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Macedonian Center for International Cooperation (MCIC)
Center for the Study of Democracy (CSD)

Monitoring the links between corruption and organized crime

Policy Briefs

Volume II

Policy Briefs:

Monitoring the links between corruption and organized crime

Publisher:

Macedonian Center for International Cooperation (MCIC)

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MACEDONIAN CENTER FOR INTERNATIONAL COOPERATION

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3. Risks of Corruption and Organized Crime in the private sector

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Introduction

Corruption in the private (business) sector in Macedonia requires special attention. Corruption appears in several forms, as bribe, conflict of interests, trade with influences, secret contracts and nepotism⁴⁶. That causes a disruption in legitimate competition and a reduction of trust in authorities and the legal system. And despite low comparative levels of perception of corruption in the EU, according to international comparisons all states are affected from this phenomenon⁴⁷. Serious cases of corruption can cast doubt on the main functions of a state and of the private businesses⁴⁸.

Representatives of the business sector in the country rate corruption as the fifth most significant obstacle in running a business, just after high taxes, frequent changes in laws and regulations, complex tax legislation and limited access to funding⁴⁹.

According to the Global Report for Competitiveness at the World Economic Forum for 2013-2014, interview

⁴⁶ Europol, Threat assessment from serious and organized crime in EU, (SOCTA), 2013. Taken from:

http://grasco.u-strasbg.fr/public/document/europol_socta_2013-Report.pdf

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Report of UNDOK, 2013, Business, corruption and crime in Macedonia

businessmen rank access to funding and inadequate infrastructure as the most problematic factors for running business, and corruption is also mentioned among the biggest restrictions⁵⁰.

Others factors that influence the position of the country in relation to corruption are: relatively low trust in the ethical standards of politicians, the fact that illegal bribe payments are sometimes connected with a few public services, such as import and export, public utility enterprises, annual tax payments, the granting of public contracts and licenses⁵¹. The progress report for EU for 2013 estimated that the business environment in Macedonia is negatively affected by corruption⁵². The progress report for 2014 indicates that the implementation of reforms for improving of business environment is still weak⁵³. Furthermore, prospects for development and employment are strongly dependent on the business environment of domestic private sector and with purpose of being supported, there is a need for the further liberation of licensing procedures, also with the purpose of inciting contact between domestic and foreign companies⁵⁴.

⁵⁰ World economic forum, Global Report for Competitiveness of the World Economic Forum 2013-2014, Macedonia.

⁵¹ Portal for Anticorruption in business, Macedonia, 2014. Retrieved by: <http://www.business-anti-corruption.com/country-profiles/europe-central-asia/macedonia/general-information.aspx>

⁵² European Commission, EU Progress Report for Macedonia, 2013. Available at:

http://ec.europa.eu/enlargement/pdf/key_documents/2013/20131008-the-former-yugoslav-republic-of-macedonia-progress-report_en.pdf

⁵³ Ibid.

⁵⁴ Ibid.

Empirical studies for the monitoring of corruption and organized crime indicate that criminal networks have a special interest in the private sector and through activities targeted towards company employees huge opportunities for extracting significant revenue, avoiding regulations for prevention, money laundering or relief operations in illegal markets⁵⁵. Often, the efforts of organized crime for influencing employees in the private sector are out of the priorities of institutions for the implementation of laws and judicial institutions⁵⁶.

1. Bribery of public officials

More from half of the population in SELDI countries believe that they live in a highly corrupt environment and at contact with public officials it is pretty probable that pressure from corruption will appear⁵⁷. 90% of participants in the research in Bulgaria and Kosovo believe that there is pressure from corruption⁵⁸. The percentage is lowest in Croatia, but even there 2/3 of the population believes that corruption exists. That shows that corruption is a serious problem in all regions with relatively lower level in Turkey, Croatia and Bosnia and Herzegovina⁵⁹.

The research conducted by MCIC also reveals that 55.8% of Macedonian companies would rarely or never give money to a public officer, and 48.8%

⁵⁵ Gunev P. & Bezlov, T, 2011 Links between organized crime and corruption, Center for the Study of Democracy (CSD)

⁵⁶ Ibid.

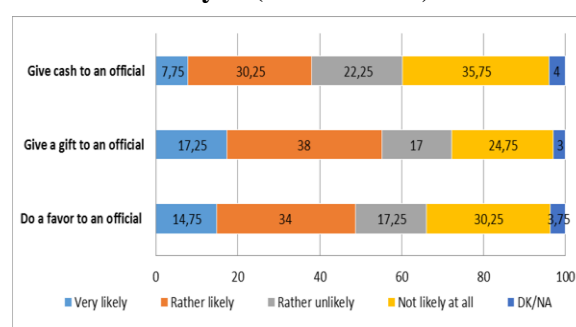
⁵⁷ SELDI (2014) Southeast Europe Leadership for Development and Integrity. Anti-Corruption Reloaded Assessment of Southeast Europe. Retrieved by: http://seldi.net/fileadmin/public/PDF/Publications/RAR/SELDI_RAR.pdf

⁵⁸ Ibid.

⁵⁹ Ibid.

would do service to an officer with the purpose of successfully solving a problem which has appeared in the company. Look at Chart 1.

Chart 1. With the purpose of solving a certain problem how probably is it there would necessary ... (businessmen)



Source: MCIC Survey of businesses, 2014

Bribing public officials within the private sector highlights the role of corruption in the everyday business of a large number of Macedonian companies.

The EU study, conducted by the Center for the study of Democracy (CSD) in 2010, on the link between corruption and organized crime reveals that the most prevalent and systematic form of corruption, which is the aim of organized crime is related to lower level officials in police and public administration⁶⁴. The tax administration, financial regulators and other regulatory bodies that can that affect criminal activities are also the aim of organized crime, but in a manner less systematic and less significant⁶⁰. Forty semi-structured interviews were conducted with representatives from various relevant state institution and NGOs (civil sector, media, experts, independent researchers, etc.) within the project “Fight against

⁶⁰ Gunev P. & Bezlov, T, 2011 Links between organized crime and corruption, Center for the Study of Democracy (CSD)

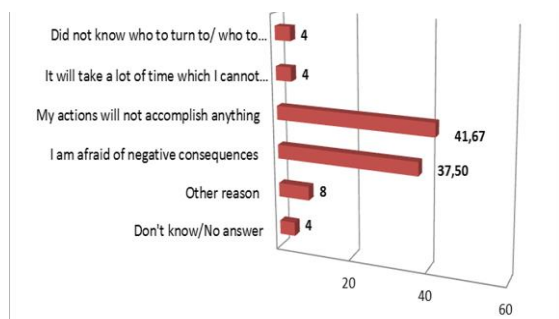
corruption and organized crime - AD AKTA” funded by the EU, in 2014.

The analysis of the answers of interviewees for the needs of this project show that building licenses for are between the most important interests of criminals or crime/white crime, the aim of which is to corrupt the government (public administration), followed by the interest in agriculture (state subsidies for farmers) and contacts in public procurement. Specifically, key industries where there is the link between criminal groups and individuals are: the construction industry, waste management industry, tourism, insurance companies, tobacco industry, sports federations, etc. Money laundering is identified as one of the key reasons for corruption in the construction industry.

The survey for businesses by MCIC shows that 41.6 % of company employees do not report criminal acts because they don't believe that their action would achieve anything while 37,5% are afraid from negative consequences if they report corruption. See chart 2.

Chart 2. Reason for reporting corruption by businesses

These figures confirm the lack of appropriate



preventive mechanisms in the private sector of the country, as well as appropriate penalties

against corruption and organized crime. Strengthening the integrity of companies can also improve the readiness and courage of employees in the private sector to report bribe, as well as other types of corruption and crime.

It also shows that there is a need for the strengthening of protection mechanisms for whistleblowers, in the public and the private sector.

2. Money laundering

According to Interpol's definition money laundering is: "any act or attempted act to conceal or disguise the identity of illegally obtained income so that they appear to have originated from legitimate sources"⁶¹

Organized criminal groups also use the mobility of people for money laundering. The majority of the money included can compromise legal economies and directly affect the public processes with "buying off" of election with help of corruption.⁶²

In Macedonia, money laundering is often connected with financial crime such as tax evasion, smuggling, financial fraud and fraud in privatization, bribe, abuse of official position and corruption. The largest part of the

⁶¹ Downloaded from: <http://www.interpol.int/Crime-areas/Financial-crime/Money-laundering>

⁶² Convention of United Nations against Transnational organized crime. Retrieved by: <http://www.unodc.org/unodc/en/organized-crime/index.html>

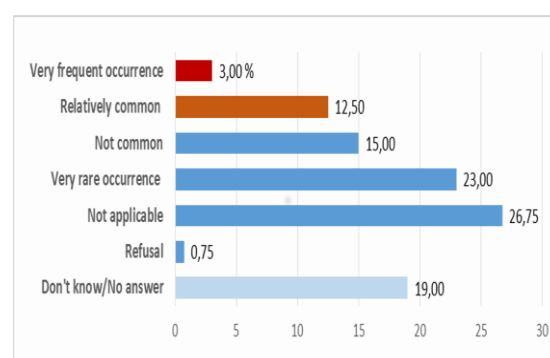
laundered profits are a result of domestic criminal activities⁶³. The EU Progress Report reveals that Law on Prevention of Money Laundering and Funding of Terrorism is not in line with relevant UN Guidelines.⁶⁴

However, in 2014, a small progress is noticeable. The Law on Prevention of Money Laundering and Funding of Terrorism was supplemented, and with that the compliance with recommendations of FATAF (Working group for financial actions)⁶⁵ is improved.

There are two general factors which determine the trends of money laundering: dealings in the illegal markets and general financial and economic environment. A large part of profits generated from organized crime are laundered by using very simple schemes. The majority of participants in the illegal markets do not generate sufficient financial resources in order to require money laundering.⁶⁶

The analyses of the quantitative data show that 23% of Macedonian companies perceive money laundering as rare appearance, 12.5 % as relatively frequent appearance and 3% from companies consider that it is frequent appearance. See chart 3.

Chart 3. Perception of Macedonian companies for the Money laundering occurrence



Source: MCIC Survey of businesses, 2014

The average amount of sums of contracts in which there are money laundering is 120 000 MKD (1 947 euros).

The potential companies which might be utilized for money laundering are all companies from the private sector such as: financial institutions (banks, investment funds, broker houses, insurance companies, pension funds) wholesale companies, lawyers, accountants, notary publics, real estate companies, sports clubs and dealers of valuable goods (e.g. vehicles or jewelry).⁶⁷

⁶³ Ibid.

⁶⁴ European Commission Progress Report for Macedonia for 2013 General Directorate for Enlargement, available at: http://ec.europa.eu/enlargement/pdf/key_documents/2013/20131008-the-former-yugoslav-republic-of-macedonia-progress-report_en.pdf

⁶⁵ Downloaded from: [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/MKD4-SUMMMONEY_V_AL\(2014\)1SUMM_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/MKD4-SUMMMONEY_V_AL(2014)1SUMM_en.pdf)

⁶⁶ Center for Democracy Study. Assessment of threat from serious and organized crime (SOCTA). * For example, in the market of illegal cigarettes the money left for laundering do not exceed 15% from all revenue (or 30 000 000 € from 200 000 € 000 of total market turnover).

⁶⁷ Gunev P. & Bezlov, T 2011 The links between organized crime and corruption, Center for Democracy Study (CID).

The interviewed persons, for the needs of this research, pointed out that in Macedonia, the most frequent industries which are aimed by the organized crime are banks due to the necessity of money laundering after the criminal activities are performed. Others industries which are more susceptible to the activities of organized crime are: tobacco industry and cigarettes, oil distribution companies etc.

The interviewers for the purpose of this project also suggested that money laundering, the profits and illegal activities (transfer of money) are the main goals of groups of organized crime which use corruption in the private companies.

Moreover, it was indicated that common jobs / positions in Macedonia that are most subject to corruption activities including and money laundering are: accountants, bank tellers and officials for public procurement etc.

The interviewed for this research also advised that that the corruption of officials in banks with the purpose not to report money laundering is a rare phenomenon, but the lack of control over banks of the insufficient measures against money laundering are the most frequent reason for the successful money laundering process. Hence, the perpetrators put in motion schemes where the involvement of banks is very difficult to track not is not

necessary: using off-shore companies, funds and foundations.

In 2012, the Office for Financial Intelligence (OFI) reported 29 cases of suspicious transactions connected with money laundering and 121 cases connected with other types of economic and financial crime to the relevant investigative authorities and Prosecution.⁶⁸ The largest part of profits from these cases continues to be tax evasion.⁶⁹ In total 36 persons were charged in six cases during 2012, 11 persons were sentenced in four cases, which is an increase in comparison to the previous year.⁷⁰

According to the Office for Financial Intelligence (OFI), the number of suspicious transactions is reduced from 239 in 2012 to 169 in 2013, which represents a decrease of 29%.⁷¹ In 2013, the Office for Financial Intelligence has submitted, to the institutions responsible for implementation of law, 25 notifications for money laundering and funding of terrorism, which is a reduction of 31% from previous year and 3 charges against

⁶⁸ European Commission. EU Progress Report for Macedonia 2013. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2013/20131008-the-former-yugoslav-republic-of-macedonia-progress-report_en.pdf

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ European Commission. EU Progress Report for Macedonia 2014. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report_en.pdf

25 persons for money laundering and 4 judgments against 41 persons.⁷²

The susceptibility to corruption and organized crime is noticeable, similarly in the adoption and implementation of legislation against money laundering in a package with regulatory practices and monitoring of banks. In this sense, the Euro Shore study shows that in countries with low regulatory standards which are applied in banks, the index of organized crime is twice higher in comparison to the countries with higher standards for implementation of legislation to fight money laundering.

According to the European Bank for Reconstruction and Development (EBRD), the Law on Banks and other regulations are well developed and create solid legal framework for corporate management of banks.⁷³ "The most of the larger banks publish online the codes and the Boards of the Banks have adopted Ethical Codes which must include requirements for transactions with conflict of interest."⁷⁴

The banks are required that they establish Audit Committees, however, there is no legal obligation to include independent directors and

it seems that banks do not have any trainings and programmes for the membership of the supervisory boards.⁷⁵ When it comes to the internal control of the banks, although according to the bank regulations, the responsibility for efficient organization of the system for internal control is awarded to the supervising and the managing board, the supervising authority does not require that a regular reporting should be maintained and publishing of the function of the internal control of the bank.⁷⁶

Macedonian banks are legally bound to establish mechanisms for compliance which should yet should show their efficiency.

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 Chart 4.

⁷² Ibid.

⁷³ European Bank for Reconstruction and Development (EBRD). Commercial laws of Macedonia June 2013 COMMERCIAL LAWS OF Macedonia June 2013: an assessment by the EBRD. Available at:

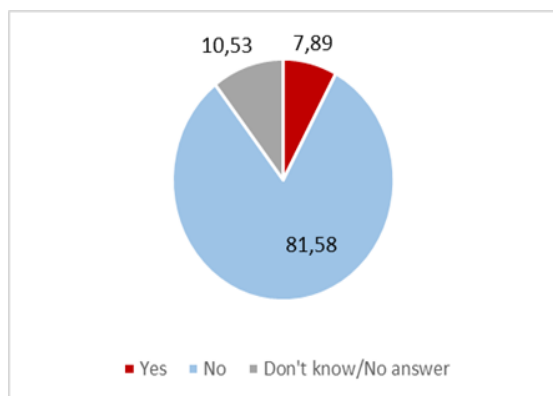
<http://www.ebrd.com/documents/legal-reform/fyr-macedonia-country-law-assessment.pdf>

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Ibid.

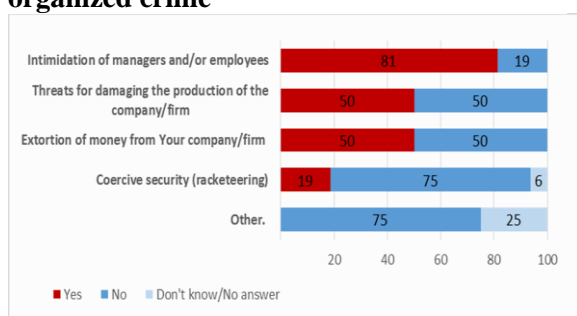
Chart 4. Do you think crime (some of the crimes) has been committed against your company over the last year is part of organized crime?



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 Chart 5.

Chart 5. Types of intimidation and extortion in the business sector by organized crime



Source: MCIC Survey of businesses, 2014

UNODC research for 2013 shows that the prevalence of extortion on business in the country should be considered as an issue of greatest concern, taking into account that extortion is a very serious crime, in which the perpetrator uses force to get money or other interest from some company, by threatening and intimidating managers or employees.⁷⁷ According to the UNODC report, extortion is present also as an “offer” for protection against the damage of property and persons, and the money given are represented as “protection money” or are linked with organized criminal groups that have the power and resources to issue sound threats on businesses with potential direct consequences if the requirements are not fulfilled.⁷⁸

Data from the UNODC research show that two fifths (40.4 %) of threats for extortion include some damages to business or ownership, while 6.7% indicate indefinite damage to the business or property.⁷⁹ Apart from this, 26.9 % include certain personal threats for harm against the owner, the manager or their relatives. Others cases include promises for protection against other criminal threats: as that of harming customers, pollution of products or kidnapping of employees, managers or their relatives.⁸⁰

⁷⁷ UNODC Report: Business, corruption and crime in the Republic Macedonia: The impact of bribery and other types of crime on private enterprises, 2013

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Ibid.

Usually, small companies just as the large corporations are vulnerable to corruptive behaviors in the service of organized criminal groups, taking into account that “small local businesses are especially subject to extortion from corrupt public officials while larger domestic and global corporations that managed to control bribery still need to care for unfair competition from smaller competitors.”⁸¹

The analysis of the interviewees answers for the research needs of MCIC show that the key reason for the vulnerability of the private sector from corruption and organized crime is the shortage of control mechanisms. A large part of interviewees said that there are partially adopted mechanisms for the inspection of acts connected to corruption and organized crime in the private sector and that there are no common accepted mechanisms from the business community. On the contrary, most of internal anti-corruption policies and strategies are conducted on the basis of independent assessment by the company on such behaviors.

In addition, main challenges and actions stipulated in the directions of the Convention of the United Nations for strengthening of corporate integrity are:

- Lack of strong corporate integrity;
- Need for anti-corruption corporate programs as a basic tool for strengthening the integrity and encouragement of the country in order to enable better behavior within the private sector, by combining sanctions and stimulants for good behavior.⁸²

The proper management of the private sector is key for the reduction of risks from corruption and organized crime.

Key management indicators are transparency and banking system efficiency, as well as access of the business to financial services within a proper formal framework, with the purpose of performing usual activities.⁸³

Especially if small or large enterprises face difficulties in getting loans, they will resort to illegal sources to provide financial services with higher interest rate (money with interest).⁸⁴

The other perspective is related to the managing of the financial sector and corporations, with a special focus on money laundering legislation together with a

⁸¹ Convention of United Nations against Corruption: Resource guide for state actions for the strengthening of corporate integrity, 2013

⁸² Convention of United Nations against Corruption: Resource guide for state actions for the strengthening of corporate integrity, 2013

⁸³ Buskalija E & Dijk. Van. Inspection of organized crime and corruption in the public sector, Forum for crime and society, Volume 3, no. 1 and 2, 2003

⁸⁴ Ibid.

regulatory framework and practices for supervision of banks.⁸⁵

The low risk and high earnings from fraud are the reasons which attract organized crime.

Often, private companies lack security systems, partially because of the outsourcing of administration, duties for maintenance and development, and partially because of the high expense of effective preventive measures.⁸⁶

Recommendations

There is a need for strengthening of banks internal controls and publication of regular reports from conducted controls;

The strengthening of control mechanisms in banks for preventing money laundering must be reinforced.

Strong mechanisms for the protection of whistleblowers are needed, i.e. employees that have had experience with criminal act of corruption and organized crime within their company (like: threats, extortion, tax evasion and etc.).

The experience of employees with money extortion from the company or direct intimidation of managers or employees is also an indicator that points to the need for effective mechanisms for the suppression of

corruption and organized crime in the business sector.

There is a need for from anti-corruption corporate and educational programs, as main

tools for strengthening of integrity which would enable the reduction of risks from corruption and organized crime in the private sector in combination with sanctions and incentives for good behavior.

⁸⁵ Ibid.

⁸⁶ Ibid.

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