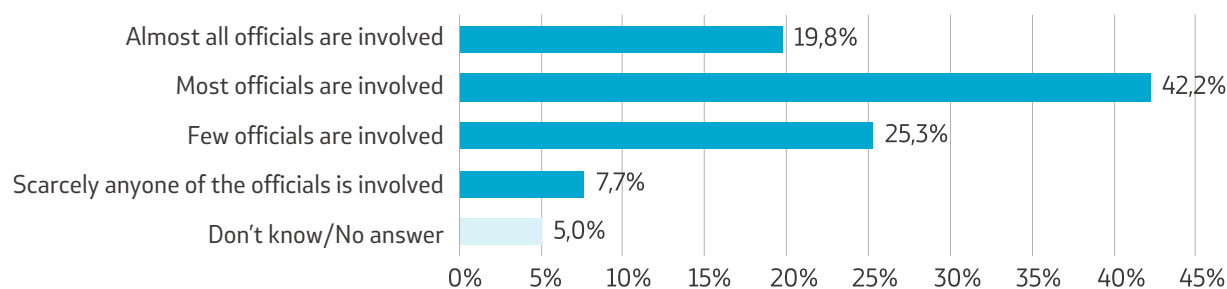
1. Placement of Corrupted Officers into Higher Office: The O.C. group use bribery and blackmail to support Officers previously corrupted by their organization to higher ranks with broader access to information. This “support” is repaid to OC with increased protection and access to more useful secret police information;
2. Control of the Chief of Section/Region: Bribery, blackmail and coercion is used to control the chief decision-maker of an entire branch of government. OC can continue operating with very little risk of discovery or successful prosecution;

Key measures to avoid the Infiltration of O.C. Groups are:

- ▶ Transparency in the hiring process including public notification of potential candidates;
- ▶ Strengthening promotional testing and strict secrecy of test questions;
- ▶ Vetting process thorough background investigations and polygraph test (updated financial statements, family ties, etc.);
- ▶ Public disclosure of assets;

According to the MCIC corruption assessment report, the Macedonian citizens believe that corruption is deeply penetrated among officials. Almost 20% of citizens believe that all public officials involved in corruption and 42% believe that most of the officials are corrupt. It’s alarming because it reduces the chances for people to report corruption.<sup>200</sup>

Figure 4. Perception of citizens about the prevalence of corruption among officials



Source: Corruption Monitoring System, 2014

199 UN Centre for International Crime Prevention: Organized crime and Corruption Retrieved from: <http://www.uncjin.org/CICP/cicp.html>

200 Ibid.







## 6.5. JUDICIARY

When it comes to infiltration in high-level government, special attention should be put on the “capture” of other institutions outside the executive, such as the entire justice system. Namely, after more than twenty years since the adoption of the Constitution as an independent state in clearly defined division of powers and independence of the judiciary, one of the key criticism of the country is the lack of functioning of the constitutional separation of powers into legislative, executive and court and the impact of policy and executive power over the courts. By 2011 the Minister of Justice was a member of the Judicial Council with the right to vote. After numerous reviews and recommendations in the current composition of the Judicial Council, the Minister redraw the right to a vote. This fact is just one of the indicators of the link of executive with the judicial system. In addition, although there is an independent judicial budget, the budget is approved by the Ministry of Finance, prior to a Parliamentary vote on Government’s proposal. The current practice suggests regularly adopt lower judiciary budget than required, which contributes to strengthening the impact of judiciary and go towards the perception of heavy dependence of the courts to the authorities<sup>201</sup>.

In the past five years, significant changes in the legislation have been seen aiming to increase the independence of the judiciary. However, few challenges remains to be tackled in terms of the role of the judiciary in the anti-corruption policies, implementing relevant measures, lack of transparency, or lack of feedback mechanism that will allow the public and civil society organizations to assess the integrity of the judiciary. Such practices could measure the real efficiency and effectiveness of the implementation of anti-corruption policies and to improve the overall fight against corruption.

The internal and external control of the work of the judges is still one of the most key challenges for suppressing corruption and organized crime. The 2014 EU progress report that “judges in the basic courts and appeal courts made 2 419 requests to rescue themselves in cases of potential conflicts of interest, of which 1 818 were accepted.<sup>202</sup> As stated in the report, claims of indirect political influence on the conduct and outcome of high-profile court proceedings persist, especially in respect of organized crime and corruption prosecutions, as well as cases involving political personalities and the media.”<sup>203</sup>

According to the population survey conducted within the USAID Anti-Corruption Program in February 2014, almost three quarters of the population (74%) believe that corruption has penetrated between judges (collective answers that all judges are involved and most judges are involved) pointing to a general perception of corruption in the judiciary that exists between citizens in Macedonia. Different than perception, only 9.2% of citizens were asked a bribe by its own judge (to give cash, gift or make a service) in order to resolve a problem.

The same survey respondents’ answers concerning the question of the prevalence of corruption among public prosecutors shows that 61% believe there is corruption among public prosecutors (the total sum of responses - most involved and almost all are involved). The perception is still that prosecutors are less involved in corruption compared with judges (74%). The difference is 13 percentage points.

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201 Ibid.

202 Ibid.

203 Ibid.



In comparison, Transparency International and different Eurobarometer surveys show that the perceived levels of judicial corruption in the EU are lower than the perception of political and private sector corruption. Much of what it is written on judicial corruption and the factors that contribute to judicial independence generally applies to organized crime and corporate crime abuse of the judiciary.

In **Macedonia**, the law allows a certain amount of executive control of the judiciary: judges have the obligation to declare the acquisition and changes in their assets, and declare conflict of interest. The declarations, however, are not vetted by the Judicial Council but by the State Commission for the Prevention of Corruption since it has jurisdiction over elected and appointed public officials. In the last available Commission report in 2012, it is stated that out of the 402 cases closed, 71 were in the judiciary. Nevertheless, it does not contain any further detail on the number of positive or negative cases, whether it is about corruption or other possible offences who has launched the proceedings, etc.

Yet, several challenges remain to be tackle. Crucial factor in the fight against corruption and organized crime is that the Judiciary is not to be seen separately, since different institutions are in place to ensure the proper functioning of the anticorruption machinery.<sup>204</sup> Judiciary and especially Prosecution must become more independent and this, in Macedonia, is rather linked to human material and potential, than to the legislation. Judiciary must become more transparent, making all data available and accessible. But, in the existing construct, crucial role have the Councils. Moreover, highly efficient management of public resources and transparent in the hiring processes is need, especially the elections of judges can be highly effecting tool for reducing the risks of corruptive practises or vulnerable opportunities for linking to the organized crime groups.

Among the SELDI countries, and according to CSD Corruption Monitoring System, Macedonia has one of the sharpest rises in the share of the surveyed public identifying judges as being corrupt. This corresponds to Macedonia's recent European Commission Progress Report<sup>205</sup> assessments that political interference, inefficiency, favoritism and lack of meritocracy, prolonged judicial processes, and corruption characterized the judicial system.

The 2014 Fourth GRECO Evaluation report on corruption prevention in respect of members of parliament, judges and prosecutors in the country, pointed several recommendations and follow-up concerning judges<sup>206</sup>:

- ▶ in order to strengthen the independence of the judiciary from undue political influence, the **ex officio** membership of the Minister of Justice in the Judicial Council to be abolished;
- ▶ the authorities of Macedonia ensure that the legal criteria and rules for the appointment of judges of first instance courts are effectively implemented

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204 State Commission for prevention of Corruption. State Programme for Prevention and Repression of Corruption State Programme for Prevention and Reduction of Conflict of Interests with Action Plans for the period 2011 – 2015. Retrieved from: <http://www.dksk.org.mk/en/images/stories/PDF/sp-11-15.pdf>

205 European Commission, The Former Yugoslav Republic of Macedonia 2014 Progress Report, October 2014, DG Enlargement, available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report_en.pdf)

206 Group of States against corruption (GRECO). Third Evaluation Round Second Compliance Report on "the former Yugoslav Republic of Macedonia" "Incriminations (ETS 173 and 191, GPC 2). Retrieved from: [http://www.europarl.europa.eu/meet-docs/2014\\_2019/documents/d-mk/dv/09/09en.pdf](http://www.europarl.europa.eu/meet-docs/2014_2019/documents/d-mk/dv/09/09en.pdf)



in practice, in particular as regards the requirement that all new judges be graduates of the Academy for Training of Judges and Public Prosecutors;

- ▶ appropriate measures to be taken with a view to strengthening the independence, impartiality and integrity of lay judges, **inter alia**, by introducing specific guidelines and training on questions of ethics, expected conduct, corruption prevention and conflicts of interest and related matters;
- ▶ decisions of the Judicial Council on the promotion of judges to be accompanied by a statement of reasons and be subject to judicial review;
- ▶ With due regard to the principle of judicial independence, the system of appraisal of judges' performance be reviewed to (i) introduce more qualitative criteria and (ii) remove any automatic lowering of a judge's grade resulting from the reversal of his/her decisions;
- ▶ set of clear standards/code of professional conduct to be conducted, accompanied by explanatory comments and/or practical examples, be established which will apply to all judges;
- ▶ rules and guidance be developed for judges on the acceptance of gifts, hospitality and other advantages and that compliance with these rules be properly monitored;
- ▶ disciplinary infringements applicable to judges be clearly defined and that the range of sanctions be extended to ensure better proportionality and (ii) that dismissal of a judge only be possible for the most serious cases of misconduct, ensuring, in particular, that the possibility to dismiss a judge solely in case one of his/her decisions is found to be in violation of the right to a trial within a reasonable time be abolished
- ▶ the disciplinary proceedings applicable to judges be reviewed so that (i) infringements are subject to one single disciplinary procedure and, (ii) with due regard to the principle of judicial independence, the authority to initiate proceedings and to investigate be separated from the authority to decide on sanctions;<sup>207</sup>

The in-depth qualitative data drawn from the interviews also shown that most common intermediaries within judiciary corruption, used by the organized crime are: lawyers with working experience in the judiciary, police officers, prosecutors, politicians etc. Few interviewers also answered that they are familiar with cases on judiciary corruption, due to their working experience of working experience or the Media news.

Key factors behind judiciary corruption development addressed by the interviewers have been: weak controls systems, low salaries of public prosecutors, close relations between the judges and the prosecutors etc.

Several reasons have been detected behind the link of the organized crime and the judiciary corruption, as stated by the interviewers: the need of penalty evasion, winning public procurement contracts, avoiding sentences, extending the delay of the trials, issuing criminal indictment with insufficient account of crime-specifics elements required by the procedural codes etc.

The links between corruption and organized crime indicate that the legal environment, and in particular the way the judiciary functions and the quality of

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207 Ibid.

the services are provided, is another significant determinant of corruption.<sup>208</sup> This is due to the fact that only an independent, fairly administered and predictable judiciary can fulfil its role as institutional guarantor of the rule of law, assuring that wrongdoers are punished with a high degree of predictability.<sup>209</sup>

Further trainings of the judiciary administration can also influence the drop of corruptive and organized crime vulnerabilities as well as increase of the annual budget on salaries and other support for increasing the integrity of the employees.

The inter-institutional cooperation is also crucial in repressing judicial corruption and organized crime. The cooperation between the Ministry of Interior and other Law enforcement bodies with the Public Prosecution Office for Organized Crime and Corruption should be fundamental in proceeding effective, transparent and based on rule of law – investigations and prosecutions and verdicts. In addition the institutional cooperation in multidisciplinary training is needed with all other relevant institutions and the Department for Organized Crime and Corruption within Basic Court Skopje 1. This study shows that the cooperation among the institutions in progressing and further support is need.

## 6.6. INFILTRATION INTO STATE ADMINISTRATION AND GOVERNMENT AGENCIES

The third level of infiltration of corruption and crime refers to the state government or the administration, including independent agencies, the judiciary, prosecutors and others.

During **the 3<sup>rd</sup> level** of Infiltration into Government Agencies, the infiltration of the organized crime members and friends is sporadic within lower ranking official positions, gaining employment in law enforcement agencies, judiciary Prosecutor's Office and other operations by various means with the view to easing criminal operations.

The infiltration is accomplished in two ways:

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- ▶ Applying for Job Vacancies: The O.C. group supports one or more members or friends to participate and apply for job vacancies with the Government;
  - ▶ "Buying" the Jobs: The O.C. group bribes or blackmails officials to place its members and friends in the government post.
- 

2011 UNODC report on Macedonia, indicates that the job opportunities in the public sector are usually attractive to job seekers, not only for the nature of the work itself but also for the advantages typical of employment in the public administration, such as job security, associated social status and fair remuneration. In this sense, according to the results of the UNODC survey, some 20 % of citizens or members of their households applied for a job in the public sector in the three years prior to the survey, out of which 18 % actually secured

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208 Buscaglia, E & Dijk, Van Jan. Controlling organized crime and corruption in the public sector. Forum on crime and society vol 3, Nos. 1 and 2, 2003

209 Ibid.

a job.<sup>210</sup> Of those who were successful, 6 % admit paying money, giving a gift or doing a favour in order to be hired.<sup>211</sup> Data show that public sector recruitment procedures in the country suffer from a lack of transparency, at least in the opinion of applicants who were not recruited: as shown in figure 17, in total, three quarters of those who did not get a job think that somebody else was employed either due to cronyism, nepotism or bribery (70%), or due to the payment of money (5%).<sup>212</sup> Only about 7 % believe that somebody else better fitted the job requirements.

Such indicator of the traditional employment in the public administrations (public official, servants etc.) in the country, usually can make institutions vulnerable to infiltration of the O.C group into the public sector and the Government even easier and vulnerable to corruptive criminal acts.

In light of the need of effective public administration, selected and managed in open and transparent manner, the State Commission for preventing corruption has identified the key problems and risks encountered by the public administration relate to:

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- ▶ Lack of fully decentralized management of public resources,
  - ▶ Lack of strong guarantees for implementation of the operating procedures,
  - ▶ Lack of corruption risk assessment in the public administration institutions,
  - ▶ Lack of systematized measures for corruption prevention,
  - ▶ Lack of public control over the work of the public administration which opens the doors for different types of conflict of interest.<sup>213</sup>
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The centralized system of public resources management allows for high concentration of power among individuals who are exclusively authorized to commit funds on behalf and at the expense of the institutions. Such system creates opportunities for corruption and abuse of funds and is not conducive to the principles of delegation of authority, i.e. allocation of responsibility for spending public funds to all management roles in the system.

According the latest 2014 EU Progress Report on the country, politicization of the public administration, at both central and local level, is a serious concern.<sup>214</sup> The principles of transparency, accountability, and merit are not yet fully applied and furthermore OSCE/ODIHR reported on credible allegations of pressure having been exerted on public sector employees during the April 2014 elections.

Possible risks on corruptive and organized crime practices are possible in the local municipalities during the process of managing the local budgets and the public procurement procedures. In absence of firm regulation, access to public information, openness of the institutions the public administration can be vulnerable to criminal acts, giving, accepting bribes, etc.

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210 UNODC Report: Corruption in Macedonia: Bribery as experienced by the population. 2011

211 Ibid.

212 Ibid.

213 State Commission for prevention of Corruption. State Programme for Prevention and Repression of Corruption State Programme for Prevention and Reduction of Conflict of Interests with Action Plans for the period 2011 - 2015

214 European Commission, Macedonia 2014 Progress Report, October 2014, DG Enlargement, available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/package/mk\\_rapport\\_2014.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/package/mk_rapport_2014.pdf)

During the process of decentralization of the local self-government, successful examples of local municipalities with ongoing increase of integrity have occurred. Positive examples of increasing the integrity, accountability and transparency on local level are the city of Veles, Stip, Strumica, etc. However, further challenges need to be tackled for effective introduction of systems integrity is the introduction of policies and tools to ensure smooth and transparent process and continuous implementation and monitoring activities in all municipalities.

Further trainings for introducing the systems integrity and mechanisms for preventing corruption on local level need to be implemented in the further period as well as to be introduced innovative methodologies and tools for monitoring the integrity and improving the transparency of municipalities.

In order to address these issues, there is need of improvement of the legislative framework and effective anti-corruptive measurements and strategies on both national and local level.

As said by the interviewers, any phase of the administrative procedures can be vulnerable to corruption. The low salaries of the administration and the public servants are among most common reasons behind the negative corruptive practices. Another key reason is the lack of control over administrative work, especially concerning the public procurement procedures and e-bidding.

Most common intermediates between the citizens and public officers which are vulnerable to corruption or organized crime activates are: notaries, lawyers, executives, estimators;

Relevant measurements for countering administrative corruption can be the increase of awareness of the sanctions which the public servants as well as the citizens will have in cases of bribes or other forms of corruptive practices; In order to prevent and repress the administrative corruption, there is a need of string regulative and independent bodies, transparent budget and accountable public spending. The efficiency of the State Audit Office need to be strengthen as well as the cooperation with all other competent institutions, including the State Administrative Inspectorate and the Ministry of Information Society and Administration.

## 6.7. CONTINUOUS ACTS OF BRIBERY ("ON THE PAYROLL")

**The 2<sup>nd</sup> level** Continuous Acts of Bribery ("On the Payroll") of relationship between the Organized Crime and Corruption is the bribe payments from organized criminal group to the public officer, which provides continuous flow of information and protection from police intrusion into criminal activities.<sup>215</sup> The benefits of such acts are that the O.C. Groups obtain constant access to confidential information allowing them to maintain patterns of illegal activity and to remain "one step ahead" of Police.<sup>216</sup> In such schemes, low ranking public

215 UN Centre for International Crime Prevention: Organized crime and Corruption Retrieved from: <http://www.uncjin.org/CICP/cicp.html>

216 UN Centre for International Crime Prevention: Organized crime and Corruption Retrieved from: <http://www.uncjin.org/CICP/cicp.html>

officials are on the organized crime “pay-roll” in exchange of their services and continuous dedication to the criminal cause.<sup>217</sup>

Several measurements that can be strengthened in order to avoid the bribery acts are:

- 
- ▶ Strengthen the socio-economic status of public officers with fair and competitive salaries;
  - ▶ Implement strong penalties for breaches of public duties;
  - ▶ Encourage “whistle-blowers”
  - ▶ Train and assign Integrity Officers to corruption-prone government operations;
  - ▶ Reduce individual discretion;
- 

## 6.8. BRIBERY (1ST LEVEL): INFILTRATION

The first level of link between the Organized Crime and Corruption is a bribe offered from an organized crime group to a public officer for a single act, include police officials as well. For example: to obtain a passport, licenses or to get information designed to enable criminal advantage.<sup>218</sup> The benefits of these single acts for the organized crime group are:

- 
- ▶ The OC Groups obtains an advantage;
  - ▶ False identities and documents;
  - ▶ Advance information about police activity;
  - ▶ Manipulation of official records;
  - ▶ Disappearing evidence;
  - ▶ Access to jury identities<sup>219</sup>
- 

Such corruption of public officials, including law enforcement and court officers, is a common feature of organized crime that allows criminal organisations to secure survival and minimise the risk of being arrested and prosecuted. In such a case, the corrupt police officials turn a blind eye on illicit activities, pass information on police investigations and planned raids or conduct flawed prosecutions.<sup>220</sup>

According to the anti-corruption program of the Ministry of Interior (Moi), high-corruption risks are allocated among vacancies in the traffic police, border affairs, administrative services, and also services that are directly appointed to work on cases of corruption and organized crime, part of the work places in the area of suppression of trafficking (drug trafficking, excise goods), and vacancies related to procurement contracts for the police as well as vacancies which involve high decisive factor in the police etc.<sup>221</sup>

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217 U4 Expert Answer. Organized crime and corruption. Transparency International. 2008

218 Ibid.

219 Ibid.

220 U4 Expert Answer. Organized crime and corruption. Transparency International. 2008

221 Ministry of Interior. Sector for Internal Control and Professional Standards. Program for anti-corruption. 2014.

The annual 2013 statistical data of the Mol in Macedonian reveals 25 cases of classical corruption and crime reported by 57 people.<sup>222</sup> The 2014 Mol Report on types of organized crime and corruption in 2013, states that during the reported period, 32 cases of abuse of official position and power corrupt elements have been revealed. In the same period, 55 people have been reported, out of which 11 police officers, 8 customs officers, 12 directors, three members of the Commission, two former mayors and other responsible officials. Material damage caused by these cases is estimated at 256 million.<sup>223</sup>

Out of the reported cases, 13 cases are related to high-profile corruption, while 24 employees in public enterprises and other state institutions have been reported for abusing their authority during performance of various incriminations (abuse of procurement procedure, conducting harmful agreements, abuse of subsidies and reported etc.<sup>224</sup> (See table 8.)

Table 8. Register criminal acts 2012-2013

Criminal acts	Registered Cases	Perpetrators
Accepting bribery	11	15
Giving bribe	10	13
Money laundering	10	48
Criminal association	11	61
Misuse of official position and authorization	200	321
Tax evasion	51	71

Source: Ministry of Interior, *Most typical cases of organized and economic crimes, 2012-2013*

The EU study on the links between corruption and organized crime, conducted by the CSD in 2010, found that the most prevalent and systematic form of corruption that is the target of organized crime is linked to lower echelon officers of the police and public administration.<sup>225</sup> The aim of organized crime is also to reach the tax administration, the financial regulators and other regulatory bodies that may affect criminal activity, but in less systematic and significant manner.<sup>226</sup> This study also shows that the average white crime bureaucratic government level is common (with varying degrees of intensity) in almost all EU countries.<sup>227</sup>

The 2014 statistical data of the Ministry of Interior shows, 8 police officers, one director, officer, doctor and a resident have been reported for accepting bribes.<sup>228</sup> Five police officers were reported for being a part of a criminal group

222 05/03/2014 Report from the field of classical Corruption 2013

223 Ministry of Interior, Republic of Macedonia. 2014. Report on cases on corruption and organized crime. 05/03/2014. Retrieved from: <http://mvr.gov.mk/ShowAnnouncements.aspx?ItemID=13755&mid=1094&tabId=201&tabindex=0>

224 Ibid.

225 Gounev, P. & Bezlov, T. 2011. The links between organized Crime and Corruption. Centre for study of Democracy (CSD)

226 Ibid.

227 Ibid.

228 Ministry of Interior, Republic of Macedonia. 2014. Report on cases on corruption and organized crime



including an act of accepting bribe and performing illegal transfer of cattle in the Republic of Albania. In cases of giving bribes, police officers were reported for irregularities in control of vehicles (transport of trees and vegetables without necessary documents). Then irregularities during transport and border control were also registered among perpetrators.<sup>229</sup>

## 6.9. THE ROLE OF THE POLICE IN THE FIGHT AGAINST CORRUPTION AND ORGANIZED CRIME

The largest competence and authority to investigate corruption within the police has the Ministry of Interior (Moi). Among Moi's central police services, the Centre for suppression of organized and serious crime is responsible for investigating cases of corruption. This centre has a Department for financial crime which is composed of the following units:

**Department of Financial Crime** (Money Laundering Unit and financially investigations Department of Economic organized crime);

**Sector Corruption** (Department of corruption in public procurement; Department of classical corruption and abuse in the public and private sector);

**Department of illicit drugs** (Department of combat illicit drug trafficking at regional and national level; Department to combat illicit drug trafficking internationally);

**Department of covert human sources of information** (Department of covert human sources of information organized and serious crime; Department of covert human sources of information on regional and local crime);

**Department for Criminal Intelligence Analysis for organized crime** (Department for Criminal Intelligence Analysis Department of Statistical Research and Documentation);

**Department of undercover operations** (Department of undercover police officers, Department of communications, Department of observation, monitoring and documenting; Department for witness protection);

**Department for serious crime** (Department for blood offenses and violent crimes Department of General Crime Department of illicit weapons and dangerous substances);

**Department Trafficking and Illegal Migration** (Department Trafficking Department of illegal migration.

*Source: Ministry of Interior (Moi), Republic of Macedonia*

Moi and the police is a key link in the chain of prevention of organized crime and tackling corruption. However, the daily operations of detecting cases of organized crime and corruption leads to challenge the police officers to remain immune and beyond the system of organized crime, which simultaneously

<sup>229</sup> Ministry for internal affairs. Republic of Macedonia. 2014. Report on cases on corruption and organized crime. 05.03.2014. Available at: <http://mvr.gov.mk/ShowAnnouncements.aspx?ItemId=13755&mid=1094&tabId=201&tabindex=0>



imposes the need for significantly greater measures to protect the integrity of the police and other officials from the Ministry of Interior.

From 2005 to 2013, the capacities of the country's national police forces and border police have strengthened, as well as their education and skills for increasing the integrity. As result, the trust of the Macedonian citizens in the Macedonian police has improved as well. The OSCE Community Policing Survey from 2012 shows that there has been a progress in dealing with the problem of corruption among the police in the past several years.<sup>230</sup>

Since 2004 till 2010, from 73% till 80, 5% of the Macedonian citizens considered that there is corruption among country's national police forces.<sup>231</sup> However, by 2012 this number has declined to 59, 3 % of the Macedonian citizens which consider that there is corruption among the police. Moreover, the number of police servants which consider that there is corruption in the police has declined from 45% in 2010, till 32, 2% in 2012.<sup>232</sup>

In comparison, according the same survey, one third of the European citizens (34%) consider the corruption in the police as widely spread, out of which in Cyprus, 75% of the citizens, then Bulgaria (70%), Latvia (66%) and Romania (64%).<sup>233</sup> In this regard, the Republic of Macedonia with 59% placed on the fifth position.<sup>234</sup>

OSCE survey from 2012 reveals that the Macedonian citizens recognized police corruption in local units as well, such as: the police corruption SVR Strumica (79%), followed by SVR Kumanovo (74%) and SVR Veles (70%). By contrast, only 31% of the Macedonian citizens in SVR Tetovo believed that there is corruption among the police, although 43% of the police servants agreed that there is corruption among police. Only 24% of the police servants in SVR Stip and 20% of the police servants in SVR Veles agree that there is corruption among police.<sup>235</sup>

The data drawn from the interviewers for the purpose of this study reveals that the corruption in the policy is partly spread. Possible Departments or Police services which might be more affected to organized crime than others, the interviews detected among Border and Traffic Police, then few of the interviewers pointed the Criminal Police and the Investigative judges.

The interviewers also answered that if police corruption occurs then the level within the policy hierarchy is systematic, meaning that all levels within certain police districts/departments can be targeted by organized crime. However, most of the interviews also pointed that the police corruption occurs on individual level and that street level (petty) corruption that allows distribution of drugs, prostitutions etc. is not very common occurrence.

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230 OSCE Community Policing Survey: Corruption. 2012


231 Ibid.

232 Ibid.

233 Special Eurobarometer 374 "Corruption" Wave EB 76.1, Conducted by TNS Opinion & Social as the request of Directorate-General Home Affairs, 2012

234 Ibid.

235 OSCE Community Policing Survey: Corruption. 2012



The qualitative data drawn from the interviewees for the purpose of this study shows that most of the police corruption in the country is both ad-hoc and long-lasting. Usual forms in which corruption occurs between the police and the OC participants, according to the interviewees are: payment/cash bribes and Trade with favors/ influence.

The interviewees have pointed several risks for police corruption: Ignorance or omissions during the investigation process; Omissions during collection of the evidence; The level of education among police officials which are implementing the investigation procedures;

Most of the interviewees has pointed the lack of knowledge and skills for conducting diversified and complex investigations as key reason behind the police corruption.

As main reasons for organized crime to corrupt the police, the interviewees have pointed: the need to undermine the criminal investigations or proceedings, to protect illegal activities and to obtain necessary information.

The interviewees also pointed several reasons why the police officers can be vulnerable to corruption by organized crime, stating that the low pay (salaries) and the lack of controls might have impact on the personal integrity of the police officers. The interviewees also pointed that common intermediaries with the police officers are: lawyers, former police officers, notaries etc.

Raising the awareness among the public that the police corruption is unacceptable and that the public can do something about it, is extremely important process that should be encouraged. For this purpose, it is necessary to mobilize institutions in anti-corruption efforts through institutional cooperation, and strengthen cooperation with the CSOs.<sup>236</sup>

## 6.10. INTERNAL CONTROL AND PROFESSIONAL STANDARDS WITHIN POLICE

Internal corruption and irregularities in the work of the MoI is under the competence of the **Sector for internal control and professional standards** (SICPS), which functions within the frames of MoI. This sector works to prevent, educate and introduce public officials in MIA on the issue of conflict of interest and undertakes measures to develop a system for detection and suppression of corruption with.<sup>237</sup>

In the period 2002-2014, the Macedonian police has taken several measures to strengthen the capacity of law enforcement officers and to improve internal control in order to improve the overall integrity.

The Interior's Sector for Internal Control and Professional Standards initiated corruption-related disciplinary proceedings only against 12 police officers in

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236 Ministry for interior. Anti-corruption program. Sector for internal control and professional standards. Ev. No. 13 2014.

237 Nuredionska, E. et al. 2014. National Corruption Assessment Report. Macedonian Centre for International Cooperation

2013 and 6 were fined as a result. It also initiated criminal proceedings in 6 corruption-related cases.<sup>238</sup>

In 2012, the Sector for Internal Control and Professional Standards in the Ministry of Interior started disciplinary procedures against 347 police officers (an increase from 228 in 2011). It also raised criminal proceedings in 10 corruption-related cases. Other Law enforcement agency, the customs administration has strengthened its integrity system with measures relating to transparency, human resources and financial management.<sup>239</sup> 72 disciplinary procedures were initiated against customs officers in 2012; however none were directly corruption-related. Criminal charges were brought against 2 customs officers for taking a bribe.

Yet, the internal control system in central and local administration remains weak and effective whistle-blowing mechanisms in the public and private sectors are yet to be set up.<sup>240</sup>

By 2014, the statistics shows positive trend in the efficiency of discovering acts in organized crime for around 14%.<sup>241</sup> The repressed criminal groups in this period involved 7 organized criminal groups, out of which 7 were customs officers and 2 police officers which have supported the criminal activities of the groups.<sup>242</sup>

The data drew from the interviewers of this study reveals that several special measures against police corruption have been taken in the past decade such as: Integrity tests; Ethical Education; Systemic measures etc.

Such measurements can more effectively suppress the criminal groups which according the interviewers are more likely to corrupt the police than the others, such as the white collar criminals or groups run by forms police officers/security services. Hence, there is still a need of more relevant measurements, such as the Whistle-blowers programs.

Overall reporting and police statistical data should be improved as well. The trend of reporting and discovering criminal corruptive acts in support of the organized crime in Macedonia have been largely improved following the years, but additional progress needs to be made in the same manner.

## 6.11. THE CUSTOMS IN REPRESSING THE CORRUPTION AND ORGANIZED CRIME

MCIC survey from 2014 has shown that large number of the citizens (36, 3% almost everyone and 34, 8% most of them), believes the corruption is present among customs. However, only 8,8% of citizens had have actual request from

238 European Commission, Macedonia 2014 Progress Report, October 2014, DG Enlargement. European Commission, available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mk\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mk_rapport_2013.pdf)

239 European Commission, Macedonia 2014 Progress Report, October 2014, DG Enlargement. European Commission, Macedonia 2014 Progress Report, October 2014, DG Enlargement, available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mk\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mk_rapport_2013.pdf)

240 Ibid.

241 Ministry of Interior. Conditions in the field of organized crime in 2014

242 Ibid.

customs offices to solve some personal problem, compared to 25,6% requests from Doctor, then 16, 4% from municipal officer, or 14, 1% from police officer.<sup>243</sup>

Such results suggest that the perception of the citizens has been created by traditional habit or that the customs services in the country have taken relevant measurements for repressing the corruptive and criminal activities. Yet, these activates have not changed the perception of the citizens since additional steps are needs to be done for increasing the integrity of the customs officers as well as the citizens trust into customs services.

The interviewers of this study reveals that most common types of organized crime activities which are facilitated by customs corruption in the country are: Drug smuggling, then smuggling of excise tax goods: cigarettes, alcohol, oil etc.

The interviewers also indicated that the most common reasons why the customs officers might be vulnerable to corruption by organized crime are: the lack of integrity, bribe offers and the lack of controls.

Despite the negative perception for the Customs, the Customs Administration of the Republic of Macedonia has made significant strides in setting the standard operating procedures for the customs offices in all segments under its authority.<sup>244</sup> In this regard, the Macedonian Customs administration has point several patterns of corruption and abuse of official powers, such as:

- ▶ It happens when interfering with customs officers;
- ▶ The more direct contacts imposed by the regulations and the system – the more room for corruption and abuse of official powers
- ▶ Complex and ambiguous legislation including unnecessary discretion right of the officers as a reason for corruption and abuse of official powers;
- ▶ Inexistent or low level of transparency – more room for corruption and abuse of official powers;
- ▶ Payment of duties in cash – more room for corruption and abuse of official duties;
- ▶ Macedonian economy is still highly dependent on imports – 80% of the businesses have to work with the Customs Administration.<sup>245</sup>

The Operative centre of the Customs Administration started to work in November 2003 with putting in function of the Customs telephone line 197.<sup>246</sup> The line was intended for declarations of smuggling and corruption and is administrated by the Coordination and Communication Department. The main role of this Department is to receive and process information and to provide logistic support to the Control and Investigation Sector and to the customs officials.<sup>247</sup>

243 Nuredinoska, E; et all, B. 2014. National Corruption Assessment Report. MCIC. Skopje

244 Ibid.

245 Retrieved from: <http://www.customs.gov.mk/en/DesktopDefault.aspx?tabindex=0&tabid=233>

246 Retrieved from: <http://www.customs.gov.mk/en/DesktopDefault.aspx?tabindex=0&tabid=196>

247 Ibid.

The 197 open-line also allows the participants in the customs procedure to declare any problems which might arise in the course of the customs procedure, and the resolution to such problems is coordinated and mediated by the Coordination and Communication Department. The line was designed for applications smuggling and corruption and is operated by the Department of coordination and communication. The main role of this department is to receive and process information and to provide logistical support for the Control and Investigation and customs officers.<sup>248</sup>

Notwithstanding of all efforts have been produced in the past period, there is still absence of effective, systemic controls over the strict application of the standardized procedures by the customs officers and that creates space for corruption.<sup>249</sup>

The interviewers for the purpose of the study reveals that usual measurements against corruption in customs that can have an impact on suppressing organized crime are: stimulus packages, polygraph tests, random inspections etc. Some of these measurements have been implemented and some are yet to be adopted.

Interviewees for the purpose of this project also indicated that the most common types of intermediaries linking organized crime with corrupt customs service are: former customs officers, companies that perform import-export agencies etc insurance.

The last available Basic Court Skopje 1 statistics reveals that during the period between 2007 till 2013, there have been 31 charges against police customs and 14 charged against customs, compared to lawyers (3) or police officers (3).

This can serve as an indicator of the effectiveness of prevention and control mechanisms in customs, which must be strengthened in other agencies of law enforcement. See Figure 5.

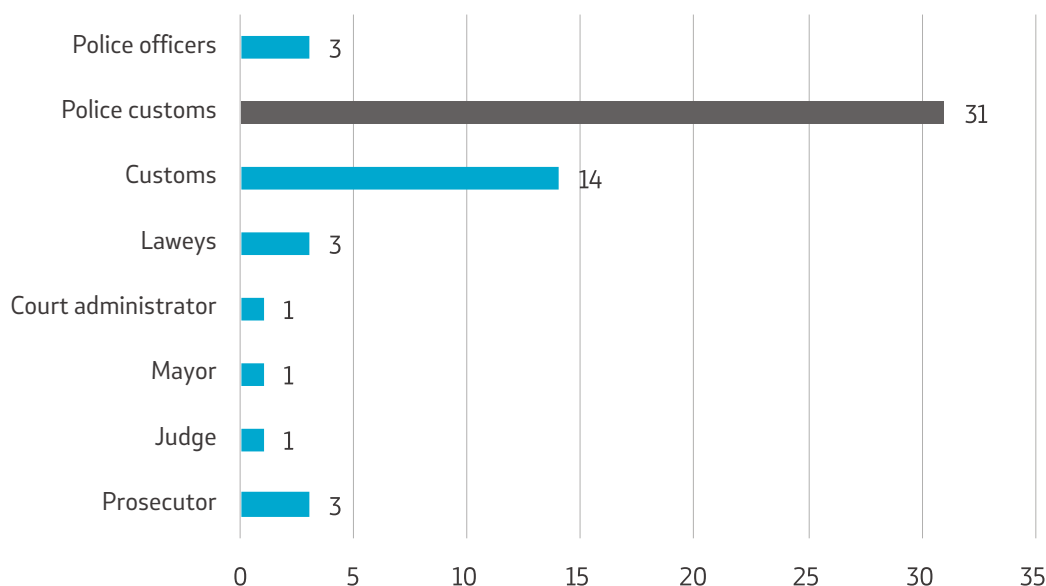


Figure 5. Charged according profession, Basic Court Skopje 1

Source: Department of Organized Crime and Corruption, Basic Court Skopje 1, 2014

248 Ibid.

249 State Commission for prevention of Corruption. State Programme for Prevention and Repression of Corruption State Programme for Prevention and Reduction of Conflict of Interests with Action Plans for the period 2011 - 2015

The SCPC also emphasize that over the past few years, the customs sector has seen significant progress, particularly with the introduction of the integrated border management and a separate functional central system of video surveillance at the border crossings and customs checkpoints, which operates continuously.<sup>250</sup> In addition, new bylaws were adopted that lay down the standards for conduct of customs officials in different circumstances and a mobile system of internal control was also introduced.<sup>251</sup> Yet, the number of charged and the high perception of corruption in customs services indicates that potential risks of corruption and organized crime activities are still present and further enforcement is necessary.

In contrast, corruption within customs administrations across the EU is marked by big differences between perceived customs corruption levels in Eastern Europe and Greece on the one hand, and in the rest of the EU Members. In countries like Bulgaria or Romania, almost 60% or more of the population consider the customs services are corrupt, according to Eurobarometer, while in EU-15 that percentage hardly reaches a 20%.<sup>252</sup>

Corruption in customs could be explained to a large extent due to **historical factors**. A couple of historical factors have marked influence on the development of a culture of corruption that continues to shape customs agencies along the external Eastern border of the European Union: namely the embargo on the former Yugoslavia and cross-border shuttle trade smuggling during the 1990s. Another factor could be the **grey economic sector** that provided demand and the distribution channels needed for smuggled goods during the sudden liberalization of Central and Eastern Europe economies. Furthermore, the cultural and socio-economic situation of the communities in border areas explains much of the ongoing corruption as well.<sup>253</sup>

Another feature of customs corruption relates to **political pressure**. The corruption income from trans-border smuggling has been seen as an important source of funding for political parties (at local or national level), or for the personal benefit of corrupt politicians. Political pressures in smuggling operations carried out by larger companies usually involves a much broader range of corrupt economic relations between big business and politicians.<sup>254</sup>

Some possible anti-corruption tactics to address corruption in customs administrations are the following:

#### **Anti-corruption recommendation to fight against corruption in customs.**

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250 Ibid.

251 Ibid.

252 Eurobarometer 2007. Retrieved from: [http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/eurobarometer/fe\\_2007\\_en.htm](http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/eurobarometer/fe_2007_en.htm)

253 Studying the links between corruption and organized crime. Policy Briefs. 2015. Macedonian Center for International Cooperation & Center for studying democracy.

254 CSD Study on examining the links between corruption and organized crime. 2010. Retrieved from: [http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/libe/dv/report\\_csd\\_/report\\_csd\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/libe/dv/report_csd_/report_csd_en.pdf)

- ▶ **Rotations:** there are three approaches that could focus on **officer rotations** (customs officers do not stay in the same position for more than two to three years in a row; this aims to prevent the development of similarly long-lasting corrupt relations whereby the same officers are in contact with the same individuals who regularly cross the same border check point); **shift rotations** (this approach targets inspection officers (at large customs offices) allowing one's post to be shifted daily; and, **randomized-computer generated check schedules**, a software which determines who should inspect which truck.
- ▶ **Team based activities:** work is organized, so that procedures require two or more officers to be involved. This inherently increases the cost of corruption and makes the schemes much more difficult.
- ▶ **Random checks:** mobile units are considered to be the most effective tool to perform random checks. An additional measure is that mobile groups themselves do not know in advance what they would be checking and their travel routes are randomly generated and not predictably scheduled.
- ▶ **Whistle-blowing programmers** could be instrumental in encouraging the reporting of corruption. These could be supported by phone hotline and anonymous email reporting systems. They could also be used by ordinary citizens.
- ▶ **Trainings/awareness raising programmers:** Training materials and sessions could be proved useful. Another method of raising awareness could be a proactive media involvement for public exposure of detected corruption cases. Officers could see this as a deterrent to becoming corrupt.
- ▶ **Internal control departments** range widely in their powers and capacity. In countries with significant corruption these departments are also politicized and seen as way to 'regulate' rather than tackle corruption. Whether these departments are proactive or reactive makes a big difference.
- ▶ **IT access and data protection rules:** with the increased level of sophistication and the introduction of IT systems in the work of customs, the management of these systems has become of key importance to anti-corruption work. In addition to to trace who of who accesses the system and differentiation in access levels, some customs offices have introduced further IT anti-corruption measures that analyse and detect risk behavior in data access (for instance an officer frequently accessing data not related to his/her immediate work).
- ▶ **Financial incentives:** Some argue that relatively high salaries serve as a guarantee against corruption. Or, there are different pay schemes that could reward officers' work.
- ▶ **High penalties:** including imposing lengthy prison sentences and making customs officers aware of the possible consequences of corrupt behavior are amongst the anti-corruption tactics used.



Source: CSD, *Examining the links between organized crime and corruption, 2010*.<sup>255</sup>

The internal control and the anti-corruptive measurements have also been improved by the Macedonia Customs Services during the past period. There are regular monthly internal controls among the Custom offices as well as relevant sanctions in forms of: Random checks, Trainings/awareness raising programmes, high penalties; Internal control departments; Random checks activities; Whistle-blowing programmes;

As recommended by one of the interviewers there is further enforcement for increasing the public awareness for the negative trends of corruption and organized crime as well as share of experience with best foreign models of anti-corruptive practices in order to repress the corruption and organized crime in Customs, but also in all other aspects;

Hence, several further steps should be taken in order to increase the efficiency for countering Customs and organized crime corruption: whistle-blowers protections; intelligent system of whistle-blowers; strengthening the rule of law; money flow mechanisms;

## 6.12. CONCLUSIONS AND RECOMMENDATIONS

- ▶ *There are five levels of links of corruption and organized crime: corruption, bribery infiltration in the state administration, the level of infiltration of government and infiltration in the political arena.*
- ▶ *All these levels are related or criminal groups use officials and civil servants to achieve their goals. The modes are varied through direct influence on the appointment of the highest state functions, then through protection from influence, influence on bureaucracy, winning public contracts, personal (immediate) profit, appointment of top judges etc. including small bribe to an official as well, for example to lift traffic offense.*
- ▶ *In Macedonia, as a developing country (post-transition) there is risk of high political corruption and "state capture" in the hands of criminal networks, due to the lack of control mechanisms on the profits generated by criminal activities, which allows them to exercise their influence on policy and the business sector;*
- ▶ *There is a need for trainings for introduction of system of integrity and mechanisms for prevention of corruption at the local level, as well as innovative methodologies and tools for monitoring the integrity and improve the transparency of the municipalities.*
- ▶ *One of the common factors behind the vulnerability of the judiciary to the organized crime is the lack of professional knowledge and presence of other organized crime activities; Key factors behind judiciary corruption are: weak controls systems, low salaries especially of the public prosecutors, close relations between the judges and the prosecutors etc.*
- ▶ *Most common intermediaries within judiciary corruption, used by the organized crime are: lawyers with working experience in the judiciary, police officers, prosecutors, politicians etc.*
- ▶ *Several reasons have been detected behind the link of the organized crime and the judiciary corruption, as stated by the interviewers: the need of penalty evasion, winning public procurement contracts, avoiding sentences, extending*

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255 Ibid.

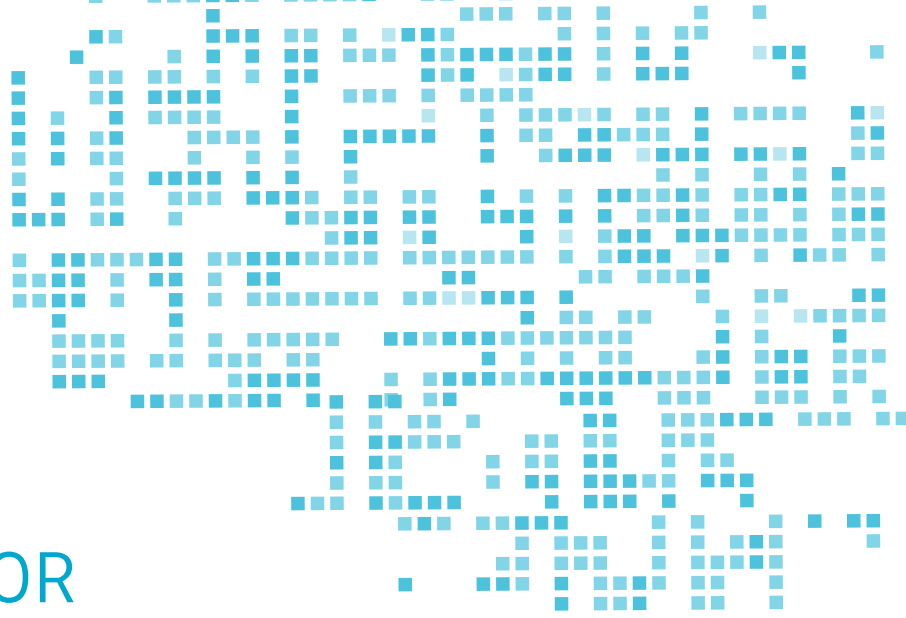


*the delay of the trials, issuing criminal indictment with insufficient account of crime-specific elements required by the procedural codes etc.*

- ▶ *According to interviewees, several reasons were recognized over links to organized crime and corruption in the judiciary: the need to avoid penalties, receiving public contracts, avoiding prison sentences, prolonging trials, making criminal accusations by disgruntled elements of criminal activities that are need for commencement of proceedings under the laws etc.*
- ▶ *Mol and the police have the key role in fighting organized crime and corruption. Due to the specific responsibilities, the effective work of the internal control system within the police or the Ministry is especially important. Results so far indicate a solid deal with the challenges of internal control, which in some cases resulted in significant penalties and even termination of employment of employees in the police.*
- ▶ *The first level of link between the Organized Crime and Corruption is a bribe offered from an organized crime group to a public officer for a single act, including police officials;*
- ▶ *Police corruption occurs at the individual level. However, the street level (petty corruption) of corruption that allows selling drugs, prostitution, etc., is less common;*
- ▶ *The most common forms of corruption among the police and members of organized crime groups are: cash payment / bribery and trade in services / impact.*
- ▶ *Most common types of organized crime activities which are facilitated by customs corruption in the country are: Drug smuggling, then smuggling of excise tax goods: cigarettes, alcohol, oil etc.*
- ▶ *The usual types of intermediaries which link the organized crimes to corrupt customs services are: former customs officers, import-export companies, insurance agencies etc;*



# VII. PRIVATE (BUSINESS) SECTOR AND CORRUPTION



## 7.1. INTRODUCTION

The corruption in the private (business sector) in Macedonia requires serious attention. Corruption appears in many forms, as bribery, conflicts of interest, trading in influence, collusion or nepotism. It leads to the distortion of legitimate competition and the erosion of trust in authorities and the legal system. Despite comparatively low levels of perceived corruption in the EU by international comparison, all countries are affected by this phenomenon. Serious cases of corruption can undermine essential functions of both state institutions and private business.

Business representatives in the country, rank the corruption as the fifth most significant obstacle to doing business, after high taxes, frequent changes in laws and regulations, complicated tax laws and limited access to financing.<sup>256</sup>

World Economic Forum's Global Competitiveness Report 2013-2014, surveyed business executive ranks access to financing and the inadequate supply of infrastructure as the most problematic factors for doing business, and the corruption is also mentioned among the top constraints.<sup>257</sup> Other factors that impact the country ranking on corruption is: the trust in the ethical standards of politicians which is relatively low, and that irregular payments of bribes sometimes take place in relation to various public services, such as imports and exports, public utilities, annual tax payments, awarding of public contracts and licenses.<sup>258</sup> The 2013 EU Progress Report fined that Macedonia's business environment is negatively affected by corruption.<sup>259</sup> The 2014 EU progress report respectfully finds that the implementation of reforms to improve the business environment remains sluggish.<sup>260</sup> Moreover, prospects for growth

256 UNDOC Report. 2013. Business, corruption and crime in the Former Yugoslav Republic of Macedonia

257 World Economic Forum's Global Competitiveness Report 2013-2014. Macedonia

258 Business Anti-Corruption Portal, Macedonia country profile. 2014. Retrieved from: <http://www.business-anti-corruption.com/country-profiles/europe-central-asia/macedonia/general-information.aspx>

259 European Commission. EU Progress Report on Macedonia. 2013. Retrieved from:

260 Ibid.

and employment depend largely on the business environment of the domestic private sector and in order to support this, there is a need to further facilitate licensing procedures, also with a view to encouraging backward linkages between domestic and foreign firms.<sup>261</sup>

The World Economic Forum' Global Competitiveness Index 2013-2014, shows that the lowest values Macedonia receives for: the efficiency of legal framework in challenging legislations, judicial independence and organized crime, while the transparency of policy making has improved. See Table 9.

Table 9. Global Competitiveness Index, 2009-2014

Rank/142	2009-2010	2011-2012	2013-2014
Property Rights	95	101	56
Judicial independence	105	105	98
Efficiency of legal framework in challenging regs.	95	102	112
Organized crime	92	96	98
Transparency of government policymaking	72	92	47
Irregular payments and bribes	N/A	58	47
Business costs of crime and violence	60	67	59

Source: World Economic Forum. Global Competitiveness Index, 2009-2014

The available data shows that although several improvements has been taken towards judicial independence and the fight against organized crime, there is still lack of practical progress in these areas. Moreover, the administrative and bureaucratic corruption is another risk for systematic progress and development of the country, which deteriorates the economic progress and the private sector opportunities.

The results from Heritage's foundation Index of Economic freedom report, in the area of conducting business also notes that corruption in the country is a serious problem, especially in the public procurement.<sup>262</sup> According to this index, freedom from corruption in the country reached its peak in 2012 with 41 index points and then drop in 2014 with index of 39.6. What we also see is an increase of business freedom, which has rose by more than 15 indexes in the period from 2010 to 2014, while the freedom of labour have noticed a decline in the index from 88.1 in 2010 of 78.8 in 2014. The overall ranking according to the long-term change in the results in the period of 4 years has increased by 10.6 indices. (See table 8.)

261 European Commission. EU Progress Report on Macedonia. 2014. Retrieved from:

262 2014 Index on Economic Freedom. Heritage Foundation. Retrieved from: <http://www.heritage.org/index/country/macedonia>

Table 10. Index of Economic Freedom, Macedonia, 2010-2014

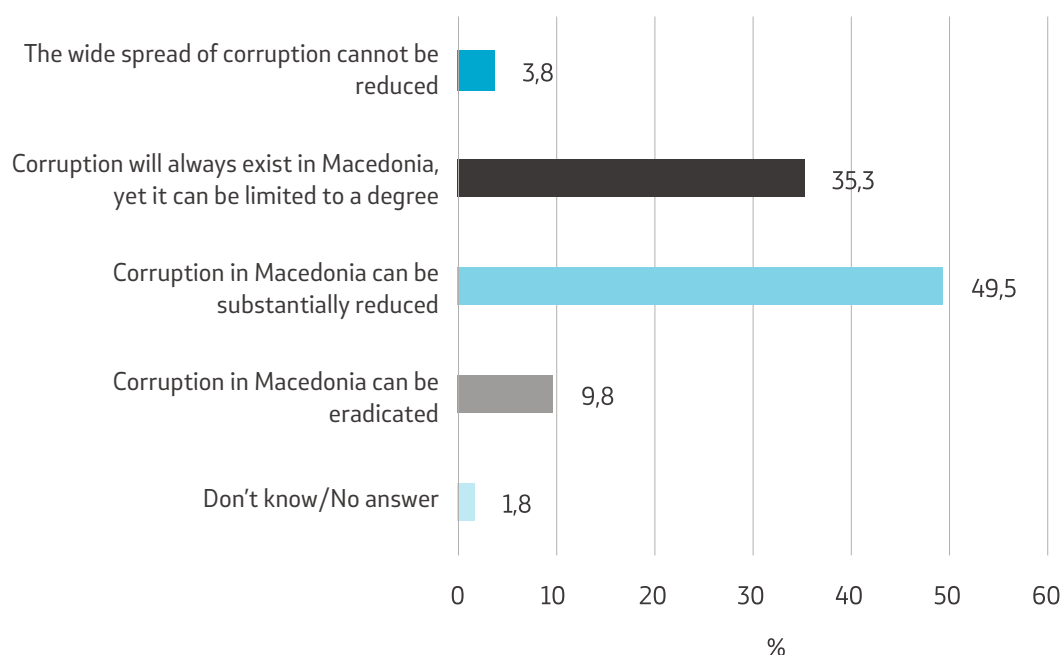
Index of Economic freedom	2010	2011	2012	2013	2014
Property Rights	35	35	35	35	35
Freedom From Corruption	36	38	41	39	39,6
Business Freedom	65,2	64,6	80,9	80,3	81
Labour Freedom	83,1	79,7	80,3	78,4	78,8
Ranking by economic freedom	65,7	66,0	68,5	68,2	68,6
Rank According to Long-Term Score Change					+10,6

Source: Heritage's foundation Index of Economic freedom report (\*higher is better)

## 7.2. VIEWS OF THE BUSINESS SECTOR ON THE LEVEL OF CORRUPTION

Although the level of corruption has high impact on the overall country economic development and the boost of the potential of the private sector, the results of the 2014 Business survey for measuring the perception and victimization of the level of corruption and organized crime in the business community conducted by the Macedonian Centre for International cooperation (MCIC) shows that the companies sees that corruption in the country can be significantly reduced 49.50 % and high percentage of 35.25% believe that the corruption will be always present in Macedonia, but it can be reduced. See Figure 6.

Figure 6. Curbing corruption potential (business perspective)



Source: Corruption Monitoring System, 2014

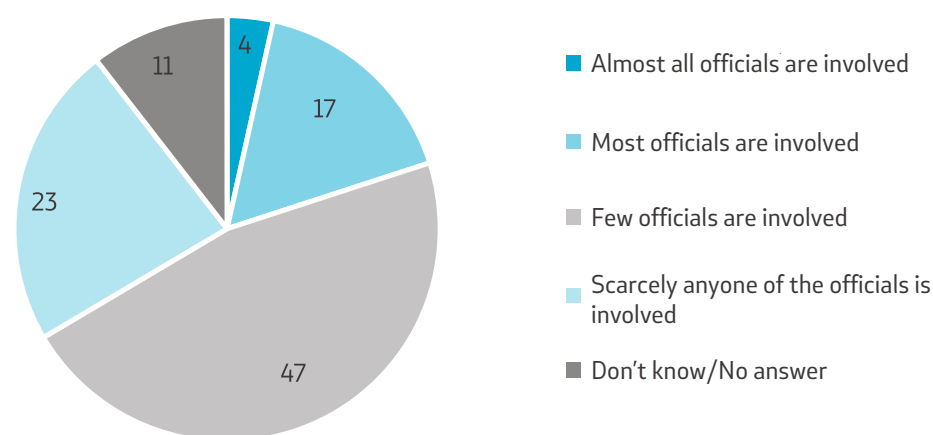
The US Department of State 2013 sees grand and petty corruption as problematic in Macedonia's business and regulatory environment, emphasizing that bureaucratic red tape also creates opportunities for administrative

corruption where smaller facilitation payments are solicited by public officials for “getting things done”.<sup>263</sup>

Moreover, criminal networks have a special interest in the private sector by targeting company employees they have great opportunities to extract significant revenues, avoid anti-money-laundering regulations, or facilitate operations in illegal markets.<sup>264</sup> Oftentimes, the efforts of organized crime to influence private sector employees fall outside the priorities of law enforcement and judicial institutions.<sup>265</sup>

This view is also supported with the data received from the business survey showing that 47% of the business community believes that some of the public officials are involved in corruption and 17% that the majority of the public officials are involved. The cumulative data suggest that high percentage of 64% think that public officials are one way or another involved in corruption. See Figure 7.

Figure 7. Perception of businesses on corruption proliferation among public officials



Source: MCIC Survey of businesses, 2014

Furthermore, high percentage of the companies have answered that in case public official ask for money in order to solve some highly relevant business problem, they wouldn't pay, if they have another option to solve the problem. The limitation of the administrative and bureaucratic corruption possibilities can reduce the bribe offers as well as the infiltration of criminal groups.

The qualitative data for this study shows that the criminals usually use administrative and bureaucratic corruption in order to:

- ▶ Win public bids,
- ▶ Avoid tax (Tax evasion),
- ▶ Avoid controls and
- ▶ Protect monopolistic positions (rarely);

In order to succeed they usually need to bribe public officials and to be asked by public officials;

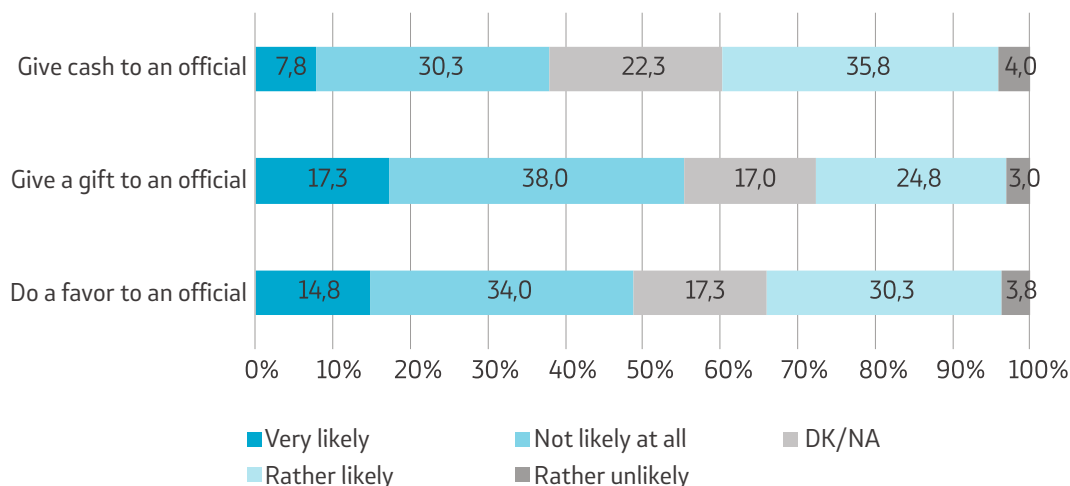
263 Business Anti-Corruption Portal, Macedonia country profile. 2014. Retrieved from: <http://www.business-anti-corruption.com/country-profiles/europe-central-asia/macedonia/general-information.aspx>

264 Gounev, P. & Bezlov, T. 2011. The links between organized Crime and Corruption. Centre for the study of Democracy.

265 Ibid.

The MCIC survey also reveals that 38% (very likely and rather likely) of the Macedonian companies will give cash to an official in order to successfully solve a problem. Then 55,75% (very likely and rather likely) will give a gift to an official and 48,75% will do a favor to an official in order to successfully solve a problem which has occurred within the company. See Figure 8.

Figure 8. Acceptability of corruption: In order to solve a problem, the more likely that you... (Business)



Source: MCIC Survey of businesses, 2014

Paying bribes to public officials within the private sector emphasize the role of corruption in the daily business of large number of Macedonian companies.

The in-depth analysis drawn from the semi-structured interviews, shows that the building-construction permits are among the key interests of the criminals or white collar who have aim to corrupt the governmental (public) administration, followed by the interests in agriculture (state subventions for farmers) and public procurement contacts. Hence, key industries where the organized criminal groups have related to individuals has been Construction industry, then Waste management industry, Tourism, Insurance agencies, Tobacco industry and sports federation etc. Money laundering was identified as one of the key reasons to use corruption in the construction industry.

The business survey also reports that the companies had to made unofficial payments or to provide gifts for: obtaining construction permit (2%), obtaining licences, permit (2,50%), receiving bank credit (1,75%) and 3,5% or around approximately 14 companies out of 400 had to made unofficial payment during inspections from relevant governmental authorities.

The average amount (in MKD) they had to pay unofficially (the cost of the gift) has been 90.000 MKD for obtaining a construction permit. Then, 106.675 MKD has been paid in average for obtaining permits or licenses. Large amount of 480.000 MKD has been paid in average for paying taxes and 12.443 MKD has been paid unofficially during inspections by relevant governmental authorities. See Table 11.

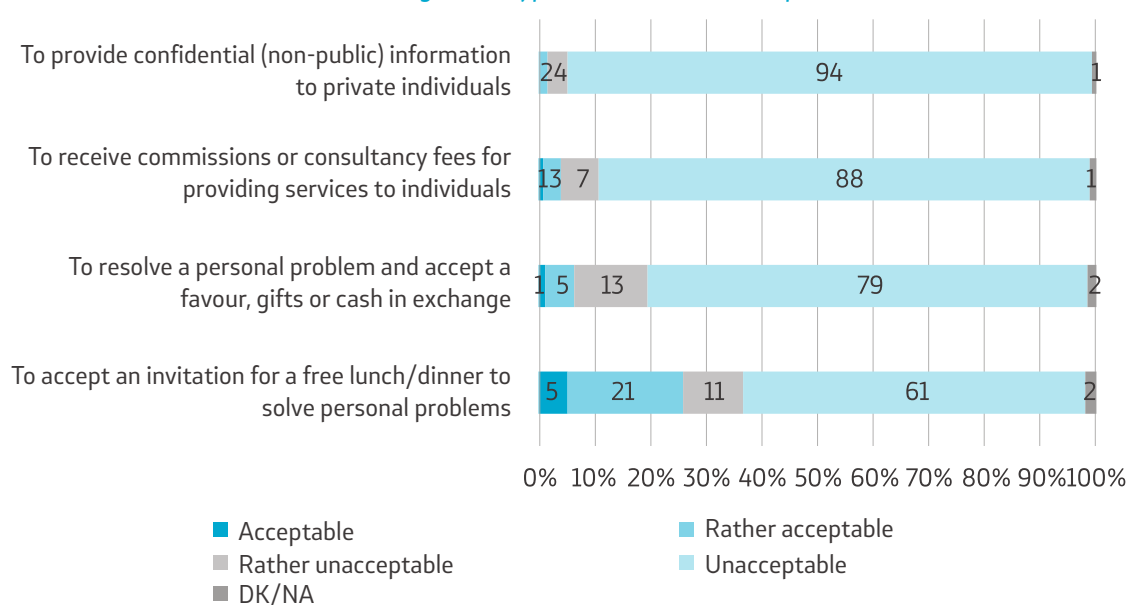
Table 11. Average amount of bribe receiving services

Category	Number of answers	Minimum	Maximum	Average
Amount for obtaining a construction permit	3	30.000	180.000	90.000
Amount for obtaining permits, licenses	8	2.000	600.000	106.875
Amount for Company/Firm registration	1	18.000	18.000	18.000
Amount for receiving bank credit	5	2.000	300.000	85.600
Amount during legal procedures	3	6.000	60.000	26.000
Amount for registration of ownership rights	1	3.000	3.000	3.000
Amount for winning a public procurement contract	3	2.000	30.000	11.667
Amount for executing customs payments	2	3.000	6.000	4.500
Amount for paying taxes	2	60.000	900.000	480.000
Amount for getting connected to the grid by a utility	5	1.000	30.000	12.800
Amount during inspection from relevant government authorities	7	100	40.000	12.443

Source: MCIC Survey of businesses, 2014

MCIC Business survey from 2014 on corruption and organized crime shows the acceptability or no-acceptability of corruption by business entities. For every fourth representative of the business sector (26%) bribe is acceptable if officials in the ministries, municipalities and mayors decide to accept an invitation to a free lunch / dinner, and in turn to solve a personal problem. Representatives of the business sector at least expect to get confidential information by these people, that is, 94% of them said they did not expect. See figure 9th.

Figure 9. Types of briberies in the private sector



Source: MCIC Survey of businesses, 2014

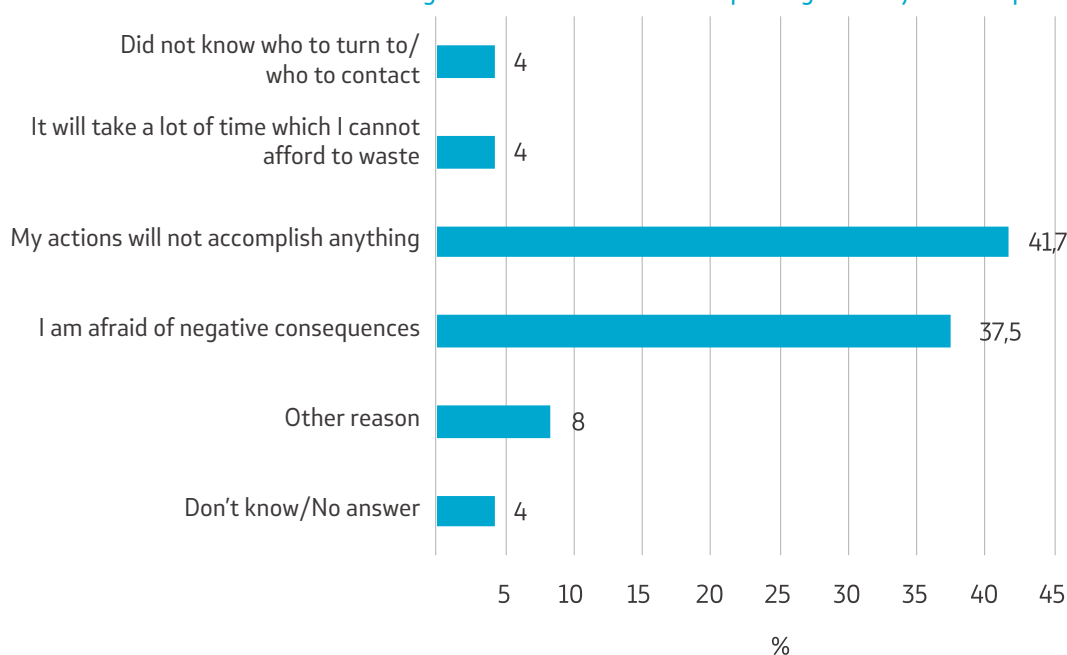
These data indicate that for the business sector is acceptable to accept a certain type of bribe, for example a meal in order to solve a problem of a personal nature or to share confidential information probably regarded as a threat to their business and the performance of their company. On the other hand though, if we take into account the importance of information and the need for confidentiality in the business sector, there is a possibility that companies were cautious in their responses. Direct personal contact is certainly potential for possible corrupt risk, while the exchange of confidential information does not imply direct and personal contact or reduces the risk of corruption in the private sector, or implied innovative solutions for corrupt risks, which relates to cyber-crime as well.

The 2013 UNODC revealed that a substantial share of all the bribes paid to public officials by businesses in the country are paid in the form of food and drink (52 %), followed by the provision of other goods not produced by the company in exchange for an illicit “favor” by the public official (27.6 %) and cash payments (16.6 %).

The 2014 MCIC Business survey from 2014 shows that a company needs to pay in average 56178 MKD bribers annually in order to be able to do business in the country. However, 40.75 % from the private believe that they wouldn't have paid bribe if they had another way to solve problem which indicate the need of further regulations within the private sector in order to disable the ground of growth of spread of corruption.

MCIC Business Survey also shown that although corruptive cases have been encountered with the activities in their business, only 6% from the Macedonian companies have taken actions in order to reveal/expose the corrupt persons. Key reason behind is that large percentage of 41.67 stated that their actions will not accomplish anything and 37,50% have been afraid of negative consequences. See Figure 10.

Figure 10. Reasons for not reporting bribe by the companies



Source: Corruption Monitoring System, 2014

These figures confirm that the private sector in the country is lacking of relevant preventive mechanisms as well as relevant sanctions against corruptive cases as well as cases related to organized crime. The rise of the integrity of within



companies itself can also improve the willingness and the encouragement of the private sector employee to report bribes and other forms of corruptive and criminal acts.

### 7.3. PUBLIC PROCUREMENT

Although more than a decade ago a SELDI study found that the countries in the area had “made recent progress in strengthening the legal framework of the process and its harmonisation with the EU Directives “public procurement continues to be among the weakest aspects of public governance.”

Law on Public Procurement was amended several times in order to harmonize the conditions of suppliers and sub-contractors of transport services with the EU legislation. However, national legislation is not yet fully harmonized with the EU directives on public procurement in the defense and security.

In 2014, the Macedonian strategy 2014-18 for public procurement systems was adopted.<sup>266</sup> The Law on Public Procurement has been amended on a number of occasions to bring the requirements for providers and subcontractors of transport services into line with the acquis. However, the national legislation has not yet been aligned with the EU Directive on Defence and Sensitive Security Procurement.<sup>267</sup>

In Macedonia, a number of bodies exercise the regulatory and oversight functions with respect to public procurement: the State Appeals Commission on Public Procurement, the Public Procurement Bureau, the State Commission for Prevention of Corruption, and the State Audit Office. In 2013, the Commission was presented with a total of 569 motions for appeals related to public procurements.<sup>268</sup>

Due to the electronic procurement system, media campaigns and greater awareness of the general public, more corruption cases are being uncovered. In 2012, the number of reported corruption related procurement cases more than doubled in comparison to the previous year: 28 cases (up from 12 in 2011)<sup>269</sup>;

The SCPC has identified several Problems and risk factors for occurrence of corruption and conflict of interests<sup>270</sup>:

- ▶ The system of public procurement itself, which is vulnerable to corruption and conflict of interest;

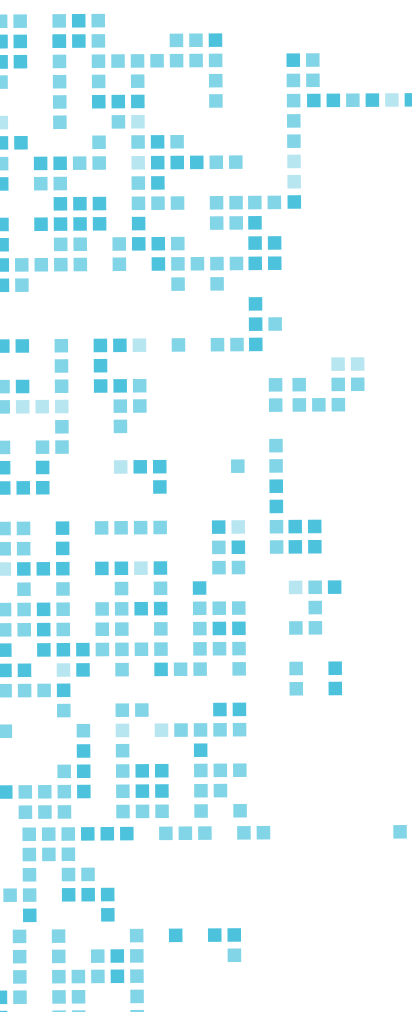
<sup>266</sup> European Commission. EU Progress Report on Macedonia, 2014. Retrieved from: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report_en.pdf)

<sup>267</sup> Ibid.

<sup>268</sup> European Commission. EU Progress Report on Macedonia, 2013. Retrieved from: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mk-report\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mk-report_2013.pdf)

<sup>269</sup> Ibid.

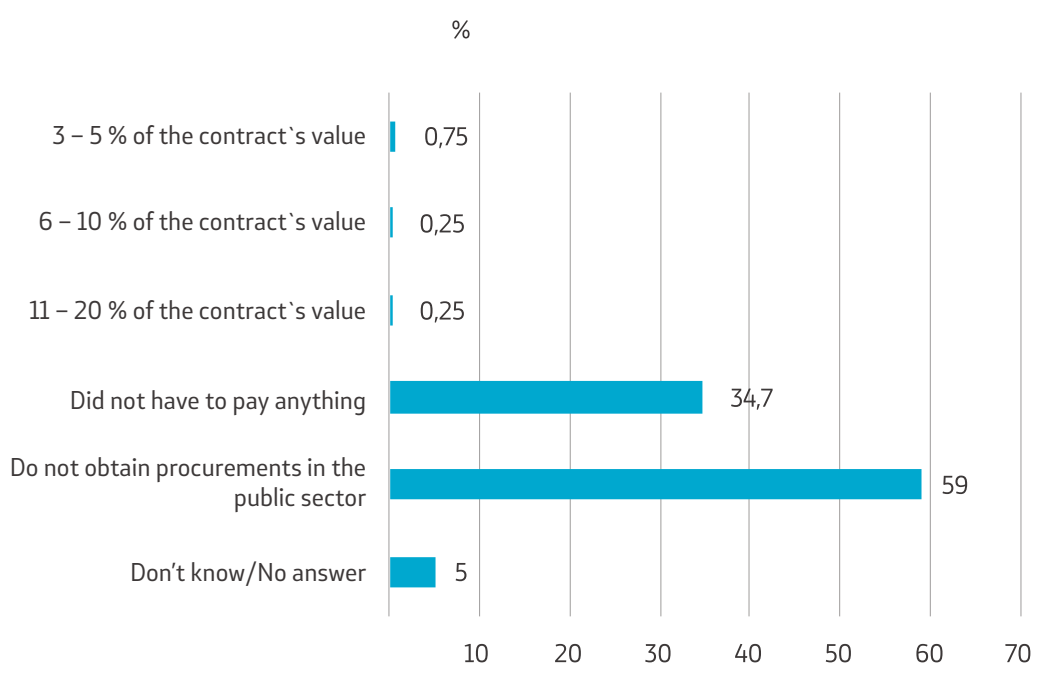
<sup>270</sup> State Commission for Prevention of Corruption. State Programme for Prevention and Reduction of Conflict of Interests with Action Plans for the period 2011 – 2015. Retrieved from: <http://www.dsk.org.mk/en/images/stories/PDF/sp-11-15.pdf>



- ▶ The non-transparent and non-standardized procedures for concessions and public private partnerships; the lack of databases in certain institutions; the lack of a centralized system to monitor all stages of the procurement process; the incompetence of the officers responsible for implementation of the procedures; the high discretionary powers in the process of decision-making in the relevant institutions, etc.
- ▶ A large number of cancelled or unsuccessful procedures;
- ▶ Insufficient knowledge of the issues of corruption and conflict of interests within the private sector;
- ▶ Weak measures for prevention of corruption and strengthening the integrity within the private sector;
- ▶ Lack of awareness about the Law on Protection of Competition and insufficient institutional capacities for implementation of the law;
- ▶ Lack of transparency in granting sponsorships with suspicious dealings
- ▶ The indicated problems and risks show the real threats of corruption and conflict of interests.<sup>258</sup>

The analyzes of the quantitative data of the business survey for this study shows that the average amount that companies usually pay in order to win a public procurement contract is 11.667 MKD. However, 34.75% of companies said that they shouldn't have to pay anything in order to get a public procurement contract. According to the findings, 1.25% of the businesses in Macedonia have had direct experience with giving bribes in order to obtain a public contract.<sup>271</sup> Out of the total number of enterprises surveyed, more than one third (35%) said that they had to pay bribes. Out of all the companies surveyed, 0.75% said that had to pay between 3 and 5% of the amount of the contract, and 0.25% answered that should pay 6-10% and 11-20% of the value. See figure 11.

Figure 11. The average percentage of the contract amount was paid unofficially by the companies in order to win a procurement contract



Source: MCIC Survey of businesses, 2014  
271 Ibid.

By contrast, the perception of the companies of the amount of money that the other companies usually need to pay unofficially in order to receive a public procurement contract, slightly deteriorate, since the perception is that 5,25 % of the companies need to pay 6-10% from the value of the contract, then 2,50% need to pay 11-20% from the value of the contract and 2,75% from the value of the contract in order to win a public procurement contract from the public sector.

Based on these data estimation can be made on the value of the annual amount of giving kickbacks in public procurement. Starting from 1.25% as the prevalence of corruption in this area in 2013, it is estimated that out of total of 20 645 contracts, in 258 contracts there were case of bribery. If the average value of the contract is 2.5 million, and the most common value of duty is between 6 and 10% of the contract, then the yearly rate of duty is a range between 40 and 65 million.<sup>272</sup>

Presuming that subsets of surveyed companies which participated in tenders is representative, then the experience of corruption is 3.47%. Therefore, it can be estimated that in 2013, about 52.5 billion denars have been assigned on public procurement.<sup>273</sup> 3.47% or 1.8 billion MKD were allocated in terms of bribery. Only in those companies which involves bribes, 60% paid between 3 and 5% of the value of the contracts and 20% of the companies have paid between 6-10% and 11-20% of the value of the contract. According to the smallest bribery percentage value (3, 6 and 11%), it is estimated that in 2013 in the Republic of Macedonia on the basis of bribes have been given minimum 94,7 million MKD.<sup>274</sup>

The results indicated that the lack of accountability and transparency in the public procurement can indicate corruptive risk, as suggested in the 2013 and 2014 EU progress reports on the country. According the report, the institutional and administrative capacities, such as insufficiently skilled human resources and insufficient physical resources continue to hamper the proper functioning of some of these agencies like the State Appeals Commission for Public Procurement and the State Audit Office.<sup>275</sup> Hence, the legal system for a functioning market economy is largely in place, yet weaknesses related to lengthy procedures, contract enforcement and corruption remain.<sup>276</sup>

According the 2014 Annual report of the Bureau for public procurement, the State commission for prevention of corruption in the course of 2013 acted upon total of 14 charges lodged for possible corruption in the field of public procurement, i.e. in the contract award procedures carried out by the contracting authorities.<sup>277</sup> With respect to 6 out of the concerned cases, the SCPC considered for there to be grounded suspicion for criminal deed committed in performing ex-officio duties and authorities by the responsible persons at the contracting authorities for which an initiative was raised for initiating a procedure for

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272 Ibid.

273 Report on the activities of the Bureau of Public Procurement in the functioning of the public procurement in 2013. Bureau for Public Procurement 2014

274 For a more detailed tabular description see Table 3 in the Appendix

275 European Commission, The Former Yugoslav Republic of Macedonia 2013 Progress Report, October 2013, DG Enlargement, available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mk\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mk_rapport_2013.pdf)

276 Ibid.

277 Public Procurement Bureau. Report of the activities of Public procurement Bureau in Functioning of Public Procurement System in 2013. May. 2014. Retrieved from: [http://bjn.gov.mk/bjn-portal/wordpress/wp-content/uploads/Annual-Report-of-PPB-for-2013\\_-1.pdf](http://bjn.gov.mk/bjn-portal/wordpress/wp-content/uploads/Annual-Report-of-PPB-for-2013_-1.pdf)

criminal prosecution of these persons before the Public Prosecution' Office of the Republic of Macedonia.<sup>278</sup> Compared to 2011 and 2012, number of charges for existence of a suspicion for corruption in public procurement dropped in 2013. In 2011, there were 45 charges, in 2012, there were 29 charges for possible corruption and in 2013 there were 14 charges.<sup>279</sup>

Although the number of applications each year is decreasing, the efficiency of the institutions in dealing with the corruption in public procurement remains an open question. According the MCIC business survey, it is estimated that in at least 258 contracts there have been cases of bribery. This means that theoretically SCPC acted by more than 2% of cases.<sup>280</sup>

The revised data of public procurement in entities audited during the inspection of the way of planning, implementation and realization of public procurement, The State Audit Office 46 findings have reported on 100 defects or sub-findings in public procurement.<sup>281</sup> Most of these regularities are related to irregularities during the signing of the public procurement contract, absence of public procurement procedure or implemented procedures based on past contracts.<sup>282</sup>

## 7.4. MONEY LAUNDERING

Money laundering cases are mainly related to domestic financial crime such as privatization fraud and tax evasion, in addition to rise related to drug trafficking, extortion, racketeering, theft and smuggling of vehicles, prostitution.<sup>283</sup> The most common ways for money laundering are through investments in real estate, car purchase, bank transaction through physical person's accounts, and business investments by fictitious loans. To infiltrate the economy criminals also exploit the tourism sector, casinos and night-life services.<sup>284</sup>

Furthermore, organized crime groups exploit human mobility to smuggle migrants and undermine financial systems through money laundering as well. The vast sums of money involved can compromise legitimate economies and directly impact public processes by 'buying' elections through corruption.<sup>285</sup>

Money laundering in Macedonia is mostly connected to financial crimes such as tax evasion, smuggling, financial and privatization fraud, insurance fraud, bribery, misuse of official position, and corruption. Most of the laundered proceeds come from domestic criminal activities.<sup>286</sup>

There are two general factors that determine money laundering trends: developments in the illegal markets, and the broader financial and economic environment. A good part of the proceeds generated from organized crime is

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278 Ibid.

279 Ibid.

280 Popovic M. The links of corruption and organized crime: policy briefs, 2 part; Macedonian centre for international cooperation MCIC, Skopje, 2015

281 State Audit Office. Annual Report for 2013. Retrieved from: [http://www.dzr.mk/Uploads/WEB\\_Godisen\\_izvestaj\\_DZR\\_2013.pdf](http://www.dzr.mk/Uploads/WEB_Godisen_izvestaj_DZR_2013.pdf)

282 Ibid.

283 SAPUCCA: Sharing Alternative Practices for the Utilization of Confiscated Criminal Assets. 2013. Organized Crime and the Fight Against Crime in the Western Balkans: a Comparison with the Italian Models and Practices. General overview and perspectives for the future

284 Ibid.

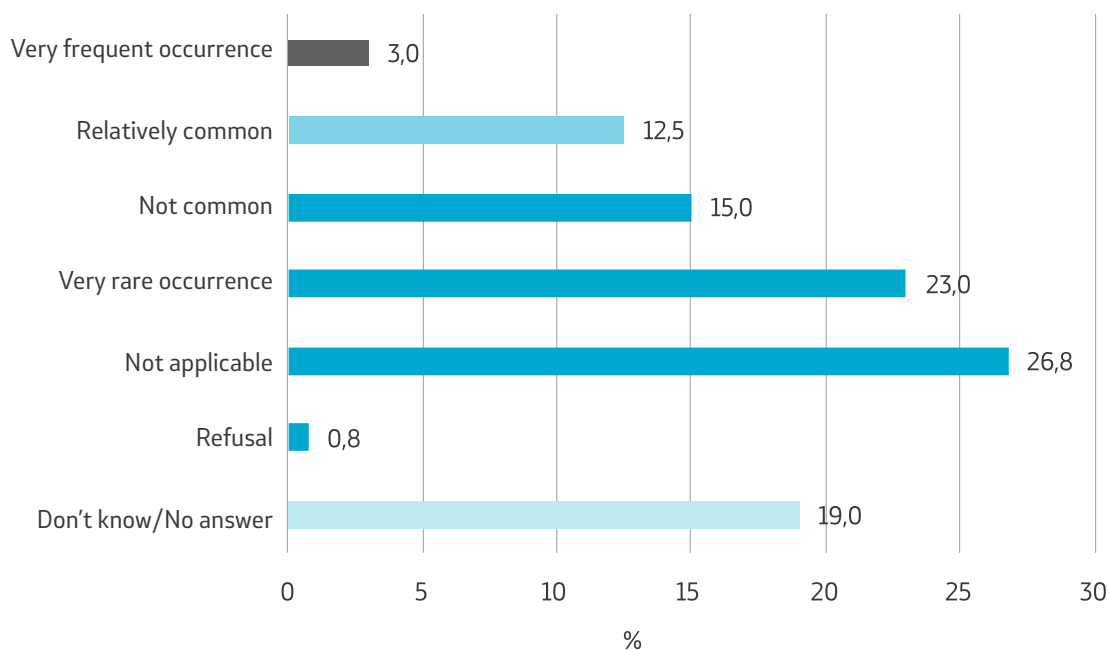
285 The United Nations Convention against Transnational Organized Crime. Retrieved from: <http://www.unodc.org/unodc/en/organized-crime/index.html>

286 Ibid.

laundered using very simple schemes. The majority of the participants in the illegal markets do not generate enough financial resources that even require money laundering.<sup>287</sup>

MCIC Business survey show that 23% of Macedonian companies or almost every fourth company sees money laundering as a very rare occurrence, while 12% see it as five relatively common and 3% of companies see it as very common. See figure 12.

Figure 12. Perception of Macedonian companies on Money laundering



Source: MCIC Survey of businesses, 2014

Unlike perception, according to which some part of the companies still think there are practices of money laundering, the direct involvement is significantly less, or almost non-existent. Namely, the vast majority of the Macedonian companies (96.5%) in the past year have not been offered an activity that involves money laundering. Only 0.75% (or 3 companies) said that they received such an offer. See figure 13.

Figure 13. Practices of money laundering in Macedonian companies

	% Value
Don't know/No answer	0.75
Refuses	0.25
Not applicable	1.75
No	96.5
Yes	0.75

Source: MCIC Survey of businesses, 2014

287 Center for the Study of Democracy. 2012. Serious and Organized Crime Threat Assessment (SOCTA).

\*In the illegal cigarettes market, for instance, the money left to be laundered does not exceed 15% of all proceeds (or €30 million out of €200 million total market turnover).

The average amount of monetary value of the deal when money laundering was involved is 120.000 MKD. (1.947 EUR)

The companies which usually can be potentially used as money laundering vehicles are all of the companies involved in the private sector industries such as: notaries, financial institutions (banks, investment funds, brokerage houses, insurance companies, pension funds), whole-sellers, lawyers, accountants, real-estate companies, sports-clubs, and high-value dealers (e.g. of cars or jewelry).<sup>288</sup>

Interviewees found that bank employees who do not report financial transactions related to money laundering is a fairly rare phenomenon, but Bank weak control or insufficiently effective anti-money laundering measures were far more often the reason for successful money laundering. Hence, Launderers come up with schemes whereby bank complicity is difficult to prove or not needed: using off-shore companies, shell companies, trusts and foundations. Few of the interviewees were familiar with particular corruption cases where money laundering has been involved.

In 2012, the Financial Intelligence Unit (FIU) reported 29 cases of suspicious transactions related to money laundering and 121 related to other types of economic and financial crime to investigating authorities and the prosecution service.<sup>289</sup> Most of the cases processed continue to relate to tax evasion.<sup>290</sup> A total of 36 persons were prosecuted in six cases during 2012. 11 persons were convicted in 4 cases, an increase on last year.<sup>291</sup>

The number of suspicious transactions referred to the Financial Intelligence Unit fell from 239 in 2012 to 169 in 2013, which represents a drop of 29 %.<sup>292</sup> In 2013 the Financial Intelligence Unit submitted to law enforcement institutions 25 notifications relating to money laundering and financing of terrorism, which is 31 % less than the previous year and there were 3 prosecutions against 25 persons for money laundering and final convictions in 4 cases against 41 persons.<sup>293</sup>

The relevant data from the Basic Court I, Skopje I reveals sharp rise of number of criminal cases on money laundering from 2007 till 2008 from 1 to 6, followed by almost same number of cases in the period after, with total number of 6 cases in 2013. See Figure 14.

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288 Gounev, P. & Bezlov, T. 2011. The links between organized Crime and Corruption. Centre for the study of Democracy.

289 European Commission, EU Progress report on the country 2013, October 2013, DG Enlargement, available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mk\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mk_rapport_2013.pdf)

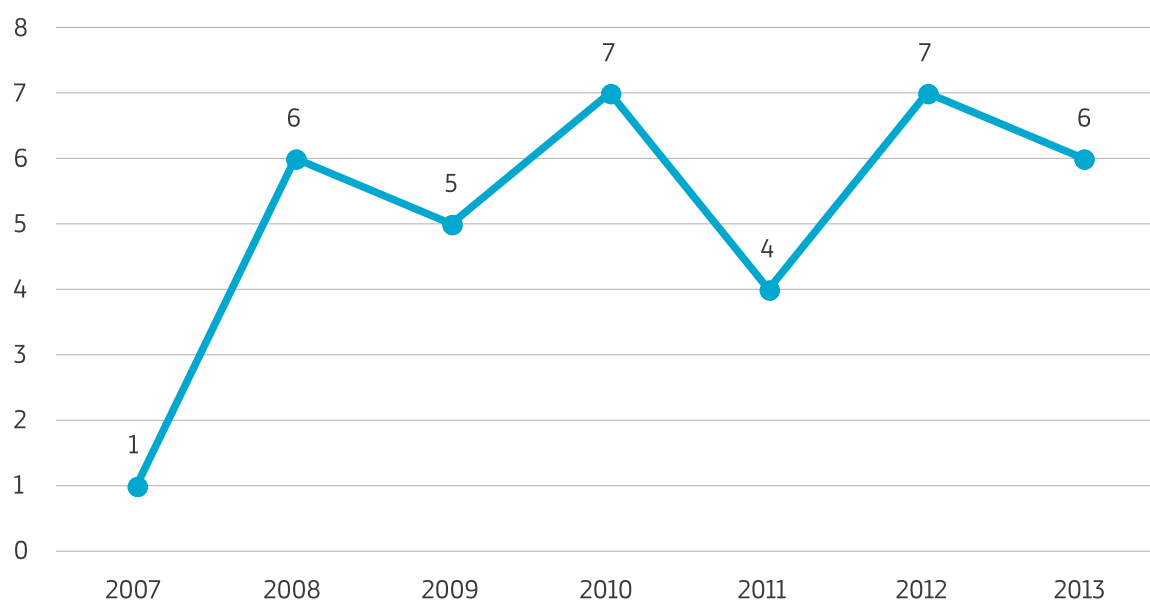
290 Ibid.

291 Ibid.

292 European Commission, EU Progress report on the country 2013, October 2013, DG Enlargement, October 2013, DG Enlargement, available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mk\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mk_rapport_2013.pdf)

293 Ibid.

Figure 14. Money laundering (Number of cases)



Source: Department for Corruption and Organized Crime, Basic Court Skopje I

During the period 2012-2013, the statistical data of the Ministry of Interior affairs shows that most typical cases of organized crime have been: Forgery, Smuggling, Bribe, Money laundering etc. out of which 45 (48) offenders have been reported for "money laundering and other criminal proceeds". The reported persons have been: managers, officials and owners of private firms, officer, broker and notary who illegally abused power, tax evasion, falsifying documents, fraud and drug trafficking in the legal trade etc.<sup>294</sup>

One of the organized groups of 16 members acted via 17 legal entities, both as persecutors and persons in charge of the criminal acts. They have issued false invoices of unconfuted trade transactions, gaining financial benefit of 77 million denars (MKD) or 12.495.94 EUR.<sup>295</sup>

The second criminal group of 6 members abused their public position by providing falsification of documents when granting land and while building an object in Skopje and by thus they have obtained criminal proceeds of approximately 65.8 million denars (MKD). Afterwards they have licensed the documents by signing a contract containing false allegations mediation, and started to transfer the money on their personal accounts and the accounts of a domestic firm registered in our country for this purpose.<sup>296</sup>

Macedonia is in preparatory phase in strengthening the institutional capacity to combat money laundering and terrorism financing.<sup>297</sup> The Criminal Code in the country contains the Money laundering offence (Art. 273) as main form of organized criminal activity as well as the drug trafficking (Art. 215) and human

294 Ministry of Interior Report, Republic of Macedonia. 2013 Report of on Organized Crime and corruption cases

295 Ibid.

296 Ministry of Interior Report, Republic of Macedonia. 2013 Report of on Organized Crime and corruption cases

297 European Commission. 2013. EU Progress Report: FYR Macedonia. Retrieved from: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mk\\_report\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mk_report_2013.pdf)



trafficking (Art.418).<sup>298</sup> According the country Criminal Code, in case linked to money laundering offence for which is provided a sentence of at least four years, the court shall confiscate property acquired in the period before the sentencing – determined by the court from the circumstances of the case, but not more than five years before committing the offence – when based on all the circumstances the court is satisfied that the grounds of the property exceeds the statutory income of the offender and comes from such offence.<sup>299</sup>

However, it is also suggested that the investigation and prosecution of money laundering and financial crime needs to become more proactive and efficient.<sup>300</sup> Further efforts are needed to improve the efficiency of the asylum system, increase the proactive investigation and prosecution of money laundering and financial crime and prepare for the implementation of the new Law on Criminal Procedure, in particular through training of police and public prosecutors.<sup>301</sup>

In January 2009, the Government of the Republic of Macedonia adopted the National Strategy for Prevention of Money Laundering and Financing Terrorism in line with the Law on Anti-Money Laundering and Financing Terrorism. Hence, although not a member of the EU, Macedonia's anti-money laundering regulations are generally in line with the European Directive 2005/60/EC, the 40 FATF Recommendations and the 9 Special FATF Recommendations for preventing terrorism financing.<sup>302</sup> Among the planned activities, the National Strategy aimed to provide more efficient system for preventing of money laundering and terrorism financing in the Republic of Macedonia, notably to offer: More efficient disclosure, documentation and investigation of criminal acts related to money laundering and financing terrorism, i.e. higher number of criminal charges and court decisions for money laundering and financing terrorism, train the administration etc.<sup>303</sup>

Furthermore, the vulnerability to corruption and organized crime can be detected in the enactment and implementation of their anti-money-laundering legislation coupled with their regulatory practices and banking supervision. In this regards, the Euro shore study indicates that in countries with low regulatory standards applied to banks, the organized crime index doubles compared with countries with higher standards of enforcement of antimoney - laundering legislation. According to the European Bank for reconstruction and development, the Banking Law and related regulations are well developed, creating a sound legislative framework for corporate governance in banks.<sup>304</sup> "Most of the large banks publish their codes online, and banks' boards have adopted codes of ethics, which must include requirements relating to conflict of interest transactions.

Banks are required to set up audit committees however there is no legal requirement that they should include independent directors and the banks do not seem to have training and induction programs in place for the supervisory

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298 SAPUCCA: Sharing Alternative Practices for the Utilization of Confiscated Criminal Assets. 2013. Organized Crime and the Fight Against Crime in the Western Balkans: a Comparison with the Italian Models and Practices. General overview and perspectives for the future

299 Ibid.

300 Ibid.

301 Ibid.

302 <http://www.anti-moneylaundering.org/europe/Macedonia.aspx>

303 Ibid.

304 EBRD Commercial laws of FRY Macedonia June 213 OMMERCIAL LAWS OF FYR Macedonia June 201: an assessment by the EBRD



board members.<sup>305</sup> As for bank internal control, while the banking regulations assign the responsibility for efficient organisation of the internal control systems to the supervisory and management board, the supervisory authority does not require regular reporting and disclosure on bank's internal control function."<sup>306</sup>

Macedonian banks are legally obliged to establish compliance mechanisms and need to prove their efficient implementation.

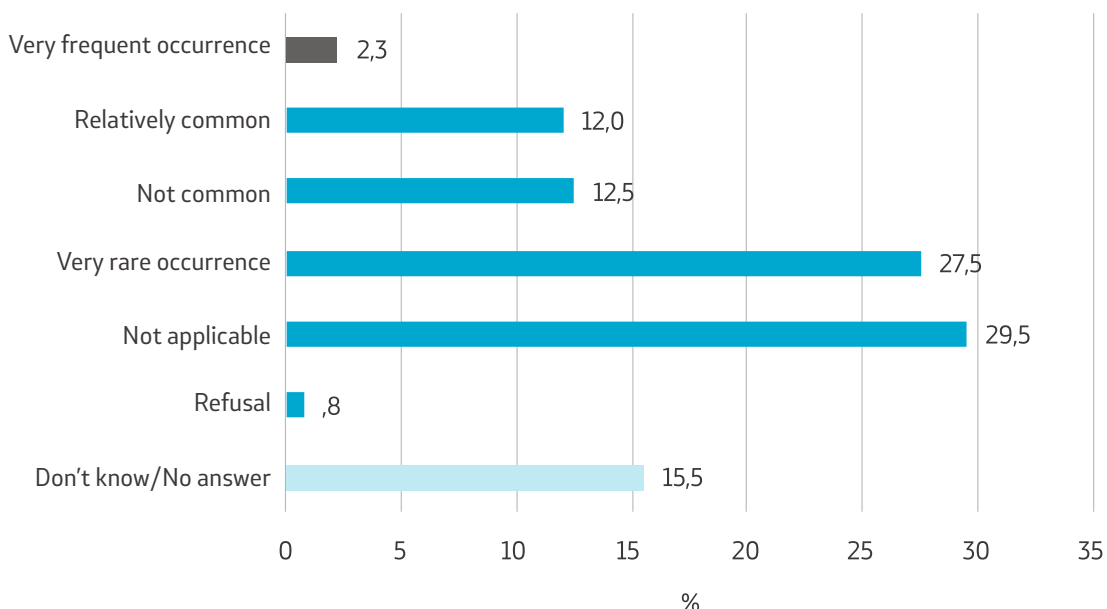
## 7.5. VAT FRAUD SCHEMES

At the mid-level of criminal markets criminals often buy small real estate property or start a business, which in most cases supports the criminal activity or money laundering itself – entertainment facilities, construction, transport, hospitality industry, agriculture, etc.<sup>307</sup>

Only at the higher level of criminal networks (e.g. VAT fraud schemes) the laundering of proceeds may involve more complicated schemes that include offshore companies and/or complex financial instruments such as the stock exchange. As the majority of the offshore financial centers have strict banking secrecy laws, they are attractive to criminal networks. Internet banking has further facilitated the management of criminal proceeds placed abroad.<sup>308</sup>

The 2014 Business survey for the purpose of this project shows that fraud with value added tax (VAT) is not very common. Namely when the Macedonian companies were asked whether they consider VAT fraud as common practice in their economic sector, the majority of them, 27.5% said that it is very rare occurrence, for 12.5%, that is relatively common and only 2.2% of Macedonian companies is common. See figure 15.

Figure 15. Perception on VAT fraud



Source: MCIC Survey of businesses, 2014

305 Ibid.

306 Ibid.

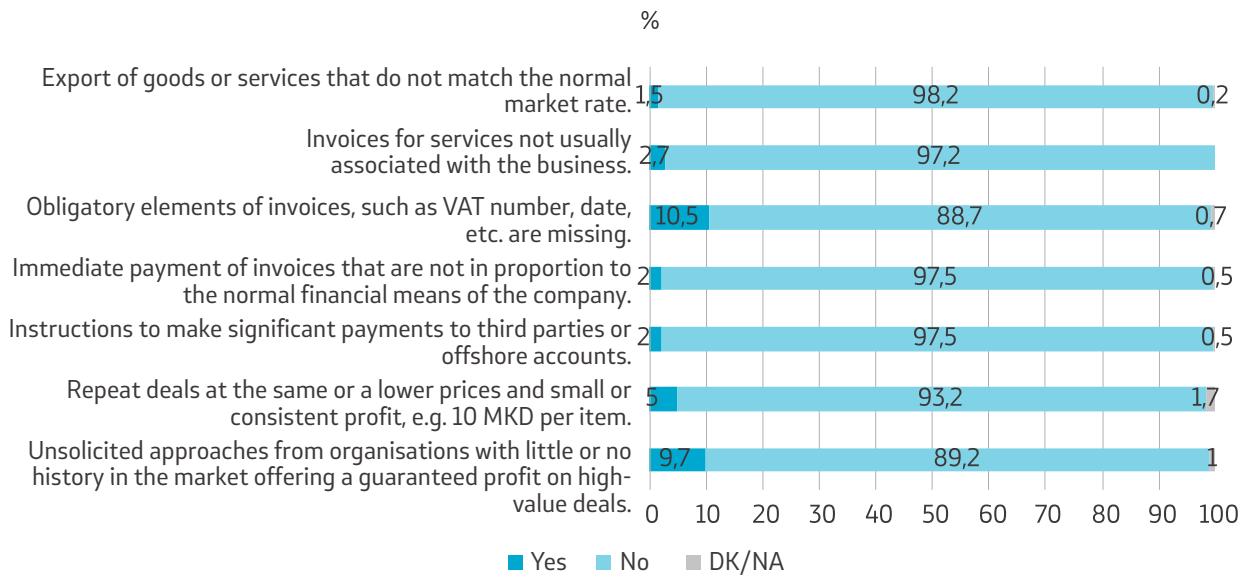
307 Ibid.

308 Ibid.

However in the past year, the great majority of companies (92.7%) had not been offered to participate in the contract which would have suspected that includes VAT fraud.

In cases of VAT fraud, the usual practices faced by companies in recent years are: lack of required data elements of invoice, as the VAT number, date, etc. (10.50%). Then spontaneous approaches to organizations with little or no history of the market that offer a guaranteed profit (9.75%), then, the same contract with the same or lower price and a small profit or permanent, for examples 10 MKD or 0.16 Euros per unit etc. See figure 16.

Figure 16. Types of irregularities within the companies



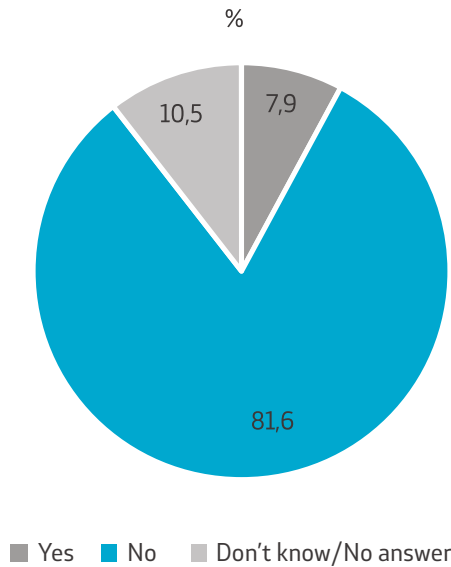
Source: MCIC Survey of businesses, 2014

The average monetary value of the deal when VAT fraud has involved is 180.000.00 MKD or (2.921 EUR).

## 7.6. ORGANIZED CRIME THREATS IN THE PRIVATE SECTOR

The lack of good private sector governance provides a breeding ground for the growth of organized crime. In this regard, the MCIC survey also showed that 9,5 % from the private sector has confirmed that a crime has been committed in the premises of their companies, out of which 7,89% of the companies believe that the crimes committed on the premises of the companies have been carried out as part of or are connected to organized crime. See figure 17.

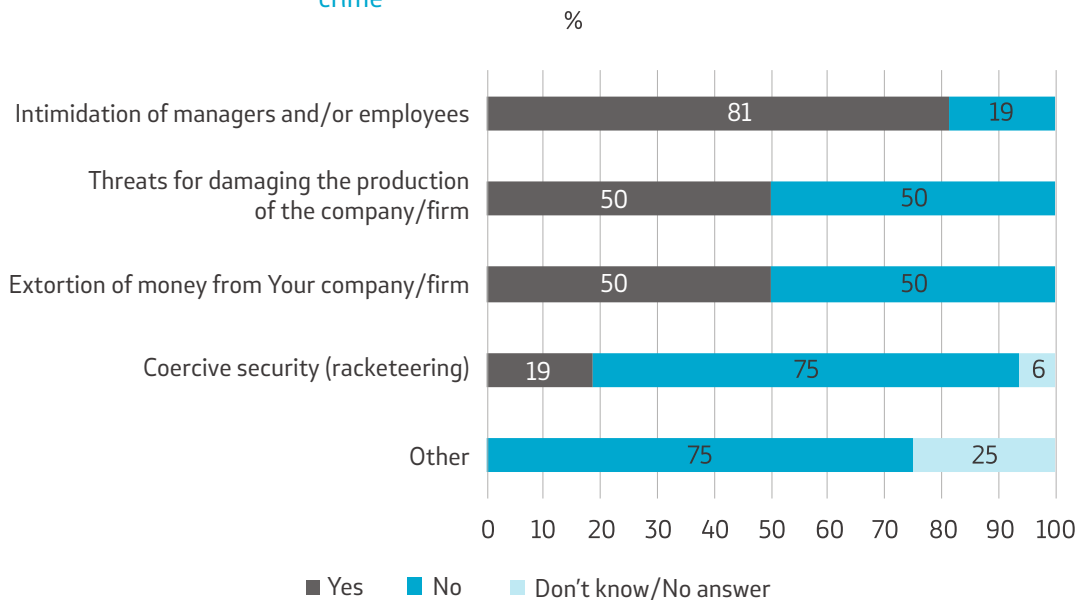
Figure 17. Do you think crime (some of the crimes) has been committed against your company over the last year is part of organized crime?



Source: MCIC Survey of businesses, 2014

In addition, research shows that the aforementioned 9.5% who said that in the past year were once victims of crime, 81% indicated that their managers or employees were threatened, while in 50% of cases they said they were target of threats for damaging the manufacturing company, or that they were subject to extortion of money. Finally in 19% of cases, the Macedonian companies said they had a problem with racketeering (involuntary security). See figure 18th.

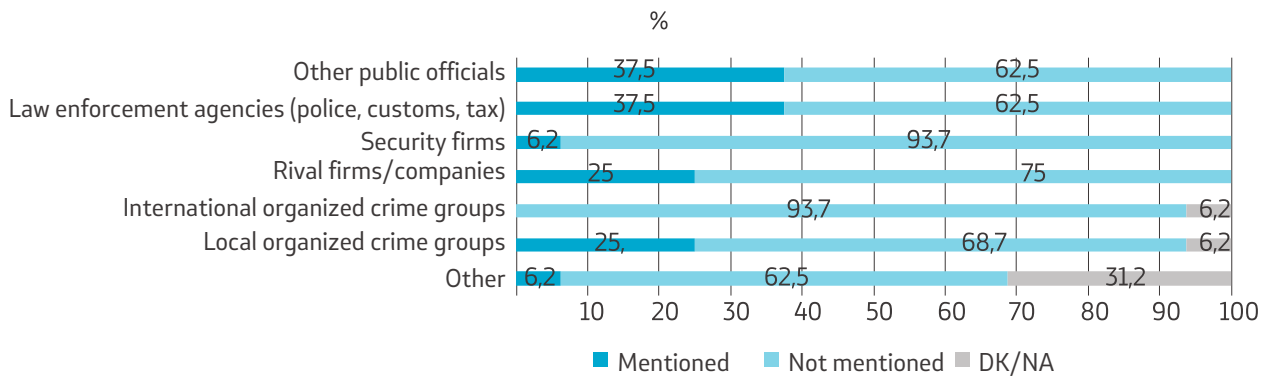
Figure 18. Types of intimidation and extortion in the business sector by organized crime



Source: MCIC Survey of businesses, 2014

According to the MCIC Business Survey, 37.5% companies have been victims of extortion and the crime has involve institutions for law enforcement and other public officials, while a quarter (25%) of companies reported that rival companies or local organized criminal groups were part of a criminal act. See figure 19.

Figure 19. Involvement in corruption cases in the private sector



Source: MCIC Survey of businesses, 2014

The UNODC survey from 2013 indicated that the prevalence of extortion for businesses in the country should be considered as a major issue for concern, having on mind that the extortion is a very serious crime in which the perpetrators try to obtain money or other benefits from a company by threatening or intimidating managers or employees.<sup>309</sup> According the UNODC report, extortion is also presented as the offer of “protection” from damages to property or persons and the money paid is presented as a type of “protection money” or can be linked to organized crime groups, who have the power and the means to make a credible threat towards a business with potentially dire consequences if their demands are not met.<sup>310</sup>

The UNODC survey data indicated that around two fifths (40.4%) of extortion threats involve specific damage to the business or its property, while 6.7 % spell out unspecific damage to the business or this property.<sup>311</sup> In addition, 26.9 % involve specific personal threats to harm the owner, manager, employees or their relatives. Other cases involve promises of protection against crime or other threats, such as harming clients, contaminating products or kidnapping employees, managers or their relatives.<sup>312</sup>

The results indicates that both small companies as well as large corporations are vulnerable to corruptive practices in service of organize crime groups, having on mind that “small local business are especially vulnerable to extortionate demands by corrupt public officials, while larger domestic and global corporations that manage to control bribery in the own ranks must still worry about unfair competition from less ethical peers.”<sup>313</sup>

The interviewers show that key reason of the private sector’ vulnerability on corruption and organized crime is the lack of controlling mechanisms. Most of the interviewers also reported that they are only partly adopted mechanism for controlling the corruptive and organized crime act within private sector and that no mechanism are adopted on joint business community level. On contrary, most of the internal anti-corruptive policies and strategies are implemented based on the company self-assessment of such practises.

309 UNODC Report: Business, Corruption and Crime in the former Yugoslav Republic of Macedonia: The impact of bribery and other crime on private enterprise, 2013

310 Ibid.

311 Ibid.

312 Ibid.

313 UNODC. The United Nations Convention against Corruption: A Resource Guide on State Measures for Strengthening Corporate Integrity, 2013

According to the United Nations Convention guide on State Measures for Strengthening Corporate Integrity, key challenge is the lack of strong corporate integrity.<sup>314</sup> Hence, the anti-corruption corporate programmes should be the primary tool for strengthening integrity, with strong support by the Governments which should encourage better private sector practices through combination of sanctions and incentives and apply sanctions as good practice.<sup>315</sup> Overall, strong governance of the private sector is crucial for countering corruption and organized crime.

In this regard, the transparency and effectiveness of the banking system as well as its feasibility for business to access financial services within a formal regulatory framework in order to conduct its normal activities are key indicators of governance.<sup>316</sup> Since, if small or large businesses find it difficult to obtain loans, they will rely on illegal sources for the provision of financial services at higher interest rates (usury).<sup>317</sup>

The second perspective concerns the governance of the financial sector and corporations, focusing in particular on the anti-money-laundering legislation coupled with a regulatory framework and banking supervision practices.<sup>318</sup>

The low-risk and very high profitability nature of fraud makes it a highly attractive activity for Organized criminal. System security is often lacking in private sector companies, partly due to outsourcing of administrative, maintenance and development tasks and partly due to the high costs of effective prevention measures.<sup>319</sup>

## 7.7. GREY ECONOMY

According to various studies, the hidden economy in Macedonia, depending on the measurement method used, ranges from 24% to 47% of GDP with a tendency to decrease<sup>320</sup>.

One of the existing hypotheses suggests that the grey economy could influence levels of corruption and organized crime. Schneider (2006) and Dreher (2005) argue that the grey economy influences corruption in two ways<sup>321</sup>:

- ▶ **Tax corruption:** Companies could hide revenues by corrupting tax inspectors;
- ▶ **Administrative corruption:** Companies in the grey economy could corrupt various administrations (e.g. industry control institutions, including labor control) to avoid regulations or the use of illegal workers.<sup>322</sup>

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314 Ibid.

315 Ibid.

316 Buscaglia, E & Dijk, Van Jan. Controlling organized crime and corruption in the public sector. Forum on crime and society vol 3, Nos. 1 and 2, 2003

317 Ibid.

318 Ibid.

319 Ibid.

320 Center for Research and Policy Making, Center for the Study of Democracy. 2014, Policy Brief Nr. 30: The Economics of Blurs and Shadows – The Hidden Economy in Macedonia, p 2.

321 Dreher, A.& Schneider, F. Corruption and the Shadow Economy: An Empirical Analysis. 2006. Forschungsinstitut zur Zukunft der Arbeit Institute for the Study of Labor

322 Ibid.

The interviews revealed that the industries with significant grey economy in the country are construction and agriculture and in rare cases - insurance agencies and the food industry (restaurants, bars etc).

Most of the interviewers also state that companies in those sectors use corruption to cover activities in the grey economy. This finding is also supported by Yalamov (2012) where he finds that bribery is used primarily when companies are engaged in hidden economic activities and circumvention of the law (requirements for products, processes, shops, etc.), while networks (nepotism, conflict of interests) turn out to be the only significant variable when firms attempt to influence new legislation or acquire public procurement contracts.<sup>323</sup>

CSD study on links between corruption and organized crime emphasize the significant relation exists between organized crime and the grey economy indicating that the expansion of grey economies is related to increases in organized crime.<sup>324</sup> According the study, there are various explanations for this relation and one of the hypothesis is that large grey economy sectors (e.g. unregulated retailers) provide more opportunities for organized crime (e.g. distribution of illegal cigarettes or alcohol). It could be further argued that the connection could be reversed, that a deep presence of organized crime in certain industries, such as construction, night-time economy or tourism, leads to higher levels of informality. That is, such companies arguably are more likely to hide revenues or pay informally to reduce labor costs.<sup>325</sup>

## 7.8. CONCLUSIONS AND RECOMMENDATIONS

- ▶ 49.50 % of the Macedonian companies believe that corruption in the country can be significantly reduced and 35.25% believe that although corruption will always be present in the country, it still can be reduced;
- ▶ 47% of the Macedonian companies believe that some of the public officials are involved in corruption and 17% that the majority of the public officials are involved. The cumulative data shows that 64% of Macedonian companies believe that public officials are involved in corruptive practices.
- ▶ Several areas have been detected as potential risks for committing bribes or other forms of payments by the Macedonian companies. During: inspection from relevant government authorities (labor, ecology, tax, customs, health, etc.), (3.50%) receiving bank credit, (1.75%), Obtaining permits, and license (2.50%) Obtaining a construction permit (2%), Winning a public procurement contract (1.25%), executing customs payments (1.25%) etc;
- ▶ The construction-building permits are among the key interests of the criminals or white collar who have aim to corrupt the governmental (public) administration, then interests in agriculture (such as state subventions for farmers) and winning public procurement contacts.
- ▶ Key industries where the organized criminal groups have related to individuals have been Construction industry, Waste management industry, Tourism, Insurance agencies, Tobacco industry etc.

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323 Yalamov, T. "Hiding, Circumvention, Public Procurement and Shaping Laws: The role of Networks and Bribery in Bulgaria." *Eastern European Economics* 50.5 (2012): 93-111

324 Center for Studying Democracy. Examining the links between organized crime and corruption. 2010. Retrieved from: <http://www.csd.bg/fileSrc.php?id=20428>

325 Ibid.

- ▶ *Although the number of applications each year is decreasing, the efficiency of institutions dealing with corruption still needs to be improved. According to the MCIC business survey, it is estimated that at least 258 contracts of public procurement were bribery cases. This means that theoretically SCPC acted by more than 2% of cases.*
- ▶ *The analysis of quantitative data show that 12,5% of the Macedonian companies, consider the money laundering as relatively common occurrence and 3% of the companies as very common occurrence. Concerning the private sector, 96,5% of companies said that money laundering have not been offered in practice.*
- ▶ *When it had occurred, the estimated average amount of money laundering is 120.000 MKD or 1.947 EUR;*
- ▶ *The bank employees usually report financial transactions related to money laundering, but the lack of a Bank control or lack of effective anti-money laundering measures are often reasons behind successful money laundering in the country.*
- ▶ *Among Macedonian companies, the fraud on Value Added Tax (VAT), for 2,25%, of the Macedonian companies has been very frequent occurrence, for 12% a relatively common occurrence and very rare occurrence for 27,5% of the Macedonian companies.*
- ▶ *The compliance mechanisms in the banking sector need to be further strengthened. The non-financial sector is obliged to report suspicious transactions such as lawyers, traders etc.*
- ▶ *Special attention should be put on further improvement of the legislation on public procurement, public-private partnerships, concessions, sponsorships and donations, since the current legal framework is still not able to foresee and regulate every single circumstance that may arise in practice;*
- ▶ *According the data from the Business survey, 9,5% of the Macedonian companies have answered that crime has been committed in the premises of their companies. 7,89% of the companies believe that the committed crimes within their companies have been part of organized crime.*





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