



**REPUBLIC OF MACEDONIA
GOVERNMENT OF THE REPUBLIC OF MACEDONIA**

ANSWERS TO ADDITIONAL QUESTIONS REFERRING TO POLITICAL CRITERIA

Skopje, September 2005

1. Can the Government explain under which conditions provided by the Law the Government can make direct sales of public land/assets? Can the Government confirm that only "high public or economic interest" can justify the choice of a direct procurement procedure for tenders worth more than 3000 EUR?

Rights and obligations regarding building land (vacant or with buildings) are regulated by the Law on Building Land (*Official Gazette of the Republic of Macedonia*, Nos. 53/01, 97/01). This Law also regulates the issue of sale of vacant building land, owned by the state.

In general, sale of state property is regulated by the Law on Use and Management of Property by State Bodies (*Official Gazette of the Republic of Macedonia*, No. 8/2005). This Law governs the procedure for sale of buildings, including the land on which they are situated owned by the state.

The Public Procurement Law (*Official Gazette of the Republic of Macedonia*, No. 19/04), (where the mentioned EUR 3000 are set as a threshold for low-value procurement), is not the relevant law in case when the public entities act as sellers or lessors of land, buildings or other real estate or rights arising thereof (more details on this in the original answers to the Questionnaire 01_V_A).

The two previously mentioned aspects under the posed question are explained in more details below.

Conditions for Sale of Building Land

Pursuant to Article 13 of the Law on Building Land (*Official Gazette of the Republic of Macedonia*, Nos. 53/01, 97/01), building land owned by the Republic of Macedonia can be sold, given under concession or under lease.

Pursuant to paragraph 2 of Article 13 of the Law on Building Land, building land is sold and leased through public bidding and through direct sales (direct negotiations). Pursuant to paragraph 3, selling and giving under lease of building land are carried out by the state administration body in charge of matters related to building land. The Law on Organisation and Operation of State Administration Bodies (*Official Gazette of the Republic of Macedonia*, Nos. 58/00 and 44/02) identifies the Ministry of Transport and Communications as the responsible body for matters related to spatial organisation and management of building land owned by the state.

According to paragraph 4 of Article 13 of the Law on Building Land, the Government of the Republic of Macedonia stipulates the manner and procedure for selling of building land through public bidding and direct sales (direct negotiations), and through leasing; the amount of specific costs of the procedure of selling and giving under lease, as well as the amount of the fee.

On this legal basis, the Government adopted the Decree on the Manner and Procedure for Selling and the Specific Costs of Procedures for Selling and Leasing of Building Land Owned by the Republic of Macedonia (*Official Gazette of the Republic of Macedonia*, Nos. 79/01, 103/01, 38/02, 51/03 and 95/04), envisaging the procedure for selling of building land through public bidding, direct sale (direct negotiations) and giving under long-term lease.

The above-mentioned Decree, under Article 12, paragraph 1, specifies the cases in which the building land owned by the Republic of Macedonia can be sold through direct sale, as follows:

- When no interested domestic physical and legal entities applied at a repeated public bidding;
- For the needs of the religious communities for building of religious buildings envisaged by the urban plans in force;
- Completing the formation of a building lot envisaged by an urban plan, if the owner possesses more than 50% of the building lot;
- For a constructed building, with valid building documentation, on building land on which no right of use has been acquired;
- For a building constructed until 1st February 1996 without approval for construction, but included in the urban plan;
- For construction of buildings of diplomatic and consular missions, as well as organisations and specialised agencies of UN and the Council of Europe, upon prior consent by the Minister of Foreign Affairs;
- Building land which has been expropriated pursuant to the Law on Expropriation, and agreement has been reached to give other building land in exchange; and
- For construction of administrative and business, industrial and other commercial buildings, public sport and recreation facilities, residential buildings and blocks of buildings upon proposal by a legal entity in mixed ownership registered in the trade registry of the Republic of Macedonia, on the basis of a submitted investment program, approved by the Minister of Transport and Communications.

Article 13 of the Decree envisages that when selling building land in the cases indicated in Article 12 of the Decree, the right to ownership of building land is acquired on the basis of an agreement for sale of building land upon proposal (application) by the interested party.

In order to reduce the discretionary rights of the elected and appointed officials, including the Minister of Transport and Communications, the Government of the Republic of Macedonia amended the above-mentioned Decree (*Official Gazette of the Republic of Macedonia*, No. 95/04). A new paragraph (paragraph 2) was added to Article 13, which reads: "*Agreement referred to in paragraph 1 of Article 13, in case of selling of building land referred to in Article 12, lines 6 and 8, shall be concluded by the Minister of Transport and Communications, upon prior consent by the Government of the Republic of Macedonia*".

Article 14 specifies the mandatory written form of the agreement.

Article 15 of the aforementioned Decree, sets the minimum prices for sale of building land through direct sale (the table of these prices is an integral part of the Decree).

Provisions of other laws and by-laws also apply to the procedure for selling of building land, such as the following:

- Spatial and urban planning - Law on Spatial and Urban Planning (*Official Gazette of the Republic of Macedonia*, No. 51/05)¹
Pursuant to this Law, in order to construct a building: it should be planned in the detailed urban plan of the municipality (which is adopted under a procedure precisely stipulated by law); furthermore, a decision for location conditions should be issued.
- Denationalisation – Law on Denationalisation (*Official Gazette of the Republic of Macedonia*, No. 43/00 consolidated version)
Property subject to denationalisation must not be subject to sale, and must not be used in a way creating obligations for the claimant to the land.

¹ Upon the entering into force of this Law, the Law on Spatial and Urban Planning from 1996 (*Official Gazette of the Republic of Macedonia*, Nos. 4/96, 28/97, 18/99, 53/01 and 45/02) ceased to be valid.

In line with the regulations in force, the Ministry of Transport and Communications, following a submitted request to conclude an agreement for selling of building land through direct negotiations, undertakes the following actions:

- Checks whether the building, proposed for construction by the applicant is envisaged in the requested urban lot in the urban plan or the act that substitutes the urban plan (extract from the urban plan or the act that substitutes the urban plan is obtained for this purpose);
- Checks whether a building or any other construction structure (facilities, fences, concrete pillars, etc.) exists on the lot, i.e. the land in question, by an on-site inspection;
- Checks whether a denationalisation procedure is being conducted for the building lot in question (on the basis of the Record of proprietors of the Cadastre Lot from the State Bureau for Geodetic Works and a proof from the Ministry of Finance);
- Verifies that the Republic of Macedonia is the owner of the lot (by obtaining a title deed from the State Bureau for Geodetic Works);
- Assesses the Investment Programme on Economic and Financial Analysis, which the applicant for concluding an agreement on direct sale is obliged to submit to the Ministry of Transport and Communications.

The Investment Programme contains the following elements:

- Data on the investor: name, head office, year of establishment, last court registration;
- Data on the project: name, location of the building, area of activity, number of employees, objective of the investment, realisation period, total accounting value, assets structure (fixed assets: construction works, installations, equipment; operating assets: financial resources); sources of financing (own, foreign investments, etc.);
- Broader analysis of the project, containing: project feasibility, economic justification and environmental impact, market analysis, planned investments and project profitability and cost-efficiency, as well as effects from the investment in favour of the Republic of Macedonia (employment, taxes, etc.). Cost-efficiency is determined on the basis of the projected cash flow that shows the inflow and outflow so as to determine whether the project enables return on investments, while the profitability is an elimination criterion in accepting the investment.

Conditions under which the state sells property (state-owned property)

Sale of state-owned property is regulated by the Law on Use and Management of Property of Government Bodies (*Official Gazette of the Republic of Macedonia*, No. 8/05), governing the rights and responsibilities of the state bodies with respect to provision, use and management of state-owned property and the records of property that as long-term property are used by the state bodies for performing their tasks and duties in the country and abroad.

State-owned property used by the bodies is the following:

- Real estate – land, buildings, special parts of buildings and other facilities built on the land, which as long-term property are used by the bodies in performing tasks and duties in the country and abroad;
- Movable property – equipment, transport and communications equipment, special and universal tools and equipment, military assets, weapons and equipment with specified purpose for the defence and security of the Republic of Macedonia, equipment for organisation and maintenance of office and other premises and for rendering technical, business, financial and other services; orchards, vineyards, hop mills and other perennial plantations, breeding herd, long-term intangible property and other not mentioned property which as long-term property are used by the bodies in performing the tasks and duties in the country and abroad.

Sale of real estate

The Government of the Republic of Macedonia decides on the sale of real estate.

Sale of real estate is carried out through public bidding or through direct negotiations.

The procedure for sale of real estate and movable property is carried out by the Commission on Real Estate and Movable Assets.

Sale of real estate through public bidding

Provisions referred to in Article 31 to Article 42 of the Law closely describe the procedure for sale of real estate through public bidding in terms of publishing of public bidding announcement, the elements that such public bidding announcement should contain, the procedure for conducting the public bidding and the selection of the most favourable bidder.

Sale of real estate through direct negotiations

Pursuant to Article 43 of the Law, real estate can be sold through direct negotiations on the basis of a decision by the Government of the Republic of Macedonia, provided that it is used for a specific purpose, in the following cases:

- Use of the real estate for specific purpose in the field of defence and security of the Republic of Macedonia (products and services for the needs of the defence and security);
- Use of the real estate for scientific, cultural and educational needs;
- When, by selling the real estate, obligation is undertaken to employ staff employed in the relevant state bodies;
- Use of the real estate for the needs of the municipalities and the City of Skopje;
- Use of the real estate of associations of citizens and foundations for realising not-for-profit activities of the interest to the Republic of Macedonia;
- Use of the real estate for performance of scientific, cultural and educational projects of the interest to the Republic of Macedonia;
- Use of the real estate for the needs of the organisations and the specialised agencies of the United Nations, Council of Europe and NATO.

In addition, the real estate is sold through direct negotiations when the real estate cannot be sold on the repeated public bidding announcement, whereby the value of the real estate can be reduced up to 40% of the value announced in the public bidding announcement.

Thus, the real estate, subject to direct negotiations, can be sold to a person who accepted the terms and conditions and the price of the real estate, determined in a manner in line with this Law.

When there are many buyers who have offered equal conditions and price for buying the real estate, the most favourable buyer is selected by drawing of lots.

Sale of movable property

As the sale of real estate, the sale of movable property can be carried out through public bidding or through direct negotiations.

Sale of movable property through public bidding

To the procedure for sale of movable property through public bidding the provisions of this Law regulating the procedure for sale of real estate through public bidding are accordingly applied.

Sale of movable property through public bidding is carried out when the value of the movable property exceeds EUR 500 in Denar equivalent.

Sale of movable property through direct negotiations

Movable property is sold through direct negotiations:

- To the direct buyer when the value of the movable asset is up to EUR 500 in Denar equivalent.
- To the direct buyer when the movable asset cannot be sold at the public bidding;
- To the buyer of an immovable property, when the movable property serves a purpose to the immovable property that is being sold.

The objective of the legal provisions allowing for direct sale is, by specifying the cases, the terms and conditions under which direct sale can be concluded, to determine the public interest; hence, to limit this situation only to clearly set circumstances that allow for the realisation of the public interest and exercising of specific rights of the citizens.

2. Can the Government confirm that this procedure is used only in exceptional cases? Can it explain in which cases it has been chosen in the last 12 months and the justification used for applying it?

The procedure for selling of building land owned by the Republic of Macedonia, through direct negotiations (described in details in the answer to the first question) is applied fully in compliance with the Law on Building Land and Article 13 of the Decree on the Manner and Procedure for Selling and the Specific Costs of Procedures for Selling and Leasing of Building Land Owned by the Republic of Macedonia.

In the period from 30th August 2004 to 30th August 2005, the Ministry of Transport and Communications concluded fifteen (15) agreements through direct negotiations, shown according to the legal basis from the Decree (justifications are contained in the quoted provisions of the decree):

1. Article 12, line 2 (*for the needs of the religious communities for construction of religious facilities envisaged by the urban plans in effect*):
 - One (1) direct sale
 - No. 16-11025 dated 10th September 2004 for building of a church – with the Macedonian Orthodox Church
2. Article 12, line 3 (for completion of the formation of a building lot envisaged by an urban plan, if the owner possesses more than 50% of the building lot)
 - Ten (10) direct sales:
 - No. 16-4360 dated 22nd September 2004 for construction of individual residential building of physical entity Blagoja Mitevski,
 - No. 16-11885 dated 17th December 2004 for construction of individual residential building of physical entity Aco Todorovski,
 - No. 16-12254 dated 29th December 2004 for construction of a building of "Aurora" travel agency;

- No. 16-1492 dated 22nd February 2005 for construction of individual residential building of physical entity Ljubomir Jankovski,
- No. 16-2899 dated 12th February 2005 for construction of a building facility for technical inspection of vehicles of "Dimco Panov" Auto-Moto association;
- No. 16-13394 dated 5th November 2004 for construction of individual residential building of physical entity Lazar Ristovski,
- No. 16-2232 dated 8th November 2004 for construction of individual residential building of physical entity Dzaferi Mehez,
- No. 16-11330 dated 21st March 2005 for construction of individual residential building of physical entity Usein Melehad,
- No. 16-2176 dated 27th April 2005 for construction of individual residential building of physical entity Bavtjari Tesat,
- No. 16-11273 dated 27th April 2005 for construction of individual residential building of physical entity Marija Kotuseva.

In the case of completion of the formation of a building lot, it is necessary that the owner possesses 51% of the building lot, in order to sell to him/her the remaining part of the building lot owned by the Republic of Macedonia.

3. Article 12, line 5 (for constructed facility until 1st February 1996 without an approval for construction, but included in the urban plan)

Three (3) direct sales:

- No. 16-15322 dated 14th February 2005 for construction of individual residential building of physical entity Arifi Idahie,
 - No. 16-13472 dated 19th September 2004 for construction of flats for own needs for Residential Building Cooperative "Nov Stan" ("New Flat"),
 - No. 16-668 dated 13th June 2005 for construction of individual residential building of physical entity Blagojka Nikolic,
4. Article 12, line 6 (for building of facilities of diplomatic and consular missions, as well as organisations and specialised agencies of UN and the Council of Europe, upon prior consent by the Government of the Republic of Macedonia and by the Minister of Foreign Affairs);

One (1) direct sale (direct negotiations):

- No. 16-9588 dated 22nd July 2005 for construction of facilities for the needs of the Embassy of the United States of America in the Republic of Macedonia.

3. Can the Government explain what have been the procedures used for selling State land to "Ramstore" for the construction of a shopping centre and to the oil company Lukoil for building a network of retail petrol stations?

Sale of state land to the Turkish company Koch Holding

In 2003 the Turkish company **KOCH HOLDING** expressed an interest for its presence in the Republic of Macedonia, by investing its capital as a foreign direct investment.

The procedure for sale of state land was carried out pursuant to Article 13 of the Law on Building Land (*Official Gazette of the Republic of Macedonia*, No. 53/01, 97/01) and Article 12, line 8 of the Decree on the Manner and Procedure for Selling, Leasing and the Amount of Specific Costs in the Procedures for Selling and Leasing of Building Land Owned by the Republic of Macedonia (*Official Gazette of the Republic of Macedonia*, Nos. 79/01, 38/02 and 51/03), explained in more details in the answer to the question No. 1.

In particular,

1. On 3rd October 2003, RAMSTORE MAKEDONIJA DOO Skopje submitted to the Ministry of Transport and Communications a request - proposal No. 16/11096 for buying of building land (without buildings) owned by the Republic of Macedonia, through direct sale. An Investment program is attached to the request, including an economic and financial construction for building of a multi-functional shopping and business centre, address - Mito Hadjivasilev b.b. - Skopje, which lot, according to the detailed urban plan is indicated as "Stara zeleznicka stanica" ("Old Railway Station") - Skopje.
2. Upon the submitted request by RAMSTORE MAKEDONIJA DOO Skopje, pursuant to the established procedure (described in details in the answer to question 1), the Ministry of Transport and Communications established that:
 - a. The construction of the building is in accordance with the detailed urban plan of the municipality of Centar (extract from the detailed urban plan in force for the concerned location - No. 631 dated 2nd December 2003 pursuant to the Law on Spatial and Urban Planning (*Official Gazette of the Republic of Macedonia*, Nos. 4/96, 28/97, 18/99, 53/01 and 45/02).
 - b. The building lot, subject to the sale, was not nationalised and it was not subject to denationalisation (pursuant to Article 72 of the Law on Denationalisation - *Official Gazette of the Republic of Macedonia*, No. 43/00 - consolidated version);
 - c. The lot is owned by the Republic of Macedonia (obtained numerical data with a list of indications for the building lot issued by the State Bureau for Geodetic Works - No. 1122/2293 dated 2nd December 2003, on the basis of which it was concluded that the land in question is registered on the title of the Republic of Macedonia in the cadastre - Article 14 of the Law on Survey and Cadastre and Recording of Rights to Real Estate).
3. The Minister of Transport and Communications approved the Investment programme that envisages capital costs in the amount of EUR 30 million, immediate employment of 60-80 persons and creation of additional 300-400 employments.
4. On 8th December 2003, the Government of the Republic of Macedonia gave its consent to the Minister of Transport and Communications to sign the direct sale agreement with RAMSTORE MAKEDONIJA DOO Skopje with respect to its investment on the building location "Stara zeleznicka stanica" for building of a commercial centre.

5. The Minister of Transport and Communications and RAMSTORE MAKEDONIJA DOO Skopje concluded Agreement for sale of building land through direct negotiations, No. 16-11096 on 12th December 2003 in Skopje (pursuant to Article 13 of the Law on Building Land and Articles 13, 14 and 15 of the Decree on the Manner and Procedure for Selling, Leasing and the Amount of Specific Costs in the Procedures for Selling and Leasing of Building Land Owned by the Republic of Macedonia);
6. The Agreement on sale of building land through direct sale (direct negotiations) was certified as public document by a notary public, ODU No. 49/04 dated 17th March 2003 (pursuant to Articles 44 and 44-a of the Law on Notary Public);
7. The Ministry of Transport and Communications issued building and technical documentation for construction of the shopping and business centre - Article 31 of the Law on Spatial and Urban Planning, as well as Articles 18 and 19 of the Law on Building of Investment Facilities (*Official Gazette of the Republic of Macedonia*, Nos. 15/90 and 11/91 and *Official Gazette of the Republic of Macedonia*, Nos. 11/94, 18/99 and 25/99).

In further procedure, full documentation, necessary for the construction of the building, was issued.

Lukoil - building a network of retail petrol stations

In a letter to the Government of the Republic of Macedonia dated 12th May 2005 the General Director of the LUKOIL Oil Company from the Russian Federation communicated the Decision by the LUKOIL General Meeting of Shareholders to invest in the Republic of Macedonia.

On the basis of the expressed interest by LUKOIL and the consideration of the possibilities and the needs of the Republic of Macedonia with respect to the liberalisation of the operations of oil industry companies, a Memorandum on Cooperation was signed on 14th June 2005 between the Government of the Republic of Macedonia and LUKOIL, indicating the obligations of both parties.

As defined in the Memorandum, its objective is the improvement of the infrastructure of the oil derivatives market in the Republic of Macedonia.

Through the Memorandum, both parties have agreed to undertake appropriate actions to the aim of successful realisation of the announced investment by the corporation, which already has experience in the cooperation with most of the countries in the broader region.

The Memorandum provides for building of 40 new petrol stations and other accompanying service facilities by LUKOIL.

After signing the Memorandum, the LUKOI Company: registered a firm in the Republic of Macedonia under the name LUKOIL MAKEDONIJA which purchased private oil warehouses and showed interest for lots to build petrol stations, regardless of the type of the lot ownership.

So far, ten locations have been indicated for which the competent institutions (State Bureau for Land Survey and Cadastre and Ministry of Transport and Communications) are checking the state of land ownership at the moment. If any of the indicated locations (building land) is owned by the Republic of Macedonia, it is necessary for LUKOIL Makedonija to obtain all

documents stipulated by the applicable national laws, to submit an Investment Programme to the Ministry of Transport and Communications and to request buying of building land owned by the Republic of Macedonia on the basis of the applicable regulations. So far, no such agreement has been concluded.

On the other hand, the whole investment project of LUKOIL is estimated at over EUR 50 million. The operation of LUKOIL will be aimed at provision of quality services for the consumers and strengthening of the competition in the supply of oil derivatives. Through this investment, Lukoil invests in the region for the first time by building its own chain of petrol stations. The investment is expected to engage significant capacities of the construction industry of the Republic of Macedonia. It is assessed that the whole investment project would contribute to the economic growth, job creation, as well as strengthened competition in the market.

4. Can you confirm that the Law on Energy was amended to enable granting concessions through direct negotiations? What are the criteria used for choosing such a procedure? Is it true that immediately after the amendment to the Law entered into force, the Government granted a concession regarding hydroelectric power plants through direct negotiations?

Granting water concessions is regulated by the Law on Waters (*Official Gazette of the Republic of Macedonia*, Nos. 4/98, 19/00, 42/05).

The Law Amending the Law on Waters (*Official Gazette of the Republic of Macedonia*, No. 42/05) more precisely identifies the requirements for granting waters under concession:

- Terms and conditions, and the manner for granting concession;
- Terms and conditions for termination of the concession agreement;
- Provisions of the concession agreement;
- Duration of the concession and
- Deadlines and procedure for granting concession regarding hydro-electric power plants.

Pursuant to the amendment to Article 155 of the Law on Waters, the concession for utilisation of waters is granted by the Government of the Republic of Macedonia on the basis of public competition, organised and carried out in line with the requirements stipulated by this Law and the Law on Concessions. As an exception, concession for utilisation of the water can also be granted through direct negotiations to domestic and foreign persons who invest in the construction of hydro-electric plants on the basis of agreement with the Government of the Republic of Macedonia. The Law stipulates the requirements for concluding an agreement through direct negotiation. More precisely, such agreement can be concluded with domestic or foreign legal entities that have a completed financial construction for building the plant and that have provided a financial guarantee corresponding to the value of the project realisation. The agreement must contain: ensuring a location for construction of the plant, provision of the necessary licences, consents and approvals for construction and operation of the plant, technical and technological requirements, as well as requirements for environment and nature protection during construction and exploitation of the plant; duration of the plant, i.e. its utilisation by the investor and the possibility to resolve disputes in court.

Further on, the Law precisely regulates the necessary documentation which the persons interested in the concession of waters should present.

So far, the Government of the Republic of Macedonia has issued no concession for construction of hydro-electric power plants, including small hydroelectric-power plants.

On 15th June 2005, a Protocol was signed between the Government of the Republic of Macedonia and Turboinstitut, a Slovenian company from Ljubljana, for structuring of a project for construction of 20 small hydroelectric- power plants, under the DBOT principle.

According to the Protocol, the future project would envisage construction of 20 small hydroelectric power plants, with installed power of 70 MW, while the investment would be worth EUR 100 million.

Taking into account that around 400 locations for construction of hydro-electric power plants have been identified, potential investors are invited to express their interest.

5. Can the Government explain why in a recent procurement for allocating a supermarket location in the center of Skopje, the procedure was cancelled after its completion? On which legal basis was this decision taken? Was there any appeal against the tendering decision and, if so, why did the Government not wait for the completion of the regular appeal procedures?

Allocating building land for a commercial building location in Skopje was performed through the procedure for selling of building land through public bidding, pursuant to paragraph 2 of Article 13 of the Law on Building Land and Articles 3-11 of the Decree on the Manner and Procedure for Selling, the Amount of Specific Costs, the Procedures for Selling and Leasing of Building Land Owned by the Republic of Macedonia (*Official Gazette of the Republic of Macedonia*, Nos. 79/01, 103/01, 38/02, 51/03 and 95/04). The procedure is described in details in the answer to the first question.

On 24th May 2005, an Announcement for public bidding for sale of a building lot for construction of a commercial building, owned by the Republic of Macedonia situated opposite the National Bank of the Republic of Macedonia, was published in the media.

The Announcement precisely set the requirements for participation in the public bidding, which **does not** include the obligation to provide a bank guarantee. This is an obligation for the **most favourable** bidder/investor who must provide a bank guarantee in the amount of 50% of the initial price of the building lot subject to the public bidding, which should be specified and payable in Denar equivalent *by the end of the public bidding procedure*.

At the same time, item 24 of the Announcement envisaged the right to discontented participants to submit a complaint to the Minister of Transport and Communications within 8 days from the day the bidding was held. Minister of Transport and Communications decides upon the complaint by adopting a decision.

On 29th June 2005, the Commission for Carrying out Public Bidding Procedure, established by a decision by the Minister of Transport and Communications, commenced the public bidding procedure. The following participants took part in the public bidding:

- DELTA M, Skopje
- MERCATOR MAKEDONIJA, Skopje
- VEROPULOS, Skopje
- INTER INZENERING, Skopje.

After establishing the identity of the authorised representatives of the listed participants, the Chairman of the Commission checked the fulfilment of the requirements for participation in the public bidding procedure. Thereby he concluded that the representatives of DELTA M

and MERCATOR MAKEDONIJA were not in a position to present a bank guarantee (set in item 15 of the Announcement for Public Bidding) by the commencement of the public bidding. On such basis, he excluded these participants from the further public bidding procedure. Following the completed public bidding among the remaining participants: VEROPULOS and INTER INZENERING, the Commission selected VEROPULOS as the most favourable bidder.

The Commission compiled the Minutes and Conclusion from the performed public bidding. Both the Minutes and the Conclusion were signed by the Commission and the most favourable bidder, containing a *clause that should there be no complaints, the Conclusion will be final*.

On the basis of the above-mentioned item 24 of the Announcement, MERCATOR MAKEDONIJA objected on the spot due to its exclusion from the further public bidding procedure, and within the envisaged legal deadline, MERCATOR MAKEDONIJA and DELTA M also lodged written complaints.

The complaints by MERCATOR MAKEDONIJA and DELTA M dispute the legality of the carried public bidding. In fact, the complaints state that the Commission applied item 15 of the Announcement contravening the law, hence stating that both these companies were improperly excluded from the public bidding procedure. Furthermore, they maintain that the bank guarantee in the amount of 50% of the initial price of the building lot should have been provided by the most favourable bidder and presented by him after the completion of the public bidding, when it would be concluded who is the most favourable bidder.

Pursuant to paragraph 1 of Article 10 of the Decree on the Manner and Procedure for Selling, Leasing and the Amount of Specific Costs in the Procedures for Selling and Leasing of Building Land Owned by the Republic of Macedonia (*Official Gazette of the Republic of Macedonia*, Nos. 79/01, 103/01, 38/02, 51/03, and 95/04), the Minister of Transport and Communications decides upon the complaints with a decision that is final with its submission to the party. Pursuant to the Law on General Administrative Procedure (Article 270, paragraph 2, indent 3), such decision is enforceable.

The Minister of Transport and Communications, after considering the complaints, adopted them with a Decision No. 16-8114/05 dated 14th July 2005, whereby the Conclusion of the Commission was annulled, and it was decided that the public bidding procedure be repeated. This was due to the fact that the bank guarantee specified and payable by the end of the public bidding set in the Announcement should be provided by the most favourable bidder - investor, following the carried public bidding in which all four participants registered under the Announcement participated.

Acting upon the Decision issued by the Minister of Transport and Communications, the public bidding was repeated on 17th August 2005. Following the performed bidding VEROPULOS Skopje was selected for most favourable bidder.

No complaint was lodged against this procedure, which all participants estimated as correct and proper, thus creating conditions for further action for conclusion of agreement with the most favourable bidder in line with the existing laws and regulations.

Following the performed public bidding on 24th June 2005, VEROPULOS DOOEL Skopje, on 26th July 2005 initiated and administrative dispute before the Supreme Court of the Republic of Macedonia against the Decision No. 16-8114/05 dated 14th July 2005 by the Ministry of Transport and Communications.

On 28th July 2005, VEROPULOS DOOEL also submitted a proposal to the Basic Court Skopje I - Skopje to issue a temporary measure for the purpose of securing its non-monetary claim, in non-contentious procedure - to ban the Ministry of Transport and Communications to carry out the public bidding procedure set for 17th August 2005, until the finality of the administrative procedure upon the initiated administrative dispute in the Supreme Court. With a Decision No. 2782/03 dated 12 August 2005, the Basic Court Skopje I - Skopje rejected the proposal as having no jurisdiction over the matter, taking into account that pursuant to the Law, this court is competent to decide only in a procedure for securing of monetary claims in administrative procedure.

6. Right of property/Expropriation: Can you provide details on the Law on Expropriation and the modifications adopted last June? What are the objectives of this Law and of these modifications? Have these provisions already entered into force? What are the conditions to be met for expropriation? What are the procedures applied when the state wishes to sell a land property of which it is only one of the owners? Is there a possibility to appeal against an expropriation decision?

Under Article 30 paragraph 2 of the Constitution of the Republic of Macedonia (*Official Gazette of the Republic of Macedonia* No. 52/91), property and rights arising thereof cannot be deprived or limited, except in cases of public interest laid down by law.

Paragraph 3 of Article 30 of the Constitution of the Republic of Macedonia, in cases of expropriation of property or limitation of property, guarantees the right to compensation, which cannot be less than the market value.

Under Article 8, line 9 of the Constitution of the Republic of Macedonia, a fundamental value of the constitutional order of the Republic of Macedonia is the spatial organisation and humanising the environment, protecting and improving living conditions and the natural environment.

This fundamental value of the constitutional order is ensured by spatial planning and building of structures on such planned space.

Law on Expropriation

The Law on Expropriation (*Official Gazette of the Republic of Macedonia* Nos. 33/95; 20/98; 40/99, 31/2003 and 46/2005) regulates the expropriation of property and the rights stemming thereof over land, buildings and other structures (real estate), for the purpose of building structures and carrying out other work of public interest, establishing the public interest and determining the suitable compensation for the expropriated real estate (Article 1 of the Law).

Public interest established by the Law on Expropriation is the organisation, reasonable use and humanising the space, as well as protection and improvement of the environment and nature by means of building structures and conducting work provided for in the acts on spatial planning, namely:

- Building railway lines, roads, bridges, airports and auxiliary structures and installations;
- Building stations for electricity production, as well as structures, installations and lines for electricity distribution;
- Building structures and installations for postal, telephone and telegraph traffic, installations for radio and television connections and information systems;
- Building structures for defence and civilian protection;

- Building border posts;
- Building structures and installations for research and exploitation of ore and other natural resources;
- Building water economy structures and installations;
- Building streets, squares, parking places, parks and small parks;
- Building dumps, purification stations and other structures for the protection of nature and the environment;
- Building gas lines, oil pipelines and other kinds of lines;
- Building water supply systems, sewerage systems, heat supply systems, cemeteries and other communal structures;
- Building structures for the purpose of education, science, culture, health protection, public welfare and sport, when these activities are conducted as public services;
- Building settlements upon major natural calamities (earthquakes, floods, conflagrations and landslides) and relocation of settlements (inundation, ecological reasons and building complex structures);
- Building structures for diplomatic and consular missions and embassy blocks or residencies, for international organisations and international missions;
- Building offices for the governmental agencies (Article 2 paragraph 1 of the Law) and
- Building residential, commercial and industrial structures projected for construction in detailed urban plans, for the purpose of securing priority of building on a vacant building land. (Article 1 of the Law Amending the Law on Expropriation – *Official Gazette of the Republic of Macedonia* No. 46/2005).

In addition to the enumerated buildings of public interest in this Law, public interest in construction of building structures and performance of other operations could be determined in another law. Public interest in expropriation of real estate being of special cultural and historical meaning established by law is determined under the conditions and in a manner laid down by a specific law. (Article 2, paragraphs 2 and 3 of the Law).

Under Article 3 of the Law on Expropriation, expropriation could be made for:

1. The state – for its own needs, for the needs of the public enterprises established by the state, for the public funds, education, science, culture, health protection, public welfare and sport, when these activities are conducted as public/state services;
2. The municipalities and the City of Skopje – for the needs of the units of local self-government and for the needs of the public enterprises and funds established by the municipalities or the city of Skopje, and
3. For the needs of legal and natural persons for the purpose of building structures and carrying other work of public interest, stipulated in Article 2 of this law.

Provisions in Articles 4 to 8 of the Law on Expropriations envisage two forms of expropriation, those being the following: termination of the right of property over the real estate, and the other rights stemming thereof (complete expropriation); and limitation of the right of property by instituting the right of usufruct, lease, temporary limitation of the right of using the land and temporary occupation for the purpose of conducting preparatory work on the land (incomplete expropriation).

The Law on Expropriation specifically elaborates the constitutional principle of fair compensation. Thus, under Article 10 of the Law, for the expropriated real estate a suitable compensation is due, which cannot be less than the market value of the real estate.

The Law on Expropriation regulates in detail also the expropriation procedure, which can conclude in settlement for compensation or in passing a decision for expropriation (Articles 13-20) and well as the determination of compensation and the compensation procedure (Articles 23-41).

Amendments to the Law on Expropriation

The Law Amending the Law on Expropriation (*Official Gazette of the Republic of Macedonia* No. 46/2005), expands Article 2 of the Law on Expropriation, i.e. it determines the public interest in building residential, commercial and industrial structures projected for construction in detailed urban plans, for the purpose of securing priority of building on a vacant building land.

The amendments to the Law determine that acquiring the right to priority of building is in general interest, being in correlation with the constitutional provision referred to in Article 30, paragraph 2, stating that property creates rights and obligations and should serve for the benefit of the individual and the community.

Amendments to the Law on Expropriation allow for the owners or co-owners having equal or bigger property (at least 50% property over building land from the building lot) in relation to other owners, to have the right to priority of building on the building lot, provided that the non-dominant owners suspend their right of building and unjustifiably do not wish to build jointly with them (more precisely, this relates to non-dominant owners that suspend the right of the owner to building with at least 50% property over the building lot, and the owner cannot realise the public interest envisaged in the urban plan). Thus, the right to priority of building is an instrument enabling realisation of the public interest in the case when one building lot is owned by several entities.

(Non)Justifiability of the reasons for refusal to join a contract for joint construction is established in a court procedure, initiated for determining the right to priority of building. The first-instance court ruling on the right to priority of building may be appealed.

An exception in acquiring the right to priority of building in the case the property over vacant building land is less than 50% of the total area of the building lot is applied only in case part of the building lot is state-owned, and the state does not want to build. In this case, right to priority of building shall be granted to private owners of land that own at least 50% of the vacant building lot. The manner of calculating 50% is determined under Article 45-c of the Law. (Thus, these provisions give priority to private property).

Amendments to the Law on Expropriation provide solutions according to which the court rules, under non-contentious procedure, on acquiring the right to priority of building. Thereby, the court procedure respects the condition of acquiring the right to priority of building, should the owners of building land fail to reach an agreement on joint building, but only in case the non-dominant owner unjustifiably does not wish to build.

The court decision for acquiring right to priority of building is a condition for expropriation – deprivation of property rights to those owners of building land constituting the building lot that fail to acquire the right to priority of building.

Vacant building land to the end of acquiring the right to priority of building can be expropriated only upon the proposal by and for the benefit of the owners of the vacant building land who acquired the right to *priority* of building.

Owners of expropriated building land on which the acquired right to priority of building will be enforced, are entitled to pecuniary compensation no less than the market value.

The provisions of the Law Amending the Law on Expropriation regulate the issue on annulment of the decision on expropriation of vacant building land should the owners of the building land that have acquired right to priority of building within 3 years have not started building. The decision for annulment of the decision on expropriation is a basis for those

owners that had not had acquired the right to priority of building to demand annulment of the court decision on acquiring the right to priority of building.

The state can acquire the right to build under the same conditions as all natural and legal persons. The state has no privileges.

Objectives of the Law on Expropriation and its amendments

An objective of the Law on Expropriation is to identify by law the cases of existence of public interest for imposing termination or limitations to the property right, arising as an obligation from Article 30, paragraph 2 of the Constitution of the Republic of Macedonia.

The main objective of the Amendments to the Law on Expropriation (*Official Gazette of the Republic of Macedonia* No. 46/2005) is to provide an opportunity to the dominant owner of a vacant building land to independently realise the public interest for building via the right to priority of building in the case when other non-dominant owners unjustifiably do not wish to build.

The amendments allow for the implementation of the urban plans, and this, in accordance with Article 3 of the Law on Spatial and Urban Planning (*Official Gazette of the Republic of Macedonia* No. 51/2005) is of public interest. This is in correlation with the fundamental value of the Constitution of the Republic of Macedonia, stated under Article 8, line 9 "organisation of space and humanising the environment, protection and improvement of environment and nature". This fundamental value of the constitutional order could be achieved only through space organisation and allowing for construction of residential, industrial and commercial structures on such planned space.

Furthermore, the amendments create an opportunity to realise the right to property, i.e. the right of the owner of the vacant building land to build on own land in accordance with the public interest determined under the law, in the case when another non-dominant owner of land belonging to the same building lot disputes/hinders this right of building (does not wish to build, i.e. unjustifiably refuses the offer/request for joint building with the owner having at least 50% property over the land in the building lot, thus being detrimental for the dominant property, and at the same time for the community since it unjustifiably prevents realisation of public interest).

Under Article 30, paragraph 2 of the Constitution of the Republic of Macedonia, property creates rights and obligations and should serve the benefit of the individual and of the community.

Under paragraphs 1 and 3 of Article 9 of the Law on Property and Other Rights in Rem (*Official Gazette of the Republic of Macedonia* No. 18/01), the owner exercises its property right in accordance with the nature and the purpose of the object, as well with the general interest, determined by law, and the property right may not be used to the end of causing damage to other persons or preventing them to exercise their rights.

Starting from the fundamental constitutional commitment that property creates rights and obligations, owners of building land envisaged for building (residential, industrial and commercial structure) are obliged to build the structure to the aim of organisation and humanisation of space.

5. The Law Amending the Law on Expropriation was published in the *Official Gazette of the Republic of Macedonia* on June 20, 2005, and it entered into force on June 28, 2005.

Conditions for Expropriation

- Existence of public interest for building structures and performance of certain operations,
- Proof of provided resources for compensation for the expropriated real estate,
- (and, in the case of expropriation to the end of acquiring right to priority of building) Final court decision for acquiring the right to priority of building.

Procedures Applying when the State Wants to Sell Land in Case It Is One of the Owners

The state sells the building land via public bidding or direct negotiations in enumerated cases, listed in the Decree on the Manner and Procedure for Selling and the Specific Costs of Procedures for Selling and Leasing of Building Land Owned by the Republic of Macedonia (*Official Gazette of the Republic of Macedonia* No. 79/01, 38/02, 51/03 and 95/04).

If the state does not sell the land as previously stated, and in the cases where the state is not interested in building, the state-owned land will be given to the owner who acquired the right to priority of building in the manner envisaged in the expropriation procedure.

Such owner, in accordance with the rules in the expropriation procedure laid down in the Law on Expropriation will have to pay for the state-owned land an amount not less than its market value.

In this situation, the state is placed in equal position as the private legal and natural persons and it has the same rights and obligations.

Appeal Against the Decision on Expropriation

Protection of the rights of the former owner is at two levels, those being the following:

The first level is the possibility to lodge a complaint against the decision on expropriation to the second-instance body – Second Instance Commission of the Government of the Republic of Macedonia, (Article 19 paragraph 1 of the Law on Expropriation) and the second level – according to the Law on Administrative Disputes (*Official Gazette of the SFRY* Nos. 4/77 and 36/77 and *Official Gazette of the Republic of Macedonia* No. 44/02) with an appeal in administrative dispute lodged to the Supreme Court of the Republic of Macedonia.

The Law on Expropriation regulates the change of the property right in public books, which can be made only after the finality of the decision on expropriation (Article 42). This means that property could be acquired only after the Supreme Court gives its ruling, in the case the option of an appeal in administrative dispute is used as legal remedy.

In the case of deprivation of property, due caution is taken in the formulation of the provisions of the Law on Expropriation. Thus, an enforceable second-instance decision is not sufficient to make a change of the property right, but also an exceptional legal remedy must be finalised – a decision by the Supreme Court upon an appeal in administrative dispute.

7. What formula applies to the calculation of the dividend of Makedonski Telekomunikacii, in which the State still holds a minority share? Are there any provisions on this foreseen in the Share Purchase Agreement with the investor? Please provide the final balance sheet of the company for 2004?

The Company Law (*Official Gazette of the Republic of Macedonia* No. 28/2004) Article 383 point 2 and Article 384 regulates that the Assembly of Shareholders approves: the annual account, the financial statements and the annual report on the operation of the company for the previous business year. The Assembly also decides on the distribution of profit.

Article 487 of the Company Law regulates that after the approval of the annual account and the financial statements and after calculation of the current profit to be distributed, the Assembly of Shareholders determines the profit share to be distributed to the shareholders as dividend according to the rights stemming from their share of the company capital.

The same Article, in point 2) envisages that the management body can pay dividend in an amount not exceeding the total profit earned and shown in the annual account and the financial statements plus the undistributed profit carried forward from the previous years or plus the reserves that could be distributed, provided that losses from the previous years are covered.

The manner of payment is determined by the shareholders in the Assembly. The dividend is paid on the basis of a Decision of the Assembly of Shareholders, determining the following: the amount; date of entering into the records, the basis for determining the list of shareholders entitled to dividend; dividend payment plan and payment date, and the manner in which the company informs the persons entitled to dividend according to the adopted decision. The formula for calculating the dividend and its payment and distribution is based on the material rights of the owners of shares determined in the decision on issuance of shares, the type of shares, their nominal value, the profit earned and the decisions on profit distribution in accordance with the regulations.

The accumulated profit of the company AD Makedonski Telekomunikacii, as of December 31, 2004 amounts to Denar 8.659.442.000 (EUR 140.8 million) according to the Macedonian accounting standards. The availability of the accumulated profit is the sole source, as well as limitation for distribution of profit from the aspect of payment of the dividend to the shareholders. Accordingly, the shareholders of the Company Makedonski Telekomunikacii are entitled to maximum amount of dividend on December 31, 2004 up to the value of the accumulated profits in the aforementioned amount on the indicated date.

The dividend amount of Denar 5.834.995.000 (EUR 94.9 million) paid in 2005 comprises Denar 1.561.573.000 (EUR 25.4 million) stemming from the 2004 profit and Denar 4.273.422.000 (EUR 69.5 million) which, according to the possibilities referred to in Article 487, point 2 of the Company Law, stem from the profit accumulated in the past years.

Although dividends paid by the MT Group to the shareholders and by Mobimak to MT, in accordance with the aforementioned, refer to the operating results in 2004 and the previous years, they will be shown in the 2005 financial statements since the date of approval of the dividend amount by the shareholders was after the date upon which the 2004 financial statements were approved.

The Share Purchase Agreement with the investor contains no special provisions regarding calculation of the dividend of AD Makedonski Telekomunikacii. The Shareholding Agreement between the Republic of Macedonia and MATAV, Article 4 point 8, envisages that the shareholders agree that the dividend policy of AD Makedonski Telekomunikacii is set on the basis of the recommendation by the Board of Directors, in accordance with the laws and regulations.

Attachment: 2004 Financial Statement of AD Makedonski Telekomunikacii.

8. What are the results achieved of the working group appointed by the Prime Minister which was to assess the discretionary rights of elected and appointed officials and propose solutions for decreasing of the basis for corruptive behaviour (they were supposed to deliver their report in March 2005)?

The Government of the Republic of Macedonia, on December 26, 2004 established a working body comprising experts, ministers and representatives from the Office of the Prime Minister, entrusted with the task of preparing a government project regarding discretionary powers of ministers.

In the period until March, an analysis was being prepared by the team of experts; in parallel the ministries undertook activities to identify the discretionary powers in the respective portfolios.

On the session held on April 11, 2005, the Government considered and adopted the Report prepared by the group of experts, containing the following:

I. Glossary explaining and defining the general administrative acts, specific administrative acts and the discretionary powers.

II. Guidelines on addressing the discretionary powers

III. Dynamics of actions

The dynamics of actions envisages three stages:

1. The first stage includes general outline on the discretionary powers, as well as guidelines for their reduction. In this stage areas needing intervention in the legal system were pointed out.

This stage ended with the adoption of the aforementioned Report by the Government of the Republic of Macedonia.

The team of experts submitted a review of the identified sources of discretionary powers by the ministries.

2. In the second stage, the team of experts, in cooperation with the ministries, considers the possible solutions so as to address the identified discretionary powers. Meetings are held in the ministries (with participation of the ministers) where on the basis of the prepared reviews and opinions of the experts, discussions are held on the situation in the respective areas and on the possible solutions.

The second stage is envisaged to end by the beginning of October this year.

3. The third stage envisages a process of specific amendments to the laws and bylaws, thus enabling reduction of discretionary powers and their transparency.

The dynamics will be realised in accordance with the Annual Working Program of the Government of the Republic of Macedonia.

When planning the dynamics of activities to the end of reducing discretionary powers of public officials, the team of experts took special consideration of the fact that the number of regulations (laws and bylaws) covering this issue and requiring intervention does not enable adoption of new solutions in one move or in a very short time span.

In addition to the preparation of this material, the team of experts, in accordance with the Government conclusions, provides opinions regarding draft acts proposed or adopted by the Government. This prevents generating discretionary powers when proposing new acts;

hence, the guidelines given in the Report prepared by the team in March 2005 are being implemented.

According to the guidelines for addressing the discretionary powers contained in the materials, and the identified areas where urgent action is required, among others, the following activities were undertaken:

- The Draft Law on Foreign Affairs was prepared thus regulating this area with a Law.
- The amendments to the Law on General Administrative procedure proposed by the team of experts were fully accepted.
- The proposals of the expert group for changes on the Law on Building were adopted.
- Proposals have been submitted to the amendments on the Law on Vine, which is being drafted.
- The Decree on the Manner and Procedure for Selling and the Specific Costs of Procedures for Selling and Leasing of Building Land Owned by the Republic of Macedonia was amended.

9. What progress has been made in the investigation and prosecution of those involved in the recently discovered pyramid tax evasion scheme?

While carrying out their functions provided by Law, the Financial Police, the Ministry of the Interior and the Public Revenue Office, as agencies responsible for detection of crimes and their perpetrators, have detected a larger case of tax evasion comprising companies subject to tax, organised in pyramid schemes, including establishing companies for this specific purpose.

Within the area of their legal competence, the aforementioned bodies participated in the pre-investigation procedure - phase of detection of crimes and their perpetrators and of collecting evidence for the purpose of criminal prosecution. Throughout the investigation, the responsible agencies are continuously cooperating and fully coordinated.

In the process of detection and securing the necessary evidence regarding the aforementioned crimes, the Public Prosecution Office of the Republic of Macedonia performs its role pursuant to Article 21, paragraph 2 of the Law on Public Prosecution (*Official Gazette of the Republic of Macedonia* No. 38/04). More specifically, the Public Prosecution Office gave written instructions to the Bureau of Public Safety within the Ministry of the Interior of the Republic of Macedonia, as well as to the Financial Police and the Public Revenue Office on how to act regarding detection and securing evidence of the crimes - Tax Evasion and Laundering Money and Other Proceeds from Crime.

The competent bodies undertook all measures necessary to detect the perpetrators and to prevent their escape or hiding. Furthermore, bank transactions were analysed to the end of identifying all companies involved in the organised scheme, business records of companies were inspected to the end of disclosing and providing traces of crimes (false invoices, agreements, statements of payment, orders - documents on cash withdrawal); all other objects that could serve as evidence were secured and seized, and ultimately, reports from citizens were collected that could be of use for the successful course of the criminal procedure.

Until August 25, 2005 a total of 57 criminal charges were initiated against 60 persons.

All criminal charges, regardless of the amount of the evaded tax were submitted to the Public Prosecution Office of the Republic of Macedonia-Unit for Prosecution of Perpetrators

Involved in Organised Crime and Corruption-Skopje. In addition, due to the large number of persons involved in the pyramid tax evasion scheme, a decision was made to submit the criminal charges regarding lower amounts of evaded tax to the competent basic public prosecution offices.

The Public Prosecution Office of the Republic of Macedonia - Unit for Prosecution of Perpetrators Involved in Organised Crime and Corruption -Skopje is proceeding upon charges against 24 persons for the crime - Tax Evasion referred to in Article 279 paragraph 2 regarding paragraph 1 of the Criminal Code and the crime - Laundering Money and Other Proceeds from Crime referred to in Article 273 paragraph 3 regarding paragraph 1 of the Criminal Code, upon 20 criminal charges lodged by the Financial Police and 4 criminal charges lodged by the Ministry of the Interior.

The total amount of the tax evasion of the cases now being processed in the whole of the Public Prosecution Office of the Republic of Macedonia is Denar 136.878.697,11.

Upon the requests to conduct an investigation and the requests to expand the investigation submitted to the competent Basic Court by the Unit for Prosecution of Perpetrators Involved in Organised Crime and Corruption within the Public Prosecution Office of the Republic of Macedonia, the amount of the evaded tax by the aforementioned charged persons is: tax evasion of VAT in the amount of Denar 46.129.136,33 and tax evasion of profit tax in the amount of Denar 30.765.421,78; or, in total amount of both categories, Denar 76.894.558,11.

In the so-far course of investigation, proceeded by the Unit for Prosecution of Perpetrators Involved in Organised Crime and Corruption upon the requests for conducting investigation and requests for expanding the investigation, on the basis of value added tax, a total amount of Denar 22.450.021,12 was paid, and on the basis of profit tax, a total amount of Denar 18.449.975,78 was paid, or, under both taxes, a total amount of Denar 40.899.996,90. This means that 53% of the damage caused to the Republic of Macedonia regarding the aforementioned cases proceeded in the Unit for Prosecution of Perpetrators Involved in Organised Crime and Corruption has already been compensated, and this tendency continues further.

With regard to the procedures carried out in the first instance public prosecution offices, the status on these crimes is as follows²¹:

- The Basic Public Prosecution Office in Skopje proceeds upon 31 criminal charges brought against 32 persons (19 initiated by the Financial Police and 12 initiated by the Ministry of the Interior) in the total amount of evaded tax of both value added tax and profit tax of Denar 54.124.171,00.
- Criminal charges were lodged against 2 persons for tax evasion regarding value added tax and profit tax in the total amount of Denar 3.514.181,00 and a request was submitted to the investigative judge in the Basic Court in Kumanovo to conduct an investigation.
- One criminal charge was brought against 2 persons for total amount of evaded tax of Denar 2.345.787,00 and a request was submitted to the investigative judge in the Basic Court in Struga to conduct an investigation.

The tendency of paying the tax during the investigative procedure is a result of the measures proposed by the Prosecution Office and accepted by the court, to place the persons under detention and to temporarily seize the assets and property. To the end of preventing further crimes and ensuring restoration of the damage incurred to the Republic of Macedonia on the basis of illicit tax refund and illicit compensation of value added tax and on the basis of

² In the number of perpetrators against whom criminal charges are lodged, the two perpetrators that repeat in all the cases as co-perpetrators are counted once.

evaded profit tax, the Unit for Prosecution of Perpetrators Involved in Organised Crime and Corruption within the Public Prosecution Office of the Republic of Macedonia, during the procedure against 13 charged persons, submitted proposals for temporary securing assets and property. These proposals refer to temporary securing of assets of legal entities by temporary seizure of cash resources and temporary freezing of their bank accounts until the completion of the investigation. Upon such proposals, the investigative judges passed decisions to temporary freeze all bank accounts and to temporary seize all cash resources of legal entities until the judicial completion of the procedure. Regarding the measure of putting the persons in detention, it was applied without exception to all the persons charged processed by the Unit for Prosecution of Perpetrators Involved in Organised Crime and Corruption within the Public Prosecution Office of the Republic of Macedonia, and these proposals were accepted by the court. During the further course of investigation, in the cases when the persons charged would pay the evaded tax and provide guarantee in cash, the detention was suspended.

The Public Prosecution Office of the Republic of Macedonia - the Unit for Prosecution of Perpetrators Involved in Organised Crime and Corruption, initiated pre-criminal procedure for another "chain" of the disclosed pyramid tax evasion scheme which, so far, includes owners and managers of 49 legal entities. The Financial Police, the Ministry of the Interior and the Public Revenue Office are involved in the pre-criminal procedure. To the end of detecting all persons involved in this part of the pyramid tax evasion scheme, disclosing their identity and providing the necessary evidence for the crime, the Public Prosecution Office of the Republic of Macedonia - the Unit for Prosecution of Perpetrators Involved in Organised Crime and Corruption, according to Article 21 paragraph 2 of the Law on Public Prosecution Office gave the aforementioned bodies guidelines on how to act regarding the detection and provision of evidence for the crimes Tax Evasion and Laundering Money and Other Proceeds from Crime. The Public Prosecution Office of the Republic of Macedonia - the Unit for Prosecution of Perpetrators Involved in Organised Crime and Corruption - Skopje coordinates the activities regarding the detection of perpetrators and securing necessary evidence regarding the indicated crimes.

During the course of the investigation of tax evasion of the Pyramid scheme, the major part of the investigation activities have been undertaken, and after the remaining smaller part of the proposed investigation activities are completed, all investigation cases opened upon the requests for conducting investigation will be submitted for financial expertise. Afterwards, they should be submitted to the Public Prosecution Office of the Republic Of Macedonia - Unit for Prosecution of Perpetrators Involved in Organised Crime and Corruption - Skopje for further procedure. Depending on the period and the scope of the illegal operations of the accused, in the further course of the investigation, a supplementary sanction will be proposed - prohibition of performing a profession, an activity or duty.

Out of the effects so far achieved from the procedures in the case of the tax evasion pyramid scheme, the following are the most important:

- A significant part of the damage caused to the Republic of Macedonia regarding the aforementioned cases has already been compensated and this tendency continues further.
- The frequency of such illegal operations among legal entities has been largely reduced, thus proving the preventive effect of the undertaken operations.

Furthermore, criminal charges were initiated regarding another case of tax evasion (involving three companies), being processed in the Public Prosecution Office – Unit for Organised crime, and a procedure is underway regarding a case of abuse of official position against an inspector in the Public Revenue Office – Skopje.

Activities of all law enforcement agencies regarding further prosecution of perpetrators in this pyramid scheme continue - both with regard to procedures under the criminal charges already lodged and in the further activities for filing new criminal charges.

In the pre-criminal procedure, minutes have been compiled by the Public Revenue Office, in cooperation with the Ministry of the Interior, regarding 60 legal entities, involving an amount of Denar 1.045.268.884,00 for tax evasion only. The stated amount is net amount, excluding interest for late payment of the calculated tax. All these cases are/ will be processed through the Public Prosecution Office, in accordance with their competence.