

CULTURE AND AUDIOVISUAL POLICY

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I. AUDIOVISUAL POLICY

1. What is the current legislative framework governing broadcasting (including satellite and cable)? When was(were) the main piece(s) of legislation adopted? Please provide a translation in an EU language. Are there plans to review the current legislative framework? If so, according to which timetable?

The field of broadcasting in the Republic of Macedonia is regulated by: the Broadcasting Law ("Official Gazette of the RM" Nos. 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 Telecommunications Law ("Official Gazette of the RM" Nos. 22/98, 28/00, 04/02 and 37/04), the Concessions Law ("Official Gazette of the RM" Nos. 25/02 and 24/03), and 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 are abolished, as well as by the Law Amending the Telecommunications Law ("Official Gazette of the RM" No. 37/04) with which Article 65, Paragraph 1, and Article 69 of the Broadcasting Law are abolished.

The Broadcasting Law determines the basic conditions for performing a broadcasting activity, based on principles of freedom of speech, free access to information, freedom of establishing public information institutions, guaranteed by Article 16 of the Constitution of the Republic of Macedonia ("Official Gazette of the RM" No. 52/91) and Article 10 of the European Convention on Human Rights, ratified by the Assembly of the Republic of Macedonia on 10.04.1997 ("Official Gazette of the RM" No. 11/97).

The Broadcasting Law has incorporated and determined general principles, rules and obligations stemming from the international documents that were acceded to or accepted by the Republic of Macedonia and from acts adopted within the framework of the Council of Europe and the European Union.

The Broadcasting Law created a legal foundation for the formal constitution of broadcasting entities and sectors. 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 activities on the territory of the Republic of Macedonia; it also enabled opening competitions, granting concessions and founding commercial broadcasting companies, thereby allowing for the legal establishment of the private sector within 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 area 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. After the adoption of the Broadcasting Law and its entry into force (on 08.05.1997), the Council of Europe and the institutions of the European Union passed numerous legal acts (directives, recommendations, etc.) which relate to the media or to broadcasting and whose incorporation into the national legislation is an obligation of the Republic of Macedonia as a country applying for membership in the European Union.

Having this in mind, there are ongoing activities for adopting a new Broadcasting Law, which is in its final stage of preparation and which will transpose the relevant EU legal measures.

At the same time, the new Broadcasting Law will contribute to strengthening the independence of the private electronic media, of the public broadcasting service and of 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. It is planned to transpose in this new Broadcasting Law, the provisions of the European Union Directive “Television without Frontiers” (89/552/EEC as modified by Directive 97/36/EC) the Convention on Transfrontier Television which was ratified by the Assembly of the Government of the Republic of Macedonia on 12.03.2003, and the recommendations of the Council of Europe in this area.

The new Broadcasting Law is expected to be adopted by the Assembly of the Republic of Macedonia by March, 2005.

According to Article 28-a of the Telecommunications Law (“Official Gazette of the RM” No. 27/04), the distribution of radio-television programmes and other telecommunication signals through a cable radio-television network is provided by a public telecommunications operator that has previously obtained a concession agreement and that has been granted a permit for the utilisation of the cable radio-television network by the authority competent for construction of facilities.

The number of concessionaires in a particular area is not limited.

The concession needed for the distribution of radio-television programmes and other telecommunication signals through a cable radio-television network is granted by the Minister of Transport and Communications upon the proposal of the Telecommunications Directorate (an authority within the Ministry of Transport and Communications). The suggestion of the Broadcasting Council on the content of the programme to be broadcasted through the cable network is an integral part of the proposal.

The new Broadcasting Law will provide for the Broadcasting Council to grant permits/licenses for broadcasting a programme through a public communications network on state level.

Satellite transmission is not regulated in detail by the existing legal regulations; according to 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 satellite broadcasting has been granted. Having in mind these shortcomings of the existing legal regulations, the draft version of the Proposal for adopting the Broadcasting Law provides for the ability of the Broadcasting Council to issue a special permit for satellite broadcasting (for a broadcaster that already has a permit for terrestrial broadcasting on state level, the Broadcasting Council will issue only a document of consent). The technical part of satellite broadcasting will be subject to regulation by the Draft Law on Electronic Communications, which is at present in parliamentary procedure and whose initial provisions are currently being revised by a TAIEX expert.

From the aspect of copyright and related rights, broadcasting, including satellite and cable broadcasting, is also regulated by the Law on Copyright and Related Rights (“Official Gazette of the RM” Nos. 47/96, 3/98, 98/02, and 4/05). This law regulates the rights of broadcasting within the framework of which the use of authors' works is permitted, just as it regulates the rights of objects of related rights of the related right holders (for more details, see [05 III A](#), [05 III B](#), and [20 I 13](#)).

2. What are the competent authorities in the field of audiovisual policy? How are the competencies shared between them?

According to Article 22 of the Broadcasting Law, see [20 Annex 01](#), the Broadcasting Council is founded for the purpose of: examining issues in the field of broadcasting, preparing proposals for granting and withdrawing concessions for performing broadcasting activities, giving proposals on the distribution of funds from the broadcasting fee, monitoring the implementation of concession agreements, providing opinions and proposals on the improvement and development of the field of broadcasting, and for performing other broadcast-related activities.

According to Article 23 of the same law, the Council is an independent body which represents the interests of the citizens of the Republic of Macedonia in broadcasting operations.

In the draft version of the Proposal for Adopting a Broadcasting Law, the Broadcasting Council is granted full capacity as an independent regulatory body that executes public authorisations in the field of broadcasting, at the same time ensuring the freedom and pluralism of expression, the existence of a variety of independent and autonomous media, the promotion of societal interests, and the protection of the interests of citizens in the field of broadcasting.

Activities in the field of film (or cinematographic activities), cinematheque activities, and the field of the protection of copyright and related rights are competencies of the Ministry of Culture, in accordance with the Law on Culture - Consolidated text ("Official Gazette of the RM" No. 66/03), the Law on Founding the Cinematheque of SR Macedonia ("Official Gazette of the SRM" No. 20/74), the Law on Mandatory Copies ("Official Gazette of the RM" No. 11/94), and the Law on Copyright and Related Rights ("Official Gazette of the RM" Nos. 47/96, 3/98, 98/02, and 4/05).

The conditions and means of constructing, maintaining and using the broadcasting network, as well as the management and granting of frequencies for performing broadcasting activities are competencies of the Telecommunications Directorate as a regulatory authority within the Ministry of Transport and Communications, in accordance with the Telecommunications Law ("Official Gazette of the RM" No. 22/98, 28/00, 04/02, and 37/04).

3. Is there a Regulatory Authority in the field of broadcasting? When was it established and what are its financial and human resources? What are its fields of competence? What are the rules established to guarantee the independence and transparency of its work and the enforcement of its decisions? Are there any plans to modify the regulatory structures in place?

After the adoption of the Broadcasting Law, see [20 Annex 01](#), the Broadcasting Council of the Republic of Macedonia was chosen in July of 1997 as the first independent body in the field of broadcasting. The Broadcasting Council started operating in September, 1997. The high degree of independence of the Broadcasting Council stems from its legal status in the Republic of Macedonia.

According to the Broadcasting Law, the members of the Council are chosen in a manner compliant to EU legislation. The Law determines that Members of the Parliament, members of the Government of the Republic of Macedonia, employees of broadcasting companies or government bodies, higher-ranking members of political parties and persons having shares, stocks or other economic interest in broadcasting organisations cannot become members of the Council.

The Broadcasting Council is an independent body that consists of nine members who are elected and dissolved by the Assembly of the Republic of Macedonia and who have a high level of competence and expertise. Also, within the Broadcasting Council there is an appropriate representation of the members of ethnic communities in the Republic of Macedonia. Another guarantee of the independence of the Broadcasting Council members is Article 29, Paragraph 1, of the Broadcasting Law, which explicitly states that the President, the Vice President, and the members of the Council cannot be relieved of their duties during their term in office. To be precise,

the direct parliamentary election procedure for the election of members ensures that members bring neutral and objective decisions, even in cases where the country's interests are directly affected.

The draft version of the Proposal for Adopting a Broadcasting Law also abides by this practice. For the purpose of implementing the European standards from the broadcasting area and especially taking into consideration the Recommendation R(2000)23 of the Committee of Ministers, addressed to the member states, concerning the independence and functions of regulatory authorities in the broadcasting sector, the draft version of the Proposal for Adopting the Broadcasting Law (which is in its final stage of preparation) contains provisions aimed towards strengthening the independence of the Council and increasing its capacity. The responsibility of the Council has also been increased based on the fact that every decision it adopts may be brought before a court. At the same time, the Council's obligations regarding the transparency of its work have been also increased.

For the purpose of performing its professional and administrative work, the Council establishes a Service (Article 30 of the Law). The Service is organised into the following organisational divisions: Legal and General Affairs Sector, Programme Service Sector, Sector for Technical Matters, Economic Affairs and Public Relations Sector, and Unit for Projects of Public Interest. The Rulebook on the Job Description System of the Council envisages 34 executive officers. The Broadcasting Council currently employs 25 persons. The President and the Vice President of the Broadcasting Council are also regularly employed in the Broadcasting Council during their terms in office. After the adoption of the new Broadcasting Law and the consecutive extension of Council's competencies, the number of executive officers in the Service will be increased.

According to Article 77 of the Broadcasting Law, the Broadcasting Council is financed by the assets collected from the broadcasting fee. The draft version of the Proposal for Adopting the Broadcasting Law foresees that the Broadcasting Council be financed mostly by the assets collected from the broadcasting fee. It also foresees that the Broadcasting Council be additionally financed by the assets collected from the licensing fee for performing broadcasting operations that, according to the formula envisaged for calculating the price of the licence, will not constitute a significant part of the total resources necessary for performing the duties and day-to-day operations of the Broadcasting Council.

All operations of the Broadcasting Council are characterised by transparency and openness for cooperation and communication with the citizens, broadcasters, and all interested parties. All activities of the Council are performed with the idea that the freedom of information, independent editorial policies, and professional journalism ethics should genuinely become the fundamental principles of broadcasting. The Broadcasting Council informs the public about its activities through frequent meetings with the journalists as well as via press-conferences; on certain issues it also consults the public. The Council addresses the citizens by means of printed and electronic media, explaining its role as an authority which represents their interests. For the purpose of greater transparency and with the aim that all interested parties obtain the information they require on the field of broadcasting and become familiar with the Council's activities, all the information about the work of the Broadcasting Council is available on its web-page (www.srd.org.mk) and on the bulletins it issues. Once a year, the Broadcasting Council submits a report about its activities to the Assembly of the Republic of Macedonia.

According to the provisions of the draft version of the Broadcasting Law, the Council is obligated to announce – in the media and on its web-page – the open competitions it organizes, the number of candidates enrolled, the decisions, the minutes, and the proposed agendas of its meetings, as well as to inform the public about its work through the media on a three-month basis.

The draft version of the Proposal for adopting the new Broadcasting Law stipulates that, should the Council become aware of any violation of the law and of the licensing conditions during the performance of the activities within its competence, it will be authorised to pronounce: a written notice; a written notice with the request for making a public statement of excuse; a temporary prohibition of advertising and teleshopping for a period between 3 and 30 days; a temporary withdrawal of the licence with a time period between one month to one year; a permanent annulment

of the licence; a fine; and a prohibition to perform broadcasting activities. It is also authorised to submit a request or a proposal for initiating a misdemeanour or a criminal procedure.

4. Which public and private broadcasters are currently licensed or authorised and how are they financed?

According to Article 9, Paragraph 1, of the Broadcasting Law, see [20 Annex 01](#), the broadcasting companies in the Republic of Macedonia can be established as public broadcasting companies and as commercial broadcasting companies.

The commercial broadcasting companies are granted concessions for performing broadcasting activities by the Government of the Republic of Macedonia, upon proposal of the Broadcasting Council and on the basis of an open competition (Article 13, Paragraph 4).

On the national level, the function of a public broadcasting service is performed by the Macedonian Radio and Television, while on the local level the same function is performed by the local public broadcasting companies.

The Macedonian Radio and Television performs its activity in accordance with the Law on Establishing the Public Enterprise “Macedonian Radio Television” (“Official Gazette of the RM” Nos. 6/98, 98/00 and 78/04). According to Article 24 of this law, the Macedonian Radio and Television is financed by: a portion of the broadcasting fee as determined by the Broadcasting Law, 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.

The local public 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 compensations for other services and activities it performs, by sponsorships, and by donations.

Commercial broadcasting companies acquire their income on the basis of broadcasting commercial programmes, advertisements, from assets acquired on the basis of a mutual contracts with consumers of their services, as well as from other sources (Article 80). 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.

The 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 Macedonian Radio and Television broadcasts its programmes on three television and three radio channels. Pursuant to the Law on Amending the Law on Establishing the Public Enterprise “Macedonian Radio and Television” (“Official Gazette of the RM” Nos. 78/04), the radio and television programmes of the Macedonian Radio and Television will be broadcast two radio networks on ultra-short waves, one radio network on medium waves, and two television networks. On the local level, there are 29 local public radio broadcasters, and 12 broadcasters of television programmes.

The total number of commercial broadcasting companies is 137. 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 129 broadcasters – 54 television companies and 75 radio companies.

The draft version of the new Broadcasting Law foresees that the Public Broadcasting Enterprise “Macedonian Radio and Television” continue to be financed by the broadcasting fee, by advertising

and by other sources of revenue. The essential source of funding for commercial broadcasting companies will continue to be advertising and sponsorship.

The draft version of the new Broadcasting Law also envisages the establishment of non-profit broadcasting institutions which will be allowed to broadcast programmes only on a local level, and whose purpose will be to satisfy the needs and interests of specific target groups among viewers.

5. What are the criteria used for determining national jurisdiction over broadcasters?

According to Article 9 of the Broadcasting Law, see [20 Annex 01](#), broadcasting companies in the Republic of Macedonia can be established as public broadcasting companies and as commercial broadcasting companies. According to Article 13 of the above-mentioned Law, broadcasting companies perform their activity on the basis of a concession issued in accordance with the provisions of this Law, of the Concessions Law ("Official Gazette of the RM" Nos. 25/02 and 24/03), and of the Telecommunications Law ("Official Gazette of the RM" Nos. 22/98, 28/00, 04/02 and 37/04). After they are granted a concession, physical or legal entities establish commercial broadcasting companies and register themselves in the Trade Register of the court competent for registry. In accordance with their principal activity, commercial broadcasting companies also register themselves in the State Statistical Office.

The public broadcasting company founded on the territory of the Republic of Macedonia was granted a concession by the law on its establishment. Public broadcasting companies acting on the local level are granted their concessions by their founding acts, under conditions laid down in the Broadcasting Law and after having received consent by the Broadcasting Council. Public broadcasting companies are also registered in the Trade Register of the court competent for registry and, depending on their principal activity, in the State Statistical Office.

The existing Broadcasting Law does not contain provisions pertaining to the jurisdiction over broadcasters. However, after the enforcement of the Law on the Ratification of the European Convention on Transfrontier Television and the Protocol on the Amendments of the European Convention on Transfrontier Television ("Official Gazette of the RM" No. 18/03), the Republic of Macedonia strictly abides by the provisions of the Convention related to the jurisdiction over radio- and television-broadcasters (broadcasting companies), in compliance with the existing provisions related to the jurisdiction over broadcasting companies.

In addition, according to Article 6 of the Broadcasting Law, broadcasting activities are performed within the framework of a harmonised technical system in compliance with the international agreements that the Republic of Macedonia has concluded or acceded to.

The draft version of the new Broadcasting Law incorporates the provisions of the European Convention on Transfrontier Television (which was ratified by the Assembly of the Republic of Macedonia on 12.03.2003) pertaining to jurisdiction. This matter will be regulated by the following provisions:

The provisions of this law apply to all broadcasters under the jurisdiction of the Republic of Macedonia. Broadcasters under the jurisdiction of the Republic of Macedonia, in the sense of the previous paragraph, are considered:

(1) Broadcasters founded in the Republic of Macedonia, if:

- Their headquarters are in the Republic of Macedonia and if the editorial policy on their programmes is brought in the Republic of Macedonia;
- Their headquarters are in the Republic of Macedonia and the editorial policy on their programmes is brought in a member state of the European Union, in a country signatory to the European Convention on Transfrontier Television, or in a third signatory country, but a

considerable part of the workforce engaged in the broadcasting operations is in the Republic of Macedonia;

- Their headquarters are in a member state of the European Union or in a country signatory to the European Convention on Transfrontier Television, but a considerable part of the workforce engaged in the broadcasting operations is in the Republic of Macedonia;
- Their headquarters are in the Republic of Macedonia and a considerable part of the workforce is engaged both in the Republic of Macedonia and in a member state of the European Union or in a country signatory to the European Convention on Transfrontier Television, or in a third signatory country;
- They commenced transmission of their programmes in the Republic of Macedonia for the first time, in compliance with the national legislation, and maintain a stable and effective relation with the economy of the Republic of Macedonia, in cases when a considerable part of the workforce is not engaged in the Republic of Macedonia, nor in a member state of the European Union or in a country signatory to the European Convention on Transfrontier Television.

(2) Broadcasters to which the provisions of the previous paragraph are not applicable will be considered as under the jurisdiction of the Republic of Macedonia in the following cases:

- if they use a frequency allocated by the Republic of Macedonia;
- if they do not use a frequency allocated by the Republic of Macedonia, but use a satellite capacity belonging to the Republic of Macedonia;
- if they use neither a frequency allocated by the Republic of Macedonia nor a satellite capacity belonging to the Republic of Macedonia, but use a satellite link towards a satellite from the territory of the Republic of Macedonia.

6. Are there any restrictions on reception or retransmission of broadcasts from other European States?

The matter of retransmission of programmes of foreign broadcasters is regulated by Article 43 of the Broadcasting Law, see [20 Annex 01](#), according to which the broadcasting companies are allowed to retransmit foreign programmes occasionally, provided that they have concluded an agreement on that programme with the foreign broadcaster and that they have obtained the consent of the Broadcasting Council. Article 35 of the aforementioned Law determines the content which is not allowed to be broadcast in the Republic of Macedonia, and these limitations also pertain to retransmission. The limitations are: prohibition on the broadcast of programmes aimed towards the destruction of the constitutional order of the Republic of Macedonia or towards inducing or calling for military aggression or stirring up national, religious or racial hate or intolerance; prohibition on the broadcast of indecent content, especially pornography or violence, and programmes which may harm the physical, intellectual or moral development of children and youth. Films and other programmes which may harm the psycho-physical development of children and youth are allowed to be broadcasted only between 24:00 and 06:00 hours.

The new Broadcasting Law will guarantee the freedom of receiving programme content from other countries in the territory of the Republic of Macedonia. This freedom may be restrained under conditions foreseen by international acts signed and ratified by the Republic of Macedonia, and especially by Article 10 of the European Convention on Human Rights and Fundamental Freedoms, ratified by the Assembly of the Republic of Macedonia on 10.04.1997.

From the aspect of the Law on Copyright and Related Rights ("Official Gazette of the RM" Nos. 47/96, 3/98, 98/02, and 04/05), there are no limitations for the reception or transmission (retransmission) of broadcasting programmes from other European countries. According to Article 171 of the Law on Copyright and Related Rights (LCRR), foreign holders of copyright and related rights receive equal protection as domestic holders of the respective rights, in compliance with the international agreements ratified by the Republic of Macedonia.

If foreign copyright and related right holders do not receive protection pursuant to the international agreements ratified by the Republic of Macedonia, they still receive protection according to the

LCRR. In that context, protection is enjoyed by: foreign authors residing in the Republic of Macedonia; foreign authors whose works have been published for the first time in the Republic of Macedonia or whose works have been published in the Republic of Macedonia within a period of 30 days from the day of their first publication in another country and; foreign authors of audio-visual works whose producers have their own seat or residence in the Republic of Macedonia (Article 172 of the LCRR). Protection is also enjoyed by foreign performers: that are located in the Republic of Macedonia; whose performances are realised on the territory of the Republic of Macedonia and recorded on phonograms which are protected by the LCRR and; whose performances were broadcast on programmes of broadcasting organizations (likewise referred to as “radio and television organisations” or “RTV organisations” in accordance with the Law on Amending the Law on Copyright and Related Rights, “Official Gazette of the RM” No. 4/05), but not with the purpose of recording on phonograms, which are protected by the LCRR (Article 173 of the LCRR); any foreign RTV organisation that transmits its programmes through broadcasters located on the territory of the Republic of Macedonia (Article 175 of the LCRR).

According to Article 177 of the LCRR, protection is enjoyed by any foreign author and foreign related rights holder whose work, performance, or other subject of related rights was published in the Republic of Macedonia via satellite, provided that the appropriate programme signals in an unbroken satellite uplink and downlink communication chain in the Republic of Macedonia are enlisted under the control of the authorised broadcasting organisation. Irrespective of whether the aforementioned condition is fulfilled or not, protection under the LCRR is provided if the receiving-transmitting station through which programme signals are transmitted is located in the Republic of Macedonia, or the broadcasting organisation that ordered the satellite transmission is based in the Republic of Macedonia.

If a certain work was created by more than one author or if there are more than one performers involved in the performance, protection under the LCRR is provided to all authors, provided that at least one of them meets one of the conditions from Article 172, and to all performers, if at least one of them is a citizen or a resident of the Republic of Macedonia.

There are no technical limitations on the reception and retransmission of programmes from other European countries.

7. Please provide details of any international commitment(s) which may affect audiovisual services.

Considering that the Republic of Macedonia tends towards further positive development of the field of broadcasting and towards the harmonization of its legislation with the legislation of the European Union, it has undertaken the commitment to transpose into its national legislation the acts (directives, recommendations etc.) of the European Union and of the Council of Europe which pertain to the media, i.e. broadcasting, and to implement the following ratified international agreements:

- The European Convention on Human Rights and Fundamental Freedoms which was ratified by the Assembly of the Republic of Macedonia on the 10.04.1997 – Law on the Ratification of the Convention on Human Rights and Fundamental Freedoms, and of the First Protocol, Protocol No. 4, Protocol No. 6, Protocol No. 7, and Protocol No. 11 of the Convention (“Official Gazette of the RM” No. 11/97);
- The European Convention on Transfrontier Television and the Protocol on Amending the European Convention on Transfrontier Television which was ratified by the Assembly of the Republic of Macedonia on the 12.03.2003 – Law on the Ratification of the European Convention for Transfrontier Television and the Protocol on Amending the European Convention for Transfrontier Television (“Official Gazette of the RM” No. 18/03).

These European documents represent the commitment undertaken by the Republic of Macedonia and are incorporated into the draft version of the Proposal for Adopting the Broadcasting Law with the purpose of complete harmonization of the broadcasting regulations with the European Union legislation.

From 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) stem the commitments (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 no bilateral agreements have been signed with the countries participating in co-production projects. The Macedonian commitment towards the European fund for co-production, distribution and exhibition – EURIMAGES, which is also compliant to the Convention, should likewise be mentioned. The Republic of Macedonia joined EURIMAGES on 01.07.2003.

Other international acts in this field that are related to copyright and related acts are:

- The Berne Convention for the Protection of Literary and Artistic Works - the Paris Text 1971 (“Official Gazette of the SFRY” Nos. 14/75 and 4/86 – International Treaties) – protection of the authors of audio-visual works;
- International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations – the Rome Convention (“Official Gazette of the RM” No. 50/97) – for performers and broadcasting companies on their subjects of related rights;
- The Convention relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (“Official Gazette of the SFRY” No. 13/77) – for broadcasting companies with regards to broadcasting via satellite.

8. What (if any) are the provisions in the national broadcasting legislation setting standards in the fields of advertising including teleshopping and sponsorship; protection of minors and public order; and the right of reply?

The standards on advertising, teleshopping, sponsorship, protection of minors and public order, and the right to reply are regulated by the Broadcasting Law.

The Broadcasting Law, see [20 Annex 01](#), sets the time limit for advertising to 7% per hour of a broadcast programme for public broadcasting companies and 20% for commercial broadcasting companies, and stipulates that teleshopping is disallowed for public broadcasting companies (Article 51). The time of teleshopping for commercial broadcasting companies is limited to one hour of the daily programme.

Advertisements should be truthful and honest, should not mislead the public and should not stand against the interests of the consumers (Article 49); advertisements aimed towards children or in which children participate should not contain messages that could hurt their interests and harm children's age and sensitivity (Article 50). Advertisements should be clearly recognisable and separated from the remaining part of the programme; the sponsor should be identified in an appropriate manner at the beginning or at the end of the programme; advertisements should generally be broadcast in blocks (Article 52).

The Broadcasting Law contains provisions which prohibit the interruption of news and other informative programmes by advertisements, and as well as the interruption of broadcasts of religious and other events, the duration of which is less than 30 minutes (Article 55); feature films may be interrupted once every 45 minutes (Article 56).

The Law also contains provisions on prohibiting advertising for alcohol, narcotics, tobacco and medications issued on medical prescription (Article 57).

Sponsorship of programmes may be performed with a clear indication of the sponsor in an appropriate manner at the beginning or at the end of the programme (Article 58). News and other informative programmes, programmes of political and of religious nature cannot be sponsored (Article 61).

The sponsor of the programme should not have any influence on the content and the order of the sponsored programme, and the sponsored programme should not encourage the sale, purchase, or rent of products or services from the sponsor.

The protection of minors and the public order is regulated by Article 35 of the Broadcasting Law. Paragraph 1 of that Article states that in the programmes of broadcasting companies, any content aimed towards violent destruction of the constitutional order of the Republic of Macedonia or towards inducing or calling for military aggression or stirring up national, religious or racial hate or intolerance is disallowed.

Indecent content, especially that of pornography or violence, as well as content that may harm the physical, intellectual or moral development of children and youth is also disallowed. Content (films and other programmes) which may have this kind of influence is allowed to be broadcast only between 24:00 and 06:00 hours.

The right of reply and correction is regulated by Article 62 of the Broadcasting Law. This provision determines who has a right of reply, what the reply should contain, what the deadline for submitting it is, what the deadline for publishing it is, and in which part of the programme it should be published. It also prohibits the simultaneous publishing of a comment to the reply.

The draft version of the new Broadcasting Law envisages the harmonisation of the provisions on advertising with the EU legislation, i.e. with the "Television Without Frontiers" Directive (89/552/EEC as modified by the Directive 97/36/EC) and the Convention on Transfrontier Television, ratified by the Assembly of the Republic of Macedonia on 12.03.2003. New items, as compared to the existing law, will provide for the possibility of commercial broadcasting companies to broadcast more teleshopping and for the liberalisation of advertising alcoholic drinks. Besides that, the programme content that may harm the physical, intellectual or moral development of children and youth will be allowed to be broadcast only in particular time periods, with an acoustic and visual notice that warns that it is unacceptable for certain segments of the audience. The method of categorisation, the forms of acoustic and visual notification, and the time periods during which these types of programmes are to be allowed will be determined by the Broadcasting Council, with mandatory rules.

The draft version of the new Broadcasting Law defines the right of correction and reply in more detail. It contains the definition of the terms "correction" and "reply," determines shorter deadlines for submitting and publishing corrections and replies, and specifies the details of the cases when corrections or replies are not to be published. The Law also envisages court protection in cases when the broadcasting company refuses to broadcast the correction or the reply of the affected physical or legal entity within the prescribed deadlines.

9. 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.)?

According to Article 77 of the Broadcasting Law, see [20 Annex 01](#), 10% of the funds collected from the broadcasting fee are intended for the purpose of creating and broadcasting programmes of public interest; independent producers and commercial broadcasting companies may apply for these funds. The decision on allocation of funds is brought by the Government of the Republic of Macedonia, upon a proposal by the Broadcasting Council, based on a 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 programme of the commercial broadcasting companies. Prevailing is the documentary production, 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 contributed towards increasing the programmes offered by broadcasting companies in the Republic of Macedonia with shows of domestic production.

The draft version of the Proposal for adopting a Broadcasting Law does not envisage the allocation of funds from the broadcasting fee for this purpose.

As a public broadcasting service founded on the basis of the Law on Establishing the Public Enterprise “Macedonian Radio-Television” (“Official Gazette of the RM” No. 6/98, 98/00 and 78/04), the Macedonian Radio and Television’s principal activity is creating and broadcasting programmes of various content, as well as issuing special requirements for creating and broadcasting specific programmes (Article 6, Paragraph 1, Line 1). Pursuant to the aforementioned article, the Macedonian Radio and Television is compelled to broadcast educational, cultural and scientific programmes in the Macedonian language and in the languages of the ethnic communities in the Republic of Macedonia. The Macedonian Radio and Television is obligated to create and broadcast special programmes that inform about and conserve the cultural and historical traditions of the country and that maintain and improve relations with emigrants and other citizens living in neighbouring countries, in Europe, and on other continents (Article 6, Paragraph 1, Line 2). According to the Law on Establishing the Public Enterprise “Macedonian Radio and Television,” the public broadcasting service is obligated to retransmit radio and TV programmes of other broadcasting companies and independent producers (Article 6, Paragraph 1, Line 4), for which purpose, according to the Broadcasting Law, 10% of the broadcasting fee are being allocated (Article 77).

The Broadcasting Law determines that the programmes of the broadcasting companies (public or commercial) ensure the cultivation and affirmation of the Macedonian cultural tradition and the cultural traditions of the ethnic communities living in the Republic of Macedonia, as well as for citizens’ participation in cultural life (Article 31).

According to the Law on Culture – Consolidated text (“Official Gazette of the RM” No. 66/03), financed are the activities in the field of film (for more details see [20 I 18](#)) and dramatic activities. According to the Annual Programme for Achieving National Cultural Interests, 78,000,000 MKD were provided in the year 2003 from the budget of the Republic of Macedonia for financing the programmes of national institutions in these fields, and for financing independent programmes and projects, art-video projects, video installations or multimedia projects (financed within the fine arts domain) and for investments in cinema equipment.

10. What definitions are used to distinguish broadcasting from other audiovisual services?

According to Article 1, Paragraph 2, of the Broadcasting Law, see [20 Annex 01](#), broadcasting activity means the production, transmission, broadcasting and distribution of radio and television programmes and other informative contents intended for general reception in open space or through a cable radio-television network.

According to Article 2 of the Telecommunications Law (“Official Gazette of the RM” Nos. 22/98, 28/00, 04/02 and 37/04), broadcasting means transmission and distribution of radio and television programmes or other signals intended for general reception in open space or through cable radio-television network.

This definition will undergo certain changes and clarifications in the new Broadcasting Law.

Pursuant to Article 51 of the Law on Culture – Consolidated Text (“Official Gazette of the RM” No. 66/03), cinematographic activity (or activity in the field of film) is the production of a cinematographic, television and video film, other audio-visual works or other works of art expressed in the form of motion pictures, with or without sound, regardless of the medium on which it is carried. The other audio-visual services from Article 46 of the aforementioned law – technical processing of films,

distribution, and public exhibition of the aforementioned works – are not considered as cultural activities, and as such they are performed according to the general regulations on trade activities. The cinematheque activity is also regarded as a cinematographic activity in the sense of the regulations in the field of culture, as an activity for the preservation and utilisation of movable cultural heritage, i.e. treasure.

Regardless of whether the above-mentioned services, including broadcasting, transmission and retransmission, are considered as activities and operations in the field of culture or not, the regime of implementing and protecting copyright and related rights, as determined by the Law on Copyright and Related Rights ("Official Gazette of the RM" Nos. 47/96, 3/98 and 98/02), presented in detail in Chapter [05 III B](#), applies to their performance as well.

11. What (if any) are the regulations covering other audiovisual services, in particular interactive, on-line services, including Internet?

The Draft Law on Electronic Communications which is in Parliamentary procedure and whose initial provisions are in the process of revision by a TAIEX expert, defines the services of the information society which include services for the sale of goods and services, conditions for access to information or advertisements via the Internet, services through a system of conditional access through which the access to a certain protected broadcasting service is ensured upon the individual request by users, and access to services with added value.

Until the entry into force of the Law on Amending the Law on Copyright and Related Rights ("Official Gazette of the RM" No. 4/05) as of 25.01.2005, the use of authors rights and subjects of related rights (the right of making information available to the public as well as other provisions) by means of the Internet, was not regulated. The Law on Amending the Law on Copyright and Related Rights, however, ensures the transposition of Directive 2001/29/EC which regards authors rights and related rights in the information society (for more details see [05 III B 7](#)).

12. What rules and regulations govern public and private broadcasting? What rules ensure the editorial independence of the public broadcaster?

The field of private broadcasting in the Republic of Macedonia is regulated by the Broadcasting Law, see [20 Annex 01](#), the Telecommunications Law ("Official Gazette of the RM" Nos. 22/98, 28/00, 04/02 and 37/04), the Concessions Law ("Official Gazette of the RM" Nos. 25/02 and 24/03), the Law on the Ratification of the European Convention on Transfrontier Television and the Protocol on Amendments of the European Convention on Transfrontier Television ("Official Gazette of the RM" No. 18/03).

The Broadcasting Law determines that the programme cannot be biased towards a political party or towards certain interests, and that state bodies and bodies of local self-government, as well as their representatives, cannot influence the creation of the programmes and work of RA and TV (Articles 32 and 34). Independent editorial policy is guaranteed by the provisions of the Law, which envisage misdemeanour fines for broadcasting companies if their programmes serve the interests of a certain political party or certain interests (Article 85).

The Law on Establishing the Public Enterprise "Macedonian Radio and Television" ("Official Gazette of the RM" Nos. 6/98, 98/00 and 78/04) regulates the status and the activity of the "Macedonian Radio and Television." This law also regulates the method of development, design, construction, maintenance and utilisation of the basic broadcasting network on the territory of the Republic of Macedonia which provides transmission, broadcasting and distribution of radio and television programmes on the territory of the Republic of Macedonia. The Telecommunications Law regulates the technical matters in the field of broadcasting.

In December 2002, the employees of the Public Enterprise "Macedonian Radio and Television," in their role as employees of a public broadcasting service, adopted a Declaration on professional and

ethical principles of the Macedonian Radio and Television programmes, with which they committed themselves, among other things, to independence from any external pressure on their work.

The Law on Establishing the Public Enterprise “Macedonian Radio and Television” will be repealed by the new Broadcasting Law (Article 177), after which the Macedonian Radio and Television will continue to operate as the Public Broadcasting Enterprise “Macedonian Radio and Television,” with status and activity defined by the new Broadcasting Law.

Considering that the system of public broadcasting is directly connected to democratic, social and cultural needs of every society and that it is necessary to preserve the pluralism of the media, the Republic of Macedonia observes the principles stated in Resolution No. 1, The Future of the Public Service Broadcasting, adopted on the 4th European Ministerial Conference on Mass-Media Policy (Prague, 7-8 December 1994), and the Recommendation No. R (96) 10 of the Committee of Ministers, addressed to member states, on the Guarantee of the independence of Public Service Broadcasting, adopted on 11 September 1966, at the 573rd meeting of Ministers' Deputies.

According to the draft version of the proposed Broadcasting Law, radio and television programmes are based on the principles of autonomy, independence and responsibility of the broadcasting companies, i.e. editors, journalists and other authors, in the production of programmes and creating editorial policy. Therefore, the Council of the Macedonian Radio and Television, which represents the interests of the public regarding the radio and television programmes and the work of the Macedonian Radio and Television, has the competence to provide for the implementation of the public interest in the programmes of the Macedonian Radio and Television, based on principles of editorial independence and autonomy.

13. What are the legal provisions governing exclusive rights for the broadcast of major events (cultural, sporting, etc.)?

The Broadcasting Law, see [20 Annex 01](#), does not regulate these questions.

The Law on Establishing the Public Enterprise “Macedonian Radio and Television” (“Official Gazette of the RM” Nos. 6/98, 98/00 and 78/04) establishes an obligation of the public broadcasting service – for events of public nature on which it has obtained an exclusive right for transmission or broadcasting – to enable other broadcasting companies (public or commercial) to use the recordings of these events for their own programme purposes.

The Public Enterprise “Macedonian Radio and Television,” as a member of the European Broadcasting Union (EBU), has rights on exclusive broadcasting of some major events (sports, culture etc.) for which the EBU has obtained exclusive rights for its members.

According to the regime of the implementation and protection of copyright and related rights, defined by the Law on Copyright and Related Rights (“Official Gazette of the RM” Nos. 47/96, 3/98, 98/02 and 4/05), broadcasting companies have an exclusive right on granting permission for the use of their broadcast programmes (shows), including the right for broadcasting retransmission (Article 129). Due to the nature of the matter, this regulation does not elaborate any additional provisions or restrictions on regulating the exclusive rights for broadcasting of any kind of major events of cultural, sports or other nature.

In compliance with Article 9 of the Convention on Transfrontier Television of the Council of Europe (the Law on the Ratification of the European Convention on Transfrontier Television and the Protocol on Amendments of the European Convention on Transfrontier Television (“Official Gazette of the RM” No. 18/03), the questions of access of the audience to major events are regulated in the draft version of the new Broadcasting Law. The new provisions envisage that broadcasters can broadcast (live or delayed) events of major importance, domestic or foreign, based on exclusive rights, only if the broadcasting of that event does not restrict the right of the larger part of the population to follow that event.

According to the draft version of the new Broadcasting Law, the following events are considered to be of major importance:

- Winter and Summer Olympic Games;
- semi-final and final matches of world and European championships, as well as any other matches where Macedonian national teams participate, including the qualification matches;
- other sports matches where Macedonian national teams participate in official tournaments and competitions, and the matches of Macedonian clubs.

According to the draft version of the new Broadcasting Law, the Broadcasting Council will be authorised to proclaim, with a special decision, an additional list of events of major importance. When the event of major importance is being organised in separate parts, every individual part of that event is considered as an event of major importance. Provisions of this article will also be applicable in cases of delayed transmission, provided that the delayed transmission does not surpass 24 hours, and especially if:

- the time of occurrence of the event of major importance falls in the period between 24.00 and 06.00 hours according to the official time of the Republic of Macedonia;
- events of major importance or parts thereof overlap in time.

14. 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?

The public service “Macedonian Radio and Television” was granted its concession with the Law on Establishing the Public Enterprise “Macedonian Radio and Television” (“Official Gazette of the RM” Nos. 6/98, 98/00 and 78/04). According 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 – without compensation – 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 the Law on Amending the Law on Establishing the Public Enterprise “Macedonian Radio and Television” (“Official Gazette of the RM” Nos. 78/04), the radio and television programmes of the Macedonian Radio and Television will be broadcast without compensation through the following networks of the Public Enterprise for Transmitting and Broadcasting Radio and Television Programmes: two radio networks on ultra-short waves, one radio network on medium waves, and two television networks.

Through the third television network of the Public Enterprise “Macedonian Broadcasting,” the Public Enterprise “Macedonian Radio and Television” (PE MRT) will broadcast direct transmissions of the sessions of the Assembly of the Republic of Macedonia and direct and deferred transmissions of other activities of the Assembly of the Republic of Macedonia and its operating bodies. Upon a decision, the Assembly of the Republic of Macedonia will determine the conditions and the manner in which the PE MRT will perform this function.

Through the third television network of the Public Enterprise “Macedonian Broadcasting,” the Public Enterprise “Macedonian Radio and Television” will also broadcast the experimental program of the existing radio station “Channel 103” in which programmes that refer to the non-governmental sector will be included. The radio and television programmes of the Macedonian Radio and Television are broadcast through satellite on one radio and one television channel.

The work permits of the radio-stations (transmitters and transceivers) of these networks are issued by the Telecommunications Directorate (an authority within the Ministry of Transport and Communications).

Private broadcasters are granted a concession for performing broadcasting activities by means of open competitions, announced in accordance with the Broadcasting Law, see [20 Annex 01](#). Upon a request made by the Broadcasting Council, the Telecommunications Directorate 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 analyses 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 documentation received:

- a programme of operation; production of the broadcaster's own programme;
- a production of the broadcaster's own programme for the purpose of satisfying the needs of a particular ethnic group in a particular area;
- technical and exploitation conditions on programme broadcasting, according to determined standards;
- premises available for performing the activity;
- professional and technical staff;
- financial assets for realisation of the programme etc.

After being granted a concession and after signing a Concession Agreement for performing broadcasting activity, the newly-founded commercial broadcasting company makes a request to the Telecommunications Directorate for a licence for the procurement and installation of a radio station, according to the parameters previously determined in the competition procedure. After the completed procurement and installation of the radio station, the Directorate performs a technical inspection, and if the technical requirements are met, a work permit is issued to the radio station. This licence is considered as an integral part of the Concession Agreement; when the concession ceases to be valid, the licence is automatically cancelled.

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. It is planned that the new Broadcasting Law will regulate this area in more detail.

15. 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)?

In the Republic of Macedonia, there are terrestrial analogue distribution systems and cable analogue distribution systems.

A 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 in the ownership of private broadcasters who use it for the transmitting their own programmes.

Cable analogue distribution systems 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 broadcasted terrestrially in the physical area of the network, over satellite and other channels.

16. What are the arrangements as regards technical broadcast standards?

Technical rulebooks and standards for performing broadcasting activity are determined on the basis of the Telecommunications Law ("Official Gazette of the RM" Nos. 22/98, 28/00, 04/02 and 37/04). They are in conformity with the appropriate ITU and ETSI standards and recommendations. In the areas where Macedonian rulebooks and/or standards have not been adopted or implemented, European standards and technical norms are used, and if these do not exist, other international standards and technical norms from the field of telecommunications, that the Republic of Macedonia has concluded or acceded to, are applied.

The following concrete provisions apply to radio and television stations:

- 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.N.0.201, N.N 0.202, N.N 6.179, N.N 6.501, N.N 6.504, N.C 6.019, N.N 6.172, N.N 6.134 and N.N 6.135.

17. What legal measures apply to encryption of broadcast signals?

The existing legal regulations do not define special legal measures that apply to the encryption of broadcasting signals. The Broadcasting Council allows the existing cable operators to broadcast programmes of pornographic content only in encrypted form.

The new laws on broadcasting and on electronic communications will take into consideration the encryption of the broadcasting signals. Special care will be taken when it comes to open access – under fair, factual and non-discriminatory conditions – to the systems that are under the conditional protection of all users of the network. Monitoring of the content and the technical quality of the coded signal will remain a competence of the appropriate independent regulatory authorities.

18. What are (if any) the financial support systems in place for the audiovisual sector (including cinema)?

Article 77 of the Broadcasting Law, see [20 Annex 01](#), 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 1485 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 audio-visual sector pertain to cinematographic activity only (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 (“Official Gazette of the RM” No. 31/04), 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 cinematheque 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 (approved by the Culture Council and 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, in the period between January 2002 and September 2004, film production was considerably increased with the aid of the Ministry of Culture: 6 feature films were made (5 of which are completely finished, and one is in its post-production stage), as well as 5 short feature films, 3 documentaries, and 2 animated films (as opposed to the average film production in the past – 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 2003 was 93.000.000 MKD.

The adoption of a Law on Establishing a Film Fund is also foreseen. It is expected to improve the 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.

19. 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, see [20 Annex 01](#), there is the 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. So far, cooperation on co-productions was established with Croatia, Slovenia, France, the Czech Republic, Germany, Bosnia and Herzegovina, and a bilateral agreement with Italy on cooperation on film co-productions was signed (Law on the Ratification of the Agreement on Cinematographic Co-production between the Government of the Republic of Macedonia and the Government of the Republic of Italy – "Official Gazette of the RM" No. 13/03). 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 fact 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 their databases and information from the audio-visual sector and the legal regulations).

The Republic of Macedonia is also a member of the SEECN (South East European Cinema Network) in its main office in Thessaloniki, Greece.

20. What are the requirements concerning audiovisual archives?

The Cinematheque of the Republic of Macedonia was founded in 1974 with the Law on Founding a Cinematheque of the SR Macedonia ("Official Gazette of the SRM" No. 20/74), and commenced its operation in 1976.

The basic activity of the Cinematheque includes the research, protection, storage, processing, and public exhibition of films and film materials from the national film production, but 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 over 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 of audio-visual material, the Cinematheque pays special attention to the research activity realized via 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 "Kinopis" 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 is 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.

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 of the European Cinematheques Association – 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" No. 6/98, 98/00, and 78/04), the public broadcasting service is obligated to produce, compose, store, archive and utilise TV recordings and other audio-visual works, materials and documents of national interest (Article 6, Paragraph 1, Line 8).

For the purpose of meeting this legal obligation, the Macedonian Radio and Television (MRT) has a special organisational unit which is responsible for composing and storing TV 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 Macedonian Radio and Television has been a member of the FIAT – IFTA (Federation Internationale des Archives de Television) since April 2000. Regarding the subject of audio and video archives, the MRT 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).

Bearing in mind the importance of audio-visual 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.

Under preparation is 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.

21. What legal regime applies to radio sound broadcasting?

The Broadcasting Law, see [20 Annex 01](#), regulates the sound broadcasting (radio) in conjunction with the regulation of television (video with sound broadcasting). There are no specific provisions on radio only.

The Law on Establishing the Public Enterprise "Macedonian Radio and Television" ("Official Gazette of the RM" No. 6/98, 98/00, and 78/04) regulates the sound broadcasting of the public service "Macedonian Radio and Television." Again, there are no special provisions as opposed to the regulation of television. Both media are regulated with the same legal provisions.

22. What limitations (if any) are there on the ownership of television and/or radio stations?

Pursuant to Article 10 of the Broadcasting Law, see [20 Annex 01](#), 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 participation does not exceed 25% of the total capital. A foreign natural or legal entity may be a co-founder of a commercial broadcasting company with participation of no more than 25% of the total capital. When more than one foreign natural or legal entity is co-founder of a commercial broadcasting company, their participation 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 areas 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 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 participates in the initial capital, i.e. is a founder of another broadcasting company;
- when a broadcasting company participates in 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 broadcast;
- 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 broadcasts a radio and/or television program, or, in other words: 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, i.e. can participate in, no more than one 50% of a company of that nature, 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.

23. What systems are in place as regards statistics pertaining to the audiovisual sector?

General Information

In the Statistical Research 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 sole provider of official statistical data in the field of culture and the audio-visual sector.

In some cases, especially 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 audio-visual sector, as well as by commercial entities performing research activities.

The State Statistical Office as the Key Provider of Statistics in the Audio-Visual Sector:

The main system of collecting, processing and publishing statistical data from the audio-visual 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 Research 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 audio-visual sector covers a 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 audio-visual sector, an annual collection of data on the broadcasting activity (radio and television) takes place, the data being collected directly from the businesses which broadcast radio and TV programmes in accordance with the Broadcasting Law ("Official Gazette of the RM" Nos. 20/97 and 70/03).

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 both on the national level and on the level of the smallest territorial unit – the municipality (NUTS 5).

Regarding the statistics in the audio-visual 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 audio-visual 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 edition;
- "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

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. It is an obligation of the media to submit these data on a 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.

24. 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 ("Box Office System") for the registration of tickets sold in cinema theatres on a national level. The experiences and possibilities of introducing a system for the official certification of tickets sold in cinema theatres on a national level are being evaluated.

Nevertheless, the sale of tickets can also be monitored through fiscal bills. The process of introducing fiscal cash registers in cinema theatres is currently under way.

II. CULTURE

1. What, if any, are the support systems in the following fields: artistic creation, innovative cultural projects, improvement of skills for artists and cultural operators, cultural cooperation with other countries?

Support for artistic creation and innovative cultural projects is implemented by means of:

- funds from the budget of the Republic of Macedonia, through the Ministry of Culture, in accordance with the Law on Culture ("Official Gazette of the RM" No. 66/03);
- funds from the local self-government, in accordance with the Law on Culture and the Law on Local Self-government ("Official Gazette of the RM" No. 5/02);
- certain tax and customs privileges for the culture, according to fiscal and customs regulations under the competence of the Ministry of Finance – the Law on Value Added Tax ("Official Gazette of the RM" Nos. 44/99, 59/99, 86/99, 11/00, 8/01, 21/03, and 19/04), the Profit Tax Law ("Official Gazette of the RM" Nos. 80/93, 33/95, 43/95, 71/96, 5/97, 28/98, 11/01, 2/02, 44/02 and 51/03), the Law on Property Taxes ("Official Gazette of the RM" No. 61/04), the Personal Income Tax Law ("Official Gazette of the RM" Nos. 80/93, 3/94, 70/94, 71/96, 28/97, 8/01, 50/01, 52/01, 2/02, 44/02 and 96/04), the Customs Law ("Official Gazette of the RM" Nos. 21/98, 21/98, 26/98, 63/98, 86/99, 25/00, 109/00, 31/01, 4/02, 55/02 and 42/03);
- funds from sponsorships, donations and other sources.

Support by the Ministry of Culture for Artistic Creation and Innovative Cultural Projects

In accordance with the Law on Culture, a Council on Culture was established within the Ministry of Culture, as a professional and consultational body that serves the Minister of Culture, comprised of certain eminent artists and experts from the field of culture and the public social life, and chosen on the basis of their level of expertise and competence as well as an appropriate and equal representation of citizens belonging to all communities.

The Minister of Culture establishes other bodies and appoints external collaborators for the preparation of the Annual Programme or the implementation of certain projects of national interest for the culture. These bodies are formed for the purpose of all activities and consist of competent experts from certain areas upon whose proposals the Minister of Culture adopts the Annual Programme for Achieving National Cultural Interests which is based on previously announced open competitions and which is in accordance with the strategy and priorities established in the National Programme for Culture for the Period 2004-2008 ("Official Gazette of the RM" No. 31/04), see [20 Annex 02](#).

According to the Law on Culture (Chapter: The Financing of Culture, Articles 58 – 68), any artist or any legal or natural person may apply with projects in all domains: exhibitions, organisation of colonies, performances, music events, concerts, book publishing, filmmaking, innovative and alternative projects etc.

The Law on Culture (Articles 13 – 17) establishes a special form of support for independent artists with which, if the artist performs the creative activity professionally and as his/her sole profession, and if he/she is registered for performing artistic activity, he/she receives the status of an independent artist and enjoys the rights from the employment status. In order to ensure advantageous conditions for creation for the independent artist, he/she is granted – on the basis of an open competition – monthly allowances from the funds of the Budget of the Republic of Macedonia, for paying healthcare, pension, and disability insurance, and for the personal income tax; this allowance is approved by a decision of the Minister upon proposal by a special Committee which evaluates the requests submitted in an open competition and takes into account the principle of appropriate and equal representation of citizens belonging to all communities.

The artists are also supported through purchase of their works, support of deficient professions through training, specialisations etc.

Support by the Local Self-government Units for Culture

Local self-government units can finance programmes and projects, according to the Law on Culture (Article 7, Paragraphs 2 and 3, and Article 68) and the Law on Local Self-government (Article 22, Paragraph 1, Point 5), aimed at: institutional and financial support of cultural institutions and projects; fostering folklore, customs, old artisanship and similar cultural values; organising cultural manifestations and; stimulating various specific forms of creation.

Due to the current limited financial resources, however, the municipalities participate in the financing of a very small number of projects. With the application of the Law on Financing Local Self-government Units ("Official Gazette of the RM" No. 61/04) starting from year 2005, greater participation of municipalities in the financing of culture and the implementation of decentralisation in the culture is expected.

Tax and Customs Privileges for Culture

Besides the financing of culture that is of national interest from the budget of the Republic of Macedonia through the Ministry of Culture, the public support for culture is also implemented through indirect state measures, especially through certain tax and customs privileges in the culture.

The Law on Value Added Tax stipulates that the turnover of institutions in the domain of culture and of other taxpayers which perform cultural activity is exempt from the Value Added Tax, provided that the institutions and/or persons that perform cultural activity have received an appropriate opinion by the Ministry of Culture. A preferential tax rate of 5% is imposed on the turnover of publications instead of the general rate of 19%, with the exception of carriers of sound and video for which the general rate of 19% is applied.

The Profit Tax Law stipulates that donations and sponsorships for cultural purposes are recognised as expenditure in the tax balance sheet amounting to 3% of the total income, under the condition that they are donated to public institutions financed by the Budget of the Republic of Macedonia.

The Law on Property Taxes stipulates that a property tax is not paid for the immovable property that is proclaimed by the law as cultural heritage, and that cultural institutions are exempt from the inheritance and gift tax.

The Personal Income Tax Law stipulates that the artists who have revenues based on copyright are exempt from the personal tax – in the amount of 25% to 60% under the category of recognised expenditures, depending on the kind of activity (e.g. for sculpting works – 60%; for painting works – 50%; for classical music, ballet, theatre and film performances – 30%; for modern and folk music –

25% etc.) The personal income tax is not paid for income based on cultural awards, and scholarships for pupils and students granted by state bodies and foundations.

The Customs Law stipulates that the following are not subject to customs duties: printed material; objects and materials from the field of culture imported on the basis of international agreements; goods that are not produced in the Republic of Macedonia, are used for non-profitable cultural activity, and are not intended for sale purposes; objects imported by museums, galleries and the National and University Library that are intended for their activities; objects exhibited on fairs and exhibitions; objects intended for cultural and art events and filmmaking; works of art imported by the artists as their own work; awards and other objects received on foreign exhibitions, performances, etc., and goods received from foreign donors.

The above-stated customs and tax measures, however, do not provide enough privileges and stimulations to the culture. Although it can be recognized that there is a legal basis in the Republic of Macedonia for tax stimulation of sponsorships for the implementation of projects and programmes in the field of culture, and that sponsors are partly relieved from the profit tax depending on the funds invested in culture, in practice the investments in culture are unfortunately still quite insignificant.

The Improvement of Skills for Artists and Cultural Operators

The enhancement of skills of artists and cultural operators is performed through programmes offered by public institutions, but also through a special open competition of the Ministry of Culture for supporting the professional enhancement of skills of scarce professions and young talents: post-graduate studies and specialisations in the field of culture for talented young artists; scarce artistic and special profession cadres in culture that study abroad, in universities and enrolled in post-graduate studies that are not present in the educational system of our country; scarce professions in the field of management, promotion, education, and communications in the domain of culture.

International cultural cooperation

The Ministry of Culture leads an active international cultural cooperation and is integrated into the most important international governmental and non-governmental organisations that operate in the field of culture. The Republic of Macedonia is active in multilateral cooperation, is a member of UNESCO, is a member of many specialised organisations of international and regional nature, is an associate member of the Intergovernmental Agency for Francophony, and so on. With the country's membership in the Council of Europe, conditions were created for our participation in cultural programmes within the domain of the Council of Europe, as well as within the framework of the Central European Initiative. The Ministry of Culture, in cooperation with UNESCO, organised the Regional Forum on the subject "Dialogue Between Civilisations," which is one of the latest significant activities of the UNESCO National Commission.

The Republic of Macedonia has signed 8 agreements on cooperation in the field of education, culture, and science; 6 agreements on cultural cooperation; 5 programmes of cultural cooperation; 3 treaties; 2 memoranda and; 1 protocol on cultural cooperation.

The Ministry of Culture supports the regular activity and international cooperation of cultural institutions, non-governmental organisations, and individuals who are members of international organisations and associations, such as ICOMOS, ICOM, ICCROM, ITI, IFLA, EBLIDA, FIAF, EURIMAGES, FIPRESCI, AICA, IOF, PEN, WIPO etc., as well as the participation of experts at international conferences and meetings abroad.

According to the priorities established with the National Programme for Culture for the Period 2004-2008, see [20 Annex 02](#), the Ministry of Culture will continue to stimulate and strengthen bilateral and regional cultural cooperation, as well as the programmes and projects of UNESCO, Council of Europe, European Union, and other international organisations and associations in the field of culture.

2. What, if any, are the support programmes in the field of literary creation and translation?

According to the Law on Culture - Consolidated Text ("Official Gazette of the RM" No. 66/03), publishing activity means publishing of publications with artistic, scientific and educational content, on paper or in electronic form, in significant number of copies, multiplied by printing, replication, copying or otherwise, if they are intended for public use.

Funds for financing programmes and projects from the field of literary creation and translation that are of national interest are provided from the budget of the Republic of Macedonia. The Ministry of Culture, for the purpose of achieving national cultural interests, announces public competitions for programmes and projects of national interest during the ongoing year for the following year, within the funds determined by the Budget. Upon a proposal of the committees and the external associates responsible for the preparation of the annual programme, and in accordance with the strategy and priorities determined in the National Programme for Culture for the Period 2004-2008, see [20 Annex 02](#), the Minister of Culture adopts an Annual Programme for Achieving National Cultural Interests, which is published in the public informative media.

The National Programme for Culture for the Period 2004-2008, has established priorities in publishing and literature, and those are, above all, the support of major editions of fundamental cultural importance for the Republic of Macedonia, the publication of the Monolingual Dictionary and bilingual dictionaries in the languages of all communities and in the languages of the nations of the Balkans, translations of the Macedonian literature and the literature in the languages of the communities into world languages, and translations of world literature into the Macedonian language and the languages of the communities.

Publications of national interest that are financed within the framework of the publishing programme, and that take into account the aforementioned priorities are: monographs, professional literature for research, poetry, translations from classical languages, critiques, essays, fiction, and others. Special attention is paid to domestic authors, to translations of works published in the Macedonian language and the languages of the communities in the Republic of Macedonia into world languages – which are important for the affirmation of the culture of our country – and to initial editions of young authors.

Electronic publishing, programmes of associations in this area, and magazines are also supported by this programme.

The financing of literary creation is based on preliminary criteria set by the Rulebook on Financing Programmes or Projects for Separate Activities in Culture ("Official Gazette of the RM" No. 61/04), adopted by the Minister of Culture.

Every year, special open competitions are implemented for the purchase of published products that were not financially supported by the Ministry of Culture (usually two competitions). The purchased copies are also intended for the enrichment of the library book collection. Between 10 and 100 copies of a book are bought, depending on its price.

The Annual Programme for Achieving National Cultural Interests also supports prominent manifestations of international character, such as: the Struga Poetry Evenings, the Seminar on the Macedonian Language, Literature and Culture, the Seminar of Literary Translators, the PEN Conference, and other prominent manifestations.

3. What, if any, are the support programmes in the field of cultural heritage?

The Republic of Macedonia has a rich cultural heritage from all historical periods. On the territory of the country, 11.364 objects belonging to immovable cultural heritage (archaeological sites, churches, monasteries etc.) and 319.106 museum objects (archaeological objects, icons, medieval manuscripts etc) have been recorded.

According to the Law on Culture - Consolidated text ("Official Gazette of the RM" No. 66/03) and the strategy and priorities determined in the National Programme for Culture for the Period 2004-2008, see [20 Annex 02](#), the Ministry of Culture also finances the "Programme on Protection of the Cultural Heritage," within the framework of the "Annual Programme for Achieving National Cultural Interests" and on the basis of programmes and projects previously obtained in an open competition. The finances within this programme are primarily allocated to the programmes of the institutions for protection of the cultural heritage, i.e. institutes for the protection of cultural monuments which, according to the Law on Protection of the Cultural Heritage ("Official Gazette of the RM" Nos. 20/04 and 71/04), should be transformed into preservation centres as institutions competent for the immovable cultural heritage; the museum programmes, the programmes of libraries, and the programmes of the Cinematheque of the Republic of Macedonia being institutions competent for the movable cultural heritage.

The Law on Protection of the Cultural Heritage for the first time also regulates the protection of the immaterial cultural heritage, i.e. the spiritual cultural heritage.

Most of the funds of the Programme for the Protection of the Cultural Heritage are allocated for the preservation and restoration function of these institutions, primarily for preservation of archaeological sites, architecture, fresco-mural painting, icons, iconostasis, paintings, and other. A considerable amount of the funds is also allocated for the preventive protection of sacral and profane objects. Certain other functions are also financially supported, such as the inspection of the conditions of cultural monuments, the maintenance of records, the valorisation, re-valorisation, and preparation of project documentation.

In spite of the efforts invested, however, the Macedonian cultural heritage is not protected to a satisfactory extent, one of the essential reasons for this situation being the limited financial resources. As a consequence, out of the total number of physical interventions on registered objects, the regular preservation procedure has been fully completed on very few cultural monuments.

With regards to the resources for financing the monument fund from other sources, it can be stated that donations from individuals are still very modest and rare. In recent years, however, owing to the support of foreign foundations and investments of foreign capital in joint research (especially in the museum activity), certain positive preliminary results are noticeable.

Special attention is paid to the protection of Ohrid and its surroundings, which figure on the UNESCO list of the world heritage thanks to their cultural and natural wealth.

Considering the importance of the protection of cultural heritage, one of the special priorities set by the National Programme for Culture for the Period 2004-2008, see [20 Annex 02](#), is the preparation and adoption of a long-term strategy for the protection of the cultural heritage by all competent state bodies and professional (specialized) institutions.

4. What legal regime applies to book pricing? Are there any fixed price regulations?

Until the year of 1995, when the privatisation of all state-owned publishing companies was allowed, publishing companies enjoyed the status of state enterprises, receiving regular financial support from the state for the publishing division, and even for salaries. The emergence of many new publishers was a characteristic of the post-privatisation period, when the number of legal entities registered for performing publishing activity reached around 300. As a consequence, the funds allocated for publishing were increased, both in the Macedonian language and in the languages of the communities, namely Albanian, Turkish, Vlach and Roma.

Prices of books in the Republic of Macedonia are formed freely on the market, meaning that there are no special regulations on pricing.

The prices of books in the Republic of Macedonia are rather high when the standard of living of the citizens as well as their purchasing power are taken into account. This situation is a result of the

small market, due to which the publishers print the editions in small print runs, which again raises the prices of books.

With the support from the Ministry of Culture, on average around 250 to 300 publications are published per year, while the total number of publications which were published in the Republic of Macedonia in 2003 was 1106. At the same time, more and more books are exhibited on international fairs.

The Law on Value Added Tax ("Official Gazette of the RM" Nos. 44/99, 59/99, 86/99, 11/00, 8/01, 21/03 and 19/04) stipulates that the turnover and the import of publications (books, brochures and similar printed material; newspapers and other periodical publications; children picture-books; sketching and drawing books for children, as well as cartography products of any kind, with the exception of publications which are intended mostly for advertising purposes and publications of pornographic content) are charged with preferential tax rate of 5% instead of the general rate of 19%.

Within the framework of the Annual Programme for Achieving National Cultural Interests, in accordance with the strategy and priorities determined in the National Programme for Culture for the Period 2004-2008, see [20 Annex 02](#), and based on an announced open competition, the Ministry of Culture supports projects in the field of publishing activity for the publication of books and magazines, and at the same time stimulates the purchase of books, which also increases the library book collection. Books are purchased at a retail and not at a beneficial price, in the amount of around 10 to 100 copies of each separate title. In addition, the Ministry of Culture finances the purchase of books for libraries, both national and local, which enriches the library book collection of these institutions and ensures citizens access to books.

5. What legal regime applies to the sale and movement of cultural goods?

According to the Law on Protection of the Cultural Heritage ("Official Gazette of the RM" Nos. 20/04 and 71/04), both immovable and movable cultural heritage can be subject to the right of ownership. In that sense, cultural heritage may be owned by: the state; local self-government units and/or; other legal entities or natural persons (Article 10, Paragraphs 1 and 2). According to Article 242 of the Law on Property and Other Real Rights ("Official Gazette of the RM" No. 18/01), foreign legal and natural entities have the same rights as domestic entities in terms of acquiring ownership rights to movable goods. For that category of entities (foreign) there are no special limitations regarding the acquisition of ownership rights over movable cultural heritage or other protected movable goods. With regards to the immovable cultural heritage and to other protected immovable heritage, as well as for other categories of immovable goods, the acquisition of ownership rights by foreign legal and natural entities is conditioned by reciprocity (Article 243).

According to Article 10, Paragraph 3, of the Law on Protection of the Cultural Heritage, cultural heritage or goods that are reasonably believed to be cultural heritage that are found on land or in water, regardless as to whether already extracted or not, are considered to be in state ownership.

The following is also considered to be in state ownership:

- movable cultural heritage that is abandoned by the owner;
- immovable cultural heritage the right to which has been relinquished by the owner in an unquestionable manner (by statement);
- cultural heritage of an unknown owner, for a period of 10 years (for immovable goods) or 3 years (for movable goods), from the day when the decision on appointing a custodian of that property was brought.

Article 51 of Law on Protection of the Cultural Heritage imposes a general prohibition on the transfer of ownership over a state cultural heritage of exceptional importance. Any violation of this Article is a criminal offence, punishable according to Article 266-a of the Criminal Code, for which an imprisonment between one and five years is possible. In this case, the following are considered incriminating activities: selling, donating and the permanent ownership transfer in any other way of

the subject category of goods. In addition, the Law on Protection of the Cultural Heritage (Article 50) imposes other general prohibitions, in particular:

- a prohibition on gaining possession of excavated objects or other found objects which represent a cultural heritage or a good under temporary protection;
- a prohibition on purchasing, pledging, acquiring by other means, hiding or the dealership of an object which represents cultural heritage or a good under temporary protection, known to have been attained by a punishable act;
- a prohibition on illegal gaining possession of another person's object which represents cultural heritage or a good under temporary protection, entrusted (to a person) to look after;
- a prohibition on the usurpation of another person's cultural heritage or other protected immovable good.

Consequently, violations of the aforementioned general prohibitions are incriminating and punishable according to the Criminal Code. Those criminal acts are: usurpation (Article 225), severe theft (Article 236, Paragraph 3), embezzlement (Article 239, Paragraph 4), damage to objects owned by other persons (Article 243, Paragraph 2), covering up (Article 261, Paragraph 3) and usurpation (Article 265).

Article 140 of the Law on Protection of the Cultural Heritage stipulates and regulates the first purchaser right relating to a protected good. This right is bestowed to Republic of Macedonia by the Administration for the Protection of Cultural Heritage. This right can be exercised within 30 days from the day of submission of a written offer. This right is also applies in the case of sale by force. The exercise of the first purchaser right is described in more detail in Article 141 of the Law, which stipulates that the Republic of Macedonia has the right to submit a lawsuit and to request cancellation of the purchase agreement if the first purchaser right was not observed. The lawsuit can be submitted within 90 days, and no later than 5 years after the day of the conclusion of a purchase contract, provided that an amount of money equal to the real price is deposited.

The key elements of the protection regime in regards to the import, export and carrying abroad have already been stated in Chapter 1: FREE MOVEMENT OF GOODS (for more details please see [01 IV B 4](#)). Chapter 25: CUSTOMS UNION ([25 II 16](#)), refers to and explains an Article of the Customs Administration Law that authorises the Customs Administration of the Republic of Macedonia to perform control of the export, import and transit of goods eligible for measures for the protection of cultural goods.

Article 95 of the Law on Protection of the Cultural Heritage regulates the issue of exchange and cession (renunciation) of protected movable goods. In that context, the stated provisions stipulate a possibility for the exchange or temporary or permanent cession of a movable cultural heritage and any other protected movable property for the purposes of the completion of collections or provision of efficient protection and better presentation. In such cases, the exchange or cession can be performed only upon approval of the Administration for Protection of Cultural Heritage, with the exception of the archive fund.

For the archive fund, according to Article 17 of the Law on the National Archives Material ("Official Gazette of the SRM" No. 36/90 and "Official Gazette of the RM" No. 36/95), the approval for exchange or for cession is granted by the Government of the Republic of Macedonia. With regards to the archive fund, exchange and cession can be performed only with related institutions in the country or abroad, while with regards to other types of protected goods – with public institutions for protection and other holders of public and private collections in the country or abroad. Exchange and cession can be performed only with regards to certain pieces of protected goods, in cases explicitly listed in Article 95, Paragraph 2, of the Law on Protection of the Cultural Heritage: if they are not proclaimed as cultural heritage of special importance; if they belong to the same series, if they are of the same or similar type, and if there is a large number of them; if there are no other limitations stipulated by this Law.

The Law also stipulates an obligation for keeping records of requests and offers relating to exchange and cession, into which only an offer for a protected good acquired by legal means can be entered. The offer for exchange and cession is accompanied by a complete technical and legal documentation on the offered good.

Article 92 of the Law on Protection of the Cultural Heritage regulates the question of origin verification of the good that is subject to purchase or to other means of acquisition. Suspicious offers are subject to special observation, and the public books on movable cultural heritage can enlist only goods of a verified origin for which no suspicion exists that they could originate from illegal or unsupervised excavations, theft, illegal export or import or other illegal activities. In addition, the same Law regulates the issue of control over antiquity trade (Article 94). Namely, antiquity traders are obligated to maintain a register on the origin of goods, of conforming structure, and to issue orderly documents of sale.

In a special section (Section 7), the Law on Protection of the Cultural Heritage regulates the issue of protection of the cultural heritage from illegal acts, i.e. the security protection of the cultural heritage (Articles 102 – 105). These provisions stipulate preventive measures and measures of counteraction (Article 102), as well as adoption of special plans for security protection (Article 104). At the same time, adoption of a National Action Plan on the prevention of crime against cultural heritage is envisaged on a national level. That plan is adopted by the Government, upon a proposal of the National Cultural Heritage Council (Article 103). Besides other competent bodies, the Administration for Protection of Cultural Heritage performs security protection activities relating to the cultural heritage, through authorised officials for safety of the cultural heritage who are, organised in a special organisational unit. These officials have special authorisations (Article 105).

6. What legal regime applies to the preservation of cultural heritage?

The regime of protection and conservation of the cultural heritage is established by Law on Protection of the Cultural Heritage ("Official Gazette of the RM" Nos. 20/04 and 71/04) and by special laws on particular types of cultural goods: the Law on National Archives Material ("Official Gazette of the SRM" No. 36/90 and "Official Gazette of the RM" No. 36/95), the Law on Museums ("Official Gazette of the RM" No. 66/04), and the Law on Libraries ("Official Gazette of the RM" No. 66/04).

The protection of cultural heritage in the Republic of Macedonia is based on the following key determinations (essential elements of protection):

- the cultural heritage is of fundamental value to the Republic of Macedonia and is protected under all circumstances;
- the protection of cultural heritage is of public interest and its performance is mandatory on the entire territory of the country;
- cultural heritage is protected according to its value, importance and degree of endangerment, regardless of the time, place and manner of its creation or by whom it was created and in whose ownership or control it is, and regardless of its secular or religious nature, which creed belongs to, or whether it is registered or not;
- by enlisting, proclaiming or other means of applying protection, registration and labelling of cultural heritage, the form of ownership or the owner cannot be changed;
- immovable properties are protected together with their immediate surroundings, through the establishment contact zones;
- cultural heritage is used according to its nature and purpose and in accordance with the purposes of protection; immovable cultural heritage is used for the active life inside it and as a factor of sustainable development (Article 5).

According to Article 6 of the Law on Protection of the Cultural Heritage, the protection of cultural heritage is performed especially by means of:

- executing administrative and professional operations that are important for realizing public functions and the rights and obligations of citizens and legal entities with regards to the cultural heritage;
- organising a network of specialised institutions, advisory and coordination bodies, on a national and on a local level;
- establishing a National Strategy on the Protection of Cultural Heritage and its efficient implementation;
- developing protection awareness;
- setting up and promoting a compatible National Information System on cultural heritage;
- stimulating non-governmental organisations and private initiatives in this area;
- the mandatory integration of cultural heritage into the physical and urban plans and into the plans and programmes for the protection of nature and the environment, as well as with the treatment of cultural heritage as a factor of sustainable economic and social development;
- efficient risk management to which the movable cultural heritage is exposed;

In the system of protection of the cultural heritage of the Republic of Macedonia, subjects of protection have a clearly defined position. Thereby, pursuant to Article 7 of the Law on Protection of the Cultural Heritage:

- the state and its bodies and public services have the main duty and responsibility to realize the protection the cultural heritage;
- local self-government units and their bodies and public services are responsible for realizing the protection of cultural heritage within their competencies as determined by law;
- owners and other holders of cultural heritage are responsible for the maintenance, safekeeping, cherishing, and proper utilisation of the cultural heritage;
- citizens are obligated to respect the cultural heritage and to take care of it.

In addition to the previous stipulations, the founding principles of the regime of protection of the cultural heritage established by the aforementioned law imply:

- a general prohibition of damage and destruction of cultural heritage and other protected goods (Article 51, Paragraph 1), the violation of which is a criminal offence, punishable according to Article 264 of the Criminal Code;
- a general prohibition on the requisition, repression, assault and utilisation of cultural heritage for military purposes (Article 54), incriminated accordingly as a war crime, punishable according to Article 404 of the Criminal Code;
- the authorisation of actions of integrity breach in relation to protected goods, in an administrative procedure by the public authorities, with clearly distinguished competencies on that basis;
- professional supervision and other forms of professional control over individual phases of processes in the area of cultural heritage protection;
- the exercise of special rights and obligations of holders of protected goods;
- special restrictions on the rights of holders, based on the regime of protection;
- preventive and corrective measures on: the protection of cultural heritage from unlawful acts; protection in the case of armed conflict or natural disasters; and protection from the consequences of pollution and improvement of the quality of the environment in protected areas;
- inspection supervision;
- sanctions for offences against the cultural heritage (a total of 66 offences).

Archaeological excavations and research are under the regime of licences (Article 55). They are issued to certain entities (legal or natural) that have the right to perform such activities (Article 56), if they meet the stipulated conditions (Article 58). Foreign citizens may also be holders of licences for archaeological excavation, under certain conditions, and exceptionally independent foreign i.e. international archaeological missions may be allowed (Article 57). Special obligations are determined for licence holders during the research (Article 59). The law also warrants the right of scientific

ownership, which gives priority to the scientific processing of findings and to the publishing of research results, within three years of the conclusion of research. In addition, the use of metal-detectors and other detection equipment during archaeological research is under the regime of permits (Article 63). That permit, as well as the licence for archaeological research, is issued by the Administration for the Protection of Cultural Heritage within the Ministry of Culture.

The Law on Protection of the Cultural Heritage also regulates the matter of accidental discoveries, especially the obligations of the accidental discoverers (Article 65), the identification of accidental discoveries (Article 66), the archaeological supervision (Article 67), and the right to a reward for an accidental discovery (Article 68).

With regards to the integrated protection of the cultural heritage, the following key elements of the protection regime have been established:

- a balanced relation between physical and urban plans on the one side and acts on protection of the cultural heritage on the other side (Article 70);
- the establishment, verification and approval of protection and conservation foundations, regarded as a compulsory basis for plans (Article 71);
- the obligation to harmonise the planned solutions (Article 72);
- the creation of special urban projects for protected goods (article 73);
- the determination of protection and conservation conditions (Article 74);
- the issue of a protection-conservation consent for projects and other technical documentation relating to immovable cultural heritage of exceptional importance, as well as an opinion on projects for other protected goods (Article 75);
- the placement of certain specific actions and situations under an authorisation regime, such as: relocation (Article 76), abandonment (Article 77) and demolition of protected goods (Article 78), but also research and exploitation of raw minerals on locations where protected goods are present and in their immediate surroundings (Article 80).

With regards to conservation and restoration, i.e. immediate protection of cultural heritage, the established regime of protection means:

- authorisation of conservation research (Article 82);
- expert control over conservation projects (Article 86);
- authorisation of conservation-restoration works through issuing a conservation permit (Article 87);
- performing conservation supervision (Article 89);
- halting the operations and withdrawal of the conservation permit in certain cases (Article 90);
- expert control (i.e. technical reception) over performed operations (Article 91);

The prescribed rights and duties of holders of protected goods, as well as the restrictions on their rights are an integral part of the protection regime (i.e. preservation of the cultural heritage).

The Law on Protection of the Cultural Heritage stipulates the following special rights of the holders of protected goods:

- the right to professional assistance (Article 123);
- the right to compensation of exceptional costs for keeping, maintenance, and implementation of warranted protective measures (Article 124);
- the right to fair compensation due to restrictions of the protection regime (Article 125);
- the right to the public presentation of private collections (Article 126);
- the right to tax privileges and other privileges (Article 127);
- the right of deposition of protected movable property (Article 128).

The same Law imposes the following duties onto the holders of protected goods:

- reporting the goods and reporting every legal and physical change (Article 129);
- the safekeeping, maintenance, and implementation of the warranted protective measures (Article 130);
- the return of the invested public assets in the case of an ownership transfer of the protected good (Article 131);
- allowing research and the implementation of protective measures (Article 132);
- cession of protected goods for cultural manifestations (Article 133);
- making the protected goods available to the public, in a special manner (Article 134), including ensuring accessibility for the disabled persons (Article 114);
- notifying the new holder about the status and protection regime of the protected good (Article 135).

The stipulated legal regime also comprises the following special restrictions on the rights of holders:

- appointing a custodian of the protected good (Article 136);
- transfer of movable goods for the purpose of protection (Article 137);
- designating the means and the purpose of utilisation of the protected good in special cases (Article 138);
- restoring the previous condition (Article 139);
- the right to mortgage (Article 142);
- expropriation (Article 143).

In addition to the Law on Protection of the Cultural Heritage, the Law on Museums, and the Law on Libraries also regulate in detail the protection of museum and library goods.

The Law on Museums stipulates, among other things, the mandatory insurance of public museum items. The insurance funds are provided by the founder, and the insurance is concluded with an insurance company (Article 30). This law also stipulates the manner of insurance, i.e. by issuing a Government guarantee for foreign exhibits and exhibitions of exceptional value, if the condition for their presentation is a previously concluded insurance contract or if the insurance costs with the insurance companies are exceptionally high, and the owner concurs to accept the Government guarantee as a form of insurance (Article 32). Similar legal solutions regarding the library goods are contained in the new Law on Libraries. At the same time, however, according to both laws, the abovementioned form of insurance is not applicable to exhibits and exhibitions organised for commercial purposes.

7. What legal regime applies to the cession of rights (exclusive or otherwise) to exploit aspects of cultural heritage (e.g. digitisation of art collections)?

One of the fundamental purposes of the protection of cultural heritage, as in accordance with its purpose and significance, is to satisfy the cultural, scientific, educational, aesthetic and other needs of the citizens and the society, according to Article 4, Paragraph 1 of the Law on Protection of the Cultural Heritage ("Official Gazette of the RM" No. 20/04 and 71/04).

According to the Law on Protection of the Cultural Heritage, performing business activity with protected goods is under the regime of prior approval (Article 121). The approval is issued by the Administration for the Protection of Cultural Heritage. Approval is also needed in the case of change of activity, i.e. an alteration of the purpose of the business premises.

The name, form or other recognisable features of a protected good may be used for advertising purposes, as an element of a logo and for manufacturing souvenirs or other items for commercial purposes, in a manner fitting to the purpose or significance of the good, on the basis of a prior consent by the Administration for the Protection of Cultural Heritage.

The Law on Protection of the Cultural Heritage stipulates, among other things, the specific aspects in connection to the utilisation of state cultural heritage by a concession (Articles 117 – 120). Thus, an immovable cultural heritage of exceptional importance in state ownership, with the exception of exempted goods, can be subject to a concession if it is or can be used for: housing; performing catering, tourist, trade, artisan or other service activity; performing a genuine or similar production

activity; performing activities in the fields of education, science, informing, healthcare, sport, recreation and culture, with the exception of activities for the protection of the cultural heritage (Article 117, Paragraph 1). The following cannot be subject to a concession: reserved archaeological zones and other unexplored or insufficiently explored archaeological sites; memorial structures, landmarks and places connected to important events or persons; spiritual or other places connected to customs, beliefs or special traditions; facilities intended for the safekeeping and the exhibition of movable cultural heritage (museums, galleries, buildings of archives, libraries etc.), as well as monument centres (Article 117, Paragraph 2). Any domestic or foreign legal or natural entity that meets the conditions stipulated by Article 118, Paragraph 1, of the Law may become a concessionaire. A concession is granted for a period of 10 years for production activity and 15 years for service activity, with the possibility of extending the period for another 5 years. Supervision over the implementation of the concession agreement is performed by the Ministry of Culture, through a special Board, which includes one representative from the municipality where the concessioned good is located and from the non-governmental organisation from the cultural heritage protection area (Article 120). The Concessionaire has the status of a holder of cultural heritage, with rights and duties stipulated by the Law and the concession agreement (Article 118, Paragraph 2). For matters not regulated by the Law on Protection of the Cultural Heritage, provisions of the Concessions Law ("Official Gazette of the RM" No. 25/02) apply.

The documentation on the cultural heritage as well as the cultural heritage itself, are available to the public (Article 114). The documentation on the cultural heritage and its protection is available for the use of official, scientific and educational purposes, for publishing, and for other justified reasons. As a rule, only copies of the documentation are given for utilisation purposes, while the original documentation can be obtained solely in exceptional cases, under the condition that the requesting party makes and pays for a protective recording, and under other conditions stipulated by the relevant secondary legislation (Article 116).

The methods of keeping documentation on the cultural heritage, for the purpose of its digitalisation, i.e. keeping the documentation in electronic form, among other things, will be regulated by a special rulebook to be adopted by the Minister of Culture. For the time being, keeping documentation in electronic form is not mandatory, and because of insufficient material capacities, it is not practiced in the institutes for the protection of the cultural monuments as yet.

The special laws, the Law on National Archives Material ("Official Gazette of the SRM" No. 36/90 and "Official Gazette of the RM" No. 36/95), the Law on Museums ("Official Gazette of the RM" No. 66/04) and the Law on Libraries ("Official Gazette of the RM" No. 66/04), also regulate the issue of the utilisation of respective types of cultural heritage, among other things. Thus, the Law on Museums regulates the issue of producing museum and commercial copies of museum items. A museum copy may be produced only by the competent museum, when required for security reasons, if the conditions for keeping the museum item on exhibition display are unsatisfactory or if the item is given to another museum, i.e. when a need for exhibition thereof in another museum arises. No more than five museum copies of one museum item can be produced, and for each of these copies a certificate is issued. The museum copy cannot be used for commercial purposes (Article 27). Commercial copies can be produced by legal or natural persons, upon prior consent from the museum, in a manner and under conditions defined by the museum. A commercial copy is produced in dimensions different from those of the museum item. At the same time, museum items and their documentation can be reproduced (on photographs, on a computer or by other means) under the same conditions set for producing commercial copies (Article 28). In case of the production of merchandise, labels or designs that contain photographs or graphical representation of the museum item, however, a consent by the Administration for the Protection of the Cultural Heritage is also required (Article 29).

According to the Law on Libraries, the library material can be reproduced in library copies for non-commercial purposes, in accordance with the regulations on copyright and related rights (Article 28). However, if a library good is in question, as a type of movable cultural heritage, for the purpose of its conservation and presentation, this Law envisages the possibility of copying the library good in no more than 3 copies (Article 29).

According to the Law on National Archives Material, the archive fund is available for use after the expiration of the defined period, and at the latest after 20 years from its creation, except in certain exceptional cases when that period may not be longer than 150 years (Article 21). An archive item may be used only exceptionally, if it was not reproduced or if such is the requirement of the scientific method (Article 22). The utilisation of the archive material does not require any compensation, except in cases when special services are necessary (photocopying, microfilming, excerpts, transcripts etc.).

8. What systems are in place as regards statistics pertaining to the cultural sector?

General Information

In the Statistical Research 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 sole the provider of official statistical data in the field of culture.

In some cases, however, especially 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: the Ministry of Culture (keeping records for its own purposes and within its competencies), certain institutions which perform activity in the field of culture, as well as commercial entities performing research activities.

The State Statistical Office as the Key Provider of the Statistics in the Cultural Sector

The main system of collecting, processing and publishing statistical data from the area of culture 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 Research Programme.

Data on the cultural (and audio-visual) sector are collected by a unit operating within the Social Statistics Sector. The cultural aspect in the realization of these activities is surveyed by the system institutions carrying out these activities: theatres, philharmonic orchestras, orchestras, libraries, museums, archives, commercial entities performing publishing activity, commercial entities – organisers of art exhibitions and fine arts colonies, workers educational centres, cultural centres, memorial centres, scout centres, associations of citizens etc.

The field of culture and the audio-visual sector cover a 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.

The implementation periods relating to the culture statistics vary for different cultural activities: the data on the activity of art and culture societies are collected every five years; the data on the activities of libraries, archives, museums, workers educational centres and other cultural centres on a three-year basis; and the data on the remaining cultural (and audio-visual) activities – theatre, fine arts, publishing, filmmaking and broadcasting – are compiled annually.

Most of the data is available both on the national level and on the level of the smallest territorial unit – the municipality (NUTS 5).

Within the State Statistical Office there is a Unit for the Standard of Living, which regularly performs a survey on household consumption, thus enabling the national monitoring of data relating to funds spent on culture by households and by individuals.

Statistics from the area of the cultural sector can be found in bilingual (Macedonian-English) publications of the State Statistical Office, such as:

- statistical briefs (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 edition;
- “Statistical Yearbook” (comprehensive publication which contains the data and a brief methodology explanation of every research conducted by the State Statistical Office);
- Other special publications.