



GOVERNMENT OF THE REPUBLIC OF MACEDONIA

**Answers to the Additional Questions for the  
Economic Criteria and the Chapters of the Acquis**

**May, 2005**

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## II. Economic Criteria

### Clarification:

1. The interpretation of some tables (e.g., table Ib of the economic chapter, page 9 ff) is not possible, as the description of the labels is not complete. For example, in some tables, some variables are further split up into several categories (E.g., in Table Ib on page 9 of the economic chapter: Value added of sectors by type of capital.) However only the codes of these subcategories are given ("capital of type 1") without an indication of what types 1, 2, 3, are Thus, please provide a short list for the tables in question, indicating what those codes stand for.

The following list is consisted of codes for:

1. Clarification by NACE Section;
2. Sections and Subsections classification,
3. Type of capital; and
4. Type of ownership.

<b>Classification by NACE Section:</b>	
A	Agriculture, hunting and forestry
B	Fishing
C	Mining and quarrying
D	Manufacturing
E	Electricity, gas and water supply
F	Construction
G	Wholesale and retail trade; repair of motor vehicles, motorcycles and personal and household goods
H	Hotels and restaurants
I	Transport, storage and communication
J	Financial intermediation
K	Real estate, renting and business activities
L	Public administration and defense; compulsory social security
M	Education
N	Health and social work
O	Other community, social and personal service activities
P	Private households with employed persons
Q	Extra-territorial organizations and bodies

<b>Sections and Subsections classification:</b>	
<b>S.11 Non-financial corporations</b>	
	S.11001 Public non-financial corporations
	S.11002 National private non-financial corporations
	S.11003 Foreign control non-financial corporations
<b>S.12 Financial corporations</b>	
	S.121 Central Bank
	S.122 Other monetary financial institution

S.12301 Public other financial intermediaries, except insurance corporations and pension funds
S.124 Financial auxiliaries
S.125 Insurance corporations and pension funds
<b>S.13 General government</b>
S.1311 Central government
S.1313 Local government
S.1314 Social security funds
<b>S.14 Households</b>
<b>S.15 Non-profit institutions serving households</b>

<b>Type of capital:</b>
1. Domestic
2. Foreign
3. Mixed

<b>Type of ownership:</b>
1. Public
2. Private
3. Cooperative
4. Mixed
5. State
9. Firms with no regulated status

Source: State Statistical Office

In addition to the requested clarification of the codes for Type of ownership and Type of capital, please find enclosed appropriately adjusted Tables for the structure of ownership including an estimate of the capital stock, with a split between private and public capital, 2-01 Tables 1.

#### **Additional data:**

##### **2. Question 15: Public sector:**

**What is the share, in terms of Gross Value Added, of the public sector (public administration, state public enterprises, ..) in the total Value Added of the Macedonian economy?**

The data, given in Table 1, refers to the share of the public sector in the total added value in the Macedonian economy.

The last available data refer to 2003. When interpreting them, the following situation may be noticed:

1. The share of the added value of public non-financial enterprises in the added value in the non-financial enterprises sector in 2003 was 15.5%;
2. The share of added value of public non-financial enterprises in the total added value in 2003 was 8.4%;
3. The share of added value of the Central Government in the added value of the state sector in 2003 was 71.0%;
4. The share of added value of the Central Government in the total added value in 2003 was 12.1%.

Table 1.

The share, in terms of Gross Value Added, of the public sector (public administration, state public enterprises) in the total Value Added of the Macedonian economy									
In million denars				In current prices					
Institutional Sector	Sub-sector	Description	Value added at basic prices, 2001	Value added at basic prices, 2002	Value added at basic prices, 2003	Distribution (%)			
						2001	2002	2003*	
S.11	Non - financial corporations	S.11001	Public non - financial corporations	16535	15765	18088	8,5	7,9	8,4
		S.11002	National private non-financial corporations	76927	77508	86425	39,4	39,0	40,2
		S.11003	Foreign control non-financial corporations	19875	17543	12366	10,2	8,8	5,8
		Total		113336	110816	116879	58,1	55,8	54,4
S.13	General government	S.1311	Central government	22334	23428	26005	11,4	11,8	12,1
		S.1313	Local government	955	2475	1317	0,5	1,2	0,6
		S.1314	Social security funds	7991	8829	9323	4,1	4,4	4,3
		Total		31280	34732	36645	16,0	17,5	17,0
Total Value Added				195230	198592	214969	100,0	100,0	100,0

Source: State Statistical Office

### 3 Trade:

**Please provide an overview of annual external trade of Republic of Macedonia with its trading partners according to the 2-digit SITC classification since 1996 (or even earlier if possible). The objective is to see the changes in the trade volume and composition since independence**

The requested overview of the annual external trade of the Republic of Macedonia with its trading partners according to the 2-digit SITC classification from 1994 until 2004 is presented in II\_Annex\_01.

### 4 Prices (Statistic Office):

**Please provide additional data on the composition of the basket of the Consumer Price Index (weights of main items, commodity groups, ...).**

The consumer's basket for calculation of the life costs' index is a list of products and services that have the biggest share in the personal consumption of the households. The structure of products and services are defined on the basis of the Survey on the Households' Consumption. For certain items of the basket for which the Survey does not provide quality data, additional sources are used (administrative sources or other research).

At the beginning of 2005, a new structure of products and services was established. The indexes are calculated at individual level, at product, i.e. service level. These individual indexes are aggregated in indexes of groups and subgroups of products and services. The products and services in the consumers' basket are grouped in 7 basic groups according to the national classification. Beside this index, starting in 2002, in the State Statistical Office, the index of the life costs according to the COICOP classification is also calculated. According to this Classification, the products and services are aggregated in 12 basic groups.

The share of the basic group of products in the total index is shown in the following Table 1:

Table 1.

<b>Structure of ponders for calculation of the life costs index</b>	<b>2005</b>
<b>Total</b>	<b>100.0</b>
<b>Food</b>	<b>38.6</b>
<b>Tobacco and beverages</b>	<b>6.57</b>
<b>Garment and shoes</b>	<b>8.57</b>
<b>Households</b>	<b>15.53</b>
- <i>Apartment, rent, water and services</i>	2.78
- <i>Heating and light</i>	9.32
- <i>Household appliances</i>	3.43
<b>Hygiene and health</b>	<b>8.73</b>
<b>Culture and entertainment</b>	<b>5.52</b>
<b>Transport means and services</b>	<b>16.48</b>
<b>Goods</b>	<b>81.14</b>
<b>Services</b>	<b>18.86</b>

<b>Structure of ponders for calculation of the life costs index according to COICOP</b>	<b>2005</b>
<b>Total</b>	<b>100.0</b>
<b>Food and beverages</b>	<b>40.28</b>
<b>Alcoholic drinks and tobacco</b>	<b>4.89</b>
<b>Garment and shoes</b>	<b>8.49</b>
<b>Householding, water, electricity and other fuels</b>	<b>11.78</b>
<b>Household appliances, furniture, maintaining the appliances</b>	<b>5.83</b>
<b>Health</b>	<b>3.44</b>
<b>Transport</b>	<b>7.32</b>
<b>Communications</b>	<b>6.18</b>
<b>Entertainment and Culture</b>	<b>3.55</b>
<b>Education</b>	<b>0.65</b>
<b>Hotels and Restaurants</b>	<b>3.18</b>
<b>Other goods and services</b>	<b>4.41</b>
<b>Goods</b>	<b>81.14</b>
<b>Services</b>	<b>18.86</b>

Source: State Statistical Office

## **1. Free movement of goods**

**1. The Law on Public Procurement (LPP) does not cover concessions. Is/are there separate legal act(s) covering concessions, including public works concessions? If not, how will concessions be regulated, eg. by amending the LPP or by adopting a separate law on concessions?**

The Law on Public Procurement ("Official Gazette of the RM", No. 19/04) stipulates no provisions regulating the subject of concessions, including public works concessions. The manner, the procedure and the general conditions for issuance of concessions, related to the goods of public interest and performing of activities related to these goods are regulated by the Law on Concessions ("Official Gazette of the RM", No. 25/2002 and 24/2003).

Considering that the legislation in the Republic of Macedonia is in a process of harmonisation with the EU acquis, the obligation of regulating the matter of public works concessions, according to the EU Directives on public procurement 2004/17/EC and 2004/18/EC will be taken into account in the Law on Public Procurement in the Republic of Macedonia. Thus, the Ministry of Finance, until 2006, according to the Stabilisation Agreement, plans to regulate the issue of public works concessions and to incorporate the directives in the national legislation.

**2. Is there any legislation concerning Public-Private Partnerships (PPPs), i.e., forms of cooperation between public authorities and the world of business which aim to ensure the funding, construction, renovation, management or maintenance of an infrastructure or the provision of a service? If not, are there any plans to regulate PPPs and how? For a more detailed definition of PPPs, see the Commission's Green Paper, COM(2004)327 of 30 4,2004.**

2. Realisation of public-private partnership within the cooperation between public and private partners is not new to the legal system in the Republic of Macedonia. Usually, this partnership is realised through arrangements for building infrastructure facilities such as: transport, health, education, etc. The public sector - the state, through its institutions, creates the relations of coordination with these entities, i.e. the relations of promotion of PPPs by regulating particular rules with the contracts and the concessions.

The Republic of Macedonia has entered the process of PPPs through the public procurement contracts of the state and through the concession contracts of the state and the concessionaire. These relations are previously determined in a transparent manner and through tender principles, so through the PPPs the work is selected, which will be subject to the cooperative relationship between the public sector and the private partner with constructive, clear and homogenous relations, i.e. responsibilities. PPPs are based on the Agreement for performing certain works with technical specifications and requirements for which particular partnership is established. Having in mind that, according to the Law on Concessions and the Law on Public Procurement, for works related to state interests, the respective public-legal relations are regulated with the contracts themselves, the PPP principle is realised through the works' contracts and the concession contracts, while the issues related to financing of this partnership are regulated in detail with the contracts.

Number of activities has been undertaken in the Republic of Macedonia covering the aspect of provision of PPPs, in particular taking into account the definition on PPP given in the Green Paper of the European Commission. In general, the objective of such activities is to provide partner forms of cooperation, enabling direct support to the process of employment and improvement of the living standard on local level. Through these activities, the Government of the Republic of Macedonia influences the acceleration of the decentralisation process and the implementation of the high-priority activities of ensuring sustainable development and improving the capacities of the municipalities, as well as improving the overall business climate in the Republic of Macedonia.

## 02. Free movement of persons

### 1. Mutual recognition of professional qualifications:

**Does your legislation foresee the recognition of foreign professional qualifications, as opposed to foreign higher education qualifications? In practice, are any procedures in place to allow access to regulated professions on the basis of foreign professional qualifications? If so, please describe the relevant legal basis and procedures.**

The recognition of acquired professional qualifications, or higher education qualifications, or part of the tertiary studies spent abroad, represents an integral part of the right to education and the right to freedom of movement in the Republic of Macedonia, which is also confirmed with the act of ratification of the Lisbon Declaration for recognition of professional qualifications of the Council of Europe of 11 April 1997 - the Convention on the Recognition of Qualifications concerning Higher Education in the European region. It is thereby important to make difference between recognition of level of education and recognition of profession. With the Laws on Primary Education ("Official Gazette of the Republic of Macedonia" No. 44/95, 24/96, 34/96, 35/97, 82/99, 29/02, 40/03, 42/03, 63/04, Correction 82/04) and the Law on Secondary Education ("Official Gazette of the Republic of Macedonia" No. 44/95, 24/96, 34/96, 35/97, 82/99, 29/02, 52/02, 40/03, 42/03 and 67/04), a foreign citizen can apply for validation or recognition of the equivalence of the certificate acquired abroad, by which a **recognition of a level of education** is provided. **The recognition of the professional qualifications** acquired abroad is regulated with the Law on Higher Education ("Official Gazette of the Republic of Macedonia" No. 64/00 and 49/03). Pursuant to Article 15 of this Law, recognition of foreign higher education qualifications or part of foreign tertiary studies means recognition of diplomas and other public certificates issued by foreign educational institutions or by accredited i.e. authorised bodies of the corresponding country. With the act of recognition of the equivalence, an equal legal power is also recognised with the corresponding higher-education qualifications or part of the tertiary studies acquired in the Republic of Macedonia. Thereon, in Article 166 of the Law, a distinction is made between the academic and the professional recognition. With the *academic recognition* the right to access institutions of higher education in Macedonia is accomplished, i.e. the opportunity to continue the higher education studies for gaining a higher education qualification, or recognition of completed higher education qualification for academic purposes, i.e. enrolment in postgraduate studies (M.A.) or in doctoral studies (PhD). With the *professional recognition* of the higher education qualification, performing professional activity in the Republic of Macedonia is enabled. With partial recognition, a part of higher education studies that have successfully been completed abroad is formally recognised.

**Does your legislation foresee the recognition of foreign professional qualifications, as opposed to foreign higher education qualifications?**

The Laws that regulate certain professions: the Lawyers profession; the medical profession (physicians, dentists and pharmacists); the audit profession, enable access to these professions on the basis of professional qualifications acquired abroad. The conditions under which the access to these professions is enabled are more precisely regulated in the Statutes of the corresponding Associations of these professions. Thereon, with a legally established procedure, an academic title gained abroad can be recognised, but additional undergoing professional examinations is required in order to acquire a work licence. In accordance with the Law on Health Care ("Official Gazette of the Republic of Macedonia" Nos. 38/91, 46/93, 55/95 and 10/04), the Ministry of Health recognises the compulsory work experience and passed professional examination (licences acquired) abroad of health care workers.

**In practice, are any procedures in place to allow access to regulated professions on the basis of foreign professional qualifications?**

The procedure of recognition of foreign higher education qualifications is regulated with the Law on Higher Education ("Official Gazette of the Republic of Macedonia" Nos. 64/00 and 49/03). With the



procedure for recognition of foreign higher education qualifications, any form of discrimination or prejudice is avoided in the field of evaluating the foreign higher education qualification; mutual confidence and transparency are provided; and the differences between the educational systems are accepted. Pursuant to Article 168 of the Law, the following procedure is applied: the applicant submits his/her request for recognition to the Ministry authorised on matters of the higher education. The Information Centre of this ministry establishes the validity of the original documents as regards to their legality, authenticity verification and the inclusion of the institution to the higher education system of the country where higher education qualification is gained etc, i.e. the fulfilment of formal and legal conditions in order to commence recognition of an equivalence of the closest to the teaching and research field for recognition of a foreign higher education qualification.

Together with the required documentation, the applicant also submits a statement signed in his/her own hand that the documentation is valid in accordance with the legislation of the country of origin and of the Republic of Macedonia. After this, a recognition of the closest teaching and research field for recognition of a foreign higher education qualification is performed. The recognition is performed by a Recognition Commission, formed by the teachers' council of a state institution of higher education in the Republic of Macedonia which is closest to the teaching and research field for recognition of the foreign higher education qualification.

After reviewing the whole documentation that had been submitted to the Information Centre, the Recognition Commission prepares a decision for recognition of the higher education qualifications or of part of the higher education studies acquired abroad. The president and the members of the Professional Commission sign the decision. The decision is submitted to the Ministry that is authorised on matters of higher education.

If the minister authorised on matters of higher education establishes that all the conditions established by Law have been fulfilled, he/she then signs the final decision for recognition.

In case when, after reviewing the documentation submitted by the applicant, the institution of higher education fails to bring decision within a period of three months, the Ministry authorised on matters of higher education, with the minister's decision, appoints another institution of higher education, closest to the teaching and research field for recognition of the foreign higher education qualification, to act according to the provisions of this Article.

In case no institution of higher education with a closest teaching and research field for recognition of foreign higher education qualification exists in the Republic of Macedonia, the minister authorised on matters of higher education forms an experts' commission, consisting of three full-time professors from the country and from abroad, who act according to Article 168 of this Law.

The Ministry authorised on matters of higher education implements the concluded bilateral agreements for mutual recognition of diplomas, under the terms established in the bilateral agreement. The Republic of Macedonia has signed bilateral agreements with the Republic of Bulgaria, the Republic of Albania and the Republic of Turkey.

The Experts' Commission for verification of the recognised higher education qualifications or part of higher education studies acquired in the countries with which the Republic of Macedonia has contracted bilateral agreements is formed with professors from the institutions of higher education in the Republic of Macedonia closest to the teaching and research field for recognition of foreign higher education qualification, as well as with experts responsible for verification of the recognised higher education qualifications or part of the higher education studies acquired abroad.

The Draft-decision for verification is signed by the president and the members of the Experts' Commission. The Minister authorised on matters of higher education signs the decision for verification of the recognised higher education qualifications or part of the higher education studies acquired abroad in accordance with bilateral agreements.

The recognition of the professional higher education qualifications or part of the professional higher education studies acquired abroad can also be performed in the ministries and in other related institutions in the Republic of Macedonia, in accordance with individual regulations on recognition of the professional higher education qualifications or part of the professional higher education studies acquired abroad brought by the Ministry of Education and Science.

Recognition of higher education qualifications or part of the higher education studies acquired abroad is performed if no essential differences exist between the higher education qualifications acquired in the Republic of Macedonia and those acquired abroad, for which the recognition is applied.

The decision for recognition of the qualification states that the foreign qualification fulfils the general and the particular requirements established for access to the higher education or employment in the Republic of Macedonia.

If the Experts' Commission establishes that the foreign qualification is insufficient for further studying or for employment in the Republic of Macedonia, in their report they state the reasons for that and inform the applicant about the measures he/she should undertake and the obligations he/she has to fulfil in order to receive recognition of the qualification in further proceedings.

Article 174 of this Law establishes that the foreign qualification recognised in the Republic of Macedonia cannot give the person greater rights than those he/she would have been entitled to in the country where he/she acquired the same qualification.

In Article 175 of the Law, the conditions that need to be fulfilled in order to perform the recognition of the professional qualification are regulated.

**Does your legislation foresee different requirements for the access to or exercise of certain professions as independent (self-employed) and salaried (employee) professionals? If so, please provide details, in particular whether different professional titles or diplomas are required in each case.**

## **NOTARY PUBLIC**

The notary public is a self-employed, independent public service, and anticipates the notary activity to be performed by notaries, as persons who perform their activity as primary occupation for the period they have been appointed. Pursuant to Article 10 of the Law on Performing Notary Activities ("Official Gazette of the Republic of Macedonia" No. 59/96, 25/98, 6/2002.), only a person who is a citizen of the Republic of Macedonia can be appointed for a notary. In order to be able to perform this activity, the notary should have passed a Notaries' Examination.

## **The BAR**

As a self-employed and independent legal service, the BAR envisages that the legal practice should be performed exclusively by legal practitioners, either lawyers-individuals or lawyers associated in a Bar Association. The right to perform the legal practice is acquired by registering in the Lawyers' Directory of the BAR Association of the Republic of Macedonia. On registering, the lawyer is granted a work licence. The content and the procedure for issuing the work licence are established with the Statute of the BAR Association of the Republic of Macedonia. The scope and the type of authorisation for giving legal aid are established with a contract. The scope and the type of authorisation for giving legal aid and for performing legal practice must be identical. In relation to Article 14 of the Law on the Bar, with decision brought by the Constitutional Court, the Article has been repealed in the part "that is established by the Bar Association of the Republic of Macedonia in a way and procedure established with the Statute of the Bar Association". Conditions for performing advocacy: the lawyer should be a citizen of the Republic of Macedonia, to have graduated at the Faculty of Law and gained the title "Graduate Lawyer", to have passed the BAR Final Examination and his/her working ability not to have been withdrawn..

## **BANKRUPTCY ADMINISTRATOR**

With the Bankruptcy Law ("Official Gazette of the Republic of Macedonia" No. 55/97, 53/00, 37/02 and 17/04), an examination is anticipated for gaining the title "Authorised bankruptcy administrator". The bankruptcy administrator represents the debtor in the bankruptcy procedure.

Pursuant to Article 20 of this Law, the practice of the bankruptcy administrator can be performed by a physical entity who is an authorised bankruptcy administrator or by a limited liability company which has gained a permit for performing the duties of the bankruptcy administrator.

The title "Authorised bankruptcy administrator" is gained by fulfilling the following conditions: higher education, work experience of at least three years after graduation and passing the examination for bankruptcy administrator.

Pursuant to Article 22 of this Law, a limited liability company is registered in the Register of the companies authorised for performing the duties of bankruptcy administrator, under conditions to have employed one graduated lawyer or economist as well as an authorised bankruptcy administrator.

## **VETERINARY PROFESSION**

Pursuant to the Law on Veterinary Health ("Official Gazette of the Republic of Macedonia" No. 28/98, with the amendments), the veterinary-health activity can be performed as a primary, secondary and tertiary animals' health protection. The veterinary-health activity is performed the veterinary workers: Doctors of veterinary medicine, veterinary technicians, as well as veterinary attendants, while certain specialised activities related to diagnostics and analysis are performed by other workers with higher education from other corresponding professions. In order to be able to perform certain activities, the Doctors of veterinary medicine should possess a work licence, i.e. a certificate for passed professional examination on performing activities in the veterinary health profession.

## **THE MEDICAL PROFESSION**

Pursuant to the Law on Health Care ("Official Gazette of the Republic of Macedonia" No. 38/91, 46/93 5/95 and 10/04), the health care can be provided by health care workers with appropriate professional education, with completed on-the-job training period for the health care workers with secondary or post-secondary education, with passed professional examination and with a work licence, while for certain activities and duties it is necessary that the workers have corresponding specialisation and sub-specialisation. A health care worker with higher education in the field of medicine and dental medicine can gain a primary licence if he/she has: a diploma for graduation from the corresponding higher education, evidence of completed training period and evidence of completed professional examination. In case the conditions have been fulfilled abroad, the health care worker can gain a primary licence if he/she has: a validated diploma for the corresponding higher education as well as evidence for recognised on-the-job training period and for professional examination passed.

A health care worker can gain a work licence if, in addition to the general requirements, also possesses: a primary licence and corresponding specialisation or sub-specialisation. A health care worker who has gained his/her work licence abroad can also gain a work licence, if, in addition to the general requirements, he/she also possesses: evidence for validated corresponding specialisation or sub-specialisation, a recommendation issued by the association in which he/she had been a member, as well as evidence for previous working experience in the field in which he/she applies for a work licence. A health care worker with higher education in the field of pharmacy can gain a work licence if he/she possesses: a diploma for completed corresponding higher education, evidence for completed on-the-job training period, as well as evidence for completed professional examination, while for certain duties, a corresponding specialisation or sub-specialisation as well. If the person has gained the work licence abroad, he/she can gain a work licence if he/she possesses: a validated diploma for completed corresponding education and evidence for recognised on-the-job training period, as well as completed professional examination, while for certain duties – evidence for validated corresponding specialisation or sub-specialisation.

In addition to the health care workers who are citizens of the Republic of Macedonia, a foreign citizen, a health care worker, can also gain a work licence in the fields of medicine, dental medicine and pharmacy, if, in addition to the general requirements prescribed with the regulations on movement, residence and employment of foreigners, he/she fulfils the conditions prescribed by the

Law. Those are the ones that apply for the Macedonian citizens who have completed their education abroad, or have gained their work licence abroad. The foreign citizen should also have completed additional training and testing of his/her knowledge and capabilities in accordance with the programme established by Law. The testing is performed by the Health Care, Dental Medicine or Pharmacy Association respectively.

## **SOCIAL WORKER**

Pursuant to the Law on Social Protection ("Official Gazette of the Republic of Macedonia" No. 50/1997 with the amendments), depending on the type of work, the professional work in a social protection institution is performed by professional workers with higher education: graduated social worker, psychologist, andragogue, pedagogue, lawyer, economist, physician, defectologist, social pedagogue for prevention and re-socialisation, and sociologist; with post-secondary education: social worker, health care worker and other workers depending of the needs of particular activity; with secondary education: health care worker and other employees for performing other activities depending on the type and the scope of the services.

## **BROKER**

Pursuant to the Law on Securities, ("Official Gazette of the RM" No. 63/2000 with the amendments) brokers are authorised persons for work in stock exchange houses, who have passed a special professional examination for dealing with securities. The manner and the conditions for undergoing the examination are established by the Securities Commission.

## **ACTUARY**

Authorised actuary is a person who possesses a work permit for an authorised actuary issued by the Minister of Finance. The authorised actuary is independent in performing his/her work and is responsible for the accuracy of the established actions. For a person to gain a permit to work as an authorised actuary, it is necessary that he/she fulfils certain requirements prescribed by the Law on Supervision of Insurance ("Official Gazette of the RM" No. 27/2002 with the amendments), as well as to have passed professional examination which is required for performing activities as an authorised actuary. The Minister of Finance prescribes the conditions for carrying out the professional examination for gaining a work permit as authorised actuary more closely, and also organises the conducting of the examination.

## **AUTHORISED AUDITORS**

An authorised auditor performs its work, according to the authorisations that are established in the Law on Audit ("Official Gazette of the RM" No. 74/04 - consolidated text), and the International Audit Standards. The examination for the title of authorised auditor is taken in front of a Commission organised by the Minister of Finance, in accordance with a programme brought by the same minister. As an exception, on the basis of written application and enclosed documents, the Minister of Finance can recognise the title of authorised auditor to persons who have gained a PhD in the area of accounting or audit, who have published works in the field of the theory and practice of the accounting and the audit, and who have at least ten years' experience in teaching at a university. Persons who have gained a certificate for authorised audit abroad, have to fulfil the requirements of the Law and to validate their certificate in the Ministry of Finance, in accordance with the method and the procedure established by the Minister of Finance.

**Under the question of monopoly, your reply refers to the notary profession, medical professions and veterinarians. No reference is made however to pharmacists. Does it mean that anyone can sell medicinal products in your country?**

Pursuant to Article 153-c of the Law on Health Care ("Official Gazette of the Republic of Macedonia" Nos. 38/91, 46/93, 55/95 and 10/04), a health care worker with higher education in the field of pharmacy can gain a work licence if he/she possesses:

- 1) a diploma for completed appropriate higher education;
- 2) evidence for completed on-the-job training period;
- 3) evidence for completed professional examination, and also for certain duties a corresponding specialisation and sub-specialisation.

In relation to professional staffing, at least one graduate pharmacist must be employed in order to establish a pharmacy shop.

The Law on Pharmaceutical Drugs, Supplementary Treatment Substances and Medical Devices ("Official Gazette of the RM" No. 21/98) in Chapter V regulates the conditions for trade of pharmaceutical drugs, supplementary treatment substances and medical devices.

Article 105 establishes that legal entities performing wholesale of pharmaceutical drugs, supplementary treatment substances and medical devices, in addition to the general provisions, must also fulfil separate conditions, whereas Item 1 states that they have to employ appropriate professional staff from the fields of pharmacy, medicine, dental medicine or veterinary medicine, depending on the type of the product.

Article 11 of the same Law establishes that legal entities performing retail sale of pharmaceutical drugs, supplementary treatment substances and medical devices, in addition to the general provisions, must also fulfil separate conditions, whereas Item 1 that refers to the staff states that they have to employ workers with completed higher or secondary professional training in the field of pharmacy.

On the basis of the Law on Pharmaceutical Drugs, Supplementary Treatment Substances and Medical Devices, two Rulebooks have been adopted, establishing special conditions that a legal entity engaged in wholesale or in retail sale of pharmaceutical drugs, supplementary treatment substances and medical devices must fulfil:

1. Rulebook on conditions related to the room facilities, the equipment and the staff that the legal entities performing wholesale of pharmaceutical drugs, supplementary treatment substances and medical devices utilised in the human medicine must fulfil ("Official Gazette of the Republic of Macedonia" No. 64/2002), where it has been stated that:
  - a) Legal entities that are engaged in wholesale of pharmaceutical drugs should have at least one carrier of the activity – a graduate pharmacist with completed professional examination, i.e. a work licence, under whose supervision the system of quality control, efficiency and safety of products is performed, i.e. who supervises reception, storage, keeping and delivery of products; and at least one employee with corresponding secondary education in the fields of pharmacy, human medicine or dental medicine, with completed professional examination;
  - b) Depending on the type of the products, legal entities engaged in wholesale of medicinal devices, should have at least one carrier of the activity – a graduate pharmacist with completed professional examination, or a Doctor in medicine with completed professional examination, or a Doctor in dental medicine with completed professional examination, i.e. work licence, who supervises the reception, the storage, the keeping and the delivery of medical devices; and at least one employee with corresponding secondary education in the fields of pharmacy, human medicine or dental medicine, with completed professional examination;  
For legal entities engaged in wholesale of bandages, of devices for stitching wounds or for bleeding prevention only, or who sell medicinal disposable or manifold usage equipment only, an exception has been anticipated: they should employ at least one carrier of the activity – worker with secondary education in the field of pharmacy, medicine or dental medicine, with completed professional examination.

- c) Legal entities engaged in wholesale of supplementary treatment substances should employ at least one carrier of the activity – an employee with secondary education in the field of pharmacy, with completed professional examination, who supervises the reception, the storage, the keeping and the delivery of the supplementary products.
2. The Rulebook on the Manner of Prescribing and Issuing Pharmaceutical Drugs and Medical Devices with Prescription ("Official Gazette of the Republic of Macedonia" No.66/2002) envisages that medicinal drugs and medicinal devices with prescription can be prepared or issued in pharmacist shops only by graduate pharmacists with work licence, or by pharmacist technicians under professional supervision of a pharmacist.

**For other professions related to medicine but which are not concerned by the sectoral directives, it is unclear whether the professions can also be exercised on a self-employed basis. Can you please clarify if this is possible?**

The medical profession is regulated with the Law on Health Care ("Official Gazette of the Republic of Macedonia" No. 38/91, 46/93, 55/95 and 10/04) and comprises the following professions: physician profession, dentistry profession and pharmaceutical profession. The activity of each of these professions is regulated with secondary legislation - rulebooks, adopted on the basis of the Law. The activity performance is regulated with statutes of the associations which are formed within the frames of each of these professions.

In Article 140 of the Law on Health Care, the independent performance of the medical activity is regulated. Health care workers with higher education in the field of medicine and dentistry can provide health protection independently, after completing on-the-job training period and passing the professional examination; on completion of the specialisation or the sub-specialisation and by gaining a corresponding work licence. Health care workers with higher education in the field of pharmacy can independently perform the pharmacy activity after completing on-the-job training period, passing the professional examination and gaining the corresponding work licence. The Law on Health Care allows a health care worker with completed professional examination (work licence), as well as a specialist in a certain field of Law to be at the same time establisher – owner of a health care institution, its head-manager and holder of the health care activity.

A separate Rulebook specifies the premises, equipment and staff required for establishment and operation of health care organisations. This Rulebook also establishes the minimum requirements for establishment and operation of health care organisations. The provisions of this Rulebook on premises, medical equipment and professional staffing also refer to other organisations, which, on the basis of the Law, in addition to their primary activity, also carry out health care activity, and they also apply to a health care worker who performs his activity independently, relying on his own effort. Performing the activity with one's own effort – self employment, in accordance with the Law and with this Rulebook can start after fulfilment of the previously mentioned conditions for independent performance of activity and with opening of: general practitioner's office, specialist's office, general dentist's office, specialist's dentist's office and counselling office. The Law and this Rulebook also regulate the establishment of the following health care institutions: public health care unit, public health care polyclinic, hospital, medical centre, bureau, institute, health care bureau, clinic, clinical centre, pharmacy shop and natural health resource centre.

**Is there any national legislation regulating professional activities in trade and distribution of toxic products and activities entailing the professional use of such products?**

The national legislation related to professional activities in trade and production of toxic products, as well as activities that enable professional utilisation of this type of products, amounts to the Law on Production of Poisons ("Official Gazette of SFRY" No. 18/76); the Law on Trade of Poisons ("Official Gazette of SFRY", No. 13/91); the Law on Precursors ("Official Gazette of the RM" No. 37/04), and to several by-laws and Rulebooks that regulate the conditions and the procedure for issuing permits for selling toxic products, and for their labelling. The procedure of preparing new laws for production and

sale of toxic materials is underway, where special emphasis will be placed on protection of the environment.

The Law on Production of Poisons regulates the conditions for production of poisons, with a goal of protecting life and health of people and preventing abuse. According to Article 2 of this Law, "production of poisons" means preparing, making, packaging, storing and transport of poisons. Also, producing preparations out of poisonous substances through processes of thinning, dissolution, dilution, or in other ways, is understood as production of poisons. Pursuant to this Law, production of poisons is allowed only to organisations which fulfil certain conditions, have expert staff for performing the activity and possess a permit. Physical entities can not perform this activity. This Law also regulates the labelling of substances that contain poisonous substances, as well as the process of destructing or storing away the remaining parts of the produced poisons, the wastes or the by-products. According to Article 19, organisations that produce poisons are obliged to keep separate records of the production of poisons or poisonous substances from which the poisons are produced. The legal entities that produce toxic products must have appropriate number of experts with higher education who are specialised for work with poisons, but at least one graduate chemist, one technologist and one pharmacist in every production shift.

The trade of poisons, the supervision of the trade, as well as the grouping of poisons according to their level of toxicity are regulated with the Law on Trade of Poisons. According to Article 2, Paragraph 2 of this Law, the trade in poisons means acquiring of poisons, their storing, import, export, selling and every other form of releasing poisons in circulation. Article 4 of this Law regulates the substances which are forbidden for trade and utilisation. This Law also regulates the conditions which the organisations dealing with trade in poisons must fulfil, the professional training of the employees, the spatial requirements for storing, keeping and delivering poisons, the procedure for application and granting of permits for trade in poisons, the labels on the packaging, the transport facilities, the premises where the poisons are stored and the appropriate protection of the employees. The legal entities engaged in trade of poisons are obliged to employ workers with completed higher education in the fields of chemistry, engineering, pharmacy, medicine, veterinary science, biology, agronomy or forestry, under whose supervision the poisons are stored, kept and delivered.

The Law on Precursors ("Official Gazette of the RM" No. 37/04) regulates the system of monitoring and control of the production and the trade of precursors, with the aim to prevent their abuse for illegal production of intoxicating drugs and psychotropic substances, and also for protection of people's lives and health and protection of the environment from the harmful influence of the precursors. According to Article 2, paragraph 1 of this Law, a precursor denotes classified substances specified in Article 3 of this Law, the alloys containing these substances, or products of natural origin out of which precursors are easily extracted. The following does not belong to this category: medications, pharmaceutical or other preparations that contain precursors, but composed in such a way that they can not be utilised or extracted in an easy, simple or economically viable manner. According to Article 5 of the Law, the operators that produce precursors are obliged to keep records on: the quantity of produced precursors, the quantity of the precursors sold on the domestic and on the foreign market, as well as data on the purchaser.

**Can you clarify which diploma gives right of access to and right of pursuing the veterinary profession?**

According to the Law on Veterinary Health ("Official Gazette of the RM" No. 29/98), the veterinary health care activity is performed by veterinary workers: doctors of veterinary medicine, veterinary technicians and veterinary attendants, while certain specialised activities related to diagnostics and analysis are performed by workers who have acquired higher education and are occupied in other corresponding professions.

Studies at the Faculty of Veterinary Medicine last five years. The professional title obtained after finishing the studies is Graduated Doctor of Veterinary Medicine, and the title obtained after finished Secondary School is veterinary technician or veterinary attendant.

According to the Law on Veterinary Health ("Official Gazette of the RM" No. 29/98), in order to be able to perform certain activities, the doctors of veterinary medicine should possess a work licence i.e. a certificate for completed professional examination for performing the activities in the veterinary health care.

Every person who had undergone internship period of twelve months in a veterinary organisation or a veterinary institute is entitled to undergo the professional examination. As an exception to this rule, persons who after having passed the post-graduate studies have acquired an M.A. degree, and afterwards a PhD in veterinary medical sciences, do not take the professional examination. The professional examination is undergone in front of a Commission formed by the Minister of Agriculture, Forestry and Water Economy. A certificate is issued for the passed professional examination. The doctors of veterinary medicine, who had undergone professional training, have the right with signing in the association in the Macedonian Veterinary Association, to obtain license to perform their work.

**What is the denomination of the titles of dentists (diploma needed to have access to the profession and the title under which the profession is being practised) in Macedonian? Please also provide the literal English translation.**

For a person to be able to practise dentistry, it is necessary to possess a diploma for higher education in the field of dental medicine (graduated at the Faculty of Dental Medicine), completed on-the-job training period, as well as evidence of completed professional examination.

After finishing the Faculty of Dental Medicine the Professional title obtained is:

- In Macedonian: Doktor na stomatologija (D-r na stomatologija) – Latin alphabet  
Доктор на стоматологија (Д-р на стоматологија) – Cyrillic alphabet
- Literal English translation: Doctor of Dental Sciences (DDs).

The Doctor of Dental Sciences can practise its profession, after he/she has passed professional examination (basic licence). After completion of the transitory period of seven years, the profession can be also practised after completed specialisation of primary Dental Science or other filed of Dental Science and issuance of working licence. These novelties are introduced with the Amendments of the Law on Health Care ("Official Gazette of the RM" No. 10/04).

## **2. Administrative capacity for the free movement of workers:**

**Which administrative structures will be responsible for dealing with employment, residence and the other rights which EU migrant workers and their families derive from EU law?**

For questions related to **employment** of foreign citizens and persons without nationality, the conditions are regulated with the Law on the Conditions for Employment of Foreign Nationals ("Official Gazette of the SFRY", No. 11/78 and 64/89). Namely, a foreign national or a person without nationality can be employed if he/she possesses a permit for permanent or temporary residence issued by the Ministry of Interior of the Republic of Macedonia and if that person gains a permit for employment of a foreign citizen.

The employment permit of a foreign citizen is issued by the Employment Agency of the Republic of Macedonia, on request of the employer, with an explanation for the need of employment of a foreign citizen.

The Ministry of the Interior Affairs is competent for questions related to the **residence** of the foreign employees, in accordance with Articles 20 and 21 of the Law on Movement and Residence of Foreigners ("Official Gazette of the RM" No. 36/92, 66/92, 26/93, 45/2002 and 49/2003). The local unit of the Ministry of the Interior that is competent for the area of residence of the foreign person issues a permit for temporary residence of a foreign citizen, based on the



permit for employment of foreign citizens, issued by the Employment Agency of the Republic of Macedonia.

The **other rights** of employed foreign citizens or persons without nationality (the right to pension and disability insurance) are accomplished pursuant to the regulations in those areas.

**Which administrative structures will be responsible for dealing with visa-issues for spouses and family members of EU migrant workers in case the spouse and the migrant worker does not possess the nationality of an EU country?**

In the Republic of Macedonia, the official authorisation of the administrative bodies for issuing visas, work permits and residence permits to foreigners is established with the general competences of these bodies. There exist neither administrative bodies nor any departments in them, which are specifically competent for acting on these matters depending on the origin of the foreign citizen, i.e. on his/her nationality.

Accordingly, for issuing visas, Diplomatic and Consular Offices of the Republic of Macedonia abroad are competent. For issuing work permits, the Employment Agency is competent, and for residence permits in the Republic of Macedonia, the Ministry of Interior is competent. These bodies act in accordance with their competences, no matter whether a migrant worker, his/her spouse or members of their family are concerned.

### 03. Freedom to provide services

#### *Freedom of establishment and freedom to provide services:*

The answer to question A.2 states that domestic legislation does not contain any discriminatory provisions concerning language, nationality or residence. However, it is not clear whether this reply refers only to the Company Law or to domestic legislation in general. Can you confirm that there are no discriminatory provisions in other laws or, alternatively, list such requirements? Examples would include the reservation of certain economic activities to citizens of your country, requirements for directors or managers of companies carrying out certain activities to be citizens of or residents in your country, etc

**The Constitution of the Republic of Macedonia** ("Official Gazette of the Republic of Macedonia" Nos. 52/91, 01/92, 31/98, 91/01 and 84/03), in Article 8, Paragraph 1, Line 7, establishes market freedom and entrepreneurship as fundamental values of the constitutional order.

Pursuant to Article 29 of the Constitution of the Republic of Macedonia, foreigners in the Republic of Macedonia enjoy freedoms and rights guaranteed by the Constitution, under conditions established by laws and international agreements. Also, in relation to the economic and social rights of foreigners in the Republic of Macedonia, and EU operators accordingly, Article 31 of the Constitution of the Republic of Macedonia guarantees that foreign persons can acquire property under conditions established by laws and international agreements. Article 59 of the Constitution of the Republic of Macedonia stipulates that foreign investors are guaranteed the right to free repatriation of invested capital and profits, and that the rights acquired on the basis of the capital invested cannot be reduced by law or other regulation.

The Constitutional Court of the Republic of Macedonia is a body of the Republic of Macedonia which protects constitutionality and legality and which, pursuant to Article 112 of the Constitution of the Republic of Macedonia, will abolish or annul a law it establishes as contrary to the Constitution, i.e. it will abolish or annul other regulations it establishes as contrary to the Constitution or to a law. The Constitutional Court will do so acting upon its own initiative or upon an initiative submitted by any person.

The legislation of the Republic of Macedonia does not contain any discriminatory provisions regarding language, nationality (citizenship) or conditions of stay (place of residence, i.e. seat).

The **Company Law** ("Official Gazette of the Republic of Macedonia" No. 28/04), in Article 29, Paragraph 1, prescribes that a company can be established by domestic or foreign natural persons or legal entities. Article 30 of this Law stipulates that any foreign person can be a co-owner or a shareholder. A foreign person can acquire stock or shares in a manner and under the conditions envisaged for the citizens of the Republic of Macedonia and for the legal entities registered in the trade register on the territory of the Republic of Macedonia, unless otherwise stipulated by law. Pursuant to Article 31 of the Company Law, the rights acquired on the basis of investment by foreign persons in a company cannot be reduced by law or other regulation. Also, pursuant to Article 585 of the Company Law, a foreign company can organise branch offices or representative offices or otherwise carry out certain activities and assume obligations, exercise right to access to courts and other bodies of the Republic of Macedonia under conditions stipulated by law. Article 585, Paragraph 2, Item 3 of this Law stipulates that with an application for registration of a branch office, the foreign company or the sole proprietor, among other, submits to the trade register a list of persons entrusted with representation of the foreign company or the foreign sole proprietor in the Republic of Macedonia, including detailed identification data.

Article 4 of the Company Law lists the activities which a trader (a company in an appropriate form, or a sole proprietor) can perform and Article 6 of the Law establishes a possibility, another law to establish other activities that companies or sole proprietors can perform, including agriculture and forestry.

Activities referred to in Article 4 of the Company Law carried out via various forms of companies and sole proprietors are the following:

1. purchase of movables so as to sell them in their original, refined or processed form;
2. sale of movables in a refined or processed form from own production;
3. trading of securities and fund management;
4. banking, currency exchange and other financial activities;
5. insurance activities;
6. transport of persons and goods;
7. commission-based activities, freight-forwarding services, storage services and leasing;
8. commercial representation and mediation;
9. hotel and restaurant services, information services, advertising and other intellectual services;
10. production of films, video tapes, audio-visual records, software, as well as other similar activities;
11. publishing and printing activities, as well as other commercial activities related to trading with books and artistic works; and
12. purchase, construction and decoration of real estate for the purpose of sale and rental.

For performing certain activities, in addition to the provisions from the Company Law, provisions from separate laws in the respective field are applied. The provisions in the separate laws, as well as the ones in the Company Law, do not contain discriminatory provisions regarding nationality (citizenship), language or conditions of stay (place of residence, i.e. seat).

Appropriate restriction in terms of carrying out an activity exclusively by domestic legal entities is envisaged from the aspect of state security, in the **Law on Weapons** ("Official Gazette of the Republic of Macedonia" No. 7/05), which, in Article 46, envisages that manufacturing of weapons and ammunition and weapon repair could be carried out by those companies seated in the territory of the Republic of Macedonia, which, prior to registering in the trade register, would obtain approval issued by the competent body, upon the opinion by the Ministry of Defence and obtained prior consent by the Ministry of Economy. For the issuance of the approval, pursuant to Article 47 paragraph 2 of the Law, besides other conditions, it is required the applicant to be a national of the Republic of Macedonia.

The **Securities Law** ("Official Gazette of the Republic of Macedonia" Nos. 63/00, 34/01, 4/02, 37/02, 31/03, 85/03 and 96/04), pursuant to Article 3, stipulates that securities of all types, such as: shares, bonds, certificates of deposit, central bank bills and commercial papers can be issued, among other, by companies and other legal entities, excluding the treasury bills which can be issued by the Republic of Macedonia, pursuant to Article 32 of this Law.

The Long-Term Securities Stock Exchange, pursuant to this Law, is established as joint-stock company (Article 70) by legal entities seated in the Republic of Macedonia, whose operations are connected with trading in securities (Article 72). Brokerage firms, pursuant to this Law, can be established by at least two domestic and/or two foreign legal entities or natural persons.

The **Banking Law** ("Official Gazette of the Republic of Macedonia" Nos. 63/00, 37/02, 51/03 and 85/05) in Article 6 stipulates that banks can be established, in addition to domestic, by foreign legal entities or natural persons also. It also stipulates that, in the Republic of Macedonia, foreign bank could establish branch office. Accordingly, an EU operator could be shareholder in a bank in the Republic of Macedonia without any restrictions. In relation to fulfilment of the conditions by candidates for appointment of a bank managing body comprising at least two persons, Article 62 of the Banking Law envisages that the members of the managing body should be employed full-time in

the bank and that at least one of the members should have knowledge of the Macedonian language and its Cyrillic alphabet.

The **Law on Foreign Exchange Operations** ("Official Gazette of the Republic of Macedonia" Nos. 34/01, 49/01, 103/01 and 51/03) in Article 8 stipulates that direct investments by non-residents in the Republic of Macedonia are free, unless otherwise stipulated under this Law. The transfer of profits, the transfer of financial resources obtained via alienation or sale of the ownership part in a direct investment, and the transfer of the remainder of a liquidation estate are free, provided the non-resident has registered the direct investment pursuant to this Law and has settled all legal obligations on the basis of taxes and contributions in the Republic of Macedonia (pursuant to Article 9 of this Law).

Non-residents and subsidiaries of foreign companies in the Republic of Macedonia can invest in real estate in the Republic of Macedonia only under conditions stipulated by a special law or under ratified international agreements (Article 12). Non-residents could also, pursuant to Article 16 of this Law, perform entry, pay and trade in securities in the Republic of Macedonia only via an authorised participant, whereby the National Bank of the Republic of Macedonia stipulates, with special regulation, the manner and the conditions of operations by non-residents with securities in the Republic of Macedonia. In relation to the credit transactions of non-residents, the authorised banks are envisaged to be able to conclude credit operations with non-residents on their own behalf and for their own account or for their own behalf and for third party's account. Pursuant to Article 24 of the Law, non-residents can open and hold accounts at authorised banks in foreign currency or in denars.

Pursuant to Article 3 of the **Law on Supervision of Insurance** ("Official Gazette of the Republic of Macedonia" Nos. 27/02 and 98/02), an insurance company is established as joint-stock company seated in the Republic of Macedonia under the conditions determined by this law and the Company Law. Pursuant to Article 7 of this Law, insurance operations, among other, can be performed by an insurance company of member-state that had established branch office on the territory of the Republic of Macedonia or is directly authorised to carry out insurance operations on the territory of the Republic of Macedonia pursuant to this Law. Pursuant to Article 7 Paragraph 5, an insurance company of member-state in terms of this Law shall mean an insurance company on the territory of EU member state or natural person having permanent place of residence on the territory of a member state. This Law also stipulates that the provisions of this Law will apply to insurance companies seated on the territory of member states should they establish branch office on the territory of the Republic of Macedonia or they conclude insurance contracts on the territory of the Republic of Macedonia or another member state, covering risks on the territory of the Republic of Macedonia.

Article 2 Paragraph 2 of the **Law on Trade** ("Official Gazette of the Republic of Macedonia" No. 16/04) stipulates that trade can be carried out by legal entities or natural persons registered for that activity in an appropriate register pursuant to the law, whereby the following shall be deemed as services in trade, pursuant to Article 19 of this Law, that these entities/persons can perform: agency, i.e. proxy services, stock exchange services, commission store services, warehousing services, forwarding services, services of quality and quantity control of goods, advertising services, organisation of fairs and business exhibitions, services on the wholesale and retail market, market research, lease of showcases, counters etc. in organised business premises for conducting retail trade.

The **Law on Tourism** ("Official Gazette of the Republic of Macedonia" No. 68/04), in Article 4 stipulates that founders of travel agencies or travel bureaus can be domestic or foreign legal entities.

The **Law on Performing Notary Activities** ("Official Gazette of the Republic of Macedonia" Nos. 59/96, 25/98 and 6/02) regulates the performance of notary activities, conditions and procedure for founding notary public and for appointing notaries public and the scope of operations of the notary public. Article 10 Paragraph 1 Item a) stipulates that a person who is a national of the Republic of Macedonia can be appointed as notary public. This condition is understandable, taking into account that pursuant to Article 3 of the Law on Performing Notary Activities, the notary public is an

independent public service performing activities regarding public authorisations on the basis of a law upon a request by citizens, government bodies, legal entities or other concerned institutions.

The **Law on the Bar** ("Official Gazette of the Republic of Macedonia" No. 59/02) regulates the provision of legal assistance by the Bar to natural persons and legal entities in exercising and protection of their rights and legally-based interests in the procedure before courts, government bodies and other legal entities, the performance of public authorisations stipulated under this and other laws, as well as the organisation of the Bar, the conditions for performing and termination and adjournment of the Bar activity and the rights and obligations of the barristers. Pursuant to Article 10 Paragraph 1 of the Law on the Bar, the right to perform Bar activity is acquired by registering in the List of Barristers of the Bar Chamber of The Republic of Macedonia. Pursuant to Article 12 of the cited Law, a person who is a citizen of the Republic of Macedonia and who fulfils the other conditions stipulated under the same Article, can be entered in the List of Barristers. This condition is understandable, taking into account that the Bar activity is an independent public service and the barristers perform public authorisations pursuant to this Law, which is also stipulated in Article 2 of the Law on the Bar.

**Please provide further information about the requirements of the Law on National Classification of Activities ("Official Gazette of the Republic of Macedonia" No. 7/98) and its impact on foreign economic operators,. Does the law require mandatory contact between the economic operator and the national authorities? Is it necessary to be classified in one category or another before a company can be registered or before a licence or other authorisation to operate can be granted? If so, how are cases of doubt handled?**

The Law on National Classification of Activities ("Official Gazette of the Republic of Macedonia" No. 7/98) regulates the business entities classified according to their main activity (Article 3). In relation to the business entities from abroad, to which the main activity is determined, the aforementioned Article indicates organisational units of foreign companies (branch offices, representative offices, agencies etc.), diplomatic and consular representative offices, representative offices of international organisations etc. The main activity is also determined according to the National Classification of Activities adopted in 1998 and published in the Official Gazette of the Republic of Macedonia No. 20/98 as a standard harmonised with the European Classification of Economic Activities NACE Rev. 1.

The main activity is the activity in which the business entity, i.e. the economic operator, realises major part of the turnover. In the cases when it is impossible to determine on the basis of the turnover, additional criteria are included, such as number of employees and paid out gross and net salaries.

The main activity of the economic operators is determined after the receipt of the act of registration by the authorized agency for registration, i.e. after the registration in the trade register or other register stipulated by the law etc., and prior to receipt of tax identification number in the Public Revenue Office and opening of giro account(s) in commercial bank(s).

The main activity, according to the aforementioned Law, is determined by the State Statistical Office. The determination of the main activity of the economic operator is made on the basis of a submitted application (submitted within 30 days from the registration) with a proposal of the activity it intends to perform. In the first determination of the main activity, the economic operator can choose one of the activities written in the foundation act and the act from the registration body, i.e. the body that made the entry in the basic register (court, Ministry, etc.). If the economic operator registered only one activity in the registration act, it is determined as the main activity.

An already functioning economic operator, i.e. the main activity of which has already been determined, can request a change of the main activity by submitting an application and evidence of the fact that in the last 6 months, it earned major part of the profits in the activity it requires to be registered.

The State Statistical Office determines the main activity with an act - a decision adopted by the Director. In case the economic operator is dissatisfied with the adopted decision, it is entitled to lodge a complaint to the Commission of the Government of the Republic of Macedonia, and subsequently to launch a procedure before the competent court according to the regulations on administrative procedure.

The deadline within which the State Statistical Office is obliged to act upon the application for determination or change of the main activity is 15 days.

According to the established practise, as of 2002 the State Statistical Office resolves the cases in the same day when the application is submitted (office hours are from 8:30 to 12:30, and the adopted decisions with determined main activity are issued the same day when the application is received, from 15:00 to 16:00). Upon request by the applicants, the procedure can be completed by submitting documents by mail.

Note: The special laws require, when the economic operator registers before the competent body, i.e. when registering in the basic registers (Trade Register, Register of Craftsmen etc.), the activities they will perform to be entered in the foundation act, and also in the documentation on the establishment of the economic operator issued by the competent body, and the economic operator can enter one or more activities. (For example: the Company Law establishes obligation for all companies to register/declare the activities according to the NCA on the level of group when registering in the Trade Register.)

The application form for registering main activity is stipulated by the State Statistical Office and it can be taken from the State Statistical Office premises (free of charge) or downloaded from the website of the State Statistical Office.

There are no dilemmas when determining the main activity in the first registry since the economic operator proposes the activity at its own choice from those entered in the registration act before the competent body. Despite the strict criteria described in the Law (Article 10), dilemma may occur when requiring change of the activity, when a number of documents need to be considered. In these cases, with positive approach towards the request, the economic operator is called to more precisely present the conditions and to submit additional arguments in his/her favour. Note: There are very few complaint procedures for the determination of the main activity or its change, and in 2005 no complaints were lodged.

To the end of establishing one-stop-shop system in Republic of Macedonia, but also to relieve the State Statistical Office from the administrative function to pass decisions, there are ongoing changes to the regulations, planning to ensure that the main activity is determined in another institution (the proposal is for this to be the Central Register of the Republic of Macedonia, which, according to the new Company Law already is the agency authorised to keep the Trade Register). According to the plan, these activities will be realised until the end of 2005.

**Are there any other laws which could have a cross-sectoral impact on the freedom of establishment or the freedom to provide services, such as the Law on Performing Handicraft Activities (Official Gazette of the Republic of Macedonia No. 62/04) or the Law on Trade ("Official Gazette of the Republic of Macedonia" No. 16/04)? Please list all relevant laws and describe the main requirements which could impact these freedoms.**

Pursuant to the **Law on Craftsmanship** ("Official Gazette of the Republic of Macedonia" No. 62/04), craftsmanship can be performed by natural person entered in the Registry of Craftsmen (Article 2).

A craftsman can perform craftsmanship if:

- has appropriate professional education or appropriate vocational training to perform craftsmanship and
- is not full time employed (Article 10).

This does not mean that there are no limitations for foreign natural persons to be entered in the Registry of Craftsmen.

Pursuant to the **Law on the Bar** ("Official Gazette of the Republic of Macedonia" No. 59/02), the Bar activity is independent public service providing and giving legal assistance (Article 2).

The Bar activity is carried out by barristers. The barristers can perform the Bar activity as individual barristers and as barristers joined in Bar Association. The individual barristers and the Bar Associations are registered in a List of Barristers kept in the Bar Chamber of the Republic of Macedonia (Article 6).

A person who is a national of the Republic of Macedonia, who fulfils the general conditions for employment in the government administration bodies, has graduated in law and passed the Bar exam, and is reputable in performing the Bar activity can be registered in the List of Barristers (Article 12).

A barrister from another state can provide legal assistance and to perform the bar activity on the territory of the Republic of Macedonia under a reciprocity condition. (Article 14)

Pursuant to the **Law on Performing Notary Activities** ("Official Gazette of the Republic of Macedonia" Nos. 59/96, 25/98 and 6/02), the notary public is an independent public service performing activities regarding public authorisations on the basis of a law upon the request by the citizens, government bodies, legal entities and other concerned institutions. The notary public carries out his/her service as basic profession for the period for which he/she has been appointed (Article 3). The person fulfilling the following conditions can be appointed as notary public:

- is a national of the Republic of Macedonia;
- has work ability and fulfils the general conditions stipulated under the law, for employment in state body;
- has graduated in law;
- has at least 5-year experience in legal matters;
- has passed the notary exam;
- is reputable in performing notary activities; and
- can prove that will provide equipment and premises which, according to the criteria set by the Minister of Justice, are necessary to perform the notary service (Article 10).

#### **Law on Plant Health Care** (in parliamentary procedure).

Production, processing, import and distribution of plants and herbal products and other objects and items can be carried out by natural persons or legal entities fulfilling the conditions for performing the registered activities in the competent court, provided they have been previously registered in the registry kept by the Phytosanitary Directorate of the Ministry of Agriculture, Forestry and Water Economy. Activities of providing public services in this area can be performed by public institutions or by other legal entities or natural persons that have obtained public authorisation with a license from the Phytosanitary Directorate and have concluded a contract thereof.

#### **Law on Seeds and Seedlings** (in procedure of adoption).

Production, preparation for trade, import-export, wholesale trade of seeds and seedlings from agricultural plants, retail trade in seeds and seedlings can be carried out by domestic and foreign legal entities or natural persons - suppliers that are registered in the register of suppliers of seeds or in the register of suppliers of seedlings, kept by the Seed and Planting Material Directorate.

A foreign company can carry out these activities through subsidiaries, pursuant to the Company Law.

Certain activities can be carried out by legal entities authorised by the Minister of Agriculture, Forestry and Water Economy, as well as authorised accredited laboratories on the basis of public competition, for which they conclude contracts.

#### **Law on Agriculture Operations** ("Official Gazette of the Republic of Macedonia" No. 11/02).

Agriculture activity (production, finalisation, processing and sales of own products) can be carried out by a sole proprietor or a company, or an individual farmer to a lesser extent.

Companies and sole proprietors are registered in the trade register in the competent court and the individual farmers in the register kept by the Ministry of Agriculture, Forestry and Water Economy. The conditions for carrying out agriculture activity are stipulated under this Law, and anything not covered by this Law is regulated under the Company Law. These activities can be carried out by agricultural cooperatives or their associations.

**Law on Veterinary Health** ("Official Gazette of the Republic of Macedonia" No. 28/98).

Veterinary health activity is carried out by veterinary firms, as well as by scientific and research higher-education institutions.

Veterinary firms can be established by domestic legal entities or natural persons under conditions determined by this Law.

Veterinary health activity is carried out by veterinary firms on the basis of license by the Government of the Republic of Macedonia in accordance with the provisions of this Law and the Law on Public Enterprises.

If no veterinary firm has acquired license to perform veterinary-health activity in certain epizootiological area, i.e. epizootiological unit, nor any bid has been submitted on the public competition for acquiring license to carry out the activity, in this case, the Government of the Republic of Macedonia ensures the performance of the activity by establishing veterinary public enterprise (Article 92).

The primary veterinary-healthcare activity shall be carried out by: Veterinary clinic, veterinary station and veterinary hospital (Article 94).

The secondary veterinary-healthcare activity shall be carried out by veterinary institute established pursuant to provisions of the Law on Scientific and Research Activity (Article 96).

Certain tertiary veterinary-healthcare activities shall be carried out by the Faculty of Veterinary Medicine, and certain activities shall be carried out by the Veterinary Institute (Article 97).

**Banking Law** ("Official Gazette of the Republic of Macedonia" Nos. 63/00, 37/02, 51/03 and 88/03).

A bank shall be established as joint-stock company seated in the Republic of Macedonia, having acquired license from the National Bank of the Republic of Macedonia to perform banking operations (Article 3). Legal entities or natural persons that do not have license from the National Bank cannot receive deposits and invest them as credits or investments (Article 5). Bank can be established by domestic or foreign legal entities or natural persons. A foreign bank can establish a branch office. The provisions of this Law, referring to banks, also refer to the branch office, unless otherwise stipulated by this Law (Article 6). Anything not covered by this Law, is regulated under the Company Law.

**Law on Waste Management** ("Official Gazette of the Republic of Macedonia" No. 68/04).

The activity of waste depositing can be carried out by public enterprises or other professional services in accordance with the law and by legal entities on the basis of license and concluded contract for carrying out activities of public interest and of local significance with the municipalities and/or the City of Skopje (landfill operators). This activity can be also carried out on the basis of concluded concession agreement. Landfill operator for dangerous waste is a public enterprise established by the Government of the Republic of Macedonia (Article 82).

**Law on Tobacco and Tobacco Products** (in procedure of adoption).

Production of tobacco can be performed by natural persons or by legal entities (producers), on the basis of an agreement for production and repurchase of tobacco concluded with a legal entity registered for repurchase and processing of tobacco (re-purchaser) (Article 6). Repurchase and



processing of tobacco can be carried out by legal entities, registered in the trade register for performing activities of repurchasing and processing of tobacco, and registered in the register of tobacco re-purchasers in the Ministry of Agriculture, Forestry and Water Economy (Article 20 Paragraph 1). Production, sale, export and import of fermented tobacco can be carried out by any legal entity registered for production, sale, export and import in the trade register and entered in the register of producers, traders, exporters and importers of fermented tobacco in the Ministry of Agriculture, Forestry and Water Economy (Article 34 Paragraph 1). Production, sale, export and import of tobacco products can be carried out by legal entities registered in the trade register in the competent court and in the appropriate register in the Ministry of Economy.

**Construction Law** (in procedure of adoption).

Constructor, architect, reviewer-contractor and supervising engineer can be domestic or foreign legal entities or natural persons that fulfil the conditions determined by this law.

A foreign architect or an engineer with authorisation from another country can perform activities of planning and supervision over the construction in the Republic of Macedonia, under reciprocity, and this authorisation should be verified by the Chamber of Authorised Architects and Authorised Engineers of the Republic of Macedonia.

Pursuant to the **Law on Health Care** ("Official Gazette of the Republic of Macedonia" Nos. 38/91, 46/93, 55/95 and 10/04), a health care institution can be established as: public, cooperative, mixed or private, pursuant to the Law. Health care institution can be established by: the state, legal entities or natural persons. Public health care institution can be established by the Government of the Republic of Macedonia (Article 90 and 91). Health care workers having secondary, higher and university education can provide health care after completing the training period and passing the professional exam. Health care workers having university education in the area of medicine and dentistry can provide health care under the supervision of health care worker having a working license, after the completion of the training period, passing of the professional exam and the acquiring of the basic license.

Health care workers having university education in the area of medicine and dentistry can independently provide health care after completion of the training period, passing of the professional exam, completion of specialisation or sub-specialisation and acquiring an appropriate working license.

Health care workers having university education in the area of pharmacology can independently provide carry out pharmaceutical activity after completion of the training period, passing of the professional exam and acquiring of the working license.

Notwithstanding Paragraph 2 of this Article, health care workers having university education in the area of medicine and dentistry, and having basic license, can independently provide health care if, for filling a vacant working position, no health workers having work license have applied.

Pursuant to the **Law on Higher Education** ("Official Gazette of the Republic of Macedonia" Nos. 64/00 and 49/03), the institutions of higher education (university, faculty, academy of arts or higher vocational school) can be state-owned and private. A state institution for higher education is established by the Parliament of the Republic of Macedonia with a Law (Article 33). A private institution for higher education can be established by domestic or foreign legal entity or natural person under the conditions stipulated in the Law (Article 34).

An activity of higher education can be carried out only by a person selected in educational and scientific title (docent, associate professor or full-time professor), or a person selected in the educational title (lecturer, senior lecturer and professor in higher vocational school) for the time he/she was selected (Article 129). Persons selected in associate titles (junior assistant, assistant, junior proof-reader and artistic associate) participate in the educational process. (Article 130).

Pursuant to the **Law on Secondary Education** ("Official Gazette of the Republic of Macedonia" Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/02, 40/03, 42/03 and 67/04), the secondary education is carried out in secondary schools organised as public secondary schools (secondary municipal school, i.e. secondary school of the City of Skopje and state secondary school) and private secondary school. Private secondary school can be established by domestic or foreign legal entity or natural person, on the basis of an approval, pursuant to this Law (Article 2 and Article 10). The educational activity in the secondary education is carried out by teachers, tutors and professional associates fulfilling the conditions determined by this law (Article 59).

Pursuant to the **Law on Primary Education** ("Official Gazette of the Republic of Macedonia" Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/02, 42/03, 40/03 and 63/04), a primary school, as a public institution, is established by the municipality. The municipal council passes a decision to establish a primary school, upon previously obtained opinion by the Government of the Republic of Macedonia (Article 15). The educational activity in the primary education is carried out by teachers, tutors and professional associates fulfilling the conditions determined by this law (Article 66).

Pursuant to the **Law on Social Protection** ("Official Gazette of the Republic of Macedonia" Nos. 50/97, 16/00, 17/03 and 65/04), public or private institutions for social protection are established to the end of realising the social protection system. A public social protection institution is established by the Government of the Republic of Macedonia, according to the network of public institutions. A private social protection institution can be established by domestic or foreign legal entity or natural person on the basis of an approval, pursuant to this Law. A domestic or foreign legal entity or natural person can be neither founder nor co-founder of a centre for social work or an educational institution for accommodating children and youth having educational and social problems and showing misconduct (Articles 36, 37 and 38).

Professional activities in the social protection institution, depending on the type of activity, are performed by professional workers with university education: social worker, psychologist, adult educator, pedagogue, lawyer, economist, doctor, defectologist, special pedagogue for prevention and re-socialisation and sociologist; with higher education: social worker, health care worker and other workers depending on the need; with secondary education: health care worker and other workers for performing other activities, depending on the type and the scope of services, unless otherwise stipulated by this Law.

Certain social protection activities, upon exclusive authorisation by the director of the social protection institution, can be performed, without any compensation, by volunteers, who are qualified for that type of activity or who have passed training for carrying out that activity. A volunteer cannot decide on the social protection rights.

Activities that can be performed with volunteers, the manner of their performance, the coverage of the actual costs and the necessary qualifications or training are determined under an act by the social protection institution (Article 56 and 57).

**Is the list provided in the reply to question A 5 comprehensive? Can you confirm that all other economic activities are not subject to specific legislation and therefore can be provided without the need for<sup>1</sup> licensing, authorisation, notification or any other mandatory contact with the authorities, provided that other laws are respected?**

Yes, the list is comprehensive, with the following laws as supplement to the list:

- Audio-visual services: Broadcasting Law ("Official Gazette of the Republic of Macedonia" Nos. 20/97 and 70/03), Law on Establishing the Public Enterprise Macedonian Broadcasting ("Official Gazette of the Republic of Macedonia" Nos. 6/98 and 98/00);
- Services of news agencies: Law on Introduction and Dissemination of Foreign Mass Media and on Foreign Information Activity ("Official Gazette of the Republic of Macedonia" Nos. 39/74 and 74/87).

- Other recreational services (games of chance): Law on Games of Chance and Entertainment Games ("Official Gazette of the Republic of Macedonia" Nos. 10/97, 54/97, 13/01 and 2/02);
- Artisan services: Law on Craftsmanship ("Official Gazette of the Republic of Macedonia" No. 62/04);
- Law on Movement and Residence of Foreigners ("Official Gazette of the Republic of Macedonia" Nos. 36/92, 66/92, 26/93 and 45/02) and Law on Concessions ("Official Gazette of the Republic of Macedonia" Nos. 25/02 and 24/03), as laws that regulate the economic activities horizontally.

All other economic activities which are not specifically regulated by the laws indicated on the list are subject to the provisions of the Company Law ("Official Gazette of the Republic of Macedonia" No. 28/04). The Company Law refers to all types and providers of services and is a basic law regulating the manner and the form of establishment of a company.

Hence, provision of services in the Republic of Macedonia is regulated by the Company Law and the laws indicated on the list containing provisions referring to required licenses, approvals and notifications.

### ***Financial services***

**Is there a formal investment compensation scheme? If so, please describe its main features**

There is no official investment compensation scheme.

#### 04. Free movement of capital

**In your replies to the Questionnaire, there is no available information on the protection of transfers of payment and securities orders that may be subjected to a claim in a bankruptcy (the only relevant information states that where it can be proved that a claim does not belong to a bankruptcy estate, this can be separated - but we need much more than this). As a consequence, we are not in a position to assess your country's status as regards the issues covered by Directive 98/26/EC on Settlement Finality. Could you please provide information in this respect?**

The answer to question number 6, Chapter 4, FREE MOVEMENT OF CAPITAL section II, Payment Systems, provided information that payments and transfers of securities are final when settled in the respective systems. (04\_II\_6)

In the case of initiating bankruptcy, pursuant to the provisions of the Bankruptcy Law ("Official Gazette of the Republic of Macedonia" No. 55/97) (Article 139 to Article 152), past transactions (and other legal actions undertaken prior to the initiation of the bankruptcy proceedings), which hinder the equitable settlement of creditors' claims, can be defeated. However, pursuant to Article 153 of the same Law, the defeating can be initiated by the bankruptcy trustee or the bankruptcy creditors by filing a lawsuit to defeat legal actions of the bankruptcy debtor in front of the competent court.

It should be pointed out that the existing Bankruptcy Law published in the "Official Gazette of the Republic of Macedonia" No. 55/97, containing the amendments, does not include the principles indicated in Directive 98/26/EC on settlement finality in payment and securities settlement systems. Thereby, we would like to point out that a working group has been established, consisting of distinguished professors and experts, in which EU experts also take part and which, currently and in the coming period, will work on preparation of the new Bankruptcy Law. It is planned for the new Law to incorporate certain provisions from the Directive 98/26/EC, especially Parts 3 and 4 thereof, envisaging the basic postulates to be incorporated in the bankruptcy-related legislation. In addition, provisions from this Directive need to be incorporated in the legislation covering the banking and the securities. It is planned for the Law to enter the necessary procedure during September 2005.

**Similarly, there is no available information on requirements for the provision of collateral security. As a consequence, we are not in a position to assess your country's status as regards the issues covered by Directive 2002/47 on financial collateral. Could you please provide information in this respect?**

Directive 2002/47 on financial collateral, in terms of securities in bankruptcy procedure, will be implemented in the new Bankruptcy Law, which is in a phase of preparation.

The Law on Contractual Pledge ("Official Gazette of the Republic of Macedonia" Nos. 5/03 and 4/05) regulates the manner, the terms and conditions and the procedure of creation, existence, realisation and termination of the contractual pledge right over movable property, securities, claims and other rights (pledge on movables) and on immovable property (mortgage).

The Law on Contractual Pledge regulates the general provisions (definitions, basic principals, subject to mortgage, i.e. pledge on movables and establishment of pledge on movables and mortgage); the rights and obligations of the contracting parties - pledgee and pledgor; termination of the pledge right; reasons due to which the pledge right is terminated; entry of data in the Pledge Register; collateral execution; penalty provisions and transitional and final provisions.

Pursuant to the provisions in the Law on Contractual Pledge ("Official Gazette of the Republic of Macedonia" Nos. 5/03 and 4/05), two types of collateral of immovable assets are envisaged:

possessory pledge and non-possessory pledge. If the pledge on movables is established by transfer of the object into possession, than it is a possessory pledge, and if it is established without its transfer into possession, than it is non-possessory pledge. On the other hand, the mortgage can only be established non-possessory. Subject to pledge on movables can be any movable property, security, certain ownership claim or other right, while subject to mortgage can only be a particular immovable property, i.e. object expressed as immovable property, with this or other law.

The pledge serves as a security for monetary or other types of claims, the value of which is expressed in monetary terms, which the creditor has in relation to his/her debtor from certain contractual relations.

For the claims secured by pledge, in case they are not collected within their maturity, the pledgee can obtain satisfaction from the value of the object of the pledge or under terms and conditions envisaged in this Law to obtain the right to ownership over the object of pledge (*lex commissaria*).

Right to non-possessory pledge over security is established by signing a pledge contract, making inventory and describing the pledged security and registration of the pledge in the Pledge Registry.

Right to possessory pledge over security is established by signing a pledge contract and transferring the security into possession of the pledgee.

The Central Register of the Republic of Macedonia operates on the basis of the Law on Central Register ("Official Gazette of the Republic of Macedonia" Nos. 50/01 and 49/03). Pursuant to the provisions in this Law, it is established as a central information data base for legal and other type of relevant data, which, pursuant to this or other law, are entered in the Register. There is a Register for Pledges on Movable Property and Rights, which commenced operating on 5<sup>th</sup> of October 1998. A Pledge Register is a type of basic register within the Central Register, without having the status of a legal entity, where non-possessory pledge over movable property is mandatorily entered. Mandatory entry of non-possessory pledge in the Pledge Register for which there should be written contract, inventory of the pledged object, makes the entry to have constitutive effect. This means that if the non-possessory pledge is not entered in the Pledge Register, it will cause no legal action against the contracting parties. In addition, possessory pledge can also be entered, if the parties agree thereto, and over-pledge can be established over already entered pledge.

If the contracting parties to the pledge contract have not selected one of the commercial ways to sale the pledge, nor they have selected an authorised entity to execute the realisation of the pledge, in such case the pledgor has the right to select the authorised entity (notary public, court, real estate agency "broker through stock exchange", stock exchange and other entities envisaged by this Law to execute the realisation of the pledge).

The notary public executes the realisation of the pledge pursuant to the provisions in this Law, while the court performs it pursuant to the Law on Executive Procedure ("Official Gazette of the Republic of Macedonia" Nos. 53/97 and 59/00), and the agency referred to in Paragraph 1 of this Article executes the realisation of the pledge pursuant to the law that regulates its establishment and performing of activity, and the other entities adhere to the provisions in this Law by appropriate application of the provisions that refer to the notary public and other law that regulates their operations.

According to Directive 2002/47 on financial collateral, the legal framework for introduction of repo transactions is regulated with the Securities Law ("Official Gazette of the Republic of Macedonia" Nos. 63/00, 103/00, 43/01, 4/02, 37/02, 31/03, 85/03 and 96/04). With regards to the introduction of repo transactions, the National Bank of the Republic of Macedonia has prepared a draft version of a General Repo Agreement, submitted to the market participants (the banks), the Ministry of Finance and the Central Securities Depository for reviewing. According to the draft version of the General Repo Agreement, full transfer of the collateral ownership (securities) by the party that secures the collateral (seller) to the party that receives the collateral (buyer) is envisaged. Thus, the person receiving the collateral (the buyer) is enabled to freely dispose of the collateral. At the same time, according to the General Repo Agreement, there is a possibility for additional transfer of the collateral

(securities) between the two parties as a result of daily mark to market calculations, as well as exchange of the collateral.

## 05. Company law

**1. Regarding the protection of intellectual property rights, please provide information on the following issues:**

- **How many items (pirate CDs, videos, software etc ) have been confiscated during the last 3 years? How many of these items have been destroyed?**
- **If possible, provide separate statistics for the Police, Customs and any other institutions that might be involved.**
- **How many relevant court cases have there been during the last 3 years?**
- **Have any fines been imposed? If yes, how many and what was the average amount of the fine?**
- **Has anyone been sentenced to prison for infractions of intellectual property legislation?**
- **Have the Police taken any action against producers of pirate products? Are there any estimates of domestic production?**

□ In the period 2002 - 2004, Ministry of the Interior, pursuant to the Criminal Code ("Official Gazette of the RM", No. 37/96, 80/99, 4/02/, 43/03 and 19/04), confiscated total of 9.768 pirated goods of copyright and related rights (9.450 CDs and 318 video tapes, as well as 8 computers, 8 software programs, 6 DVD players, 7 video recorders, 10 recorders and 2 scanners).

In the period 2002 - 2004, the Customs Administration of the Republic of Macedonia, pursuant to the Law on Copyright and Related Rights ("Official Gazette of the RM", No. 47/96, 3/98, 98/02, 04/05) did not confiscate objects that infringed the intellectual property right nor they received requests from holders of intellectual property rights for the purpose of their protection. However, by adopting the new regulation (Draft Law on Customs Measures for Protection of Intellectual Property Rights, will be adopted during 2005), it is expected that the present situation is going to be improved and concrete measures towards this objective will be undertaken by the Customs Administration.

During the period 2002-2004, the Ministry of Economy, State Market Inspectorate, pursuant to the Law on Trade ("Official Gazette of the RM" No. 23/95, 30/95, 43/95, 23/99, 43/99, 6/02 and 38/03), as well as the new Law on Trade ("Official Gazette of the RM" No. 16/04), confiscated total of 38.466 goods of copyright and related rights (music CD – 36.552 pieces, video and audio tapes – 1.700 pieces and computer games and programmes - 214 piece).

In 2003, Ministry of Culture, through its inspectors of culture, pursuant to the Law on Copyright and Related Rights confiscated total of 3.768 pirated goods of copyright and related rights, and in 2004, total of 10.947 pirated goods (video grams, phonograms and computer programmes). Ministry of Culture has no data available on the total number of seized pirated goods in 2002, having in mind the fact that no records were kept in this period.

With the proposal for initiation of misdemeanour procedure all the temporarily seized objects of copyright and related rights are submitted to the competent court bodies.

- Pursuant to the Article 259 of the Law on Execution of Sanctions ("Official Gazette RM" No. 3/97, 23/99 and 74/04), the effective decision pronouncing security measure "seizure of objects" is enforced by the court determined by law, and as determined in the decision, by destroying or ceding the objects to a state body or by selling the objects or delivering them to a certain museum, if the objects, by their nature, are not intended for sale. The court, having reached the decision of first instance, carries out the destroying in the presence of public prosecutor and inspector for execution of sanctions.

According to the data from the Ministry of Justice, Directorate for Execution of Sanctions, in 4 actions for destroying the seized pirated goods of copyright and related rights, carried out in 2003 and 2004, the total of 55.313 pieces have been destroyed (out of which 53.437 CDs, 750 video tapes, 913 audio tapes and 213 DVDs), pursuant to the effective and enforced judgements with pronounced security measure "seizure of objects", awarded on the basis of initiation of misdemeanour procedure, submitted by the competent inspection bodies in the period from 1999 to 2003. The Ministry of

Justice, Directorate for Execution of Sanctions, has no data available of the destroyed pirated goods in 2002.

However, the first public destroying of the seized pirated goods of copyright and related rights was carried out in December 2003 in the presence of representatives of the state bodies and the media.

□ In the period 2002 – 2004, with respect to the total of 190 requests for initiation of misdemeanour procedures pursuant to the Law on Copyright and Related Rights, submitted by the inspectors of culture, 111 requests were subject to decision-making by the competent courts in the Republic of Macedonia, having decided the following:

- in 2002 - 34 effective judgements (14 out of which with fines, 14 for termination of the procedure due to obsolescence, 4 decisions with offence warning notice and 2 with which the requests were rejected);

- in 2003 - 31 effective judgements (15 out of which with fines, 15 for termination of the procedure due to obsolescence and 1 for non-competence);

- in 2004 - 46 effective judgements (28 out of which with fines and 14 for termination of the procedure due to obsolescence - more than two years passed, and 5 decisions with warning notice).

□ For a misdemeanour pursuant to the Article 168 of the Law on Copyright and Related Rights, fines are envisaged for legal entities - in the amount of 60.000 MKD to 300.000 MKD; for the person in charge of the legal entity and the individual performing self-employed business activity or profession 1.700 MKD to 50.000 MKD; and 10.000 MKD to 50.000 MKD for natural persons.

Pronounced fines in the period 2002 – 2004 ranged between:

- with respect to the natural persons, the lowest pronounced fine amounted to 2.000 MKD, and the highest to 30.000 MKD and

- with respect to the legal entities, the lowest pronounced fine amounted to 10.000 MKD, and the highest to 68.000 MKD.

□ In the period 2002 - 2004, with respect to criminal act - violation of copyright and related rights under Article 157 of the Criminal Code, no punishment of imprisonment in effective duration was pronounced, i.e. only judgements for parole under condition of imprisonment were pronounced.

In fact, according to the data in the State Statistical Office, for a criminal act under Article 157 of the Criminal Code, 3 persons were reported, 2 persons were accused, one of which was pronounced parole under condition of imprisonment, for a period of 2-3 months.

In 2003, according to the data in the Ministry of Justice (received from 27 basic courts in the Republic of Macedonia) for criminal act under Article 157 of the Criminal Code, 8 criminal procedures were initiated, 7 out of which were effectively enforced, and the perpetrator was acquitted in 2 of those cases, while in 5 cases the perpetrators were pronounced guilty. Regarding these 5 cases: in one of them fine was pronounced, in two cases parole was pronounced (4 -month imprisonment, the execution of which to be postponed if the perpetrator does not commit new criminal act in a period of one year; and 6-month imprisonment the execution of which to be postponed if the perpetrator does not commit new criminal act in a period of two years), and in other two cases court warning notice was pronounced.

In 2004, 10 criminal procedures were initiated for same criminal act, 7 out of which were effectively enforced, and in all cases the accused were pronounced guilty and fines were pronounced, one parole sentence and 4 court warning notices.

□ The Ministry of the Interior, via its inspectors for combat against organized crime, within its powers and competence, in addition to the joint raids with the other inspection bodies, undertakes independent activities against producers of pirated products. For the purpose of planned and coordinated action, a state action has been introduced under the pseudonym "Pirate", within which all



organized units of the Ministry, both on central and regional level, undertake operational and other activities, with the aim of determining and identifying the producers and the production locations, for which measures are undertaken in cooperation with the primary public prosecutor's offices in order to realise the facts.

As a result of the undertaken measures and activities in 2003, the Ministry of the Interior has submitted 2 criminal charges, and in 2004, total of 14 criminal charges for the criminal act - violation of copyright and related rights.

There is production of pirated products in the Republic of Macedonia, but it is only in the field of burning audio and DVD CDs, as well as recording of video and audio tapes, but there is no line, i.e. manufacturing production of such products.

**2. Please provide more details on the activities of the Coordination Body for copyright and other related rights, For example, is this Body used to collect and analyse statistical data on enforcement? Can the Body give guidelines to enforcement agencies (mainly the Police and Customs)?**

For the purpose of more successful implementation of the competencies of the bodies involved in the regime for exercising and protection of copyright and related rights and their coordination, the Government of the Republic of Macedonia, upon proposal by the Ministry of Culture, reached Conclusion on establishment of Coordination Body for Copy right and Related Rights (Coordination Body). Pursuant to this Conclusion, the Coordination Body was established as inter-ministerial body chaired by the State Secretary of the Ministry of Culture, having as its members representatives from the Ministry of Culture, the Ministry of the Interior (2 members of each), the Ministry of Economy, the Ministry of Economy - State Market Inspectorate, the Ministry of Finance, the Ministry of Finance - Customs Administration, the Ministry of Justice, the Ministry of Education and Science and Sector for European Integration at the Government of the Republic of Macedonia (1 member respectively). The Administrative and technical activities for the needs of the Coordination Body are provided by the Ministry of Culture.

In order to ensure integrated approach in the implementation of the main activity of the Coordination Body, pursuant to the Conclusion, it was necessary to prepare a Programme for Promotion and Implementation of the Regime of Effectuation and Protection of the Copyright and Related Rights and for Education and Sensibility including an Analysis of the Situation and Proposal for Short-term and Long-term Measures and Activities (Programme) and Action Plan for Effective Implementation of Protection of Copyright and Related Rights in the Republic of Macedonia (Action Plan), providing the measures and activities which, pursuant to the Conclusion, the Coordination Body and the competent state bodies are obliged to implement.

Information on the preparation of the Programme and the Action Plan were adopted by the Government in June 2004. Ancillary activity of the Coordination Body, as well as of the competent bodies participating in its work, is the implementation of the measures and activities envisaged in these two documents.

In order to introduce integrated and efficient system for implementation of the protection of copyright and related rights, by the end of 2005, the Coordination Body will submit Information to the Government on the implementation of the following measures and activities that are in progress:

- analysis of the situation of unauthorised usage and of the activities for prevention of unauthorised usage of copyright works, performances and subject matters of related rights, including the collection of data and indicators pertaining to the number of carried out surveillance, pronounced temporary security measures, misdemeanour and criminal procedures, adopted court decisions, destroyed goods with unauthorised usage of copyright and related rights (pirated goods);

- preparation of functional analysis of the structure of the state bodies, including the availability of human resources and the need for adequate training, in the field of exercising and protecting copyright and related rights and carrying out of their competences;
- analysis of the existing legal regulation and international rules in this field;
- analysis of international cooperation and integration processes;
- analysis of the situation in collecting management of copyright and related rights.

Using the above-mentioned data and analyses, the Coordination Body prepares an Action Plan and Programme for Synchronised and Coordinated Prevention of Misuse and Unauthorised Usage of Copyright Works and Subject Matters of Related Rights. Within this activity, and on the basis of a decision by the Coordination Body, the Ministry of Culture, the State Market Inspectorate and the Ministry of the Interior have commenced organized, synchronised and continuous implementation of joint intensive actions related to carrying out inspection surveillance in the field of copyright and related rights. The experiences from the indicated actions will serve as a model to be incorporated in the operational part of this Action Plan, having the combat against piracy as its objective. Working theses of the Action Plan have been prepared, which will be submitted to the Government by the end of 2005.

Establishment of an appropriate WEB portal arises from the activities of the Coordination Body, to the end of integrated system in the protection of copyright and related rights, education, sensitivity, combat against piracy and similar. It is envisaged for the activity to be implemented by the end of 2005.

The work of the Coordination Body also includes continuous implementation of a series of measures and activities related to the implementation of the copyright and related rights, the realisation of which is closely related to the availability of material resources and human resources in the bodies competent in this field.

- The Coordination Body collects some of the relevant statistical data on the implementation of the protection of copyright and related rights, for instance, related to carried out inspection surveillance, pronounced temporary security measures, misdemeanour and criminal procedures, the court decisions brought, destroyed pirated objects of copyright and related rights and similar. The Programme for Promotion and Implementation of the Regime of Effectuation and Protection of the Copyright and Related Rights and for Education and Sensibility envisages as a special measure introduction of a special system for collecting, processing, monitoring and using necessary data and indicators for exercising the copyright and related rights. According to this measure, the Coordination Body should submit to the Government a proposal on the basis of which it can establish a commission comprised of representatives from the competent bodies and experts, having the task of preparing a proposal according to which it will approach towards introduction of a functional system and database for accomplishing the copyright and related rights in the Republic of Macedonia. The proposal will be submitted by the end of 2005. All the bodies represented through their representatives who are members of the Coordination Body, as well as the State Statistical Office, are appointed as competent bodies for implementation of this measure.
- The Coordination Body has no direct legal competence on the basis of which the competent state bodies would implement its instructions. The Coordination Body, having coordinative and advisory role, provides instructions on the implementation of the copyright and the related rights. On the basis of the responsibilities assigned by the Government, on its meetings, the Coordination Body adopts decisions pertaining to the implementation of the measures and the activity envisaged in the Programme and the Action Plan, and submits them to the competent bodies. The Coordination Body takes joint positions relating the implementation and the protection of copyright and related rights by the competent bodies, thus ensuring integrated approach, interaction and transparency, on the basis of which it gives instructions to the competent bodies.

**3. Please provide the same information as under question 1 for industrial property rights (trademarks etc).**

With respect to the protection of industrial property rights, in the last three years, the Customs Administration has not confiscated objects and goods violating the industrial property right. In this period, the Customs Administration has not received any request from industrial property right holder for the purpose of his/her protection, and pursuant to Article 214 of the Law on Industrial Property ("Official Gazette of RM" No. 47/02, 42/03, 09/03).

By adopting the new Law on Customs Measures for Protection of Intellectual Property Rights, which will be adopted during 2005, this situation is expected to be improved and the Customs Administration is expected to undertake concrete measures, taking into account that the procedure for acting of the customs officials will be additionally detailed and made more precise.

In the past three years, when carrying out controls, acting on a criminal act in the field of industrial property, the Ministry of the Interior seized the following products: 167,612 kg. of cigarettes, 43,101 kg. of detergents, 416 kg. of spices, 30 kg. of plastic wrapping material in bulk, 458 packs of cigarettes, 142 control stamps for cigarettes, 151 bottles of spirits, 1 machine for corking bottles, 1 apparatus for filtering, 4 bottles of extract, 3 bottles of glycerin, 1370 customs labels for bottles, 1700 labels, 2500 lids for spirits bottles, 3 boxes of lids for beverages, 1050 liters of spirits, 1 weight of 5 kg. and 8.77m<sup>3</sup> logs.

There are no relevant data on how many of these have been destroyed, but according to unofficial data, most of the seized objects were destroyed.

In the past three years, the State Market Inspectorate did not seize objects and goods violating the industrial property right, because it did not have direct legal authority. With the adoption of the Law Amending the Law on Industrial Property ("Official Gazette of the RM" No. 09/04), legal authority is given to the State Market Inspectorate to submit requests for initiating misdemeanor procedure to the competent courts.

In 2004, on request of the holders of the trademark right, the State Market Inspectorate acted on 8 cases where violation of the right to registered trademark was detected, and requests for initiation of misdemeanor procedure were submitted to the competent courts. With respect to these cases, 1 of them was resolved in the State Market Inspectorate, charges were pressed to the competent court for 7 of them, and the procedure is in progress, and for 2 of these cases court judgments were reached, pronouncing fine amounting to 22.500 MKD in average.

The State Office of Industrial Property submitted an initiative to the Ministry of Economy for including a direct basis for seizure of violated goods in circulation in the field of industrial property rights by the State Market Inspectorate in the new Law on Market Inspection, to be adopted by the end of 2005, thus achieving significant efficiency in seizing counterfeited goods in circulation.

Pursuant to the Criminal Code ("Official Gazette of the RM" No. 37/96, 80/99, 4/02, 43/03 and 19/04), according to the data from the State Statistical Office, the number of criminal charges brought, accusations and convicted persons and pronounced penalties in the field of industrial property (imprisonment and fine) in the last three years for the listed criminal acts is as follows:

Answers to the Additional Questions for the Economic Criteria and the Chapters of the Acquis

<b>Reported, accused and convicted adult persons for crimes committed against industrial property rights</b>																		
	<b>Reported</b>	<b>Accused</b>	<b>Convicted</b>	Imprisonment											Fine from 5.001-20.000	Fine from 50.001-100.000		
				Total imprisonment	From 6-12 months		From 3-6 months		From 2-3 months		From 1-2 months		Up to 30 days					
					Effective	Parole	Effective	Parole	Effective	Parole	Effective	Parole	Effective	Parole				
<b>2002</b>	17	10	9	7	3	-	-	-	1	1	-	2	-	-	-	2		
<b>2003</b>	6	11	8	6	1	-	4	-	-	1	-	-	-	-	2	-		
<b>2004</b>	14	6	5	1	-	1	-	-	-	-	-	-	-	-	4	-		

Source: State Statistical Office

According to the available information, there is no organized production of counterfeited products, except individual cases of improvised workshops and with improvised means. In addition to the other activities, the Ministry of the Interior constantly collects operational information on the existence of counterfeited products, and in such cases, following the identification of the perpetrators and determining the locations, police raids are organized. The products found are seized and handed over to the competent courts, and criminal charges are brought against the detected perpetrators.

#### 4. Does a coordination body for the protection of industrial property rights exist?

At the present moment, there is no Coordinative Body for Industrial Property Protection, but recognizing the need for improving the functioning and for introducing more integrated system for protection and implementation of protection of industrial property rights, the State Office of Industrial Property, having in mind its new status as independent government administration body, in charge of carrying out administrative procedure for acquiring and protection of industrial property rights, will submit an initiative to the Government of the Republic of Macedonia for establishment of a Coordinative Body for Industrial Property.

In the past years, there was mutual cooperation between the State Office of Industrial Property, the Ministry of Justice - judges and prosecutors, the Ministry of Culture, the Ministry of Finance - Customs Administration, the Ministry of Economy - State Market Inspectorate, the Ministry of the Interior, the State Statistical Office, the Ministry of Agriculture, Forestry and Water Economy, the Ministry of Health - Bureau of Medicines, the Association of representatives in the field of industrial property, the Association of Innovators.

The cooperation between the institutions and the other entities was primarily realised through joint participation in seminars and meetings, mainly organised by the State Office of Industrial Property; preparation of project for network connection among institutions; takes an initiative for amending the provisions in other laws connected to this field; preparation of opinions for legal and other acts covering issues in the field of industrial property; exchange of opinions related to cases within the scope of operations of the government administration bodies and courts, and similar.

#### 5. Can you confirm that the statute of limitations for IPR infringements under the Criminal Code has been shortened from 5 years to 2 years? When and why did this happen?

The criminal acts pertaining to infringement of intellectual property rights are envisaged in the Criminal Code ("Official Gazette of the RM" No. 37/96, 80/99, 4/02, 43/03, 19/04), as follows:

I. With respect to infringement of copyright and related rights, the Article 157 of the Criminal Code envisages the criminal act *Violation of copyright and related rights*. Fine or imprisonment of up to one year is envisaged for the basic form of this criminal act, covering a person who on his own behalf or on behalf of another unauthorised person discloses, presents, reproduces, distributes, performs, broadcasts or who otherwise encroaches somebody's copyright or related right, i.e. copyright work, performance or subject matter of related right without being authorised for it (Article 157, paragraph 1).

With respect to more severe forms of criminal act comprising gaining **larger property**<sup>1</sup> (Article 157, paragraph 2), i.e. gaining **significant property**<sup>2</sup> (Article 157, paragraph 3), the latest amendments to the Criminal Code adopted in March 2004 (Law Amending the Criminal Code - "Official Gazette of RM" No. 19/04) envisage stricter penal policy, so the legal minimum of the imprisonment penalty has been increased. Thus, regarding the criminal act referred to in paragraph 2 of the Article 157,

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<sup>1</sup> Pursuant to Article 122 of the Criminal Code, 'larger property' means property corresponding to the amount of five average monthly salaries in the Republic of Macedonia at the time of committing the criminal act.

<sup>2</sup> 'Significant property' means property corresponding to the amount of over 50 average monthly salaries in the Republic of Macedonia at the time of committing the criminal act.

according to the amendments, imprisonment is envisaged for a period from three months to three years (instead of the previously envisaged fine and imprisonment of up to three years). With respect to the criminal act referred to in paragraph 3 of Article 157, according to the amendments, the legal minimum of imprisonment has been increased from three months to six months, while the maximum duration of the imprisonment for this form of criminal act - violation of copyright and related rights remains to be five years.

The amendments to the Criminal Code from 2004 envisage criminal liability of a legal entity for violation of copyright and related rights, and fine is also prescribed.

Depending on the maximum duration of the imprisonment, the time frame for obsolescence of the criminal prosecution is stipulated. Thereby, it should be pointed out that the rules contained in the general part of the Criminal Code (Article 107) are applied on the criminal prosecution for this form of criminal act. The time frame for obsolescence is reduced, i.e. shortened in cases when the maximum prescribed penalty for particular criminal act is reduced. Having in mind the above-mentioned, it appears that none of the amendments to the Criminal Code led to reduction of the maximum periods of the imprisonment for criminal acts referred to in Article 157 - violation of copyright and related rights, but on the contrary, the penalties are made stricter by increasing the special legal minimum of the imprisonment penalty. In this sense, the time frame for obsolescence for the basic form of criminal act - violation of copyright and related rights and its more severe forms is not changed and is as follows: with respect to the basic form of criminal act - violation of copyright and related rights referred to in paragraph 1 of Article 157, the time frame for obsolescence is two years from committing the criminal act. With respect to the form of criminal act referred to in paragraph 2 of Article 157, the time frame for obsolescence is three years, and for the most severe form of this criminal act (paragraph 3 of Article 157), it is 5 years.

**II. Regarding the violation of industrial property rights, the following criminal acts are envisaged in the Criminal Code:**

- Unauthorised use of another company's trade name - Article 285; and
- Unauthorised use of another's invention or software - Article 286.

With respect to these criminal acts, the amendments to the Criminal Code led to no changes of the prescribed penalties, so the time frame for obsolescence remains unchanged and is as follows:

Regarding the criminal act 'unauthorized use of another company's trade name' - Article 285 and criminal act – 'unauthorized use of invention or software' - Article 286, fine or imprisonment of up to three years is envisaged. The time frame for obsolescence in both cases remains unchanged and is three years.

Taking into account the afore-mentioned, it appears that the time frame for obsolescence of the criminal prosecution for the acts of intellectual property (violation of copyright and related rights, unauthorized use of another company's trade name and unauthorized use of another's innovation and software) is not reduced.

## **06. Competition policy**

**Please transmit your State Aid Report for 2004 to us as soon as it becomes available, in order to enable us to form an opinion on this area**

See 06\_Annex\_01.

## 07. Agriculture

### **IACS**

**It appears that the State Authority for Geodetic Works has launched a study for the production of up-to-date national topographic base maps for GIS. It would be useful to know whether the potential compatibility of this programme with the technical specifications provided for in Article 20 of Regulation 1782/2003 regarding the computerised geographical information system for IACS has been envisaged.**

The products of the project "Study for Development of Main State GIS Map of the Republic of Macedonia", with regard to data structure and their accuracy, do not fulfill the technical specifications of the Article 20 of the Regulation 1782/2003, which refers to the planned computerized GIS for IACS.

The main objective of the above mentioned project is to develop an accurate topographic map of the Republic of Macedonia, with a scale 1:25.000, in digital and printed format, to serve as a basis for preparation of development studies and projects for economic and social development.

All previous, current and future activities within the frames of the project "Study for Development of Main State GIS Map of the Republic of Macedonia" (field and office activities) have been planned and implemented in a manner that fulfills the accuracy standards, required for a proper development of topographic maps with a scale 1:25.000.

We emphasize that topographic maps with a scale 1:25.000 do not include data related to individual cadastre or agricultural lots.

### **TRADE MECHANISMS**

**The sector is not treated horizontally in the reply. However, remarks on import/export (see in particular the wheat sector - page 16) should be clarified so as to allow verification of whether and to what extent there are divergences from the system laid down in Commission Regulations (EC) 1291/2000 (licences) and 2220/85 (securities),. A detailed explanation should be given on the following:**

- **What does a permit for the exports and imports of goods mean in detail? Is a permit needed for all goods or only sensitive ones?**
- **What does a concession for the exports and imports of goods mean in detail? Is it required for all goods? Does it apply under specific circumstances?**
- **Are any fees charged within this system?**
- \* **It appears that only production subsidies are applicable, However, it should be clarified whether export subsidies are granted as well.**

Legal basis for issuing permits for import and export of goods is the "Law on Trade" ("Official Gazette of the Republic of Macedonia" No. 16/04).

The Ministry of Economy performs the supervision of the implementation of this Law, as well as of the secondary legislation based on this Law.

The inspection supervision over the implementation of the provisions of this Law is performed by the State Market Inspectorate, State Labor Inspectorate and other inspection and customs bodies, in accordance with the competences stipulated by this Law and other special laws.



Based on Article 34 of the Law on Trade ("Official Gazette of the Republic of Macedonia" No. 16/04), there has been a Decision on Classification of Goods into Forms of Export and Import ("Official Gazette of the Republic of Macedonia" No. 58/04).

The competent institutions for issuing permits and licenses are the Ministry of Agriculture, Forestry and Water Economy; Ministry of Health; Bureau for Metrology; Institute for Standardization of the Republic of Macedonia; Ministry of Environment and Physical Planning; National Bank of the Republic of Macedonia; Ministry of Interior; Ministry of Defence; Ministry of Economy; Ministry of Culture and Telecommunications Directorate.

The importer or exporter of goods submits a request for permit, approval or **licenses** to the specified bodies of the administration, containing the following data:

- 1) Name and tax number of the legal entity;
- 2) A ten-digit tariff code;
- 3) Naming the goods by the customs tariff codes nomenclature;
- 4) Trade name of the goods;
- 5) Quantity of goods for which the request is submitted, quantified in unit measure;
- 6) Name and address of the foreign exporter or importer;
- 7) Timeframe in which the export or import is executed;
- 8) Statement about the purpose of usage of the imported goods; and
- 9) Other data, regulated by special legislation.

In implementing this Decision, it is necessary to apply the provisions of the Law on Customs Tariff and regulations based on this Law.

Based on Article 34 of the Law on Trade ("Official Gazette of the Republic of Macedonia" No. 16/04), export and import of certain goods can be performed based on a permit, specifically for:

- Protection of human life and health;
- Protection of public morals;
- Protection of plants, animals, seedling material, as well as other agricultural products;
- Protection of the environment and physical planning;
- Goods that are exported or imported for the purposes of veterinary services;
- Goods that are required to fulfill specified metrological or other conditions;
- Import of finished goods and goods that have not been previously used, and for which it is necessary to obtain a certificate for completed examination and inspection of the accompanying technical documentation of the product, by the Institute for Standardisation;
- Goods, the import or export of which requires special permit by the National Bank of the Republic of Macedonia; export or import of historical and artistic goods;
- Export or import of certain precious metals, banknote etc; and
- Means of armament and military equipment intended for the purposes of securing public safety and defence, and other goods.

Goods which are imported or exported based on a permit issued by a competent body, are approved by the Government of the Republic of Macedonia, upon prior proposal from the Ministry of Economy.

The Ministry of Defence and the Ministry of Interior issue permits for import or export of means of armament and military equipment.

Permit, approval or **licenses** for import or export of agricultural products is required only for those agricultural products that are stated in the answers to the question II Framework for Agricultural Policy for certain products, 1. The measures of the Common Agricultural Policy are applied on each

product individually, and they are an integral part of the Decision on Classification of Goods into Forms of Export and Import ("Official Gazette of the Republic of Macedonia" No. 58/04).

An administrative tax of 650 Macedonian denars is paid for an issuance of a permit, approval or **licenses**.

Only production subsidies are applied to the Agricultural sector. In accordance with the Protocol on the Accession of the Republic of Macedonia to the World Trade Organization - WTO ("Official Gazette of the RM" No. 07/03), the Republic of Macedonia has accepted the requirement not to applied export subsidies for any agricultural product.

*NOTE: Concessions are not applied in granting export or import permits, licenses or approvals. There has been a technical error; the word concession is not mentioned at all.*

## **QUALITY POLICY**

### **(protection of Geographical Indications and Certification of Specific Character)**

**Please provide a clear definition of both categories of geographical indications so that their correspondence to EU categories can be checked.**

According to the Law on Industrial Property ("Official Gazette of the Republic of Macedonia", No. 47/02, 42/03 and 9/04).

**Appellation of origin** is the geographic name of the country, region or place, which is used to mark the product that originates from a specific region, and qualities and particular characteristics of which are essentially or exclusively due to a particular geographical environment, including natural and human factors, and the production, processing and preparation of which are entirely carried out in the defined geographical area.

**Geographical indication** is the geographic name of the country, region or place, which is used to mark the product, its quality, reputation or other characteristics which may be essentially be attributed to a defined geographical area.

The geographical indication of a product may be protected only if the production and/or processing and/or preparation of which take place in defined geographical area.

### **Who can apply for registration of a GI?**

An application for protection of a geographical indication can be submitted by:

Natural persons and legal entities that produce certain product, and forms of associations that can acquire rights and incur liabilities relating to protection, i.e. right of use;

State body, unit of a local self-government and chambers of commerce interested in protection of geographical name in the areas in which they operate.

A geographical indication may also be protected in favor of a foreign natural person or legal entity, as well as registration of an authorised user of a protected geographical name, if those rights have been granted to them in the countries of origin and if they fulfill the requirements stipulated by the Law on Industrial Property ("Official Gazette of the Republic of Macedonia", No. 47/02, 42/03 and 9/04).

Same rights can be granted to foreign natural persons or legal entities, in cases when they derive from international treaties that have been ratified by the Republic of Macedonia, or based on a bilateral agreement for mutual protection, if so provided in the legislation of the country from which the person originates.

A geographical name that is protected with a geographical indication or an appellation of origin in the Republic of Macedonia may also be protected abroad, based on bilateral agreements for mutual protection or international treaties that have been ratified by the Republic of Macedonia.

An application for protection abroad can be submitted only by authorized users of geographical names registered in the appropriate registrar in the State Office of Industrial Property.

**Do the specifications correspond to the minimum requirements of Regulation 2081/92 (Article 4)?**

The application for protection of a geographical name with an appellation of origin, besides the request for protection of a geographical name, includes an elaborate for the product that will be marked with a geographical name.

The elaborate is prepared by an institution, that, depending on the type of the product that will have an appellation of origin, operates with an appropriate technical personnel, as well as technical conditions, and has been registered for performing such an activity.

The elaborate contains the following:

1. Geographical name of the product that is protected with an appellation of origin;
2. A brief history of the production process of the product that is marked with the geographical name;
3. Data on the geographic area from which the product originates and the geographical name of which is protected:
  1. A closer determination of the geographic region, administrative and natural borders;
  2. A geographic map, more specifically, a map of the Republic of Macedonia on which the geographic region from which the product originates is marked, as well as a more detailed map of the region;
  3. Other data specific for that region, related to climate, hydrographic conditions, soil and vegetation characteristics;
4. A professionally developed description of the manner and procedure for production and development of the product to be marked with an appellation of origin;
5. Data on the specific characteristics and quality of the product, and the relation of these specific characteristics with the climate and soil, or by the customary manner and procedure for production, or processing;
6. Data on possible volume of annual production of the product, with the expected annual rate of production volume increase, or possible variations, depending on the type of the product.;
7. Product control (inspection), as follows:
  1. The institution that will perform product control, i.e. the commission established thereby, in which there has to be compulsorily at least one producer;
  2. Frequency of the product control, depending on the type of the product;
  3. Possibilities for control by another institution, if that is required by one of the parties;
8. An integral part of the elaborate shall be the evidence of the activity for which the author of elaborate is registered .

The application for protection of a geographical name with a geographical indication, besides the request for protection of the geographical name, contains a specification of the product that will be marked with a geographical name.

If the application for protection of geographical name with a geographical indication refers to wine or spirits, it shall contain an elaborate on the product, instead of specification.

The specification consists of the following:

1. Geographical name of the product protected with a geographical indication;
2. Data on the geographic area from which the product originates, and the geographical name of which is protected (closer definition of the geographic area, administrative and/or natural borders);
3. Brief history of the production process;
4. Characteristics of the product that will be marked with a geographical indication;
5. Origin of the raw materials;
6. Signature and seal of the developer of the specification;
7. Statement by the applicant on the authenticity of the data outlined in the specification is an integral part of the specification.

Based on the above, we believe that the specifications correspond to the minimum requirements stipulated in the Regulation 2081/92 (Article 4).

### **Is the inspection system compatible with requirements of Regulation 2081/92 (Article 10)?**

Article 179 of the Law on Industrial Property ("Official Gazette of the RM" No. 47/02, 42/03 and 9/04) specifies that the institution that develops the elaborate shall perform a control of the special characteristics of the product. This Article stipulates the following:

- (1) The elaborate is developed by an institution that fulfills the conditions set out in the regulation, issued by the Director of the State Office of the Industrial Property;
- (2) The control of the special characteristics of the product can be performed by the institution that has developed the elaborate, or another institution that fulfills the conditions specified in the regulation issued by the Director of the State Office of the Industrial Property, for which it issues an evidence.
- (3) The applicant for protection of a geographical name with a geographical indication develops the specification and guarantees the authenticity of the data outlined therein.

Control of the product whose geographical name is protected with an appellation of origin is also set out in the Regulation on Appellation of Origin and Geographical Indication of the Product ("Official Gazette of the RM" No. 18/04), in its Article 5, paragraph 3, item 7. This Article specifies the following:

- The institution that will perform the control, or the commission established thereby, in which there has to be compulsorily at least one producer;
- Frequency of the control, depending on the type of the product;
- A possibility for performance of control by another institution, if that is requested by one of the parties;

Based on the above, we believe that the inspection system is compatible with the requirements stipulated in the Regulation 2081/92 (Article 10).

### **Is there a procedure for ensuring that a possibility to object is granted to existing right-holders before the registration of a GI?**

The Law on Industrial Property ("Official Gazette of the RM" No. 47/02, 42/03 and 9/04) does not stipulate opposition procedure -, related to registration of a geographical name.

### **Please explain in detail how the State Office of Industrial Property will work.**

In implementing the procedure for protection of a geographical name, or for acknowledging the right of use of a protected geographical name, the State Office of Industrial Property will act in accordance with the procedure stipulated in the Law on Industrial Property ("Official Gazette of the RM", No. 47/02, 09/04), and the Regulation on Appellation of Origin and Geographical Indication of the Product ("Official Gazette of the RM" No. 18/04).

A procedure for protection of a geographical name, and for acknowledging the right of use of a protected geographical name is initiated by submitting of an application to the State Office of Industrial Property; it contains a request for protection of a geographical name with indication that the requested protection is with geographical indication or appellation of origin, or a request for acknowledging the right of use of a protected geographical name, and other documents, as stipulated in this Law.

If an application is submitted by a foreign party, as an attachment to the request for certification of a geographical name, or to the request for acknowledging the right of use of a protected geographical name, they submit a copy of a public document/ or another legal act, in the official language of the country of origin, as an evidence that the geographical name is protected in that country, i.e. that the right of an authorised user is certified, as well as a notarised translation of these documents in Macedonian language.

The application for protection of a geographical name contains a request for protection of a geographical name, with a note that the applicant requests protection with an appellation of origin and geographical indication.

The application for protection of a geographical name with an appellation of origin, besides the request for protection of a geographical name, contains an elaborate on the product that will be marked with a geographical name.

The elaborate is prepared by an institution, which, depending on the type of the product that will be marked with an appellation of origin, operates with technical personnel and in technical conditions, and is registered for performance of such activity. The institution that develops the elaborate should also submit an evidence of its main activity, as an integral part of the application.

The application for protection of a geographical name with geographical indication, besides the request for protection of a geographical name, contains a specification of the product that will be marked with a geographical name.

If the application for protection of a geographical name with geographical indication refers to some products like wine and/or spirits, it should contain an elaborate on the product, instead of product specification.

The applicant requesting protection of a geographical name with geographical indication prepares the specification and guarantees the validity of the data entered therein.

If the State Office of Industrial Property determines that the application does not fulfill the conditions for protection of a geographical name, or for granted the right of use of a protected geographical name, it will communicate the applicant in writing on the reasons for which it can not protect a certain geographical name or can not granted the right of use of a protected geographical name, and will invite the applicant to extend its position with regard to the reasons within 90 days after the receipt of the communication.

This term can be extended to not more that additional 90 days, upon well justified request by the applicant.

If the applicant fails to respond within the specified term, and the State Office of Industrial Property determines that it can not protect a geographical name, or to recognise the right of an authorised user of a protected geographical name, by means of a decision, it will refuse the application for

protection of a geographical name, or the application for recognising the right of an authorised user of a protected geographical name.

If the application does not fulfill the requirements for the protection of the geographical name with appellation of origin in that case, the State Office of Industrial Property will inform the applicant, and will protect the geographical name with a geographical indication, upon prior consent by the applicant.

If the application for protection of a geographical name fulfills the conditions specified by this Law, the State Office of Industrial Property will register the geographical name and will accordingly enter it into the adequate register.

If the application for recognising the right of an authorised user of a protected geographical name fulfills the conditions stipulated in the Law on Industrial Property ("Official Gazette of the RM", No. 47/02, 09/04), the State Office of Industrial Property, by means of conclusion, will invite the applicant to pay the fee for granting of the right of an authorised user of a protected geographical name for the first 5 years, within 30 days as of the day of conclusions receipt, as well as the expenses for publishing the information about the recognised right of use of a protected geographical name, as well as the expenses for document issuance, and to submit an evidence of the completed payments as required.

If the applicant fails to submit an evidence of executed payments within the specified term, the State Office of Industrial Property, by means of conclusion, will reject the application for granting the right of an authorised user of a protected geographical name.

If the applicant submits an evidence of executed payments within the specified term, the State Office of Industrial Property grants the right of an authorised user of a protected geographical name and enters it into the register of users of protected geographical names and into the register of protected geographical names.

Publishing the protected geographical name in the Bulletin of the State Office of Industrial Property is performed on an ex officio basis.

Upon the payment of the expenses for publishing by the right of an authorised user, the State Office of Industrial Property publishes the information on the granted right of an authorised user in the Bulletin.

The State Office of Industrial Property issues a certificate of the granted right of an authorised user to the authorised user of a protected geographical name, within six months after the decision has been made.

## **ORGANIC FARMING**

**Please provide detailed information on the status of the certification body and production sites and quantities. If possible, a translation into English of the Law on Organic Agricultural Production should be provided**

In the agriculture sector, there is only one certifier for agriculture production. It is the first international independent certification body – INCEBO.

The establishment of INCEBO is a result of the project in the framework of the Programme SENTER –Dutch assistance titled as "Establishing, Positioning and Securing a Macedonian Certification Body for the Agricultural Sector". Project duration is from 1.01.2004-31.12.2005. The shareholders of INCEBO are two Macedonian companies active in the fields of agricultural and food sector, as well as in implementation of various quality management systems. The Dutch partner is ECAS BV, a

Dutch based certification body accredited by the Dutch Accreditation Council. INCEBO is a limited liability company where Macedonian partners hold 66,66% of the shares. I  
At the moment the accreditation procedure of INCEBO is on going in accordance with EN standards. Until the accreditation is granted, audits are carried out by the Dutch partner ECAS BV.

In the Republic of Macedonia, the registers of producers and processors have not been entirely regulated yet, which is why their number is still not known. In 2005, there are indications that they will be operating in the primary organic agricultural production, i.e. they will all be undergoing a period of transition from conventional production to an organic production.

The translation of the Law on Organic Agriculture Production ("Official Gazette of the Republic of Macedonia" No. 16/04) is enclosed in the 07\_Annex\_01.

## **CEREALS**

### **Guaranteed price for wheat:**

**If the goal of the measure is to protect producers from monopolistic conduct of the (Macedonian) milling and processing companies, why is it that the calculation of the guaranteed price takes account of the average three-year shipping and handling charges to the port of Skopje?**

In accordance with Article 24 of the Law on Trade ("Official Gazette of RM" No. 23/95), the Government of the Republic of Macedonia determined the agricultural products for which it assigned guaranteed prices. This provision was one of the measures that the Government instituted against the monopoly behavior on the market.

In this context, while determining the guaranteed price of wheat, as a price level that would protect the interests of wheat producers, the Government consideration was taken of the provision according to which the guaranteed price of wheat for each successive year should not exceed 70% of the average prices on a worldwide level for the last three years, added to the three year average expenses for labor and transport to Skopje.

This mechanism of determination of guaranteed prices was reconciled with the World Bank.

This was the mechanism for determination of the guaranteed prices; the fact that the determined guaranteed price reflects the interests of the wheat producers was also taken in consideration.

**Is this measure really to be considered as addressed to the Macedonian wheat producers and intended to support their internal market?**

No; given the fact that this measure, according to Article 66 of the Law on Trade ("Official Gazette of the Republic of Macedonia" No. 16/2004) could only be implemented by 29 March 2005, i.e. after this term market prices of the wheat are applied.

**Please provide information on how the scheme is implemented in practice, including requirements imposed for storage of wheat, stock inspections, requirements for stock capacities, determination of market price, period of time during which buying- in can take place, etc.**

The Government of the Republic of Macedonia, with Decision, used to determine the guaranteed wheat price, based on a proposal by the Ministry of Economy, and in coordination with the Ministry of Agriculture, Forestry and Water Economy.

The Ministry of Economy used to prepare the proposal using calculations and methodology previously harmonised with the World Bank.

Companies applying for wheat storage providers, besides the request, are required to submit documentation as an evidence that they fulfill the general and special conditions related to the operational conditions they need to fulfill and facilities they need to possess, and are regulated by Articles 3 and 4 of the Regulation on Conditions and Criteria for Selection of Warehousekeeper of Commodity Reserves ("Official Gazette of the Republic of Macedonia" No. 16/2005), as well as the following documentation: evidence of prudential ratios for the last two years of operations before a contract is concluded with the Commodity Reserves Bureau; taxpayer certificate; evidence of ownership of the warehouse intended for storing of goods of the commodity reserves; evidence that the warehouse for storing of goods of the commodity reserves is not subject of mortgage or is burdened in any other way.

The control of the warehouses, according to Article 27, paragraph 1 of the Law on Commodity Reserves ("Official Gazette of the Republic of Macedonia" No. 68/2004) is performed by the Commodity Reserves Bureau in cooperation with the State Agriculture Inspectorate and the State Market Inspectorate.

The wheat price is determined by the market when the procurement is performed in accordance with the Law on Public Procurement ("Official Gazette of the Republic of Macedonia" No19/2004).

The timeframe of procurement is determined based on the annual programme for commodity reserves, adopted by the Government of the Republic of Macedonia.

#### **Production subsidies for wheat:**

**The purpose of the measure (VAT compensation) raises doubts as to its compatibility with the Community acquis and may require appropriate investigation. It should be explained why, if in normal conditions wheat producers also charge VAT on the product they sell, any compensation at all is needed.**

Enacting the Law on Value Added Tax ("Official Gazette of the Republic of Macedonia" No. 44/99; 59/99; 88/99 and 11/2000), instituted a value added tax (VAT) as a general consumers' tax, calculated and paid in all phases of the production and trade. In general, the subject of VAT is the circulation, and according to Article 9 of the Law on Value Added Tax ("Official Gazette of the Republic of Macedonia" No. 44/99; 59/99; 88/99 and 11/2000), a tax payer is a person/entity that permanently or temporarily performs economic activity, regardless of the purpose and outcome of this economic activity.

The Law on Agricultural Operations ("Official Gazette of the Republic of Macedonia" No. 11/02) enacts an obligatory provision that requires all agricultural producers to register.

During the period 1999 – 15/02/2002, there was no legal basis for agricultural producers to return their funds paid for VAT associated with procurement of production input, because they were not obliged to get registered.

Because of the above, the wheat producers had no possibility to refund VAT for the products they used to sell.

**Amounts paid out for premiums have steadily increased from year 1999 (117.193 395, unit missing) to year 2002 (387,529.632, unit missing) An appropriate explanation should be provided. Over the 2000-2002 period the premium unit remained stable (2,50, unit missing) whereas wheat output did not show a trend upwards (yearly production of respectively 299.356, 246.208 and 266.961 tonnes, table on page 133), which is inconsistent with an expenditure increase by nearly 40%. Please clarify.**

The financial support for wheat production paid out during the period 1999-2002 used to be determined on an "ad-hoc" basis each year, with a Governmental decision, without prior analysis of



its effectiveness during the previous production year, and related to alleviation of circumstances caused by the social and political environment, agricultural and climate conditions, deteriorated economic situation of the agricultural producers.

Namely, during the period 1999-2000, due to the deteriorated economic and political condition caused by the refugee crisis and military conflicts, as well as the import of flour for humanitarian purposes, its quantities reaching the level of two-year national flour demand, the production of wheat and flour was reduced.

In 2001, agro-climate conditions were characterised by less-than-average precipitation level and high temperatures which caused an extended drought because of which the average wheat yield was low; the overall production in 2001 was lower for approximately 18% relative to the production volume in 2000.

Sums paid out for premiums and the amount 2,50 are in MKD (Macedonian denar) pro kg wheat.

More details are included in the answer of the next question

**The payment procedures should be clarified: while a certain portion (percentage missing) of the payments was made through the mill and banking corporations who purchased the wheat, the rest was paid directly to the producers through commercial banks.**

During the period 1999-2001, the payment process of the wheat subsidies used to be implemented exclusively through the milling and baking enterprises, based on enclosed lists of purchased wheat from the producers.

The control by the State Inspectorate for Agriculture on the realization of this measure : subsidy for wheat production in 2002 (implemented by the Fund for Agriculture) detected irregularities at the milling companies related to partial non- payment rate to the wheat producers. For those purpose it was proposed that, in the future, the payments should be performed through commercial banks directly to the producers, based on a request, statement on the validity of information submitted by the director of the milling company and enclosed and verified lists of receipts of purchase from the individual farmers/producers.

After the audit performed by the State Audit Office inconsistencies have been found in the payment of subventions for wheat , published in the "Final audit report of the annual account of the Fund for Agriculture for 2002"

Due to the fact that in 2002 this measure was abolished, its implementation through commercial banks never took place.

**Finally, please provide explanations on the compatibility/complementarity of this measure with the minimum guaranteed price for wheat**

This measure (subsidies for wheat production) is not dependent on, nor it is complemented with the minimum guaranteed wheat prices, i.e. they are not compatible or complementary.

**Maize and barley:**

**Detailed information should be provided on direct support measures (period of application, purpose, eligibility, unit aid amount, expenditure, impact on internal and external markets, etc.)**

Maize and Barley

*Name of Measure*

Financial Support for Maize and Barley

### *Legal basis*

Law on Promoting Agriculture Development ("Official Gazette of the Republic of Macedonia" No. 24/92, 32/92, 83/92, 78/93 and 14/96).

### *Purpose and general description of the measure*

The financial support for maize and barley is a measure undertaken to assist the producers as a compensation for increased production expenses, aiming at reduction of the feeding stuff production costs, expansion of the domestic production, and consequently, improvement of the supply on the domestic market.

### *Criteria for eligibility for the measure*

Reported land under maize and barley.

The measure was initiated in 2004.

Payments are based on surface of land. In 2004, there were a total of 7 695 hectares under maize, and 26 932 500 denars were paid out. The financial support for maize amounted to 3 500 denars per hectare, for the entire territory of the Republic of Macedonia.

In 2004, there were a total of 20 895 hectares under barley, and 62 685 000 denars were paid out. The financial support for maize amounted to 3 000 denars per hectare, for the entire territory of the Republic of Macedonia.

### *Accessibility*

Finances for this measure were accessible to all producers that produced maize or barley. The requests for financial support for barley and maize used to be submitted to the Ministry of Agriculture, Forestry and Water Economy. The following documentation was required to be enclosed too: evidence of reported production, and evidence of ownership or right to agricultural land. The Ministry of Agriculture, Forestry and Water Economy, through the Sector for Agriculture and Rural Development Support, used to pay out the finances directly to the producers, through commercial banks.

The State Agriculture Inspectorate performs the inspection over payment of funds.

Since the Republic of Macedonia is an importer of maize and barley for feeding stuff, this measure will not affect the markets abroad. As far as the domestic market is concerned, it is expected that the supply of cheaper feedingstuff will improve as the production of feedingstuff increases.

## **OILSEEDS**

**Period of application and further information about the characteristics of the subsidies (amount, eligible area, etc.) should be provided, together with statistics on area, yield and production**

### **Sunflower**

#### *Name of Measure*

Financial support for sunflower

#### *Legal basis*

Law on Promoting Agriculture Development ("Official Gazette of the Republic of Macedonia" No. 24/92, 32/92, 83/92, 78/93 and 14/96).

#### *Purpose and general description of the measure*

Financial support for sunflower is a measure that is applied for reduction of production expenses and improvement of competitiveness.

#### *Criteria for eligibility for the measure*

Reported land under sunflower and proof of delivered produce to processing facilities.

The measure was initiated in 2004.

Payments are based on surface of land. In 2004, there were a total of 3 862 hectares under sunflower, and 13 517 000 denars were paid out. The financial support for sunflower amounted to 3 500 denars per hectare, for the entire territory of the Republic of Macedonia.

#### *Accessibility*

Funds for this measure were accessible to all producers that produced sunflower which have sowing sunflower. The requests for financial support for sunflower used to be submitted to the Ministry of Agriculture, Forestry and Water Economy. The following documentation was required to be also enclosed: proof of reported production, proof of ownership or right to agricultural land and proof of delivered produce to processing facilities. The Ministry of Agriculture, Forestry and Water Economy, through the Sector for Agriculture and Rural Development Support, used to pay out the finances directly to the producers, through the commercial banks.

The State Agriculture Inspectorate performs the inspection over payment of funds.

Statistics for regions, yield and production.

AREA AND PRODUCTION OF INDUSTRIAL CROPS								
	2003				2002			
	Sunflower				Sunflower			
	area - ha		production		area - ha		production	
	sown	harvested	total, t	kg/ha	sown	harvested	total, t	kg/ha
<b>REPUBLIC OF MACEDONIA</b>	<b>5561</b>	<b>5359</b>	<b>6794</b>	<b>1268</b>	<b>6525</b>	<b>6519</b>	<b>8760</b>	<b>1344</b>
<b>Agricultural companies and cooperatives</b>	<b>4313</b>	<b>4113</b>	<b>5583</b>	<b>1357</b>	<b>5054</b>	<b>5048</b>	<b>7422</b>	<b>1470</b>
<b>Individual agricultural holdings</b>	<b>1248</b>	<b>1246</b>	<b>1211</b>	<b>971</b>	<b>1471</b>	<b>1471</b>	<b>1338</b>	<b>910</b>
Skopje	48	48	72	1494	44	44	84	1916
Gazi Baba	14	14	22	1543	12	12	26	2167
Gorce Petrov	-	-	-	-	-	-	-	-
Karpos	-	-	-	-	-	-	-	-
Kisela Voda	-	-	-	-	-	-	-	-
Centar	-	-	-	-	-	-	-	-
Cair	34	34	50	1474	32	32	58	1822
Suto Orizari	-	-	-	-	-	-	-	-
Aracinovo	33	33	53	1600	20	20	40	2000
Bac	8	8	8	1000	7	7	7	1000
Belcista	-	-	-	-	-	-	-	-
Berovo	-	-	-	-	-	-	-	-
Bistrica	12	12	17	1450	19	19	38	2000
Bitola	3094	2932	4754	1621	3512	3512	6680	1910
Blatec	-	-	-	-	-	-	-	-
Bogdanci	-	-	-	-	-	-	-	-
Bogovinje	-	-	-	-	-	-	-	-
Bogomila	-	-	-	-	-	-	-	-
Bosilovo	26	26	24	925	26	26	25	975
Brvenica	-	-	-	-	-	-	-	-
Valandovo	-	-	-	-	-	-	-	-
Vasilevo	75	65	63	964	28	28	36	1289

Vevcani	-	-	-	-	-	-	-	-
Veles	183	120	98	816	-	-	-	-
Velesta	-	-	-	-	-	-	-	-
Vinica	-	-	-	-	-	-	-	-
Vitoliste	-	-	-	-	-	-	-	-
Vranestica	-	-	-	-	-	-	-	-
Vrapciste	-	-	-	-	-	-	-	-
Vratnica	-	-	-	-	-	-	-	-
Vrutok	-	-	-	-	-	-	-	-
Gevgelija	-	-	-	-	-	-	-	-
Gostivar	-	-	-	-	-	-	-	-
Gradsko	-	-	-	-	-	-	-	-
Debar	-	-	-	-	-	-	-	-
Delogozdi	-	-	-	-	-	-	-	-
Delcevo	-	-	-	-	-	-	-	-
Demir Kapija	-	-	-	-	-	-	-	-
Demir Hisar	-	-	-	-	-	-	-	-
Dobrussevo	1	1	1	1000	11	11	22	2000
Dolna Banjica	-	-	-	-	-	-	-	-
Dolneni	3	3	3	1000	12	12	13	1092
Drugovo	-	-	-	-	-	-	-	-
Zelino	-	-	-	-	-	-	-	-
Zitose	-	-	-	-	-	-	-	-
Zajas	-	-	-	-	-	-	-	-
Zelenikovo	-	-	-	-	-	-	-	-
Zletovo	-	-	-	-	-	-	-	-
Zrnovci	-	-	-	-	-	-	-	-
Izvor	-	-	-	-	-	-	-	-
Ilinden	27	27	38	1419	-	-	-	-
Jegunovce	-	-	-	-	-	-	-	-
Kavadarci	-	-	-	-	-	-	-	-
Kamenjane	-	-	-	-	-	-	-	-
Karbinci	87	87	72	827	128	127	101	795
Kicevo	-	-	-	-	-	-	-	-
Klecevce	89	89	71	794	112	112	85	755
Kondovo	-	-	-	-	-	-	-	-
Konopiste	-	-	-	-	-	-	-	-
Konce	-	-	-	-	1	1	1	800
Kosel	-	-	-	-	-	-	-	-
Kocani	2	2	2	1000	8	8	8	1000
Kratovo	-	-	-	-	-	-	-	-
Kriva Palanka	-	-	-	-	-	-	-	-
Krivogaštani	-	35	26	735	10	10	7	736
Krusevo	8	6	5	900	11	11	13	1182
Kuklis	-	-	-	-	-	-	-	-
Kukurecani	12	12	12	1000	4	4	4	875
Kumanovo	635	635	470	741	565	565	335	598
Labunista	-	-	-	-	-	-	-	-
Lipkovo	-	-	-	-	-	-	-	-
Lozovo	49	49	33	678	19	19	6	300
Lukovo	-	-	-	-	-	-	-	-
Mavrovi Anovi	-	-	-	-	-	-	-	-

Makedonska Kamenica	-	-	-	-	-	-	-	-
Makedonski Brod	-	-	-	-	-	-	-	-
Meseista	-	-	-	-	-	-	-	-
Miravci	-	-	-	-	-	-	-	-
Mogila	25	25	40	1600	37	37	62	1686
Murtino	-	-	-	-	-	-	-	-
Negotino	30	30	40	1333	25	20	30	1500
Negotino-Polosko	-	-	-	-	-	-	-	-
Novaci	70	70	109	1556	103	103	176	1708
Novo Selo	15	15	18	1200	16	16	21	1303
Oblesevo	-	-	-	-	-	-	-	-
Orasac	143	143	65	452	184	184	125	679
Orizari	-	-	-	-	-	-	-	-
Oslomej	-	-	-	-	-	-	-	-
Ohrid	-	-	-	-	-	-	-	-
Petrovec	-	-	-	-	2	2	4	2200
Pehcevo	-	-	-	-	-	-	-	-
Plasnica	-	-	-	-	-	-	-	-
Podares	-	-	-	-	-	-	-	-
Prilep	163	163	179	1100	169	169	151	896
Probistip	70	70	34	484	-	-	-	-
Radovis	-	-	-	-	-	-	-	-
Rankovce	4	4	4	950	6	6	6	950
Resen	-	-	-	-	-	-	-	-
Rosoman	-	-	-	-	-	-	-	-
Rostusa	-	-	-	-	-	-	-	-
Samokov	-	-	-	-	-	-	-	-
Saraj	-	-	-	-	-	-	-	-
Sveti Nikole	589	589	434	737	1187	1187	527	448
Sopiste	-	-	-	-	-	-	-	-
Sopotnica	-	-	-	-	-	-	-	-
Srbinovo	-	-	-	-	-	-	-	-
Star Dojran	-	-	-	-	-	-	-	-
Staravina	-	-	-	-	-	-	-	-
Staro Nagoricane	10	10	8	750	140	140	52	374
Struga	-	-	-	-	-	-	-	-
Strumica	-	-	-	-	-	-	-	-
Studenicani	-	-	-	-	-	-	-	-
Tearce	-	-	-	-	-	-	-	-
Tetovo	-	-	-	-	-	-	-	-
Topolcani	3	3	4	1333	4	4	4	1050
Capari	-	-	-	-	-	-	-	-
Centar Zupa	-	-	-	-	-	-	-	-
Caska	-	-	-	-	-	-	-	-
Cegrane	-	-	-	-	-	-	-	-
Cesinovo	3	3	3	1000	8	8	8	1000
Cucer-Sandevo	-	-	-	-	-	-	-	-
Dzepciste	-	-	-	-	-	-	-	-
Sipkovica	-	-	-	-	-	-	-	-
Stip	44	44	35	795	107	107	87	812

**ANIMAL FEEDING STUFFS**

**It would be interesting to have more information on the beneficiaries of the aid measure described, figures on area concerned and subsidy rate, and explanations of the very variable yearly expenditure**

The assistance volume is provided on annual level, and depends on the availability of funds from the Budget of the Republic of Macedonia, the beneficiary (Public Enterprise for Pasture Management) performs interventions in accordance with the planned activities in the annual programme that is adopted by the Government of Republic of Macedonia.

The variable amounts, i.e. the amounts of subsidies are determined by the availability of funds from the Budget, and planned in the Programme for promotion of agricultural development for the current year.

**Implementation activities of annual programmes, by year:**

Realised funds, in MKD

Measure	Contract #	1999	2000	2001	2002	2003
Financial support for development of artificial meadows	160	8.000.000,00	-	-	-	-
Financial support to the Public Enterprise for Pasture Management for restoration of pastures	612	-	4.000.000,00	-	-	-
Financial support for pastures improvement	494	-	-	5.000.000,00	-	-
Financial support for pastures improvement	348				2.500.000,00	
Financial support for development of artificial meadows and pastures	234					5.000.000,00

**SUGAR**

**Fuller data are required on actual sugar production from sugar beet produced domestically or refined from imported raw sugar, and on export/import**

**Table 1a**

<b>Sugar production in RM 1991-2004</b>															
	e.M.	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
<b>Sugar</b>	<b>Tons</b>	8624	8140	6677	6351	7205	17993	35183	40354	43039	31924	18004	36614	33377	27810

**Table 1b**

	Area in hectares		Yield	
	Sown	Harvested	Total tons	in Kg, per hectare
	<b>Sugar beet</b>			
1991	2533	2211	81722	36961
1992	2380	2380	61439	25815
1993	2266	2259	55102	24392
1994	1762	1616	54103	33480
1995	1901	1354	54607	40330
1996	1998	1998	78278	39178
1997	2190	2180	72249	33142
1998	1787	1784	58090	32562
1999	2290	2289	67036	29286
2000	2022	2022	56450	27918
2001	1679	1669	38282	22937
2002	1492	1492	43817	29368
2003	1267	1266	40154	31717
2004	1542	1542	52199	33852

**Data on trade in sugar per tariff lines export/import****EXPORT 2001**

Tariff	Description	kg	US \$	EUR
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**EXPORT 2004 (preliminary data)**

Tariff	Description	kg	US \$	EUR
1701119000	Cane or beet sugar and chemically pure sucrose, in solid form:Raw sugar not containing added flavouring or colouring matter:Cane sugar:Other	3,520	5,280	4,222
1701129000	Cane or beet sugar and chemically pure sucrose, in solid form:Raw sugar not containing added flavouring or colouring matter:Beet sugar:Other	150	232	194
1701910000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	2,504	6,792	5,347
1701991000	White sugar	3,040,066	2,312,709	1,791,249
1701999000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Other:Other	1,600	1,074	852

**EXPORT 2003**

Tariff	Description	kg	US \$	EUR
1701119000	Cane or beet sugar and chemically pure sucrose, in solid form:Raw sugar not containing added flavouring or colouring matter:Cane sugar:Other	8,405	10,684	9,877
1701910000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	3,102	7,777	6,854
1701991000	White sugar	3,352,937	2,166,961	1,871,101
1701999000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Other:Other	901	667	551

**EXPORT 2002**

Tariff	Description	kg	US \$	EUR
1701119000	Cane or beet sugar and chemically pure sucrose, in solid form:Raw sugar not containing added flavouring or colouring matter:Cane sugar:Other	1,200	1,312	1,269
1701910000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	3,400	6,441	6,625
1701991000	White sugar	7,429,759	3,503,284	3,593,419
1701129000	Cane or beet sugar and chemically pure sucrose, in solid form:Raw sugar not containing added flavouring or colouring matter:Beet sugar:Other	540	449	525
1701910000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	2,909	4,272	4,772
1701991000	White sugar	30,833	13,687	15,305
1701999000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Other:Other	65,133	37,342	40,261

**EXPORT 2000**

Tariff	Description	kg	US \$	EUR
1701910000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	4,421	8,168	8,699
1701991000	White sugar	31,635	16,034	17,338
1701999000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Other:Other	526	860	867

**EXPORT 1999**

Tariff	Description	kg	US \$	EUR
1701910000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	6,243	16,996	16,180
1701991000	White sugar	33,413	19,848	18,708



1701999000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Other:Other	1,196	2,362	2,258
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**EXPORT 1998**

Tariff	Description	kg	US \$
1701910000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	1,535	4,781
1701991000	White sugar	1,836	1,066
1701999000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Other:Other	12	68

**EXPORT 1997**

Tariff	Description	kg	US \$
1701910000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	32	130
1701991000	White sugar	148,002	101,156
1701999000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Other:Other	63	516

**EXPORT 1996**

Tariff	Description	kg	US \$
170199200	Beet sugar, refined	52,260	37,518

**EXPORT 1995**

Tariff	Description	kg	US \$
170191005	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	50	323

**EXPORT 1994**

Tariff	Description	kg	US \$
170191005	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	948	6,605
170199200	Beet sugar, refined	736	757

**EXPORT 1993**

Tariff	Description	kg	US \$
1701910051	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	138	314
1701992001	Beet sugar, refined	83,004	44,915

**EXPORT 1991**

Tariff	Description	kg	US \$
1701120081	Beet sugar, raw	4,100,258	1,756,860
1701991031	Cane sugar, refined	50,000	23,097
1701992001	Beet sugar, refined	17,485,562	7,890,278

**IMPORT 2004 (preliminary data)**

Tariff	Description	kg	US \$	EUR
1701111000	Cane or beet sugar and chemically pure sucrose, in solid form:Raw sugar not containing added flavouring or colouring matter:Cane sugar:For refining	25,124,590	6,054,430	4,844,536
1701119000	Cane or beet sugar and chemically pure sucrose, in solid form:Raw sugar not containing added flavouring or colouring matter:Cane sugar:Other	20,065	11,433	9,381
1701910000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	64,180	169,816	136,039
1701991000	White sugar	31,012,461	9,053,911	7,250,407
1701999000	Cane or beet sugar and chemically pure sucrose, in solid form:Other	473	3,137	2,442

**IMPORT 2003**

Tariff	Description	kg	US \$	EUR
1701111000	Cane or beet sugar and chemically pure sucrose, in solid form:Raw sugar not containing added flavouring or colouring matter:Cane sugar:For refining	31,987,020	8,993,050	7,986,861
1701119000	Cane or beet sugar and chemically pure sucrose, in solid form:Raw sugar not containing added flavouring or colouring matter:Cane sugar:Other	21,127	11,569	10,561
1701910000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	59,965	130,168	114,672
1701991000	White sugar	35,686,164	9,989,628	8,774,352
1701999000	Cane or beet sugar and chemically pure sucrose, in solid form:Other	364	1,590	1,426

**IMPORT 2002**

Tariff	Description	kg	US \$	EUR
1701111000	Cane or beet sugar and chemically pure sucrose, in solid form:Raw sugar not containing added flavouring or colouring matter:Cane sugar:For refining	44,258,440	10,605,866	11,407,018
1701119000	Cane or beet sugar and chemically pure sucrose, in solid form:Raw sugar not containing added flavouring or colouring matter:Cane sugar:Other	21,037	11,485	11,446
1701129000	Cane or beet sugar and chemically pure sucrose, in solid form:Raw sugar not containing added flavouring or colouring matter:Beet sugar:Other	182,894	126,998	144,308
1701910000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	58,608	113,613	120,518
1701991000	White sugar	25,667,105	7,499,797	7,936,484
1701999000	Cane or beet sugar and chemically pure sucrose, in solid form:Other	267	1,150	1,188

**IMPORT 2001**

Tariff	Description	kg	US \$	EUR
1701111000	Cane or beet sugar and chemically pure sucrose, in solid form:Raw sugar not containing added flavouring or colouring matter:Cane sugar:For refining	14,879,770	4,397,222	4,968,611
1701120000	Beet sugar, raw	0	5	6
1701910000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	45,788	98,865	109,973
1701991000	White sugar	25,991,776	8,052,100	9,072,859
1701999000	Cane or beet sugar and chemically pure sucrose, in solid form:Other	8,216	5,989	6,733

**IMPORT 2000**

Tariff	Description	kg	US \$	EUR
1701110000	Cane sugar, raw	27,000,050	6,536,476	6,880,671
1701910000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	30,193	78,509	85,565
1701991000	White sugar	17,318,360	4,758,113	5,347,083
1701999000	Cane or beet sugar and chemically pure sucrose, in solid form:Other	9,325	6,651	7,276

**IMPORT 1999**

Tariff	Description	kg	US \$	EUR
1701110000	Cane sugar, raw	34,744,920	7,930,515	7,482,682
1701910000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	27,982	95,713	90,281
1701991000	White sugar	14,649,191	3,756,674	3,550,816

1701999000	Cane or beet sugar and chemically pure sucrose, in solid form:Other	7,796	10,125	9,491
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**IMPORT 1998**

Tariff	Description	kg	US \$
1701110000	Cane sugar, raw	34,198,072	10,464,463
1701910000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	39,941	123,242
1701991000	White sugar	12,684,461	4,259,703
1701999000	Cane or beet sugar and chemically pure sucrose, in solid form:Other	7,990	7,346

**IMPORT 1997**

Tariff	Description	kg	US \$
1701110000	Cane sugar, raw	17,340,820	5,864,033
1701120000	Beet sugar, raw	1,085	1,398
1701910000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	31,802	111,645
1701991000	White sugar	9,533,648	4,103,986
1701999000	Cane or beet sugar and chemically pure sucrose, in solid form:Other	2,720	2,801

**IMPORT 1996**

Tariff	Description	kg	US \$
1701910000	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	15,559	27,341
1701991000	White sugar	16,164,974	7,352,832
170199103	Cane sugar, rerined	349,500	104,826
170199200	Beet sugar, refined	19,021,587	8,055,017
1701999000	Cane or beet sugar and chemically pure sucrose, in solid form:Other	700	1,165

**IMPORT 1995**

Tariff	Description	kg	US \$
170111001	Cane sugar, raw	60,000	22,006
170112008	Beet sugar, raw	2,333,340	799,177
170191005	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	3	123
170199103	Cane sugar, rerined	3,411,015	1,463,140
170199200	Beet sugar, refined	47,441,774	20,401,271

**IMPORT 1994**

Tariff	Description	kg	US \$
170111001	Cane sugar, raw	200,000	60,957
170112008	Beet sugar, raw	5,606,633	1,853,417
170191005	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	2,346	16,045
170199103	Cane sugar, rerined	3,993,495	1,392,328
170199200	Beet sugar, refined	39,271,852	16,160,213

**IMPORT 1993**

Tariff	Description	kg	US \$
1701110011	Cane sugar, raw	66,000	15,285
1701120081	Beet sugar, raw	2,274,544	665,743
1701910051	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	818	3,351
1701991031	Cane sugar, rerined	1,350,616	384,774
1701992001	Beet sugar, refined	28,386,885	9,999,440

**IMPORT 1991**

Tariff	Description	kg	US \$
1701120081	Beet sugar, raw	100,000	40,960
1701910051	Cane or beet sugar and chemically pure sucrose, in solid form:Other:Containing added flavouring or colouring matter	2,101	2,741
1701991031	Cane sugar, rerined	60,000	25,604
1701992001	Beet sugar, refined	1,528,000	611,082

## **FRUIT AND VEGETABLES**

**Please clarify whether there already exists a quality inspection body, what is its name and tasks, how many staff and how much equipment are involved, what are the educational and training standards of its staff?**

In the agriculture sector, there is only one certifier for agriculture production. It is the first international independent certification body – INCEBO.

The establishment of INCEBO is a result of the project in the framework of the Programme SENTER –Dutch assistance titled as “ Establishing, Positioning and Securing a Macedonian Certification Body for the Agricultural Sector”. Project duration is from 1.01.2004-31.12.2005. The shareholders of INCEBO are two Macedonian companies active in the fields of agricultural and food sector, as well as in implementation of various quality management systems. The Dutch partner is ECAS BV, a Dutch based certification body accredited by the Dutch Accreditation Council. INCEBO is a limited liability company where Macedonian partners hold 66,66% of the shares. I

At the moment the accreditation procedure of INCEBO is on going in accordance with EN standards. Until the accreditation is granted , audits are carried out by the Dutch partner ECAS BV.

INCEBO's objectives are to introduce the quality systems in the primary production and certification according to the internationally recognized standards (ISO 9001, BRC, IFS, EUROGAP, GMP, HACCP etc.).

Activities that are foreseen through the project are:

- recruitment of local auditors
- development of operational plan
- development of internal working procedures
- training and support of auditors
- contacting of laboratory services
- acquiring internationally and national recognized accreditation
- developing marketing strategy
- information campaign
- training of producers, processors and traders on quality management

In the previous period INCEBO organized three seminars in different towns in Macedonia aimed at promotion of its activities and tasks. Around 150 participants took place on the seminars, representatives from producers, processors, traders, consultants, advisors, institutions , etc.

At the moment, there are two employed staff at INCEBO, a manager and an auditor. The training of future auditors has been completed, and they expect to be granted a certificate for successfully completed training. The first certificate for EUROGAP in the Republic of Macedonia was issued for fresh mushrooms, in April of 2004.

Quality control of fruits and vegetables, from safety perspective, is performed by the Food Directorate, see answers 01\_III FOOD LEGISLATION

**Please provide information on the number and role of producer organisations, particularly market share**

In the Republic of Macedonia, associations of agricultural producers (farmers) are not obliged to submit information on the scale and scope of their primary agricultural production. Accordingly, we do not have information on their share of the supply of fresh agriculture produce on the markets.

According to the information available in the Ministry of Agriculture, Forestry and Water Economy, there are 17 associations of vegetable producers and 4 associations of fruit producers.

**WINE****Figures on wine area 1992-2003 should be clarified (there are some discrepancies in the document)**

With regard to data on surface area of land under vineyards, stated in the table on page 109, we have determined there is an error in two different data, specifically, land area under vineyards in 1995 amounts to 31 000 hectares, and it should read 28 000 hectares, and in 1997, it should read 28 000 hectares instead of 29 000 hectares.

In addition, we would like to inform you that the detailed tables on land area under vineyards (elaborated by NUTS 5 classification) refer to the total land under vineyards (pages 111 – 126), while the combined table "Vineyard production of grapes and processing of grapes" on page 139, contains data on land under fertile vineyards. Due to this, data for 1997, 2000, 2001 and 2002 in the table on page 139 do not correspond to the data from detailed tables (pages 111 - 126). In any case, both sets of information are posted as accurate and true, but they refer to different categories (total land area under vineyards and land area under fertile vineyards).

**Please provide data on wine production not processed to wine but used for other purposes.**

The Ministry of Agriculture, Forestry and Water Economy does not have data on wine production used for other purposes except for production of wine.

Secondary legislation related to secondary products made of wine, based on the Law on Wine ("Official Gazette of the Republic of Macedonia" No. 69/2004) is in preparation phase and it is expected to be enacted during 2006.

The national register of vineyards and the overall system of mandatory declarations for harvesting, wine production and reserves will make collection and using of this data possible.

**How much wine is imported from the countries with which the Republic of Macedonia has preferential or duty-free tariff quotas? How much is exported? Are export subsidies applied to wine sector products?**

	Countries	2002		2003		2004		Average amount (hl)	Average value ('000EU R)
		Quantity in hectoliters (hl)	Value in ('000EU R)	Quantity in hectoliters (hl)	Value in ('000EU R)	Quantity in hectoliters (hl)	Value in ('000EU R)		
<b>1</b>	<b>EU</b>	<b>446.622</b>	<b>14.790</b>	<b>348.713</b>	<b>12.438</b>	<b>354.266</b>	<b>13.089</b>	<b>383.200</b>	<b>13.439</b>
	<i>Bottled wine</i>	3.261	384	5.093	443	9.978	75	6.111	527
	<i>Tapped wine</i>	443.360	14.406	343.620	11.995	344.287	12.334	377.089	12.912
<b>2</b>	<b>Bosnia &amp; Hercegovina</b>	<b>1.050</b>	<b>87</b>	<b>615</b>	<b>66</b>	<b>976</b>	<b>86</b>	<b>880</b>	<b>80</b>
	<i>Bottled wine</i>	587	68	615	66	379	61	527	65
	<i>Tapped wine</i>	463	19	-	-	597	25	353	15
<b>3</b>	<b>Bulgaria</b>	<b>9.476</b>	<b>228</b>	<b>9</b>	<b>1</b>	-	-	<b>3.162</b>	<b>77</b>
	<i>Bottled wine</i>	10	4	-	-	-	-	3	1
	<i>Tapped wine</i>	9.466	224	9	1	-	-	3.158	75
<b>4</b>	<b>Croatia</b>	<b>29.012</b>	<b>1.616</b>	<b>36.735</b>	<b>2.547</b>	<b>64.330</b>	<b>4.412</b>	<b>43.359</b>	<b>2.858</b>
	<i>Bottled wine</i>	4.429	543	7.518	1.045	12.243	2.010	8.063	1.199

	<i>Tapped wine</i>	24.583	1.073	29.218	1.502	52.087	2.402	35.296	1.659
5	EFTA (only export to Norway is free)	-	-	-	-	-	-	-	-
	<i>Bottled wine</i>	-	-	-	-	-	-	-	-
	<i>Tapped wine</i>	-	-	-	-	-	-	-	-
6	Serbia & Montenegro	130.002	6.475	78.517	5.441	124.790	7.095	111.103	6.337
	<i>Bottled wine</i>	36.470	3.260	36.440	3.618	24.958	3.002	32.623	3.293
	<i>Tapped wine</i>	93.533	3.215	42.077	1.823	99.832	4.093	78.481	3.044
7	Slovenia	26.545	1.322	40.006	1.901	14.176	807	26.909	1.343
	<i>Bottled wine</i>	4.152	331	9.319	557	3.794	320	5.755	403
	<i>Tapped wine</i>	22.394	991	30.687	1.344	10.382	487	21.154	941
8	Turkey	-	-	-	-	-	-	-	-
	<i>Bottled wine</i>	-	-	-	-	-	-	-	-
	<i>Tapped wine</i>	-	-	-	-	-	-	-	-
9	Ukraine	1.643	74	8.832	280	-	-	3.492	118
	<i>Bottled wine</i>	806	40	-	-	-	-	269	13
	<i>Tapped wine</i>	838	34	8.832	280	-	-	3.223	105
	<i>Total privileged trade</i>	644.350	24.594	513.427	22.675	558.538	25.489	572.105	24.253
	<i>Bottled wine</i>	49.715	4.630	58.984	5.730	51.353	6.149	53.350	5.503
	<i>Tapped wine</i>	594.636	19.964	454.443	16.946	507.185	19.341	518.755	18.750
	<b>Total export</b>	<b>726.255</b>	<b>28.522</b>	<b>551.271</b>	<b>24.732</b>	<b>567.586</b>	<b>26.276</b>	<b>615.038</b>	<b>26.510</b>
	<i>Bottled wine</i>	57.755	5.552	64.514	6.419	55.776	6.753	59.348	6.241
	<i>Tapped wine</i>	668.500	22.970	486.757	18.313	511.811	19.525	555.689	20.269
	* Trade with Slovenia is not included in the trade with EU for 2004								

Import of wine in the Republic of Macedonia from countries that have privileged export to the Republic of Macedonia									
	Countries	2002		2003		2004		Average quantity in hectoliters	Average value in EUR
		Quantity in hectoliters (hl)	Value in EUR	Quantity in hectoliters (hl)	Value in EUR	Quantity in hectoliters (hl)	Value in EUR		
1	EU	470	52.019	644	75.587	1.641	172.437	918	100.014
	<i>Bottled wine</i>	269	46.632	375	67.433	452	126.807	365	80.291

	<i>Tapped wine</i>	201	5.388	299	8.154	1.189	45.630	563	19.724
2	<b>Bosnia &amp; Hercegovina</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<i>Bottled wine</i>	0	0	0	0	0	0	0	0
	<i>Tapped wine</i>	0	0	0	0	0	0	0	0
3	<b>Bulgaria</b>	-	-	-	-	<b>2</b>	<b>396</b>	<b>1</b>	<b>132</b>
	<i>Bottled wine</i>	-	-	-	-	2	396	1	132
	<i>Tapped wine</i>	-	-	-	-	0	0	0	0
4	<b>Serbia &amp; Montenegro</b>	<b>269</b>	<b>46.632</b>	<b>446</b>	<b>63.275</b>	<b>478</b>	<b>82.403</b>	<b>398</b>	<b>64.103</b>
	<i>Bottled wine</i>	269	46.632	376	59.944	478	82.403	374	62.993
	<i>Tapped wine</i>	-	-	70	3.331	0	0	23	1.110
	<b>Other countries, without privileged trade</b>	548	36.384	345	50.906	847	82.565	580	56.619
	<b>Total privileged trade</b>	<b>738</b>	<b>98.651</b>	<b>1.090</b>	<b>138.862</b>	<b>2.121</b>	<b>255.236</b>	<b>1.317</b>	<b>164.250</b>
	<i>Bottled wine</i>	538	93.264	750	127.377	932	209.606	740	143.416
	<i>Tapped wine</i>	201	5.388	370	11.485	1.189	45.630	587	20.834
	<b>Total import</b>	<b>1.286</b>	<b>135.036</b>	<b>1.435</b>	<b>189.768</b>	<b>2.968</b>	<b>337.801</b>	<b>1.896</b>	<b>220.868</b>
	<i>Bottled wine</i>	688	133.914	1.049	172.026	1.758	289.111	1.165	198.350
	<i>Tapped wine</i>	598	1.121	386	17.742	1.211	48.691	732	22.518

The Republic of Macedonia, in accordance with the regulations of the World Trade Organization (WTO) does not grant export subsidies at all, and that refers to the products of the viticulture sector as well.

### Is grape and wine production in the hands of private persons?

The entire production of grapes and wine is in the private sector. The former agriculture combinates (large public enterprises) that used to be in public ownership are now fully privatized. The individual producers (private farmers) cultivate approximately 70 – 80% of the total land under vineyards, and the rest of 20 – 30% is cultivated by legal entities.

### Do wine cooperatives exist and what is their role? Are the farmers' associations (page 103) in fact producer or sectoral organisations?

There are many wine producers' associations on a municipal level, in all municipalities in which viticulture and wine production are the main or one of the key agricultural activities. The individual producers of grapes and small wine cellars are members of these associations. In addition, there is a National Union of grape and wine producers, which unites all the municipal wine producers; associations and functions on a national level.

The objectives of the wine producers' associations are the following:

- Advocating for and defending the interests of grape and wine producers in front of the Government and other institutions;
- Define the purchase price of the grapes and promote a greater profitability in the wine production sector;
- Improve the production quality of the grapes and wine;
- Improve the export;



- Education and training for the grapes and wine producers;
- Procurement of seedling material, production input and agriculture equipment.

Wine producer associations in the Republic of Macedonia, according to their features, functioning and objectives, are, first of all, associations of agricultural producers (farmers). According to the art.14 of the Law on Wine ("Official Gazette of the Republic of Macedonia" No. 69/2004) it foresees establishing such associations of producers of grapes who aim the following:

- Protect and promote the common interests of the members of the association;
- Plan the grape production and adapt to the demand, regarding the quality and quantity attributes;
- Reduce the production expenses and stabilize the production costs, and
- Promote and apply ecologically safe and organic measures for grape production, wine production technology, measures for waste control etc.

### **What is the content of Macedonian rules on wine by-products?**

The definitions for the secondary wine products (wine vinegar, wine lees, crushed grapes, piquette) are adopted from the Regulation 1493/99 of the European Council, as follows:

Wine vinegar - R 1493/99 Annex I. paragraph 19

Wine lees- R 1493/99 Annex I. paragraph 20

Crushed grapes -R 1493/99 Annex I. paragraph 21

Piquette- R 1493/99 Annex I. paragraph 22.

The other provisions of the Law on Wine that refer to the secondary products of wine are as well adopted from the Regulation 1493/99.

The Law on Wine ("Official Gazette of the Republic of Macedonia" No. 69/2004), regulates the following:

#### **Article 17**

It is forbidden to produce wine with excessive stuffing/pressure of the grapes, as well as pressing the wine lees. It is forbidden to produce wine with repeated fermentation of crushed grapes for other purposes except for distillation (R 1493/99 Article 27 Paragraph 1).

#### **Article 18**

Applying filtering and centrifugal force on the wine lees will not be considered excessive pressing, only if:

- The produced products are of healthy, authentic and market quality, and
- The lees are not turned into dry condition.

Producers that have produced wine, are required to deliver the crushed grapes and wine lees for distillation to the facilities that perform distillation or produce vinegar (R 1493/99 Article 27 Paragraph 2 and 3).

#### **Article 20**

The wine and other products intended for direct public consumption, are not allowed to be produced from wine lees or used crushed grapes, with exception of alcohol, spirits and piquette (P 1493/99 article 44 paragraph 8).

The piquette is allowed to use only for distillation or for own consumption of the producer (P 1493/99 article 44 paragraph 9).

Wines for distillation can only be used for distillation (P 1493/99 article 44 paragraph 10).

Grape must in fermentation, extracted from dry grapes, can only be circulated to markets for production of liquor wines and wines produced from overly matured grapes (P 1493/99 article 44 paragraph 11).

Further, all the enological procedures of the European Union that refer to the zone III-C-b are adopted into the Rulebook for Enological Means and Procedures.

So far, there has been no secondary regulation related to secondary products of wine, that would be based on the Law on Wine ("Official Gazette of the Republic of Macedonia" No. 69/2004). According to the provisions of the former Wine Law ("Official Gazette of the Socialist Republic of Macedonia" No. 27/1973), regarding the secondary products of wine that were not called off by the new Law on Wine ("Official Gazette of the Republic of Macedonia" No. 69/2004), the individual producers were not allowed to release for circulation crushed grapes, wine vinegar, vinjac, drozhdenka and wine for further processing.

**Please provide further details on the content of the Law on Wine and the extent to which it is implemented. It would be useful to have a translation into English of this legislation.**

The Law on Wine ("Official Gazette of the RM" No.69/04) entered into force on 15.10.2004. It transposes the EC Council Regulation R 1493/1999.

The Law on Wine regulates:

- the production and trade of wine and grapes and wine products
- the national vineyards register
- the rights and duties of the natural and legal persons that produce and trade wine
- description, designation, presentation and protection of wines

The objectives of the law are:

- protection of the interests of producers and consumers
- good functioning of the wine market
- promotion of the quality of grape and wine products
- adjustment of resources according to the market needs

The Ministry of Agriculture, Forestry and Water Economy is the responsible body for the implementation of Law on Wine, notwithstanding the competencies of the State Market Inspectorate and the Ministry of Health. Control of the application of the Law on Wine performs the State Inspectorate for Agriculture.

The Law on Wine is very general and framelike in its provisions, as it foresees adoption of a lot of acts of secondary legislation.

Having in mind that still no secondary acts are adopted yet, the law is in certain degree non-operational. Until adoption of the new secondary acts the secondary acts deriving from the old Law on Wine ("Official Gazette of SRM" No. 27/73) are in force:

- Rulebook on reorganization of vineyards areas, on conditions for production and trade of grapes, wine, wine products, on determination of quality and protection of geographic origin of wine and their designation in SR Macedonia ("Official Gazette of SRM" No. 12/80)
- Rulebook on quality of wine ("Official Gazette of SFRY" No.17/81)

The following secondary acts are under preparations deriving from the new Law on Wine ("Official Gazette of the RM" No.69/04):

- Rulebook on enological means and procedures applied in the wine production
- Rulebook on methods for analysis of wine
- Rulebook on analysis, superanalysis and examination and evaluation of wine
- Rulebook for registration of vineyards (vineyards cadastre)
- Rulebook for registration of wine producers
- Rulebook for compulsory declaration of grape harvest, wine production and stocks
- Rulebook on wine labelling

The Law on Wine ("Official Gazette of the RM" No.69/04) is enclosed in the 07\_Annex\_02.

**Please provide a clarification of the subsidy for obtaining grape vine planting material. Are the 'direct users' producers of the planting material or those who buy it to establish a vineyard?**

The Ministry of Agriculture, Forestry and Water Economy grants subsidies for foundation of new vineyards (and not specifically for obtaining of grape seedling material).

The amount of the subsidies is determined based on the planted size of the vineyards (in hectares).

The subsidies are distributed/allocated to individuals that have established the new vineyard during the current year.

According to the Programme for Promoting Agriculture Development for year 2004 ("Official Gazette of the Republic of Macedonia" No. 30/2004), during the year 2004, a total of 15 million denars have been granted as subsidies for promotion of establishment of new vineyards, on 500 hectares of land.

According to the Programme for Promoting Agriculture Development for year 2005 ("Official Gazette of the Republic of Macedonia" No. 15/2005), for the year 2005, a total of 45 million denars have been allocated for promotion of the same measure. For the 2005, the assistance from the Programme is increased for 100% and it amounted 60.000 denars per hectare of land.

The establishment of the vineyards is currently underway, and we expect to have established or restored some 800 – 1000 hectares of vineyards in 2005.

**Concerning the vineyard register, are the hardware and software necessary for operation of the system in place? The workflow related to the register (page 88) is not clear. The role of the wineries and their relation to farm holders should be clarified, and the planned functioning explained (it is not usual for wineries to have any role in administration of the register, as appears to be the case).**

The register of the vineyards is still not established – it has been designed and it is in a phase of preparation. For its establishment and functioning we definitely need appropriate hardware and software; for this procurement we already launched a tender; we will also need cadastre maps and orto-photo or satellite images.

At the moment, we have a project for development of a system for monitoring and management of vineyards (Vineyard Monitoring and Management System), whose purpose is preparation and testing of a pilot register of vineyards in the Tikvesh vineyard region (the main vineyard region in Macedonia). According to the calendar of activities of this project, the pilot register of the vineyards should be established and tested during 2006, after which it could be applied to the entire territory of the Republic of Macedonia.

The current system design, as it was described in the answers of the Questionnaire, refers to the pilot project. After the pilot register is established, the system will be tested, and if it is needed, it will be modified.

The key role of the wine cellars in functioning of the system is based on the following circumstance: the central and local administration do not have the capacity and resources to for managing this sophisticated system. The idea is to base this system on the wine cellars, which play a central role in the wine sector. For this purpose in the phase of the pilot project an Agreement for cooperation has been concluded between the Ministry of Agriculture, Forestry and Water Economy and the biggest wine cellar in the Republic of Macedonia "TIKVES" - Kavadarci. The wine cellars enter the data on grape yields, production and reserves of wine on local level, in presence and under control of local agricultural inspectors. After the data will be entered into the system, they are collected in the central computer in the Ministry of Agriculture, Forestry and Water Economy, which will contain the overall information/image of all of the aspects on the field. Access to data is confidential and protected, which allows for protection and secrecy of the data and impartial management with the system.

The next phase of the Pilot project foresees possibility for replacement of the function of the wine cellars with the municipal units of the Ministry of Agriculture, Forestry and Water Economy and agricultural inspectors.

## **TOBACCO**

**Please provide clarifications of the role of the Institute for Tobacco, of the purpose of the foreign investment of \$6.6 million in the tobacco industry 1996-2002, and of the concept that tobacco is a declared 'product of public well-being'.**

Pursuant to the Law on Tobacco ("Official Gazette of the Republic of Macedonia" No. 69/96 and 15/98), the Institute for Tobacco is a registered scientific institution that produces certified tobacco seed material, and the Institute is required to sell it to the tobacco purchasers who supply this seed to the tobacco producers. It also performs control of the tobacco production process, in order to ensure good quality and quantity of tobacco production; further, it controls the quality of fermented tobacco in the Republic of Macedonia, and for export purposes specifically, it performs a permanent control of the quality of tobacco products (cigarettes) and issues certificates for tobacco authenticity and origin.

The concept of declaring the tobacco as a "product of public interest" comes from Article 56 of the Constitution of the Republic of Macedonia, where the natural treasures of the Republic, and the flora and fauna specified by Law are goods of public interest.

Therefore, the concept of declaring the tobacco as a commodity of public interest, pursuant to Article 3 of the Law on Tobacco ("Official Gazette of the Republic of Macedonia" No. 69/96 and 15/98), in which "the tobacco as an industrial plant is a commodity of public interest for the Republic" comes from its national strategic significance.

Tobacco production, and in particular the production of the oriental aromatic tobacco is of great significance for the economic development and the economy of the Republic of Macedonia in general, because it is mainly export-oriented; also, its contribution to the GDP of the country is of great significance.

In addition, the tobacco as labor-intensive crop is of great significance from social perspective, both in the primary production and in the tobacco industry.

Approximately 160 000 producers are occupied with primary production of tobacco, or approximately 8% of the entire country population. Average production of fermented tobacco ranges from 22 000 to 26 000 metric tons, and the average cigarette production in the country amounts to estimated 10 000 metric tons. Approximately 8 000 workers are employed in the tobacco processing industry. The export of fermented tobacco and cigarettes ranges from 80 to 120 million USD, which represents approximately 9.5% of the entire annual export of the Republic of Macedonia.

Preparation of the new Law on Tobacco and Tobacco Products is currently underway, which calls for abandoning the concept of declaring the tobacco as a commodity of public interest for the country.

#### **Data on foreign investment in tobacco industry during the period 1997-2002**

##### **FOREIGN DIRECT INVESTMENT IN TOBACCO INDUSTRY IN THE REPUBLIC OF MACEDONIA**

<b>Year</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>
<b>Total Amount in USD</b>	1,430,263	1,172,565	4,331,217	444,981	264,580	55,837
<b>Money Investment for buying shares of tobacco companies</b>	1,430,263	1,172,565	4,331,217	-	141,568	55,837
<b>Investment in goods</b>	-	-	-	444,981	123,014	-

Source: National Bank of the Republic of Macedonia

**Please provide data on:**

- **Number of growers**
- **Farm structure**
- **Presence of producers' organisations**
- **Varieties grown**
- **Is a quota system in place?**
- **What type of growing contract is being used?**
- **The number of first processors.**

Approximately 40 000 households, or around 160 000 tobacco producers are engaged in the primary tobacco production, which ranges from 22 911 metric tons of raw tobacco in 2002, to 29 368 metric tons in 1999; approximately 8% of the entire country population is occupied in this production.

Tobacco falls in the group of most critical industrial crops – it covers 70% of the entire arable land cultivated with industrial crops, or from 18 100 hectares in 2003, to 24,965 hectares in 1999.

There is a registered Union of Associations of Tobacco Producers that protects the interests of the individual tobacco producers, pursuant to the Law on Tobacco (“Official Gazette of the Republic of Macedonia” No. 69/96 and 15/98); it gives an opinion on the content of the contract before it is signed by the tobacco producers and tobacco purchasers, it is present at the process of assessment of the raw tobacco at point of sale, and provides advice related to production and sale of tobacco.

The following types of tobacco are grown in the Republic of Macedonia:

- small-leaf, oriental, aromatic tobacco – Prilep, Jaka, Dzebel;
- semi-oriental type of tobacco – Otlja, and
- large-leaf tobacco – Barley, Virginia.

Pursuant to Article 10 of the Law on Tobacco (“Official Gazette of the Republic of Macedonia” No. 69/96 and 15/98), the Minister of Agriculture, Forestry and Water Economy determines the overall tobacco production amounts by types of tobacco, with a special decision. Tobacco quantities are determined on an annual basis, at latest by 31 December of the previous year.

Pursuant to Article 14 of the Law on Tobacco (“Official Gazette of the Republic of Macedonia” No. 69/96 and 15/98), the tobacco producer is required to sell the produced tobacco to the purchaser with whom he had previously signed a contract for production and purchase of tobacco. This is an “inter parties” type of contract.

The number of tobacco processing facilities decreases slightly during the period 1999-2004, and it ranges from 24 in 1999, 2000 and 2001, 22 processors in 2002, 10 processors in 2003 and only 10 in 2004.

## **SEEDS**

### **Why has funding been provided only for wheat seed?**

The bread wheat - *Triticum aestivum* L.(vulgare) is most widely cultivated and is considered to be a strategic crop in the Republic of Macedonia; it is grown on a surface of approximately 113 000 hectares, thus occupying 21% of the entire arable land. The average yield for the period 1999 – 2003 was 2 470 kg./hectare. The low average yield is primarily a result of the combined climate and soil related conditions, as well as the applied agricultural and mechanical measures. A significant factor that affects the low average yield is also the low usage of a certified seed material that is used on only 35% of the land cultivated with wheat.

Financial assistance is distributed through the Programme for Agricultural Development in 1999, 2000 and in 2002, for procurement of wheat seed, aiming at promotion of usage of certified seed

material, thus improving the yield per unit of surface, which will contribute to price drop of the mercantile wheat and to improved competitiveness.

After 2002, the production and usage of certified seed material has not been financed, neither for wheat nor for any other agricultural crop.

**Who is eligible for the payment scheme, what requirements have to be met and how are controls on seed material organised?**

The Seed and Planting Material Directorate is the competent body that promotes the usage of certified seed material, and it functions within the Ministry of Agriculture, Forestry and Water Economy. Finances are allocated through the annual programmes for promotion of agriculture development in 1999, 2000 and 2002

In 2001 financing of this measure has not been provided. After 2002, the production and usage of certified seed material has not been financed, neither for wheat nor for any other agricultural crop.

Finances were paid based on concluded contracts between the Seed and Planting Material Directorate of the Ministry of Agriculture, Forestry and Water Economy, and the producers of certified seed material on the other side. The contracts specify the conditions for eligibility to the financial assistance, and the main condition is that the seed material is certified, quality and sanitary safe. Producers of seed material were required to reduce the price of seeds due to the received financial assistance, and to supply seed material at lower prices.

The professional supervision of the production process of seed material is performed by authorised institutions (Institute for Agriculture, Faculty of Agricultural Sciences and Food), and they issue a Certificate of Quality and a Certificate of Sanitary Condition of the produced seed material.

Supervision over the payment of finances is performed by the representatives of the State Agriculture Inspectorate.

**Please provide data on:**

- **The number of growers/seed trade companies**
- **Type of multiplication contracts**
- **Farm structure**
- **Quality control (on the spot checks/certification procedure)**
- **Is aid given to varieties listed in annex XI of Council Regulation 1782/2003?**

***Number of seeds producers/ seeds traders***

Concerning the Law on Seeds, Seedlings and Propagating Materials, and Sort Recognition, Approval and Protection (Official Gazette of the Republic of Macedonia No. 41/00), the producers, processors, importers and traders of seeds and seedling material are required to be entered into the Register, that is maintained by the Seed and Planting Material Directorate of the Ministry of Agriculture, Forestry and Water Economy. As by April 2005, a total of 156 companies have been registered in the Register, as follows:

- A total of 37 companies: producers of seeds and seedling material (cereals, forage, gardening, industrial crops, fruits and viticulture seedling material);
- A total of 24 companies: processors of seeds material (cereals, forage, gardening, and industrial crops);
- A total of 65 companies: importers & exporters of seeds and seedling material (cereals, forage, gardening, industrial crops, fruits and viticulture seedling material);
- A total of 30 companies : wholesale traders of seeds and seedling material (cereals, forage, gardening, industrial crops, fruits and viticulture seedling material);

***Quality control (filed control/certification procedure)***

The entire material of this field/subject is regulated by the Law on Seeds, Seedlings and Propagating Materials, and Sort Recognition, Approval and Protection (Official Gazette of the Republic of Macedonia No. 41/2000).

The producer of seeds material is required to report the production of seeds material to the Seed and Planting Material Directorate of the Ministry of Agriculture, Forestry and Water Economy no later than one month after the sowing has been performed.

Seeds material that is released in circulation must be produced under supervision of an authorised institution, with an appropriate declaration and appropriate packaging.

Field control of the seed plantations is performed by authorised institutions, i.e. by the Seed and Planting Material Directorate of the Ministry of Agriculture, Forestry and Water Economy. Technical personnel of this institution go out on the field, and depending on the crop, they perform inspection and monitor if the plantations fulfill the regulated norms for recognition of seed production plantations (previous crop-rotation, spacious isolation, identity and sort purity, existence of diseases and pests, general plantation condition and estimate of yield). After the performed control (approbation), they issue a "Certificate for Recognition of the Seed Plantation"; besides other information, it contains an estimate on expected yield of seeds material. This certificate may be related to the OECD certificate, however, the OECD certificate only refers to the quantity of seeds that is released to circulation.

Pre-control and post-control tests for sort purity is planned by the Law on Seeds, Seedlings and Propagating Materials, and Sort Recognition, Approval and Protection (Official Gazette of the Republic of Macedonia No. 41/2000), but in practice this control measure is not implemented. Control of sort purity is implemented only after a previously filed request by an interested party.

Examination of seed quality is performed in authorised institutions – laboratories, that need to fulfill certain legal conditions related to technical personnel and other conditions. They issue a "Report on Seed Quality" that outlines the results of their examination of quality properties of the seed, which contains data on the following: unique number of the Certificate for recognition of the seed plantation, plant species, sort, category, batch number, quantity of the batch in kg., seed purity, content of impurity, % energy of germination, % germination of the seed, sanitary condition of the seed.

In the Republic of Macedonia, there is no accredited laboratory for examination of the quality properties of the seeds that is a member of the International Seed Testing Association – ISTA, and that operates under the procedures of ISTA and is authorised to issue an Orange Certificate.

The content of the "Report on Seed Quality" issued by an authorised laboratory is similar to the content of an Orange Certificate – ISTA certificate. However it is not recognized in the international circulation of seeds, due to the reasons mentioned above.

The seed released in circulation must be accompanied by a Declaration for Seed Quality, with an appropriate receipt and invoice.

The packaging of the seed released for circulation is required to have a little "declaration of goods", issued by a processor of the domestic seed or the importer of imported seed, which contains a data of the large Declaration. The large Declaration contains all information about the report on the seed quality, issued by an authorised laboratory.

The large and small declarations (labels) that are attached to the shipments are prepared by the processors of domestic seeds or the importers of imported seeds.

***Is aid given to varieties listed in annex XI of Council Regulation 1782/2003?***

During the period 1999 – 2004, there has been no financial assistance for production of seeds material for sorts of species mentioned in Annex XI of the Council Regulation 1782/2003.

Only the Institute for Rice in Kochani was granted minimal financial assistance in 2003, (550 000 denars), for introduction of new sorts of the species *Oryza sativa* L.

At the same time, through the Programme for Agriculture Promotion, during the period 1999-2003, there has been some financial assistance to the Public Enterprise for Pasture Management for restoration and development of new pastures and meadows, and for procurement of certain species of grass of the families *Gramineae* and *Leguminosae*.

**HOPS**

If there is any production, please provide information on varieties produced and whether they are bitter or aromatic

Hops is not produced in the Republic of Macedonia.

**MILK AND MILK PRODUCTS**

Please provide data on milk deliveries, direct sales and milk consumption on-farm and on the dairy farm structure, i.e by type of production and herd size

The farms for milk production in the Republic of Macedonia have not been differentiated and the production capacities are not being registered. At present, registration is introduced for the animal holdings by the Veterinary Directorate, from the aspect of animal health condition and movement of animals.

Please provide data on production of the main milk products.

**Production of milk and other products of animal origin (1990-2004)**

	Cow milk			Sheep milk	
	Total production of milk	Total cow milk	Production per cow	Total sheep milk	Production per sheep
Year	('000 litre)	('000 litre)	(litre)	(litre)	(litre)
1990	179.946	123.154	1.358	56.792	36
1991	179.479	119.194	1.329	60.285	40
1992	175.790	117.443	1.307	58.347	37
1993	178.030	118.398	1.325	59.632	34
1994	177.179	115.791	1.283	61.388	37
1995	197.834	128.825	1.429	69.009	41
1996	186.639	133.642	1.406	52.997	43
1997	182.663	133.308	1.396	49.355	43
1998	213.208	173.567	1.902	39.641	43
1999	240.331	202.387	2.152	37.944	45
2000	260.400	220.244	2.343	40.156	47
2001	248.390	200.904	2.096	47.486	54
2002	250.057	198.431	2.094	51.626	61
2003	243.999	191.533	2.140	52.466	62

1/ The milk used by the offsprings is not included.

Source: State Statistical Office of the Republic of Macedonia

**Production of cow milk in enterprises and by individual farmers**

Milk production per cow (litres/year)	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
<b>National average</b>	1.358	1.329	1.307	1.325	1.283	1.429	1.406	1.396	1.902	2.152	2.343	2.096	2.094	2.094
<b>Enterprises</b>	4.463	4.394	4.143	4.509	4.422	4.034	3.124	4.177	4.446	4.618	4.855	4.622	4.833	4.833
<b>Individual farmers</b>	1.032	1.013	1.020	1.003	1.005	1.221	1.219	1.225	1.752	2.013	2.209	2.032	1.964	1.964
<b>Individual</b>	23%	23%	25%	22%	23%	30%	30%	29%	39%	44%	45%	44%	41%	41%



farming as a percentage of enterprises														
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Source: State Statistical Office of the Republic of Macedonia

#### Production of sheep milk in enterprises and by individual farmers

Production of milk per sheep (litres/year)	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
National average	36	40	37	34	37	41	43	43	43	45	40	47	61	62
Enterprises	26	28	30	28	34	35	34	31	31	32	43	32	43	37
Individual farmers	37	41	38	35	37	41	44	44	44	46	48	48	62	63
Individual farming as percentage of enterprises	142 %	146 %	127 %	125 %	109 %	117 %	129 %	142 %	142 %	144 %	112 %	150 %	144 %	170 %

Source: State Statistical Office of the Republic of Macedonia

#### What are the prices of raw milk and other milk products?

The purchase price of sheep milk is approximately twice as expensive as the purchase price of cow milk. The largest portion of the produced sheep milk is directly processed on the farm for the purposes of making cheese. The average purchase price in 2003/04 of cow milk at the direct producers was 17 MKD/litre. The average purchase price of sheep milk was 33 MKD/litre and 35 MKD/litre for the years 2003 and 2004 respectively. The average purchase price of goat milk was 15 MKD/litre and 16 MKD/litre for the years 2003 and 2004 respectively and has been stable throughout the year.

Purchase price of milk					
	2000	2001	2002	2003	2004
Cow	17	17	18	17	17
Sheep	34	33	33	33	35
Goat	15	19	15	15	16

Source: State Statistical Office

The average retail price of yellow cheese (produced of cow milk or mixed with sheep milk) exhibits a downward trend in the past four years. In 2001, on average, the price was 410 MKD/kg, in 2003 it was reduced to 339 MKD/kg, followed by additional reduction to 228 MKD/kg in 2004. The average retail price of cheese (mainly sheep cheese) is stable, so that the average price for the period 2000/02 was 222 MKD/kg and in 2003 and 2004, 204 MKD/kg and 210 MKD/kg respectively.

The yoghurt and the fresh milk are the most consumed milk products. The average annual milk consumption per capita for 2003 was 57 litres; sour milk, yoghurt and cream 16 kg, and cheese (including all types of cheese) 12 kg, the consumption of butter in the past few years has been growing, as a result of the reduced price and was 0,6 kg per capita in 2003.

The total milk and dairy products demand on the domestic market for year 2003 is estimated at 116.000 tons of fresh milk (which is a negative trend), 24.400 tons cheese, 32.500 tonnes yoghurt, cream and sour milk and 1.300 tonnes of butter (with a trend of growth). The milk and dairy products consumption at the farming and/or mixed households is estimated at 100.000 tons of milk (equivalent). The total milk and milk products consumption is estimated at 290.000 tons of milk (equivalent). Thus, the domestic milk production on average meets 86% of the domestic demand, while the rest is covered by import of cheese/yellow cheese, milk, butter and other milk products.

Please provide trade data on CN codes 0401-0406

Trade flows (volumes and value) by product category (1999-2003):

a) Imports:

i) from the EU-15;

ii) from Romania and Bulgaria;

iii) from Serbia and Montenegro, Bosnia and Herzegovina, Croatia, and Albania;

iv) from the rest of the world.

b) Exports:

i) to the EU-15;

ii) to Romania and Bulgaria;

iii) to Serbia and Montenegro, Bosnia and Herzegovina, Croatia, and Albania;

iv) to the rest of the world.

Import											
Import into the Republic of Macedonia from EU-15											
Tariff code	Description	1999		2000		2001		2002		2003	
		kg	€	kg	€	kg	€	kg	€	kg	€
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	373.261	246.556	388.302	258.018	90.309	106.756	87.837	113.063	55.616	88.119
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter	347.044	530.665	314.531	472.153	169.894	384.362	230.891	480.446	242.865	468.607
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa	886.027	928.455	963.513	1.107.615	610.567	715.261	699.928	813.129	696.343	780.114
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included	63.000	56.598	10.550	9.573	10.155	11.116	31.001	28.330	57.007	38.181
0405	Butter and other fats and oils derived from milk: dairy spreads	299.856	582.829	352.905	679.146	247.000	478.335	395.046	712.986	571.667	920.958
0406	Cheese and curd	810.920	1.675.863	745.437	1.615.984	527.335	1.182.209	529.283	1.197.167	721.019	1.890.749

Source: State Statistical Office, prepared by the Ministry of Agriculture, Forestry and Water Economy

Import into the Republic of Macedonia from Romania and Bulgaria											
Tariff code	Description	1999		2000		2001		2002		2003	
		kg	€	kg	€	kg	€	kg	€	kg	€

Romania											
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	0	0	0	0	0	0	0	0	0	0
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter	0	0	0	0	0	0	0	0	0	0
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa	0	0	0	0	0	0	0	0	0	0
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or	0	0	0	0	0	0	0	0	0	0

	included										
0405	Butter and other fats and oils derived from milk: dairy spreads	0	0	0	0	0	0	0	0	0	0
0406	Cheese and curd	0	0	0	0	0	0	0	0	0	0
<b>Bulgaria</b>											
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	0	0	0	0	0	0	29.862	16.801	0	0
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter	44.304	52.440	83.500	131.356	10.000	19.462	40.000	59.719	0	0
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa	0	0	0	0	0	0	0	0	0	0
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk	35.024	20.825	16.007	10.122	0	0	0	0	0	0

	constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included										
0405	Butter and other fats and oils derived from milk: dairy spreads	0	0	0	0	0	0	0	0	0	0
0406	Cheese and curd	164.574	170.621	450.430	713.654	446.801	783.979	475.404	854.923	952.263	1.352.827
Source: State Statistical Office, prepared by the Ministry of Agriculture, Forestry and Water Economy											

Import into the Republic of Macedonia from Serbia and Montenegro, Bosnia and Herzegovina, Croatia and Albania											
Tariff code	Description	1999		2000		2001		2002		2003	
		kg	€	kg	€	kg	€	kg	€	kg	€
<b>Serbia and Montenegro</b>											
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	940.446	381.929	1.512.644	590.484	954.580	388.358	852.910	303.074	1.365.318	409.624
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter	0	0	10.010	22.160	62.080	155.317	0	0	209	1.292
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other	8.920	8.758	50.887	60.505	131.664	154.091	173.267	181.260	170.796	177.162

	sweetening matter or flavoured or containing added fruit, nuts or cocoa										
0404	Whey, whether or concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included	0	0	0	0	5.000	5.113	0	0	0	0
0405	Butter and other fats and oils derived from milk: dairy spreads	4.401	8.403	12.738	25.511	18.136	37.887	39.858	103.091	58.336	160.975
0406	Cheese and curd	301.133	794.169	340.501	805.435	256.156	684.373	154.448	386.669	160.795	349.523
<b>Bosnia and Herzegovina</b>											
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	20.160	9.901	0	0	0	0	0	0	3.840	8.487
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter	0	0	0	0	0	0	0	0	576	1.571
0403	Buttermilk, curdled milk and cream, yoghourt,	0	0	0	0	0	0	0	0	195.832	224.846

	kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa										
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included	0	0	0	0	0	0	0	0	0	0
0405	Butter and other fats and oils derived from milk: dairy spreads	0	0	0	0	0	0	0	0	8.610	22.921
0406	Cheese and curd	0	0	0	0	0	0	0	0	6.727	25.900
<b>Croatia</b>											
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	186.213	95.262	70.028	37.800	238.186	124.149	189.288	98.367	387.533	187.002
0402	Milk and cream, concentrated or	59.709	282.128	13.097	59.573	9.009	46.927	0	0	880	1.419

	containing added sugar or other sweetening matter										
0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa	4.800	4.121	7.898	6.899	67.344	84.011	176.006	196.918	140.029	119.817
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included	0	0	0	0	0	0	0	0	0	0
0405	Butter and other fats and oils derived from milk: dairy spreads	7.000	20.511	12.000	34.885	68.486	208.239	38.334	122.195	37.015	115.540
0406	Cheese and curd	248.537	793.466	291.599	898.374	227.435	680.824	259.926	903.732	159.944	576.966
<b>Albania</b>											



0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	0	0	0	0	0	0	0	0	0	0
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter	0	0	0	0	0	0	0	0	0	0
0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa	0	0	0	0	0	0	0	0	0	0
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included	0	0	0	0	0	0	0	0	0	0

0405	Butter and other fats and oils derived from milk: dairy spreads	0	0	0	0	0	0	0	0	0	0
0406	Cheese and curd	0	0	0	0	0	0	0	0	0	0

Source: State Statistical Office, prepared by the Ministry of Agriculture, Forestry and Water Economy

Import into the Republic of Macedonia from the rest of the world											
Tariff code	Description	1999		2000		2001		2002		2003	
		kg	€	kg	€	Kg	€	Kg	€	kg	€
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	5.329.545	2.349.243	6.188.460	2.732.270	1.892.695	844.907	2.300.778	992.217	2.911.790	1.168.192
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter	926.322	1.304.610	948.144	1.811.366	596.410	1.305.528	756.603	1.349.545	588.670	1.089.080
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa	44.025	30.411	23.573	20.647	40.113	31.207	146.273	118.361	114.844	94.143
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added	0	0	101.000	68.033	261.000	195.012	236.000	138.068	288.000	136.051

	sugar or other sweetening matter, not elsewhere specified or included										
0405	Butter and other fats and oils derived from milk: dairy spreads	752.906	972.214	794.968	1.190.712	611.425	959.717	975.252	1.362.869	757.500	969.098
0406	Cheese and curd	382.422	736.482	156.016	294.062	79.092	203.416	123.074	278.866	238.569	442.041

Source: State Statistical Office, prepared by the Ministry of Agriculture, Forestry and Water Economy

<b>Export</b>											
<b>Export from the Republic Macedonia into the EU-15</b>											
Tariff code	Description	1999		2000		2001		2002		2003	
		kg	€	kg	€	kg	€	kg	€	kg	€
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	0	0	0	0	0	0	1.836.280	631.511	3.576.142	1.227.137
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter	0	0	625	511	0	0	0	0	0	0
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa	0	0	0	0	0	0	0	0	0	0
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included	0	0	0	0	0	0	0	0	0	0
0405	Butter and other fats and oils derived from milk: dairy spreads	0	0	0	0	0	0	0	0	0	0
0406	Cheese and curd	0	0	0	0	0	0	3.671	14.526	1.046	5.141

Source: State Statistical Office, prepared by the Ministry of Agriculture, Forestry and Water Economy

<b>Export from the Republic of Macedonia into Romania and Bulgaria</b>
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Tariff code	Description	1999		2000		2001		2002		2003	
		kg	€	kg	€	kg	€	kg	€	kg	€
<b>Romania</b>											
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	0	0	0	0	0	0	0	0	0	0
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter	0	0	0	0	0	0	0	0	0	0
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa	0	0	0	0	0	0	0	0	0	0
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included	0	0	0	0	0	0	0	0	0	0
0405	Butter and other fats and oils derived from milk: dairy spreads	0	0	0	0	0	0	0	0	0	0
0406	Cheese and curd	0	0	0	0	0	0	0	0	0	0
<b>Bulgaria</b>											
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	0	0	1.002	854	0	0	0	0	0	0
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter	0	0	0	0	0	0	0	0	0	0
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa	0	0	0	0	0	0	0	0	0	0
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included	0	0	0	0	0	0	0	0	0	0
0405	Butter and other fats and oils derived from milk: dairy spreads	0	0	0	0	0	0	0	0	0	0
0406	Cheese and curd	0	0	0	0	0	0	0	0	0	0

Source: State Statistical Office, prepared by the Ministry of Agriculture, Forestry and Water Economy

<b>Export from the Republic of Macedonia into Serbia and Montenegro, Bosnia and Herzegovina, Croatia and Albania</b>											
<b>Tariff code</b>	<b>Description</b>	<b>1999</b>		<b>2000</b>		<b>2001</b>		<b>2002</b>		<b>2003</b>	
		<b>kg</b>	<b>€</b>	<b>kg</b>	<b>€</b>	<b>kg</b>	<b>€</b>	<b>kg</b>	<b>€</b>	<b>kg</b>	<b>€</b>
<b>Serbia and Montenegro</b>											
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	1.605.546	757.251	2.657.034	1.136.352	1.019.123	400.483	90.924	30.828	71.956	39.985
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter	19.432	34.063	798	3.032	1.726	1.926	0	0	0	0
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa	15.287	27.248	62.030	64.941	6.280	4.548	0	0	12.056	17.607
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included	10	58	0	0	0	0	0	0	0	0
0405	Butter and other fats and oils derived from milk: dairy spreads	1.957	5.274	7.568	13.913	60	145	0	0	4.358	9.896
0406	Cheese and curd	16.600	73.385	68.448	150.288	100	256	0	0	12.287	50.681
<b>Bosnia and Herzegovina</b>											
0401	Milk and cream, not concentrated nor containing	0	0	0	0	0	0	0	0	0	0

	added sugar or other sweetening matter										
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter	0	0	126	967	0	0	0	0	0	0
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa	0	0	0	0	0	0	0	0	0	0
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included	0	0	0	0	0	0	0	0	0	0
0405	Butter and other fats and oils derived from milk: dairy spreads	0	0	0	0	0	0	0	0	0	0
0406	Cheese and curd	0	0	0	0	0	0	0	0	0	0
<b>Croatia</b>											
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	0	0	0	0	0	0	0	0	0	0
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter	0	0	0	0	0	0	0	0	0	0
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter	0	0	0	0	0	0	0	0	0	0

	or flavoured or containing added fruit, nuts or cocoa											
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included	0	0	0	0	0	0	0	0	0	0	0
0405	Butter and other fats and oils derived from milk: dairy spreads	0	0	0	0	0	0	0	0	0	0	0
0406	Cheese and curd	0	0	0	0	0	0	0	0	850	4.156	
<b>Albania</b>												
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	0	0	0	0	0	0	16.716	8.390	2.880	1.325	
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter	1.200	7.550	0	0	0	0	0	0	2.500	750	
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa	0	0	0	0	0	0	0	0	0	0	0
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or	0	0	0	0	0	0	0	0	0	0	0

	included										
0405	Butter and other fats and oils derived from milk: dairy spreads	0	0	0	0	0	0	0	0	32.350	33.950
0406	Cheese and curd	0	0	0	0	0	0	0	0	0	0

Source: State Statistical Office, prepared by the Ministry of Agriculture, Forestry and Water Economy

<b>Export from the Republic of Macedonia into the rest of the world</b>											
Tariff code	Description	1999		2000		2001		2002		2003	
		kg	€	kg	€	kg	€	kg	€	kg	€
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	5.559	3.020	2.167	1.840	0	0	0	0	6.252	3.935
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter	0	0	0	0	0	0	0	0	0	0
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa	0	0	0	0	0	0	0	0	0	0
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included	0	0	0	0	0	0	0	0	0	0
0405	Butter and other fats and oils derived from milk: dairy spreads	0	0	0	0	0	0	0	0	9.302	30.410
0406	Cheese and curd	730	1.493	0	0	12.379	29.358	0	0	6.101	24.872

Source: State Statistical Office, prepared by the Ministry of Agriculture, Forestry and Water Economy



## 08. Fisheries

### **Do you intend to set up a unit in the Ministry of Agriculture, Forestry and Water Economy to deal specifically with fisheries issues (market and structural policy)?**

Responsibilities with regard to the implementation and control over the implementation of the legislation in the fisheries sector are defined in the Law on Organisation and Operation of the State Administrative Bodies (Official Gazette of the Republic of Macedonia No. 58/00 and 44/02), and refer to the Ministry of Agriculture, Forestry and Water Economy, Ministry of Economy and Ministry of Health.

Taking into account the extremely low share of fisheries in the GDP, part of the policy in the fisheries sector (use of fish fund from open fishery waters) is carried out under the Sector of Agriculture, i.e. Livestock Unit, which is responsible for the fisheries issues, apart from livestock and apiculture (beekeeping).

There is no framework on the basis of which disadvantages are identified, as well as future markets development for agricultural products, including fish and fish products, and there is no appropriate legal and functional structure.

According to the National Programme for Approximation of the national Legislation to the legislation of the European Union, Action Plan for European Partnership and Strategy for Adaptation of Macedonian Agricultural Food Sector towards EU Common Agricultural Policy (CAP), harmonisation of the legal framework in this area has been envisaged to take place by 2007, i.e. it has been planned to prepare and adopt a Framework Law on Agriculture, which will establish grounds for regulation, *inter alia*, of market policy in fisheries.

There are no comprehensive plans for changes in the present organisational structure of fisheries in the Republic of Macedonia. The need to set up a new unit to deal with fisheries will result from the analyses of the needs for preparation and adoption of new legislation on fisheries.

### **Are there any plans with regard to the promotion of the fisheries sector, in particular by developing aquaculture and the processing and marketing of fish?**

Preparation and adoption of the new Law on Fisheries (IV/2007), according to the plans, will incorporate the overall fish fund management in the Republic of Macedonia.

Namely, the referred law, apart from the planned exploitation (use in a sustainable manner) of the fish fund from open fishery waters (natural lakes, man-built accumulations and rivers and their tributaries through fishing), will incorporate the aquaculture issue, i.e. fish breeding (fish fund) under strictly controlled conditions (in fish ponds, semi-ponds and cages). By this, the development of aquaculture will be promoted and new possibilities for this branch growth will be established, with regard to which no detailed plans have been elaborated yet.

## 09. Transport policy

**Please provide additional information on any special arrangements between the Government and MAT, the national carrier, which are still valid Is there a timetable for removing such arrangements?**

The only special arrangement is the Agreement for Regular Air Carrier, signed on 26<sup>th</sup> June 2000, between the Government of the Republic of Macedonia, represented by the Minister of Transport and Communications, and the JSC Macedonian Airlines (MAT), and Annex No 1 to the same Agreement, signed on 9<sup>th</sup> November 2001.

Pursuant to point 7 of the Agreement "The Minister, on behalf of the Government, with this Agreement appoints MAT for regular national carrier, according to each of the bilateral agreements stated in sections 2 and 3 of Annex B".

In connection with the timetable for removal of this arrangement, we emphasise that the following is stated in point 5 of the Agreement "This Agreement is valid for a period of 10 years as of the date of its signing, and it may be terminated by written denunciation by any of the contractual parties, at least 6 months before the agreement expires due to any reasons, and if not it shall be considered that the agreement has been extended in a silent manner for the period of the following two years". The Government, in October 2004, brought a Decision for deleting point 3.4 of the Annex No 1 to the Agreement, which Decision is disputed by MAT through a court procedure.

Negotiations on the possibility of revision of the Agreement are ongoing between the Government of the Republic of Macedonia and JSC Macedonian Airlines (MAT), which are expected to be completed by the end of 2005.

### **13. Social policy and employment**

#### ***Public employment service (PES)***

##### **General:**

##### **What is the operational management structure of the PES?**

The Employment Agency of the Republic of Macedonia is the only service that conducts professional, administrative and technical, accessory and other activities in the area of employment. According to the Rulebook on Organisation and Work of the Employment Agency of the Republic of Macedonia, adopted in November 2004 and in force as of 1<sup>st</sup> of January 2005, its operational management structure consists of:

- Central Service of the Employment Agency;
- Employment Centre of the City of Skopje, and
- Employment Centres for the territory of one or more municipalities.

The work and tasks of the Employment Agency of the Republic of Macedonia are conducted in organisational forms.

The Central Service of the Employment Agency has 8 organisational forms established:

- Office of the Director;
- Sector for Active Employment Policies;
- Sector for Human Resources, Legal and Personal-Administrative Issues;
- Sector for Finances and Accounting;
- Sector for Research and Labour Market Analysis;
- Sector for Insurance and Rights in Case of Unemployment;
- IT Sector; and
- Unit for Internal Audit.

There are 3 departments in the Employment Centre of the City of Skopje:

- Department for Front-Office Employment Services;
- Department for Employment Support Services; and
- Department for Legal and Administrative Services.

In the other 29 employment centres on the territory of one or more municipalities the work and tasks are conducted as one organisational form.

In 8 Employment Centres in Bitola, Veles, Kumanovo, Stip, Ohrid, Prilep, Strumica and Tetovo there are inter-municipal teams for performing certain function of the scope of the Employment Agency of the Republic of Macedonia. Their scope of work refers to the employment centres where the inter-municipal team functions for the neighbouring employment centres.

The inter-municipal teams conduct activities and tasks that relate to:

- Vocational orientation;
- Coordination of training, retraining or additional training;
- Research and analysis of the local and regional labour market;
- Marketing and information;
- Support in legal and other administrative services; and
- IT activities.

The Employment Agency of the Republic of Macedonia and the professional service is run by Director.

The Director of the Employment Agency of the Republic of Macedonia has a Deputy.

The Director of the Employment Agency of the Republic of Macedonia organises and manages the work, independently brings decisions in the scope of his jurisdiction, represents the Agency in front of third party and is responsible for the legality of activities. The Director performs other activities as well in accordance with Law and the Statute of the Employment Agency of the Republic of Macedonia.

There are heads of the Office of the Director, the six sectors and the Department for Internal Audit at the Central Service of the Employment Agency.

The heads of the Office of the Director, the six sectors and the Department for Internal Audit directly manage the afore mentioned organisational forms of the Central Service, organise, direct and coordinate their work and conduct direct control and supervision over the execution of activities and tasks under their competence.

The 30 employment centres are run by managers.

The managers of the employment centres organise, direct and coordinate the activities of the Employment Centres and conduct direct control and supervision over the execution of activities and tasks under their competence.

Considering the volume and complexity of the tasks performed at the employment centre of the City of Skopje, there is a Deputy Manager.

The heads (management workers) of the sectors at the Employment Agency of the Republic of Macedonia directly report to the Director of the Employment Agency of the Republic of Macedonia on their work and the work of the organisational form.

The work of the departments of the Employment Centre of the City of Skopje is coordinated by advisors-coordinators who report to the employment centre manager on their work and do not have the status of management workers.

The inter-municipal teams are managed by the manager of the employment centre where the team functions. The coordination of their work is done by the head of the appropriate organisational form of the Central Service of the Employment Agency.

The Employment Agency of the Republic of Macedonia is managed by Management Board.

The Management Board consists of nine members of professionals with knowledge or experience in the area of employment. Five of them are appointed by the Government of the Republic of Macedonia, and two members are appointed by the organisation of employers and two by the organisation of the majority trade union. The Management Board members are elected for a mandate of 4 years, with the right to be re-elected.

The Management Board of the Employment Agency has the following responsibilities:

- Adopts statute and other acts;
- Adopts a programme and plan of activities;
- Adopts acts for organisation and work of the Employment Agency and a general act for systematisation of activities of the Employment Agency;
- Reviews the budget and adopts the annual statement of the Employment Agency;
- Manages the Employment Agency funds;
- Decides on taking measures for creation of conditions for employment of the unemployed;
- Decides on utilisation of the Employment Agency funds;

- Monitors meeting of obligations from international conventions and bilateral agreements in the area of employment;
- Reviews issues, reports, information and other materials related to the conditions and problems in the area of employment and unemployment and other issues under the jurisdiction of the Employment Agency;
- Takes measures for provision and function of the information system in the area of employment;
- Establishes committees and other workgroup bodies;
- Submits a report on its work and the work of the Employment Agency at least once a year to the Ministry competent for labour issues and the Government of the Republic of Macedonia; and
- Decides on other issues determined by law and the Statute of the Employment Agency.

**Do the 30 local employment centres provide sufficient capacity to cover the needs of the entire territory?**

The employment centres are established for the territory of one or more municipalities. Taking into consideration that the Republic of Macedonia is a small country with over 2 million inhabitants and dominant number of municipalities with relatively small number of inhabitants, the existing 30 local employment centres have sufficient capacity to fully meet the needs of the entire territory and with quality. Considering the concentration of the population in Skopje, the employment centre of the City of Skopje has additional organisational forms that optimally meet the needs of the total area of the City.

**Is there sufficient and trained staff?**

The Rulebook on Systematisation of Jobs at the Employment Agency of the Republic of Macedonia adopted on November 2004 and enforced as of 1<sup>st</sup> of January 2005, foresees 548 workers (not including the Director of the Employment Agency of the Republic of Macedonia and the Deputy Director). At 31<sup>st</sup> of March 2005, there were 508 employees, including the Director of the Employment Agency of the Republic of Macedonia and the Deputy Director.

Our opinion is that the number of workers planned with the systematisation of jobs is sufficient for optimal and qualitative execution of activities and tasks of the Employment Agency. This will completely be achieved after full employment of workers for the determined positions.

The Employment Agency of the Republic of Macedonia has relatively well-trained staff. Nevertheless, the training process of the personnel is continuous. In order to strengthen the capacity of the human resources of the Employment Agency professional service and improve the skills of the employment service for implementation of various active labour market measures (ALMM), two types of training were conducted in the last two years:

1. Group: Training of the employment service on strengthening the human capacity:
  - Seminars on raising awareness (9 seminars, trained total of 427 employees);
  - Client-focused services (4 seminars, trained total of 80 employees);
  - Employment counselling (3 seminars, trained total of 36 employees);
  - Management (3 seminars, trained total of 36 employees).
2. Group: Training on improvement of skills of the employment service for implementation of various ALMM:
  - Local labour market research (3 seminars, trained total of 60 employees);
  - Active labour market measures (3 seminars, trained total of 60 employees);
  - In addition to these seminars, there was training on Labour Market Analysis conducted for 18 employees.

**What is the overall staff-client ratio?**

The ratio between the total number of the registered unemployed at the Employment Agency of the Republic of Macedonia (state on 31<sup>st</sup> March 2005 - 389,412) and the total number of employees of the professional service of the Agency (state on 31<sup>st</sup> March 2005 - 508) is 766 unemployed persons-clients per an employee of the professional service of the Employment Agency of the Republic of Macedonia.

**What percentage of staff are assigned to job-seeker counselling, excluding benefit payment functions?**

In the professional service of the Employment Agency of the Republic of Macedonia the staff assigned to job-seeker counselling, i.e. active policies for employment of the unemployed is 51.77% out of the total number of the Employment Agency staff.

**What staff training measures are in place?**

The Employment Agency of the Republic of Macedonia is currently working on development of a Programme on training and education of the professional service employees whose aim is to meet the obligations arising from their jobs in a more qualitative manner. The Programme will include the employees of the Sector for Active Employment Policies, the Sector for Research and Labour Market Analysis, the IT Sector, the Sector for Unemployment Insurance and Rights and the staff of the employment centres working on activities and tasks in these areas.

**Is there a system of management by objectives/performance management in place?**

The Rulebook on systematisation of jobs of the Employment Agency of the Republic of Macedonia in force as of 1<sup>st</sup> January 2005 defines the activities and tasks of each Agency employee with a list and description of their tasks and duties. It closely determines all tasks and duties of the job the employee is assigned to, which he/she should and is obliged to perform.

The Employment Agency Professional Service plans and organises the tasks and duties for more efficient and appropriate implementation of the programme and the work plan thereof.

Each Professional Service employee is obliged to perform his/her tasks conscientiously, professionally, impartially, efficiently and on time in accordance with the law and within the given orders and instructions for work.

The monitoring of the realisation of tasks and duties is conducted by the responsible workers managing the organisational form, by regular review of the quality and volume of the performed tasks and duties.

Matters of principle and other important issues under the competence of the Employment Agency of the Republic of Macedonia are reviewed during management staff meetings.

The narrow management staff consists of the Director of the Employment Agency of the Republic of Macedonia, the Deputy Director, the head of the Office of the Director and the heads of sectors and the department.

During management staff meetings, other professional workers may be invited for certain issues on the agenda. The broad management staff consists of the narrow management staff and the employment centres' managers. The narrow management staff meetings are held at least once a month, while the broad management staff meetings are held at least once in three months.

The management staff meetings are called and chaired by the Director of the Employment Agency of the Republic of Macedonia.

**How is monitoring of the unemployed being carried out?**

Monitoring of the registered unemployed at the Employment Agency of the Republic of Macedonia is being carried out by their regular reporting within the timeline determined by the Law on Employment and Insurance in case of Unemployment (Official Gazette of the Republic of Macedonia Nos. 37/97, 25/00, 101/00, 50/01, 25/03, 37/04 and 4/05).

The unemployed registered at the Employment Agency of the Republic of Macedonia are obliged to report personally every 30 days if they have the right to financial benefit and the right to health care. If they have the right to health care only, they are obliged to report every 60 days. An unemployed person who does not use any benefits is obliged to report every 4 months and inform the Professional Service on the type of services they require from the Employment Agency of the Republic of Macedonia.

If the unemployed person does not report to the Employment Agency of the Republic of Macedonia due to unjustifiable reasons, they lose the right to financial benefit and health care and are cleared from the records of the unemployed and can be re-registered after one year, i.e. 2 years. The unemployed person is also obliged to reply to invitations by the Employment Agency. In case the unemployed person does not reply, he/she is no longer registered as unemployed.

**Have you developed any methodological tools (e.g. counselling process, matching labour supply and demand)?**

The Employment Agency of the Republic of Macedonia has developed several types of methodological techniques and instruments for counselling, labour market, training, etc. To be more specific, these are implemented in the following aspects of the Agency activities:

- WEB page – electronic labour exchange;
- Labour market research;
- Labour market information;
- Active measures for employment and training;
- Employment mediation;
- Administrative and technical procedures for employment mediation;
- Employment counselling (job clubs);
- Interviews with the unemployed;
- Methodological instruments for vocational orientation and selection;
- Register of the unemployed and the employers;
- Methodological instruments for relations with employers.

**Has an analysis of the needs of the PES been carried out on the basis of supporting quantified data?**

According to the Rulebook on systematisation of the positions in the Employment Agency of the Republic of Macedonia, as it has been emphasised, a total of 548 executive officers are foreseen. A total of 508 of them are employed by 31.03.2005, including the director of the Employment Agency and the deputy director.

In the Central Office of the Employment Agency of the Republic of Macedonia a total of 7 positions for executive officers are vacant in:

- The Office of the Director- 2 executive officers;
- The Sector for Active Policies- 2 executive officers;
- The Sector for Human Resources, Legal and Personal-Administrative Issues- 1 executive officer;
- The Sector for Insurance and Rights in Case of Unemployment- 1 executive officer;
- The Unit for Internal Audit- 1 executive officer;

In the employment centres of the Employment Agency of the Republic of Macedonia a total of 35 positions for executive officers are vacant in:

- Employment centre of the city of Skopje 5 executive officers;
- Employment centre of the city of Bitola 2 executive officers;
- Employment centre of the city of Veles 3 executive officers ;
- Employment centre of the city of Kumanovo 3 executive officers;
- Employment centre of the city of Ohrid 1 executive officer;
- Employment centre of the city of Prilep 1 executive officer;
- Employment centre of the city of Strumica 2 executive officers;
- Employment centre of the city of Tetovo 3 executive officers;
- Employment centre of the city of Stip 4 executive officers;
- Employment centre of the city of Gevgelija 2 executive officers;
- Employment centre of the city of Debar 1 executive officers;
- Employment centre of the city of Kavadarci 1 executive officers;
- Employment centre of the city of Krusevo 2 executive officers;
- Employment centre of the city of Makedonski Brod 1 executive officer;
- Employment centre of the city of Probistip 2 executive officers;
- Employment centre of the city of Resen 1 executive officer;
- Employment centre of the city of Sveti Nikole 1 executive officer;

The analysis of the needs in the section for human resources shows that the Professional Service of the Employment Agency of the Republic of Macedonia cannot fully respond to the appointed work assignments with the permanent number of executive officers. For this reason we deem that if all vacancies of executive officers are filled, in compliance with the Rulebook on systematisation of positions, the Employment Agency of the Republic of Macedonia will have the capacity and will be able to meet the assignments of their own scope of work in a more qualitative and efficient manner.

#### ***Resources and IT:***

**Are public offices modernised with good self-service ICT-based facilities? Please describe the facilities.**

In the Employment Agency of the Republic of Macedonia there are no self-service ICT-based facilities.

**Are PES public offices located in disadvantaged areas?**

As mentioned previously, the employment centres are established for the territory of one or more municipalities and cover the entire territory of the Republic of Macedonia. Therefore one part of the employment centres is located in the underdeveloped areas of the country.

**Are computers available to all staff?**

Every employed person in the Employment Agency of the Republic of Macedonia has a PC. In the course of 2004 with support by the World Bank and the CARDS project the process of technical equipping of the employment service was completed. The sectors that have primary function, the sector for active employment policies and the central service, were initially targeted. The Employment Agency of the Republic of Macedonia is one of the well equipped public services in the country.

**What kind of dedicated PES database and website are in place?**

The Employment Agency of the Republic of Macedonia operates with database of:

- the unemployed;



- job vacancies;
- employers who have asked for service from the Employment Agency – with the data necessary for the Employment Agency;
- registered employment and termination of employment;
- employment contracts.

The Web site of the Agency is: [www.zvrm.gov.mk](http://www.zvrm.gov.mk) (www.employment.gov.mk is under construction)

**Are all national job vacancies displayed on publicly available computer terminals?**

All job vacancies reported to the Employment Agency of the Republic of Macedonia are regularly presented on the web page of the Agency ([www.zvrm.gov.mk](http://www.zvrm.gov.mk)). From the web site, these are publicly available to all interested persons.

**What job coding system is in use?**

The old coding system for the working positions has been used up till now. In the course of 2005 we will start using the National Classification of Occupations, published by the State Statistical Office (ISCO 88).

**Are all offices linked to a central database? If so, describe.**

All 30 local employment centres have their LAN, Database server and database (SQL). All 30 employment centres are linked through IP/VPN to the Employment Agency of the Republic of Macedonia, with a central server which integrates data from the local bases in one central database (through replications).

**Is there a computerised management information system available where data on all front-office and back-office activities are easily accessible and analysed? E.g. job seeker action-planning data, breakdown by different client groups, age etc.**

All front-office and back-office data systematized in a database are easily accessible for processing and analysis. The database structure enables preparation of an action plan for each job-seeker by his/her demographic and socio-economic characteristics (age, sex, education, occupation, special skills, etc.)

***Implementation of programmes (framework, responsible bodies, financing, monitoring):***

**In general, information on financing and monitoring is lacking. If available, please provide additional information.**

The Employment Agency of the Republic of Macedonia implemented or as an active partner participated in several projects during 2004. The goal of the projects was creating conditions and employment opportunities for the unemployed:

**Project “Technical Support for Institutional Building as Employment Policy Support” CARDS Programme (financed by the European Union through the European Agency for Reconstruction).**

This European Union project is being implemented in the country by the European Agency for Reconstruction. The project is directed towards:

- development of a coherent system for development and implementation of employment policy with active participation of the social partners and institutions involved in the labour market development.

- strengthening of physical and human resources capacities of the Employment Agency and the network of the local employment centres for implementation of active employment measures.
- identification and implementation of pilot or micro-projects.

**Project “Programme for Municipality Support”** (financed by UNDP-UN Development Programme)

In accordance with the signed Memorandum of Co-operation between the Employment Agency of the Republic of Macedonia and UNDP, the Employment Agency is included in the implementation of the “Programme for Municipality Support”.

**Project: “Programme for Municipality Support”** by UNDP, financed by the Government of Norway.

The first phase of this project was carried out in the course of 2004. The second phase has already started and it will last until April 2005. During the first phase 76 projects in 70 municipalities were implemented. The activities of this phase included large number of training sessions for occupations for 699 trainees, whereas 648 were employed.

The Employment Agency of the Republic of Macedonia was actively involved in the project activities of performance monitoring of the project results.

**Project “Social Infrastructure III”** (financed by the German Government through the Credit Bank for Reconstruction KfW)

The Employment Agency of the Republic of Macedonia and the employment centres have participated in the following programme activities:

- Providing the necessary information for municipality partners;
- The employment centres helped in the selection of persons to be included in programmes, recommending unemployed persons with low education level and registered unemployed persons for a longer period of time
- Co-operation between the employment centres’ managers and the mayors of municipalities in order to achieve better cooperation in terms of monitoring the regularity and engagement of the unemployed while carrying out their jobs.

**Project “Development of Modular Training Implementation, Oriented to Employment in the Balkan Region”** (financed by INVENT and the German Government).

The tasks of this project are preparation and implementation of modular training of human resources for the existing and the future needs of employers, so that the trainees could be actively involved in the labour market after completion of training.

**Project “Encouraging the Decentralised Structures”** (financed by INVENT and the German Government).

The programme of this project contributes to initiation and promotion of the decentralisation process, by supporting the management development, as well as by capacity building for providing services to public and private rural organisations and institutions in partner countries.

**“Project for Social Protection”** (financed by the World Bank and the Government of the Republic of Macedonia)

During 2004, the Employment Agency of the Republic of Macedonia joined and participated as active partner in the implementation and monitoring of the Project for Social Protection.

**“Decade of Roma Inclusion (2005-2015)”** (financed by the Government of the Republic of Macedonia and international donors).

In order to enhance the integration process of the Roma population in the society, eight South-Eastern European countries have adopted the document "Decade of Roma Inclusion".

Each of the countries signatories of the document has established a national group which among other activities had a task to prepare an action plan for the decade. The selected priority development areas for more successful Roma integration in all social areas are education, employment, health, and housing. The National Working Group has prepared 4 action plans adopted by the Government of the Republic of Macedonia.

The responsible body for implementation of the Decade activities is the Ministry of Labour and Social Policy. The Employment Agency of the Republic of Macedonia has a resident member of the National Working Group.

**What occupational social security schemes (in contrast to statutory social security schemes) exist in your country?**

The Law on Pension and Disability Insurance regulates the obligatory pension and disability insurance based on generation solidarity, the bases for mandatory fully-funded pension insurance by which in conditions of multi-pillar pension system the basic principle in the Republic of Macedonia is respected according to which the pension system includes all employed persons and physical entities performing an activity.

In the Republic of Macedonia there is a general system of pension and disability insurance and the rights of all categories of policy holders are provided in a unique manner. The policy holders of the Ministry of Defence and in service of the regular Army of the Republic of Macedonia and the policy holders of the Ministry of Interior, the Ministry of Justice, and penitentiary institution, there are certain privileges for obtaining the right to age pension, acquired under special conditions.

The Law on Pension and Disability Insurance does not provide for professional social security schemes.

**Do the pensions provided for groups mentioned in II.B.2 of the replies to the Questionnaire depend on the length of service, and is the pension calculated with reference to the employee's last salary?**

The Law on Pension and Disability Insurance provides more favourable conditions for determining the age pension for this category of policy holders (the Ministry of Defense and in service of the regular Army of the Republic of Macedonia and the policy holders of the Ministry of Interior, the Ministry of Justice, and penitentiary institution) in case of employment termination due to the needs of the service, besides the determined privileges for age and length of service, to execute the age pension right.

The age pension calculation for these holders is: 62% of the pension basis for 25 years length of service for men, i.e. 65.6% of the pension basis for women, increasing the percentage by 1.2% of the pension basis for each coming year until 40 years length of service (men), i.e. 1.44% of pension basis for each coming year until 35 years length of service (women), so that the age pension can not exceed 80% of the pension basis.

This category of policy holders execute the age pension right with 25 years length of service and percentage higher than the percentage of the other policy holders who for the same length of service receive age pension in amount of 53% (men), i.e. 62% (women) of the pension basis.

The pension basis is calculated from the monthly average of salaries paid during the insurance period, starting as earliest as of 1<sup>st</sup> January 1970. The pension calculation from the last salary paid before the execution of the age pension right was applied with regulations in force to 31<sup>st</sup> December 1993.

The privileges for determining age pension come from the broad importance and interests of duties performed by these persons.

***Disability:***

**We would appreciate to receive more detailed information on the situation in your country regarding disability. You can obtain an idea of the direction in which the EU is moving from a Communication which sets out EU priorities for disability up to 2010: Communication from the Commission, "Equal Opportunities for People with Disabilities: A European Action Plan", COM(2003)650 final of 30 10.2003.. More specifically, does a National Plan on Disability exist? If not, when does your Government intend to launch a National Plan or Strategy on Disability?**

The National Strategy on Equal Opportunities for People with Special Needs in the Republic of Macedonia is a document adopted by the Government of the Republic of Macedonia in 2001 and it is based on thorough observation, analysis and special need for making adequate decisions for protection, education, rehabilitation, training and employment of people with special needs with regard to:

- Prevention, early detection, early diagnosis and early treatment
- Health care and availability of medical care and devices
- Social protection
- Pre-school and primary education
- Secondary vocational education
- Higher education for all persons with special needs who are capable of attending programmes
- Job training and employment/first phase of the EU Disability Action Plan/ Directive 2000 of 27 November 2000
- Providing income and social security
- Housing and creating conditions (in families, centres for half-day and full-day care, out-patient care in institutions for social care with small capacities and in flats for living in small groups of people with disabilities)
- Family life
- Cultural and entertainment activities
- Recreation and sport
- Elimination of architectural barriers in the public facilities under the motto "Accessible to Everybody"
- Religion
- Raising the public awareness for the needs of people with special needs and promotion of anti-discriminatory policy

The programme tasks of the Ministry of Labour and Social Policy are based on the National Strategy on Equal Opportunities of the People with Special Needs in the Republic of Macedonia. According to that, every year the Ministry prepares programme of activities needed for better protection of the rights of people with disabilities:

***1. Social care***

reforms in the system of social care i.e. development of social security system by adopting a social programme for care and support of the people with development impediments.

***2. Child care***

regular care of the children with development impediments in the kindergartens and pre-school institutions.

3. *Primary, Secondary and Higher Education*

programming of adequate and adapted educational system for all children and people with development impediments regardless of the degree of impediment and their integration in this system.

4. Employment and Insurance in case of unemployment

employment promotion and increase of the number of people with development impediments in shelter organisations, where they will be properly and professionally engaged.

The Ministry of Labour and Social Policy is implementing the CARDS programme which treats the employment of the disabled in a part of the Employment Action Plan of the Republic of Macedonia.

5. *Amendments to the legislation in all fields concerning the needs of people with special needs* which implies improvement of the rights of the people with special needs.

6. *Process of Deinstitutionalisation* of the people with development impediments who live in public institutions for social care in the Republic of Macedonia, that began in 2003 and will intensively continue in 2005–2010 by network development of alternative services in the local community in order to completely integrate and include these people in the society.

7. *Cooperation and support of the programmes for work of the Association of the Disability Organisations in the Republic of Macedonia* which includes 7 National associations: Association of the Blind, Association of the Deaf and Hearing Impaired, Association of Physically Handicapped Persons, Republic Centre for Support of Persons with Mental Handicap "PORAKA" ("Message"), Association of War Invalids, Association for Sport and Recreation of the Disabled and Association of Labour Invalids.

International Cooperation and Membership

- *The Association of Disability Organisations of Macedonia* is a candidate for membership in the **European Disability Forum** – Brussels.
- *The Association of the Blind of the Republic of Macedonia*
  - **Balkan Consultative Committee**
  - **Europe Blind Union**
  - **World Blind Union**
  - **IBCA - International Blind (Braille) Chess Association**
  - **IBSA - International Blind Sport Association**
- Association of the Deaf and Hearing Impaired in Macedonia
  - **WFD - World Federation of the Deaf**  
Full-time member of the World Federation of the Deaf in Helsinki – Finland
  - **CERS - Central European Regional Secretariat of the World Federation of the Deaf**  
Regional Secretariat of the World Federation of the Deaf, headquarters in Prague, the Czech Republic
  - **CISS - Comité International Des Sports Des Sourds**  
International Committee of Sports for the Deaf  
Full-time member of the World Sport Federation of the Deaf, headquarters in the USA
  - **EDCO - European Deaf Sport Organization**  
Full-time member of the World Sport Federation of the Deaf, headquarters in Essen - Germany
- *The Association of Persons with Physical Disability in Macedonia*

- Candidate member of **FIMATIC - International Federation of Persons with Physical Disability**  
International Federation of Persons with Physical Disability, headquarters in Bonn
- Candidate member of the **European Disability Forum** –headquarters in Brussels
  
- *Republic Centre for Support of Persons with Intellectual Disability, "PORAKA"("Message")*
- **Inclusion Europe** - headquarters in Brussels
- **Inclusion International** - headquarters in London
- **European Association of Service Providers for Persons with Disabilities (EASPD)** - headquarters in Brussels
  
- *Association of War Invalids in Macedonia*
- **European Union of WAR Invalids** – European Union of Civilian War Invalids headquarters in Ljubljana
  
- *Federation for Sport and Recreation of the Disabled in Macedonia*
- **International Olympic Committee** – headquarters in Bonn
  
- *Association of Labour Invalids in Macedonia*
- **FIMITIC** – International Organization of Labour Invalids, headquarters in Berlin – Germany

8. Ratification of agreements that promote and improve the rights of persons with special needs adopted by the European Council and the International Labour Organisation:

1. Convention for the Protection of Human Rights and Fundamental Freedoms - 10.04.1997
2. European convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment - 06.06.1997
3. European Social Charter - 07.12.2004
4. European Convention on Exercise of Children's Rights - 15.01.2003
5. Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) - 17.11.1991

**Public health:**

**As regards the replies to the questions about "Decision 2002/1786/EC adopting a programme of Community action in the field of public health (2003-2008)", we were basically interested whether or not your country can take part in our public health programme Please indicate whether any plans have been made in this regard.**

The Republic of Macedonia considering the up-to-date commitments for health care development, especially for the development of public health and the several implemented and started activities in context of the Decision 2002/1786/EC related to adoption of the Programme of Community Action in the field of Public Health (2003-2008), has an interest to participate in the Programme of Community Action in the field of Public Health 2003-2008.

In addition to this the following activities take place:

The current reforms of the Health System, the Ministry of Health, the Health Insurance Fund – within the Project of Health System improvement financially supported by a loan from the World Bank, the process of decentralisation, especially of the public health functions, have imposed the need for

reorganisation and modernisation of the Republic Institute for Health Protection and other health protection institutes as institutions responsible for monitoring and protection of the public health, so they would be able to function more effectively in the reformed system for health protection, within the modern public health and according to the recommendations of the Decision 2002/1786/EC:

- An expert team is formed for modernization of the Republic Institute for Health Protection and the Institutes for Health Protection (experts in public health with experience in the reforms of the health system financially supported by a World Bank loan), who has prepared a Programme for Public Health and project proposals to be financed by the Health Insurance Fund, as well as other institutions and donors (project for inter-personal violence, diabetes, BENA, etc).
- A Programme is prepared for Public Health and it is submitted to the Ministry of Health.
- A Strategy for Public Health is being prepared as part of the Global Strategy for Improvement of Health and Health Protection, on the basis of the prepared Programme for Public Health.

The Republic Institute for Health Protection has registries for ten diseases of social and medical importance, which are complementary with the aims and contents of Decision 2002/1786/EC. The existing software is being developed and upgraded, as well as its incorporation in integral information system in the field of health, which is one of the main activities of the Project for Health Sector Improvement – Strategy for Information Technology. There are activities alongside for improvement of health statistics with regard to the requirements of EU-EUROSTAT.

The Republic Institute has a very well developed registry for monitoring of malignant diseases, and the Ministry of Health undertakes numerous activities in the primary prevention from breast and cervix cancer.

A National Strategy has already been prepared for prevention from HIV/AIDS. This Project is currently underway. An ALERT system is established for the monitoring of other communicable diseases, elaborated in the other questions.

The Ministry of Health have prepared the following documents:

- Strategy for Tobacco Control
- National Programme for eradication of drug abuse and illegal drug trafficking
- Action Plan on prevention of problems caused by alcohol consumption
- National Mental Health Strategy (submitted to the Government)
- National Food Strategy (adopted by the Government)

Priority is given to prevention of injuries and violence. It is conducted by :

- Institutionalisation by formation of Unit for Control and Prevention of Injuries and Violence in the Republic Institute for Health Protection.
- National campaign for violence prevention started in 2003 with successfully realized activities. Therefore Macedonia is chosen among five other countries to present the achieved results in the World Health Organization (WHO). The Ministry of Health and the Republic Institute for Health Protection have received two grants for projects on violence prevention: Promotion of the World Report on Violence and Health and Project on Documentation of Interpersonal Violence Prevention Programmes
- Violence is one of the priorities in the two-year agreement for cooperation with the WHO, where a National Report on Violence and Health is being prepared (information is being gathered from official statistics and the non-government sector), formation of national and broad-based operational group, building capacities for preparation of the National Violence Prevention Action Plan..There is cooperation between the Ministry of Health and the Ministry of Labour and Social Policy for implementation of the legislation concerning the evidence of violence (the only protocol), family violence prevention and all forms of violence. In its five-year plan of activities for development the UNICEF chose the fight against violence as its priority.
- Draft Strategy for traffic trauma prevention is prepared within the study Socio – Medical Aspects of Traffic Trauma with Children and the Young in the Republic of Macedonia in the year of 2002, based on the corresponding Strategy prepared by the WHO. It will be the basis for the National

Strategy development by the Ministry of Health and the Republic Institute for Health Protection in accordance with the Decision 2002/1786/EC.

- During 2005, the Republic Institute for Health Protection will prepare Information on the conditions of the emergency units in Macedonia whose aim will be to propose measures for reorganisation and improvement of this service, in accordance with the EU standards.

#### Preparation of the National Strategy for Health

In the Republic of Macedonia there is no official Strategy for Health Protection of the population. In 2001 the Macedonian Academy of Sciences and Arts and the Ministry of Health prepared a Strategy for Health which is still being in a process of discussion and comments.

The Strategy is in accordance with the Strategy of WHO - Health for Everyone in the 21. century. In a lack of a long-term Strategy for Health, the priorities are annually set by preventive programmes, or for the period of two years as part of the cooperation between the World Health Organization and the Ministry of Health.

The preparation of the Global Strategy for Health in accordance with Decision 2002/1786/EC is a priority for the Republic of Macedonia in the coming period. The existing Strategy, and numerous other Strategies prepared in different segments of the health sector, and especially from the Project on transition in the health sector will be a basis for preparation of the Global Strategy. The prepared Strategies by the Project on transition in the health sector are the following:

- Strategy for organising and financing the primary health care
- Strategy for continuing medical education and specialisation in primary health care
- Strategy for physicians' accreditation
- Strategy for perinatal health care
- Strategy for tuberculosis control
- Strategy for pharmaceutical policy

Within the new Project for Health Sector Management financially supported by the World Bank loan for 2004-2008, component 1 deals with health policy, preparation of the global Strategy for health, and strategies for primary health care, information technology, pharmaceutical policy, quality of health care, privatisation and public relations.

The priorities of public health in the Republic of Macedonia are defined every year with vertical preventive programmes which are financed by the central budget of the state and the Health Insurance Fund, and all Macedonian citizens are included. These vertical programmes are prepared by the Ministry of Health, and they are adopted and determined by the Government of the Republic of Macedonia, being published afterwards in the Official Gazette.

The Republic of Macedonia is included in the Decade of Roma Inclusion 2005 –2015, which is in the context of the commitment of the European Union (EU) and the countries that will join for improvement of the general state of the Roma population in Europe. The goals and priority fields, the framework and dynamics of the implementation of activities are defined. The National Action Plan for Health has to be incorporated in the general framework of the Decade of Roma Inclusion 2005-2015, i.e. the defined goals and priority fields at a global level, and considering the needs for health protection of the Roma, the situation in the health system and available resources at national and local levels in the Republic of Macedonia. A Draft National Health Action Plan is prepared by a working group of the Ministry of Health, which is incorporated in the Strategy for Roma.

The Republic of Macedonia has signed the Declaration for Millennium Development Goals. The preparation of the Report on the Millennium Development Goals is its final phase. According to the data available to the World Bank, the Republic of Macedonia will have real opportunities to achieve three millennium goals closely related to the health improvement and prevention: Decrease of child mortality rate; Improvement of the health of pregnant women and women in childbirth; Fight against HIV/AIDS, malaria and other diseases. But the lack of data for the level of poverty and access to clean water are of great concern, since these are extremely important for the public health.



The Project for strengthening the capacities in the local community is being carried out in cooperation among the Ministry of Health, Faculty of Medicine and Open Society Institute, with professional help from the Centres for Disease Control from Atlanta, USA. It has been perfectly functioning and it already gave results with one cohort of 27 educated personnel from the local community and three prepared projects on solution of actual public health problems in three towns: Strumica (cardiovascular diseases), Valandovo (caries) and Gevgelija (drug addiction). The final ceremony and presentation of the projects for the local government will take place in May, while the second cohort begins in June. The second project for quality management will begin in May, and it deals with micro-management and quality improvement of public health services in the Institutes for Health Protection.

The Centre for Public Health has already successfully passed the pre-evaluation, carried out by international evaluators engaged by the Open Society Institute, according to the ASPHER criteria. The next public health MSci's should be included in the health system, especially in the public health which will directly contribute for better management and administration of these organisations and will provide high quality health care.

Above presented reforms in the field of public health express a strong interest and commitment of the Republic of Macedonia to participate in the Programme of Community Action in the field of Public Health (2003-2008).

In the Republic of Macedonia there is an established public health protection system consists of institutions of primary, secondary and tertiary level: primary health care, Institutes for Health Protection (10 regional and 1 National), and the Ministry of Health. Accordingly, the Republic of Macedonia has built institutional capacity in the field of public health. With regard to the above mentioned activities of the strategies, plans and programmes prepared in accordance with the right and policy of public health in EU, there is a need of additional resources for their implementation.

#### **Regarding communicable disease control,**

- \* Does the Alert System work 24h/7 days a week?**
- \* Do you have contact points working 24h/7 days a week?**
- \* If yes, how many, and on which administrative level? (For cooperation with the EU, you need only one on the national level)**
- \* Who has access to the system (clinicians on duty at the hospitals)?**
- \* Have you already started the Alert System and IT programme for data transfer? (All the information says: "shall be carried out by the end of 2004")**

In the Republic of Macedonia the System for early reporting and warning and a fast ALERT response is in the process of implementation. It is being implemented as a pilot project with support of the World Health Organization. There are five pilot towns (Skopje, Tetovo, Gostivar, Kumanovo, Kriva Palanka, and Kratovo), which include almost half of the population of the Republic of Macedonia according to the number of inhabitants in towns.

The participants in the project are health workers from health institutions of the primary health care (general, pediatrics, school medicine, labour medicine).

The health workers report on a form which is found in the surgery and all physicians who work in that surgery report using the same form.

The ALERT system in the reporting units and sub-units works as many hours as the working hours of the surgery (first shift, second shift, night shift, if there is any).

The reporting is bottom-up, from lower to higher level (reporting sub-unit – reporting unit – Regional Institute for Health Protection – Republic Institute for Health Protection – Ministry of Health).

The form is filled on daily basis, and it is submitted on weekly basis.

The Institutes for Health Protection and the Republic Institute for Health Protection conduct data analysis and estimation for possible epidemic.

Data estimation or supervision units for these five towns participants in the projects are the following:

Institute for Health Protection Skopje for the City of Skopje,

Institute for Health Protection Tetovo for the towns Tetovo and Gostivar,

Institute for Health Protection Kumanovo for the towns Kumanovo, Kriva Palanka and Kratovo.

In the Institutes for Health Protection and in the Republic Institute for Health Protection as supervision units there are permanently 24 hour mobile duties, which is a possibility for permanent supervision of the ALERT system.

In these pilot regions there will be four Institutes – contact points which will work 24 hours.

Health workers from the primary health care in the Medical Centres (responsible persons to summarize the data) and health workers at the Institutes for Health Protection, epidemiologists (responsible people for analysis and fast data evaluation) will have access to the ALERT system (special computer programme).

The health workers from the primary health care and epidemiologists in the pilot towns are already trained to work with the ALERT system. To this end, the World Health Organization has donated 20 computers and 20 printers.

At present, the software programme intended for the ALERT system is being developed by an expert from the World Health Organization.

The necessary data are being collected for the software and it is expected to be installed very soon, and then train the health workers to use it, and finally start the ALERT system by June 2005 at the latest.

Once the positive experience of the ALERT system is reviewed, compared with the existing system for reporting and surveillance of communicable diseases, the idea is to expand the system throughout the country as a parallel to the existing system, or to establish a system which would be a combination of the existing one and the ALERT system which will be fast, efficient, useful and accepted by the health workers.

**There is inconsistent information relating to the obligation for reporting antimicrobial resistance. On page 73 is written: "Reporting of undesirable vaccine effects and antimicrobial resistance is obligatory", while on page 76 we read: "There are several communicable diseases (infections of chemophylus (should be haemophilus), influenza B, campylobacteriosis, cryptosporidiosis, yerosyniasis, infections of pneumococca types) and special health problems (nosocomial infections and antimicrobial resistance) not being noted for obligatory reporting" Can you please clarify?**

The reporting of communicable diseases is regulated pursuant to Article 17 to Article 25 of the Law on Protection of the Population from Communicable Diseases "Official Gazette of the Republic of Macedonia, No. 66/04.

Article 17 notes 48 communicable diseases which have to be reported.

Article 20 regulates the obligatory reporting also of:

- Each epidemic outbreak of communicable disease,
- Intra-hospital infections,
- Post–vaccine complication,
- Bite or injury by an animal which has rabies or an animal being suspicious of having rabies.

Article 23 regulates that the microbiological laboratories are obliged to report to the responsible Institute for Health Protection on each and every isolation or with other laboratory methods proven carrier of a communicable disease. There are 32 types of carriers of communicable diseases which must be reported by the laboratories, including *Campylobacter*, Influenza viruses, *Versinia* and others.

The last paragraph of the same article regulates the following, as it reads:

The microbiological laboratories are obliged to report to the responsible Institute for Health Protection on **each and every isolated bacteria with unusual resistance to antibiotic**.

In summary, according to the new Law on Protection of the Population from Communicable Diseases the intra-hospital infections (nausea comial infections), side effects from vaccine, epidemic of a communicable disease, and anti-microbe resistance are subject to reporting.

Only pneumococcus infections and cryptosporidiozis are not subject to obligatory reporting.

### **How do you intend to implement the provisions of Directive 95/46/EC on personal data protection with regard to the functioning of the Surveillance and Alert System?**

The reporting of communicable diseases in the System for early reporting and warning (ALERT system) is being done on a separate form, which does not require to write down the patient's personal data.

The reporting is being done in a syndromic manner. All patient's data are replaced by one line.

In the appropriate place of the reporting form for the age of the patient and the syndrome of his disease, only one line is written down, by which the case is reported.

The filled in form with certain number of lines in different places depending on the syndromes and age of the examined and reported cases of communicable diseases is sent once a week to the higher level up to the central level.

The data are being processed as a number of cases by certain syndromes without knowing patients' personal data.

In case of epidemic outbreak additional field findings and investigation are necessary for more concrete data of the persons who suffer from the disease.

## **19. Telecommunications and information technologies**

### **1. The consequence of the "PPO network units" (Answer B2) and their implication on the Universal service are not quite clear, Can you clarify what is meant by the "Principal Postal Operator" and "PPO network units"?**

Pursuant to Article 2 of the Law on Postal Services ("Official Gazette of the Republic of Macedonia", No. 55/02) Principal Postal Operator (PPO) is the Public Enterprise for Postal Traffic "Makedonska poSta".

PPO network units are physical objects, i.e. facilities of the PPO (Public Enterprise for Postal Traffic "Makedonska poSta") in which the postal services for the customers are being carried out.

Currently, there are 320 postal network units in the Republic of Macedonia, located on the entire territory of the State, in the urban centres and rural areas, through which the PPO (Public Enterprise for Postal Traffic "Makedonska poSta"), as a Universal service provider, ensures quality service provision to all postal service customers.

### **2. Can you clarify if non-universal service providers must obtain a licence before they can start to provide services?**

Pursuant to Article 9 of the Law on Postal Services ("Official Gazette of the Republic of Macedonia", No. 55/02), the Universal Postal Service is defined as service that consists of reserved and non-reserved services.

In terms of the Law on Postal Services, the universal service is being carried out by the PPO (Public Enterprise for Postal Traffic "Makedonska poSta") with an exclusive right to carry out reserved postal services referring to postal items that weigh up to 350 grams.

In terms of the Law on Postal Services, the non-reserved postal services, that cover items that weigh over 350 grams, are included within the frames of the universal postal service. These non-reserved postal services, besides the PPO, may be carried out by other postal operators – national and foreign legal entities. In order to perform these non-reserved postal services, the national and foreign legal entities as postal operators must be holders of concessions. The concession is issued by the Government of the Republic of Macedonia.

Pursuant to the Law on Postal Services, the courier services are not included in the universal postal service. Courier services can be carried out by national and foreign legal entities. For the purposes of provision of courier services it is necessary to obtain a licence, which is issued by the Minister of Transport and Communications.

## 20. Culture and audiovisual policy

**1. What is the current legislative framework governing satellite and cable broadcasting? When was (were) the main piece(s) of legislation adopted? Please provide a translation in an EU language with your response. Are there plans to review the current legislative framework? If so, according to which timetable? (Please confirm the situation concerning satellite and cable broadcasting and provide information about the plans and timetable to review the current legislative framework)**

The field of broadcasting in the Republic of Macedonia is regulated with the Broadcasting Law ("Official Gazette of the RM", No. 20/97 and 70/03), see 20\_Annex\_01, the Law on Establishing the Public Enterprise "Macedonian Radio and Television" ("Official Gazette of the RM", Nos. 6/98, 98/00 and 78/04), the Law on Establishing the Public Enterprise "Macedonian Broadcasting" ("Official Gazette of the RM" Nos. 6/98 and 98/00), the Law on Electronic Communications ("Official Gazette of the RM", No. 13/05), see 20\_Annex\_02, the Law on Concessions ("Official Gazette of the RM", Nos. 25/02 and 24/03), the Law on Copyright and Related Rights ("Official Gazette of the RM" Nos. 47/96, 3/98, 98/02, and 4/05), the Law on the Ratification of the European Convention on Transfrontier Television and the Protocol on Amending the European Convention on Transfrontier Television ("Official Gazette of the RM" No. 18/03). The Broadcasting Law has been amended by the Law on Assessment and Collection of Public Revenue ("Official Gazette of the RM" No. 13/01) with which Article 76, Paragraph 2 of the Broadcasting Law ceases to be valid.

The Broadcasting Law determines the basic conditions for performing broadcasting activity, based on the principles of freedom of expression, freedom of receiving and access to information, and freedom of establishing institutions for public information guaranteed by Article 16 of the Constitution of the Republic of Macedonia ("Official Gazette of the RM", No. 52/91) and by Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, ratified by the Assembly of the Republic of Macedonia on 10.04.1997 ("Official Gazette of the RM" No. 11/97).

The Broadcasting Law also incorporates certain general provisions, rules and obligations arising from international documents accepted i.e. acceded to by the Republic of Macedonia, or arising from the acts adopted within the Council of Europe and the European Union.

The Broadcasting Law created a legal basis for the formal constitution of entities and sectors in the field of broadcasting. Accepting the European model of a public and commercial broadcasting sector, the Broadcasting Law enabled the Public Enterprise "Macedonian Radio and Television" to continue operating as a public service which conducts broadcasting activity on the territory of the Republic of Macedonia; it also enabled opening competitions, granting concessions and founding commercial broadcasting companies, thereby allowing for the formal and legal constitution of the private sector in the field of broadcasting. With the establishment of commercial broadcasting companies and the normative shaping of public broadcasting enterprises ("Macedonian Radio and Television" and "Macedonian Broadcasting"), pluralism was established in the field of electronic media in the Republic of Macedonia, both formally and legally. At the same time, this law established the Broadcasting Council of the Republic of Macedonia, as the first independent broadcasting regulatory authority, which represents the interests of citizens in the field of broadcasting.

The Broadcasting Law and other laws applied in this area brought the expected positive effects in regulating the field of broadcasting. Considering that the Republic of Macedonia strives towards furthering the positive development of the field of broadcasting, and especially under the circumstances of this field's convergence with telecommunications and information technology, the need for changes in corresponding regulation was timely acknowledged, a need that also stems from the obligations of the Republic of Macedonia to harmonize its legislation with the legislation of the European Union, and especially from the obligations that derive from the Stabilisation and Association Agreement.

To the end of full harmonisation of the national regulations with the European ones, and in particular with the European Convention on Transfrontier Television ratified by the Assembly of the Republic of

Macedonia on 18.11.2003 ("Official Gazette of the RM", No. 18/03), as well as with the Television Without Frontiers Directive (89/552/EEC amended by Directive 97/36/EC), a Proposal for Adopting a New Broadcasting Law (hereafter referred to as "draft law" or "new Broadcasting Law") was prepared, the adoption of which was postponed from the envisaged schedule (March 2005) due to the need of its harmonization with the Law on Electronic Communications which was adopted in February, 2005, as well as due to the different positions in regards to certain proposed solutions within the draft law.

The draft law was also submitted to competent bodies of the European Commission and the Council of Europe for expertise evaluation. In the course of the following months, a review of the opinions and positions of all relevant entities within public debates is planned.

The draft law is planned to be adopted under a regular procedure, at the beginning of the third quarter of 2005.

The new Broadcasting Law will contribute to strengthening the independence of the private electronic media, the public broadcasting service, and the Broadcasting Council (as a regulatory broadcasting authority), and will constitute the basis for further development of the field of broadcasting, thus representing a huge step towards the harmonization with European broadcasting standards.

Some of the larger changes envisaged in the new Broadcasting Law are the following: (1) a system of licences (instead of concessions) is established, which enables independence (from the Government) in the decision-making process of the Broadcasting Council, and the possibility of establishing a more flexible regulatory regime adapted to the nature of various broadcasting services; (2) the Broadcasting Council gains full decision-making capacity; (3) the provisions regarding the legislative authorizations of the Broadcasting Council are specified (it prepares a Strategy for the Development of the Broadcasting Activity in the Republic of Macedonia that is thereafter adopted by the Assembly of the Republic of Macedonia; it adopts by-laws; it establishes positions and proposals; and gives opinions about the implementation of the Broadcasting Law); (4) The Broadcasting Council gains authorisation to supervise the implementation of the Broadcasting Law, the possibility to pronounce sanctions, and the possibility to initiate misdemeanour procedures, etc.; (5) in addition to the two existing sectors (the public broadcasting service and the commercial sector), a third, non-profit broadcasting sector is established; (6) the mission and the specific programme obligation of the public broadcasting service are determined clearly and in detail, in accordance with European standards; (7) the section on radio and television programmes is fully harmonised with the Television Without Frontiers Directive, in the part on guaranteeing the freedom of reception and retransmission, broadcasting events of major importance, promoting production and distribution of European works, implementing the regulations on advertising, sponsorship and teleshopping, protecting minors and public order, the right of reply or equivalent remedies, etc.; (8) the jurisdiction issue is fully regulated; (9) a more liberal regime in regard to media concentration is established; and (10) the possibility to initiate a court procedure against the Broadcasting Council's decisions is introduced.

The situation regarding satellite and cable broadcasting changed to a great extent with the adoption of the Law on Electronic Communications in February, 2005. According to the Law on Electronic Communications, cable and satellite infrastructures fall under the electronic communications network.

Pursuant to the Law on Electronic Communications, cable infrastructure is a public communications network and its construction, maintenance and operation is regulated with this law. At the same time, the transmission of signals through these systems is considered as an electronic communications service.

Unlike the existing Broadcasting Law which regulated the cable broadcasting and pursuant to which, upon proposal by the Broadcasting Council, the Government granted concessions for cable radio-television networks (some provisions of the existing Broadcasting Law pertaining to this field ceased to be valid with the adoption of the new Law on Electronic Communications), the new Law on Electronic Communications envisages the establishment of an Agency for Electronic Communications (a regulatory body), which will regulate public communications, networks and

services, including the existing cable radio-television networks. The Law on Electronic Communications does not treat the contents transmitted through cable communications networks. The draft Broadcasting Law will regulate the conditions under which the programme services will be transmitted through public communications (cable) networks. The Broadcasting Council will be competent for the implementation of the provisions of the Broadcasting Law regarding the programme packages. The Law on Electronic Communications, foresees that the Concession Agreements concluded according to the existing Broadcasting Law between the Government of the Republic of Macedonia and commercial broadcasting companies - cable network operators - be harmonised, with which they will harmonise their operations with the provisions of the Law on Electronic Communications.

Satellite transmission is not regulated in detail by the existing legal regulations; according to the general legal provisions, in order to perform any broadcasting activity, including satellite broadcasting, it is necessary to have a concession granted on the basis of a public competition. So far, no concession for broadcasting a satellite programme has been granted. The new Broadcasting Law will regulate the conditions and the criteria under which a legal entity or a natural person can broadcast radio or television programmes via satellite from the territory of the Republic of Macedonia. At the same time, it is envisaged for the Broadcasting Council to grant the licences for broadcasting via satellite. In case the programme services are the same, the existing broadcasting organisations will be obligated to notify the Broadcasting Council on that matter. The new Law on Electronic Communications regulates the technical conditions under which the transmission of signals via satellite can be performed.

Broadcasting, including the broadcast of radio and television programmes through public communications networks (cable and satellite), from the aspect of copyright and related rights, is regulated by the Law on Copyright and Related Rights ("Official Gazette of the RM" Nos. 47/96, 3/98, 98/02, and 4/05).

Pursuant to the Law on Copyright and Related Rights, the right to broadcast signifies the presentation of an author's work through wireless radio or television programme signals, including satellite signals, or wired systems, including cable or microwave systems. Broadcasting through satellite is performed when, under control and responsibility of a broadcasting organisation, signals for transmission of programme intended for the public are sent in an unbroken communication chain leading to the satellite and back to Earth. When programme signals are encrypted, broadcasting via satellite is performed provided that the decrypting devices are made available to the public by the broadcasting organisation or by another entity authorised by it. 'Satellite' means any satellite operating on a frequency that, pursuant to appropriate telecommunications regulations, is reserved for transmission of signals for reception by the public or for closed individual communication, but the conditions on receiving the signals correspond to the conditions for receiving by public.

The regime of copyright and other related rights provides for the holder of rights (of copyright or related rights) to use the works or other subjects of related rights and to allow or prohibit use of their works or other subjects of related rights. Allowing the use of copyright by other users is performed through a contract, unless provided otherwise by the Law on Copyright and Related Rights. Contract not concluded in written form is not considered as legally valid.

This right is used respectively by authors (by exclusive or non-exclusive broadcasting, depending on the nature of the authors' works), performers (by exclusive or non-exclusive broadcasting, including broadcasting through legally allowed use with compensation, such as legal licences - phonograms published for commercial purposes), phonogram producers (through legally allowed use with compensation, like legal licences -phonograms published for commercial purposes), film producers (such as exclusive broadcasting) and broadcasting organisations (such as exclusive broadcasting).

The regime of exercising and the protection of copyright and related rights, and especially the right to broadcast, is applied to every type of broadcasting activity, regardless of the means of transmission of the signals: terrestrial, via satellite or through a cable or microwave system.

The Law on Copyright and Related Rights also defines the right to broadcasting retransmission as a simultaneous, whole and unchanged transmission of broadcasted works, if it is performed by another radio or television organisation or is performed through cable retransmission - broadcasting through

cable or microwave system with more than a hundred cable connections, provided that the works are initially transmitted from another country.

The Law on Copyright and Related Rights envisages mandatory transfer of copyright and related rights through collective realisation, when rights to cable retransmission are transferred. An exception to this is the transfer of the right to cable retransmission by broadcasting organisations, as exclusive broadcasting, regardless of whether the programmes in question are their own or the rights have been transferred from other holders of rights.

Collective realisation for transferring of copyright and related rights to cable retransmission is performed by respective associations for collective realisation of the aforementioned rights and on behalf of all holders of rights and obligatory by law, regardless of whether the holder of rights has concluded a contract with the respective association or not.

An integral part of the regime of the exercise and protection of copyright and related rights from the Law on Copyright and Related Rights are the provisions for mediation in cable retransmission, with mandatory negotiations in good faith.

**2. Are there any plans to modify the Broadcasting Authority? (Please confirm the situation concerning the plans to reform the Regulatory Authority)**

The new draft Broadcasting Law entrusts the Broadcasting Council with full capacity as an independent regulatory body which issues public authorization in the field of broadcasting, taking care to ensure the freedom and pluralism of expression, the existence of various, independent and autonomous media, the accomplishment of the interests of the society, and the protection of citizens' interests in the field of broadcasting.

In order to implement the European standards in the field of broadcasting, the draft Broadcasting Law contains provisions directed towards strengthening the independence of the Broadcasting Council.

If a comparison is made between the organisational structure of the Broadcasting Council in the existing law to that in the new draft law, it will be concluded that the following remains the same: (1) in both texts the Council is defined as "independent regulatory broadcasting body"; (2) in terms of the model and composition of the body it is recommended in both texts that the Council should be an expert body of 9 members who are experts in different fields; (3) as in the existing law, the new draft law foresees that the Council members are to be elected and resolved by the Parliament; (4) the incompatibility of holding the position Member of the Broadcasting Council and other positions is specified – conflict of interests; (5) the mandate is once again guaranteed, i.e. it is determined that the Council members can not be replaced, and the conditions under which the mandate of individual members may cease are the same; (6) the provisions on publicity and transparency of the work are expanded and more precisely determined.

The main change in the new draft law is in the part on the powers of the Council, the manner of proposing Council members, their mandate, and the structure of the professional service of the Council, i.e.:

- (1) unlike the existing law, according to which the Council submits a proposal for granting concessions while the final decision is made by the Government, the new draft law provides that the Council autonomously decide on granting, taking away, and renewing licences;
- (2) unlike the existing Broadcasting Law, according to which the Council members were elected and released by the Parliament of the Republic of Macedonia upon proposal of the Committee on Election and Appointing Issues, the new draft law states that the Parliament of the Republic of Macedonia will elect the members upon proposal of authorised proposing parties;
- (3) according to the draft law, a Council member can not be released except in strictly determined cases specified in the draft law with a precisely determined procedure and in accordance with the directions of the Recommendation no. 2000 (23);
- (4) according to the existing law, the Council members had a right to re-election for one more mandate, whereas the new draft law provides for a mandate of 6 years without the right to re-election;



- (5) the new draft law envisions the election of a new Broadcasting Council, elected according to the new system of authorised proposing parties, eight months after the date the law comes into effect;
- (6) unlike the existing Law, according to the new draft law the President and the Deputy President of the Council will not be professionally engaged in the Council with full working hours during their mandate;
- (7) the new draft law introduces a Director who will manage the professional service;
- (8) another novelty is that according to the new draft law the Broadcasting Council, besides being financed by the collected resources from the broadcasting tax, will also be financed by the fees for issuing broadcasting licences;
- (9) according to the existing law, the Council is not authorised to adopt secondary mandatory acts, whereas with the new draft law the Council assumes all legislative authorisations;
- (10) the function of supervision is not clearly defined in the existing law; therefore, in the draft law the Council is precisely authorised to conduct supervision over the enforcement of the law, the licences, and the acts of the Council that refer to programme content;
- (11) according to the new draft law, the Council can initiate court procedures;
- (12) according to the new draft law, the Council will be authorised to require data and information from the broadcasting organisations related to their work;
- (13) according to the new draft law, the Council will receive and review complaints from citizens on programmes;
- (14) the new draft law provides for the possibility to initiate a court procedure against the decisions of the Council.

There is a dilemma on the provisions of the new draft law referring to the Broadcasting Council, which propose the cancellation of the mandate of the existing Council and election of completely new members, as well as its overall restructuring. The dilemma whether to form a completely new Council, according to the provisions of the new draft law, or to replace the existing members as their mandate ends (the mandate of the first two Council members ends in June 2005), remains to be resolved during the further procedures of adopting the Broadcasting Law, in other words, following the expert opinion on the draft law to be provided by the European Commission and the Council of Europe, as well as the public debates.

### **3. Which public and private broadcasters are currently licensed or authorised and how are they financed? (Please provide an overview)**

Pursuant to Article 9, Paragraph 1 of the Broadcasting Law, the broadcasting companies in the Republic of Macedonia can be established as public broadcasting companies and as commercial broadcasting companies (Overview of Broadcasting Organisations in the Republic of Macedonia), see 20\_Annex\_03.

On the national level, the function of a public broadcasting service is performed by the Macedonian Radio and Television. The public enterprise "Macedonian Radio and Television" was granted its concession under the Law on Establishing the Public Enterprise "Macedonian Radio and Television" ("Official Gazette of the RM", Nos. 6/98, 98/00 and 78/04). Part of the public service is also the public enterprise "Macedonian Broadcasting", which, pursuant to Article 7 of the Law on Establishing the Public Enterprise "Macedonian Broadcasting," ("Official Gazette of the RM", Nos. 6/98 and 98/00) provides – free of charge – transmission and broadcasting of the radio and television programmes of the Macedonian Radio and Television on the territory of the Republic of Macedonia through three radio networks on ultra-short waves (VHF/FM), one radio network on medium waves (MF), and three television networks (VHF and UHF).

Pursuant to Article 11 of the Law on Establishing the Public Enterprise "Macedonian Radio and Television", the Macedonian Radio and Television broadcasts Macedonian language programmes on its first television network, on the second it broadcasts programmes of ethnic communities, and on the third it broadcasts direct and deferred transmissions of the sessions of the Assembly of the Republic of Macedonia and its operating bodies. The Macedonian Radio and Television currently broadcasts programme in the Macedonian language on its first and second radio network, while on its third network it broadcasts programmes of ethnic communities. Pursuant to the Law on Amending

the Law on Establishing the Public Enterprise “Macedonian Radio and Television”, it is planned for programmes of ethnic communities to be broadcast on the second network, while on the third network the experimental programme of the existing radio station “Channel 103” will be broadcast, in which programmes of the non-governmental sector will be included. The public enterprise Macedonian Radio and Television broadcasts one radio and one television programme via satellite.

Pursuant to Article 24 of the Law on Establishing the Public Enterprise “Macedonian Radio and Television”, the public service is financed by the broadcasting fee, by advertising services, by selling its own programmes as well as by compensations for the other services and activities it performs, by sponsorships, and by donations. The Macedonian Radio and Television is also granted funds (from the Budget of the Republic of Macedonia) for financing special programmes for emigrants and other citizens of the Republic of Macedonia living in the neighbouring countries, in Europe and on other continents, as well as for information programmes intended for the foreign public.

On the local level, the public service encompasses 29 local public radio broadcasters, 11 out of which also broadcast television programme.

The public local broadcasting companies are financed by the broadcasting fee (Article 77 of the Broadcasting Law), by advertising services, by the sale of their own programmes, as well as by fees for other services and activities they perform, by sponsorships, and by donations.

The commercial broadcasting companies are granted concessions for performing broadcasting activities by the Government of the Republic of Macedonia, upon proposal by the Broadcasting Council and on the basis of an open competition (Article 13, Paragraph 4 of the Law).

The total number of commercial broadcasting companies is 133. On the national level, there are 8 commercial broadcasting companies - 5 are television companies and 3 are radio companies. On a local level, there are 125 broadcasters - 53 television companies and 72 radio companies.

According to the existing Broadcasting Law, commercial broadcasting companies acquire their revenues on the basis of broadcasting commercial programmes, advertisements, from assets acquired on the basis of a mutual contract with consumers of their services, as well as from other sources (Article 80). According to the same law, commercial broadcasting companies may also use a portion of the assets from the broadcasting fee (10 % of the broadcasting fee) that are intended for funding radio and television programmes of public interest and are allocated by way of an open competition. The decision on the allocation of these funds is brought by the Government of the Republic of Macedonia, upon proposal of the Broadcasting Council.

Broadcasting companies also acquire revenues from their own video, audio and film production, as well as from organising concerts, public musical and theatrical performances and other activities within their line of work.

The draft Broadcasting Law foresees that the Public Broadcasting Enterprise “Macedonian Radio and Television” continue to be financed mainly by the broadcasting fee, and in smaller portions by advertising and by other sources of revenue. Limitations for the public service are introduced for broadcasting of commercial programmes (games of chance, programmes using telephone services with special prices) and political advertising. The essential source of funding commercial broadcasting companies will continue to be advertising, sponsorship and commercial programmes.

The draft Broadcasting Law also foresees the establishment of non-profit broadcasting institutions, the purpose of which will be to satisfy the needs and interests of specific target groups among viewers.

**4. Please provide details of any international commitment(s) which may affect audiovisual services (if any). (Bilateral Investment Treaties with other partners, commitments at the WTO (adoption of MFN on audiovisual services))**

The Republic of Macedonia has ratified the following international conventions, protocols, agreements and treaties affecting the audiovisual sector:

- European Convention on Human Rights and Fundamental Freedoms;  
Ratified in the RM: 10.04.1997: ("Official Gazette of the RM" No. 11/97);
- Protocol on the Accession of the RM to the World Trade Organization ("Official Gazette of the RM" No. 7/03);
- Berne Convention for the Protection of Literary and Artistic Works, adopted in Berne (1886), adopted in Paris (1896), revised in Berlin (1908), completed in Berne (1914), revised in Rome (1928), Brussels (1948), Stockholm (1967) and Paris (1971);  
The RM is a member of the Convention through succession, i.e. it has notified the depositary on 23.07.1993 that the Convention, member of which was the SFRY, will remain in force for the RM. Therefore, this Convention is in force in the RM since 08.09.1991, i.e. from the moment of independence of the RM; ("Official Gazette of the SFRY" 14/1975);
- Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character ("Official Gazette of the RM No. 18/1952);  
Ratified in the RM 02.09.1997; Entered into force on 17.11.1991;
- Agreement on the Importation of Educational, Scientific and Cultural Materials; ("Official Gazette of the RM No.18/1952) ; Ratified in the RM 02.09.1991; Entered into force on 17.11.1991;
- Protocol to the Agreement on the Importation of Educational, Scientific and Cultural Materials of 22 November 1950; ("Official Gazette of the RM No. 7/1981); Ratified in the RM 18.10.1997; Entered into force on 17.11.1991;
- WIPO Copyright Treaty ("Official Gazette of the RM No. 44/2003); Ratified in the RM 24.06.2003; Entered into force on 04.02.2004;
- WIPO Performances and Phonograms Treaty; ("Official Gazette of the RM No. 44/2003);  
Ratified in the RM 24.06.2003;
- International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations; Adopted in Rome (1961); Ratified in the RM: 02.12.1997; ("Official Gazette of the RM No. 50/97)
- Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms; Adopted in Geneva (1971); Ratified in the RM: 02.12.1997; ("Official Gazette of the RM" No. 47/97);
- European Convention for Transfrontier Television (ETS 132);  
Adopted in 1989; Ratified on: 18.11.2003; Law on the Ratification of the European Convention on Transfrontier Television and the Protocol on amending the European Convention on Transfrontier Television ("Official Gazette of the RM" No. 18/03)
- European Convention on Cinematographic Co-production (ETS 147);  
Adopted in 1992; Ratified on: 03.06.2003; ("Official Gazette of the RM" No. 18/03);
- The Convention relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (Satellite Convention) based on succession ("Official Gazette of the SFRY" - International Treaties No. 13/77);
- Co-Production Treaty between France and Macedonia; On 27 October 1975, France and ex-SFRY signed a co-production treaty, entered into force on 21 September 1977, thus replacing the previous Treaty from 7 July 1954. After the disintegration of the ex-SFRY, the Republic of Macedonia, as a country-successor, agreed with France to keep and enforce this Treaty. In original: FR Accord cinématographique franco-yougoslave, signe a Belgrade le 27 octobre 1975 – Décret no 77-973 du 22 août 1977 ( J.O. 28 août 1977 );
- Co-Production Treaty between Germany and Macedonia; On 23 February 1972, the Cinematography Treaty was signed, entered into force on 24 February 1972, thus replacing the previous Treaty from 19 July 1957. In original: DE Abkommen zwischen der Regierung der Bundes Republik Deutschland und der Regierung der Sozialistischen Föderativen Republik Jugoslawien über die Zusammenarbeit auf dem Gebiet der Filmwirtschaft ( BGBl. II 1972, S.

725 ; geandert durch Notenwechesel vom 22. Juni und 15. August 1978, BGBl. II 1978, S. 1240 );

- Agreement on cinema and video co-production between the Federal Executive Council of the Assembly of the SFRY and the Government of Canada from 11.01.1988; (Inherited by the Republic of Macedonia by means of succession);
- Agreement between the Government of the Republic of Macedonia and the Government of the United Kingdom of Great Britain and Northern Ireland on cooperation in the areas of education, science and culture, signed on 10 March 2000 ("Official Gazette of the RM" No. 42/00). In Article 3, among other, contracting parties will encourage and improve direct contacts in the areas of audiovisual sector.
- Agreement on Cinematography Co-Production between the Government of the Republic of Macedonia and the Government of the Italian Republic, 15 November 2002; Ratified in 2003 ("Official Gazette of the RM" No. 13/03).
- Bilateral co-operation agreements in the areas of education, science and culture with other European countries and counters from the region, envisaging co-operation in the audiovisual sector (Poland, Slovenia, Ukraine, the Russian Federation, Turkey, Croatia, Bosnia and Herzegovina, and Serbia and Montenegro - all of them members of the European Convention on Cinematographic Co-production (ETC147).

According to the European Convention on Cinematographic Co-production (Law on Ratification of the European Convention on Cinematographic Co-production – "Official Gazette of the RM", No. 18/03), obligations arise (financial, creative, technical etc.) that are binding when signing bilateral agreements on film co-productions or during the official confirmation of co-productions in the case when the Republic of Macedonia has no bilateral agreements signed with the countries participating in co-production projects. The Republic of Macedonia on 01.07.2003 joined the European fund for co-production, distribution and exhibition of European Cinematographic Works – EURIMAGES and abides the obligations arising from the accession to the Fund, in accordance with the above-mentioned Convention.

On 04.04.2003, the Republic of Macedonia became a full member of the World Trade Organisation (WTO) ("Official Gazette of the RM" - International Treaties - 7/03), thus becoming a signatory to the series of treaties that are an integral part and arise from WTO membership. Part of the WTO agreements are the documents from the General Agreement on Trade in Services (GATS), and within that agreement, exceptions have been made to Most Favoured Nation (MFN) clause, that pertain to the audiovisual sector.

Exceptions to the MFN treatment regarding the audiovisual services are the following:

1. Production and distribution of cinematography works and television programmes: measures based on framework inter-governmental agreements (bilateral agreements) and plurilateral agreements on co-production of audiovisual works granted with regard to national treatment of these works and comply to the said agreements, especially with regard to the distribution and access to funds, which pertain to all countries with whom the cultural co-operation is desirable and are valid indefinitely.
2. Production and distribution of audiovisual works through broadcasting or other forms of public presentation: measures that define works of European origin in a manner that encompasses national treatment of audiovisual works meeting certain linguistic criteria and criteria of origin with regards to access to broadcasting or similar forms of transmission, which pertain to European countries and are valid indefinitely.
3. Production and distribution of cinematography works and television programmes: Measures that favour any support programmes (such as the Action Plan on Improvement of Television Services, EURECA Audiovisuel, MEDIA or EURIMAGES) for audiovisual works and for providers of these works that meet the criteria on European origin, which pertain to European countries and are valid indefinitely. Exception is necessary for certain countries, until the Agreement on Economic Integration is concluded or finalised.

**5. What (if any) regulatory measures are used to encourage or require the broadcast of, or the investment in, certain types of programmes (e.g. cultural, educational) or programmes of specific geographical, linguistic or sectoral origin (independent productions, European works, national works, programmes made or broadcast in certain languages etc.)? Are there such measures as regards other media (cinema theatres, video, etc.)? (Please provide information on the measures to promote certain types of programmes or programmes of specific geographical or linguistic origin if any,)**

In accordance with the rights guaranteed to the ethnic communities as determined by the Constitution of the Republic of Macedonia, the Broadcasting Law regulates the manner of exercising these rights. In fact, Article 45, Paragraphs 2 and 3 of the law provides for the obligation of the national public broadcasting enterprise, in addition to broadcasting Macedonian language programmes, to also broadcast programmes in the languages of the ethnic communities; it also provides for the obligation of the local public broadcasting companies, in areas where members of ethnic communities are present in major or considerable numbers, to broadcast programmes in the language of the respective ethnic communities. The Law on Establishing the Public Enterprise "Macedonian Radio and Television" ("Official Gazette of the RM" No. 6/98, 98/00 and 78/04) (Article 6, Paragraph 1, Indent 1) also provides for the obligation for producing programmes in the languages of the ethnic communities. The Macedonian Television, on its second network (MTV2) weekly broadcasts 65 hours of programme in the Albanian language, 17 hours 30 minutes in the Turkish language, and 1 hour 30 minutes in Serbian, in Roma, in Vlach and in Bosnian respectively. Among the television programmes of the ethnic communities, the oldest is the Albanian language programme, dating from 1967, and the "youngest" is the Bosnian language programme, introduced in 2002. Sessions of the Assembly of the Republic of Macedonia, starting from 28.04.2005, are broadcast on a separate Assembly Channel, with a translation provided in the Albanian language.

The Macedonian Radio broadcasts programmes in the languages of several ethnic communities. Thereby, 8 hours 30 minutes of programme in the Albanian language are broadcast daily, 5 hours in the Turkish language, and 30 minutes are allocated for programmes in Roma, in Vlach, in Serbian and in Bosnian languages respectively. The earliest introduced programmes are Albanian and Turkish language programmes (in 1945), while most recent are the programmes in Serbian and Bosnian language (2003). Among local public broadcasters, in addition to Macedonian language programmes, programmes in Albanian and in Turkish language are broadcast on Radio Tetovo, Radio Gostivar and Radio Debar; Radio Struga broadcasts programmes in Albanian, Turkish and Vlach language; Radio Kumanovo broadcasts programmes in the Albanian, Roma and Vlach languages; Radio Kicevo broadcasts programmes in Albanian; and Radio Krusevo, in addition to broadcasting Macedonian language programmes, also broadcasts Vlach language programmes.

Paragraph 4 of Article 45 of the Broadcasting Law allows for commercial broadcasting companies (commercial broadcasters), in addition to broadcasting Macedonian language programmes, to broadcast programmes in the languages of the ethnic communities. Currently, programmes in some of the languages of the ethnic communities are broadcast by 17 commercial radio stations and 17 commercial television stations (Overview of local commercial radio and television stations broadcasting programmes in the languages of the ethnic communities), see 20\_Annex\_04. In 2004, "Alsat - M", a national television broadcasting Albanian language programmes became part of the commercial broadcasting sector.

Pursuant to the existing Broadcasting Law (Article 77), 10% of the funds collected from the broadcasting fee are intended for creating and broadcasting programmes of public interest; independent producers and commercial broadcasting companies may apply for these funds. The decision on the allocation of funds is reached by the Government of the Republic of Macedonia, upon a proposal by the Broadcasting Council, based on a previously completed procedure of public announcement, bearing in mind the public multicultural interest of the citizens (Article 78).

The implementation of these legal provisions started practically immediately after the establishment of the Broadcasting Council. So far, six open competitions have been conducted. A considerable number of radio and television programmes were produced in different languages: Macedonian, Albanian, Roma, Turkish, Vlach, Bosnian and other languages. The financed programmes are of a

wide range of genres and content, differing from the regular programmes of the commercial broadcasting companies. The documentary production prevails, but there are also dramatic, musical, animated and experimental productions, as well as programmes intended for specific categories of audience with special needs. Radio and television programmes created with the revenues from the broadcasting fee may be broadcast without limitations by commercial broadcasting companies and public broadcasting enterprises without compensation. These arrangements have contributed towards enriching the programmes offered by broadcasting companies in the Republic of Macedonia with shows of domestic production.

The new draft Broadcasting Law does not envisage the allocation of funds from the broadcasting fee for this purpose. Instead, the public broadcasting service Macedonian Radio and Television is obligated to purchase at least 10% of the total annually broadcast television programme from independent producers, i.e. to allocate at least 10% of the annual funds intended for production of television programme for purchasing programme of independent producers from the Republic of Macedonia (by means of public competition).

A novelty in the draft law is also the obligation to broadcast European audiovisual works. In fact, the Macedonian Radio and Television is obligated to reserve at least 30% of the total annually broadcast television programme for broadcasting European audiovisual works. Broadcasting of European audiovisual works is also an obligation of the commercial broadcasters, which should provide representation of at least 20% in the total annually broadcast programme.

Other measures for encouraging the broadcast of programmes of specific geographical or linguistic origin are not envisaged. The encouragement and promotion of regional and language specifics will continue to be special obligation of the broadcasting authority, which will promote media pluralism with respect to both the quantitative and content aspects through the system of licences. The licences granted by the Broadcasting Council will contain special obligations for broadcasters on local and on regional level with regards to the language of the broadcast programme, broadcasting of programmes from own production and programmes that encourage local and regional cultural specifics.

Activities in the field of film are financed according to the Law on Culture – Consolidated text ("Official Gazette of the RM", No. 66/03). According to the Annual Programme for Achieving National Cultural Interests, funds were provided in the year 2004 from the Budget of the Republic of Macedonia for financing independent programmes and projects, art-video projects, video installations or multimedia projects (financed within the fine arts domain). The purchase of cinema equipment is also supported with funds from budget item pertaining to investments.

## **6. What (if any) are the regulations covering other audiovisual services, in particular interactive, on-line services, including Internet?**

Pursuant to the Law on Electronic Communications, any legal entity can provide electronic communications services, including interactive, on-line services, and Internet, on the basis of a notification made to the Agency for Electronic Communications on the electronic communications network and service. There are no special regulations on the contents of these services.

From the point of view of the regime of copyright and related rights, the Law on Copyright and Related Rights ("Official Gazette of the RM", Nos. 47/96, 3/98, 98/02 and 4/05) introduces, with regards to these services, the right to making available to the public - individual use of an original or a copy of authors' works, publicly accessible, wireless or wired, at a time and place chosen by the user. The right to making available to the public is incorporated in all legal provisions that pertain to the usage by the holders of rights as an exclusive right - for the authors over authors' works, including the audiovisual works; for performers over the recordings of their performances; for phonogram producers over their phonograms; for film producers over their audiovisual recordings; for broadcasting organisations over their broadcasts, including cable retransmission; and for preparers of databases with 'sui generis' protection (re-utilisation includes making available to the public).

**7. What is the regime governing the granting of licences and the allocation of frequencies or satellite capacity? What are the conditions attached to the granting of licences and the allocation of frequencies or satellite capacity? (Please refer to by- laws also, if any,)**

The public service “Macedonian Radio and Television” was granted its concession under the Law on Establishing the Public Enterprise “Macedonian Radio and Television” (“Official Gazette of the RM”, Nos. 6/98, 98/00 and 78/04). Pursuant to Article 7 of the Law on Establishing the Public Enterprise “Macedonian Broadcasting” (“Official Gazette of the RM”, Nos. 6/98 and 98/00), the Public Enterprise “Macedonian Broadcasting” provides – free of charge – transmission and broadcasting of the radio and television programmes of the Macedonian Radio and Television on the territory of the Republic of Macedonia through three radio networks on ultra-short waves (VHF/FM), one radio network on medium waves (MF), and three television networks (VHF and UHF).

Private broadcasters are granted a concession for performing broadcasting activities by means of open competitions, announced in accordance with the Broadcasting Law. Upon a request made by the Broadcasting Council, the Electronic Communications Agency for Electronic Communications submits a list of frequencies available for broadcasting, along with the necessary technical parameters. The procedure for granting concessions for performing broadcasting activity is entirely implemented by the Broadcasting Council, on behalf of the Government of the Republic of Macedonia. On the basis of the list of available frequencies, the Broadcasting Council analyzes and determines the needs for granting new concessions for performing broadcasting activity and proposes the announcement of an open competition to the Government of the Republic of Macedonia. After the completed competition procedure, the Broadcasting Council prepares a proposal on granting concessions, whereupon the Government of the Republic of Macedonia makes the final decision.

The Broadcasting Council prepares the proposal on granting concessions on the basis of the following criteria:

- the structure of the offered radio or television programme (genre and thematic variety, percentage of self-produced programme, coverage of local events, inclusion of domestic and European audiovisual works, etc.);
- technical and exploitation conditions on programme broadcasting, according to determined standards;
- premises available for performing the activity;
- professional and technical staff;
- financial resources for the realisation of the programme, etc.

According to the Law on Electronic Communications (“Official Gazette of the RM”, No. 13/05) adopted in February, 2005, the Agency for Electronic Communications has the following competencies (Article 54):

- manages the radio frequency spectrum;
- issues authorizations for use of radio frequencies;
- ensures efficient and undisturbed use of the radio frequency spectrum and provides the rights of the Republic of Macedonia in the orbital positions;
- plans, manages, supervises and controls the use of radio frequency spectrum, including -- allocations, assignments, recording, monitoring, supervising and controlling the radio frequencies used by radio stations operating in the Republic of Macedonia on ships or other floating vessels, aircrafts or space vessels registered in the Republic of Macedonia – in accordance with this law, valid international treaties or agreements, and regulations based on this law;
- adopts and implements a plan for the allocation of radio frequency bands and a plan the assignment and use of radio frequencies;
- keeps a registry of assigned radio frequencies and their users.

The Plan for the Allocation of Radio Frequency Bands, adopted by the Agency, is prepared in accordance with international acts (Decisions and Recommendations of ITU and CEPT adopted by the RM) in the field of radiocommunications (Article 55). The Plan for the Allocation of Radio Frequency Bands in the Republic of Macedonia closely specifies the conditions and means of using radio frequencies, in particular radio frequency bands.

The Plans for the Assignment and Use of Radio Frequencies in Frequency Bands Allocated for Broadcasting, in accordance with the Plan for the Allocation of Radio Frequency Bands, comply with: The Regional Administrative Conference on Sound Broadcasting Service on kilometric and hectometric waves (Regions 1 and 3), Geneva 1975, the Regional Agreement relating to the Use of the Band 87.5-108 MHz for FM Sound Broadcasting (Region 1 and part of Region 3) - Geneva 1984, and the Regional Agreement for the European Broadcasting Area concerning the use of frequencies by the broadcasting service in the VHF and UHF bands - Stockholm, 1961, which determine the conditions for assignment and international co-ordination of the assignment. During the procedure of authorizing radio frequencies for performing broadcasting activity, the Agency for Electronic Communications cooperates with the Broadcasting Council.

Pursuant to the new Law on Electronic Communications, physical or legal entities will be permitted to use radio frequencies only based on authorization issued by the Agency for Electronic Communications (Article 58).

The Agency for Electronic Communications will issue authorizations for the use of radio frequencies for broadcasting upon a decision made by the Broadcasting Council on granting a licence for performing broadcasting activity (Article 59). According to the newly proposed version of the Broadcasting Law, it is envisaged that the Broadcasting Council grant licences for performing broadcasting activity, instead of granting the existing concessions.

The procedure for granting satellite capacity in the field of broadcasting is not explicitly defined by the existing regulations, but considering the fact that it is also a part of the broadcasting activity, it is subject to the same conditions stipulated by the Broadcasting Law. So far, a legal procedure of this kind has not been initiated. The new Broadcasting Law will regulate this area in more details. The licences for broadcasting via satellite will be granted by the Broadcasting Council. In case when an existing broadcasting organisation intends to transmit the same service through satellite, it will be obliged to notify the Broadcasting Council.

The technical conditions of satellite broadcasting are regulated with the Law on Electronic Communications.

Pursuant to the Law on Electronic Communications, it is a responsibility of the Agency for Electronic Communications to adopt by-laws to regulate this area in more detail. Until such laws are adopted, the existing rulebooks and standards stated in the Answer 9 of this Chapter shall apply.

**8. What are the distribution systems in place (terrestrial, cable, satellite)? What (if any) are the "must carry" regulations (obligations for the network to distribute certain channels, if any)?**

In the Republic of Macedonia, there are terrestrial, cable and satellite distribution systems.

Part of the terrestrial analogue distribution systems is owned by the public enterprise "Macedonian Broadcasting," with an obligation to transmit the programmes of the public service "Macedonian Radio and Television," but some of the capacities are also used by private broadcasters under commercial conditions. The other part of the terrestrial analogue distribution systems is owned by private broadcasters who use it for transmitting their own programmes.

Cable distribution systems (so far, only analogue) are solely private-owned, and the owners have gained the right for their construction and utilisation on the basis of a concession granted for



performing broadcasting activities – the distribution of radio and television programmes through cable network. According to the Concession Agreement, the “must carry” obligation pertains to mandatory transmission of programmes of the public service (both national and local). Apart from this, there is also an obligation (modified “must carry”), according to which, when determining the programme package, priority should be given to those programmes that are broadcast terrestrially in the physical area of the network, over satellite and other channels. The new draft Broadcasting Law envisages the “must carry” obligation to pertain only to the public broadcasting service.

So far, neither of the commercial broadcasters licensed for terrestrial broadcasting in the Republic of Macedonia was granted licence for retransmission of their programme through satellite, nor a separate licence for broadcasting satellite programme has been issued. The reason for that is the fact that the existing Broadcasting Law does not precisely regulate the conditions for broadcasting satellite programme from the territory of the Republic of Macedonia.

Currently, only the public broadcasting service is broadcasting separate satellite programme (MKRTVSat), intended for preserving cultural relations with the emigrants and the citizens of the Republic of Macedonia living in Europe and on other continents.

On 14.12.2004, the public enterprise "Macedonian Broadcasting" started experimental transmission of the programmes of the public enterprise "Macedonian Radio and Television" through digital terrestrial transmitter.

### **9. What are the arrangements as regards technical broadcast standards (if any)?**

The plans for the assignment of radio frequencies in the bands allocated to broadcasting services contain the basic technical characteristics of terrestrial sound and television systems, i.e. width of the radio frequency channel, frequency tolerance of the transmission devices, type of emission, level of spurious emission, type of modulation, etc. Pursuant to the Law on Electronic Communications ("Official Gazette of the RM", No. 13/05), the use of radio stations according to received authorization for the use of frequency is regulated with separate secondary legislation, to be adopted by the Agency for Electronics Communications. The new secondary legislation is in the preparation phase. It envisages acceptance of international recommendations and standards on technical norms of operation of radio stations which operate in radio frequency bands allocated for broadcasting services. Primarily, this pertains to accepting the ITU recommendations and CEPT decisions, by which certain ETS standards of ETSI are accepted. According to the Law on Electronic Communications, the authorization for using radio frequency, issued by the Agency for Electronic Communications, contains the following conditions:

- measures ensuring efficient utilisation of radio frequencies, including requirements regarding coverage or strength of the signal, where appropriate;
- technical and operational conditions necessary for avoiding harmful interference, and for limiting public exposure to electro-magnetic radiation;
- duration of the right of using radio frequencies;
- ownership transfer of the rights of using radio frequencies and conditions for such a transfer - for frequencies used for broadcasting, previous consent from the Broadcasting Council is required;
- paying fees; and
- obligations in regards to acts from the international law applicable in the Republic of Macedonia regarding the radio frequencies.

The Agency will establish - through secondary legislation - standards for issuing certificates for radio and telecommunications terminal equipment, including recognition of certificates issued by recognized international institutions.

Until the new secondary legislation, compliant to the Law on Electronic Communications, is adopted, the following regulations apply to radio and television stations:

- Rulebook on Technical and Utilisation Conditions for a Broadcasting Station for Amplitude-modulated Broadcasts ("Official Gazette of the SFRY", No. 57/75);

- Rulebook on Technical and Utilisation Conditions upon which the Broadcastings Station for Broadcast in the Hectometric Waves' Band may be Used ("Official Gazette of the SFRY", No. 6/83);
- Rulebook on Technical and Utilisation Conditions upon which the Broadcasting Stations for Broadcast of Black-and-white and Colour Television may be Used ("Official Gazette of the SFRY", No. 8/78);
- Rulebook on Technical and Utilisation Conditions for a Broadcasting Station for Frequency-modulated Broadcasts ("Official Gazette of the SFRY", No. 57/75);
- General, special programme and technical conditions – tender documentation of open competitions for granting concessions for performing broadcasting activity;
- Standard CENELEC EN 50067, ITU Recommendation ITU-R BS.643-2, as well as Recommendation of the Broadcasting Council SRD-TP 8 on the additional broadcasting system RDS;
- ETS standards ETS 300 706 with minimal presentation level of 1.5 and the ITU Recommendation ITU-R BT.653-2, system B (B) of the additional broadcasting system Teletext;
- Recommendation SRD-TP 4 on the Technical Parameters for the Work Premises of Radio and Television Stations (prepared according to "EBU Tech. 3276 - Listening conditions for the assessment of sound programme material: monophonic and two-channel stereophonic");
- Recommendation SRD-TP 5 on Storing and Handling of Magnetic Tapes (prepared according to ITU-R Recommendation No. 1215 and AES -Recommended practice AES22-1997);
- Recommendation SRD-TP 7 on the Use of DVB-MHP (prepared according to ETSI - TS 101 812, as well as Recommendation of the European Broadcasting Union EBU R106-2001);
- Recommendation SRD-TP 9 on Technical Conditions for Mandatory Storage of Radio and Television Shows;
- The following provisions apply to cable radio-television networks:
- General, special, technical and programme conditions – tender documentation of open competitions for granting concessions for distribution of radio and television programme through cable network, whereas the following Macedonian standards are prescribed: MKS N.N0.201, N.N 0.202, N.N 6.179, N.N 6.501, N.N 6. 504, N.C6.019, N.N 6.172, N.N 6. 134 and N.N 6.135.

## 10. What legal measures apply to encryption of broadcast signals?

The Law on Electronic Communications (Article 121) takes into consideration the encryption of broadcasting signals, i.e. conditional protection. Special care is taken when it comes to open access – under fair, reasonable and non-discriminatory conditions – to the systems that are under conditional protection of all users of the network. The systems under conditional protection should possess technical features that will enable full control to the operators of public communications networks. Operators that offer conditional protection services are obliged to keep separate accounting for the conditionally protected services, apart from the one for the other activities.

When a broadcasting service is in question, the monitoring of contents of the encrypted signal will remain a competence of the Broadcasting Council.

The Broadcasting Council allows the existing cable operators to broadcast programmes of pornographic content only in encrypted form.

In the Law on Copyright and Related Rights ("Official Gazette of the RM", Nos. 47/96, 3/98, 98/02 and 4/05), with regards to the regime of copyright and related rights, provisions on technical measures were introduced and harmonised for the protection of authors' works, or subjects of related rights (including radio and television programmes), free utilisation of technological measures in co-

relation with the provisions on limitations and exceptions from the Law on Copyright and Related Rights, as well as on information on the management of rights.

Thus, a person is considered to have violated the exclusive rights from the Law on Copyright and Related Rights when he/she was aware or could have been aware that he/she is undertaking an action that circumvents technological measures for protection of rights from this law. Also considered as a violation of the exclusive rights from this law is when a person produces, imports, distributes, sells, rents, advertises for sale or rent or owns for commercial purposes devices, products or their parts, or performs (offers) services of any effective technologic measures, which: are promoted, advertised or sold for the purpose of circumvention; have only limited commercially significant purpose or use, except for circumvention; and are primarily created, produced, adapted or functioning for enabling or facilitating circumvention. Technological measures constitute any technology, means, or integral parts thereof, which in the course of their regular operation, are intended to prevent or limit the infringement of rights stipulated in the law. These measures are considered effective if the use of authors' works, or of subjects of other related rights, or of databases with 'sui generis' protection, is controlled by rights holders for the purpose of establishing protection through utilisation of access control, through the protection process (as their coding, scrambling or other type of modification of the works or subjects of related rights), as well as through mechanism of copying control.

The right holder that uses the technologic measures is obliged, without delay and in the shortest time possible, upon request from entities having legal access to the authors' works, subjects of other related rights, or databases with 'sui generis' protection, in the case of exercising legally allowed use with compensation - as legal permits - and of legally allowed use without compensation - as free use of material rights from the Law on Copyright and Related Rights - through removal of the technologic measures or by other means, to enable exercise of these rights, among other, for reproduction of ephemeral recordings created by broadcasting organisations. These provisions do not apply during fulfilment of obligations from contracts on application of technology measures, including the contracts on the right of making available to the public, concluded between the right holders and the users of author's works, subjects of other related rights, or databases with 'sui generis' protection.

A person is considered to be violating exclusive material rights when he/she knowingly, without authorisation, removes or modifies any electronic information on rights management, reproduces, distributes, imports for distribution, rents or publicly announces authors' works or subject of other related rights whose electronic information for rights management have been removed or modified without authorisation, and he/she was aware or possibly aware that by that he/she causes, enables, facilitates or conceals violation of rights. Information the management of rights is any information that protects the rights holders, and by which are recognized authors' works, subjects of other related rights, databases with 'sui generis' protection, the author, other holders of rights, terms and conditions for their use, as well as their respective numbers and codes that represent this information.

These provisions are in the Chapter "Protection of Rights," and all provisions on civil and legal protection and on misdemeanour protection (Article 168) of the Law on Copyright and Related Rights, as well as Article 157 of the Criminal Code respectively, pertain to their protection.

#### **11. What are (if any) the financial support systems in place for the audiovisual sector (including cinema)?**

Article 77 of the Broadcasting Law stipulates that 10% of the funds collected from the broadcasting fee are intended for creating and broadcasting programmes of public interest. Independent producers and commercial broadcasting companies may apply for these funds. The decision on the allocation of the funds is brought by the Government of the Republic of Macedonia, upon a proposal by the Broadcasting Council, based on a procedure of public announcement that was implemented bearing in mind the public multicultural interest of the citizens (Article 78). So far, through five open competitions, the amount of 536.095.614,00 MKD was allocated for 1.485 programmes, 761 of them being television, 703 radio and 21 other types of projects. The total volume of the programme is 207.053 programme minutes, 48.366 of them being television and 158.687 radio programmes.

The draft version of the new Broadcasting Law does not anticipate any special fund for the promotion of new radio and television productions that would be produced by commercial broadcasters.

According to the Law on Culture – Consolidated text ("Official Gazette of the RM", No. 66/03), the competences in the field of the audiovisual sector pertain only to cinematographic activity (as in cinema production), so the financing thereof originates from the budget of the Republic of Macedonia. On the basis of Article 65, Paragraph 1, and in connection with Articles 8, 10, 62 and 63 of the Law on Culture, and in accordance with the National Programme for Culture for the Period 2004 -2008, an open competition is announced for financing programmes and projects from many areas, including cinematographic activity.

Programmes and projects from the competition for cinematographic and cinemathèque activity are reviewed by the Film Committee (expert advisory body within the Ministry of Culture, comprised of film professionals – external associates), which prepares the proposals on annual financing (adopted by the Minister of Culture, within the Annual Programme of the Ministry of Culture for Achieving the National Interest in Culture).

It should be mentioned that with the assistance of the Ministry of Culture, in the period between January 2002 and March 2005, film production considerably grew : 6 feature films were made, 5 short feature films, 3 documentaries, and 2 animated films (having in mind that the average film production in the past was 1 feature film per year).

The Ministry of Culture participates to some extent in the financing of film production, with a 30 - 70 % share in the total cost of the film.

Annual budget of the Ministry of Culture for funding of the cinematographic activity in 2004 was 85.600.000,00 MKD (1.380.645 EUR).

A procedure on the adoption of Law on Establishing a Film Fund was initiated, i.e. proposals were prepared for this law and presented in a public debate attended by film professionals, who stated their support and welcomed the initiative for adoption of this law. This law is expected to improve the methods of decision-making and financing of the cinematographic activity, i.e. to introduce fund financing instead of budget financing, the former being a common practice in the member states of the European Union.

## **12. What legal and/or financial arrangements are in place for international co-productions (cinema and/or TV)?**

Pursuant to Articles 77 and 78 of the Broadcasting Law, there is an option of having international radio and television co-productions within the framework of open competitions announced by the Broadcasting Council and intended for financing radio and television programmes of public interest. While applying, eligible legal entities are to submit a co-production agreement with their foreign partner (i.e. a written consent) which regulates the conditions of co-production, as well as consent for the unlimited distribution of the project in the Republic of Macedonia. This subject is regulated by the accompanying documentation which specifies the conditions of the open competition in detail.

The Ministry of Culture is a member of the European Convention on Cinematographic Co-production (Law on the Ratification of the European Convention on Cinematographic Co-production – "Official Gazette of the RM", No. 18/03) since 2003, on the basis of which projects of international cinema co-productions are being carried out. At the same time, following the accession of the Republic of Macedonia to EURIMAGES on 01.07.2003, new possibilities and conditions have been created for the accomplishment of mutual interests and cooperation on common cinematographic projects with other European countries. The Ninety-Fifth Board Meeting of EURIMAGES was successfully organised and held in Skopje, the Republic of Macedonia, from April 24-27, 2005. So far, cooperation on co-productions was established with Croatia, Slovenia, France, the Czech Republic, Germany,

Bosnia and Herzegovina, and Italy. Especially significant is the work on co-production projects, which enables an increase in the number of films produced as well as their greater circulation; this has an influence on the priorities in the allocation of funds during the annual open competition held by the Ministry of Culture.

Furthermore, the importance of the membership of the Republic of Macedonia in the European Audiovisual Observatory since 1997 and our presiding thereof in 2002 should be emphasized (utilisation of information from the databases, information from the audiovisual sector and the legal regulations in the member countries).

The Republic of Macedonia is also a member of SEECN (South-East European Cinema Network) in its main office in Thessaloniki, Greece.

### **13. What are the requirements concerning audiovisual archives?**

The Cinematheque of Macedonia was founded in 1974 with the Law on Establishing the Cinematheque of the SR Macedonia (Official Gazette of the SRM no. 20/74), and commenced its operation in 1976. With the adoption of the Law on Protection of the Cultural Heritage ("Official Gazette of the RM" Nos. 20/04 and 71/04) and the establishment of the Administration for the Protection of Cultural Heritage, the protection of cinematheque assets that represent cultural heritage is performed pursuant to this law. According to the Law on Protection of the Cultural Heritage, cinematheque assets that are declared as cultural heritage or are under temporary protection are legally and criminally protected with the Criminal Code.

The basic activity of the Cinematheque includes research, protection, storage, processing, and public exhibition of films and film materials from the national film production, and also from world cinematographies.

The Archive of the Cinematheque contains more than 14.300 films of all categories and genres, 1.500 films on video-tape, 150 metres in length of written material with around 100.000 documents, 37.175 photographs, 30.323 posters and other advertising material, 3.817 books and magazines and more than 250 museum exhibits. Films and film materials are processed according to a previously determined methodology. The obtained results are systematised into specialised databases. Films, in their original form or as a processed material, are available for public use for educational, scientific, production, and cultural purposes.

During the process of archiving the audiovisual material, the Cinematheque pays special attention to the research activity realized through individual studies, long-term interdisciplinary projects, and the organisation of domestic and international symposia on the subject of film history and theory of film. The publishing activity is in close connection with the research activity and the development of film theory and science. The Cinematheque publishes the "Kinopsis" magazine (30 issues so far), where more than 1.000 professional and scientific articles by internal and external associates were published. Hitherto, over 25 domestic and international symposia have been held. In addition, 30 books, anthologies and catalogues have been published. Some of the significant works from the research and publishing activity are as follows: the filmological study "Macedonian Feature Film" (in two volumes), which covers the entire national feature production; "The History of World Film" (with three volumes published, and the fourth in preparation), and the project "The History of Film in the Balkans", which explored the past, the differences and especially the pervasion and the unifying segments of the national cinematographies of the 10 Balkans countries. The Cinematheque was among the first institutions in Macedonia to introduce electronic publishing. A multimedia CD-Rom was published, entitled "A Century of Film in Macedonia" and an Internet presentation of the Macedonian cinematography was created on the web-page: [www.maccinema.org.mk](http://www.maccinema.org.mk).

The Cinematheque maintains intensive cooperation with educational, science, cultural and non-governmental organisations in the Republic of Macedonia and abroad. In this context, it cooperates with more than 100 similar institutions in the world through the exchange of publications, films, research visits, and participation in various events.

The Cinematheque is a full member of the International Federation of Film Archives – FIAF (Federation Internationales des Archives du Film) and the Association of European Cinematheques – ACE (Association des Cinematheques Europeenes), which enables the unlimited access to the complete world and especially European cinematographic cultural heritage, as well as the presentation of the Macedonian cinematography throughout the world.

Pursuant to the Law on Establishing the Public Enterprise “Macedonian Radio and Television” (“Official Gazette of the RM”, Nos. 6/98, 98/00, and 78/04), the public broadcasting service is obligated to produce, compose, store, archive and utilise television recordings and other audiovisual works, materials and documents of national interest (Article 6, Paragraph 1, Line 8). As the oldest electronic broadcaster in the country, the Macedonian Radio and Television possesses more than 100.000 video recordings, out of which 40.000 on film and more than 60.000 electronic recordings. These recordings are stored on different carriers. The recorded materials sum up to over 7.000.000 minutes. Especially important part of the Macedonian Radio and Television Archive is the audio archive, which contains more than 200.000 recordings of the national musical creation (unique and richest collection of music works in the Republic of Macedonia).

For the purpose of meeting this legal obligation, the Macedonian Radio and Television has a special organisational unit which is responsible for composing and storing television recordings, phono-materials, and other materials of national interest. Considering the fact that the recorded materials are stored on various (obsolete) technical devices, there is an ongoing procedure for the selection of materials for the purpose of transfer to new technologies (digitalisation). The preparation of the database and the work on selection of the most important and the most endangered material is continuous, and accelerated preparations for digitalisation of parts of the archives are being made. The Macedonian Radio and Television, within the protection of the documentation, takes special care about the materials which, considering the strategic options for strengthening European programme audiovisual policy, are part of the European works, and implements the policy of their promotion. Macedonian Radio and Television cooperates with numerous international organisations.

The Macedonian Radio and Television has been a member of the FIAT (Federation Internationale des Archives de Television) since April, 2000. Regarding the subject of audio and video archives, the Macedonian Radio and Television is a member of the COPEAM organisation (Conference Permanente de l’Audiovisuel Mediterranee); in the framework of this organisation, it is involved in the BAP project (Protection of the Balkans Archives). Some of the significant projects that the Macedonian Radio and Television participates in are: support of the UNESCO project - "Memory Map of the World"; "Richness of TV Archives of Balkans Countries" and "Keeping of Archives in Southeast Europe".

The Macedonian Radio and Television has bilateral cooperation with many European broadcasting organisations for exchange of information and materials from the audiovisual field. To this effect, a specialised catalogue is prepared, with contents of international importance, which in the future would be placed on the information network open for users inside and outside the country.

Bearing in mind the importance of audiovisual archives, the Broadcasting Council has adopted Recommendation SRD-TP 5 on Storing and Handling of Magnetic Tapes, prepared according to Rec. ITU-RBS.1215 (1994) and AES - Recommended practice AES22 (1997). This Recommendation defines the technical conditions for storage of magnetic tapes, as well as their handling for the purpose of prolonging their period of use.

Ongoing is the preparation of a draft Recommendation SRD-TP 10 on the digitalisation of programme materials in broadcasting archives, prepared on the basis of EBU Technical Recommendation R105-2001, EBU Technical Specification 3293 (December 2001), and EBU Standard N22 - 1997: The Broadcast Wave Format; A format for audio data files in broadcasting.

#### **14. What legal regime applies to radio sound broadcasting?**

There is no specific law that regulates radio sound broadcasting. The provisions of the Broadcasting law apply both to radio and to television. Provisions of the Broadcasting Law that regulate the protection of minors are applied mostly to television, although they generally also apply to radio programmes, especially in regard to the prohibition of broadcasting indecent content (use of indecent language in radio programmes).

From the aspect of the regime of copyright and related rights, the provisions that pertain to the right of broadcasting apply to radio sound broadcasting respectively.

### **15. What limitations (if any) are there on the ownership of television and/or radio stations?**

Pursuant to Article 10 of the Broadcasting Law, a natural or legal entity may be a founder of only one broadcasting company and a co-founder of only one additional commercial broadcasting company, provided that their shares do not exceed 25% of the total capital. A foreign natural or legal entity may be a co-founder of a commercial broadcasting company with a share no higher than 25% of the total capital. When more than one foreign natural or legal entity is co-founder of a commercial broadcasting company, their share in the total capital of the company may not exceed 49%. Additional limitations are stipulated by the provisions of Article 17, according to which a commercial broadcasting company may be granted only one radio or television concession for performing a broadcasting activity on the territory of the Republic of Macedonia. For performing a broadcasting activity on a local level, two concessions may be granted - one for radio and one for television, but in different, non-neighbouring areas. Furthermore, a founder or a co-founder of a broadcasting company cannot at the same time both establish a company and perform broadcasting activities (Article 11, Paragraph 2).

In addition, the concentration is also limited by the complete prohibition of any connection between fields of broadcasting and the printed media. A legal or a natural entity performing printing activity cannot establish a company and perform broadcasting activity, while a broadcasting company cannot establish a company and perform printing activity at the same time (Article 11, Paragraph 1).

An additional obstacle to media concentration is the provision of Article 21 of the Broadcasting Law, which prohibits the transfer of a concession to a third party.

The issue of concentration among broadcasters and Internet providers has not been regulated as yet.

The Broadcasting Law does not contain provisions that determine obligations for the media to make the data on the ownership structure, or any other data related to their operation, publicly available.

Considering the fact that the implementation of the Broadcasting Law has shown that strict measures on ownership limitation may obstruct the free circulation of capital in the field of broadcasting and the formation of larger and professional media companies, the approach towards this matter in the new Broadcasting Law is more liberal, comprehensive and detailed.

The draft version of the new law initially determines the conditions under which media concentration exists:

- when a broadcasting company owns a share of the initial capital, i.e. is a founder of another broadcasting company;
- when a broadcasting company owns a share of the initial capital, i.e. is a founder of: a printing company or a news agency that publishes a daily newspaper; an advertising and propaganda company; a company for research of the market or the public opinion; a company for performing activities of investigation and security; a film distribution company; a film production company; or a company for telecommunications services.

Media concentration also occurs when broadcasting company simultaneously:

- holds several licences for performing broadcasting activity, or in other words broadcasts radio and television programmes simultaneously;

- broadcasts radio and television programmes and publishes a daily newspaper that is distributed in an area where the radio and/or television programme is broadcasted;
- broadcasts radio and/or television programmes and performs the activity of: a news agency; a company for performing activities of investigation and security; a company for research of the market or the public opinion; an advertising and propaganda company, a film distribution company, a film production company; or a company for telecommunications services;
- broadcasts radio and/or television programmes on the same territory on which it publishes a daily newspaper, i.e. is a founder of a printing company that publishes a daily newspaper distributed in the area where it broadcasts a radio and/or television programme.

According to the draft version of the Broadcasting Law, a natural or a legal entity – a majority co-owner, shareholder or associate in a broadcasting company may participate in the ownership of another broadcasting company; if that entity holds a licence for performing broadcasting activity on a state level, it may be a co-owner of, or owns a share in no more than one company of that nature of up to 50%, or it may be a majority co-owner of no more than one more broadcasting company that holds a licence for performing broadcasting activity on a regional level and of no more than two more broadcasting organisations that hold licences for performing activity on a local level, where the areas referred to are non-neighbouring.

If such an entity holds a licence for performing broadcasting activity on a regional level, it may be a majority co-owner of no more than one broadcasting company of that nature in a non-neighbouring area and of no more than two broadcasting organisations that hold licences for performing activity on a local level, where the referenced areas are non-neighbouring; if it holds a licence for performing broadcasting activity on a local level, it may be a majority co-owner of no more than two additional broadcasting organisations that hold licences for performing broadcasting activity on a local level, where the referenced areas are non-neighbouring.

The restriction on media concentration prohibits any participation of a natural or legal entity, majority co-owner, shareholder or associate in a broadcasting company in the ownership of a printing company which publishes a daily newspaper, a news agency, a company for performing activities of investigation and security, an advertising and propaganda company, a company for research of the market or the public opinion, a film distribution company, a film production company, or a company for telecommunications services.

According to the draft Broadcasting Law, the conditions for founding a broadcasting company or participating in the ownership of the broadcasters in the Republic of Macedonia by foreign natural or legal entities will become identical. Upon a change in the ownership structure, if the participation exceeds the threshold of 10%, the broadcasting company is obligated to request an approval from the Broadcasting Council. For that purpose, thresholds will be specified, on the basis of which the Broadcasting Council will make its decisions during the procedure of granting consent for a change in the ownership structure. The draft version of the new Broadcasting Law also envisages provisions on transparency of the ownership structure. Broadcasters will be obligated to submit to the Broadcasting Council once a year data related to their operations in the previous year, in connection with the changes of the ownership structure, status changes of the company, changes in management staff, and changes of financial sources.

#### **16. What systems are in place as regards statistics pertaining to the audiovisual sector?**

In the Statistical Survey Programme ("Official Gazette of the RM", No. 69/03), besides the State Statistical Office as the key institution, other ministries and institutions are also involved. Together with the State Statistical Office, they constitute the system of official statistics.

The State Statistical Office is the provider of official statistical data in the field of culture and the audiovisual sector.

When the subject of observation is not within the scope of the official data of the State Statistical Office, administrative or other research with elements of statistical approach is occasionally



performed by other institutions from the audiovisual sector, as well as by commercial entities performing research activities.

The main system of collecting, processing and publishing statistical data from the audiovisual sector is provided by the State Statistical Office, in accordance with the Law on State Statistics ("Official Gazette of the RM", No. 54/97) and the Statistical Survey Programme.

Data on this sector are collected by a service operating within the Social Statistics sector, in accordance with the data collected for the sector of culture.

The area of culture and audiovisual sector is covered by wide range of activities envisaged in the National Activity Classification, harmonised with and comparable to the Classification NACE Rev.1, a statistical standard of the European Union.

Within the audiovisual sector, annual collection of data on the broadcasting activity (radio and television) takes place, the data being collected directly from the companies which broadcast radio and TV programmes in accordance with the Broadcasting Law.

The data produced within this activity can be divided into:

- general statistical data - number of institutions, broadcasted radio programmes, broadcasted TV programmes - classified by specific relevant categories;
- data on the employees of the broadcasting companies, classified by several criteria;
- some financial indicators.

Also available is the data on the number of radio and television subscribers (data collected annually from the national Macedonian Radio and Television).

Data is available on both national level and on the level of the smallest territorial unit – municipality (NUTS 5).

Regarding the statistics in the audiovisual sector, it should be mentioned that they also include annually produced data on published audio and visual recordings (general statistical data within the publishing activity), data on cinema theatres (number, screened films, visitors, employees, and some financial indicators).

Statistics from the area of the audiovisual sector can be found in bilingual (Macedonian-English) publications of the State Statistical Office, such as:

- statistical briefings (quick and brief statistical information);
- statistical reviews (where more detailed results of specific research or data on culture in general are published);
- "Macedonia in Numbers" - a paperback publication;
- "Statistical Yearbook" (a comprehensive publication which contains data and a methodological explanation of every research conducted by the State Statistical Office);
- other special publications.

The Broadcasting Council has established a database of broadcasters containing data on every aspect of their operations, including the programmes they have broadcast. All data on the electronic media are collected by the Broadcasting Council on the basis of a questionnaire that comprises: general data of the broadcaster, data on staff structure and economic activity, data on the structure of broadcast programme, as well as data on technical equipment of the medium. The media are obligated to submit these data on quarterly basis to the Broadcasting Council.

The State Statistical Office of the Republic of Macedonia annually collects data from the electronic media, likewise by means of a questionnaire, and statistically processes them.

The data collection questionnaires of the Broadcasting Council (for its own records) and of the State Statistical Office are mutually harmonised and comparable, especially in the part of genre classification of the radio and television programmes. The classification system of the European Broadcasting Union is used (ESCORT - EBU System of Classification of Radio and Television Programmes). This system was introduced in the Broadcasting Council in 1999, when a database with elaborate classification of programmes was established. It is a multi-dimensional system of classification of radio and television programmes, meaning that every programme is classified on the basis of multiple criteria. There are five such criteria: (1) Intention of the programme (informing, education, entertainment etc.), (2) Format (documentary, magazine etc.), (3) Contents, (4) Target audience (children, older people, students etc.) and (5) Origin of the programme.

**17. Is there any certification system for tickets sold in officially recognised cinema theatres at the national level?**

Currently, in the Republic of Macedonia there is no official certification system of tickets sold in cinema theatres on a national level.

The State Statistical Office disposes with statistical data on the cinema attendance in the Republic of Macedonia, which data cannot be used for administrative purposes or as a "system" of certification of tickets sold in officially recognized cinemas on a national level.

With the fiscalisation implemented, the number of sold tickets can be monitored on national level through the issued fiscal bills.

## 21. Regional policy and coordination of structural instruments

### **Have you carried out an analysis of the actual and projected administrative capacity needs of the authorities involved in the programming, management, monitoring and implementation of EU assistance (CARDS, possible pre-accession assistance)?**

In the middle of last year the Government of the Republic of Macedonia through the Sector for European Integration initiated a preliminary assessment of the absorption capacity of the state for utilisation of the EU Economic and Social Cohesion Funds. The results of this preliminary assessment were available in April 2005 (authors: Prof. Mojmir Mrak, Ph.D. – Faculty of Economics, Ljubljana, Republic of Slovenia, and Vanco Uzunov, Ph.D – Faculty of Law, Skopje, Republic of Macedonia).

The preliminary assessment included the macroeconomic, financial and administrative absorption capacities.

Analysing the experience of the 10 Candidate Countries that joined the EU in May 2004, it was concluded that they had never been in a situation to receive EU budget resources equivalent to about 4% of their national GDP, which is the ceiling for the Member States according to the *acquis*. These figures clearly confirm that macro-economic absorption capacity was not a constraint for effective and efficient use of EU resources allocated to these countries in the form of pre-accession aid.

The need to provide a certain percentage of national co-financing (which in the past period was up to 25%) has clearly shown the Government readiness to use the EU resources efficiently. Namely, it is very simple to calculate how much resources will be necessary for the national co-financing, including the needs to cover VAT and other fixed taxes, although the flexibility of the public finance management and the overall fiscal policy should be taken into consideration. From the experience of other countries, the ability to provide national co-financing will initially not be a serious problem for absorption of funds, however, at this point it can not be assessed in detail how much the financial capacity could become an obstacle for the absorption capacity.

The administrative absorption capacity was reviewed in terms of the ability of the administration to prepare a list of potential projects and in terms of the ability of the administration to go through the five stages of a project/programme cycle. In the beginning, a comparative analysis was conducted on the experience of some of the Member States that joined the EU in the last round of enlargement.

The following findings that were concluded will be a reference in building the Decentralisation System of EU support in the Republic of Macedonia:

#### Phase no. 1 – Management

1. There is no standard model for Management Authorities(MAs) and, therefore, EU Candidate Countries did not have a clear model for organizational structure and control system with detailed instructions from EC to follow.
2. The designation of MAs is an extremely important decision, including staffing, training and development of the necessary management systems and tools,
3. The organisational location of MAs in relation to the governance structures is of paramount importance but again having regard for the specific circumstances in the country
4. There is a need for having highly qualified and motivated staff, and especially well prepared and detailed organisation schemes and job descriptions.

#### Phase No. 2 – Programming

5. The programming process is a demanding exercise, that takes a lot of time, energy, but it is also a process that requires a lot of inter-ministerial coordination in order to avoid potential overlapping and unfocused description of the priorities and measures. Therefore, it is of

crucial importance that the financial, and more specifically budgetary, aspects of programming are introduced into the process at a very early stage.

6. The politicians' involvement from the very beginning of the programming process is also indispensable. They have to give the programming process political priority and status, and to ensure smooth functioning of the process.
7. The National Development Programme has to be carried out not only as a part of the EU programming process but to be a truly national programme, including nationally-funded measures.
8. The issue of developing reliable indicators for programming in qualitative terms is also important.
9. The country needs specific analytic skills (SWOT analyses, socio-economic analyses, development strategies, indicators, etc) as well as process-related skills in order to get familiar with the programming process as such.
10. Each participant in the programming processes should have a clear mandate from the entity it represents

### Phase no. 3 – Implementation

11. The establishment of bodies – implementation agencies – that are responsible for implementation of the programmes is of paramount importance.
12. There is a need of a clear definition of the delegation of tasks and the reporting lines between the MAs and the implementing agencies.
13. Establishing appropriate structures and procedures which will give an assurance regarding compliance with the applicable legislation and rules.
14. There was a need for developed specific procedures for effective assessment and prioritisation of project applications, as well as some guidelines for economic and financial cost-benefit analyses, and to measure environmental impact
15. Clear, simple and easy to understand application forms should be designed.

### Phase no. 4 – Monitoring and Evaluation

16. This phase of the cycle typically deals with (i) the organisational structure, mainly the Monitoring Committees (MCs); (ii) the financial and physical reporting requirements from project beneficiaries; and (iii) the system of evaluation.
17. Establishing of central monitoring model composed of two groups of tools: a detailed reporting system for final beneficiaries and an IT-based monitoring information system.
18. Ex ante, medium-term and ex-post evaluations are carried out based on terms of reference prepared by MCs that set out the evaluation method that should be used. The use of a standardised approach in evaluations is important in order to be able to make comparisons and to judge the overall impact of the EU funded interventions.

### Phase no. 5 – Financial Management and Control

19. The establishment of separate Paying Authorities (PAs) and timely staff appointment
20. The provision of adequate expertise – in quantitative and qualitative terms – to carry out sound financial management and control.
21. The introduction of systems, procedures and other tools required for efficient financial management and control

The current state of the absorption administrative capacity in the Republic of Macedonia is:

1. Need of further harmonisation of the existing legislation: public procurement, state aid, competition protection, financial control and management, environment protection and equal opportunities in order to appropriately meet the requirements of Article 164 of the Financial Regulation.

2. The existing administrative capacity in the Republic of Macedonia is insufficient for efficient use of the EU aid (it is necessary to build an appropriate structure, human resources, systems and procedures)
3. The presence of EAR slows down the process of establishing administrative capacity in the country
4. It is necessary to establish an internal process of learning in the state administration (analysis of EU policies, mid-term planning.....)
5. It is necessary to strengthen the inter-ministerial coordination and ownership of the projects/programmes
6. Low level of development of the monitoring and the evaluation
7. There is no financial management and control over the projects/programmes

The Government is ready and fully aware of the obligations that should be met by the end of 2006, when the Decentralised Implementation System of the assistance should become operational.

Therefore, the Government has committed to carry out the following activities before and after the introduction of the Decentralised Implementation System of the assistance:

### **2005**

- **Lobbying for final political decision of the EC** on the start of the process of decentralisation of assistance in the Republic of Macedonia
- In parallel, the **Decision of the Government of the Republic of Macedonia for initiating the decentralisation process should be enacted** so as to demonstrate political will, as well as setting (appointing) the whole national structure for all the phases in the programme/project cycle (programming, implementation, monitoring and evaluation)
- **Establishment of a National Fund and appropriate Implementing and Payment Agencies starting with CFCU - Central Financing and Contracting Unit** within the Ministry of Finance to demonstrate institutional readiness for the decentralisation, as such
- **Commencement of the realisation of the Project** for support of the decentralisation of assistance (CARDS project in the amount of EUR 1.3-1.5 million),
- **Lobbying for inclusion of special funds in the New Financial Perspective intended for Macedonia as an EU Member State (after 2010),**
- **Training of civil servants** that should be included in the **decentralisation** process (second half of 2005),
- **Training of civil servants** for better understanding of the new **Instrument for Pre-accession Assistance (IPA)** and their preparation to operate according to the new principles, immediately from 2007.

### **2006**

- Continuation and **intensification of the training** for DIS - Decentralised Implementation System and utilization of IPA possibilities. It is expected for IPA to be adopted and fully legally (with appropriate procedures) established by June 2006.
- **Realisation of the CARDS Project** for DIS implementation,
- Gradual **carrying out of the realization of the new EAR projects** and their realization within the competence of the national institutions.
- **Preparation of the whole system up to 31<sup>st</sup> December 2006** when the CARDS programme ceases to exist and the mandate of EAR finishes, and **the new IPA programme/instrument comes into force (2007-2013)**, and the DIS system should become fully operational in the Republic of Macedonia.

### **2007-2008**

- **Full functioning of the DIS** and usage of all IPA possibilities,
- **Starting from 2008**, a gradual upgrading and promotion of the system of implementation in a fully independent system (from DIS to **Extended**

**Decentralised Implementation System), with particular emphasis on the rural development funds.**

- Introduction of all elements of structural and cohesive funds and the manner of their utilisation.

**2009-2010**

- Fully functional Decentralized Implementation System of the EU assistance and introduced and **accredited EDIS system.**
- **Training for utilisation of structural and cohesion funds (over EUR 330 billion is available for the period 2007-2013).**

**2011-2013**

- The Republic of Macedonia as an EU Member State is ready to use the possibilities of the structural and cohesion funds.

Based on these information and directions, the Government of the Republic of Macedonia on its 24 session, held on 11 April, 2005 drew the following conclusions for activities that should be carried out in the following period:

- 1. The Government states its readiness to begin the process of implementation of the Decentralised System of Management and Implementation of the EU funds.**
- 2. The Deputy Prime Minister of the Government in charge of the European Integration process and National Aid Coordinator, for the purpose of consistency and necessary complementarity, is to be also assigned the competence of national coordinator of the EU assistance, according to the rules for decentralisation of the EU assistance.**
- 3. The Minister for Finance is to propose appropriate modifications and amendments to the Rulebook on Organizational Structure and Systematisation of the Ministry for establishing Financing and Contracting Unit.**
- 4. The Minister for Finance is to designate a person in charge of the authorisation of the agreed projects, from financial aspect, that are to be implemented by the decentralised procedure.**
- 5. Other aspects of the Decentralised System are to be determined following the initial period of training of the necessary personnel of the Ministry of Finance, the Sector for European Integration within the General Secretariat of the Government of the Republic of Macedonia and the other institutions where projects are to be implemented by the decentralized system.**
- 6. The Ministry of Finance and the Sector for European Integration within the General Secretariat of the Government of the Republic of Macedonia are to ensure the necessary conditions for commencement of the realization of the project for implementation of the decentralisation of the EU assistance, which is in the amount of EUR 1.3 – 1.5 million.**

The European Commission delegation, from the General Directorate for Enlargement, led by Mr. Dirk Meganck, had a meeting on 20 April, 2005 with the Deputy Prime Minister of the Government of the Republic of Macedonia and National Aid Coordinator Radmila Sekerinska, the Minister of Finance Nikola Popovski, and high representatives of the Ministry of Finance, the Ministry of Foreign Affairs and the Sector for European Integration within the General Secretariat of the Republic of Macedonia , in order to demonstrate the activities, the Government of the Republic of Macedonia should undertake to introduce DIS in the Republic of Macedonia.

A special project which will be implemented within the CARDS 2005, in amount of 1.3-1.5 million EUR, will have five phases in the preparation for decentralised management of aid:

- 1. Set up phase:** legal and physical establishment of the required institutional structures (NAO, NF, NAC, CFCU, etc...),

2. **Gaps assessment** : in-depth review of the institutional structures with an insight to assess to what extent the requirements of DIS are fulfilled and to identify the specific actions, changes and improvements needed to ensure compliance with them,
3. **Gap filling phase** (gap plugging) : develop the procedures necessary to meet DIS requirements with special regard to the functions of programming, management, implementation, tendering, contracting, financial control, monitoring and evaluation and the related procedure manuals,
4. **Compliance assessment phase**: assessment whether the target institutions have achieved the improvements necessary to meet the conditions of the relevant EU rules.
5. **Preparation for the Commission's decision** (verification audit by the Commission Services): upon the official request by the NAO, verification by the Commission of the effective existence of the pre-conditions for DIS, followed by the authorisation to switch to the DIS.

All of these steps should enable accreditation by the European Commission for DIS and they should be implemented by the end of 2006.

### **Have you made first estimates of the administrative capacity needs of the authorities that will be involved in the management of the future Structural Funds (ERDF, ESF)?**

The Government of the Republic of Macedonia has not conducted a detailed assessment of the necessary administrative capacity of the national authorities that will be engaged in the management of the future structural funds, however, we would refer to the answer to additional question No. 1 of Chapter 21. At present, the Government focuses its efforts on provision of administrative capacity for implementation of the pre-accession assistance.

The concept of regional policy and encouraging balanced regional development in the Republic of Macedonia is also in an initial phase. During the period of answering the EU Questionnaire, the Ministry of Local Self-Government submitted Information on the Legal and Institutional Framework for Balanced Regional Development together with a Draft Action Plan. The Document was reviewed and adopted on the 28 session of the Government of the Republic of Macedonia, held on 1 November, 2004. This document generally defined the direction of the development of the Macedonian Regional Policy as well as the Institutions responsible for its implementation. After establishing these Institutions (National Regional Development Agency and Regional Agencies for Regional Development), the necessary administrative capacity for management of the EU funds will be determined. (for more details see 21\_I\_4 and 21\_II\_1 from the previously delivered answers)

In future, efforts will be made to conduct a comparative analysis of the experience of other EU Member States that joined the EU in the last round of enlargement.

According to the latest information on the engagement of the administrative capacity for the Decentralised and Extended Decentralised Implementation System of EU assistance and for the structural and cohesion funds (EDIS), taking into consideration the size of the country (already made comparison to Slovenia and Estonia), it will be necessary:

1. approximately 10 employees in the National Fund
2. 25-30 employees in the Central Financing and Contracting Unit
3. 250-300 employees in the Payment Agency of the Ministry of Agriculture, Forestry and Water Supply
4. 180-200 employees in the National Regional Development Agency and the Regional Agencies thereof
5. 4-5 employees in all ministries.

After the more comprehensive analysis is made, the necessary administrative arrangements will be specified.

**What will be the impact of the decentralisation process which is currently underway on the future implementation of EU funds?**

According to Article 22 of the Law on Local Self-Government (Official Gazette of the Republic of Macedonia No. 5/02) competencies in 12 fields are transferred among which urban planning, environment protection, and especially the local economic development, i.e. local economic development planning, determining the development and the structural priorities, local economic policy management, support of the development of the small and medium enterprises (SMEs) and of the entrepreneurship on a local level and participation in establishing and developing of the local network of institutions and agencies for partnership promotion. When the transfer of competencies is carried out, real pre-conditions will be created for establishment of inter-municipal cooperation determined with Article 14, paragraph 2, as well as cooperation with international organisations of local communities as determined with Article 4 of the Law on Local Self-Government. Thus, there is a possibility for inter-municipal cooperation for implementation of projects of common interest. This will enable utilization and implementation of the EU funds for wider areas beyond the municipal borders. The transferred scope of competencies imposes the need for enhancing the administration personnel, engagement of local human resources and creation of structures that will manage the local government development. The positive aspect of the decentralisation is that the administration that will be created in the local units will define the local development priorities, it will actively participate in defining the regional and national developmental priorities and can successfully be included in programming, management, monitoring and implementation of the EU assistance for structural changes and accelerated economic and social development.

The increased rights and obligations of the local government units emphasize the need of special municipal personnel that will be directly involved in implementation of projects/programmes funded by the EU. Under the current circumstances, all this requires timely commencement of creating appropriate administrative/institutional capacity. The administration of the National and Regional Development Agencies will be part of this capacity. (see 21\_Annex\_05 from the previously delivered answers: Summary – Concept of Legal and Institutional framework for Equal Regional Development).

The decentralisation of competencies is expected to enhance the activity in the development of inter-municipal components of cooperation and approach towards addressing social, economic and ecological problems. The inclusion of municipalities in the regional programmes is also motivated by the economic and political interest for accelerated social development of each individual unit.



## 22. Environment

### Chemicals:

**Please provide further information on classification and labeling requirements of substances falling under legislation on manufacturing, storage and transport of inflammable substances, explosives and precursors.**

Requirements on classification and labeling of substances falling under legislation on manufacturing of inflammable substances and explosives are regulated by several laws and by-laws, such as:

1. Law on Poison Production ("Official Gazette of SFRY" No. 18/76)
2. Law on Protection from Explosive Materials ("Official Gazette of SRM" No. 4/78, 10/78, 51/88, 36/90 and "Official Gazette of the RM" No. 12/93)
3. Law on Trade in Explosives ("Official Gazette of SFRY" No. 30/85, 6/89, 53/91 and "Official Gazette of the RM" No. 12/93, 31/93)
4. Law on Carriage of Dangerous Goods ("Official Gazette of SFRY" No. 27/90, 45/90 and "Official Gazette of the RM" No. 12/93)
5. Law on Trade in Poisons ("Official Gazette of SFRY" No. 13/91)

According to the Law on Poison Production produced poisons have to be accompanied by a declaration, with the following data:

- Name and generic title and chemical formula of the poison;
- contents of all active substances in the poison;
- "POISON" written in capital letters, with well visible sign of death's-head;
- date of poison production;
- poison expiry date;
- name and address of the producer of the poison,
- number of the production series.

Each packaging of the poison, in addition to declaration, shall be accompanied by instructions on poison use, materials used for protection in case of poisoning, manner of providing first aid in case of poisoning, and manner of destruction of unused poison and of the packaging material.

The Law also stipulates the conditions that have to be complied with by the premises of legal entities that produce poisons; the manner of handling vessels in which poisons are kept; the manner of treatment of remains of produced poisons, waste materials or intermediate products; as well as the manner of keeping specific records on the production of poisons and toxic substances used for production of certain poisons.

According to Article 14 paragraph 1 of the Law on Trade in Poisons, by the extent of acute and chronic danger for human health and average lethal dose for laboratory animals (oral LD-50), depending on oral, inhalation activity or activity of the poisons through the skin, poisons or precursors can be distributed into three groups, i.e. Group I, Group II and Group III.

Group I comprises of poisons which average lethal dose (LD-50) when placed in rat's stomach, is up to 25 mg/kg; when placed on the skin of rats or domestic rabbits is up to 50 mg/kg; and in case of inhalation by rats (LD-50), it is up to 0,5 mg/l of air during four hours. (Article 14 paragraph 2)

Group II comprises of poisons which average lethal dose (LD-50), when placed in rat's stomach, is above 25 mg/kg and up to 200 mg/kg; when placed on the skin of rats or domestic rabbits, is above 50 mg/kg and up to 400 mg/kg; and in case of inhalation by rats, (LD-50) is above 0,5 mg/l and up to 2 mg/l of air during four hours. (Article 14 paragraph 3)

Group III comprises of poisons which average lethal dose (LD-50), when introduced in rat's stomach, is above 200 mg/kg and up to 2000 mg/kg; when placed on the skin of rats or domestic rabbits, is

above 400 mg/kg and up to 2000 mg/kg; and in case of inhalation by rats, (LD-50) is above 2 mg/l and up to 20 mg/l of air during four hours. (Article 14 paragraph 4)

In addition to criteria specified in paragraphs 2, 3 and 4 of this Article, poisons are also distributed in groups by other criteria for determination of the extent of danger of certain poisons, related to carcinomatous effect, mutagenity, embryo-toxicity, teratogenity, allergenity, iritantiveness, etc., as stipulated by means of regulation adopted on the basis of this Law.

According to Article 27 paragraph 2 of the Law on Trade in Poisons, in case poisons are explosive or inflammable, the declaration has to contain the common symbols marking explosiveness and inflammability, respectively.

In addition to this, the labelling of poisons released for trade on domestic market is also regulated by the Rulebook on Labelling Toxic Substances Entering the Domestic Market ("Official Gazette of SFRY" No. 32/86).

With regard to production of poisons that are inflammable or explosive by their nature, provisions referring to production of inflammable and explosive materials apply as well.

According to the Law on Protection from Explosive Materials, producers of explosive materials, for the purpose of releasing for trade, are obliged to pack such materials in a manner providing safe transport, trade, use and storage. At the same time, each packaging has to be labeled separately and each individual packaging has to be accompanied by instructions containing advice for the manner of handling, transportation, use, destruction, as well as the manner of storage of the respective type of explosive material. The label on the packaging has to contain series, number and year of manufacturing and in case a packaging includes more than one individual packaging, in addition to the above data, it has to include special signs as well.

Requirements concerning classification and labeling of substances falling under the legislation on storage of inflammable substances and explosives, are regulated by the Law on Poison Production, Law on Trade in Poisons, Law on Protection from Explosive Materials, Law on Trade in Explosives and Law on Storage and Protection against Inflammable Liquids and Gases ("Official Gazette of SRM" No. 15/76, 51/88 and 19/90 and "Official Gazette of the RM" No.12/93).

According to the Law on Trade in Poisons, the manner and the conditions of poisons storage and keeping are integral part of the declaration in releasing the poisons for trade on domestic market. If poisons are explosive, inflammable or corrosive, the declaration has to contain the common symbols marking explosiveness, inflammability or corrosiveness, respectively.

The Law on Protection from Explosive Materials and the Law on Trade in Explosives regulate the conditions under which explosive materials can be stored.

Data on the manner and conditions of explosive materials storage are integral part of the declaration appended to explosive materials released for trade.

The Law on Storage and Protection against Inflammable Liquids and Gases stipulates protection measures during inflammable liquids and gases storage, related to: vessels and tanks in which they are kept; depots, storehouses and tanks for storage, as well as the conditions for erection and construction of the depot, storehouse or tank for inflammable liquids and gases storage.

Transport of inflammable substances and explosives is regulated by the Law on Poison Production, Law on Protection from Explosive Materials and Law on Carriage of Dangerous Goods.

The Law on Poison Production regulates the transport of poisons in the legal entity that produces the poisons.

The Law on Protection from Explosive Materials regulates the transport of explosive materials within internal traffic on the basis of prior permit issued by the Ministry of the Interior.

Separate chapter of the Law on Carriage of Dangerous Goods regulates common safety measures for all types of dangerous goods or for certain types of dangerous goods, including safety measures in packaging, loading and unloading, and transport.

Provisions on the packaging safety measures regulate more precisely the requirements concerning packaging material, vessels, tanks, containers, bottles and other types of packaging materials in which dangerous goods shall be transported. The transport operator of dangerous commodity obtains a document from the supplier of the dangerous commodity, containing data on the type of the dangerous commodity (chemical, technical and commercial name of the dangerous commodity, class to which it belongs and ordinal number in that class, as well as identification number in the relevant international agreement, when it is established).

The chapter on specific safety measures in the transport of certain types of dangerous goods regulates more precisely the transport of: explosive materials, gases, inflammable liquids, poisons and radioactive materials.

The chapter on specific safety measures in the transport of dangerous goods regulates, by traffic branches, the transport in:

- road traffic (where provisions of the European Agreement Concerning International Carriage of Dangerous Goods by Road, apply as well);
- railway traffic (where provisions of the International Rulebook on Transport of Dangerous Goods by Railways apply as well);
- inland waterways (where provisions of the International Convention on the Protection of Human Life at Sea, concerning transport of dangerous goods, apply as well);
- marine traffic (where provisions of the International Convention on the Protection of Human Life at Sea, concerning transport of dangerous goods, apply as well);
- air transport (where provisions of Annex 18 to the Convention of International Civil Navigation, as well as technical instructions to the same Annex, provided they are not contrary to the provisions of the Law on Carriage of Dangerous Goods, apply as well); and
- transport through postal traffic (where putting and carriage of explosive, inflammable and other dangerous goods in letter parcels and postal packages are prohibited, except in case of carriage within internal postal traffic, provided that the carriage of the dangerous good is permissible under the World Postal Convention and the Arrangement of Postal Packages).

Requirements for classification and labeling of substances falling under legislation on production, storage and transport of precursors, which are distributed in groups of poisons according to the regulations on poisons, are regulated by the provisions of the following laws: Law on Trade in Poisons ("Official Gazette of SFRY" No.13/91), Law on Poison Production ("Official Gazette of SFRY" No.18/76), Rulebook on Labeling Toxic Substances Entering the Domestic Market ("Official Gazette of SFRY" No.32/86), Law on Carriage of Dangerous Goods ("Official Gazette of SFRY" No. 27/90, 45/90 and "Official Gazette of the RM" No.12/93), Rulebook on Technical, Sanitary and Hygienic Conditions of Organizations which Trade in Poisons ("Official Gazette of SFRY" No.9/86).

According to the Law on Precursors ("Official Gazette of the RM" No.37/04), precursors are distributed into three categories of substances, as follows:

- 1) the first category includes the following substances:
  - 1 – Phenyl-2-Propanon, which can also be marked as Phenylacetone;
  - N-acetylanthranilic acid, which can also be marked as 2-Acetamidobenzoic acid;
  - Isosafrol (cis+trans);
  - 3,4-Methylenedioxyphenylpropane-2-on, which can also be marked as 1- (1,3 – Benzodioxol-5 yl) propan-2-one;
  - Piperonal;
  - Safrol;

- Ephedrine;
  - Pseudoephedrine;
  - Norephedrine;
  - Ergometrine;
  - Ergotamine;
  - Lysergic acid; and
  - Salts of substances listed under this category when presence of such salts is possible;
- 2) The second category includes the following substances:
- Acetic anhydride;
  - Phenylacetic acid;
  - Anthranilic acid;
  - Potassium permanganate;
  - Piperidine; and
  - Salts of substances listed under this category when presence of such salts is possible and
- 3) The third category includes the following substances:
- Hydrochloric acid, which can also be marked as Hydrogen chloride;
  - Sulphuric acid;
  - Toluene;
  - Ethyl ether, which can also be marked as Diethyl ether;
  - Acetone;
  - Methyl ethyl ketone (MEK), which can also be marked as Butanone.

Precursors may be accordingly distributed into groups of poisons and pharmacologically active substances.

According to the Rulebook on Labelling Toxic Substances Entering the Domestic Market ("Official Gazette of SFRY" No.32/86), poisons (precursors) are labeled as follows:

1. by signs of danger (by colour and symbols)
2. by warning marks (R)
3. by notification marks (S)

Signs of danger indicate toxicity, harmfulness, corrosion activity, irritation activity, explosiveness, oxidation, inflammability, self-inflammability, danger from development of inflammable gas.

Precursors representing pharmacologically active substances used for medicines production are subject to regulations on medicines, i.e. the Law on Pharmaceutical Drugs, Supplementary Treatment Substances and Medical Devices ("Official Gazette of the RM" No.21/98), Rulebook on Precise Conditions to be met by Organizations Releasing Pharmaceutical Drugs for Trade or Performing Tests and Control Over Pharmaceutical Drugs used in Human Medicine ("Official Gazette of SFRY" No.55/88), Rulebook on the Manner of Pharmaceutical Drugs and Medical Devices Prescription and Issuance by Prescription ("Official Gazette of the RM" No.17/02), Rulebook on Conditions Concerning Premises, Equipment and Personnel to be met by Legal Entities Performing Wholesale Trade in Pharmaceutical Drugs, Supplementary Treatment Substances and Medical Devices Used in Human Medicine ("Official Gazette of the RM" No.64/02).

Producers of precursors distributed into groups of poisons are obliged to meet the conditions for production of and trade in poisons, while producers of precursors representing pharmacologically active substances used for production of pharmaceutical drugs are obliged to meet the conditions applicable for production of and trade in pharmaceutical drugs.

Producers of precursors are obliged to keep records of quantities of produced and sold precursors on both domestic and foreign market, as well as data on buyers thereof. Trade of precursors can be carried out only upon an approval issued by the Ministry of Health.

At the same time, import, export, transport and transit of precursors is carried out on the basis of permit issued by the Ministry of Health, which may oblige the operator to undertake special safety measures during the transport and transit of certain precursors.

### **Biocides:**

**With respect to biocides, we would like to receive additional information on the actual substances covered by the present legislation and on the requirements that need to be fulfilled on the basis of the current legal dispositions.,**

In the Republic of Macedonia, there is no specific law regulating biocide products.

According to the Law on Trade in Poisons ("Official Gazette of SFRY" No. 13/91), Article 38, poisons intended for public hygiene maintenance, disinfection, disinsection (extermination of insects), and deratisation (extermination of rats), may be released for trade and be used for specified purposes, provided that, apart from toxicological assessment, their efficiency with regard to the specified purposes has been assessed on the basis of chemical, physical and biological testing. Conditions for their trade, production, labeling and storage are the same as those stipulated in regulations on poisons.

Certain disinfection substances belong to the group of finished drugs and are regulated by the Law on Pharmaceutical Drugs, Supplementary Treatment Substances and Medical Devices ("Official Gazette of the RM" No. 21/98) and regulations adopted on the basis of this Law.

Namely, biocides classified on the basis of the regulations on poisons in groups of poisons, should comply with the conditions stipulated by the Law on Trade in Poisons and regulations deriving there from.

Within the meaning of this Law, poisons are substances of natural or synthetic origin and preparations produced out of such substances, which may endanger human life or health if introduced in the organism or in contact with the organism or have adverse effects on the environment.

The list of poisons that may be released for trade includes substances that are found on the list of existing active substances of EU Member States, such as aniline, boric acid, diazinon, dianinephenyl, phenyl acetate, chlorotalonile, bacillus turingiezis.

The Law on Trade in Poisons regulates general conditions under which poisons may be released for trade; conditions under which trade in poisons is prohibited; conditions that have to be met by legal entities that trade in poisons, as well as special conditions for releasing poisons for trade. The Law also specifies the basic conditions for authorization of institutions for toxicological assessment of substances and preparations. Trade in substances placed on the list of poisons may be carried out only upon prior permit being issued by the Ministry of Health.

In the Republic of Macedonia, registration of poisons is regulated by Article 38 of the Law on Trade in Poisons ("Official Gazette of SFRY" No. 13/91), specifying that the Ministry of Health, by means of decision, determines the list of poisons that may be released for trade in the Republic of Macedonia and the list is published in the Official Gazette of the Republic of Macedonia.

With regard to identification of "new" chemical substances, according to the current legislation in the Republic of Macedonia, only the identification of poisons is regulated, and it is compulsory. Registration of poisons is subject of approval by the Commission for Poisons within the Ministry of Health, which, on the basis of prior completed laboratory and toxicological analyses and efficiency assessment of individual chemical substances, issues a decision for distribution of toxic chemical substance in a toxicity group.

At present, there is no responsible institution with regard to notification of “new” substances in the Republic of Macedonia.

According to the plans, the new Law on chemicals will regulate registration of “new” chemical substances, assessment of new and existing chemical substances, administration of the register of chemicals, exchange of information on chemicals, conditions for production, release for trade and use, classification, labeling and packaging of chemicals on the basis of the level of their hazard, as well as conditions, requirements and measures for adequate chemicals handling.

Preparation of the Strategy for Management of Chemicals has been specified in the National Strategy for Integration of the Republic of Macedonia into the European Union, while the adoption of the new Law on Chemicals, according to the Action Plan for European Partnership and to the Programme for Approximation of the National Legislation to the Legislation of EU for 2004, has been envisaged to take place in 2007.

### **Environmental liability:**

**With respect to "environmental liability" we would need clarifications concerning existing legislation, if any, transposing the relevant elements of the acquis**

With respect to Environmental liability, relevant elements of the acquis deriving from Directive 2004/35/CE of the European Parliament and Council of Europe of 21 April 2004 on environmental liability concerning prevention and remedy of environmental damage are contained in certain provisions of the following legal acts:

The **Law on Environment and Nature Protection and Promotion (“Official Gazette of the RM” No.13/03- consolidated text)**, with regard to the obligation for rehabilitation, stipulates the following: **Article 18** of the Law imposes the obligation on each legal entity or natural person using mineral resources or disposing wastes, tailings, ashes and slag and performing other activities by which it causes land degradation, to start recultivating or in some other way rehabilitating that land without any delay, based on previously prepared technical documentation for recultivation. The technical documentation prepared for recultivation is subject to consent by the Ministry of Environment and Physical Planning (MEPP). Recultivation or rehabilitation should be completed within three years following the use of mineral resources and disposal of tailings, ashes, slag or other wastes, in accordance with the technical documentation for recultivation.

**Article 23** of the Law stipulates that, in case degradation or pollution of environment and nature above the prescribed norms appear during construction or reconstruction of certain investment facilities or use of natural resources or performance of production activity, the investor or the legal entity shall terminate the work and undertake additional scientific and expert investigations and rehabilitation for the purpose of removing the causes that have led to degradation or pollution of the environment and the nature and shall inform the MEPP thereon.

Should the investor fail to act as described above, the Minister of Environment and Physical Planning shall appoint an expert or scientific institution to carry out the required investigations, as well as a legal entity to conduct rehabilitation. The costs for scientific and expert investigations and rehabilitation shall be paid by the investor or by the legal entity responsible to undertake the required measures.

With regard to removal of harmful consequences, the state environment Inspector is authorised to order removal of the harmful consequences resulting from the pollution or the degradation of environment and nature, and to request implementation of measures by which the space will be restored into its former condition.

With respect to financial security, the **Law on Waste Management** (“**Official Gazette of the RM**” **No. 68/04, 71/04**), in its **Article 125**, stipulates that the legal entities and the natural persons managing the waste are obliged to provide **financial guarantee or another appropriate insurance**, which should be sufficient to cover the costs related to waste management and the costs for elimination of harmful effects caused during waste management. In case of a reasonable doubt that the financial guarantee is insufficient to cover the costs for the waste management or that the related insurance does not cover the justified risks, the MEPP, at the proposal of the Administration of Environment, shall set another amount and manner of financial guarantee provision, i.e. it will define another type and manner of insurance for that purpose. Legal entities and natural persons involved in import, export and transit of waste are obliged by the law to conclude an Agreement on waste insurance, as well as on the responsibility for the damage inflicted against a third party and responsibility for the damage caused by a third party.

**Article 83** of the **Law on Waste Management** stipulates that, when the landfill operator is not able to cover the expenditures for operations, maintenance, monitoring and control of the landfill in the operational phase and in the closure and after-care phase, the costs will be covered by the financial guarantee specified in the agreement for performance of activities of public interest and in the concession agreement. The term for which agreement for performance of activities of public interest and the concession agreement is concluded, includes the period required for construction, operation and post-closure care of the landfill. In case of pre-expiry termination of the agreement for performance of activities of public interest and the concession agreement by the landfill operator, the funds required to secure the agreement will be provided by the financial guarantee.

One of the basic principles upon which the **Law on Nature Protection** (“**Official Gazette of the RM**” **No. 67/04**) is found is the principle of prevention, imposing the right and the obligation on legal entities and natural persons to undertake measures and activities for nature protection before harmful impacts thereon take place. **Article 19** stipulates **Compensatory measures**, prescribed in relation to anticipated or caused degradation of nature, for the purpose of compensating or mitigating degradation of nature. Compensatory measures are prescribed by means of decision issued by the MEPP.

#### **Administrative capacity:**

**In order to assess whether your administrative capacity for implementation is adequate, we would welcome further details on the overall structure of the administrative organization for each environmental sector.**

Administrative organizational structure of the Ministry of Environment and Physical Planning (MEPP), according to the current **Rulebook on Systematization of Work Positions in the Ministry of Environment and Physical Planning**, is not strictly determined by individual sectors/areas of environment. Namely, it is organized in a form of grouping of works and tasks according to their similarity and correlation, type, size and degree of complexity, responsibility, required expertise and other conditions for their execution.

According to the provisions of this Rulebook, the works and the tasks of the MEPP are projected for execution by 44 managerial civil servants, 110 expert civil servants and 33 expert-administrative civil servants.

According to the Rulebook, the MEPP is organized in sectors and constituent bodies, with the following competences:

- 1. SECTORS OF THE MINISTRY OF ENVIRONMENT AND PHYSICAL PLANNING:**
  - 1.1. Sector of Legislation and Standardisation** is responsible for the process of approximation of the national legislation with the requirements of the EU legislation and of international agreements and standards. In this context, it prepares laws and other legal acts. In addition, this Sector manages the process of public administration reform and the reform in the local self-government in the area of environment. Part of the tasks of the Sector is related to

protocol and organizational affairs; personnel affairs; technical and administrative issues of certification and permitting. The Sector is consisted of four Units: Unit of International Legislation and Approximation; Unit of National Legislation and Standards; Unit of Protocol and Organizational Affairs; and Unit of General Operations and Administrative Procedure. The Sector has 16 civil servants in total and seven persons engaged on the basis of contract for service supply.

- 1.2. **Sector of European Integration** is responsible for coordination of all activities of the MEPP related to integration into the EU and international foreign assistance. It coordinates and manages international multilateral and bilateral cooperation in the area of environment and nature, and international agreements. This Sector is organized into three Units: Unit of Cooperation with the EU; Unit of Bilateral Cooperation; and Unit of Multilateral Cooperation. The Sector comprises of six civil servants in total, and four persons engaged on the basis of contract for service supply.
- 1.3. **Sector of Physical Planning** carries out strategic planning of the space on national level; prepares short and long-term programmes for spatial plans elaboration; manages and coordinates adoption of all spatial plans; monitors the implementation of the Spatial Plan of the Republic of Macedonia and supervises the implementation of all spatial plans in the country; manages the implementation of the UN Habitat Agenda, through the National Habitat Committee. The Sector is organized into: Unit of Plans and Infrastructure Systems and Unit of Supervision, Monitoring and Cooperation. This Sector comprises of six civil servants and two persons engaged on the basis of contract for service supply.
- 1.4. **Sector of Sustainable Development** coordinates and looks after the establishment and implementation of the system of sustainable development; carries out strategic planning for the national sustainable development; gives information about national performances in the sustainable development; plans projects for sustainable development and looks after their implementation and prepares other strategic development documents in the areas of environment. The Sector is organized into: Unit of Projects Preparation; Unit of Inter-sectoral cooperation; and Unit of Ohrid Lake Project Implementation. The Sector comprises of seven civil servants and four persons engaged on the basis of contract for service supply.
- 1.5. **Sector – Macedonian Environmental Information Centre** is responsible for the management of the environmental database, and within this scope it carries out processing of data obtained from environmental monitoring, covering water, air, soil, waste, noise, ionising and non-ionising radiation and protected parts and structures of nature. This Sector is responsible for the cooperation with the European Union Environmental Information System and European Environmental Agency – EIONET/ TELEMATIC, as well as with the global network for information exchange UNEP – INFOTERRA. It produces annual and periodical reports on the state of the environment, and presents data to the public. The Sector is organized into: Unit of Environmental Information System and Unit – Public Relations Office. During the last two years, the Office has specific independence in its work, as described below. The Unit of Environmental Information System counts eight civil servants in total and five persons engaged on the basis of contract for service supply.
- 1.6. **Public Relations Office** undertakes activities aimed at raising the public awareness for protection of the environment, as well as activities aimed at promotion of public participation in environmental decision making, through enabling open access to information. The Office provides public access to information on the works and activities carried out by the MEPP; receives information by citizens and organizations; establishes network of individuals, organizations and institutions working actively on the problems existing in the area of environment. The Office counts a total of five civil servants and one person engaged on the basis of contract for service supply. For certain activities, the Office uses outsourced services, i.e. outside the Ministry.
- 1.7. The Ministry also employs six state advisors, acting as civil servants whose activities are directly related to the activities of the Minister's Cabinet and of the State Secretary of the Ministry. In addition, the MEPP engages five elected officials.

## 2. **CONSTITUENT BODIES OF THE MINISTRY OF ENVIRONMENT AND PHYSICAL PLANNING:**



- 2.1. **State Environment Inspectorate** has nine inspectors, one civil servant and one person engaged on the basis of contract for service supply.
- 2.2. **Service for Spatial Information System** consists of Unit of Geographical Information System and Unit of Cartography and Remote Sensing. The Service has three civil servants.
- 2.3. **Service for Environment** consists of four Units: Unit of Biodiversity with total of three civil servants and two persons engaged on the basis of contract for service supply; Unit of Special Natural Heritage Protection with total of three civil servants and one person engaged on the basis of contract for service supply; Unit of Monitoring and Environmental Impact Assessment with total of four civil servants and one person engaged on the basis of contract for service supply, and Unit of Laboratory Research with total of 15 civil servants and six persons engaged on the basis of contract for service supply.

The Ministry of Environment and Physical Planning has initiated the process of elaboration of the Functional Analysis (FA) and the Plan for Institutional Development (PID) at the very beginning of the process of Public Administration Reform (PAR) in the Republic of Macedonia. By initiating the process of harmonization of the national legislation, while developing the FA, the MEPP has taken into account new responsibilities delegated to the Ministry by the new legislation, in order to make FA and PID a realistic basis for the implementation of the mission and the goals of the Ministry. The FA establishes the new organizational structure of the MEPP, in order to enable it to respond to the new competences and responsibilities deriving from the process of European integration. The PID intends to define the terms and the financial implications of changes, including, inter alia, administrative capacity.

The new organization of the Ministry is based on a modern integrated approach towards environment management, covering all environmental media. Of particular importance is the reorganization of the current Service for Environment, which will be transformed into a so-called Administration of Environment, as a body responsible for the performance of professional activities in the area of environment, where according to the plan most of the activities in each environmental area/sector will be concentrated. The Administration of Environment will be established by the act of adoption of the Draft Law on Environment.

The proposed organization has three levels:

- Political: Minister, Deputy Minister, Cabinet of the Minister
- Policy development and horizontal functions: Sectors of the Ministry
- Policy implementation: constituent bodies.

Clear distinction among these levels will provide a clear framework for the activities of the civil servants and sufficient capacity to support the Minister in the communication with other state administrative bodies. It will also establish a system of control and balance among different levels of decision making and between policy making on one side and policy implementation on the other.

According to FA, the MEPP should have the following administrative organization:

Sector of General Affairs, Sector of Legislation, Sector of European Integration, Sector of Environmental Policy and Sustainable Development, Sector – Macedonian Environmental Information Centre, Sector of Public Relations and Sector of Physical Planning.

**The Administration of Environment**, as a constituent body of the MEPP, should have the following administrative organization:

- Sector of Environment with: Unit for Waste; Unit for Air; Unit for Chemicals, Hazardous Substances and Radiation; Unit for Permitting and Pollution Control (IPPC) and Environmental Impact Assessment Unit;
- Sector of Waters, with four Units, one for each river basin in the Republic of Macedonia;
- Sector of Nature, composed of: Unit for Natural Heritage Protection, Unit for Protected Areas Protection and Management; and Unit for General Affairs and Registration;
- Sector of Monitoring, Laboratory Service, Cadastres and Registers.

**The State Inspectorate** will be organized into:

Unit for Inspection Supervision with Sections of Environmental Inspectors, including control over industrial pollutions; of Inspectors for Nature Protection and Inspectors for Water, as well as Unit for General and Legal Affairs.

**Service for Spatial Information System** will be organized into: Unit for Remote Sensing and Cartography; GIS Unit; Unit for Projects Planning and Unit for Spatial Information System.

The Ministry of Environment and Physical Planning with the FA and PID has developed projection of required personnel that is necessary for the implementation of the new responsibilities of the MEPP, in which the civil servants employed in other bodies, administrative bodies and public enterprises have been taken into account.

According to the current competences of the state administrative bodies defined by the Law on Organization and Operation of the State Administrative Bodies ("Official Gazette of the RM" No. 58/00, 44/02) beyond administrative capacities of the MEPP, certain competences are performed by administrations of other bodies, having the following personnel available:

**Hydrobiological Institute – Ohrid**, acting as scientific institution established in 1935, carries out water monitoring activities in the Ohrid Lake as well as activities for lake's biological diversity preservation and improvement. The Institute has 32 employees, 10 of which are Doctors of Science, 8 Masters of Science and two biologists with higher education.

Within the **Ministry of Transport and Communications**, the State Communal Inspectorate carries out inspection supervision over the implementation of communal works. The State Communal Inspectorate has a Director, eight Communal Inspectors and one civil servant.

There are several bodies within the **Ministry of Health**, acting in several environmental areas, such as:

In the domain of **air**, the State Sanitary and Health Inspectorate (SSHI), according to the Law on Sanitary and Health Inspection ("Official Gazette of the RM" No.19/95) is responsible for the implementation of measures for protection against harmful matters and impacts on human health. According to the Law on Ambient Air Quality ("Official Gazette of the RM" No.67/04), inspectors of the State Sanitary and Health Inspectorate participate in inspections together with inspectors of the State Environment Inspectorate, in case of incidents that may lead to increased emissions or to cause deterioration of the quality of ambient air, as well as to undertake measures in case of industrial accidents or accidents. Inspectors of SSHI take part in a procedure for measures establishment only when existence of direct danger for human life and health is confirmed.

Public Healthcare Organization – Republic Institute for Health Protection (RIHP), monitors air pollution in the context of its impact on human health through analyses of heavy metals – iron, manganese, copper, zinc, lead, cadmium, cobalt, nickel, chromium<sup>6+</sup> and strontium, by AAS method on PERKIN ELMER HGA 700 apparatus with graphitic furnace and AAS PERKIN ELMER - 3110, with flame detector.

In the domain of **waste**, the SSHI, on the basis of the Law on Waste Management ("Official Gazette of the RM" No. 68/04, 71/04) carries out supervision over the treatment of medical waste, only at the site of medical waste generation.

RIHP, through its Unit for Hygiene of Water and Communal Hygiene, with two employees and in cooperation with local offices, carries out professional methodological education of health care personnel in proper collection, selection and disposal of solid medical waste from health care institutions in the Republic of Macedonia.

In the area of **waters**, SSHI, according to the Law on Sanitary and Health Inspection and Law on Waters ("Official Gazette of the RM" No. 4/98, 19/00) carries out control over waters used for drinking, sports and recreation and waters used for irrigation and cattle watering.

According to the Law on Waters and Rulebook on Drinking Water Safety ("Official Gazette of the RM" No.57/04), Inspectors of the Food Directorate carry out control over drinking water supply systems based on indication (after industrial accidents, at positive laboratory findings obtained by Regional Institutes for Health Protection), continuously on the basis of annual plan for inspection supervision.

According to the Law on Drinking Water Supply and Urban Waste Water Drainage ("Official Gazette of the RM" No.68/04), the Food Directorate is responsible for the control over quality of drinking water in the I protection zone, while control in II and III zone is carried out by the SSHI.

The Food Directorate performs the above activities with six employees (one in Skopje and one in each of the five local Units).

The Public Healthcare Organization Republic Institute for Health Protection – regional branch Skopje monitors the safety of drinking water, natural mineral waters and surface waters for bathing and recreation purposes.

From administrative organizational point of view, tests are performed in:

- Unit for Hygiene of Water and Communal Hygiene
  - o Environmental health risk assessment is carried out by one specialist in hygiene (environmental health), docent doctor of medical science
  - o Sampling of water and health record keeping of water, carried out by one graduated civil engineer
- Unit for Water Testing
  - o employee 1 + 1\* graduated technologist (major in food)
  - o employee 1 graduated metallurgist
  - o employee 1 graduated chemist
  - o employee 1 chemical technician
  - \* person engaged on the basis of contract for service supply
- Unit for Contaminants Testing and Eco-toxicological Investigations
  - o employee 1 specialist in toxicological chemistry, doctor of chemical science
  - o employee 1 specialist in sanitary chemistry
  - o employee 1 graduated technologist (major in food), specialization underway
  - o employees 1 + 1\* graduated technologist (major in food)
  - o employee 1 graduated biologist
  - o employee 1 chemical technician
  - o 1 dishwasher (veterinary technician)
  - \* person engaged on the basis of contract for service supply
- Unit for parasitology
  - o employee 1 graduated biologist, specialist-micro-biologist
  - o employee 1 laboratory technician
- Unit for bacteriology
  - o employee 1 specialist-micro-biologist
  - o employees 2 laboratory technicians
  - o 2 dishwashers 1 +1\* (primary and secondary school of economy)
  - \* person engaged on the basis of contract for service supply
- Unit for radioecology
  - o employee 1 specialist in sanitary chemistry and radiological protection
  - o employee 1 graduated engineer of physics

- employees 2 graduated engineers of technology
  - employee 1 sanitary technician
  - employee 1 chemical technician \*
  - employee 1 assistant laboratory technician \*
- \* person engaged on the basis of contract for service supply

The total number of persons engaged in water testing is 31.

The 10 regional branches of the Institute for Health Protection in the Republic of Macedonia monitor the drinking water quality through:

- employees 20 specialists in sanitary chemistry
- employees 4 graduated technologists (major in food)
- employee 1 graduated technologist (major in food), specialization underway
- employee 1 graduated metallurgist
- employees 10 chemical technicians
- employees 20 specialists micro-biologists
- employees 2 laboratory technicians
- 10 dishwashers
- environmental health risk assessment is carried out by 10 specialists in hygiene (environmental health).

In the area of **noise**, the SSHI, according to the Law on Sanitary and Health Inspection and Law on Harmful Noise Prevention (“Official Gazette of SFRY” No. 21/84, 10/90 and “Official Gazette of the RM” No. 62/93) is authorised to carry out supervision over all sources of noise that may have harmful impact on human health and to undertake appropriate measures.

RIHP performs specific measurements of noise levels at certain points in Skopje and Bitola, as the two biggest cities in the Republic of Macedonia. For this purpose, 2 medical doctors – specialist of hygiene and 2 technicians are employed, performing the above as part of their activities within environmental health risks assessment.

In the area of **nuclear safety and radiation protection**, SSHI, according to the Law on Sanitary and Health Inspection and Law on Ionizing Radiation Protection and Safety (“Official Gazette of the RM” No.48/02) is responsible for supervision over the sources of ionizing radiation, as well as to undertake measures to protect the population and the environment from exposure or potential exposure at ionizing radiation.

The Ministry of Health, through SSHI is also responsible for issuing permits for operation involving sources of ionizing radiation. For these activities, one employee of SSHI – Sector of Expert Operational Activities, is engaged.

The Unit of Radioecology under the RIHP monitors the degree of radioactive contamination of living and working environment in the Republic of Macedonia. Contamination with radioactive matters is tested in air, atmospheric sediments, soil, surface waters, fodder, items of general consumption, pharmaceutical drugs and supplementary treatment substances, construction materials and other objects, and concentrations of radioactive elements are detected, including: gamma emitters, with gamma spectrometric methods and beta emitter with beta counter.

This Unit employs the following staff:

- two graduated engineers of physics;
- one engineer of technology;
- one engineer of metallurgy, and
- three technicians.

In the area of **chemicals**, the Bureau of Medicines, on the basis of the Law on Trade in Poisons (“Official Gazette of SFRY” No.13/91) and Law on Poison Production (“Official Gazette of SFRY” No.18/76) is the responsible body for the implementation of procedures for poisons handling, as well as for issuance of approvals for poisons releasing for trade.

Two employees – graduated pharmacists, are engaged in the performance of the above procedures.

Direct inspection supervision over the implementation of these laws, as well as of the Law on Precursors (“Official Gazette of the RM” No.37/04), in the segment of poisons, is responsibility of the SSHI.

According to the Law on Safety of Foodstuffs, Products and Materials in Contact with Foodstuffs (“Official Gazette of the RM” No.54/02), the control over the import of chemicals used for cleaning of technological lines in food production, i.e. for dishwashing in households, is carried out by the Food Directorate through 12 employees at 14 customs terminals, and the control over the trade and the manufacturing of such products is carried out by 40 food inspectors in five regional Units (Bitola, Skopje, Tetovo, Stip and Strumica).

The outline of the total number of employees in each of the constituent bodies of the Ministry of Health is as follows:

- State Sanitary and Health Inspectorate has 36 Inspectors in total, distributed into 17 regional units, four expert-administrative civil servants and Director.
- Bureau of Medicines has a Director and 11 civil servants. The Bureau is also supported by several laboratories and external commissions, including the Commission for Poisons.
- Food Directorate has 69 employees, distributed into units through the Republic of Macedonia.
- Republic Institute for Health Protection with it's regional branches has 676 employees in total, from who, 125 work in the Republic Institute, 64 in Bitola, 68 in Veles, 30 in Kocani, 48 in Kumanovo, 44 in Ohrid, 48 in Prilep, 119 in Skopje, 36 in Strumica, 55 in Tetovo and 39 in Stip.

As constituent body of the **Ministry of Agriculture, Forestry and Water Economy**, in the area of water, the Water Economy Directorate has 11 employees. The same Ministry incorporates the Hydro Meteorological Directorate, which performs activities related to environmental monitoring. Namely, the Hydro Meteorological Directorate has organizational units active directly in the areas of environment, such as: Unit for Water, Air and Soil Quality Monitoring, with 12 civil servants and 3 people engaged on the basis of contract for service supply and Hydrological Unit with 21 employees and one person engaged on the basis of contract for service supply.

In the **sector of civil protection**, Protection and Rescue Directorate is established, as an independent body of the state administration. This Directorate will take over the current employees from the Ministry of Defence and the Ministry of the Interior who have been acting in the domain of civil protection until now, for the purpose of which it has adopted a Rulebook on Systematization of Work and Tasks. According to the plan, administrative and technical transfer of employees will be completed by 15 May 2005, thus making the Directorate fully operational.

According to the established systematization, the Directorate will have 271 employees, distributed into the following organizational units:

- Unit of inspection for protection and rescue, with 35 employees.
- Sector of planning and development, organized into: Unit for planning with 10 employees; Unit for development and analysis with five employees; Unit for operational expert assistance to the Director with six employees, as well as regional Units for protection and rescue distributed into the cities throughout the Republic of Macedonia, with 126 employees.
- Sector of operational and general affairs and training is composed of: Unit for operational affairs with four employees; Unit for operations support with four employees; Unit for general affairs with eight employees and Unit for training with four employees.

Out of the total number of employees of the Directorate, 218 are civil servants and 53 are employees with special authorizations.

## 24. Justice and home affairs

### *Judiciary (see also Political Criteria, Section D):*

#### **Please clarify the role of the State Attorney in the judicial system**

The State Attorney's Office of the Republic of Macedonia is a Government service of the Republic, which undertakes legally prescribed measures for the legal protection of property rights and interests of the Republic of Macedonia. It also performs other matters as prescribed by law (Law on the State Attorney, "Official Gazette of the Republic of Macedonia", No. 47/97).

The Law on the State Attorney regulates the organisation and competence of the State Attorney and determines the conditions and procedures for appointment and dismissal of the State Attorney and his/her deputies.

The State Attorney's Office performs its functions on the basis of and in accordance with the Constitution and law.

The State Attorney of the Republic of Macedonia performs the function of the State Attorney's Office. The State Attorney has deputies.

The Government of the Republic of Macedonia determines the criteria for the number of deputies of the State Attorney and it also determines the actual number of deputies.

The State Attorney represents the Republic of Macedonia and its bodies before courts, other bodies and legal entities and before foreign courts and foreign bodies in property proceedings with foreign natural and legal persons. The State Attorney may authorise a person employed in a state body who has passed the bar exam and who works in the legal field to represent other bodies and legal persons before courts in property disputes. If the State Attorney can not directly represent a case before courts and other bodies in a foreign country based on its regulations, he/she shall authorise another person who may replace the State Attorney and represent the case.

The State Attorney of the Republic of Macedonia represents the State Attorney's Office, manages its operations and undertakes activities for which it has been authorised pursuant to the above law or another law. The State Attorney is responsible to the Government for his/her work or for the work of the Office. When the State Attorney is absent, he/she is substituted by a deputy he/she has designated or the deputy designated in the annual work schedule.

The State Attorney and his/her Deputy are obliged to keep the reputation of the office they perform.

The Deputy may undertake all activities before courts, another body or legal persons that fall under the competence of the State Attorney pursuant to law. The Deputy is accountable to the State Attorney and to the Government of the Republic of Macedonia for his/her work.

State bodies are obliged to deliver data and information to the State Attorney for the legal protection of property rights and interests of the Republic. State bodies of the Republic of Macedonia must inform the State Attorney on every property dispute with domestic or foreign natural and legal persons.

The State Attorney cooperates with courts, other bodies and legal persons on issues relevant to the performance of his/her office and on issues of mutual interest.

The State Attorney undertakes special measures before instituting court proceedings for a contractual resolution of a property dispute. Any person who decides to institute court proceedings against the Republic of Macedonia may turn to the State Attorney for a contractual resolution of the dispute. The State Attorney shall answer such a proposal for contractual resolution of the dispute

within 15 days. If the State Attorney does not provide an answer within the given timeframe, it is deemed that the proposal for a contractual resolution of the dispute has not been accepted.

If the State Attorney deems that court proceedings should not be instituted or if charges should be dropped, or if he/she renounces the lawsuit or an execution proposal; and if he/she deems that a request of the confronting party should be recognised or a settlement should take place, he/she shall request from the state body he/she represents to state whether further representation should occur. If the State Attorney and the state body he/she represents do not reach consent on the issue, the State Attorney shall request from the Government of the Republic to make the final decision.

When in the course of a proceedings, courts and other bodies deem it is necessary to undertake measures for the protection of property rights and interests of the Republic and its bodies; they shall inform the State Attorney without delay so as he/she would undertake the activities and measures prescribed by law.

The costs for representation by the State Attorney are determined according to the Tariff on Rewards and Compensation of Costs for the work of lawyers. Expenses charged as representation costs are an income of the Budget of the Republic of Macedonia.

The performance of the office of the State Attorney on the territory of the Republic of Macedonia is carried out through the State Attorney and his/her deputies in municipal areas determined by a Government's decision. (deputies: Skopje 7, Bitola 2, Ohrid 1, Struga 1, Kičevo 1, Prilep 1, Kavadarci 1, Gevgelija 1, Strumica 1, Kočani 1, Štip 1, Veles 1, Kumanovo 1, Tetovo 2, Gostivar 2)

The Government of the Republic of Macedonia appoints and dismisses the State Attorney of the Republic of Macedonia as well as his/her deputies. The Government of the Republic of Macedonia announces the appointment of the State Attorney and his/her deputy in the Official Gazette of the Republic of Macedonia and in the daily press not later than 15 days from the entry into force of the decision for determining the number of state attorney deputies, i.e. immediately after the State Attorney's position or his/her deputy's position has become vacant. The public announcement informs interested candidates that within 15 days from the day of its publication in the Official Gazette of the Republic of Macedonia they should submit their application to the Government of the Republic.

A State Attorney or a Deputy State Attorney of the Republic of Macedonia may be: a citizen of the Republic of Macedonia who meets the general criteria determined by the law on employment in a state body; he/she must be a graduate lawyer who has passed the bar exam and who enjoys public reputation; he/she must be a distinguished lawyer and must have a work experience after passing the bar exam in the field of law of at least 12 years, while for a position of a deputy the candidate must have such work experience after passing the bar exam of at least three years. The State Attorney, i.e. his/her Deputy is appointed for a four-year term of office with a right to reappointment.

The Government of the Republic of Macedonia adopted a Judicial Reform Strategy (previous I\_Annex\_02) in November 2004. Parts of the Strategy are the recommendations for undertaking measures on the improvement of the conditions and status of the holders of state attorney's offices, such as:

- Through preparing an Analysis for the functioning of the State Attorney's Office in order to determine measures that need to be undertaken for securing a more efficient performance of its basic function – to protect property rights and forms of properties that have a public character;
- To prepare a new Law on the State Attorney's Office;
- To introduce compulsory education and training of holders of State Attorney's function that would be realised through a special programme carried out at the School of Judges and Public Prosecutors; and

- Staffing and implementation of the constitutional principle of equitable representation of members of communities.

### **Provide the definition of misdemeanour cases**

Prior to the enactment of the first Macedonian Criminal Code ("Official Gazette of the Republic of Macedonia" Nos. 37/96, 80/99, 4/02, 43/03, 19/04) and the Law on Misdemeanours ("Official Gazette of the Republic of Macedonia", Nos. 15/97 and 35/97), i.e. before launching the criminal law reform, in addition to criminal offences (crimes), the legal system of the Republic of Macedonia distinguished three other types of offences among which there were qualitative differences: economic offences, misdemeanours and disciplinary offences, all of which were addressed by individual laws, or what was known as separate substantive penal laws. Following the reform, i.e. after the abandonment of economic offences – most of which were turned into misdemeanours, the present legal system of the country still distinguishes two other types of offences: misdemeanours and disciplinary offences.

Sentences concerning penal offences can only be passed by competent courts, i.e. by regular courts (basic courts, appellate courts and the Supreme Court). Following the 1996/97 reform of the judiciary, sentences concerning misdemeanours can also be passed by regular courts.

Under the new organisation involving the legal requirement that the misdemeanour procedure should be conducted by a basic court in the first instance and by an appellate court in the second instance, the possibility of other bodies outside the judicial system conducting the procedure and passing sentences with regard to criminal offences prescribed by law is excluded. Although the Law on Courts ("Official Gazette of the Republic of Macedonia" Nos.36/95 and 45/95) initially provided that other bodies may be competent to decide upon specific types of misdemeanours in customs, foreign exchange, foreign trade and tax issues, the Constitutional Court repealed Articles 30 par. 3 and 34 par. 1 (3) of that law. According to the Constitution, the issue of guilt or innocence must be decided with a court judgment. The competent administrative bodies can take only temporary measures until the completion of the judicial procedure, but can not undertake penal proceedings, nor pronounce sanctions ("Official Gazette of the Republic of Macedonia" No.40/96, p. 2511)

The 1991 Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" Nos. 52/91, 01/92, 31/98, 91/01, 84/03) prescribes in Article 13, paragraph 1 that a person indicted for an offence shall be considered innocent until his/her guilt is established by a legally valid court verdict. Article 14, paragraph 1 of the Constitution prescribes that no person may be punished for an offence which had not been declared an offence punishable by law, or by other acts, prior to its being committed, and for which no punishment had been prescribed. Pursuant to constitutional provisions, misdemeanours are punishable acts.

The Law on Misdemeanours defines the misdemeanour as an unlawful act which is determined as a misdemeanour by law, whose characteristics have been determined by law and for which a misdemeanour sanction is prescribed. The unlawfulness is an undisputed constituent element both of the criminal offence and of the misdemeanour. For an act to be determined as a misdemeanour, it must be defined by law as such, which means the act must be in contravention of law.

Both legal and natural persons may be liable for a misdemeanour. The legal person is liable for a misdemeanour only if it is separately determined by the law in which the misdemeanour is prescribed and if it has been committed by an action or by not performing a supervision from an authorised body or from the responsible person within the legal person, or with an action or a non-action by another person who has been authorised to act on behalf of the legal person. A legal person may be punished with a fine for a misdemeanour.

The Law on Misdemeanour also prescribes a misdemeanour liability for foreign nationals, if the misdemeanour was committed on the territory of the Republic of Macedonia and if the legal person has a branch or another company in the Republic of Macedonia.



A misdemeanour committed by a natural person, for which a foreign national may also be liable, is punishable with a fine or imprisonment that may not be shorter than five days or longer than 90 days.

The Law on Misdemeanours has a special provision that regulates the ticketing. When the perpetrator has been caught committing the misdemeanour, he/she may pay the fine at the spot, with his/her consent.

The Law on Misdemeanours prescribes the following security measures for a misdemeanour: mandatory rehabilitation of alcoholics or narcotic drug abusers; prohibition of performing a profession, activity or duty; prohibition of driving a motor vehicle; confiscation of objects; and expulsion of a foreigner from the country.

Liabilities and punishments of minors are prescribed in the Law on Misdemeanours with special provisions.

In misdemeanour procedure provisions of the Law on Criminal Procedure are accordingly applied, and the Law on Misdemeanours contains provisions on misdemeanour procedures that derive from the characteristics only related to the misdemeanour matter.

Pursuant to the Judicial Reform Strategy, the constitutional provisions that prescribe an exclusive court competence for misdemeanours (as a form of criminal offence) are in process to be amended. The new constitutional solution will create a legal basis for special types of misdemeanours (such as in traffic, customs, financial and economic operations, etc.) to be excluded from court procedures and to fall under the competence of the administrative bodies, which in turn would simplify the misdemeanour procedure.

**Is any information on corruption within the judiciary available? If yes, please provide.**

In the course of 2004 the Ministry of Interior pressed three criminal charges against five judges and two court officers for reasonable doubt that they have perpetrated a criminal offence of abuse of official position and authority (Article 353 of the Criminal Code of the Republic of Macedonia).

In the course of 2005 there were two valid court decisions for two judges:

- A judge in the Basic Court in Radoviš for a criminal offence of receiving a bribe (Article 357 of the Criminal Code of the Republic of Macedonia) was sentenced to an effective imprisonment of six months;
- A judge in the Basic Court in Strumica for a criminal offence of receiving a bribe (Article 357 of the Criminal Code of the Republic of Macedonia) was sentenced to an effective imprisonment of one year and three months;

Currently there is a procedure (investigation) against:

- A judge in the Basic Court in Kočani for a criminal offence of abusing an official position and authority (Article 353 of the Criminal Court of the Republic of Macedonia).

Charges have been pressed against:

- A Public Prosecutor of the Basic Public Prosecutor's Office in Štip for a criminal offence of receiving a bribe (Article 357 of the Criminal Code of the Republic of Macedonia).

A significant number of submissions that the State Commission for the Prevention of Corruption received in the course of 2003 and 2004 were related to the work of judicial bodies. In this period the Commission received a total of 278 such submissions (in 2003 there were 96 and in 2004 – 182). The State Commission acted upon 100 cases, out of which 69 were resolved. The petitioners generally complained about courts' procedures, the duration of procedures, the subjective approach and irregularities in courts' decisions.

Out of the total number of resolved cases, one initiative for criminal prosecution was submitted to the Public Prosecutor's Office, 17 cases after a completed procedure in the Commission were submitted to other competent bodies, eight cases were dropped by the Commission due to lack of elements for further procedure, while 44 cases were found not to be in the Commission's competence.

In most cases, submissions expressing dissatisfaction of the judges' work are submitted to the Judicial Council of the Republic which is competent to determine the level of judges' responsibility.

In particular such was the case with a judge at the Basic Court Skopje II Skopje, against whom the State Commission for the Prevention of Corruption submitted an initiative to the Public Prosecutor for instituting criminal proceedings on grounds of abuse of official position. Concurrently, a request was submitted to the Public Attorney to undertake measures for the protection of the interests of the Republic of Macedonia, while the Judicial Council of the Republic was asked to institute proceedings within their competence. Therefore the Judicial Council of the Republic instituted a proposal for dismissal of the above judge for unprofessional and unconscientious performance of the judicial function, after what the Assembly of the Republic of Macedonia on its session held on 21.04.2005 decided to dismiss the judge.

In addition, the State Commission has forwarded information to the Judicial Council of the Republic, the Public Prosecutor's Office and the Ministry of Interior about submissions of citizens alleging abuse of official position and other unlawful activities related to three judges.

### **Is there an equitable representation of communities in the judiciary?**

The measures and activities that are undertaken for the increase of the representation of members of communities in judicial institutions in the Republic of Macedonia are categorised in two groups: first, creating a legal basis for the implementation of the Framework Agreement provisions, and second, practical implementation of these provisions through employment of members of communities in judicial bodies.

The first part of the activities has been fully completed. Namely, the legal framework for equitable representation of members of communities in judicial institutions has been completed. The Constitutional Amendments (Amendment XIV) envisage special procedure for the appointment of members of the Judicial Council of the Republic, and appropriate provisions have also been contained in the Law on Courts and the Law on Public Prosecutor's Office.

The Judicial Reform Strategy, adopted by the Government of the Republic of Macedonia in November 2004, gives special importance to the issue of equitable representation of members of communities. In the introduction of this document the principle of equitable representation of members of communities in judicial institutions was stated as one of the key principles. This principle was operationalised in every part of the Strategy, by defining concrete measures and activities for its implementation. Thus the part related to the judiciary gives special emphasis to the equitable representation of members of communities in the Judicial Council of the Republic. In addition, changes are planned in the procedure for recruitment and selection of candidates for studies at the school for judges and public prosecutors, and these changes particularly pertain to equitable representation of members of communities. With regard to the organisation of the judiciary, the Strategy envisages certain measures and activities. One of the priorities here is the implementation of the provisions for the use of languages in court proceedings through employment of appropriate personnel. Special attention is also paid to the implementation of constitutional and legal provisions on equitable representation of members of communities in courts and in the public prosecutor's office.

At the same time, having in mind the current situation regarding the representation of members of communities as holders of judicial and prosecutorial function, the main priority is the continuing preparation and education of candidates for judges who are members of communities, followed by their recruitment and appointment as judges and public prosecutors.

In the course of implementation of the above legal provisions, especially important is the issue of the current situation regarding the representation of members of communities in judicial bodies.

The following charts illustrate the representation of members of communities in the judiciary (01 May 2005 inclusive):

### SUPREME COURT OF THE REPUBLIC OF MACEDONIA

Judges		Employees	
Macedonians	17	Macedonians	45
Albanians	5	Albanians	0
Serbs	0	Serbs	3
Turks	1	Turks	1
Vlachs	0	Croats	1
Roma	0	<b>Total</b>	<b>50</b>
Others	0		
Bosnyaks	1		
<b>Total</b>	<b>24</b>		

### APPELLATE COURTS IN SKOPJE, BITOLA AND ŠTIP

Judges		Employees	
Macedonians	67	Macedonians	154
Albanians	9	Albanians	7
Serbs	1	Serbs	1
Turks	6	Turks	2
Vlachs	0	Vlachs	3
Roma	0	Roma	1
Montenegrins	1	Others	0
Others	0	<b>Total</b>	<b>168</b>
<b>Total</b>	<b>84</b>		

### BASIC COURTS

Judges		Employees	
Macedonians	469	Macedonians	1478
Albanians	36	Albanians	95
Serbs	9	Serbs	12
Turks	1	Turks	22
Vlachs	13	Vlachs	25
Roma	0	Roma	27
Montenegrins	0	Montenegrins	0
Others	6	Others	13
		<b>Total</b>	<b>1672</b>
<b>Total</b>	<b>534</b>		

### Public Prosecutor's Office of the Republic of Macedonia

Public Prosecutor		Deputy Public Prosecutors		Other employees	
Macedonians	1	Macedonians	7	Macedonians	12
Albanians	/	Albanians	3	Albanians	1
Serbs	/	Serbs		Serbs	
Turks	/	Turks		Turks	
Vlachs	/	Vlachs		Vlachs	
Roma	/	Roma		Roma	
Others	/	Others		Others	
<b>Total</b>	<b>1</b>	<b>Total</b>	<b>10</b>	<b>Total</b>	<b>13</b>

**Basic Public Prosecutor's Offices**

Public Prosecutors		Deputy Public Prosecutors		Other employees	
Macedonians	16	Macedonians	121	Macedonians	123
Albanians	3	Albanians	6	Albanians	13
Serbs		Serbs		Serbs	
Turks	1	Turks	1	Turks	1
Vlachs	1	Vlachs		Vlachs	1
Roma		Roma		Roma	
Others		Others		Others	
<b>Total</b>	<b>21</b>	<b>Total</b>	<b>128</b>	<b>Total</b>	<b>138</b>

**Higher Public Prosecutor's Offices**

Public Prosecutors		Deputy Public Prosecutors		Other employees	
Macedonians	2	Macedonians	19	Macedonians	25
Albanians	1	Albanians		Albanians	2
Serbs		Serbs	2	Serbs	
Turks		Turks		Turks	
Vlachs		Vlachs		Vlachs	
Roma		Roma		Roma	
Others		Others		Others	
<b>Total</b>	<b>3</b>	<b>Total</b>	<b>21</b>	<b>Total</b>	<b>27</b>

The current situation of equitable representation of the members of communities, particularly from the ranks of the other employees (clerks) is not favourable, especially compared with the situation in the state administration.

In order to promote the condition of the representation of members of communities in judicial institutions, the Government of the Republic of Macedonia has realised numerous activities. Hence,

within the PACE Project, 81 members of communities have already been employed, out of which, 24 in the Ministry of Justice, 42 in courts, 10 in the public prosecutor's office, and 5 in penitentiary and correctional institutions.

In addition, a process of strengthening of the administrative capacity of the judiciary is ongoing by employment of new 144 expert associates and interns in courts (public announcements have been published) throughout which the principle of equitable representation would be respected.

### **Are judgements published? Where?**

Pursuant to Article 102 of the Constitution of the Republic of Macedonia (Official Gazette of the Republic of Macedonia, Nos. 52/91, 1/92, 31/98, 91/01 and 84/03), the proceedings before courts and the pronouncing of verdicts are public.

In accordance with Article 2 of the Constitution of the Republic of Macedonia, sovereignty derives from the citizens and belongs to the citizens, and hence the court decision is made "In the name of the citizens of the Republic of Macedonia."

Article 10 of the Law on Courts (Official Gazette of the Republic of Macedonia, Nos. 36/95 and 45/95) states that the procedures before courts are regulated by law. The procedure is based on principles, among which is the principle of transparency as a constitutional principle that is applied when the verdict is brought.

Pursuant to Article 370 of the Law on Criminal Procedure (Official Gazette of the Republic of Macedonia, No. 15/2005 – consolidated text), after the court has reached the verdict, the President of the Council must immediately announce it. If the court is not in a position to pronounce the verdict on the same day of the completion of the main hearing, it shall postpone the announcement of the verdict for not longer than three days and shall determine the time and place of the announcement of the verdict. The President of the Council in presence of the parties, their legal representatives, plenipotentiaries and defence attorney, must publicly read the verdict and announce the reasons for such verdict in brief. The announcement shall take place even if the party, the legal representative, the plenipotentiary or the defence attorney is absent. The Council may order that the verdict be orally read to an absent defendant by the President of the Council, or it may only be delivered to him/her. If the public was excluded from the main hearing, the pronouncement of the verdict must be read at a public sitting. The Council shall decide whether and for how long it shall exclude the public from the announcement of the reasons for the verdict. Everyone present must hear the announcement of the verdict in a standing position.

In litigation procedures the verdict is brought immediately after the closure of the main hearing and it is announced at the same time, except in more complex cases when the court may decide to postpone the pronouncement of the verdict for 15 days, beginning from the day of the closure of the main hearing. In such a case the verdict shall not be announced, and the parties shall receive a transcript (Article 321 and 322 of the Law on Litigation Procedure, Official Gazette of the Republic of Macedonia, No. 33/98 and 44/02).

The new provision of the Draft-Law on Litigation Procedure, currently in parliamentary procedure, envisages a compulsory announcement of the verdict even in complex cases when the verdict has been postponed for 15 days beginning from the day of the closure of the main hearing. In such a case the court is obliged to schedule the appearance in court for the announcement of the verdict on the day of the appearance when the main hearing has been closed (Article 325, paragraph 4 of the Draft-Law on Litigation Procedure).

The Supreme Court of the Republic of Macedonia has a court practice database (in paper), in a form of periodical Collections of Court Jurisprudence that it publishes regularly.

A project team in cooperation with foreign consultants has already prepared a project in which, apart from the court cases subject to the Supreme Court and which have already been published as court practice (in hard copy), court cases shall also be selected through an electronic legal database from

all courts in the Republic of Macedonia after which they shall be submitted to the Centre for Information Technology within the Supreme Court of the Republic of Macedonia. Equipment for electronic management of court practice has already been installed in the Supreme Court. After the installation of the optic interconnection of courts and after the realisation of the Project - Legal Database (CARDS 2003), an optimal technical level will be achieved, which will enable the employees in courts as well as persons in other legal professions to access data on court practice.

In addition, with support of ABA – CEELI a free web site was created – Macedonian Legal Resource Centre, that contains data bases with courts jurisprudence since 1991.

***Human rights/fundamental rights (see also Political Criteria, Sections G-I):***

**Regarding the prohibition of torture and inhuman or degrading treatment or punishment, including the quality of the prison system, please provide more precise information on:**

- (a) The number of complaints for ill-treatment brought against public employees, and the result of investigations/proceedings;**
- (b) Measures taken to improve physical conditions at detention centres, prisons and psychiatric facilities;**
- (c) The application of the principle of "non-refoulement" to refugees from Kosovo**

Ministry of Interior (submissions for torture and inhuman or degrading treatment or punishment)

In 2002 a total of 15 submissions were received:

- 5 were found groundless;
- 4 were justified and disciplinary measures were proposed and instituted for the authorised officers for excessive use of power;
- 4 submissions were exhaustively investigated but no evidences were found of excessive use of power;
- 3 criminal charges against authorised officers were filed for the criminal offence - *Mistreatment in performing duty.*

In 2003 a total of 32 submissions were received:

- 9 were found groundless;
- 6 were justified and disciplinary measures were proposed and instituted for the authorised officers for excessive use of power;
- 17 submissions were exhaustively investigated but no evidences were found of excessive use of power;
- 5 criminal charges against authorised officers were filed for the criminal offence - *Mistreatment in performing duty.*

In 2004 a total of 54 submissions were received:

- 27 were found groundless;
- 20 were justified and disciplinary measures were proposed and instituted for the authorised officers for excessive use of power;
- 5 submissions were exhaustively investigated but no evidences were found of excessive use of power;
- 2 criminal charges against authorised officers were filed for the criminal offences - *Mistreatment in performing duty, Severe Bodily Injury and Unlawful deprivation of liberty.*

In 2005 a total of 11 submissions were received:

- 7 were found groundless;
- 1 was justified and disciplinary measures were proposed and instituted for the authorised officer;
- 3 submissions were exhaustively investigated but no evidences were found of excessive use of power.

Some of these procedures were initiated by the Ombudsman's office.

In the review below cases submitted to the Ombudsman related to the exceeding of official duty with allegations of torture by police officers in the last three years are presented:

- The Ombudsman has received a total of 50 submissions, out of which a violation of rights was detected in 14 cases.
- Criminal procedures: Six criminal charges were initiated against nine authorised officers (policemen).
  - o Structure of the charges: for torture – 3; for abuse in line of duty – 1; for violence – 1; for abuse of official duty – 1.
  - o Result of the charges: Convicted – 1; under criminal proceedings – 2; in pre-trial procedure – 1; dropped charges – 2.
- Disciplinary procedures: A total of six requests were submitted for a total of 17 authorised officers (policemen).
  - o Structure – all cases are related to exceeding official authorisations
  - o Results – termination of employment by the Minister—1; fines – 16.

Penitentiary and correctional institutions:

The Directorate for Execution of Sanctions, according to data from penitentiary and correctional institutions in the Republic of Macedonia – the correctional home in Tetovo, reports that in 2001, 2002, and 2003 it did not detect disciplinary procedures against employees for violation of their work duties as a result of exceeding their official duties, such as inhumane treatment or torture of convicted or detained persons.

In 2004 one disciplinary measure was initiated at the Penitentiary and Correctional Institution in Idrizovo, and three security employees were found responsible for exceeding their authorities in the use of a rubber baton. Pursuant to Article 116 of the Law on Execution of Sanctions, these persons were punished with a measure "termination of employment", which was replaced with a fine.

According the Ombudsman's office out of a total of 6 submissions (3 in 2003 and 3 in 2004) no abuse of convicted and detained persons by the prison staff were detected.

It is important to note that during the visits of the European Committee for the Prevention of Torture (three regular and three extraordinary) it determined that forms of physical abuse of convicted and detained persons by the prison staff were not detected.

Psychiatric institutions:

In 2002, from 12-14 November the Ministry of Health received one charge for an inappropriate treatment of a patient by a male nurse in the Psychiatric Hospital in Skopje. Immediately after the charge was received, a Committee of five members employed in the hospital was formed, upon whose proposal the nurse was suspended and transferred to the economic sector



of the hospital. The Head of the Department was also dismissed from the position and was reassigned to another one.

The Ministry of Health does not dispose of any information whether an investigating judge has pressed charges.

A report was submitted to the Ombudsman and to the Ministry of Foreign Affairs to pass on the information to the Committee against Torture, Inhuman or Degrading Treatment or Punishment.

## **b) Measures taken to improve physical conditions at penitentiary and correctional facilities and Psychiatric facilities**

### Penitentiary and correctional facilities

In order to improve the conditions in penitentiary and correctional institutions the Republic of Macedonia makes continuous efforts within its available resources. Most efforts are directed at securing funds for the improvement of the residential and working conditions of convicts. In the last few years, in accordance with programmes adopted by the Government, new penitentiary and correctional facilities have been built and the existing ones are being renovated. It is important to note that there has been construction of new facilities for residence and treatment of convicts at the *Penitentiary and Correctional Home Idrizovo*, which is an institution of a closed type and where in the last few years there have been continuous investments for the improvement of the living conditions of convicts. Part of the facilities has already been constructed and they host seven convicts with long-term sentences, while the rest of the facilities are being built. A new infirmary was built within this institution for treatment of chronically ill people as well as for treatment of drug addicts.

A large part of the detention unit in the *Skopje Penitentiary* has been renovated, however due to the fact that this is the largest such unit in the country and constantly overloaded, the process of reconstruction has not been fully completed. Still, within the country's financial capabilities the renovation and refurbishment of the facilities for the improvement of quality of living conditions in the detention unit will continue, bearing in mind the recommendations of the Committee for the Prevention of Torture.

The reconstruction of the roof and the renovation of electric installation are almost finished in the *Bitola Penitentiary*.

In the *Tetovo Penitentiary* an additional facility was constructed so as to increase the capacity of the convict and detention units and to improve the living conditions.

In the *Open Unit of the Štip Penitentiary in Strumica* a reconstruction of the washing and toilet facilities was carried out.

### Psychiatric institutions

The Ministry of Health submitted to all psychiatric institutions the Standards for the Non-Voluntary Accommodation in Psychiatric Institutions of the Committee for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment, so that they could conform to the provisions of this Convention;

- In July 2003, an Expert Team of the Ministry of Health prepared a report and a Programme for the Promotion of Conditions in Psychiatric Hospitals, which was not realised due to lack of finances.

- The Ministry of Health started reforms in the area of mental health. As a result of this project, six Centres for Mental Health were opened. In addition, part of the Psychiatric Hospital in Skopje already functions as a hostel;
- The National Strategy for the Promotion of Mental Health was submitted to the Government of the Republic of Macedonia for review. Also, the Law on Mental Health is in its final phase and it will regulate the basic principles for the protection and promotion of mental health, the rights and duties of individuals with mental illness, the procedure for the protection of those rights, as well as the rights and duties of health workers and health institutions. The main objective of these two documents is to provide the best possible care for the individuals with mental illness and their non-exclusion from the community;
- In order to decentralise the treatment of methadone addicts, a daily centre for treatment of methadone therapy addicts was opened. By 2006 nine new units will be opened for such treatment within medical centres. The realisation of this activity was supported by the Global Fund grant for the fight against HIV/AIDS;
- The Ministry of Health actively participates in the project Increasing Social Cohesion through the Strengthening of Public Services for Mental Health in Southeast Europe, which is part of the initiative for social cohesion of the second round table of the Stability Pact.

### **c) Non-refoulement principle**

The principle of non-refoulement as an obligation from the 1951 Refugee Convention was implemented in Article 7 of the Law on Asylum and Temporary Protection in the Republic of Macedonia (Official Gazette of the Republic of Macedonia, No. 49/03). Namely, the above Article states: "An asylum seeker, a recognised refugee or a person under humanitarian protection may not be expelled or in any other way forcibly escorted to the borders:

- When his/her life or freedom would be endangered due to his/her race, religion, nationality, social status or political conviction;
- When he/she would be subject to torture, inhuman or degrading treatment or punishment."

The prohibition in paragraph 1, item 1 of this Article does not pertain to a foreign national who as a result of serious reasons is deemed dangerous for the security of the Republic of Macedonia, or against whom there is a valid court verdict for crime or for especially serious crime and he/she poses danger to citizens of the Republic of Macedonia.

The foreign national described in paragraph 1, item 2 of the Article may not enjoy an asylum in the Republic of Macedonia due to the reasons described in Article 6 of the Law. However, he/she shall be allowed to stay on the territory of the Republic of Macedonia if it is deemed that he/she would be subject to torture, inhuman or degrading treatment or punishment in the country of his/her origin/citizenship or if he/she had been deprived of citizenship from the country of origin.

The foreign national as described in paragraph 3 of this Article has equal rights with the persons under temporary protection in the Republic of Macedonia during his/her stay in the country.

As regards the use of this principle which has been implemented in the Law on Asylum and Temporary Protection, all refugees are treated equally, including the refugees from Kosovo. Namely, after the exhaustion of all legal means in the procedure of recognition of the right to asylum in Macedonia, Kosovo refugees in practice are informed through their legal representatives when and how they can leave the territory of the Republic of Macedonia and at which border-crossing, and thus far none have been escorted by the police. In addition, practice shows that persons who have enjoyed Temporary Protection and then became asylum seekers or whose right to asylum was recognised, often voluntary travelled to their country of origin or exercised some of the rights in their country of origin (including Kosovo), by using legal entry and travel documents issued by legitimate state bodies of their country of origin.

**Regarding the freedom of thought, conscience and religion including the right to conscientious objection, please clarify:**

- (a) The extent to which articles of the Law on Religious Communities would have been annulled by the Constitutional Court;**
- (b) Whether those would have been at the origin of difficulties raised by NGOs;**
- (c) To which extent the request of permits from authorities for certain activities affect religious freedom.**

The Law on Religious Communities and Groups (Official Gazette of the Republic of Macedonia, No. 35/97) contains 37 articles that regulate the position of religious communities, the establishment and work of religious groups, and the religious instruction and religious schools as a mode of exercise of religious freedom and the freedom of religious confession.

**a)**

In September 1998 on the initiative of the Christian Baptist Church "Radosna Vest" in Skopje, joined by the Evangelical Church, the Evangelical-Congressional Church and the Christian Pentecostal Church, the Constitutional Court of the Republic of Macedonia instituted a procedure for the assessment of the constitutionality of Article 3, paragraph 1, Article 10, Article 11, paragraph 2, Articles 13 and 14, and Article 22, paragraph 2, raising the question of their conformity with the provisions in Articles 9, 19, 20 and 54, paragraphs 3 and 4 of the Constitution. The Court annulled the above articles with the Decision No. 223/97 of 23 and 24 December 1998 (Official Gazette of the Republic of Macedonia, No. 64/98).

At the end of 1999 the Constitutional Court of the Republic of Macedonia, on the initiative of the Helsinki Committee for Human Rights in the Republic of Macedonia, instituted a procedure for assessment of the constitutionality of Articles 19 and 23 of the Law on Religious Communities and Groups, as a question was raised whether they conform to Articles 19 and 96 of the Constitution. The Constitutional Court ruled on 20 October and 10 November 1999 with Decision No. 114/99 (Official Gazette of the Republic of Macedonia, No. 76/99) that these two provisions be annulled.

The following provisions were annulled:

- Pursuant to Article 3, paragraph 1 of the Law, religious matters and rites in the Republic of Macedonia may only be performed by a registered religious community or group. Citing several articles of the Constitution of the Republic of Macedonia: Article 9 pertaining to the right of equality, Article 19 guaranteeing the freedom of religious confession, Article 20 guaranteeing the freedom of association, and Article 54 containing the prohibition for discriminatory limitation of freedoms and rights; as well as citing Article 18 and Article 29, paragraph 2 of the Universal Declaration of Human Rights, and Article 9, paragraph 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Constitutional Court annulled this provision. The Constitutional Court deemed that by the restriction posed in Article 3, paragraph 1 in the Law on Religious Communities and Groups, saying that religious matters and rites in the Republic of Macedonia may only be performed by a registered religious community or group, personal and intimate feelings and religious convictions of the individual are restricted (although these are a constitutional guarantee to the individual for his/her freedom of religious confession). According to the Court, this in turn violates the freedom of religious confession and creates opportunities for punishment of individuals when they exercise their freedom of religious confession and faith, if they exercise these rights outside of a registered religious community or group.
- Pursuant to Article 10 of the Law, a religious group with a seat in the Republic of Macedonia may be founded by at least 50 persons of legal age who must be citizens of the Republic of Macedonia and must have permanent residence in the Republic. The founders of a religious group adopt a decision on the establishment and the rules, or any other act regulating the organisation and work of the group at an assembly of the founders. The Constitutional Court deemed that the requirement for such a high threshold of founders of a religious group is a restriction to freedom of religious confession and the freedom of association of citizens for the exercise and protection of their rights and convictions.

- Pursuant to Article 11, paragraph 2 of the Law, the application for founding a religious group contains: name, data for the founders, seat, subject of activity, indicating the facilities/space/rooms where religious matters and rites are performed, and data for the persons responsible for the work and representation of the religious group. Similarly as in the previous case, the Constitutional Court deemed that the requirement for entering such numerous data for the founders of a religious group, which is not a case with other associations of citizens, is a restriction to the freedom of religious confession and the freedom of association of citizens for the exercise and protection of their rights and convictions.
- Article 13 of the Law stipulates that a religious group which has been established in accordance with the Law, is entered in the registry kept at the competent body for religious communities and groups and that this body prescribes detailed provisions with regard to the keeping and the content of the registry.
- Pursuant to Article 14 of the Law, religious communities and groups are legal persons, and they gain this attribute on the day when they are entered into the Registry; pursuant to paragraph 3 of this Article, religious communities and groups may found social and charity institutions in a procedure determined by law, and pursuant to Article 4 of this Law decisions of the bodies of the religious communities and groups do not have effect outside of them, and the documents issued by these bodies do not have an attribute of public documents.
- Article 22, Paragraph 2 of the Law regulates the construction or acquisition of a facility aimed for the performance of religious matters and rites, with prior responsibility of the religious communities and groups to obtain consent from the body responsible for the questions of religious communities and groups.

Taking as points of departure the constitutional provisions related to freedom of religious confession and to the work of the state administrative bodies, the Constitutional Court concluded that the authorisations of the body competent for issues of religious communities and groups contained in Articles 13 and 14 and Article 22, paragraph 2, restrict the freedom of religious confession and violate the constitutionally determined principle of separation between the religious communities and groups and the state. The Court assessed that the authorisations of the body competent for such communities and groups were not in conformity with the constitutional and legal authorisations of the state administrative bodies.

- Article 19 regulates the performance of religious rites and matters in other rooms or places accessible to citizens (other than the religious facilities). However, a competent body of the Ministry of Interior must issue a permit after it has received an opinion from the body competent in issues of religious communities and groups.
- Pursuant to Article 23, the persons who are responsible for the work and representation of the religious group are obliged to submit an application to the competent body for every change of status or for a cessation of a religious group.

The above provisions (Articles 19 and 23) practically determine that any religious rites and matters performed outside of religious facilities as well as outside of the dwelling of a citizen who requests such performance in his/her dwelling, which means in other places accessible to citizens, must be approved by the competent body at the Ministry of Interior with a prior consent of the competent body for religious communities and groups (for non-traditional religious rites and matters), i.e. the competent body for religious communities and groups must be informed (for traditional religious rites and matters).

The Constitutional Court assessed that the requirement in Article 19 for an approval of the Ministry of Interior and an opinion of the competent body for religious communities and rights (if any of the rites are non-traditional and are to be performed outside of religious facilities or dwellings), and the requirement for informing the body competent for religious communities and groups (for the performance of traditional religious rites and matters outside of religious facilities or dwellings), is not

in compliance with Article 19, paragraph 2 of the Constitution, and thus the Court annulled Article 19 of the Law.

Furthermore, the Court determined that Article 23 of the Law requires that the persons who are responsible for the work and representation of the religious group are obliged to submit an application to the competent body for every change of status or for a cessation of a religious group within 30 days from the day of the decision on a change of status or cessation.

The Court stated that Articles 13 and 14 authorising the body competent for religious communities and groups to keep a special registry on the religious communities and groups and to prescribe more detailed provisions related to the content and the keeping of the registry were annulled in 1998, and thus it also annulled Article 23 of the Law as the requirement for the religious communities and groups to submit an application for every change of status or cessation is not in compliance with the constitutional provisions.

Doing so, the Constitutional Court removed the opportunities for competent institutions through requirements for fulfilment of certain conditions to influence the religious freedom.

Requests were forwarded to the Constitutional Court to assess the constitutionality of a few other articles of the Law; however the Court rejected these requests due to procedural reasons, while it did not institute a procedure for Article 1 and Article 8, paragraph 2 of the Law. Article 8, paragraph 2 determines that there can be one religious community for one religious confession. The Court concluded that this provision does not create inequality in the exercise of freedom of religious confession, but it protects citizens from manipulations and dividing the believers of one faith into more religious communities, which in turn leads to legalisation of a schism in one church. The Court also took into account that believers of one faith that do not belong to one religious community may associate into a religious group and perform religious rites and matters in an organised manner same as religious communities. Hence, the Constitutional Court assessed that the provision stipulating that there should be one religious community for one religious faith does not create inequality and is not in contravention of the Constitution.

**b)**

According to the aforementioned, the Constitutional Court was deciding on requests of religious groups and non-governmental organisations, largely annulling the assessed articles of the Law.

**c)**

The only Articles of the Law on Religious Communities and Groups that request permits from authorities for certain activities of religious communities and groups that are in force are the Articles 5, 16 and 26.

- Pursuant to Article 5 of the Law on Religious Communities and Groups "foreign nationals, on the request of a religious community or group, may perform religious matters and rites after a prior approval by the competent body for religious communities and groups."

From 2000 to date, 15 religious communities and groups have submitted 95 requests to the Committee for Relations with Religious Communities and Groups for permits to be issued to foreign nationals to perform religious matters and rites in legal religious facilities of the religious communities and groups that invited them. Out of all the 95 requests, not a single one was rejected. This condition posed to foreign nationals to be able to perform religious matters and rites (a prior permit from the competent body for issues in religious communities and rites) does not restrict the freedom of religious confession, but it contributes to the prevention of abuse of the religious confessions for other aims.

- Pursuant to Article 16, paragraph 1, “Religious communities or groups may collect charities for religious and humanitarian aims.” These charities may be collected in the facilities where the religious rites are performed. If they are to be collected outside of these facilities, the religious communities and groups must request a permit from the competent body at the Ministry of Interior.
- Pursuant to Article 26, paragraph 4, “Foreign nationals may instruct at a religious school only temporarily, and must receive a permit from the competent body for religious communities and groups.”

**Regarding the principle of non discrimination, you have not supplied any explicit information regarding discrimination on the basis of sexual orientation. Please provide such information.**

The formulation of the antidiscrimination provision in the Article 9 of The Constitution of the Republic of Macedonia (Official Gazette of the Republic of Macedonia No.52/91, 01/92, 31/98, 91/01 and 84/03) is comparable with the corresponding provisions of the European Convention on Human Rights and the Universal Declaration of Human Rights.

Paragraph 2, Article 9 of The Constitution proclaims that all citizens are equal by law.

The antidiscrimination clauses in other laws (The Criminal Code – Article 137, Law on Execution of Sanctions – Article 4, Law on Labour Relations – Article 9) that were referred to in the answers to The Questionnaire (Chapter I – Political Criteria, Section H – Civil and Political Rights, Question 22) stipulate that, besides other grounds, discrimination is forbidden on the grounds of any ‘personal characteristics or circumstances’, ‘other status of the person’ or ‘other personal circumstances’.

The new Draft Law on Labour Relations contains an antidiscrimination provision (Article 6) that explicitly forbids discrimination based on ‘sexual orientation’.

With the reforms of the criminal legislation made in 1996, a new Criminal Code of the Republic of Macedonia was adopted (Official Gazette of the Republic of Macedonia No. 28/91, 24/92, 49/93, 37/96, 80/99, 4/2002, 43/2003 and 19/2004) that decriminalised homosexuality. The Criminal Code of the Republic of Macedonia that was valid until 1996, in the Chapter XI: Criminal Acts against person’s dignity and moral values, Article 101, Paragraph 2 had criminalised “unnatural fornication” as a sexual act between two persons of a male sex. The sentence for this crime act was up to one year of imprisonment.

In the Republic of Macedonia several non-governmental organizations are active in the field of promoting the freedom of sexual orientation.

In 2002, a Centre for Civil and Human Rights was founded. This organisation has brought up the question for the rights of the lesbian, gay, bisexual and transgender population in the Republic of Macedonia.

The Macedonian Association for Free Sexual Orientation (MASSO) was founded in September, 2004. It is the first non-governmental association in Macedonia that is dedicated solely to promotion and development of the rights and culture of the lesbian, gay, bisexual and transgender (LGBT) population in the Republic of Macedonia.

In 2004 EGAL (Equality for gays and lesbians) was founded, as a project of the non-governmental organization HERA. EGAL is a LGBT organization dedicated to protection from sexually communicable diseases as well as AIDS/HIV protection.

MASSO and EGAL conduct a common research for identifying LGBT population problems and needs within the same LGBT population.

The Association of Citizens – Centre for Civil and Human Rights in Skopje submitted an initiative to the Constitutional Court for instituting a procedure for assessment of the constitutionality of Article

121, paragraph 2, item 16 of the Law on Military Service in the Army of the Republic of Macedonia (Official Gazette of the Republic of Macedonia, No. 62/2002, 98/2002 and 25/2003). According to this Article, sexual abuse or homosexuality is regarded as a violation to the military discipline.

According to the allegations in the initiative, the disputed provision in the Law was not in compliance with Article 8, Article 9 Paragraph 2, Article 11, Article 12, Article 16, Article 25 and Article 54 Paragraph 4 of the Constitution of the Republic of Macedonia, with Article 137 of the Criminal Code, as well as with Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, ratified by the Assembly of the Republic of Macedonia. Furthermore, the initiative stated that the disputed provision was not in compliance with Article 13 of the Treaty of Amsterdam and with Articles 11 and 12 of the EU Directive on Equal Treatment in Employment, which the Republic of Macedonia as an associate member of the EU was obliged to implement in its legislation as part of the process of harmonization with the EU legislation.

The Court decided not to initiate a procedure for assessment of the compliance of the disputed provision with the constitution, estimating that by regarding sexual abuse or homosexuality as a violation of the military discipline, the legislator does not interfere with the person's private life out of the army service. The Court substantiated its position that the respect of privacy of the individual is not absolute and that it may be restricted to a certain extent with the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols, according to which the public authority must not interfere in the exercise of the right to privacy, except when it is prescribed by law and if it is a necessary measure in the interest of state and public security, the economic well-being of the state, the protection of health and morality or the protection of the rights and freedoms of the others in a democratic society.

As regards the allegations in the initiative that the disputed legal provision was not in compliance with Article 9, paragraph 2 of the Constitution due to discrimination of citizens based on their sexual orientation, the Court deemed that these allegations were groundless as in this particular case a disciplinary liability is the sexual abuse or homosexuality of the military personnel during the performance of his/her service in the Army, and not because of the fact that the person is a homosexual. In favour of the above, the Court pointed to the fact that homosexuality, as a sexual orientation, has not been determined as a hindrance for individuals - homosexuals to be employed in the Army.

### ***Citizens' rights:***

#### **Under which conditions can third country nationals apply for permanent residence?**

Conditions under which citizens of third countries may file permanent residence request are contained in Article 23 of the Law on Movement and Residence of Foreigners (Official Gazette of the Republic of Macedonia, Nos. 36/92, 66/92, 26/93, and 45/2002).

A condition for filing a request for permanent residence is a continuous legal stay of the foreigner on the territory of the Republic of Macedonia for at least three years. He/she also must meet the conditions justifying such permanent residence.

Conditions justifying permanent residence (after three years of temporary residence) are:

- the foreigner must have stayed for three years in Macedonia performing a professional activity; temporary residence due to employment; temporary residence due to marriage with a citizen of the Republic of Macedonia; and a foreigner who owns real estate on the territory of the Republic of Macedonia is also eligible to file for permanent residence.

### ***Minority rights and the protection of minorities (see also Political Criteria, Section J):***

**What is the reason for the across-the-board decrease in the percentages corresponding to ethnic Serb population in the tables under questions J4 and J5 in the Political Criteria?**

The number of employed members of the Serb Community in budgetary beneficiaries decreased by 32 employees in December 2003, while in December 2004 it decreased by 43 employees compared to 2002. In public health institutions the number of employed members of the Serb Community decreased by 51 employees in December 2004 compared to 2002.

The reason for such decrease in percentages of data related to the representation of the Serb ethnic community in Charts J4 and J5 in the Political Criteria Chapter is mainly a result of retirement and divesting of non-essential professions or filling new vacant positions with members of other non-majority communities in the Republic of Macedonia.

For example, in the procedure for divesting of non-essential professions by the General Affairs Service within the Government, 438 employees were transferred to private enterprises in 2002 and 2003. Out of the total number of transferred employees, 11 were members of the Serb ethnic community.

According to the data given in Charts J4 and J5, despite the decrease of percentages of the representation of the Serb ethnic community in 2002-2004, the Serb community (together with the Vlach community) remains one of the most adequately represented communities within budgetary beneficiaries, as well as in public health institutions in the Republic of Macedonia. Their representation by percentages in these institutions is almost identical to their actual representation by percentage in the total population of the Republic of Macedonia. Namely, according to the data from the State Statistical Office, from the population census carried out in November 2002, Serbs represent 1.8% of the population of the Republic of Macedonia. According to the Ministry of Finance, in December 2002 the members of the Serb community were represented with 1.73% in the budgetary beneficiaries, while in December 2004 this number was 1.66%. In public health institutions, members of the Serb ethnic community were represented with 1.91% in 2002, while in December 2004 this number was 1.72%.

**External Borders:**

**Please provide additional information on:**

- **the implication of the Army in training courses of the border police staff or other activities/actions undertaken under the control of the civilian authorities;**

During the process of transferring the responsibilities for securing the state border from the Ministry of Defence to the Ministry of the Interior, a certain number of personnel from the Army of the Republic of Macedonia is being transferred to the Ministry of the Interior. Retraining courses are being carried out for this personnel aimed at their training for performance of police duties at the Border Police. This retraining is being organised solely for the personnel of the Army of the Republic of Macedonia engaged in tasks of securing the state border or other related duties in the Army of the Republic of Macedonia in the past period.

It is necessary to note that thus far, the Army of the Republic of Macedonia has not participated in retraining of the personnel of the Border Police. This training has been organised and carried out by experts from the Police Academy in Skopje.

- **the coordination/cooperation between the Central Border Police HQ and the regional police centres (current situation as well as future plans);**

The process of implementation of the Strategy for Police Reform in the Ministry of the Interior is currently underway. According to the Strategy, the police responsibilities of the Ministry of the Interior will be performed at three levels: strategic, operational and tactical level.



Accordingly, at strategic level, within the Bureau for Public Security the Border Police Department has been transformed into Sector for Border Affairs (with 21 working positions). This Sector, as an advisory body, is competent for strategic and conceptual planning of the policing in the field of border affairs and setting of the general directions and standards for performance of the police duties within the Regional Centres.

According to the Strategy for Police Reform, the transformation of the already established Regional Centres is currently underway. It has been foreseen that the Regional Centres will be responsible for performing operative tasks by carrying out concrete activities. On a tactical level, within the Regional Centres, the operation of Police Stations for Border Crossing Control (currently: Border Crossing Points) and Police Stations for Securing the State Border (currently: Border Police Stations) has been foreseen. For the performed police duties they will be directly accountable to the Chief Officer of the Regional Centre.

Once transformed, the Regional Centres will be run by Chief Officers that will be accountable to the Director of the Bureau for Public Security.

The Sector for Border Affairs is run by Deputy Director, accountable to the Director of the Bureau for Public Security, as well.

The competencies of the Sector for Border Affairs include the following: designing concepts for adequate implementation of the Schengen Catalogue of best European practices and common standards in securing of the state border and control of the state border crossings; developing concepts for implementation of the visa regime of the Republic of Macedonia with other countries; establishing prevention concepts and community policing of the Border Police in direction of building partnership and developing confidence.

The Sector also has competencies in: coordination of the concepts intended towards fight against cross border crime, notably the organised crime, smuggling, trafficking in human beings, illegal migration, drug trade and trade in weapons and hazardous materials; establishing of procedures and modes of operation of the Reception Centre; establishing and developing methodology on gathering information for committed criminal offences and their perpetrators; estimating the efficiency, effectiveness and economy in the operation of the Police Stations and Sections for illegal Migration and prevention; recommending measures and activities for their improvement; participating in drafting of programmes for basic police training, special police training, permanent training, practical learning, advanced training, management training for the managerial staff of the operative and tactical services and etc.

- **the current bilateral agreements with neighbouring countries and in particular the applicable provisions on visas**

**Republic of Albania.** The Agreement between the Government of the Republic of Macedonia and the Council of Ministers of the Republic of Albania on Abolition of Visas for Diplomatic and Official Travel Documents and the Amount of Fees for Issuance of Other Types of Visas ("Official Gazette of the Republic of Macedonia", No.9/98) determines the visa regime for the citizens of both states holders of regular passports except for the holders of diplomatic and official passports. Visas are issued by the Diplomatic-Consular Missions of both states and at the border crossing points on the Macedonian-Albanian state border.

**Republic of Bulgaria.** The citizens of both states are not under visa obligation for stay up to 90 days on the basis of the Agreement between the Government of the Socialist Federative Republic of Yugoslavia and the Government of the People's Republic of Bulgaria for Reciprocal Abolition of Visas (1965), overtaken by way of succession by the Republic of Macedonia. For the purpose of residence in the Republic of Macedonia longer than 90 days (on grounds of employment, education, specialisation, scientific research or performance of professional activity), according to the Law on Movement and Residence of Aliens the citizens of the Republic of Bulgaria are under visa obligation.

**Hellenic Republic.** The Protocol on Mutual Visa Regime and Fees between the Republic of Macedonia and the Hellenic Republic, signed on 20.10.1995, regulates that short stay visas may be issued at the border crossing points and by the Diplomatic-Consular Missions of both states. The taxes for visas are also determined with the same Protocol.

Likewise, the Protocol foresees that following the establishment of Liaison Offices of both contracting states, the short stay visas may be issued solely by the Diplomatic-Consular Missions abroad.

The Protocol on Amendments of the Protocol on Mutual Visa Regime and Fees, signed on 02.02.1996, regulated that at the border crossing points, as well as by the Diplomatic-Consular Missions, a multiple visa valid up to three months may be issued to the drivers of cargo motor vehicles and buses.

In May 1999, the Government of the Republic of Macedonia issued a unilateral Decision on abolition of visas of a stay up to 90 days for the citizens of the Hellenic Republic. For the purpose of residence in the Republic of Macedonia longer than 90 days (on the grounds of employment, education, specialisation, scientific research or performance of professional activity), according to the Law on Movement and Residence of Aliens the citizens of the Hellenic Republic are under visa obligation, considering that such type of visa has not been regulated with the above mentioned Protocol.

In July 1999, the holders of Macedonian diplomatic and official passports have been exempted from the visa obligation.

**State Union of Serbia and Montenegro.** The Agreement between the Government of the Republic of Macedonia and the Federal Government of the Federal Republic of Yugoslavia on Removal of Visas ("Official Gazette of the Republic of Macedonia", No. 50/97) regulates that the citizens of both countries may enter the territory of the other contracting party without visa for stay up to 90 days. The citizens of the State Union of Serbia and Montenegro intended to stay on grounds of employment, education, specialisation, scientific research or performance of professional activity, according to the Law on Movement and Residence of Aliens are under visa obligation. These types of visas are obtained at the Diplomatic-Consular Missions of the Republic of Macedonia.

**Kosovo (Interim Administration of United Nations Mission in Kosovo -UNMIK).** According to the Decision of the Government of the Republic of Macedonia (June, 2002), the holders of the travel documents issued by UNMIK may enter the territory of the Republic of Macedonia and stay up to 90 days without visas.

### **Visas:**

**Administrative fees: what are the criteria for defining the amount of administrative fees requested (types of visas, categories of persons, nationalities)? Are there bilateral agreements foreseen for the issuing of visas without fees?**

The Law on Administrative Fees ("Official Gazette of the Republic of Macedonia" Nos. 17/93, 20/96, 07/98, 13/01, 24/03, 19/04 and 61/04) regulates, among other, the amounts of administrative fees for all types of visas determined with the Law on Movement and Residence of Aliens ("Official Gazette of the Republic of Macedonia", Nos. 36/92, 66/92, 26/93, and 45/02). The sole criterion for determining the amount of the administrative fee for visa, stipulated with the Law on Administrative Fees is the type of visa. The administrative fees are applied on all aliens, irrespective of their citizenship. In the same manner, the Law does not make differences regarding different categories of persons.

Besides the administrative fee for visa, procedure costs for issuing visa are also paid. These costs are determined with the Price List of the Ministry of Foreign Affairs. Special services related to issuing visas (urgent procedure, etc) are also paid in accordance with the prices determined with the Price List.

The Price List is an act of the Ministry of Foreign Affairs based on Article 32 of the Law on Administrative Fees. With the draft amendments to the Law on Administrative Fees, according to the visa policy of the Republic of Macedonia and the envisaged harmonisation of the visa regime of the

Republic of Macedonia with the visa regime of the EU, it is foreseen to align the administrative fees for visas of the Republic of Macedonia with the EU uniform visa fee.

For the citizens of the Russian Federation, Azerbaijan, Belarus, Georgia, Armenia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Ukraine, Turkey and Serbia and Montenegro the administrative fees for visas are determined with bilateral agreements.

Namely, the Bilateral Agreement on Mutual Travel of Citizens, concluded between the Socialist Federative Republic of Yugoslavia and the USSR (October 1989) overtaken by way of succession by the Republic of Macedonia, as well as by the Russian Federation, which Agreement, was also overtaken by Azerbaijan, Belarus, Georgia, Armenia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine foresees issuing visas without paying administrative fees for visas. The Agreement, also regulates that the expenses during the procedure for issuing visas will be paid reciprocally.

On the basis of concluded bilateral agreements on reciprocal abolition of visas between the Republic of Macedonia and the Republic of Turkey and the State Union of Serbia and Montenegro, administrative fees for visas will not be paid for visas issued on the basis of employment, education, specialisation, scientific research or performing professional activity, and for the citizens of the Republic of Turkey for stay longer than 60 days.

Besides the aforementioned Agreement overtaken by way of succession by the Republic of Macedonia and the Russian Federation, Azerbaijan, Belarus, Georgia, Armenia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, on the basis of which the administrative fees are not paid but the costs for the procedure are charged, as well as the bilateral agreements with the Republic of Turkey and the State Union of Serbia and Montenegro, where it is precisely determined which types of visa will be issued without paying administrative fees, the Republic of Macedonia has not concluded any other bilateral agreements for issuing visas without paying administrative fees.

**Collective visas: is there any limitation concerning the number of persons, nationalities? Is it possible to issue collective visas at the borders?**

According to the Law on Movement and Residence of Aliens the collective visas are limited to a group from 5 to 50 persons. The collective visas are issued on a collective – joint travel document issued according to the respective regulations of the state for issuing travel documents to its citizens. There is no limitation regarding the nationality of the aliens to whom collective visa may be issued.

This type of visas can be issued at the border crossing points of the Republic of Macedonia. However, the issuance of these visas is applied restrictively, in accordance with the visa policy. Namely, issuing collective visas at the border crossing points is regulated as an exception and only in justified and urgent cases (humanitarian purposes and high delegations of foreign states).

Since 25.03.1998, the Republic of Macedonia is a member of the European Agreement on Travel by Young Persons on Collective Passports Between the Member Countries of the Council of Europe dated 16.12.1961 (“Official Gazette of the Republic of Macedonia” No. 34/97).

Training of consular staff: do they receive specific training on document security?

Within the preparation period of the consular staff prior to their assignment in the diplomatic consular representative offices, a training is being carried out in the Ministry of Foreign Affairs and in the Ministry of the Interior. However, this training does not cover the specific aspects concerning the document security.

**Please describe the basic instruments consular staff have for identifying false or falsified documents;**

The consular staff is not equipped with instruments for identifying false or falsified documents as those foreseen in the Recommendation of the Council from 29.04.1999 (OJ C140).

### **What are your procedures and statistics on oral requests for issuing visas at the borders?**

Pursuant to Article 25 of the Rulebook on the Mode of Issuance of Travel and other Documents and Visas to Aliens and the Form of the Documents and Visas ("Official Gazette of the Republic of Macedonia", no. 75/93) the request for issuing visa at the border crossing point is always submitted orally (there is no form for written request for visa at the border crossing points)

Pursuant to article 25, 27 and 28 from this Rulebook, the procedure for issuing visas on the border crossing points is the following::

- With the oral request, the alien encloses the travel document on which the visa is requested;
- The official person at the border crossing point checks whether the document is in order and valid. The travel document is in order if it is not damaged; has all of its pages; the photography truthfully depicts the holder of the travel document; there is space for entering visas and stamps and; there are no other defects. The travel document is valid if it is issued by an authorised state body; provides the right to return in the country which has issued the document or provides the right to enter in third country; the duration of the validity of the travel document and; the Republic of Macedonia recognises such travel document as valid for crossing the state border;
- The official person at the border crossing point checks if there are legal obstacles for issuing visa. Legal obstacles due to which a visa cannot be issued, i.e. the alien will not be allowed to enter Republic of Macedonia, are determined in Article 17 of the Law on Movement and Residence of Aliens ("Official Gazette of the Republic of Macedonia", Nos. 36/92, 66/92, 26/93, and 45/2002). Pursuant to this Article a visa will not be issued to an alien:
  - 1) who has been pronounced a security measure – expulsion from the Republic of Macedonia, or whose stay in the Republic of Macedonia has been cancelled during the period of validity of that measure;
  - 2) who has been registered in the records of an authorised state body as an international violator, or for whom there is reasonable doubt that he/she is coming to the Republic of Macedonia with intention of performing a terrorist or other criminal act;
  - 3) whose stay in the Republic of Macedonia might be a financial burden for the state;
  - 4) who does not possess entry visa for the country of destination for which such visa is required;
  - 5) who has not given correct data for him/herself or the purpose of the trip and residence on the territory of the Republic of Macedonia or has used falsified documents;
  - 6) who does not possess documents on the basis of which his/her identity can be established;
  - 7) who comes from an area where there are contagious diseases, but does not have a proof of vaccination.

(These legal obstacles were also listed in the previous answer of the question 02\_II\_05.)

- Transit visa is issued only to an alien who has a valid visa for a neighbouring country where he/she is traveling to or through whose territory he/she will transit, if with an international agreement he/she is not exempted from the obligation to possess a visa.

The visa is issued as a sticker which is glued on the travel document of the alien and is certified with a round seal and with a signature of the official person from the body issuing the visa.

The type of the visa is indicated in the visa, together with the number of entries, the number of persons who are traveling with the travel document, the duration of the validity of the visa, the date and the border crossing point of its issuance, as well as the amount of the paid fee.

In case the conditions for issuing visa are not fulfilled, the oral request of the alien will be orally denied by the official person at the border crossing point.

The statistical data on the requests for issuing visas at the border crossing points (as mentioned above, the request for issuing visa at the border crossing point can be made only orally) are provided in the answer to the previous question 24\_C\_12 and refer to the whole period of 2002 and 2003, and for the first nine months of 2004. Therefore, we are now submitting data for the entire 2004, as follows:

Total number of issued visas is 90.527. The visas are issued on the travel documents of the following countries: Albania - 80.431 (a bilateral agreement exists with the Republic of Albania which foresees issuing visas at the border crossing points, hence the high number of visas issued on oral request), Australia - 6.561, Austria (on travel documents for foreigners) - 348, the Czech Republic - 272, Canada - 259, India - 236, Armenia - 154, Poland - 116, Israel - 100, Slovenia (prior to abolition of visas) - 99, Romania - 97, Germany (on travel documents for foreigners) - 96 and other countries.

**Please provide more precise information on the development of technical infrastructure and IT background supporting visa issuing and storage of visa data (timetable, structure, services involved)**

Aiming to modernise and reform the border management and to increase the efficiency of the border control, the Strategy for Integrated Border Management foresees establishing of an integrated IT system.

The National Visa Information System (NVIS) is foreseen to be one of the segments of the integrated IT system for border management. The electronic database of the visa register will be an integral part of the NVIS.

The state agencies that are included in the NVIS are the Ministry of Foreign Affairs, (including also the diplomatic-consular missions), the Ministry of the Interior, specifically the Border Police (including also the border crossing points) and the Section for Aliens, within the Ministry of the Interior.

In order to determine the needs and priorities for designing and developing an IT system for visa management (NVIS), a preparation of a study is currently underway. The study is being prepared by foreign experts engaged by EAR within the relevant CARDS project and in collaboration with the representatives of the state agencies included in the NVIS.

The study will determine the needs concerning: the administrative and managing capacity; the relations between the state services included in the NVIS; the organisational structure; the design and development or purchase of the software; the specification of the equipment and; the training of the personal. The draft inception report is finished and the work on the study is in its second phase (four phases are foreseen).

The provisional general timeframe foresees the IT system for visa management to be functional by the end of 2006. According to the conditions for preparation of the NVIS study, it should be completed towards the end of June, 2005. The development of the software, purchase of the equipment and training of the personnel is planned to take place in the period between July 2005 – July 2006. The establishing and testing of the system is foreseen for the second half of 2006.

***Migration:***

**To which period do your residence permit statistics relate (mentioned in Section D, 4, page 85)?**

The presented statistical data which indicate the total number of issued permanent residence permits (597), as well as the classification of issued residence permits by country, indicate the current state of aliens with granted permanent residence status. That means that the presented number (597) refers to all the aliens with regulated permanent residence on the territory of the Republic of Macedonia at present. This data encompass the period from the independence of the Republic of Macedonia to date.

**Draft Law on Aliens: is there a provision for the right to appeal against an expulsion and/or deportation order to an independent judicial body with suspensive effect?**

The Draft Law on Aliens designates the Ministry of the Interior as a competent body for delivering a decision on expulsion of any foreign national from the Republic of Macedonia. Every foreign national has the right to an appeal against the above mentioned decision to the competent Commission of the Government of the Republic of Macedonia within eight days from the day of the receipt of the decision

The proceeding of the first and second instance body upon the appeal lodged is regulated in details by the Law on General Administrative Procedure ("Official Gazette of the Republic of Macedonia", Nos. 4/77, 11/78, 32/78, 9/86, 44/2002, 59/2002). Article 6 of the Draft Law on Aliens refers to the application of the Law on General Administrative Procedure stipulating that "in the procedures undertaken in accordance with this Law, the provisions of the Law on the General Administrative Procedure shall be appropriately applied, unless this Law provides otherwise".

The Law on General Administrative Procedure ("Official Gazette of the Republic of Macedonia", Nos. 4/77, 11/78, 32/78, 9/86, 44/2002, 59/2002) proclaims the suspensive effect of the lodged appeal as a basic principle and rule in the administrative procedure, i.e. the lodged appeal to prevent execution of the disputed administrative act.

However, the Law on General Administrative Procedure foresees an exemption from the above-mentioned rule, i.e. a possibility for the lodged appeal not to delay the execution of the decision in cases prescribed by the law.

The above mentioned possibility is prescribed in Article 100 of the Draft Law on Aliens, which foresees that the appeal against the decision on expulsion lodged by an alien who has stayed in the Republic of Macedonia for up to 90 days or based on a temporary residence permit for less than three years does not affect the execution of such a decision.

However, in order to protect the interests of the children, the same Article of the Draft Law on Aliens foresees that the above mentioned exemption from the suspensive effect of the lodged appeal shall not apply for an alien who has children legally residing on the territory of the Republic of Macedonia and who are living in a common family household with the alien.

The appeal of the alien lodged against the decision on expulsion shall be submitted through the first instance body, which shall investigate whether the appeal is on time and stated by an authorised person. When the first instance body considers the appeal lodged on time and stated by an authorised person, delivers all acts referring to the case together with the prepared response on the appeal to the competent Commission of the Government of the Republic of Macedonia.

Pursuant to the Rules of Procedure of the Government of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" Nos. 20/95, 38/2001, 98/2002, 47/2003, 64/2003), the Commissions, competent of making decisions in second instance in the administrative procedure are composed of a chairperson, deputy chairperson and four members and their deputies.

The chairperson of the Commission and his deputy are appointed by the Government of the Republic of Macedonia, upon a proposal of the Commission for Appointment and at that moment they should be members of the Government, deputy Ministers or State Secretaries.

The members of the Commission and their deputies, upon a proposal of the Commission for appointment are appointed by the Government as well, from the group of managerial and expert civil servants from the Ministries and other governmental bodies of the Civil Service and from the General Secretariat of the Government.

Pursuant to the provisions of the Law on Administrative Disputes (Official Gazette of the Republic of Macedonia, No. 4/77, 36/77, 44/2003), if the Commission of the Government of the Republic of Macedonia rejects the appeal of the alien, he/she has the right to initiate an administrative dispute within 30 days from the day of receipt of the decision of the Commission, i.e. to file an administrative suit to the Supreme Court of the Republic of Macedonia.

In accordance with Article 17 of the Law on Administrative Disputes, the filed administrative suit to the Supreme Court of the Republic of Macedonia does not affect the execution of the administrative act against which it has been lodged.

However, Article 17, paragraph 2 of the Law on Administrative Disputes foresees a possibility for the applicant to require delay of the execution until bringing a final court decision, where the first instance body, i.e. the Ministry of the Interior is obliged within 3 days from the day of the receipt of the request to make a decision on the soundness of the request.

The proceeding of the Supreme Court of the Republic of Macedonia in the administrative disputes is elaborated in the following answers.

### **Law on Movement and Residence of Aliens: to what extent is this law in line with international standards?**

The migration related issues in the Republic of Macedonia are regulated by the Law on Movement and Residence of Aliens ("Official Gazette of the Republic of Macedonia", Nos. 36/92, 66/92, 26/93 and 45/02). The provisions of the aforementioned Law are elaborated in details with the Rulebook on the Manner of Issuing Travel and Other Documents and Visas to Foreign Nationals and the Form of the Documents and Visas ("Official Gazette of the Republic of Macedonia", No. 75/1993), and the Guideline on the Manner of Issuing Travel Documents and Visas to Foreign Nationals by the Diplomatic and Consular Missions of the Republic of Macedonia Abroad and on the Manner of Keeping Records of Issued Travel Documents and Visas to Aliens ("Official Gazette of the Republic of Macedonia", No.10/98).

The analyses of the compatibility of the provisions from the present Law on Movement and Residence of Aliens with the European rules and standards in the field of migration showed that present conditions for entry in the Republic of Macedonia, types of visas and the procedure for visas issuing, travel documents, the conditions on issue of temporary and permanent residence permit in the Republic of Macedonia, cancellation of the stay in the Republic of Macedonia are partially aligned or not aligned with the corpus of European standards and rules governing this area.

The Law on Movement and Residence of Aliens foresees that for entry and exit, or solely for transit through the territory of the Republic of Macedonia, the foreigners shall be issued entry, entry-exit or transit visa.

The Law on Movement and Residence of Aliens legally standardises the diplomatic visa, official visa, business visa, which also may be issued for intercorporate transfers, as well as the tourist visa.

The analysis of the abovementioned types of visas in correlation with the visa types foreseen by the General consular guidelines on visas for diplomatic and consular representative offices of the contractual parties of the SCHENGEN Convention, adopted by the Council of the European Union

(2002) C 3/3/01), shows that national legislation is not harmonised with the European standards and rules in this field.

The Law on Movement and Residence of Aliens determines the diplomatic-consular missions of the Republic of Macedonia abroad and the Ministry of Interior as competent bodies for visa issuing.

Having in mind the broad scope of authorisations on the part of the Ministry of Interior in the procedure of issuing visas envisaged in Article 29 of the Rulebook on the Manner of Issuing Travel and Other Documents and Visas to Aliens and the Form of the Documents and Visas, it is also realised that the designation of competent bodies for issuing visas in the national legislation is not corresponding to the designated bodies for issuing visas in accordance with the General Consular Guidelines.

Regarding the conditions for issuing visas, the national legislation does not foresee individual and group travel insurance as a condition for issuing visas, which, on the other hand has been introduced in the European acquis by passing the Decision of the Council of the European Union of 12 December 2003 amending Section 5. Item 1.4 of the General Consular Guidelines, and Section 1, Item 4.1.2. of the Joint Guidelines in relation to the requirement for possession of travel medical insurance, as one of the documents for issuing uniformed entry visa.

The Law on Movement and Residence of Aliens foresees that an alien who comes to the Republic of Macedonia for the purpose of education, specialisation, medical treatment, carrying out certain professional activities, entering into marriage with a citizen of the Republic of Macedonia, enjoying right based on the employment, possession of immovable property on the territory of the Republic of Macedonia or because of other justified reasons for stay longer than 3 months may be granted temporary or permanent residence permit.

Regarding the reasons for issuing a temporary residence permit, it can be generally assessed that there is no significant discordance with the reasons under which a temporary residence permit may be issued in the European states. However, the national legislation does not make a clear distinction between aliens coming for the purpose of employment from the self-employed persons. Moreover, there are no provisions envisaging special conditions for issuing, extension of the temporary residence permit of aliens who are victims of human trafficking pursuant to the Directive of the Council of the European Communities on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities of 17 December 2003, and the Council Directive 2004/81/EC of 29 April 2004.

Regarding the conditions, the evidences that an alien must submit for the purpose of assessing the grounds for issuing temporary residence permit, under the national legislation the possession of medical insurance is not foreseen as a condition for issuing residence permits. The Law on Movement and Residence of Aliens solely foresees an obligation for the alien applying for temporary or permanent residence permit to enclose evidence in support of the grounds upon which the application is filed, as well as evidence of secured subsistence means.

In accordance with the Law on Movement and Residence of Aliens, the temporary residence permit is issued for up to one year and may be renewed upon application filed by the alien, but not exceeding one year. According to the above-mentioned provision, it may be concluded that the provisions of the Law on Movement and Residence of Aliens regarding the period of validity of the temporary residence permit are in line with the European standards and rules.

The Law on Movement and Residence of Aliens foresees a possibility for issuing temporary residence permit to a child up to 18 years of age or to the spouse of the alien who has been granted temporary or permanent residence in the Republic of Macedonia. Accordingly, it may be concluded that the issue of family reunification is not a strange category within the national legislation.



However, the deviation and partial discordance with the Council Directive of 2003/86/EC of 22 September on the right of family reunification is recognised, as the Law on Movement and Residence of Aliens regulates the family reunification as a possibility and not as a right that is proclaimed by the aforementioned Council Directive of 22 September.

Moreover, the Law on Movement and Residence of Aliens does not contain explicit provision that anticipates the possibility for allowing family reunification of the alien with his/her direct relatives, direct line of posterity of the sponsor or his/her spouse, when they are dependent on him and they do not enjoy appropriate family support in the country of origin, nor to the adult children of the sponsor or his/her spouse who are not married and in situations when they are not in position to satisfy their own needs due to their health condition in a way defined in the Council Directive on the Right to Family Reunification.

To an alien who has been continuously residing legally in the Republic of Macedonia for at least three years, and there are reasons that justify the permanent residence, pursuant to the provisions of the Law on Movement and Residence of Aliens, a permanent residence permit may be issued. Comparing the aforementioned provision with the time period of five years set in Article 4 of the Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, it may be concluded that currently, the Republic of Macedonia has a more flexible position in regard to the conditions for issuing permanent residence permit.

Regarding the other conditions on issuing permanent residence permit there is no disproportionate discord with the conditions on issuing permanent residence permit set by the Council Directive 2003/109/EC of 25 November 2003, considering that the Law on Movement and Residence of Aliens likewise foresees the possession of subsistence means as a condition for issuing permanent residence permit.

A partial discord due to the conditions on issuing permanent residence permit is evident in relation to the request for certificate of health condition as a condition foreseen by the Law on Movement and Residence of Aliens, as opposite to the health insurance in respect of all risks foreseen as a condition by the Council Directive of 25 November 2003.

Analysing the reasons for cessation of residence to an alien in the Republic of Macedonia in correlation with the reasons for expulsion foreseen by the Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals, it may be concluded that there is partial discord, i.e. a more rigorous line with regard to the cessation of hospitality to the alien on the territory of the Republic of Macedonia.

The aforementioned may be recognised in the legal provisions prescribing the possibility to withdraw residence status to the alien if he/she has been convicted for committed crime to an imprisonment of at least three months by the domestic or foreign court (as opposite to the penalty of imprisonment of at least one year prescribed in Article 3 of the Council Directive of 28 May 2001), when the protection of the health of citizens is concerned (but without prescribing limitation due to the moment of emergence of the disease), if he/she commits several repeated or serious violations of the constitutional and legal order, peace and order or the security of the State border of the Republic of Macedonia, if he/she is left with no subsistence means and his/her subsistence is not ensured in any other legal way. However, the abovementioned provisions do not necessarily imply obligatory conduct of the Ministry of the Interior.

In the course of the above mentioned, the Law on Movement and Residence of Aliens contains explicit provision that the duration of the stay of the alien in the Republic of Macedonia, economic and other relations with the Republic of Macedonia, as well as the consequences that would arise from the pronounced measure for him/her and his family should be taken into consideration when deciding on withdrawing residence.

Likewise, the Law on Movement and Residence of Aliens guaranties the right to appeal against the decision withdrawing his/her residence in the Republic of Macedonia.

The Law on Movement and Residence of Aliens foresees an obligation for the alien to report his/her residence in the Republic of Macedonia to the Ministry of the Interior in the time periods, which, in general, correspond with Article 22 of the SCHENGEN Agreement.

Following the analysis on the level of concordance, the need to design a new law was established, that will standardise the conditions under which the aliens may enter, stay and exit from the territory of the Republic of Macedonia. The already drafted Law incorporates the basic principles proclaimed by the Convention on Implementation of the SCHENGEN Agreement, as well as numerous Directives, Resolutions and other acts of the Council of European Union, but adapted to the national needs, possibilities and legal system of the Republic of Macedonia.

The Draft Law on Aliens intends to incorporate the fundamental principles contained in the Convention on the Implementation of the SCHENGEN Agreement of 14 June 1985; the General Consular Guidelines of the Council for visas used by diplomatic and consular missions; the EC Council Decision of 12 December 2003 that amends Chapter 5, item 1.4 of the General Consular Guidelines and Chapter 1, item 4.1.2 of the Mutual Manual regarding the requests for medical travel insurance as one of the documents for the issuance of the uniform entry visa; the Council's proposal for introducing a Manual of the Community for movement of persons across the border COM (2004) 391 of 26 May 2004; Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas; the Council Regulation (EC) No 334/2002 of 18 February 2002 amending Regulation (EC) No 1683/95 laying down a uniform format for visas; the decisions of the Executive Board of 14 December 1993 in the general Procedures for cancelling, rescinding or shortening the length of validity of the uniform visa (SCH/Com-ex (93) 24); the Council Resolution of 20 June 1994 on the limitation limitations on admission of third-country nationals to the territory of the Member States for employment.; the Council Resolution of 30 November 1994 relating to the limitations on the admission of third-country nationals to the territory of the Member States for the purpose of pursuing activities as self-employed persons; the EC Council Directive 2004/11/EC of 13 December 2004 on the conditions for admission of third-country nationals for the purposes of studying, student exchange, trainers or volunteers.; the Council Resolution of 30 November 1994 on the admission of third-country nationals to the territory of the Member States for study purposes; the Draft Commission Directive on the specific procedure for admission of third-country nationals for purposes of scientific research; the Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification; the Council Resolution of 4 December 1997 on measures to be adopted on the combating of marriages of convenience, the Council Directive on the short-term residence permit issued to victims .of..trafficking in human beings who cooperate with the competent authorities from 17 December 2003, the Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents; the Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals; the Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals; the JHA Council "EU Schengen Catalogue: External borders, control, removal and readmission: Recommendations and best practice" of 28 of February 2002.; the Council Resolution of 26 June 1997 on unaccompanied minors who are nationals of third countries; a text adopted by the Ministers of 11 June 1992 on the acceptability/unacceptability of travel documents; the Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence, and some other regulations.

The level of conformity of the decisions contained in the Draft-Law on Aliens with the above EC directives is given in the attached table of correspondence. (See 24\_Annex\_01)

### ***Asylum:***

**Does the review by the Supreme Court under the normal asylum procedure take place on the basis of facts and law, or only on the basis of law? Does it constitute an effective remedy?**

The Law on Asylum and Temporary Protection ("Official Gazette of the Republic of Macedonia", No. 49/2003) in its Article 32 grants the right of the asylum seeker to initiate an administrative dispute before the Supreme Court of the Republic of Macedonia against the decision of the competent Commission of the Government of the Republic of Macedonia.

The Initiation of the procedure before the Supreme Court of the Republic of Macedonia, the conduct of the procedure, as well as the proceedings of the Supreme Court of the Republic of Macedonia upon a submitted appeal are regulated with the Law on Administrative Disputes ("Official Gazette of the Republic of Macedonia", No. 4/77, 36/77, 44/2003).

The administrative dispute i.e. the proceeding before the Supreme Court of the Republic of Macedonia commences by submitting the appeal.

The appeal, as a rule, does not affect the execution of the administrative act against which the appeal has been submitted.

However, upon a request of the appellant, if the execution would impose damage to the appellant which could be difficult to correct, and the delay is not opposite to the public interest, nor the delay would impose a greater irretrievable damage to the opposite party, the Section for Asylum shall postpone the execution of the decision until the final court verdict.

The Law on Administrative Disputes provides an opportunity to the body issuing the decision, i.e. the Section for Asylum, to delay the execution of the disputed act until the final court verdict from other reasons, too, if the public interest allows that.

However, the Law on Administrative Disputes bounds the Section for Asylum, as a body which brought the decision in first instance, within three days from the day of the receipt of the request to bring a decision deciding upon the request for the delay of the execution until the final court verdict.

Following the receipt of the appeal, the Supreme Court of the Republic of Macedonia considers whether the appeal is timely, complete, comprehensible, and whether the legal assumptions for initiating an administrative dispute has been fulfilled.

If the appeal is incomplete or incomprehensible, the President of the Council shall invite the appellant to remove the deficiencies in the appeal within the given deadline. In addition, he/she will instruct the appellant how to act, and will point out the consequences that will come forth if the appellant does not act upon the demand of the court. The Court will bring a decision dismissing the appeal as incomplete if the alien does not remove the deficiencies in the appeal, and those deficiencies are of such nature which precludes the operation of the Court.

The Supreme Court resolves the administrative disputes in closed sessions.

However, the Court may decide to hold a hearing due to the complexity of the disputed matter, or if it otherwise concludes that it is necessary to improve clarification of the state of the matter.

If the competent council decides to hold a hearing, the President of the Council will determine the day of the hearing and will summon the parties to it.

The Law on Administrative Disputes provides the appellant, i.e. the alien who has lodged the appeal, with an opportunity, at the hearing, to elaborate his/her viewpoints and assertions induced in the appeal.

As a rule, the Court decides on the dispute based on the facts established in the administrative procedure.

If the Court finds that the dispute can not be decided on the grounds of the facts established in the administrative procedure, because: as to the established facts there is contradiction in the papers; the facts have been incompletely established as to the essential points; a wrong conclusion was

drawn in relation to the factual situation; or if the Court found that in the administrative procedure the rules of the procedure were not respected, which could impact the decision of the disputed matter, the Court will revoke the disputed administrative act with a verdict. In that case, the competent body, i.e. the Section for Asylum is obliged to act as it has been determined in the verdict, and to bring a new decision.

However, the Court may itself establish the factual situation, and on the bases of such established factual situation to bring a verdict i.e. decision if:

- revoking the disputed decision and repeated procedure before the competent body i.e. the Section for Asylum, would cause for the appellant a damage that could be difficult to correct, or
- based on the official document or other evidence in the papers of the case, it is obvious that the factual situation is different from what is established in the administrative procedure, or
- The administrative act has been already revoked in the same administrative dispute, i.e. the decision, and the competent body did not act upon the verdict.

In the above mentioned cases, the court establishes the factual situation at a hearing, held by one member of the Council, or by other regular court or by other body.

Pursuant to the provisions of the Law on Administrative Disputes, against above mentioned verdicts of the Supreme Court of the Republic of Macedonia, the alien has the right to submit a request for extraordinary review of the court verdict, as well as a request for protection of the legality.

**Is there any possibility that persons who are subject to the accelerated procedure can challenge a negative decision (by non-suspensive appeal to the court post-removal, human rights challenge prior to removal, etc.)?**

In accordance with Article 37 paragraph 1 of the Law and Asylum and Temporary Protection of Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 49/03), the asylum seeker has the right to lodge an appeal against the decision rejecting the asylum application in an accelerated procedure within three days from the day of delivery of the decision, to the Second Instance Commission within the Government of the Republic of Macedonia.

Pursuant to Article 37 paragraph 2 of the above mentioned Law, the appeal shall delay the execution of the decision brought in the accelerated procedure.

The appeal is decided upon by the competent Second Instance Commission for Administrative Procedure in the Field of Judiciary, Internal Affairs, State Administration, Local Self-government and Religion within the Government of the Republic of Macedonia within 15 days from the day of submission of the appeal.

Regarding the procedure for expulsion, no separate decision is issued on expulsion from the territory of the Republic of Macedonia, but the first instance Decision brought in a regular or accelerated procedure, in the body of the decision, sets a time limit within which the asylum seeker is obliged to leave the territory of the Republic of Macedonia. The time limit starts to expire from the day when the Decision becomes enforceable.

Against the Decision, the appellant may initiate an administrative dispute, as explained in the previous responses.

**What is the basis for assigning accommodation to asylum seekers? What kind of accommodation is provided (centres, housing, flats etc.)?**

Pursuant to Article 48 of the Law on Asylum and Temporary Protection ("Official Gazette of the Republic of Macedonia", No. 49/03), the asylum seekers until the taking of a final decision in the procedure for recognition of the right to asylum, have the right to residence, accommodation and care

in a Reception Centre or other place of accommodation assigned by the Ministry of Labour and Social Policy.

It should be mentioned that, as the Republic of Macedonia did not have accommodation capacities for the asylum seekers, with the support of CARDS, the construction of a Reception Centre for asylum seekers with an accommodation capacity of 150 beds is underway.

The lack of specific accommodation facilities is the reason why most of the asylum seekers are accommodated in the private accommodation, and most of them are accommodated in municipality Šuto Orizari. At present, the expenses for their accommodation are covered by the High Commissioner for Refugees.

One asylum seeker, due to the nature of his/her handicap is accommodated at the Rehabilitation Centre Banja BANSKO, and 12 asylum seekers are accommodated at the Reception Centre Gazi Baba, which is run by the Ministry of Interior.

### **Are the grounds for granting subsidiary protection coterminous with those in Article 15 of the Qualification Directive?**

The ground for granting subsidiary protection (person under humanitarian protection) is Article 2 paragraph 1 of the Law on Asylum and Temporary Protection of Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 49/03) "the right to asylum is protection granted by the Republic of Macedonia, under the conditions in the procedure defined by this Law, to the following categories of persons": line 2 "person under humanitarian protection (in compliance with Article 3 of the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms and Article 3 of the 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" and Article 5 of the Law on Asylum and Temporary Protection of the Republic of Macedonia "A person under humanitarian protection is an alien to whom the Republic of Macedonia shall grant the right to asylum on humanitarian grounds and give a permission to remain within its territory because he/she would be subjected to torture, inhuman or degrading treatment or punishment"

Regarding the grounds within the above mentioned Articles of the Law on Asylum and Temporary Protection with those in Article 15 of the Qualification Directive, there is full compliance with the Point "B" of Article 15 of the Qualification Directive.

Also we have to take into consideration that the time limit for full implementation of the Directive for the EU Member States is October 2006, and the Law on Asylum and Temporary Protection of the Republic of Macedonia was drafted and passed in a period (entered into force on 03.08.2003) when the Directive did not have legal force and it is still not fully implemented. However, despite this fact, the Point "C" of Article 15 of the Qualification Directive has been implemented in the practice.

### **Is the right to family reunification for refugees and asylum seekers implemented in accordance with EU legislation?**

The implementation of the right to family reunification in the Republic of Macedonia is in accordance with the EU legislation and it is encompassed with Article 8 of the Law on Asylum and Temporary Protection of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 49/03):

"The members of the nuclear family of the recognised refugee and the person under humanitarian protection, upon their request, shall have the right to asylum.

Members of the nuclear family, in the sense of paragraph 1 of this Article, are considered as being the spouse, if the marriage had been concluded prior to the arrival in the Republic of Macedonia, and the minor children who are not married, as well as the parents of the minors, if the minors have acquired the right of asylum.

The principle of family reunification of paragraph 1 of this Article shall not be applied if:

- The reasons for exclusion referred to in Article 6 of this Law on Asylum and Temporary Protection of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 49/03) exists, and
- The persons of paragraph 2 of this Article are nationals of another state which can grant protection to them."

Regarding the right to family reunification of the asylum seekers, Article 3 point 2a of the Directive for the right to family reunification has been taken into consideration.

Moreover, the Article 63 of the Law on Asylum and Temporary Protection of the Republic of Macedonia "the provisions of Article 6, 7, 8, 14, 17 and 47 of this Law, also apply to persons under temporary protection, " guarantees the same conditions and duties in the sense of the right to family reunification to the persons who enjoy the right to temporary protection in the Republic of Macedonia, too".

The request for family reunification, in practice, may be submitted to the Section for Asylum, if the asylum seeker has entered the territory of the Republic of Macedonia and pursuant to Article 16 paragraph 3 of the Law on Asylum and Temporary Protection of the Republic of Macedonia", "in the cases referred to an Article 8 of this Law, the application for family reunification can be submitted to the diplomatic-consular missions of the Republic of Macedonia abroad".

**Please provide clarification of the statistics on subsidiary protection, suspended procedures and rejected requests (different figures from the UNHCR for 2003)**

The discrepancy in the presented data from the figures presented by the UNHCR for 2003 has resulted from the following reason:

In the previous answers to the questions of the Questionnaire related to the statistical data for the period 2001-2004, the data on the number of asylum seekers shown in the table for 2003 corresponds to the statistics from the UNHCR, -2311 (out of which 5 are minors).

The data on the Refugee status (12), humanitarian protection (809, out of which 2 minors), suspended procedure (199) and rejected requests (209) relate to the requests submitted in 2003, but the procedures upon them were underway conclusive of September 2004, thus the data are shown in the table for 2004.

Having regard to the above mentioned, the situation is as follows:

Year	Number of asylum seekers	Refugee status	Humanitarian protection	Suspended procedure	Rejected requests	In procedure
2001	191	31	/	36	124	/
2002	118	1	/	15	102	/
2003	2311(5)	3	1	6	/	1
2004	48	12	1081	226	315	725

**Implementation of the Asylum Law: is there still a need to adopt by-laws and regulations? What is the capacity in the Mol to process asylum cases? Are appeals decided by representatives from the same Ministry?**

**By-laws and regulations**

There is no need to adopt new by-laws.

A Working group is being established, which together with the experts from the Project EUROASYLUM, within the national CARDS Programme, is to prepare a Handbook by the end of

September this year. This Handbook is intended for the public servants as a manual for practical implementation of the Law.

### **The capacity in the Mol to process asylum cases**

The Section for Asylum, within the Ministry of Interior, is the sole competent body to act on asylum cases in the Republic of Macedonia.

Taking into consideration the reform in the Ministry of Interior, the staffing of the Section of Asylum is underway. Currently, the Section operates with one head of the Section, two senior inspectors and four persons engaged on the basis of service contract with financial support provided by UNHCR-office in the Republic of Macedonia. A new working position has been systematised – inspector on providing information on the countries of origin. Given that, in last quarter of the last year one graduated lawyer from the Ministry of the Interior attended training at UNHCR-Geneva, and as of May this year he will start working on this work position.

Since 13.03.2005, the Section on Asylum operates in new working premises, where all the employees use computers and have unrestricted internet connection. The larger part of the trainings carried out in the Republic of Macedonia has been finished, while part of the employees have attended international courses for human rights. Several study visits in the EU member States have been carried out. Each of the employees has processed from 150-200 requests for recognition of the right to asylum.

### **Body deciding on appeals**

Article 15 of the Constitution of the Republic of Macedonia guarantees the right to appeal against individual legal acts issued in first instance proceedings by a court, administrative body, organisation or other institution carrying out public mandates.

According to the Law on the Government of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No.59/00 and 12/03), the Government has established 14 Commissions on proceedings in administrative procedure in second instance. Pursuant to the Law on the Government and the Rules of Procedure of the Government, these commissions are composed of a chairperson, 4 members and their deputies. A minister or a deputy minister may be appointed as a chairperson of the Commission, while the members are from the rank of managing and expert civil servants from the ministries, other state administrative bodies and the General Secretariat of the Government. The officials that take part in deciding in the respective administrative matters in first instance may not be appointed members of the second-instance commission - Article 23, paragraph 3 of the Law on the Government of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No.59/00 and 12/03). This provision is consistently implemented in practice.

The members of the Second Instance Commission for Administrative Procedure in the Field of Judiciary, Internal Affairs, State Administration, Local Self-government and Religion within the Government of the Republic of Macedonia decide upon appeals in asylum cases.

### **Please provide data on the repatriation of refused applicants**

The repatriation of rejected asylum seekers in the Republic of Macedonia is an obligation in compliance with Article 25 of the Law on Asylum and Temporary Protection ("Official Gazette of the Republic of Macedonia", No. 49/03) of the Republic of Macedonia, "Should the rejected person, asylum seeker, not leave the territory of the Republic of Macedonia within the time limit foreseen in the decision of the Section for Asylum, expulsion from the Republic of Macedonia will be pursued in compliance with this Law and the provisions of the Law on Movement and Residence of Aliens ("Official Gazette of the Republic of Macedonia", Nos. 36/92, 66/92, 26/93 and 45/02").

Regarding the practice in the Republic of Macedonia, upon voluntary repatriation of the refugees in their countries of origin a certain amount of financial means is paid as a support in a voluntary repatriation. In this process, besides the Ministry of Interior, the UNHCR and ARC (American Refugee Committee) are involved. In the framework of such practice, in 2005 inclusive of March, a total of 14 persons have returned to Kosovo, and at the same time one person from Kosovo returned to the territory of the State Union of Serbia and Montenegro (the Republic of Serbia).

**In the course of 2004, total of 26 refugees voluntarily returned to Kosovo and 15 refugees originating from Kosovo returned to the State Union of Serbia and Montenegro (the Republic of Serbia).**

It should be taken into consideration that these refers to persons whose asylum request were in a different stage of the procedure (not only refused applicants).

Regarding the voluntary repatriation/return of the refused asylum seekers, we have to take into consideration the fact that not every voluntary repatriation was coordinated by the UNHCR, bearing in mind that the asylum seekers, the majority of them originating from Kosovo-Serbia and Montenegro, can decide, to return to their country of origin on their own. According to the Records of the Section for Asylum, the situation is as follows:

- out of the submitted requests in 2003, inclusive of 20.04.2005, 23 adults and 9 minors whose asylum request were refused, voluntarily returned;
- out of the submitted requests in 2004, inclusive of 20.04.2005, 8 adults and 3 minors whose asylum request were refused, voluntarily returned.

**Has art., 3 of the draft Law on Aliens been changed? (Adequate protection needs to be granted to persons who requested to apply for asylum.)**

The Draft Law on Aliens, which is still a working draft and has not entered into procedure, in its Article 3, foresees that the provision of this Law shall apply for all aliens except those aliens who:

- have applied for asylum as well as aliens who are granted the right to an asylum in the Republic of Macedonia, unless this Law provides otherwise,
- enjoy privileges and immunity according to the international law, if the application of this Law is contrary to the international obligations undertaken as well as the principle of reciprocity.

The Law on Asylum and Temporary Protection ("Official Gazette of the Republic of Macedonia ", No. 49/2003) which governs the conditions and procedure for granting and cessation of the right to asylum to an alien or a stateless person seeking recognition of the right to asylum in the Republic of Macedonia, justifies the need to exempt this category of aliens from the application of the provisions of the Draft Law on Aliens.

However, the impossibility to make a clear distinction between this category of aliens and the institutes which are regulated by the Draft Law on Aliens (special protection against entry denial - Article 25, Illegal stay - Article 97), implicates the need of a general provision in the Law which would provide application of the provisions stipulated by this Law in regard to persons who have requested the right to asylum, as well as aliens with recognised right to asylum in the Republic of Macedonia. Respecting the special right of the asylum seekers set by the 1951 Geneva Convention on the Refugee Status and the 1967 Protocol on the Refugee Status, the Draft Law on Aliens, in Article 25 contains an explicit provision on special protection against entry denial to this category of foreign nationals.

In accordance with the proposed Article 25, an alien may not be denied entry if she/he intends to apply for an asylum in the Republic of Macedonia; if he/she has submitted a request for recognition of the right to asylum in the Republic of Macedonia, and if he/she has been granted the right to asylum in the Republic of Macedonia.



**Police:****Do fully functioning communication lines exist between the DPML and the financial police?**

In accordance with the Law on Money Laundering Prevention and other proceeds from crime ("Official Gazette of the Republic of Macedonia", No 46/2004) and the Law on Financial Police ("Official Gazette of the Republic of Macedonia", No. 55/02), the Directorate for Prevention of Money Laundering and the Financial Police, as bodies within the Ministry of Finance are obliged to cooperate in the fulfilment of their statutory competencies. In analysing the transactions reports, the Directorate may request data and information from the Financial Police, which provides such data and information pursuant to the Law on Financial Police ("Official Gazette of the Republic of Macedonia", No. 55/2002). Likewise, the Financial Police (besides the Ministry of Interior and the Public Prosecutor's Office) is one of the competent bodies to which the Directorate delivers a written report containing an expert opinion in cases of existence of grounds for suspicion for committed crime of money laundering or financing terrorism. Article 23 of the Law on Money Laundering Prevention and other Proceeds from Crime ("Official Gazette of the Republic of Macedonia", No 46/2004) prescribes an obligation for the Financial Police to deliver written reports in case of suspicion for money laundering and financing terrorism to the Directorate.

The cooperation between the Directorate for Prevention of Money Laundering and the Financial Police is set on solid grounds and is carried out in a direct communication without any obstacles.

**Compatibility with the second Money Laundering Directive: For how long should banking records be stored? Do legal professions and real estate agents apply customer identification procedures and are they compelled to make suspicious transaction reports? Is "tipping off" (informing the suspected person that an inquiry is underway) prohibited?**

Pursuant to Article 20 of the Law on Money Laundering Prevention and Other Proceeds from Crime ("Official Gazette of the Republic of Macedonia", No 46/2004), the banks (as well as other subjects with a statutory duty) are obliged to keep the data for the clients and transactions provided on the basis of this Law, to keep them for at least ten years following the performed transaction i.e. from the last transaction when it is a case of several transactions comprising one whole, or at least ten years from the date the agreement expires. The banks (subjects) are obliged to keep the data, in a manner they have delivered them to the Directorate, for at least ten years from the date of the delivery.

In accordance with the Law on Money Laundering Prevention and other proceeds from crime ("Official Gazette of the Republic of Macedonia", No 46/2004), "subjects" are the persons who have an obligation to undertake measures and activities for money laundering prevention and detection stipulated by this Law, which include natural persons and legal entities performing activity of real estate circulation, notary, law practice and other legal services relating to: buying-selling real estate and companies, money and securities management, establishing and disposal of bank accounts, safe deposit boxes and other accounts, opening and participation in the management of legal entities, representing clients, financial transactions and real estate circulation. As well as other bound subjects, the above mentioned subjects, too, are obliged pursuant to Article 5 of the Law on Money Laundering Prevention and Other Proceeds from Crime ("Official Gazette of the Republic of Macedonia", No 46/2004), to undertake following measures and actions for detecting and preventing money laundering:

- identification of the clients (*be familiar with your client*);
- monitoring of certain transactions;
- gathering, keeping, confidentiality and submitting information on transactions;
- introduction of internal programmes for money laundering prevention.

According to Article 34 of the Law on Money Laundering Prevention and Other Proceeds from Crime ("Official Gazette of the Republic of Macedonia", No 46/2004), the duties resulting from the Law on Money Laundering Prevention and other proceeds from crime ("Official Gazette of the Republic of

Macedonia", No 46/2004), do not apply to the lawyers and notaries public in cases when the client is represented in a judicial or other procedure.

"Tipping off" (informing the suspected person that an inquiry is underway) is prohibited. Pursuant to Article 21 of the Law on Money Laundering Prevention and other proceeds from crime ("Official Gazette of the Republic of Macedonia", No 46/2004), the subjects and their employees must not inform the client or third party on the delivery of the data to the Directorate or of other measures and activities undertaken on the basis of the Law on Money Laundering Prevention and other proceeds from crime ("Official Gazette of the Republic of Macedonia", No 46/2004). If the subjects and their employees act opposite to this Article, the Law on Money Laundering Prevention and Other Proceeds from Crime ("Official Gazette of the Republic of Macedonia", No 46/2004) prescribes a fine of 250.000,00 up to 300.000,00 MKD for a legal entity (Article 41), i.e. a fine of 40.000,00 up to 50.000,00 MKD for a natural person (Article 43).

### **How is supervision being performed outside the banking sector?**

According to Article 38 of the Law on Money Laundering Prevention and Other Proceeds from Crime ("Official Gazette of the Republic of Macedonia", No 46/2004), the supervision over the implementation of the measures and activities over the subjects outside the banking sector is performed by the :

- National Bank of the Republic of Macedonia over savings banks, exchange offices and fast money transfer providers;
- Ministry of Finance over insurance companies;
- Securities Commission over the stock exchange, broker offices and investment funds;
- Public Revenue Office over other financial institutions, companies organising games of chance and other legal entities and natural persons, subjects of such measures and activities.

The supervision over the lawyers and notaries public as well as other persons professionally performing legal and financial affairs, is regulated in such a manner that the chambers of lawyers and notary, i.e. other professional associations of auditors, accountants and other persons professionally performing legal and financial affairs, within their competencies, establish commissions for performing supervision over the implementation of the provisions of this Law by their members. The chambers i.e. the associations are obliged to inform the Directorate for Prevention of Money Laundering of the selection and composition of the commissions.

**The supervision of the process for prevention of money laundering is carried out on the grounds of internal instructions which encompass policy analysis, the procedures and practice of the supervised institution i.e. determining the adequacy of the established system on money laundering prevention.**

The Directorate for Prevention of Money Laundering is competent to submit elaborated request to the bodies and institutions performing supervision requesting to supervise certain subjects. These bodies and institutions are obliged to act upon the request and to inform the Directorate on the results from the performed supervision.

### **What is the status of the adoption of the draft Law on Witness Protection?**

The adoption of the Law on Witness Protection is proceeding in two phases. The first phase ended by the approval of the Draft Law by the Assembly of the Republic of Macedonia in January 2005. Within the second phase, the Draft Law on Witness Protection was reviewed by the Government of the Republic of Macedonia on the Twenty Second Session held on 04.04.2005, entering afterward into parliamentary procedure, and is expected to be adopted soon (it is on the agenda at the parliamentary sitting scheduled for 18.05.2005).

The Law on Witness Protection is aimed to provide efficient protection to a person who has information significant for a criminal procedure and whose life, well being, freedom, physical integrity

or property are exposed to danger. Besides the witnesses and the collaborators of justice, the victims who are also witnesses, as well as their closely related persons, are included.

The provisions of the Law prescribe the procedure for witness protection; create a ground for establishment of a special body competent for providing protection and inclusion in the Programme (Witness Protection Council); the process of concluding the agreement and measures for protection; international cooperation in the field of witness protection; issues on securing financial means for implementation of the Programme; and regulate the institutional issue on the decision making for applying the measure of protection, etc. Likewise, within the Ministry of Interior, the Section for Witness Protection has already been established, and it will have competencies in carrying out the protection measures.

This law project was drafted in cooperation with national and foreign experts, and expertise by the Council of Europe was provided in order to ensure harmonisation of the Law with the international and European standards. The standards of the 2001 United Nations Convention against Transnational Organised Crime together with the two Protocols, and the Recommendation of the Committee of Ministers to Member States concerning Intimidation of Witnesses and the Right of Defence, R (97) 13 were implemented.

Particular attention during the process of drafting the Law is paid to the consistency with the Proposal-Recommendation on protection of witnesses and collaborators of justice set by the Expert Committee for protection of witnesses and collaborators of justice. The text of this Document was adopted at the last meeting of the Expert Committee for protection of witnesses and collaborators of justice within the Council of Europe, held in February this year.

**The replies to the questionnaire note that few criminal offences are related to trafficking in human beings (p. 203). Yet, on the same page, trafficking in human beings is mentioned as being among the organised crime types most represented in the country (see also pages 213 and 214) Why is there such a low rate of trafficking in human beings cases in your crime statistics?**

In the replies to the Questionnaire, p. 203, the trafficking in human beings is treated within question no. 4, which refers to the international dimension of the organised crime in the country. Here it is stated that “the relations among these groups are especially *evident in the illicit trade in narcotics and psychotropic substances, smuggling of persons, smuggling of excise goods, illegal trade in weapons and stolen luxury motor vehicles*. Furthermore, at the end of the same question it is assessed that trafficking in human beings “*is becoming a serious problem*”.

The statistical data show certain number of criminal offences in 2002, 2003 and partly in 2004. According to our assessment, there is no discrepancy between the previously cited assessments (p. 203, 213, and 214) and the statistical data.

We emphasise that when assessing the level and rate of the number of cases, several factors must be considered:

- Trafficking in human beings has become more intensive in the Republic of Macedonia in the recent years, conditioned also by the social changes wider in the region
- The process of modernisation of legislation in terms of incriminations whereby:
  - o The Criminal Code of the Republic of Macedonia adopted in 1996 regulates the field of trafficking in human beings and illegal migration by Art. 418 “establishment of slave relationship and transport of persons under slave relationship”, Art. 191 “prostitution mediation” and Art. 402 “illegal crossing of the state border”.
  - o The Law on Amending the Criminal Code (“Official Gazette of the RM” no. 4/02), which introduced a new article 418-a “Trafficking in human beings”, whereas by the

Law on Amending the Criminal Code in 2004 ("Official Gazette of the RM" no. 19/04) this article was amended, and two new articles were added, Art. 418-b "Smuggling of migrants" and 418-c "Organising Group and Conspiring to Perpetrate Crimes of Trafficking in Human Beings and Smuggling of Migrants".

- The need to apply sophisticated investigation methods in cases of trafficking of human beings.
  - o The amendments to the Law on Criminal Procedure are of great importance for taking measures and activities in the fight against trafficking in human beings and illegal migration, especially by introduction of the special investigation measures that enable provision of data and evidence necessary for successful criminal procedure, which can not be otherwise collected or the collection thereof would pose great difficulties. Furthermore, the expected adoption of the Law on Witness Protection, the Law on Control of Communication Interception (in parliamentary procedure), will contribute to further enhancement of the efficiency in detecting and prosecuting such criminal offences.

### **Terrorism:**

#### **What is the status of the ratification of the 2003 Protocol amending the Convention on the Suppression of Terrorism?**

The Law on Ratification of the Protocol Amending the Convention on the Suppression of Terrorism is drafted by the Ministry for Foreign Affairs and it will be forwarded to the Government in the course of May 2005.

Following the adoption, the Government will further deliver it to the Parliament which will enact the Law on Ratification.

**In your replies to the Questionnaire, you classify the "Front for National Unification of Albanians" and the "Albanian National Army" as organisations which have been declared by the EU and the USA as terrorist groups. However, on our list of terrorist organisations these groups are not included. Can you please substantiate your claims?**

The organisations "Front for National Unification of Albanians" ( FBKSh) and the "Albanian National Army" ( AKSh), mentioned in our answer, were placed on the US Department of the Treasury list as a concretisation of the executive order No. 13219 from 29.05.2003. It can be found on the web site of the US Treasury - Office of Foreign Assets Control (OFAC) on the following link: <http://www.treas.gov/offices/enforcement/ofac/actions/20030529.html>.

The last issue of this list dated 27.05.2004, which refers to the executive order number 13219, on page 30370, among other organisations-groups; the "AKSh" (Albanian National Army a.k.a ANA) is also placed.

Besides the organisations FANU and ANA (FBKSh and AKSh) which are placed on the list, the persons Adili Gafur, born 05.01.1959 in Kičevo, Republic of Macedonia and Beciri Idajet, born 20.02.1951 in Fier, Albania, who are the political leaders of these organisations, where in fact, FANU (FBKSh) is the organisation, while ANA (AKSh) is its military part, are also placed on the same list. Namely, according to the decisions brought at the inaugural assembly of 20.07.2002 in Tirana, Republic of Albania, FANU (FBKSh) is structured at three levels: SKSh- Albanian National Security, FKSh - Albanian National Fund and AKSh (ANA) - Albanian National Army.

The EU Council Common Position 2004/133 CFSP of 10.02.2004, [http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2005/l\\_029/l\\_02920050202en00450047.pdf](http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2005/l_029/l_02920050202en00450047.pdf), published in the Official Journal of the European Union (Article 1) establishes that the *EU Member States shall undertake appropriate steps to prevent the persons placed on the list (Annex A) to entry or transit throughout their territories, who actively intercede and participate in violent extremist activities that endanger the fundamental principles of the Ohrid Framework Agreement (stability,*

*territorial integrity, unitary and multiethnic character of the Republic of Macedonia) or deliberately undermine and prevent the implementation of the Framework Agreement undertaking activities beyond the democratic process. Among others, the persons, Gafur Adili, political leader of FKBSH (FANU), as well as the members of the AKSh (ANA), Spiro Butka, Hiseni Xhemail and Avdil Jakupi are also listed in Annex A.*

## **What is the readiness and standards of the new special forces (Special Task Unit and the Rapid Deployment Unit)?**

### 1. READINESS OF THE SPECIAL TASK UNIT

The Special Task Unit during its 24 years of existence carries out trainings of personnel which prepare the members of the Unit to perform the most complex police operations.

#### ROLE:

Currently, the Special Task Unit is ready to perform the following special police operations:

Solving hostage situations

- Attack on a facility
- Attack on a train
- Attack upon travel motor vehicles and buses
- Attack on a plane (For solving hostage situations in cases of hijacked aircraft, the training by experts from French Special Service "RAID" is underway).

Apprehension of dangerous persons

- Apprehension of dangerous persons in situations of possible armed resistance
- Apprehension of dangerous criminals and criminal groups
- Apprehension in cases of barricaded persons

Protection

- Protection of a VIP person
- Protection of important or endangered facilities
- Securing transport of dangerous criminals
- Giving assistance in the fight against organised crime

#### STANDARDS

##### Training and Education

The training of the Special Task Unit is carried out in accordance with the European and international standards. Mainly, two modes are employed in the training:

- 1) Daily maintenance of the level of readiness
- 2) Carrying out periodical seminars on a certain topic (specialisation)

The training is carried out as follows:

- Within the Ministry of Interior and the Special Task Unit, carried out by own personnel (instructors)
- Within the Special Task Unit supported by European and other experts
- By attending trainings abroad through cooperation with the related services in the region (South East Europe)
- Through bilateral cooperation (cooperation with the special police units of the French police)

#### ABILITIES:

The functioning of the Unit is within the formation setting at the level of command and three operative groups composed of:

- Team for surveillance and observation
- Negotiation team
- Team for planning and support

The personnel of the Special Task Unit are authorised officers of the Ministry of the Interior and cadets of the Police Academy.

The selection of the personnel is conducted according to beforehand established criteria and standards.

## 2. READINESS OF THE RAPID DEPLOYMENT UNIT

The Rapid Deployment Unit is an integral part of the police security system within the Ministry of the Interior.

The Rapid Deployment Unit is set to provide support exclusively to the police units across the whole territory of the Republic of Macedonia.

With fully trained and equipped police officers, with high professionalism and readiness to act, the Rapid Deployment Unit is ready and able to autonomously carry out police operations of high risk in diverse surroundings.

### ROLE:

- The Rapid Deployment Unit is fit to fight against organised crime in rural areas and to secure public peace and order in the aim of maintaining stable security condition for all the citizens of the Republic of Macedonia;
- Maintaining and establishing of disturbed public order and peace to a larger extent at gatherings, protests, sport and other manifestations;
- Searches, blockade and deprivation from liberty of armed criminal groups, gangs and individuals;
- Establishing order in cases of rebellion within the penitentiary institutions;
- Operations of observation, patrolling and apprehension in rural areas;
- Rescue missions in high mountain areas;
- Rescue missions during natural disasters;
- Law enforcement across the entire territory of the Republic of Macedonia.

### PROVIDING SUPPORT

- Providing support and logistics to the border police under high intensity incidents;
- Providing support and logistics to the territorial police services (Police stations);
- Providing support to the Special Task Unit
- Giving assistance of a greater extent to judicial and other state bodies
- Providing support to the Army of the Republic of Macedonia

### ABILITIES:

- Central core composed of 250 well trained uniformed and equipped police officers for control of mobs and maintaining public order;
- Central core composed of 250 officers trained to perform operations of observations, patrolling and apprehension in rural areas;
- Central core composed of 150 well trained and uniformed police officers for handling special and adequate vehicles in enormously difficult conditions and situations.

The Rapid Deployment Unit performs all the operations in full compliance with the legal order of the Republic of Macedonia based on EU standards and rules.

### STANDARDS

In order to achieve high professionalism and readiness to act, the selection of the personnel for the Unit is conducted according to beforehand established criteria and standards.

- The selection is conducted upon internal announcement delivered to all Sectors for Internal Affairs (public and transparent);
- Transparency for all the citizens of the Republic of Macedonia.
- Uniformed police service 12-24 months,
- No membership to a political party

- Age from 21-30 years upon application
- No criminal record
- Possession of driving licence, B category, or to pass a driving exam within three months
- Physical check-ups

The physical check-ups for admission to the Rapid Deployment Unit are carried out according to established criteria and standards.

With the establishment of Rapid Deployment Unit the Ministry of the Interior has:

- Satisfied the European standards and professional norms,
- Created a special unit which respects the multiethnic character of the employees,
- Achieved equal participation of all the ethnicities that live on the territory of the Republic of Macedonia.

The Unit has achieved high level of readiness, especially:

- Ability for rapid deployment
- Ability to deal with armed extremists
- Ability to deal with armed dangerous criminals
- Ability to deal with organised gangs in rural areas.

### ***Judicial cooperation in criminal and civil matters:***

#### **Please provide additional information on judicial cooperation under the Convention for the Protection of the Financial Interests of the European Communities**

Judicial cooperation on the basis of the *Convention on the Protection of European Communities' Financial Interests* in the Republic of Macedonia is done pursuant to the Law on Criminal Procedure (Official Gazette of the Republic of Macedonia, Nos. 15/97, 44/02, and 74/04), and particularly pursuant to the provisions of Chapter XXX – Procedure for providing international legal assistance and execution of international agreements on criminal and legal cases and ratified international agreements (European Convention on Legal Assistance in Criminal Matter with its protocols, European Convention on Extradition with its protocols, European Convention on the Transfer of Convicted Persons with its protocols, the UN Convention on Transnational Organised Crime) and other international covenants in this area.

Pursuant to Article 503 of the Law on Criminal Procedure, domestic courts' applications for legal assistance in criminal matters are submitted to foreign bodies through diplomatic mail, either through the Ministry of Justice or directly from the competent court. Likewise, foreign bodies submit their applications for legal assistance to domestic courts in the same manner.

The criminal offence of fraud to the detriment of the financial interests of the European Community is criminalised in the Macedonian legislation in the provisions of the Criminal Code (Official Gazette of the Republic of Macedonia, Nos. 37/96, 80/99, 4/02, 43/03, and 19/04). This crime is contained in the provisions on criminal offences against property in Chapter XXIII, criminal offences against public finances, public revenue and economy in Chapter XXV, and criminal offences against official duty in Chapter XXX.

The criminal offence of fraud may be ground for extradition and for ceding documents for criminal prosecution.

The above confirms that the Republic of Macedonia has a legal framework for judicial cooperation under the Convention for the Protection of the Financial Interests of the European Communities, in the procedures for criminal prosecution of perpetrators of criminal offences and in the procedures for extradition.

## 26. External relations

### 1. *Export credits:*

**We are not aware of the existence or the implementation of an export credit scheme in the Republic of Macedonia to support exports from the country to third countries. However, we would like to know whether the country intends to establish an export credit scheme. If this is the case, we would also like to know whether an EU export credit agency provides your country with advice and support for the implementation of such a scheme. As the current export structure of your country (textiles, rolled steel and agricultural products) is primarily suitable for short-term export credits, the country would have to take into account the relevant Community legislation once an export credit scheme is implemented.**

The sole institution with a mission to promote the development and the export in the Republic of Macedonia is the Macedonian Bank for Development Promotion. It has been established by the Law on Establishment of Macedonian Bank for Development Promotion ("Official Gazette of the Republic of Macedonia" No. 24/98 and 06/00). The Bank has been established by the Republic of Macedonia with a capital of 15 million EUR. Pursuant to the Law, other domestic or foreign persons can also be founders of the bank, however the participation in the capital of the Republic of Macedonia can not be lower than 51 percent and the participation of the foreign legal persons can not be higher than 30 percents.

The Macedonian Bank for Development Promotion operates in accordance with the banking regulations, under the supervision of the National Bank of the Republic of Macedonia. The main objective of the Macedonian Bank for Development Promotion is to contribute to the implementation of the developmental policy of the Republic of Macedonia and to the promotion of export. The promotion of the production for export and of the export itself, as well as its protection from commercial risks is intended for all the trading companies: small, medium-sized and large ones.

In accordance with its statutory position, the Macedonian Bank for Development Promotion provides its loans through fourteen commercial banks in the country. The types of loans that are provided by the Macedonian Bank for Development Promotion come from: a) own resources, and they are particularly short-term loans (up to one year) loans for export promotion (with an annual interest rate ranging between 4.5% to 6%), and long-term loans for small and medium-sized companies (with an annual rate of 5%), b) foreign financial resources, earmarked credit lines, by the German credit line (KfW) in a total amount of 15 million EUR (with an annual interest rate of 7% and 8%) as well as the German – Macedonian Fund (with an interest rate of 5.5% annually); c) a credit line provided by the Government of the Republic of Italy in a total amount of 12.7 million EUR (with an annual interest rate of 4%) for which the Macedonian Bank for Development Promotion acts as an agent; d) the Bank also acts as an agent of the credit line for micro-financing by KfW of 12.8 million EUR; e) the Bank has been appointed as an administrator of the micro-credit line by the European Agency for Reconstruction for financial support of the small and the medium-sized companies, in total amount of 10.6 million EUR.

The pursued basic priority of the external policy within the frames of the macro-economic policy of the Republic of Macedonia for 2005, which is articulated as creating conditions for expanding of exports of goods and for providing greater presence of Macedonian products on the international markets, is expected to increase the role of the Macedonian Bank for Development Promotion in this segment of activities. In accordance with the macro-economic policy for 2005, the Macedonian Bank for Development Promotion is expected to offer greater support to and promotion of the export-oriented production. It has been underlined in the macro-economic policy that one of the main tasks of the Macedonian Bank for Development Promotion should be crediting the export-oriented production as well as alleviating the risk of the export activity.

The Republic of Macedonia has anticipated the establishment of a formal export credit scheme. Until now, no European Union export credit agency has offered Republic of Macedonia either advice or



support for implementation of such a scheme. For implementation of an export crediting scheme, the Republic of Macedonia will take into consideration the relevant European Union legislation. It should be noted that even in the existing Law on Establishment of the Macedonian Bank for Development Promotion much attention was paid to respecting of the basic principles of free trade and competition, as well as the rules of the World Trade Organisation, which is explicitly stated in the Article 7 of the Law.

## 2. Textiles:

**The SAA contains a calendar for duty reduction which, for textiles, is scheduled to take place over 10 years. In this context we would be grateful if you could elaborate further on the information you have provided on page 13 (Chapter 26), which states that the Republic of Macedonia, within the framework of its WTO commitments, "accepted 0% customs rates for major part of the raw materials (silk, wool, rubber and alike). The customs rates for finished textile goods will be reduced over a transitional period" We would appreciate to obtain further information on this transitional period as compared to the one contained under the SAA**

On the basis of the commitments accepted by the Law on Ratification of the Protocol on the Accession of the Republic of Macedonia to the World Trade Organisation - WTO ("Official Gazette of the RM" No. 07/03 as well as the Stabilisation and Association Agreement between the Republic of Macedonia and the European Communities and their Member States ("Official Gazette of the Republic of Macedonia" No. 28/01), gradual reduction of the customs tariff rates is envisaged for the import of textile and textile products.

The time frame for reduction of the customs tariff rates according to SAA and in accordance with the WTO commitments is presented in the table (see 26\_Annex\_01).

## 3 Average duty rates:

**Please indicate the simple average MFN duty rates which will apply to, respectively, agricultural, industrial and fishery products, at the end of the transitional period applicable to the tariff commitments accepted upon accession to the WTO**

Pursuant to the Law on Ratification of the Protocol on the Accession of the Republic of Macedonia to the World Trade Organisation - WTO ("Official Gazette of the RM" No. 07/03) and the commitments undertaken, the simple average MFN duty rates, which will apply to agricultural, industrial and fishery products respectively at the end of the transitional period is presented in the following table:

Average MFN duty rates ( <i>ad valorem</i> ) for the period 2003-2012				
	Agricultural products	Fishery products	Industrial products	Total
2003	21,85	11,35	9,27	12,16
2004	19,81	8,77	8,49	11,09
2005	18,05	6,18	7,66	10,05
2006	17,25	3,7	7,19	9,50
2007	16,44	1,22	6,71	8,95
2008	15,98	0,94	6,70	8,83
2009	15,98	0,94	6,68	8,82
2010	15,98	0,94	6,30	8,54
2011	15,98	0,94	6,30	8,53
<b>2012</b>	<b>15,98</b>	<b>0,94</b>	<b>6,29</b>	<b>8,51</b>

Source: Customs Administration of the Republic of Macedonia

- The average of the **agricultural products** encompasses the products which are classified in Chapters 1-24 of the Harmonised System (without the fishery products);
- The average of the **fishery products** encompasses the products which in accordance with SAA have been defined as fishery products. (Chapter II, Article 24, Item 3);
- The average of the **industrial products** encompasses the products which are classified in Chapters 25 – 97 of the Harmonised System, and
- **The total average** encompasses all the duty rates of all the products.

## **27. Common Foreign and Security Policy**

### **How regularly does the Inter-Ministerial Working Group on Harmonisation (IMWG) meet?**

The Working Group on harmonisation of legislation of the Republic of Macedonia with the *acquis communautaire* in the field of the CFSP is one of the 29 working groups established in 2003 to provide support to the Sub-Committee for harmonisation of the legislation of the Republic of Macedonia.

The Working Group was established in July 2004 and has held periodical sessions to follow the process of harmonisation of the national legislation with that of the EU, providing expert opinions on specific areas of legislative harmonisation and giving guidelines and recommendations for the implementation of the Programs of approximation of the national legislation.

In addition to representatives of the Ministry of Foreign Affairs, the Working Group has representatives of the Ministries of Defense, Interior, Economy, Justice, and Finance, of the Customs Administration, the Legislative Secretariat and the Sector for European Integration within the Government of the Republic of Macedonia.

Aimed at further rapprochement with the EU, the Government adopted a Decision establishing Working Groups for preparation of the National Program for adoption of the *acquis communautaire* and the positions for negotiations with the EU (which in fact abolishes the Decision for establishment of Working Groups for harmonisation of the legislation of the Republic of Macedonia with the *acquis communautaire* – Official Gazette of the Republic of Macedonia No. 25/03). Hence, the Working Group on harmonisation of legislation of the Republic of Macedonia with the *acquis communautaire* was reformed.

### **Are the authority and tasks of the Ministry of Foreign Affairs set out by Law? If there is a draft, what is the prospect of its adoption by Parliament?**

The authority and tasks of the Ministry of Foreign Affairs are regulated by the provisions of the Law on the Organisation and Operation of the State Administration Bodies, which “sets forth the organisation, competencies and the work of the state administration bodies” (Official Gazette of the Republic of Macedonia No. 58/2000 and 44/2000).

Article 18 specifically, provides for the functions and regulates the main role of the Ministry of Foreign Affairs in the representation of the country. This Article furthermore establishes the relations in the process of the decision-making and coordination in the pursuance of the foreign policy of the country, complemented with provisions defining the basic description of the various standard functions of the Ministry in protection of the interests of the citizens of the Republic of Macedonia in foreign countries etc. The Ministry of Foreign Affairs conducts activities related to:

- Foreign affairs and foreign policy of the Republic of Macedonia;
- Establishment, development and coordination of relations, representation and promotion of the Republic of Macedonia at the international stage;
- Protection of interests, rights and property of the state and its citizens and of domestic legal entities in foreign countries;
- Coordination and information about the policy pursued within the competencies conferred to this Ministry;
- Care for the position and the rights of the Macedonian people in the neighbouring countries;
- Organisation and management of the diplomatic, consular and other missions of the Republic of Macedonia, as well as organising the system of links with the missions;
- Concluding, ratifying and keeping international agreements;
- Delineation and demarcation of the state border line;

- Communication and cooperation with foreign diplomatic and consular missions of foreign states and missions of international organisations in the Republic of Macedonia;
- Accreditation of ambassadors, acceptance of credentials, granting privileges and immunities to foreign diplomatic missions and missions of international governmental organisations and other affairs related to appointment and recalling of ambassadors of the Republic of Macedonia in foreign countries;
- Collection, study and care for foreign and domestic documentation within its competencies and
- Other affairs defined by law.

Articles 47 and 49 regulate the competencies and authorities of the Ministers of the Government, including the Minister of Foreign Affairs; Article 48 regulates the functions of the Deputy Ministers, including the Deputy Foreign Minister.

Article 52 provides the basis for authorisation by the Minister for the decision-making in administrative matters by the subordinated officials in the administration.

This Law is a relevant legal framework for the competencies and the work of the Ministry of Foreign Affairs of the Republic of Macedonia. In addition, the legal acts adopted by the Government or the Minister that regulate internal proceedings and functioning of the Ministry also constitute a legal basis for the work of the Ministry.

The Government has initiated the process of drafting a Law on Foreign Affairs. This Law is expected to strengthen the legal basis of the Ministry of Foreign Affairs, defining a systemic approach to the regulation of the entire foreign affairs area.

The Minister has submitted to the Ministries and agencies the text of the working draft, i.e. the Proposal for adoption of the Law on Foreign Affairs for initial considerations. In May 2005, the Ministry will organise a public debate with academic circles and with the civil society. Furthermore, political parties represented in the Assembly and former leading personalities in the foreign affairs will be consulted. In early June 2005, the Government should forward the Proposal for adoption of the Law on Foreign Affairs to the Assembly of the Republic of Macedonia as the first phase in the adoption of the Law. In accordance with the legislation, within 60 days after the positive conclusion of the first phase in the Assembly, the Ministry will present to the Government a Draft Law on Foreign Affairs that will reflect the proposals resulting from the public consultations and from the first phase debate in the Assembly. It is expected that the Law will be adopted this autumn.

**Are this authority and these tasks matched with appropriate administrative and financial resources from the State budget?**

Under the Budget of the Republic of Macedonia there are funds planned and provided for the work of the Ministry of Foreign Affairs and of the diplomatic- and consular missions of the Republic of Macedonia. The Budget allocations cover 80% in average of the projections of the Ministry in terms of funds necessary for the performance of planned tasks and activities.

In the last three years, despite the continuous increase of the volume and tasks and activities, especially in the context of the application for membership of the EU and the expected invitation for NATO membership, greater number of activities under regional initiatives and despite the intensification of the bilateral cooperation with the countries in South-East Europe, the budget allocations for the Ministry of Foreign Affairs have remained approximately at the same level.

The basic functions and tasks of the Ministry of Foreign Affairs are fully and qualitatively performed in conditions of limited personnel and budget resources. Large number of the posts envisaged under the Systematisation of jobs at the Ministry of Foreign Affairs and at the diplomatic and consular missions of the Republic of Macedonia remains open. The recruiting of 15 expert-administrative associates at the Ministry by the end of 2004 is a small step in overcoming this situation. It is planned to recruit another 15 persons of higher education by the end of the year.

**Please forward translations of your national legislation transposing the international conventions, referred to in the replies to the Questionnaire.**

Following is the list of laws and bylaws<sup>o</sup> (see annex 27\_Annex\_01):

- Amended Article 17 of the Constitution (Official Gazette of the Republic of Macedonia No. 84/03)
- Law on Radiation Protection and Safety (Official Gazette of the Republic of Macedonia No. 48/02).
- Law on Trade (Official Gazette of the Republic of Macedonia No. 16/04);
- Law on Carriage of Dangerous Goods (Official Gazette of the SFRY, Nos. 27/90 and 45/90 and Official Gazette of the Republic of Macedonia No. 12/93);
- Customs Administration Law (Official Gazette of the Republic of Macedonia No. 46/04);
- Law on Production and Trade of Weapons and Military Equipment (Official Gazette of the Republic of Macedonia No. 54/02);\*
- Law on Weapons (Official Gazette of the Republic of Macedonia No.7/05);\*
- Law on Crossing the State Border and Movement in the Border Zone (Official Gazette of the Republic of Macedonia Nos. 36/92 and 12/93);\*
- Law on Protection from Explosive Materials (Official Gazette of the Socialist Republic of Macedonia Nos. 4/78; 10/78; 51/88, and 36/90 and Official Gazette of the Republic of Macedonia No 12/93);\*
- Law on Trade in Explosive Materials (Official Gazette of the SFRY Nos. 30/85 and 6/89, and Official Gazette of the Republic of Macedonia Nos. 12/93 and 31/93);\*
- Criminal Code (Official Gazette of the Republic of Macedonia No. 37/96, 80/99, 4/02, 43/03 and 19/04);\*
- Law on Criminal Procedure (Official Gazette of the Republic of Macedonia No. 15/97, 44/02, 74/04 and 15/05-consolidated text);\*
- Law on Asylum and Temporary Protection (Official Gazette of the Republic of Macedonia No. 49/03);\*
- Law on Prevention of Money Laundering and Other Proceeds from Crime (Official Gazette of the Republic of Macedonia No. 46/04);
- Defence Law (Official Gazette of the Republic of Macedonia Nos. 42/2001 and 5/2003);\*
- Law on Protection and Rescue Operations (Official Gazette of the Republic of Macedonia No. 36/2004);\*
- Decision on Allocation of Goods to Forms of Export and Import (Official Gazette of the Republic of Macedonia No. 91/2004);
- List of Explosive Materials to be Placed into Circulation (Official Gazette of the Republic of Macedonia Nos. 64/98) and List amending and supplementing the List of Explosive Materials to be Placed into Circulation (Official Gazette of the Republic of Macedonia Nos. 12/2000 and 46/2004).
- Rulebook on the Means of Transport of Dangerous Substances in the Land Traffic (Official Gazette of SFRY No. 82/90 and Official Gazette of the Republic of Macedonia Nos. 12/93 and 31/93);
- Rulebook on Technical Norms regarding Handling Explosive Materials Used in Mining (Official Gazette of the SFRY Nos. 26/88 and 63/88, and Official Gazette of the Republic of Macedonia No. 12/93);\*

**What is your administrative set-up to implement and enforce international obligations, in particular the structures in the Ministry of Foreign Affairs (posts of political director and European correspondent; unit in charge of monitoring the implementation of the acquis; capacity to participate in secure communications networks) and, possibly, other ministries or administrative structures?**

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<sup>o</sup> The English version of the legal acts marked with an asterisk (\*) will be additionally delivered to the European Commission by the end of May 2005.

The present organisational set-up and structure of the personnel of the Ministry of Foreign Affairs enable successful performance of tasks and activities related to the coordination, implementation and enforcement of international obligations of the Republic of Macedonia. The organisational set-up of the Ministry of Foreign Affairs is defined in the Rulebook on the Internal Organisation of the Ministry of Foreign Affairs, dated September 2004 (see 27\_Annex\_02).

As stated in the answer to Question 13, Section C of the Political Criteria Chapter, the implementation of obligations of the Ministry of Foreign Affairs related to the European integration of the Republic of Macedonia is pursued by a separate Sector for European Union. The work of the Sector for the EU is organised in three departments, and its competencies are described in the enclosed Rulebook on the Internal Organisation of the Ministry of Foreign Affairs.

The coordination of the implementation of obligations under the process of adopting the EU acquis in the field of the Common Foreign and Security Policy is a task of the Sector for European Union-Department for European and Regional Cooperation.

As a result of the intensified dynamics of the process of adopting the acquis in the field of the CFSP, and in order to ensure enhanced coordination and monitoring of the implementation of the acquis in this area, a separate Department for CFSP will be established at the Sector for the European Union.

The new Law on Foreign Affairs will prescribe new solutions in respect of the organisational set-up of the Ministry of Foreign Affairs and in respect of the systematisation of the new jobs. In this context, there is an analysis underway of the competencies and status of the offices of the Political Director and European Correspondent in the future organisational structure of the Ministry. The relevant services of the EU Council, of the EC and of several member-countries are consulted in this regard, taking into consideration as well the experiences of the countries-candidates in establishing these structures.

In respect of the IT capacities, the Ministry of Foreign Affairs has an IT and Telecommunication Department. The Department has expert staff for planning, management and maintenance of the telecommunication and information networks of the Ministry of Foreign Affairs and of the diplomatic- and consular missions. Currently, this Department provides support for several communication networks, such as: the internal network of the Ministry of Foreign Affairs, the electronic and encrypted communication with the diplomatic and consular missions and the OSCE Secure Communication Network. There are activities undertaken to connect the 25 diplomatic and consular missions through a secure VPN network with the Ministry of Foreign Affairs. By the end of this year, the Ministry will be able to exchange information with the Macedonian Mission in Brussels through a secure VPN channel via Internet, while such links will be established with the other 24 diplomatic and consular missions next year. Furthermore, currently the personnel of the IT and Telecommunication Department are trained about the new solutions aimed at enhancing the security and functioning of the IT networks.

The development plans for the Ministry's IT capacities envisage upgrading of the IT and Telecommunication Department, through higher level training of the existing personnel and of the newly recruited expert personnel in the field of IT network security and their connecting, envisaging as well full implementation and raising the security level of the VPN communication with all diplomatic and consular missions of the Republic of Macedonia with new technological solutions, connecting part of the diplomatic and consular missions through rented satellite channels for audio and electronic communication.

In consultations and with the support of the EU, the Ministry of Foreign Affairs is prepared to upgrade the IT capacities in order that after the acquiring of the membership candidate status it will be able to exercise the right to access the EU network intended for the candidate countries-ACN.

Aimed at active and consistent implementation and fulfillment of internationally assumed obligations of the Republic of Macedonia, the state administration bodies of the Republic of Macedonia have

organisational units (sectors/departments) for international cooperation and European integration which are in charge of coordinating and monitoring the implementation of the internationally assumed obligations in the field of their competence.

**How does your country implement its international commitments related to, inter alia, restrictive measures (embargoes)? In particular, what are the constitutional and legal arrangements for the implementation of restrictive measures, and the list of restrictive measures currently applied by your country (with official references)?**

The answer No. 8, Part B of Chapter 27 contains all relevant information on the constitutional and legal arrangements for the implementation of restrictive measures. In addition, the draft (working text) of the Law on Foreign Affairs contains provisions dealing with the application of restrictive measures.

The list of currently applied restrictive measures is identical to the list presented in the answer to Question No. 8 of Chapter 27. This list is updated with the restrictive measures against the Sudan imposed under UN SC Resolution 1591(2005) of 29 March 2005.

**Please complete the list of Common Positions and UNSC Resolutions your country currently applies.**

The Republic of Macedonia applies the following common positions (22 April 2005 inclusive)\*:

1. Council Common Position 2003/297/CFSP of 28 April 2003 on Burma/Myanmar (OJ L 106, 29.4.2003)
2. Council Common Position 2004/31/CFSP of 9 January 2004 concerning the imposition of an embargo on arms, munitions and military equipment on Sudan (OJ L 6/65, 10.01.2004);
3. Council Common Position 2004/137/CFSP of 10 February 2004 concerning imposition of the restrictive measures on Liberia (OJ L 40/35, 12.02.2004);
4. Council Common Position 2004/161/CFSP of 26 February 2004 renewing restrictive measures against Zimbabwe (OJ L 50/66, 20.02.2004);
5. Council Common Position 2004/309/CFSP of 2 April 2004 updating Common Position on specific measures to combat terrorism and repealing Common Position 2003/906/CFSP (OJ L 99/61, 3.04.2004);
6. Council Common Position 2004/500/CFSP of 17 May 2004 updating Common Position 2001/931/CFSP on application of specific measures to combat terrorism and repealing Common Position 2004/309/CFSP (OJ L 196/12, 3.04.2004);
7. Council Common Position 2004/622/CFSP of 26 August 2004 amending Common Position 2004/179/CFSP of 23 February 2004 concerning restrictive measures against the leadership of the Transnistrian region of the Moldovan Republic (OJ L 279/47, 28.8.2004) (Official Gazette of the Republic of Macedonia No.72 of 18.10.2004)
8. Council Common Position 2004/661/CFSP of 24 September 2004 concerning restrictive measures against certain officials of Belarus (OJ L 301, 28.09.2004) (Official Gazette of the Republic of Macedonia No.78 of 1.11.2004)

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\* On 16 August 2004, the Government of the Republic of Macedonia adopted Information on aligning with the declarations and common positions, which sets forth their publication in the Official Gazette of the Republic of Macedonia. The entire review of declarations, common positions and statements of the EU, which upon invitation by the EU, the Republic of Macedonia has aligned with, is published in the Official Gazette of the Republic of Macedonia No. 19, 25 March 2005.

9. Council Common Position 2004/694/CFSP of 11 October 2004 on further measures in support of the effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY) (OJ L 315/52, 14.10.2004) (Official Gazette of the Republic of Macedonia No.80 of 11.11.2004);
10. Council Decision 2004/767/CFSP of 15 November 2004 implementing Common Position 2004/694/CFSP on further measures in support of the effective implementation of the mandate of the International Criminal Tribunal for the Former Yugoslavia (ICTY) (OJ L 339/16, 16.11.2004) (Official Gazette of the Republic of Macedonia No.90 of 17.12.2004);
11. Council Common Position on additional restrictive measures and amending Common Position 2004/423/CFSP against Burma/Myanmar of 25 October 2004 (OJ L 323/17, 26.10.2004). (Official Gazette of the Republic of Macedonia No.90 of 17.12.2004);
12. Council Common Position 2005/149/CFSP of 21 February 2005 on amending Common Position 2004/423/CFSP renewing restrictive measures against Burma/Myanmar (OJ L 49/37, 22.02.2005)

In addition to the restrictive measures of the UN Security Council presented in the answers under Chapter 27, the Republic of Macedonia applies the UN SC Resolution 1591(2005) of 29 March 2005 on the restrictive measures against Sudan.

**How do you implement the "Declaration by the Presidency on behalf of the EU concerning the common position 2005/80/CFSP of 31 January 2005 extending and modifying the common position 2004/133/PESC on restrictive measures against extremists"?**

As part of its active participation under the Common Foreign and Security Policy of the EU, the Republic of Macedonia aligns with those declarations, demarches and common positions to which the EU invites it. In the specific case, taking into consideration that it is a matter of a common position related to restrictive measures against nationals of the Republic of Macedonia, in pursuance with the usual practice, the EU has not invited the Republic of Macedonia to join this position. However, considering the importance of the issue, the Ministry of Foreign Affairs has informed all relevant institutions in the country about the extension and amendments to the said Common position.

**With regard to ESDP, how are the National Security and Defence Concept and the Policy Framework of the Strategic Defence Review implemented? Does it have an impact on your crisis management capacity? What is the state of play of the draft law on crisis management? How does it relate to the Petersberg tasks and to responses to civil and natural crisis situations?**

The National Security and Defence Concept and the Strategic Defence Review are implemented according to the Programme for Transformation of the Defence and the Armed Forces of the Republic of Macedonia. The Programme defines the directions for harmonisation of the legislation, the documents and the procedures for transformation, establishment, development, and review of the Defence and the Armed Forces.

The implementation of the activities foreseen in the National Concept on Security and Defence and the Strategic Defence Review, are related to the key processes of transformation of the armed forces and the development of the capabilities and the capacities of the forces for participation in international crisis management operations. The activities for transformation of the defence and armed forces are realised according to the established timeframe and are planned to be complete by the end of 2007.

The implementation of the National Concept on Security and the Strategic Defence Review contribute to the continuous advancement of the capabilities and the capacities of the Republic of Macedonia for participation in humanitarian aid and rescue operations, as well as in peacekeeping



operations and engagement of combat forces in dealing with crises, including the peace maintenance operations. Under this process, the Republic of Macedonia has increased its capability of participating in the EU crisis management operations and of actively contributing to the implementation of the European Security and Defence Policy of the Union. In this context, the Republic of Macedonia considers the possibilities for participation in the EU military operation in Bosnia and Herzegovina-ALTHEA and has initiated consultations with the EU Council services to consider the possibilities and modalities for participation in this mission.

The Assembly of the Republic of Macedonia, at its session held on 22.04. 2005, adopted the Crisis Management Law. This Law regulates the activities for prevention, early warning and management of crisis that represent a risk for the goods, the health and the life of the people and the animals, and have occurred as a result of natural disasters and epidemics or other risks and threats that directly endanger the constitutional order and security of the Republic of Macedonia.

The crisis management system involves the state bodies – the Assembly, the President, the Government, and state administration bodies, part of the Army of the Republic of Macedonia i.e. specially trained troops, public enterprises, institutions, services, companies, while on voluntary basis the individuals, associations of citizens, international organisations and the media can be also involved. The Government is in charge of adopting decisions on the manner of managing the crisis situations. The Parliament has a control function, while the President is in charge of adopting a decision on the eventual deployment of the Army.

The Law envisages that within the Government three crisis management bodies will be established: Management Committee (coordinates and manages the process); Assessment Group (assesses the situation) and Crisis Management Centre (implements the activities defined by the previously mentioned bodies).

As regards the Petersburg tasks, in accordance with the capabilities and capacities, which it develops, the Republic of Macedonia will be able to contribute troops to rescue and protection operations in civil and natural crisis situations.

**Can you provide the draft new legislation on non-proliferation of weapons of mass destruction? When do you intend to present the draft law on Export Control of Dual-Use Goods and Technology to Parliament?**

In the area of non-proliferation, currently there are activities regarding two legal projects: for export control of dual use goods and technologies and for implementation of the Chemical Weapons Convention. In addition, the procedure for accession to the Additional Protocol to the Safeguards Agreement of the IAEA has been initiated. The Government has adopted the relevant decision in this respect and has informed the IAEA Director General.

A Working Group established at the Government of the Republic of Macedonia has prepared the Proposal for adoption of a Law on Export Control of Dual Use Goods and Technologies. This Law was forwarded to the TAIEX Office on 22.04.2005, with an expectation to receive the expert opinion by the end of May. In the spirit of the cooperation under the CFSP, the draft of the Law has also been forwarded to the EU Council for information purposes.

The Program of the Government of the Republic of Macedonia for 2005 envisages that the government procedure regarding the draft Law on Export Control of Dual Use Goods and Technologies will commence in June 2005, which of course depends on the receipt of the expert opinion regarding the text of draft of the Law.

**What is the work programme of the National Body dealing with chemical weapons (CWC), beyond the introduction of national measures for implementation of the CWC? Has the new Article 407b in the Criminal Code been used to prosecute illicit activities?**

In respect of the working program of the National Body, the activities are focused on the finalisation of the text of the draft-law, which would regulate the implementation of the Convention on Prohibition of Development, Production, Storage and Use of Chemical Weapons and their Destruction at the national level. The Law is expected to be adopted by the Assembly in the second half of 2005.

Furthermore, the National Body is working on submitting the regular annual industry declarations and is preparing an Operational Plan for admission of possible inspections of the OPCW, envisaging specific division of obligations and responsibilities by the competent ministries. Special importance is attached to training of civil servants and experts involved in the implementation of the Convention, under programmes organised by the Organisation for Prohibition of Chemical Weapons.

In regard to the application of the new article in the Criminal Code (Article 407b), which sanctions the crime of abuse of chemical and biological weapons (Official Gazette of the Republic of Macedonia No. 19/04), there have been no prosecution cases of illegal activities under the above referred Article.

### **Did you adopt the Common Position 2003/468/CFSP of 23 06.2003 on the Control of Arms Brokering?**

In its answers No.4 and No.9, Part B of the Chapter 27, the Government has indicated that at the beginning of 2005 it will start a procedure for aligning with the Common Position of the Council 2003/468/CFSP of 23.06.2003 on the Control of Arms Brokering.

Following the inter-ministerial consultations, in May 2005, the Ministry of Foreign Affairs will submit formal proposal to the Government to adopt a Decision on aligning of the Republic of Macedonia with the aforementioned Common Position.

Following the adoption of the Decisions, there will be activities undertaken to examine the national legislation relevant for the implementation of the minimal standards defined in the Common Position and if necessary there will be relevant amendments and supplements proposed.

As to the national legislation relevant to arms brokering, the following national laws form the legal framework for legitimate brokering activities:

- Law on Weapons (Official Gazette of the Republic of Macedonia No.7/05)
- Law on Trade (Official Gazette of the Republic of Macedonia No. 16/04)
- Decision on the Distribution of Import/Export Goods (Official Gazette of the Republic of Macedonia No. 91/04)
- Law on Production and Trade of Weapons and Military Equipment (Official Gazette of the Republic of Macedonia No. 54/02)
- Law on the Customs Administration (Official Gazette of the Republic of Macedonia No. 46/04)

These laws regulate to a large extent the arms brokering activities on the territory of the Republic of Macedonia. The licensing system for each transaction is in place (Article 34 of the Law on Trade) and the Law on Production and Trade of Weapons and Military Equipment requires that operators have to obtain written authorisation in order to be allowed to act as arms traders (which according to the Law includes the arms brokering). The Register of arms traders is kept by the Ministry of Economy.

By aligning with the Common Position on Arms Brokering, the recent acceptance of the principles of the Code of Conduct on Arms Export on 01.11.2004 and the envisaged adoption of the Law on Export Control of Dual-use Goods and Technologies in 2005, the Republic of Macedonia gradually accepts and implements the most important instruments of the CFSP relevant to the security related export control.

**What is the state of play of implementation of the UN Security Council Resolution 1373 (2001) on Fight Against International Terrorism, in particular regarding the adoption of those new laws or amendments to the existing laws which required harmonisation with the new constitutional setting after November 2001?**

The constitutional amendments of November 2001 are not related with the issue of the fight against international terrorism, but relate to the implementation of the Framework Agreement. The only relevant change is Amendment 19 - amending Article 17 of the Constitution - (Official Gazette of the Republic of Macedonia, No. 84/2003), the essence of which was explained in the answer 10, part B of Chapter 27. The same answer contains detailed information on legislative amendments made in accordance with international obligations, but also in line with the amended Article 17 of the Constitution.

Currently, the Ministry of Foreign Affairs, in cooperation with the inter-ministerial coordination body for the fight against international terrorism, is working on the drafting of the third additional report to the Counter-Terrorism Committee established pursuant to UN SC Resolution 1373 (2001) expected to be forwarded to the Committee in early July, 2005. Through the Permanent Mission of the Republic of Macedonia to the UN in New York and following the consultation with the Directorate for the Prevention of Money Laundering within the Ministry of Finance, in April 2005 it was positively replied to the proposal of the Committee for technical assistance in the full implementation of the Convention for the Suppression of Financing of Terrorism of 1999; introducing measures aimed at freezing funds intended to finance acts of terrorism, particularly for funds of legal origin; regulation of alternative money transfer systems and regulation of charitable organisations.

### **Was the law on Money Laundering Prevention adopted?**

The Law on Prevention of Money Laundering and other Proceeds from Crime was adopted by the Assembly of the Republic of Macedonia on 01.07.2004 and entered into force on 20.07.2004, repealing the Law on Prevention of Money Laundering of 2001.

The Law defines the measures and activities for detection and prevention of money laundering and other proceeds from crime and sets forth the manner of organising control of their use. This Law prescribes the obligations and competencies of the Directorate and other bodies and institutions supervising entities that apply measures and activities for prevention of money laundering.

It is important to underline that the new Law on Prevention of Money Laundering and other Proceeds from Crime is fully harmonised with the provisions of the relevant international instruments.

Detailed information about the adoption and basic features of the Law and its harmonisation with international standards is contained in the answer to Question No. 10, Part B under Chapter 27. The Law is attached in 27\_Annex\_01.

### **Is there any precise case of implementation to freeze funds and other financial assets of persons and entities involved in terrorist activities?**

Until now there has not been a case of frozen funds and other assets of persons and entities involved in terrorist activities.

### **What are the other countries with which your country has established diplomatic relations other than those mentioned in the initial reply (Albania, Bosnia and Herzegovina and Bulgaria)**

The list of countries that the Republic of Macedonia has established diplomatic relations with is contained in *Annex 1 Review of concluded bilateral agreements of the Republic of Macedonia*, under Chapter 27 from the previously delivered answers.